

DENTONS

Heather A. Barnhouse
Partner

heather.barnhouse@dentons.com
D +1 780 423 7215

Dentons Canada LLP
2500 Stantec Place
10220 – 103 Avenue NW
Edmonton, AB, Canada T5J 0K4

dentons.com

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DELIVERED VIA REGISTERED MAIL, AND EMAIL OR FAX

Dr. Hadi Seikaly
1E4 WMC Mackenzie Health Science Centre
8440 - 112 Street
Edmonton AB T6G 2B7
hseikaly@ualberta.ca

Dr. Jeffrey Harris
1E4 WMC Mackenzie Health Science Centre
8440 – 112 Street
Edmonton AB T6G 2B7
jrh2@ualberta.ca

Dr. Hamdy El-Hakim
2C3.57 Walter MacKenzie Centre
Stollery Children's Hospital
8440 – 112 Street
Edmonton AB T6G 2R7
helhakim@ualberta.ca

Dr. Erin Wright
1E4 WMC Mackenzie Health Science Centre
8440 - 112 Street
Edmonton AB T6G 2B7
ewright1@ualberta.ca

Dr. Dan O'Brien
CHI Health
Ear, Nose, Throat and Audiology
7710 Mercy Road, Suite 3000
Omaha NE 68124
Fax: (402) 717-0731

CHI Health
Department of General Surgery
7710 Mercy Road, Suite 2000
Omaha NE 68124
Fax: (402) 717-6063
Attention: Chair of Surgery

Andrea DeKeseredy
dekesere@ualberta.ca

Dear Sirs/Madams:

RE: False Allegations and Other Concerning Behaviour Directed Towards Canadian Cancer Care Ltd. ("CCC")

We are the solicitors for CCC and represent it with respect to the above noted matter.

The facts of this matter are as follows:

1. CCC is a community cancer clinic that supports cancer patients in northern Alberta during their cancer journey. CCC diagnoses patients with cancer, provides cancer screening, performs cancer surveillance, and provides palliative care to its patients. CCC does not charge patients for insured services and CCC does not act contrary to the *Canada Health Act* (the "CHA") in this regard. CCC's medical services are covered by Alberta Health Care. CCC is not, and has not ever been, affiliated with Alberta Health Services ("AHS"). CCC is not a private surgical suite, chartered surgical facility, or non-hospital surgical facility.
2. Like other physician clinics in Alberta, CCC provides a clinical home for a multidisciplinary group of doctors, including oncologists, family medicine, oral medicine, internal medicine, and surgeons.

3. Any physician with an AHS affiliation in northern Alberta may qualify for membership in their respective Section as per current AHS bylaws. Accordingly, some of CCC's affiliated physicians (who are not employees of CCC) are also members of the different Sections including the Section of Otolaryngology.
4. It has recently come to our attention that, certain members of the Section of Otolaryngology have made false allegations regarding CCC and its affiliated physicians, and certain members of the Section of Otolaryngology have engaged in other concerning behaviour.

False Allegations Directed Towards CCC

5. On January 8th and 9th, 2024, an online news source called the Tye published two articles, titled "As Alberta Pushes Private Clinics, Surgeons Allege Conflict of Interest" and "Public Exit: How Alberta Lost a Skilled Surgeon to the US", respectively (collectively, the "**Articles**"). The Articles can be accessed at the following links: <https://thetyee.ca/News/2024/01/08/Alberta-Surgeons-Allege-Conflict-Interest/> and <https://thetyee.ca/News/2024/01/09/How-Alberta-Lost-Skilled-Surgeon/>. The Articles note that five of Dr. Dan O'Connell's colleagues have accused him of using his position to benefit a private clinic, namely CCC. The five colleagues are Dr. Hadi Seikaly, Dr. Jeffery Harris, Dr. Hamdy El-Hakim, Dr. Erin Wright, and Dr. Dan O'Brien (the "**Whistleblowers**").
6. The Article includes a complaint submitted by the Whistleblowers (the "**Complaint**"). Similarly, on January 9th, 2024, CTV News issued a story regarding the Complaint and also names CCC (the "**CTV Story**"). The CTV Story can be accessed at the following link: <https://edmonton.ctvnews.ca/group-of-doctors-accuse-medical-leader-of-conflict-of-interest-in-alberta-health-services-whistleblower-case-1.6718970>.
7. Among other issues, the Complaint states "that Dr. O'Connell has a private interest" in CCC. Dr. O'Connell operates his independent private practice in CCC's community clinic, given that there is often a lack of outpatient resources to see patients in consultation in hospitals. Dr. O'Connell accordingly owns part of CCC's community clinic in a shared overhead model. The shared overhead model is not unique to CCC, as it is frequently used in physician clinics outside of AHS. CCC does not act contrary to the CHA in this regard. For clarity, Dr. O'Connell is a minority shareholder in CCC. He is not a director or officer of CCC. CCC has certain documents and procedures in place to ensure that minority shareholders, such as Dr. O'Connell, do not have operational or voting control over CCC.
8. The Complaint states that Dr. O'Connell "appears to be acting as an intermediary on behalf of" CCC, "and/or acting to benefit it", and "has used his position to preferentially assign or support AHS privileges to graduating fellows to the direct benefit of" CCC, to "deny AHS privileges" to Dr. O'Brien in an attempt to force Dr. O'Brien to work at CCC, to "remove non-CCC clinic-affiliated Section members" from a triaging role, and to otherwise attempt to benefit CCC.
9. CCC does not have and has never exerted any influence on AHS hiring practices, available positions, or privileges. CCC understands that there was a recruitment process for a new Rhinology recruitment to a Surgeon/Scientist position, and some of the Whistleblowers were in favour of hiring Dr. O'Brien and aggressively pushed his hiring.
10. Further, despite allegations in the Complaint, CCC does not have any influence in operating privileges or operating room ("**OR**") allocations in the province of Alberta. Despite allegations by the Whistleblowers, and as previously noted in this letter, CCC is not a private surgical suite, chartered surgical facility, or non-hospital surgical facility. For further clarity, the Leduc OR site does not function as an extension of CCC, nor is it under any direct or implied influence from CCC.
11. CCC has never, and does not inappropriately allocate AHS resources to the benefit of CCC.

