

**Office of the Information and Privacy Commissioner
Province of British Columbia
Order No. 278-1998
November 30, 1998**

INQUIRY RE: A request for correction of records in the custody of the College of Dental Surgeons of British Columbia

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1. Description of the review

As Information and Privacy Commissioner, I conducted a written inquiry at the Office of the Information and Privacy Commissioner (the Office) on November 12, 1998 under section 56 of the *Freedom of Information and Protection of Privacy Act* (the Act). This inquiry arose out of a request for review of the decision of the College of Dental Surgeons of British Columbia (the College) to deny the applicant her request for correction of personal information in records in the custody of the College.

2. Documentation of the inquiry process

In a letter to the College of Dental Surgeons dated July 15, 1998, the applicant requested corrections to the records in the custody or under the control of the public body. The College responded in a letter of August 10, 1998 deciding to correct some records and annotate other records. In a letter dated August 12, 1998 the applicant requested a review of the decision of the College. The ninety-day statutory period for this review expired on November 12, 1998. In a letter dated October 19, 1998 the applicant identified the specific records and described the information she wished corrected. The Notice of Inquiry was issued on October 20, 1998.

3. Issue under review and the burden of proof

The issue to be reviewed is the College's application of section 29 of the Act to the dental charts of three dentists who treated the applicant and the related records in the custody of the College. The College has annotated records that the applicant wishes to have corrected.

The relevant section of the Act is as follows:

Right to request correction of personal information

- 29(1) An applicant who believes there is an error or omission in his or her personal information may request the head of the public body that has the information in its custody or under its control to correct the information.
- (2) If no correction is made in response to a request under subsection (1), the head of the public body must annotate the information with the correction that was requested but not made.
- (3) On correcting or annotating personal information under this section, the head of the public body must notify any other public body or any third party to whom that information has been disclosed during the one-year period before the correction was requested.
- (4) On being notified under subsection (3) of a correction or annotation of personal information, a public body must make the correction or annotation on any record of that information in its custody or under its control.

Section 57 of the Act, which establishes the burden of proof on parties in an inquiry, is silent with respect to a request for review about a request for the correction of personal information under section 29 of the Act. I decided in Order No. 124-1996, September 12, 1996, that the burden of proof is on the public body, in this case, the College.

4. The records in dispute

The applicant has requested corrections to the dental charts of three dentists who treated her and corrections to the related records in the custody of the College referring to the information the applicant wishes corrected in the dentists' charts. To facilitate this inquiry, the College has provided and addressed one set of records stemming from, and relating to, the dental records of one of the three dentists.

5. The applicant's case

The applicant has submitted a very detailed series of corrections that she wishes to see made on her dental charts for 1975, 1976, and 1991 from three separate dentists.

6. The College of Dental Surgeons of British Columbia's case

The College's position as to correction of the applicant's records is that it "would be difficult, if not impossible, for the College to ascertain the medical and dental status of

the Applicant as at the years in question. It would also be inappropriate for the College to alter third party records in the absence of such evidence.”

I have discussed below the College’s submissions on section 29 of the Act.

7. Discussion

I have made several decisions about the application of section 29 of the Act, which the College has cited appropriately. See Order No. 110-1996, June 5, 1996; and Order No. 124-1996. I concluded that a public body need only annotate, rather than correct, when that is the most appropriate solution to an identified problem, especially with respect to opinions as opposed to factual records, and I set out standards of correction in that regard.

I agree with the College that the applicant in this case “seeks correction for the purpose of editing a record so that it will read as she wishes it to read. The Applicant accepts that the files have been appropriately annotated. The Applicant essentially wants to rewrite the contents of the files.” (Submission of the College, para. 13) I agree, further, that it would be especially foolhardy for the College to correct dental records from a practitioner that were forwarded to it for particular purposes. I agree with the College that annotation is the preferred solution in the circumstances of this inquiry.

8. Order

I find that the College of Dental Surgeons of British Columbia acted in accordance with the requirements of section 29 of the Act with respect to the records in dispute. Under section 58(3)(d), I confirm the decision of the College of Dental Surgeons of British Columbia not to correct personal information as requested by the applicant.

David H. Flaherty
Commissioner

November 30, 1998