

November 21, 2022

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Dr. François Belanger, Vice President, Quality & Chief Medical Officer, francois.belanger@ahs.ca

Mr. Mauro Chies, Interim AHS President & Chief Executive Officer, mauro.chies@ahs.ca

Chief Ethics and Compliance Officer, complianceofficer@ahs.ca

VIA EMAIL

Dear Drs. McLelland, Belanger, and Mr. Chies;

The following is submitted as a concern under the Alberta Health Services (AHS) Whistleblower Policy (Policy Document #1101), pursuant to the AHS Conflict of Interest Bylaw and Article 6.0, and more specifically procedural section 6.3.5 regarding AHS medical administrative leaders, of the AHS Medical Staff Bylaws, on behalf of Drs. Hamdy El-Hakim, Jeffrey Harris, Daniel O'Brien, Hadi Seikaly, and Erin Wright of the Otolaryngology-Head & Neck Surgery Program.

Background:

On March 4, 2022 a significant portion (14 members) of the Edmonton Otolaryngology program wrote a letter to Alberta Health Services in which it was stated that:

Regarding the transition to a new Zone Section Chief, the sudden nature of this leadership change, and lack of input from the majority of the Section, has led to significant turmoil in our Section and we believe that continuing in our current state with an interim leader for several more months has the very real potential to create long-term strife.

It is now more than 10 months since our Section leadership was rapidly transitioned to an appointed interim leader by Dr. Williams, with no input from members of the Edmonton Zone

Otolaryngology - Head and Neck Surgery Section (the “Section”). We believe that this delay in leadership selection, contrary to and inconsistent with Section 8 of the AHS document “POLICY 01-05 MEDICAL LEADERSHIP RECRUITMENT,” has resulted in conflict and turmoil within our Section.

Since our March 4, 2022 letter, additional significant concerns have arisen, with serious issues experienced or observed by one or more of the signatories of this letter; issues we believe need to be raised with AHS leadership through the bylaws process. Our concerns are organized into four categories:

- Perceived Conflict of Interest
- Recruitment
- Operating Room Resource Allocations
- Perceived Harassment

Perceived Conflict of Interest

Overview: It is the impression of the authors that Dr. O’Connell’s actions prior to and since his interim appointment in January 2022 may present a breach of the AHS Conflict of Interest Bylaw (the Bylaw) (<https://www.albertahealthservices.ca/assets/about/bylaws/ahs-by1-conflict-of-interest.pdf>). Specifically, Dr. O’Connell, is an employee of, and a medical administrative leader in, AHS, as defined in the Bylaw. Our understanding is that Dr. O’Connell has a private interest in the Canadian Cancer Care Clinic (CCC Clinic) organization, as defined in, at least, Section 2.16.g, and possibly in 2.16.b-d, of the Bylaw and, thus may have a (perceived) conflict of interest. In addition, we have Alberta Health documents supporting the fact that Dr. O’Connell is the electronic submitter on record for a business arrangement number where the payee for that business arrangement is the CCC Clinic (see Section 2.c below for more detail). A corporate search of the CCC Clinic does not show Dr. O’Connell as a Director or Shareholder; however, Dr. O’Connell has confirmed in writing that he has a “formal relationship” with the CCC Clinic. To date, despite requests for clarity on his involvement, Dr. O’Connell has refused to outline precisely how he is connected to the Clinic. Our understanding is that the CCC Clinic operates on a business model whereby shareholders/owners receive a percentage of profit based on the number

of patients that are seen by doctors who practice at the CCC Clinic (and its affiliates), and procedures performed, thus creating a financial incentive for the CCC Clinic and its operatives to facilitate an increase in patient volume at their clinics. Additionally, per the CCC Clinic website, the organization is affiliated with the following clinics: ARIA MD Sleep Centre, Melody Hearing, Alberta ENT, Edmonton Comprehensive Care and Family Medicine, INVIVA, and, possibly, The Advanced Facial and Nasal Surgical Centre. Specific events are described below:

1. At the Otolaryngology Zone Section Meeting of March 1, 2022, a discussion was had regarding the CCC Clinic and their efforts to:
 - add a family physician as a surgical specialist to the AHS central OHNS FAST referral line; and
 - advertise employment offers for OHNS surgeons on their website, outside of AHS or sectional recruiting practices.

