

HPARB Declares ICRC Decision Unreasonable for Preferring Account of Complainant [Free v. Guertin (2025)]

HPARB | Health | Health Law | Healthcare | Litigation | Litigation & Dispute Resolution

13 January 2025

In this [complaint review](#), a panel of the Health Professions Appeal and Review Board (HPARB) set aside a decision of the Inquiries, Complaints and Reports Committee (ICRC) of the College of Nurses of Ontario (CNO) to issue “advice”.

The facts of the case centered on an allegation that the Applicant, who was the Patient Relations Officer at a hospital (and a member of the CNO) asked the Respondent patient what it would take to “settle the matter”, after their colonoscopy was performed by a physician who was specifically not approved of on the consent form.

The Applicant denied making the alleged statement and there was no evidence to support the allegation other than the Respondent’s account of their discussion.

In its decision, the ICRC concluded that the Applicant had admitted to making the alleged statement and issued “advice” regarding the appropriateness of the statement.

In the complaint review, the HPARB panel determined that there was no evidence in the record to support the conclusion that the Applicant admitted to making the statement, or that the Applicant made the statement. In respect of the latter, the HPARB panel went on to state that there was insufficient information, such as records or independent witnesses, to corroborate and support the version of one party over the other.

As a result, the HPARB panel held that the decision of the ICRC to issue “advice” was unreasonable and ordered the ICRC to take “no further action”.

This was an interesting decision and illustrates the limitations on the ability of the ICRC to make findings of fact when considering complaints. Namely, the ICRC cannot prefer a version of events put forward by one party over another, absent additional reliable evidence of some type.

It is also worth noting that it was a bold decision for the Applicant to request a review of the ICRC decision, as “advice” dispositions do not appear on the public record, and consequently the result would not have been known to the public. Regardless, the Applicant must have felt strongly about her position and certainly cleared her name. A PDF version is available to download [here](#).

For more information please contact: **Lad Kucis** at **416.864.3114** or lkucis@grllp.com

About the Author

Lad Kucis is certified by the Law Society of Ontario as a specialist in health law and provides advice and representation to regulated health professionals in respect of all types of regulatory matters, including complaint and disciplinary matters before their regulatory colleges and complaint reviews before the Health Professions Appeal and Review Board.

(This blog is provided for educational purposes only, and does not necessarily reflect the views of Gardiner Roberts LLP).

Author



Lad Kucis

Partner

416.864.3114

lkucis@grllp.com



Bay Adelaide Centre — East Tower
22 Adelaide Street West, Suite 3600
Toronto, ON M5H 4E3

Phone: 416.865.6600
Fax: 416.865.6636
contactGR@grllp.com