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File No.: 010217

March 8, 2002

Via Courier

COPY

Ms Nancy J. Spies
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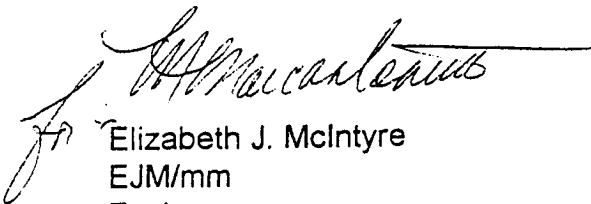
Dear Ms Spies:

Re: **Ruth Doerksen and Anagaile Soriano, RNs,
and the College of Nurses of Ontario**

Please find enclosed herewith our Response to Mrs. Shore's Motion for Access to Exhibits.

Yours truly,

**CAVALLUZZO HAYES SHILTON
McINTYRE & CORNISH**


Elizabeth J. McIntyre

EJM/mm

Encl.

Copy - Prudence Morton

Copy - Karen Jones

**IN THE MATTER OF A HEARING BEFORE
THE DISCIPLINE COMMITTEE
OF THE COLLEGE OF NURSES OF ONTARIO**

BETWEEN:

COLLEGE OF NURSES OF ONTARIO

- and -

RUTH DOERKSEN, RN and ANAGAILE SORIANO, RN

RESPONSE TO THE MOTION FOR ACCESS TO EXHIBITS

1. Response to the Motion for Access to Exhibits dated March 8, 2002.
2. Affidavit of Virginia Nelder sworn March 8, 2002.

Date: March 8, 2002

**CAVALLUZZO HAYES SHILTON
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**Solicitors for Ruth Doerksen
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**TO: DISCIPLINE COMMITTEE
COLLEGE OF NURSES OF ONTARIO
c/o Nancy Spies
Stockwood Spies
Barristers and Solicitors
The Sun Life Tower
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**TO: COLLEGE OF NURSES OF ONTARIO
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**TO: Karen Jones
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**IN THE MATTER OF A HEARING BEFORE
THE DISCIPLINE COMMITTEE
OF THE COLLEGE OF NURSES OF ONTARIO**

BETWEEN:

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- and -

RUTH DOERKSEN, RN, and ANAGAILE SORIANO, RN

RESPONSE TO THE MOTION FOR ACCESS TO EXHIBITS

Overview

1. Ms. Sharon Shore has brought a motion to this hearing of the Discipline Committee requesting access to Exhibits 3 and 4 filed on the Motion for Adjournment, heard on December 4, 2001.
2. Exhibits 3 and 4 are the motion records of the members, Ruth Doerksen, RN, and Anagaile Soriano, RN.
3. The Members oppose this motion for access.
4. It is submitted that this motion should be dismissed. In the alternative, it is submitted that this motion should be deferred until the commencement of the proceedings.

5. In all events, it is the Members' submission that, if this motion is allowed, it should be made conditional on an undertaking of non-disclosure by Ms. Shore to all members of the media or the public.

Background to the Motion for Access

6. Ms. Shore is the mother of Lisa Shore. The allegations before the Discipline Committee concern the care the Members provided to Lisa Shore while she was a patient at the Hospital for Sick Children.

7. The Motion for Adjournment was granted by the Discipline Committee on February 18, 2002. The Discipline Hearing has been adjourned *sine die*.

8. Lisa Shore's death was the subject of a long and acrimonious Coroner's Inquest. Before, during and since the conclusion of the Inquest, Ms. Shore has publicly proclaimed that her daughter's death was directly "caused" by the "negligence" of Ms. Doerksen and Ms. Soriano.

9. Ms. Shore has been quoted on numerous occasions in various newspapers, on the radio, and on television as being of the opinion that Ms. Doerksen and Ms. Soriano lied under oath at the Coroner's Inquest Touching on the Death of Lisa Shore. She has publicly stated that they deserve to be fired and that it is "morally repugnant" that they continue to be employed by the Hospital for Sick Children.