At this time, most members were unaware of Dr. O’Connell’s relationship with the CCC Clinic, and at the meeting, Dr. O’Connell was specifically asked about his involvement. He denied any formal relationship. At that same meeting, another member of the CCC Clinic group, Dr. Rayian Chowdhury, informed our Section that their ownership group was litigious, had previously succeeded in a legal battle with AHS, and that our Section risked litigation simply by discussing the activities of the CCC Clinic at a Section meeting. On March 4, 2022, Dr. O’Connell contradicted his statements at the Section meeting and advised the Zone Section members by email that he indeed did have a formal relationship with the CCC Clinic, and as such, and in accordance with the conflict-of-interest policy of AHS, would be removing himself from decision-making involving the CCC Clinic in the future. We believe that Dr. O’Connell has not abided by his written agreement to remove himself from decision-making around this private interest.

2. Since March 4, 2022, and prior to, despite his assurances, Dr. O’Connell appears to be acting as an intermediary on behalf of the CCC Clinic, and/or acting to benefit it, by continuing to make and support decisions that benefit the CCC Clinic and its employees

directly, activities that could be identified as a conflict of interest, as proposed in Sections 5.1 and 5.2 in the Bylaw. Examples include:

- a) On or around July 2020, the Otolaryngology Zone Section started exploring joining the AHS FAST referral program and discussing how to ensure fair patient referral distribution amongst Section members. This is an important topic with a direct impact on members' practices and thus required clear and transparent decision-making by the Section as a whole. Dr. O'Connell was aware of these discussions and the efforts of the Section to embark upon a central referral process through the FAST program. However, prior to our Section creating policy and procedure around a central referral process, Dr. Seikaly became aware that, unbeknownst to the remainder of the Section, the CCC Clinic had directly approached the AHS FAST referral program and for many months been directing adult and pediatric referrals exclusively to their clinic physicians, thus monopolizing the potential referral source to their advantage, and to the detriment of the remainder of the Section. Our Section became aware of this early in 2021, and it was discussed at our Section meeting in February 2021, with a number of Section members describing the CCC Clinic actions as "predatory." Our understanding is that this practice had been going on for at least three months prior to that meeting, and possibly longer. At no time during those months of monopolized referrals did Dr. O'Connell, or anyone else, take the opportunity to disclose this information to the Section, or make the Section aware of the fact that he was in receipt of FAST referrals. When this was discussed at the February 2021 section meeting, the CCC Clinic surgeons confirmed the situation, blaming an "administrative error" for the practice.
- b) In the spring of 2021, the Section agreed to a process for FAST referrals, with various sub-specialty Section members in charge of dispersing referrals to the surgeons in a fair and transparent manner. Since his interim

appointment, Dr. O'Connell has used his authority to, on at least two occasions, remove non-CCC Clinic-affiliated Section members from this triaging role. Dr. O'Connell was specifically asked about this at our October 2022 Section meeting. He deflected responsibility to FAST and did not admit to his role in this decision. Further discussions with FAST management on Nov 7, 2022, confirmed that Dr. O'Connell directed FAST to remove the non-CCC Clinic surgeons from their triage responsibilities. FAST administration also indicated that Dr. O'Connell made this decision in the summer, and had stated that he had discussed this decision in advance with the two triage physicians. This change in triaging protocol was not discussed with the Section, and Dr. Graeme Mulholland has indicated that the implementation of this change was not consistent with their discussions.

- c) Since Dr. O'Connell's interim appointment, he has used his position to preferentially assign or support AHS privileges to graduating fellows to the direct benefit of the CCC Clinic. For example, Dr. O'Connell was obstructive regarding the extension of AHS privileges to Dr. O'Brien, a graduating fellow and PhD candidate. Dr. O'Brien required AHS privileges to continue seeing patients at the University of Alberta Site ENT Clinic and to allow him the opportunity to earn income and support his family while completing his PhD and awaiting a final decision on his recruitment (see "Recruitment" section below). One day after the Section meeting of June 7, 2022 where Dr. O'Connell aggressively questioned the appropriateness of potentially extending AHS privileges to Dr. O'Brien, the CCC Clinic group contacted Dr. O'Brien to work in their clinic, which would have been to their financial benefit. Dr. O'Brien refused the offer and grieved the privileging decision to provincial AHS leadership (Dr. Belanger), which was overturned and privileges were extended for six months (despite the initial request being for 1 year). This action is perceived as Dr. O'Connell attempting to deny AHS privileges to force Dr. O'Brien to stop working at the UAH ENT clinic, where AHS privileges are required, thereby creating a

financial impetus for him to accept the position at the CCC Clinic, where AHS privileges are not required. In addition, revealing Dr. O'Brien's privileging status to the CCC Clinic group would potentially be a breach of Section 5.2.c of the Bylaw, "using knowledge or information not available to the public, and gained through their role with AHS, to benefit a private interest."

