

## Discipline Hearing Summaries

The Discipline Committee is responsible for conducting hearings into matters of professional misconduct set down by citation at the direction of the Board or the Inquiry Committee. Dispositions from a Discipline Panel can include: dismissal of the case; a reprimand; imposition of limits or conditions; suspension or cancellation of registration; a fine and/or assessment of costs. The College publishes disciplinary hearing summaries in accordance with the requirements of the *Health Professions Act (HPA)* and the Bylaws for the College of Midwives.

### **In the Matter of a Hearing before a Disciplinary Panel between the College of Midwives of BC and Dawn Hanburymorie**

**Hearing Dates:** April 21, 22, 23, 24, 25, 2008 and May 5, 2009

**Member:** Dawn Hanburymorie – former member, registration #1039; initial date of registration May 6, 1998; conditions imposed April 15, 2005; suspended June 15, 2005; registration lapsed (did not renew) April 1, 2006.

On April 12, 2005, the College received a letter of complaint from the Prince George Regional Hospital outlining concerns about care provided by Ms. Hanburymorie to five women and their newborns between 2001 and 2005 (December 2001, April 2002, September 2002, August 2003, February 2005).

The complaint was investigated pursuant to Section 33 (1) of the *Health Professions Act*, R.S. B. C. 1996, c.183 (the “Act”). On April 15, 2005, the Inquiry Committee placed conditions on Ms. Hanburymorie’s practice pursuant to Section 33(6)(d) of the Act and on June 15, 2005 Ms. Hanburymorie was suspended pending the hearing of the matter which was referred to the Discipline Committee. The Inquiry Committee ordered that a citation be issued against Ms. Hanburymorie alleging that she was guilty of incompetence and professional misconduct.

As a result, the Discipline Committee convened a Panel made up of one public and two professional members to conduct a disciplinary hearing which convened on April 21, 2008, for five days when it was adjourned by consent. The allegations were presented by College counsel Catherine Herb-Kelly; the Panel was supported by counsel Penny Washington, and the midwife was represented by her counsel Robin Harper. The hearing was open to the public and a court reporter was present.

The panel heard from an expert witness, Kim Campbell RM, and Dr. Marie Hay, pediatrician at Prince George Regional Hospital, and then from Ms. Hanburymorie. The hearing was set to reconvene in early November, but was later rescheduled. The Panel reconvened on May 5<sup>th</sup>, 2009, on which date the College indicated that Ms. Hanburymorie had agreed to the terms of a draft consent agreement which was presented for approval to the panel.

Having reviewed the Act and the Bylaws of the College, and the Competencies of Registered Midwives and the Standards of Practice policies of the College and having heard the evidence of the College and the submissions of counsel, the Panel found:

- Ms Hanburymorie is guilty of professional misconduct in that she did not comply with the standards of practice under Section 39 (1) (b) of the HPA.

The Panel was unable to make any findings with respect to the allegation incompetence given that the hearing did not complete.

The reasons provided by the Panel for their finding of professional misconduct were as follows:

1. The Panel found Ms. Hanburymorie's resuscitation of the newborn to be inadequate in three cases. They found that resuscitative efforts were not initiated in accord with the standards set out for the resuscitation of newborns in the Canadian Neonatal Resuscitation Program accepted as the standard of care by the College. They further found that some of her actions could further jeopardize an infant in trouble.
2. The Panel found that Ms. Hanburymorie did not document her surveillance of fetal health in labour clearly and this made it difficult to assess if intervention was required.
3. The Panel found that Ms. Hanburymorie improperly managed a postpartum hemorrhage, and that delay in transportation of the woman to hospital and improper follow-up cause further deterioration of the woman's condition.
4. The Panel consistently found Ms. Hanburymorie's intrapartum documentation to be confusing and sometimes inconsistent with the actions performed, which may have contributed to other professionals involved in care having incomplete information.
5. The Panel found that poor inter-professional communication was a contributory factor in some of these cases, and that midwives should be able to communicate effectively with other health professionals.
6. The Panel found that Ms. Hanburymorie failed to follow-up with her clients appropriately.

Counsel for the College and for Ms. Hanburymorie made joint submissions and presented a draft consent agreement for the Panel's approval. The College also advised that Ms. Hanburymorie had been subject to a prior consent agreement in 2005, the incomplete terms of which were incorporated into the draft agreement with the consent of Ms. Hanburymorie.

The Panel reviewed the terms of the draft consent agreement and concluded that they are appropriate in the circumstances and will ensure that the public is adequately protected should Ms. Hanburymorie choose to return to practice.