12. At prior Section of Otolaryngology meetings (the “**Meetings**”), some members of the Section (certain of which are involved in the Complaint) made false statements and allegations regarding CCC and its physicians, including that:
- (a) CCC may be misrepresenting itself as an AHS facility to encourage physician recruitment;
 - (b) certain CCC affiliated physicians are acting outside of the scope of their practice;
 - (c) CCC affiliated physicians are using AHS positions for their personal gain at CCC; and
 - (d) CCC should not be permitted to solicit Canadian-trained otolaryngologists for employment at CCC or to otherwise provide clinical services at CCC.
13. The allegations made at the Meetings and/or in the Complaint are damaging to CCC’s reputation, primarily because they are patently untrue, unsupported by evidence, and unprovable. It is our position that these false allegations are bad faith efforts to damage the reputation of CCC as a provider of otolaryngology and oncology care within the community. Specifically, these false allegations are intended to intimidate physicians currently working at CCC, to discourage Section members from providing clinical services at CCC, and to restrict the scope of services offered at CCC.
14. The Whistleblower’s efforts to undermine CCC, its medical professionals, and the medical services that they provide through the spread of misinformation about CCC are unacceptable and have the potential to irrevocably damage CCC’s reputation and professional good standing. These efforts may directly harm the ability of physicians to see patients at CCC, which will likely contribute to longer wait times for patients and further contribute to salient issues faced by the profession.

Perceived Harassment and Intimidation

15. The Complaint states that Dr. O’Connell has “used hostile and demeaning language and discussed topics in a manner inappropriate for a leader.” Meanwhile, the Whistleblowers have displayed a lengthy history of perceived harassment and intimidation of CCC and its shareholders through reckless accusations, assumptions, and false accusations. The perceived intimidation and harassment appear, at least in part, to be related to the recent selection of the Division Head for Otolaryngology, whereby two of the Whistleblowers campaigned for such position and were ultimately unsuccessful. Such perceived intimidation and harassment have occurred both in public spheres (e.g., social media posts through surrogates) and within university and AHS bodies, and have not been limited to CCC or Dr. O’Connell.
16. The pattern of behaviour exhibited by the Whistleblowers is inappropriate, unprofessional and unbecoming of a physician. We request that the Whistleblowers and any other person contemplating such actions immediately cease and desist from any wrongful, inappropriate or unprofessional behaviour directed in any manner towards CCC, or any of the doctors practicing at the clinic, and their practices, including but not limited to instances of defamation. The Code of Conduct (the “**Code**”) of the College of Physicians & Surgeons of Alberta (the “**CPSA**”) specifically requires that physicians “interact with patients and families, visitors, employees, physicians, volunteers, healthcare providers and others with courtesy, honesty, respect, and dignity.” The pattern of behaviour exhibited by the Whistleblowers is in direct violation of multiple provisions of the Code. Further, public leakage of the Complaint by any physician is in violation of multiple provisions of the Code.

We reserve the right to take further action against any and all persons who fail to comply with this reasonable demand, including without limitation any or all of the following:

- (a) commencing legal proceedings to obtain all available remedies, available at law and in equity;
- (b) filing a complaint with the appropriate regulatory body governing such persons, including without limitation, the CPSA and/or AHS, and including without limitation pursuant to breaches of section 4.1(c) of the AHS Policy 1115 "Respectful Workplaces and the Prevention of Harassment and Violence" and the CPSA's Code of Conduct obligations, e.g., "Respect for Others";
- (c) filing a complaint with the Office of Accountability, University of Alberta and with the Provost; and/or
- (d) such further and other actions as may be deemed necessary in our sole discretion.

Please note that we reserve the right to present this letter to the court if a lawsuit proves necessary. We will rely on this letter to demonstrate that litigation was entirely avoidable if the parties heeded our client's requests, and to request that the court award CCC costs in excess of the amounts normally awarded in matters such as these, including costs on a solicitor-and-own-client full indemnity basis.

As you are aware, legal proceedings will entail a claim for monetary damages, legal costs and interest for which you will be responsible. We trust that these steps will not be necessary.

Please govern yourself accordingly.

Yours truly,

Dentons Canada LLP

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Heather A. Barnhouse
Partner

HAB/jdc

c/c Dr. Kirstie McLelland
Kirstie.Mclelland@albertahealthservices.ca

Chief Ethics and Compliance Officer
complianceofficer@ahs.ca

Dr. David C. Williams
dcw@ualberta.ca

Dr. Lorian Hardcastle
lorian.hardcastle@ucalgary.ca