In contrast, Dr. O'Connell in the same month, and without Section input, did not raise any objection with AHS to the ongoing AHS privileges of Dr. Ashley Hinthier at the end of her fellowship studies in July 2022. Dr. Hinthier immediately began working for CCC Clinic surgeons, including Dr. O'Connell, to the direct financial benefit of Dr. O'Connell and the CCC Clinic ownership group. We have Alberta Health documents supporting the fact that Dr. O'Connell is the electronic submitter on record for Dr. Hinthier's Alberta Health billings, and that the payee for that business arrangement is the CCC Clinic.

3. Dr. O'Connell has on numerous occasions used Section meetings to state that if any Section Surgeons would like to move part of their surgical practice into a Chartered Surgical Facility that they should contact him directly to discuss this further. He has specifically mentioned The Advanced Facial and Nasal Surgical Centre, a Chartered Surgical Facility in Edmonton as an option, and it is our understanding that the CCC Clinic, or affiliated surgeons, has purchased, or agreed to purchase, an interest in this surgical facility. Dr. O'Connell was directly asked about the ownership of this facility at our Section meeting in October 2022. He deflected and indicated that if the Section had an interest in the ownership, they should perform a corporate registry check. He was not transparent in revealing the CCC Clinic's interest in this facility.

Search and Advise Committee — Rhinology Recruit

Overview: Dr. O'Connell halted a lengthy hiring process for a new recruit when the result was not to his satisfaction. As outlined below this last-minute obstruction of a recruiting process has left a

highly-qualified surgeon-scientist, who was selected by an AHS-approved recruitment process, and who has a wife and toddler to support, in limbo while awaiting resolution to a conflict created purely by Dr. O'Connell. We believe that this process has damaged AHS's, and the Section's, reputation as a trustworthy recruiting organization and is an example of interim leadership overreach, without the legitimate authority gained through an appropriate Search and Advise process. The decision has created unnecessary strife in our program. Specific events are described below:

1. In late February 2022, after a nearly year-long process, the Otolaryngology Zone, along with the University of Alberta, was nearing completion of a Search and Advise process for a new Rhinology recruitment to a Surgeon/Scientist position. The recruitment and the availability of supporting resources had been reviewed, signed, and advertised in October 2021 as per AHS and University of Alberta guidelines, and with their written approval. The required resources were in place and two candidates, including the previously mentioned Dr. Daniel O'Brien, were selected for consideration. Dr. Seikaly, as Zone Section Head and, University Divisional Director, had chaired the committee per Dr. Williams's guidance and approval. Dr. O'Connell joined the committee very late in the process, representing AHS shortly after he was appointed as Interim Zone Section Head, replacing Dr. Seikaly in this AHS capacity. At the conclusion of the process, including the interviews, and during the final meeting and discussion of the candidates, Dr. O'Connell supplanted Dr. Seikaly, declaring that as the newly appointed interim Section Chief, he would be assuming the position of Chair of the Committee, and stated that he had direct support from both Dr. Zygun and Dr. Williams for this action.
2. Dr. O'Connell proceeded to direct his support to a candidate who, unbeknownst to the Committee, he was not only a reference for, but who also had a past financial connection to the CCC Clinic. Dr. O'Connell's reference status was not declared to the rest of the Committee until the very end of the interview process, and he did not recuse himself from the evaluations.

3. The committee ultimately disagreed with Dr. O’Connell’s choice of candidate, voting to select the other candidate, Dr. Daniel O’Brien. Shortly after that decision, Dr. O’Connell took it upon himself to independently question Dr. O’Brien regarding his immigration status in a manner that Dr. O’Brien considered deliberately intimidating. The committee had already vetted the matter of permanent residency/citizenship as part of the Search and Advise process. Ultimately, Dr. O’Connell did not move forward with the job offer to Dr. O’Brien, leaving this talented young academic surgeon in the difficult situation of being a successful candidate with no job. As a result of Dr. O’Connell’s actions, the Section currently has a vacant position that was advertised as part of an agreed upon resource plan, and a demonstrable demand in the patient population, at a time when Albertans are in desperate need of highly trained, and difficult to recruit, health care professionals.

