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## MEDICAL APPEAL BOARD

BETWEEN:	Dr. Gerald Charles Richard Cullen	APPELLANT
AND:	Maple Ridge Hospital Association And Maple Ridge Hospital	RESPONDENT

Members of the Panel:

Mr. T.C. Marshall, Chair  
Dr. T.F. Harvey Armitage, Member  
Dr. Frank Turnbull, Member

Appearing for the Appellant      Dr. Gerald Charles Richard Cullen

Appearing for the Respondent      Mr. Peter Hodge

Heard on the 30th day of October, 1974 and the 13th day of November 1974

### REASONS FOR JUDGMENT

The Appellant is a duly qualified physician and surgeon residing in the Municipality of West Vancouver but carrying on practise as an ophthalmologist and maintaining an office at Haney in the Municipality of Maple Ridge. The Respondent is a society incorporated under the *Societies Act* and is the owner and operator of Maple Ridge Hospital located at or near Haney and serving the Municipalities of Maple Ridge and Pitt Meadows.

The Appellant has been granted consulting privileges only within the said Hospital. These are defined by Section 4 of Article IV of the Hospital's Medical Staff By-laws which provides, in part, as follows:

Section 5. Consulting Medical Staff:

This category shall consist of recognized specialists and other qualified physicians, not necessarily residing in the community but who, periodically visit the Hospital at the specific request of the Active or Associate Staff Members. Their function shall be:

- (i) Provision of necessary consultation on request for the care of a specific patient...

The Appellant has performed approximately 300 operations at the Hospital. In each case he has been required to have his patients admitted through members of the Active Medical Staff who are expressly permitted by Article IV, Sec. 2(e) of the By-laws to admit patients to the Hospital. The Appellant has also been required to use much the same method to schedule operations and to have his patients discharged. This limitation of what the Appellant alleges is a right is contained in Sec. 2(a) of Article IV, which provides:

- (a) The Active Medical Staff category shall consist of physicians residing and practising in the Municipalities of Maple Ridge and Pitt Meadows who have undertaken to transact all business of the Medical Staff and attend patients in and out of the hospital.

It was argued before us that a literal compliance with the above sub-section is impossible since no one can be said to reside within two municipalities. We find, however, that the logical and natural meaning of this perhaps inept draftsmanship is that the physician must both reside and practise in that geographical area comprising the boundaries of the two municipalities. In this, the Appellant clearly fails.

There are approximately 19 physicians enjoying admitting, privileges at the Respondent Hospital, all of whom are members of the Active Medical Staff.

There are a few other specialists practising in this area, mostly on a visiting basis, and they too are required to have their patients admitted to and discharged from the Hospital by a member of the Active Staff. There was no evidence to suggest that this procedure created grave inconvenience for the physician or was inimical to good patient care. The Appellant's principal complaint is that he is devoting all his time to his patients in that area and as a matter of convenience both to them and to him he should be granted full admitting privileges. He assured the Board that in such case he would be prepared to assume the total responsibilities assumed by members of the Active Staff including periodic "on call" duties when he would be prepared to live in during his term of duty. The Respondent Hospital maintains that it is unrealistic and contrary to precepts of good patient care to have a member of the Active Staff residing some 30 miles away.

While we are not required to make a finding as to the Hospital's wisdom in setting such a residential requirement, it is to be noted that this is not an unusual requirement and appears consistent with Sec. 4(1)(c) of the *Hospital Act*, which requires every hospital to have a properly constituted Board of

Management and "such by-laws ... as may be deemed necessary by the Minister ... for the provision of a high standard of care and treatment for patients..."

Sec. 5 of the Regulations to the *Hospital Act* set out in some detail the duties of a medical staff. These include the making of "recommendations regarding the various categories of medical staff membership to be established by the Board and the duties, responsibilities and privileges to be assigned to each category." In the view of this Board such powers fall clearly within the provisions of Sec. 4(1)(c) of the *Act*.

We find that the Board of the Respondent Hospital has approved the Medical Staff By-laws, that no provision therein is discriminatory or likely to create hardship and that the residence provision is reasonable and intended to be in the best interests of the "high standard for the care and treatment of patients" referred to in Sec.4 (1)(c) of the *Act*.

For these reasons the appeal is dismissed.

Dated the 26<sup>th</sup> day of November, 1974.

T.C. Marshall

T.F. Harvey Armitage

Frank Turnbull