Under section 39 of the Act the Panel ordered that the following conditions be imposed on Ms. Hanburymorie's practice should she return to practice and incorporates the consent agreement into their order as follows:

Dawn Hanburymorie is required:

1. To successfully complete a full Neonatal Resuscitation Program (not a recertification) taught by an instructor approved by the Committee who will report on her competence, in reference to the CMBC's *Competencies of Registered Midwives* Section II.A.20<sup>1</sup> and II.B.22<sup>2</sup>, to the College. This course must be completed prior to resuming registration as a midwife in BC.
2. To successfully complete a Fetal Health Surveillance Course approved by the College that addresses auscultation of the fetal heart, electronic fetal monitoring and charting, taught by an instructor approved by the Committee who will report on her competence,

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<sup>1</sup> Knowledge of neonatal resuscitation to the standard established for a primary care provider in Canada (includes successful completion of a provincially recognised neonatal advanced life support program).

<sup>2</sup> Ability to perform neonatal resuscitation to the standard established for a primary care provider in Canada.

in reference to the CMBC's *Competencies of Registered Midwives* Section II. A. 7<sup>3</sup>, and II.B.4<sup>4</sup>, to the College. This course must be completed prior to resuming registration as a midwife in BC.

3. To complete a course on the management of maternal and neonatal emergencies (ALSO, ALARM or ESW) taught by an instructor approved by the Committee who will report on her competence, in reference to the CMBC's *Competencies of Registered Midwives* Section II. A. 9, 10, 11, 13, 16, and 19<sup>5</sup>, and II.B.3, 5, 6, 8, 13, 19, and 20<sup>6</sup>, to the College. This course must be completed prior to resuming registration as a midwife in BC.
4. To complete a course on documentation focused on how to document care in the client health record, informed choice discussions and clinical decision-making from a primary care perspective, taught by an instructor approved by the Committee who will report on her competence, in reference to the CMBC's *Competencies of Registered Midwives* General Competency 15<sup>7</sup> and consistent with the CMBC's *Policy on Records and Record Keeping* and *Policy on Record Content*, to the College. This course must be completed prior to resuming registration as a midwife in BC.
5. The College will provide Ms. Hanburymorie with the names of courses available in British Columbia that are acceptable to the Committee. The Committee will consider and not unreasonably withhold approval of courses suggested by Ms. Hanburymorie to fulfill these requirements in paragraphs 1- 4.
6. To be supervised as a conditional registrant by a supervisor (or supervisors) under a plan approved by the Committee for 10 courses of care which meet the CMBC's requirements for continuity of care, and to be supervised for an additional 10 births where Ms. Hanburymorie has met the client at at least one visit prior to the onset of labour. An approved supervisor must be present and observing Ms. Hanburymorie's management of labour from the onset of active labour for the first five deliveries. Once a Supervision Plan is in place the Supervision Panel of the Registration Committee (the "panel"), shall have responsibility for monitoring the plan. Supervisor(s) will report to the panel every month regarding Ms. Hanburymorie's progress and the practice issues described in number 7 of this Consent Agreement. Ms. Hanburymorie and the College will work together to identify a qualified Supervisor(s) acceptable to the Committee.
7. Ms. Hanburymorie's Supervisor(s) will focus on Ms. Hanburymorie's:
  - Ability to communicate clearly about the best available evidence, and present a balanced view of risks and benefits of various therapies and treatments to her

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<sup>3</sup> Knowledge of fetal heart rate patterns and their significance.

<sup>4</sup> Ability to assess fetal heart tones by auscultation and electronic means, including application of scalp electrodes, document, and take appropriate action based on these assessments;

<sup>5</sup> Knowledge of: the significance of ruptured membranes and methods of reducing risk of infection; abnormalities of labour; prevention, assessment and management of exhaustion and dehydration during labour; indications and procedure for episiotomy; prevention and treatment of haemorrhage; obstetrical interventions used in emergency care;

<sup>6</sup> Ability to recognise abnormal labour patterns and identify the probable cause(s); determine the status of fetal membranes, perform amniotomy where appropriate, and assess amniotic fluid; recognise a full bladder and catheterise; perform an episiotomy when indicated; recognise and manage postpartum haemorrhage; and recognise signs of maternal shock, initiate treatment and perform ongoing assessment.

<sup>7</sup> Knowledge and skill necessary to establish and maintain comprehensive, relevant and confidential records.