OR Resource Allocation

Overview: It is the impression of the authors that Dr. O’Connell is employing opaque methods to reallocate OR resources without adequate oversight, discussion, or agreed upon process amongst Section members. Specific events are:

1. At a recent Section meeting in September 2022, the sudden removal of substantial OR resources allocated to Dr. Wright was discussed. No presentation had been made of the metrics, data, process, or timelines to justify reallocation of OR time within the Section, and Alberta Health data does not support the removal of resources from Dr. Wright. (<http://waittimes.alberta.ca/FacilityDetails.jsp?reatID=30&facID=WDFAB781&levelOfCare=All&sortType=PH#categoryTable>). Dr. Wright stated that he had not had any prior notice regarding the significant loss of resources. Dr. O’Connell stated he had discussed it at a prior private meeting held between Dr. O’Connell and Dr. Wright, a meeting in which Dr. Harris attended at Dr. Wright’s request as an objective observer. Neither Dr. Harris nor Dr. Wright has any recollection of Dr. O’Connell indicating he was removing surgical resources from Dr. Wright. Dr. O’Connell also told the Site Lead who released the revised schedule that the decision to remove resources had been discussed with Dr. Wright in advance, which Dr. Wright categorically denies. Dr. O’Connell indicated that he had

discussed the removal of said OR resources with Site Administration, but follow up conversations with the Facility Site Surgery Lead, OR Management, and Site Administration have been unable to confirm that these discussions ever took place. This removal of resources without oversight or prior discussion has caused significant damage to Dr. Wright's practice and has alarmed the Section, with some concerned that the unprecedented decision to unilaterally remove operative resources without due process, or any right of appeal, is inconsistent with AHS principles of natural justice.

2. On February 24, 2022, Dr. O'Connell sent out an email to various Otolaryngology site chiefs requesting OR allocation information with the following rationale:

“As we reviewed at the last Section meeting there is a large push within AHS to increase utilization of Non-Hospital Surgical Facilities (NHSF) for different sections. As the logistics and limitations of this approach is not often examined carefully from the surgeon perspective, I was hoping to engage you in helping me provide a clear picture of Sectional Surgical Resource utilization.”

The information collected was subsequently presented at a Section meeting as a rationale for exploring reallocation of OR resources between surgeons in the Section, specifically to the detriment of Dr. Wright, who was not present at the meeting, rather than being used for the stated purpose for the request. Further, the data presented by Dr. O'Connell was misleading, and appeared to be presented in a manner to support reallocation. The data presented was not complete in that it did not include accurate information about Otolaryngology utilization at the Leduc Hospital site, a known ENT OR resource for years, but not officially “templated” as such. In not including the Leduc OR site, the reallocation appears to have been done based upon unrepresented availability of OR resources for surgeons who work at the Leduc site, some of whom are affiliated with the CCC Clinic, including Dr. O'Connell.

3. Dr. O'Connell recently expressed concerns to a Otolaryngology Site Lead regarding an OR scheduling template at one of the sites, and in an email dated August 24, 2022, stated that

he was receiving feedback from OR administration and Anesthesia indicating they were concerned with the OR scheduling approach. The site chief questioned the veracity of these claims and felt that they were being used by Dr. O’Connell as a rationale to alter resource allocation and to force a reallocation of OR resources, as had recently happened at another site (see Point 1, above). Dr. O’Connell’s email, in which he expressly stated that “administration and anesthesia” had expressed concerns regarding our services OR scheduling, was sent to OR administration for review and discussion. OR administration was concerned by Dr. O’Connell’s email and responded:

“We would like Dan to define “OR Administration” because we are not aware of any issues... Anesthesia has not made any of us aware there is an issue.”

Dr. O’Connell admitted in a subsequent follow-up conversation with the Site Chief that he may have been reacting to a rumour, relying on hallway conversation to support his efforts to rewrite surgical templates.

