Sexually abused patient ponders civil trial

Joey Thompson
The Province

Friday, September 21, 2007

Debbie Maki was one of 22 sexually abused patients who had the guts to demand accountability from a string of B.C. doctors and the regulatory body that purports to monitor them.

Maki and the others launched a suit in 2004 against convicted molester Mark Stewart, the Campbell River clinic where he practised, as well as the College of Physicians and Surgeons, not so much for the coin, she said, as for the need to challenge a system that was enabling doctors to abuse patients without repercussion or reproach.

Maki is all too familiar with that. The North Delta mother of two was one of a parade of young women victimized by Stewart's sleazy internal exams between 1971 and 1996 at the Alder Medical Clinic on Vancouver Island.

The former physician, now 62, was ultimately convicted of nine sexual-indecent assault charges and sentenced to four years federal time.

While the college never provided a tally of the complaints it amassed against the doctor during his 25-year practice, records indicate police interviewed 60 patients before charging him with 76 sex crimes relating to his treatment of them.

And it is evident that Stewart continued practising and abusing patients long after Maki complained to college officials in 1994.

In fact, court documents show the women believe the college had likely known of Stewart's tacky bedside ill manners since the early 1970s.

The statements claim the women might have been spared the shame and degradation had the college bothered to investigate, taken steps to restrict him or, at the very least, warned his patients.

College officials, on the other hand, petitioned the courts to dismiss the lawsuit on the basis they had no legal duty of care to the women. After all, they argued, they had no idea what was going on, and even if they did, it wasn't incumbent on them to stop Stewart or to investigate the allegations. The college pressed forward with this pre-trial claim all the way to the country's top court in Ottawa -- and lost.

Their defeat was a major victory for B.C. citizens who now know they have the legal clout to go after the regulatory body if they believe the administration failed to heed a duty of care to members' patients.

A few weeks ago, college lawyers offered the 22 plaintiffs an undisclosed settlement that effectively put the kibosh on next year's seven-month civil trial that might have exposed the organization's internal complaint process for the first time.

The deal is expected to pay off the women's $300,000 legal debt to date, as well as provide a bit of cash for each, depending on the severity and frequency of Stewart's assaults.

Not surprisingly, lawyers representing Stewart and the 13 other Alder clinic doctors were next up to the plate. They, too, suggested a pre-trial payout to the women who are seeking damages from Stewart for pain and suffering and loss of wages as well as clinic doctors who they say should have tried to stop him.

To date, all but Maki have accepted the second offer. She'd like to press on to trial but knows it will be tough and costly to go it alone.

In the meantime, the doctors' civil legal fees as well as Stewart's criminal legal representation are covered by the Canadian Medical Protective Association, which taxpayers bankroll through the negotiated deal doctors cut with their provincial governments.

In B.C. alone, taxpayers funnel more than $26 million every year into the doctors' hefty defence fund.

- - -

Phone: 604-605-2119.
Fax: 604-605-2099.
jthompson@png.canwest.com.

© The Vancouver Province 2007