- clients in informed choice discussions in the antepartum, intrapartum and postpartum period and to document these discussions appropriately in the client's health record;
- Ability, in particular, to carry out informed choice discussions related to Group B streptococcus, and to follow-up with appropriate testing and with antibiotic prophylaxis in labour when required.
  - Ability and willingness to provide care within midwifery standards, including consultations and transfers of care consistent with the CMBC's *Indications for Discussion, Consultation and Transfer of Care, Indications for Planned Place of Birth, Standards, Limits and Conditions for Prescribing, Ordering and Administering Drugs* and the CMBC's *Policy for Client Requests Outside Midwifery Standards*;
  - Ability to carry out antenatal and postnatal assessments, including well-woman physical assessments, and to document antenatal and postnatal care appropriately in the client's health record;
  - Ability to assess and document fetal and maternal vital signs appropriately in labour;
  - Ability to assess and manage labour and birth and to document her clinical decision-making from a primary care perspective;
  - Ability to measure, assess and document maternal blood loss in the immediate postpartum and respond appropriately; and
  - Ability to carry out neonatal resuscitation that is consistent with the standards set out in the *Neonatal Resuscitation Textbook (5<sup>th</sup> Edition)*, to initiate transport when required, and to appropriately document her assessment, resuscitation and management of newborn care in the newborn record; and
  - Ability to communicate with other health professionals in both urgent and non-urgent situations, and when consultation and/or transfer of care is required under the CMBC's *Indications for Discussion, Consultation and Transfer of Care*.
8. The Supervisor(s) will identify to the Supervision Panel of the College any concerns they have about unsafe practice, or practice that does not comply with the College bylaws, the College's statement of Competencies of Registered Midwives, its Standards of Practice, the Code of Ethics or the Model of Practice, and the Supervision Panel shall be at liberty to require Ms. Hanburymorie to undertake further remediation in response thereto, if appropriate.
9. In her practice as a midwife, Ms. Hanburymorie agrees to provide each of her clients with a copy of the CMBC's *Indications for Discussion, Consultation and Transfer of Care* and *Indications for Planned Place of Birth*, and to provide every client considering a home birth with a copy of the CMBC's *Home Birth Handbook* and to ensure that every client who plans a home birth in her care signs the *Home Birth Consent* from this handbook and that a copy is retained on the client's chart.
10. In her practice as a midwife, Ms. Hanburymorie agrees to notify the hospital, and to call an ambulance for transport to hospital, whenever she is in a situation where transport is required under the CMBC's *Indications for Discussion, Consultation and Transfer of Care* and/or *Indications for Planned Place of Birth*, and to do her utmost to encourage the mother to follow the College's requirements and go to hospital, or take her newborn to hospital, for assessment by a physician when indicated.
11. In her practice as a midwife, Ms. Hanburymorie agrees to measure maternal blood loss in the immediate postpartum period and, should that blood loss equal or exceed 750 milliliters or if the woman require medications or intravenous therapy beyond a single

dose of 10 units of oxytocin to control bleeding, Ms. Hanburymorie agrees to notify the hospital, and to call an ambulance for transport to hospital, and to do her utmost to encourage the mother to go to hospital for assessment by a physician.

12. Ms. Hanburymorie agrees to report to the College any instance where a client refuses transport to hospital as required under the *Indications for Discussion, Consultation and Transfer of Care* and/or *Indications for Planned Place of Birth*, and to submit a copy of the client's health records for chart review to the College if requested.
13. Ms. Hanburymorie agrees to continue to carry out a monthly chart review of active charts for the following: all clients who are 34 weeks gestation or more and all mothers and newborns from birth until 10 days postpartum, with a midwife or midwives approved by the College for a period of 12 months after resuming registration as a midwife.
14. Ms. Hanburymorie agrees to have a Quality Assurance practice audit carried out on her midwifery practice by an auditor appointed by the College after she has been practicing as a general registrant again for at least six months. This audit will consist of:
  - a) The auditor observing a minimum of three antepartum visits, two postpartum visits and one birth conducted by Ms. Hanburymorie;
  - b) A chart audit of 10 randomly selected charts documenting client care and will include home births, hospital births and at least two charts from births where care was transferred from a planned home birth into hospital. (This audit will replace the audit referred to in the Consent Agreement signed March 19, 2005, and will also include the issues to be addressed in that audit\* - All other undertakings agreed to in that March 19, 2005, Consent Agreement continue to apply.)