Perceived Harassment

Overview: We are concerned about the management style of Dr. O’Connell since becoming the interim Zone Clinical Section Chief in January 2022. Since his interim appointment, Dr. O’Connell has made numerous unilateral decisions, used hostile and demeaning language, and discussed topics in a manner inappropriate for a leader. Many of Dr. O’Connell’s decisions have been made in a fashion inconsistent with a recently issued “Department of Surgery Routine for Decision Making.” These actions by Dr. O’Connell are in breach of the AHS Policy 1115 “Respectful Workplaces and the Prevention of Harassment and Violence” section 4.1 (c), the Medical Staff Bylaws 4.0.5, as well as the College of Physician and Surgeons’ Code of Conduct obligations “Respect for Others.” The specific events described below offer a representative sampling, but do not include all the events considered concerning. If necessary, our group is able to provide further examples upon request:

- a) In March 2022, after Dr. O’Connell’s preferred candidate was not chosen by the Search and Advise Committee (see above), and without consultation with the Committee, Dr. O’Connell unilaterally declared that the “funding” for the position would need to be reconsidered and proceeded to aggressively question the successful candidate regarding his immigration status.
- b) On April 4, 2022, at a widely attended Section meeting, Dr. O’Connell, without warning or discussion, removed Dr. Harris from a Sectional urgent phone consult triage role that he had held for seven years. The surreptitious and public manner in which this was done was concerning, with no convincing rationale provided to date, and was perceived by Dr. Harris as a direct personal attack on him and his practice. This decision has resulted in a significant financial loss to Dr. Harris and created workflow issues for many Section members who were not consulted about the decision.
- c) Recently, Dr. O’Connell removed Dr. Graeme Mulholland, a Section member not affiliated with the CCC Clinic, from his role as a FAST triage surgeon for general ENT referrals with no Section discussion and without accurately informing Dr. Mulholland of the nature of this change.
- d) Ongoing targeting and harassment of Dr. Wright by using aggressive and hostile language towards and about him during Section meetings and making repeated comments publicly and privately regarding Dr. Wright’s “unjustifiable” OR allocation.
- e) Using inflammatory and accusatory language towards Dr. El-Hakim during Residency Program Committee meetings, including accusing him of withholding information from the teaching faculty regarding working hour regulations of the residents, and collusion in the process of appointing an Assistant Director.
- f) Repeated attempts to undermine Dr. El-Hakim in front of faculty and residents. As an example, at a meeting in December 6, 2021 Dr. El-Hakim inquired as to whether Dr. O’Connell had invited a visiting professor, as he had agreed to do. Dr. O’Connell responded that he had, but after the meeting admitted to Dr. Wright that he had misled Dr. El-Hakim.

- g) At a Divisional meeting on October 17, 2022, Dr. O’Connell used overtly hostile and aggressive language, accusing Dr. Seikaly of conspiring and dishonest conduct in the appointment process of an Assistant and Associate Residency Program Director position.
- h) Dr. O’Connell, on more than one occasion, has made comments to, and asked for information from, colleagues and allied health staff regarding the personal and private matters of specific surgeons. Many of these comments are speculative, intrusive, and indicate an attitude towards his colleagues and interim subordinates that is unbecoming of a colleague or leader.
- i) Dr. O’Connell has been quite open about his expectation that he will be the new long-term leader of our section and division. We are aware that he has shared his expectation with colleagues within and outside of our zone, and he has further intimated that when, not if, he becomes the permanent Divisional/Sectional leader, that he will replace current Divisional support staff with his privately employed office staff. This approach has caused understandable anxiety for support staff who now fear losing their jobs if Dr. O’Connell were to be selected for the term positions.

We believe that the Otolaryngology – Head and Neck Surgery program in the Edmonton Zone and at the University of Alberta has attained an internationally recognized reputation for clinical and academic excellence that has advanced the mission and profile of both AHS and the University of Alberta. Our current workplace culture is hostile and toxic, resulting in the disengagement of many members, as well as having a profound impact on the wellness and mental health of these same members. Allowing the situation to continue is untenable. While we recognize and appreciate Alberta Health Services arranging a workplace review for our program, we believe that as the review was being compiled, and prior to its release, further information was gained and actions occurred that were not considered fully in the review, and we believe that the concerns that we have put forward go beyond the scope of the external review process.

We collectively submit this concern for investigation and will fully cooperate with AHS in this process.

Sincerely,

Dr. Hamdy El-Hakim

Dr. Jeffrey Harris

Dr. Daniel O'Brien

Dr. Hadi Seikaly

Dr. Erin Wright