Affidavit of Dr. Alan Goldbloom

10. In January, 2001, Dr. James Young, Chief Coroner for Ontario, called a coroner's inquest into the death of Sanchia Bulgin, another patient at the Hospital for Sick Children. Ms. Shore applied for standing at that inquest.

11. In response to Ms. Shore's application for standing, Dr. Alan Goldbloom filed an affidavit with the coroner. Dr. Goldbloom is the Executive Vice-President and Chief Operating Officer of the Hospital for Sick Children. Dr. Goldbloom wished to bring to the coroner's attention the "aggressive position" taken by Ms. Shore against the Hospital for Sick Children and its nursing staff. It was Dr. Goldbloom's opinion that Ms. Shore had participated in an "on-going campaign against the Hospital and its staff" and that the remaining nursing staff at the Hospital was fearful of Ms. Shore and the public position she took concerning the nursing care provided at the Hospital for Sick Children.

Exhibit 1 to the Affidavit of Virginia Nelder at paras. 18-20.

12. Dr. Goldbloom and the Hospital opposed Ms. Shore's application for standing at the Bulgin Inquest, in part because her position with respect to nurses at the Hospital for Sick Children was seen as immoderate and aggressive.

Exhibit 1 to the Affidavit of Virginia Nelder at paras. 18-20.

The Lisa Shore Web Site

13. Perhaps the most public display of Ms. Shore's antipathy towards Ms. Doerksen and Ms. Soriano is found in her web site dedicated to her daughter, www.lisashore.com. Although this web site is temporarily unavailable on-line, its content makes Ms. Shore's opinion of Ms. Doerksen and Ms. Soriano clear. The first paragraph of the first page of the web site reads as follows, as of September 5, 2001:

"IN MEMORY OF LISA CELINE SHORE, WHO DIED SENSELESSLY AND TRAGICALLY BECAUSE OF TWO NEGLIGENT NURSES AT THE HOSPITAL FOR SICK CHILDREN IN TORONTO, CANADA."

Exhibit 2 to the Affidavit of Virginia Nelder.

14. There are numerous other examples in the web site where Ms. Shore calls Ms. Doerksen and Ms. Soriano negligent and where she accuses them of killing her daughter. Examples can be found on virtually every page of the web site along with many descriptions of care that Ms. Shore considers sub-standard.

Exhibit 2 to the Affidavit of Virginia Nelder.

15. The web site contains copies of newspaper articles, the transcript of a phone-in television talk show on which Ms. Shore and her lawyer were guests, the complaints filed by Ms. Shore with the College of Nurses against Ms. Doerksen, Ms. Soriano, and other nurses, transcripts from the inquest into Lisa Shore's death, and myriad other documents connected to this matter. All are uniformly negative toward the members. All express the opinion that the members' actions with respect to Lisa Shore were negligent and that their behaviour while testifying at the Coroner's Inquest was disgraceful and in violation of professional standards and ethics.

Exhibit 2 to the Affidavit of Virginia Nelder.

Submissions

16. It is the submission of the members that Ms. Shore should not be entitled to examine the Motion Records filed as Exhibits 3 and 4 on the Motion for Adjournment.

17. Ms. Shore has consistently used the media as part of a well-publicized campaign against the Hospital for Sick Children's nursing staff, and Ms. Doerksen and Ms. Soriano in particular.

18. Her campaign has reached the point where, according to Dr. Goldbloom's affidavit, other nurses at the Hospital are afraid of being implicated or or being made, in some way, to answer to her.

19. It is the members' reasonable belief that Ms. Shore has demonstrated that she may misuse records and transcripts in a way that would being disrepute to this Committee's processes.

20. Ms. Shore has consistently used all documents that have come to her attention to discredit and defame Ms. Soriano and Ms. Doerksen. It remains of deep concern to the members that Ms. Shore will attempt to use the motion materials in a similar way.

21. Furthermore, as Ms. Shore is not a member of the College, an undertaking by her not to disclose the contents of the Motion Records would not be enforceable by the College.