The audit will focus on:

- Informed choice discussions in the antepartum, intrapartum and postpartum period and their appropriate documentation in the client's health record;
- Inter-professional communication and its appropriate documentation in the client's health record;
- Care within midwifery standards, including consultations and transfers of care consistent with the CMBC's *Indications for Discussion, Consultation and Transfer of Care, Indications for Planned Place of Birth, Standards, Limits and Conditions for Prescribing, Ordering and Administering Drugs* and the CMBC's *Policy for Client Requests Outside Midwifery Standards*;
- Antenatal and postnatal\* assessments and documentation of antenatal and postnatal\* care;
- Assessment and documentation of fetal and maternal vital signs in labour;
- Assessment and management of labour and birth, and documentation of clinical decision-making from a primary care perspective;
- Measurement, assessment and documentation of maternal blood loss in the immediate postpartum;
- Neonatal resuscitation consistent with standards set out in the Neonatal Resuscitation Textbook (5<sup>th</sup> Edition) and documentation of assessment and resuscitation of the newborn;
- Documentation of postpartum care\*;
- Documentation of phone calls with clients in their charts\*;
- Documentation of PKU testing and/or the client signing an informed refusal;\*and
- Documentation of when test cards are sent to the provincial lab\*.

15. The Auditor will identify to the College any concerns arising from the audit about unsafe practice, or practice that does not comply with the College bylaws, the College's statement of Competencies of Registered Midwives, its Standards of Practice, the Code of Ethics or the Model of Practice, and the Committee shall be at liberty to require Ms. Hanburymorie to undertake further remediation in response thereto, if appropriate.
16. If the Auditor is satisfied that Ms. Hanburymorie is consistently and appropriately assessing, managing and documenting maternal blood loss in the immediate postpartum, the Auditor may recommend to the Committee a change or removal of the requirement, as set out in item 11, that Ms. Hanburymorie must measure blood loss in the immediate postpartum.

Decision dated: September 24, 2009

The college has provided a copy of the decision to Prince George Regional Hospital.

### **In the Matter of a Hearing before a Disciplinary Panel between the College of Midwives of BC and Sara Day**

**Hearing Date:** March 29, 2004

**Member:** Sara Day – former member, registration #1037, resigned July 8, 2003

On July 23, 2001, the College received a letter of complaint from a family concerning care provided during and after the delivery of their child by registered midwife Sara Day. The complaint was investigated pursuant to the *Health Professions Act*, R.S. B. C. 1996. On October 28, 2003, a citation for a hearing was issued at the direction of the Inquiry Committee. As a result, the Discipline Committee convened a Panel made up of one public and two professional members to conduct a disciplinary hearing which took place on March 29, 2004. The allegations were presented by College counsel; the Panel was supported by separate legal counsel and the midwife was represented by her own counsel. The hearing was open to the public and a court reporter was present. At the outset it was noted that the respondent had voluntarily ceased practice, but it was agreed before the Panel that the Panel still had jurisdiction over her.

At the onset of the hearing Ms. Day admitted she was guilty of the allegations in section II and III of the Citation as follows:

- II. professional misconduct pursuant to Section 33 (4) (c) , 37 and 38 of the Health Professions Act, and a breach of Section 5 of the College's Code of Ethics in Appendix 2 of the College Bylaws;, and
- III. a breach of the College's Bylaws pursuant to Section 33 (4) (a) of the Act.

The College withdrew the allegation of incompetence in section I. of the citation.

After reviewing the Act, the Bylaws and the Standards of Practice, and hearing the submissions of both counsel, the Discipline Panel found Ms. Day guilty of professional misconduct and a breach of Section 5 of the Code of Ethics and Sections 60 (e), (m) and (r) of the Bylaws in respect of her having billed the Medical Services Plan for postpartum care that did not take place. In addition, the Panel found Ms. Day guilty of a breach of Bylaw 60 (e) in that she did not meet the standards applicable to midwives in British Columbia for appropriate care of a newborn

and mother in the immediate postpartum period, particularly with respect to appropriate and timely follow up of rapid weight loss in the newborn.

