
BACKGROUNDER ON PHYSICIAN PRIVILEGING



March 9, 2010

Dr. Heartwell Seeks Privilege Reinstatement Board Hearing Set

Windsor, ON The issue of physician privileging is complex and is governed by the Ontario Public Hospitals Act and the professional staff by-laws of a hospital. As previously reported on February 23, Dr. Heartwell agreed to voluntarily withdraw her surgical privileges. Subsequently, on February 26, she withdrew her voluntary agreement to cease operating. The hospital's interim chief of staff, Dr. Kevin Tracey, then took immediate mid-term action to suspend Dr. Heartwell's privileges under the provisions of the hospital's by-law.

Once a suspension occurs a physician has legal rights to have the decision reviewed by the hospital's Medical Advisory Committee (MAC) within five days of suspension. The MAC is a statutory committee of the Board comprised of physician leaders. The MAC is required to review the decision of the Chief of Staff within five days of the suspension and provide a recommendation to the Board of Directors.

The Board of Directors is required to hold a hearing within seven days of the MAC's recommendation and reasons. Consequently, a hearing by a panel of board members, is set to begin on Wednesday, March 10, 2010.

By law, the Board of Directors is required to act as a quasi judicial decision maker and must act impartially in accordance with relevant legislation, the by-laws of the hospital and the principles of procedural fairness. Therefore, the Board acts like a panel of judges in hearing evidence and submissions made by its MAC and the affected physician. The Board will then consider what it has heard and will render a decision on the MAC recommendation.

The physician may appeal the Board's decision to the Health Professions and Review Board. HPARB is an independent tribunal, appointed by the Government of Ontario, to hold hearings concerning physician's hospital privileges under the Public Hospital's Act.

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