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SELF-GOVERNING PROFESSIONS Gerry J. Fahey. Originally authored by Keith Hamilton Release No. 2, June 2022
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Publisher's Special Release Note 2021

The pages in this work were reissued in July 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the July 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

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What's New in this Update:

Reported and unreported decisions reviewed by the author up to March 15, 2022 have been included in this update. The following cases are of particular interest:

- *Savic v. College of Physicians and Surgeons of Ontario* (Ont. S.C.J. (Div. Ct.)) — Judicial review is a discretionary remedy, and the court has the discretion to refuse the relief, even where the application has merit. It is appropriate for the court to decline to hear an application for judicial review when an applicant has an adequate alternative remedy. The registrant chose not to pursue a statutory appeal and unjustifiably waited over two years to challenge the College's decision.
- *Law Society of Alberta v. Beaver* (Alta. C.A.) — The Court imposed a jail sentence of 90 days to be served intermittently on weekends where a disbarred lawyer repeatedly breached a court order prohibiting him from practicing law.
- *Alsaadi v. Alberta College of Pharmacy* (Alta. C.A.) — A civil action for malicious prosecution may lie against a regulatory body.
- *Park v. Royal College of Dental Surgeons of Ontario* (Ont. S.C.J. (Div. Ct.)) — In reviewing a decision to revoke a licence, the Court sets out the general test for ungovernability.
- *M.J.S. v. Health Professions Appeal and Review Board* (Ont. S.C.J. (Div. Ct.)) — Directing a registrant to attend and receive a caution in person is not a penalty but rather an educational and remedial measure intended to improve the physician's practice and to benefit the public by avoiding future concerns. The fact that remedial orders of this nature appear on the public register does not fundamentally alter their preventive, educational, and remedial nature.
- *The College of Physicians and Surgeons of British Columbia v. The Health Professions Review Board* (B.C.C.A.) — In deciding whether the Review Board's view that the College's decision was unreasonable was, itself, patently unreasonable, the Court can properly take a shortcut. It need only analyze the reasonableness of the College's decision. A further inquiry into the question of whether the Review Board's decision on review was patently unreasonable will not add any substance to the inquiry.

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