Guidelines of the Discipline Committee

22. Paragraph 20 of the Guidelines of the Discipline Committee reads as follows:

A member of the public or a media representative seeking access to (an) exhibit(s) at a discipline hearing shall bring a motion before the Discipline panel, on written notice to any interested persons, including the College, the Member, and any persons having a proprietary or privacy interest in the exhibit. In doing so, the person requesting access shall comply with paragraph 11 of these guidelines, and must identify the purpose, scope of the access and the intended use being sought. If permission to duplicate the exhibit is requested, the person seeking access must provide evidence that the duplication will not adversely affect the integrity of the exhibit. [Emphasis added.]

23. It is submitted that Ms. Shore has failed to comply with these guidelines in her Motion for Access. Although Ms. Shore specifies the scope of the access she is requesting, she does not explain the purpose for which she wishes to view this material nor does she describe the use she intends to make of the material.

24. Given the use Ms. Shore has made of similar material in the past, it remains of deep concern to the Members that Ms. Shore intends to use this material in a manner that runs counter to the integrity of this Committee's process.

25. Paragraph 21 of the Guidelines states that the Committee may take into account the following factors in reaching a determination with respect to access to exhibits:

- (a) the general principle that hearings be open to the public;
- (b) the intended use of the exhibit(s);
- (c) proprietary and privacy interests in the exhibit(s);
- (d) the timing of the request, and specifically, whether it was made during or after the hearing;
- (e) interference with the properly [sic] and orderly conduct of the hearing; and
- (f) interference with the Member's right to a fair hearing;

26. It is submitted that the application of these factors leads to the conclusion that this motion should be denied. Although it is a "general principle" that hearings be open, a decision in respect of each hearing must be made according to the specific facts at issue. The events surrounding the members' care of Lisa Shore have already received extensive and comprehensive media attention. It is our submission that this attention may already have prejudiced the members' ability to receive a fair and impartial hearing.

27. In any event, a decision as to whether the Hearing will be open to the public has not yet been made. It is submitted that a decision on this motion for access should at the least await a decision on whether the Discipline Hearing will be open to the public.

28. It is submitted that the other factors listed in Paragraph 21 equally support the Members' position that this motion should be denied or, in the alternative, deferred.

29. Ms. Shore has not provided an explanation as to her intended use of the exhibits. Given the public display of other documents related to this hearing, it is submitted that it is a reasonable inference that there is an intention to publicize these exhibits as well. This is a use which, it is submitted, will interfere with the proper and orderly conduct of the hearing.

30. Any interference with the orderly conduct of the hearing will necessarily interfere with the Members' right to a fair hearing. The Members face ongoing criminal proceedings with respect to the same events that are the subject of this Discipline Hearing. It is submitted that the disclosure of Exhibits 3 and 4 will be prejudicial to the Members and could jeopardize their ability to provide full answer and defence to the criminal charges.

Conclusion

31. It is submitted that balancing all factors leads to the conclusion that this motion should be denied.

32. Ms. Shore has not complied with the requirements of this Committee with respect to providing sufficient information as to her intended use of the exhibits and her purpose for requesting access to them. As a result, it is submitted, this motion should be dismissed.

33. It is further submitted that the other factors listed in Paragraph 21 lead to the same conclusion that access to Exhibits 3 and 4 should be denied. It is of paramount concern to the Members that there be no interference with the proper and orderly conduct of the hearing and with their right to a fair hearing. It is submitted that this Committee should err on the side of caution in disclosing material before the commencement of the proceedings to a member of the public who has not indicated what use she intends to make of that material.

34. In the alternative, it is submitted that this motion should be deferred until the commencement of the proceedings and a determination of whether this hearing will be open to the public.

35. In any event, it is our submission that, if access to the exhibits is to be allowed, strict conditions should be placed on Ms. Shore to ensure there is no further disclosure to any member of the public or of the media.

Date: March 8, 2002

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