Counsel for the College and Ms. Day made joint submissions on the nature of an appropriate penalty and presented a draft consent agreement for the approval of the Panel. The College also advised the Panel that Ms. Day had been subject to a prior period of supervision in 2000 as a result of an Inquiry investigation. The Panel agreed that the terms of the consent agreement presented were appropriate and would ensure that the public is adequately protected should Ms. Day choose to return to practice. They incorporated those terms into their Order:

Under Section 39 of the *Health Professions Act*, the College of Midwives of British Columbia Discipline Committee ordered that the following conditions be imposed on the Registrant's practice should she return to practice:

- 1) Ms. Day will be supervised for 20 courses of care. The supervisors will report to the Supervision Panel of the College every month regarding Ms. Day's progress and the practice issues described under "Duties of the Supervisor(s)" below. Ms. Day will be responsible for identifying a qualified Supervisor (s) acceptable to the Supervision Panel.
- 2) For each course of care, the supervision will consist of:
  - a) Weekly chart reviews of all postpartum midwifery care provided by Ms. Day to each client;
  - b) Direct supervision for one antenatal visit, the day-three postpartum visit (or the first at-home postpartum visit immediately after discharge from hospital if the mother and newborn remain in the hospital at day-three, and one additional postpartum visit for each of the 20 clients;
  - c) Ms. Day must notify a supervisor and discuss a plan of care at the onset of labour or induction for the first 10 of the 20 courses of care;
  - d) Ms. Day must attend in person with any client who is being induced, and contact a supervisor by phone at the commencement of the induction and thereafter as directed by the supervisor;
  - e) Ms. Day must notify a supervisor when a client has delivered in her care and discuss her plan for care for the immediate postpartum with her supervisor;
  - f) Direct supervision of the first five primiparous births. Intrapartum supervision will focus on assessment of fetal and maternal well-being, assessment of the progress of labour, including fetal position, the development and implementation of an appropriate plan of midwifery care consistent with those assessments and appropriate contemporaneous documentation.
- 3) Ms. Day will provide each client with a current copy of the College's *Indications for Discussion, Consultation and Transfer of Care* and discuss the document with each client.
- 4) An auditor appointed by the Supervision Panel will do a random audit of Ms. Day's charts, where care is completed to the final postpartum visit, every three months over one year or until a review of 20 charts is completed. This chart audit will include consideration of documentation of informed choice discussions; documentation reflecting an overall plan of care including assessments and management plans in the antepartum, intrapartum and postpartum; documentation of the assessment of the health, well-being, growth and development of the newborn, particularly in the first week of life; documentation of the assessment of the effectiveness of breastfeeding and

strategies for establishing an adequate milk supply; documentation of the assessment of maternal well-being in the postpartum, particularly with respect to potential sources of postpartum infection; and an audit of the correlation between actual care provided and billings submitted to the Medical Services Plan. The auditor will have the discretion to decide if two additional chart audits are required after the complete of the audit of 20 charts.

- 5) Ms. Day's auditor and/or supervisor(s) will identify to the Supervision Panel of the College any concerns they have about unsafe practice, or practice that does not comply with the College Bylaws, the College's Statement of Competencies of Registered Midwives, its Standards of Practice, the Code of Ethics or the Model of Practice and the Supervision Panel may require Ms. Day to undertake further remediation if appropriate.
- 6) Ms. Day will attend courses approved by the Supervision Panel on the following topics:
  - a) a communication course;
  - b) a documentation course with a focus on accurate documentation of events, assessments, informed choice discussions and an overall plan of care;
  - c) a lactation counseling or lactation consultant course with a focus on the skills needed to assess breastfeeding problems, to assess the health and well-being of the nursing newborn and to implement a plan of care to address problems; and
  - d) an ethics course with a focus of professional responsibility and ethical practice.

The Panel made further comment, directed to the Supervision Panel and any future supervisor(s), that a major focus during Sara Day's period of supervision should be "her understanding of the responsibilities of a midwife to a client, particularly with respect to follow up that assures the safety of mother and baby". Recognizing that clinical issues and issues of appropriate documentation did arise, the Panel emphasized that "Ms. Day's failure to understand the importance of ensuring follow up for a baby experiencing rapid weight loss in the first week of life" was their most significant concern. The Discipline Panel asked that the supervisor report specifically on this aspect of Ms. Day's care and that this report be passed on to the Discipline Panel.

A formal reprimand was ordered placed on Sara Day's file to the effect that she billed the Medical Services Plan for postpartum care visits that did not take place and that this constitutes professional misconduct.

Because Sara Day is not currently practicing, the Discipline Panel made their orders related to her future practice subject to Ms. Day meeting any and all requirements for reinstatement of her registration with the College. Expressing concern that her absence from practice not be too lengthy, the Panel required that, in order to return to practice as set out above, Ms. Day must apply for and meet the requirements for conditional registration by July 1, 2005.

Sara Day was also ordered to pay the sum of \$350 towards the cost of Discipline proceedings as agreed by both counsel.