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Territories Minister of Health

SEP 10 1992

Ms. Jeannie Marie-Jewell, MLA
Thebacha
c/o Legislative Assembly

Dear Ms. Marie-Jewell:

I am disappointed by the tone and content of your letter of September 4, which seems to reflect a misunderstanding of both issues and process, and which makes unfounded allegations. Further, you fail to note the efforts by Dr. Viswalingam to thwart resolution of the matter within the Health Centre, which have contributed substantially to the necessity for a Board of Inquiry under the Medical Profession Act.

In my letter to you of July 26, I set out the basis upon which a decision to name a Public Administrator would be based, namely the unwillingness or inability of the Board to deal with the serious matters relating to medical practice at the Fort Smith Health Centre. Since his appointment as Public Administrator, Mr. Ellis has made repeated efforts to deal with the concerns raised by the Saskatchewan College of Physicians and Surgeons report in a manner sensitive to the dignity of Dr. Viswalingam, and to the concerns of the people of Fort Smith, including your own. He has been repeatedly rebuffed, in favour of legal and political manoeuvring. This has unfortunately resulted in disclosure of allegations regarding Dr. Viswalingam's health and competence which might otherwise, and should have, remained confidential until their merits had fully been considered by a hearing held under the by-laws of the Health Centre.

Referral to a Board of Inquiry under the Medical Profession Act has, from the receipt of the report been an obvious and possible outcome, because of the nature of the concerns expressed in the report. Such referral was avoidable only with cooperation from Dr. Viswalingam, which has not been forthcoming.

As you know, allegations regarding Dr. Viswalingam's competence to practise have been made as a result of a peer review in June of this year. Neither you nor I, or for that matter the residents of Fort Smith, have the ability, as non-physicians, to assess this issue. For that reason, the matter has very properly been referred to a Board of Inquiry under the Medical Profession Act. That inquiry may be conducted publicly, and the residents of Fort Smith can be informed through that process.

I am disappointed that you have made the secretive nature of the Board of Inquiry an issue. An inquiry under the Act can and should be public unless there is sufficient basis for in camera proceedings.

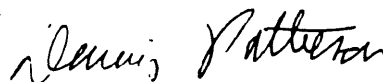
We appear to agree on one matter - that the facts must be ascertained and adjudicated in an appropriate forum. We differ substantially on what that forum should be. My view, and my obligation as Minister, is to pursue the matter in the forum that was created to deal with concerns regarding professional competence, that is, through a Board of Inquiry under the Medical Profession Act. An inquiry under the Public Inquiries Act is inappropriate for the review of the important issues raised by the report.

To commission a public inquiry under the Public Inquiries Act would in my opinion be totally inappropriate. You have allowed your attention to be diverted from the primary issue; i.e. the allegations of lack of competency to practise. That is the key issue requiring immediate investigation, and which will be investigated by the Board of Inquiry. Furthermore, if there is a finding of incompetence, a public inquiry under the Public Inquiries Act has no authority at law to impose a penalty, including remedial conditions on a physician's licence to practise, unlike a Board of Inquiry under the Medical Profession Act.

Finally, I must take exception to your characterization of my actions of meeting the needs of the Department, rather than those of the public. The College of Physicians and Surgeons report has raised serious questions regarding standards of medical practice, which is my duty to uphold. I intend to do so, and in the NWT, with the legislation currently in place, the course of action I am taking is the appropriate means of fulfilling my obligation to the public.

I am and will continue to be concerned about the opinions and needs of the community of Fort Smith. By referring this matter to the Board of Inquiry, I am exercising my responsibility to the public and requesting an investigation, in as timely a fashion as possible, to assure that the public's safety is protected.

Yours truly,



Dennis Patterson