

Bittersweet victory for CMA past president

"There was no blatant disregard in this case."

Those 8 brief words, which summed up the decision of the Yukon Court of Appeal decision in a case involving CMA Past President Allon Reddoch, came as a great relief for the Whitehorse physician, even if it took 5 years for them to be written. In essence, the December ruling dismissed the notion that Reddoch had been guilty of unprofessional conduct, the charge that had been levelled successfully against him by the Yukon Medical Council (YMC).

"There is some sense of vindication that the truth has finally come out," Reddoch told *CMAJ*. "The information was all available years ago, yet I was held up as not being credible. And that was devastating to me."

In 1998 the YMC, the territory's regulatory body, ruled that Reddoch had failed "to take appropriate steps in the management, treatment and care" of Mary-Ann Grennan. The 16-year-old girl had been admitted to the Whitehorse General Hospital in September 1995 with what medical staff thought was food poisoning caused by smoked fish. She slipped into a coma 3 days later after experiencing respiratory failure secondary to *Clostridium botulinum* poisoning. She died in April 1996.

The YMC allowed that botulism is rare — this was the first case recorded in the Yukon — but decided that Reddoch had "failed to apply requisite skill and knowledge" and relied too heavily on the "focus and misadvice of other physicians and nursing staff."

Reddoch denied the charges, and in December the court agreed with him. "What I do say is that when the issue is one of a failure of reasonable care, the conduct of the physician in order to constitute unprofessional conduct must have about it some quality of blatancy — some cavalier disregard for the patient and the patient's well-being," wrote Madam Justice Mary Southin. "There was no blatant disregard in this case."

The case hinged on the definition of "unprofessional conduct" in the Yukon's Medical Profession Act. "The critical issue," wrote Southin, "is whether the words 'unprofessional conduct' encom-

pass the appellant's acts of omission which, on the findings of the Committee, can be summed up as a failure to exercise reasonable care and skill in the management of one patient whom neither he nor three other physicians believed to be gravely ill. In my opinion, the answer is 'no.'"

Even as this case was unfolding over the past 5 years, physician concerns were growing in the Yukon about the ability of the government-run YMC to regulate the 43 physicians who practise there. In 2000, the Yukon Medical Association (YMA) attempted to pass a vote of no confidence in the Yukon government's ability to run the council, but it failed due to the lack of a quorum at the YMA annual meeting. However, it did pass during the 2001 meeting held in late November.



Reddoch: "some sense of vindication"

"One of the problems we identified was the inconsistent application of policies in some cases," said Dr. Wayne MacNicol, the YMA president. "Right now there is no way for a physician to respond to what he or she feels was the unfair application of a policy without having to resort to the courts."

One policy that was not followed in Reddoch's case was to ensure that his name was kept confidential until the case had run its course. It is YMC pol-

icy to keep the names of physicians under investigation confidential unless public safety is at risk.

Reddoch's case captured the media spotlight because the council found him guilty just as he was to assume the CMA presidency. Reddoch immediately resigned as president-elect, saying that he didn't want his legal situation to "cast a shadow over the CMA," but he was unanimously elected president during the 1998 annual meeting in Whitehorse.

"A physician's reputation is paramount," says MacNicol, who adds that the identities of physicians being investigated should remain confidential. "If their reputation is besmirched then you are potentially destroying their ability to practise."

The YMA is stressing that its non-confidence motion is aimed at the territorial government's justice department, which administers the YMC, and not at the medical council or its members.

"The YMA strongly supports the notion of self-regulation and recognizes the importance of having a group such as the medical council in place to protect public safety," added MacNicol. "However, the process must be fair, open and accountable in dealing with complaints."

The YMA no-confidence motion contained 7 recommendations for reforming the medical council. The main points are that the YMC registrar be a physician (currently the registrar is a government employee) and that the council be run at arm's length from government.

The ruling that he had acted unprofessionally and the fact that a longtime patient died — Reddoch had delivered Grennan — affected him far more than the penalties imposed by the YMC. (It ruled that he must attend a clinical competency program and pay a \$5000 fine.) Last February a Supreme Court judge awarded over \$140 000 to the Grennan family as the result of a civil action against Reddoch and the Whitehorse General Hospital. That decision is being appealed by both parties.

Reddoch closed his family practice last August, saying he was exhausted from "seeking justice." He is now a medical adviser with the Yukon Workers' Compensation Board. — *Steven Wharry, CMAJ*