

The ordinary meaning of the word "consumer" is "a person who uses goods or services". This nomenclature is used internationally to acknowledge the different experiences, perspectives and areas of vital interests of those who seek and use goods and services and those who produce them.

The word "patient" is also commonly used to refer to consumers of healthcare goods and services in recognition of their vulnerability and the historic fiduciary duty of providers to put the interests of the consumer ahead of their own self-interest. Since the early 1990s, the "marketization" of many public services, the growing influence of commercial interests in the health care sector, and the recasting of citizens as customers has led to widespread public distaste for the word "consumer" in relation to health care services.

It has now become popular to use the word patient in a broader sense which includes families and citizen interests. Regardless of the nomenclature, the issues, challenges and tensions are the same.

We will use the term "patient" for the purposes of the Inquiry.

APPLICATION FOR STANDING AS INTERVENER

The **Consumers' Association of Canada (Alberta)** (hereinafter referred to as the Association) believes it can provide valuable assistance to the public inquiry into concerns that improper preferential access to publicly funded health services has or is occurring within the Province of Alberta and any subsequent recommendations. The Association has a long-standing demonstrated record of concern and commitment to users of goods and services and the broader public interest, particularly in the arena of healthcare. It also has a long history of dealing with various types of impropriety associated with the granting of preferential access to medically required publicly funded services.

Our focus in health care matters is from a broad consumer and public interest perspective. This perspective sets us apart from many other interests such individual providers, professional organizations and occupational groups, businesses and corporations, and disease specific lobby groups. It has provided us with an understanding of how intervention by various groups and individuals within and outside of the existing health care system proper is necessary and more frequent when the existing health care system is disrupted or fails in whole or in part to meet the needs of the population. We also have considerable background in advocating for improved and where warranted preferential access to health care services for individuals and certain groups of consumers. The nature and extent of our interests relate to the broad consumer and public interests, particularly in relation to access and patient safety.

The ongoing changes in the landscape of health care and how they affect fair and appropriate access to health care services have significant implications on the lives of Albertans. There is a need for their interests to be represented in this public inquiry. We trust the following information in support of our application for standing will be helpful to the Panel.

The general history, composition, organizational structure and mandate of your client organization

The Consumers' Association of Canada Network was founded in 1947 and the Consumers' Association of Canada (Alberta) was incorporated under the *Societies Act of Alberta* in 1978. Due to changes in the rules governing charitable organizations in Canada during the 1990s, the provincial Association is no longer part of the governance structure of the national association. The provincial Association is an independent non-partisan and non-profit association composed of a volunteer board of 6-8 members. The board members have considerable expertise and linkages with other consumer and public interest organizations with interests in health care. The Association does not have charitable status and therefore relies on donations from the public and small ad-hoc grants to carry out its work. It has a listed phone number, an e-mail, a website, a mail-box, one part-time staff member, and a pool of former board and committee members who remain active as volunteers.

The mandate of the Association is to improve the quality of life and standard of living for

Alberta families by protecting and promoting consumer rights and vital interests in relation to health and safety, access to information and justice, and fair dealing. The Association does this by monitoring the experiences of consumers (both reported and sought out) as well as the activities of suppliers; providing information, education and advocacy (as resources permit) to members of the public; investigating and proposing solutions for identified problems; and uniting and representing the collective consumer interest. It has a demonstrated record of concern for and commitment to the interests of Albertans and lengthy involvement in regulatory and governance matters in many different sectors. Our organization is also part of a number of informal national/international networks of consumer-oriented interests.

The role of your client organization in the delivery of or receipt of health care services in Alberta:

The Association has no direct role in the delivery of or receipt of health care services. We are regularly contacted by desperate Alberta families seeking help and guidance in dealing with today's complex health environment. Our reputation and wide network facilitates access to the stories and experiences that people are often reluctant to disclose to others about their health care experience.

The Association has played a significant role in identifying and representing the "real world" experiences of Albertans seeking and using health care services and products and it has influenced a number of policy and legislated decisions through its work. We have participated in provincial and national consultations and Committees in relation to the 'delivery' of health services (i.e. organization and management as well as the physical provision of services) and the safety and safe and appropriate use of new and old medical technologies. Our general knowledge includes the landscape of health care in many different provinces (and countries). We have investigated numerous issues and made recommendations to legislative committees and others aimed at increasing the quality, timeliness, accessibility, affordability and cost-effectiveness of health care services. In the mid-1990s, we undertook a joint project with the Alberta Medical Association aimed at improving patient-physician communication. Our investigative reports on the effects of the changing landscape of healthcare on Alberta families, including *Taking Stock* (1995), *The Consumer Experience with Cataract Surgery and Private Clinics in Alberta* (2000) and *Eldercare on the Auction Block* (2002) www.albertaconsomers.org are recognized both nationally and internationally.

Your or your client's particular interest in the subject matter of the Inquiry, namely the improper preferential access to health care services:

The propriety of preferential access to health care services and who and how this is defined has been a major issue for our organization and the public in Alberta (and across Canada) for decades. The propriety of preferential access is at the core of the Canada Health Act. It is also raised in disagreements over the proper/ improper use of Emergency Departments.

Our particular interest in the subject matter of the Inquiry is the importance of the ensuring that an informed and experienced user and citizen voice is incorporated in the

work of the Inquiry and that any final recommendations “at least do no (inadvertent) harm” from this perspective.

Some of the contributions we submit we will be able to make to the work of the Panel include:

- Providing historical background relative to how the language of the Terms of Reference reflects important and evolving changes in the nature of the health care system and the impact this may have on the work and findings of the Inquiry.
- Exploring the nature, purpose, and role and responsibilities of formal and informal advocates (outside a health care delivery system) in assisting individual families and populations in relation to the propriety of access and related protection from harm. This includes, but is not limited to, the important role that MLAs and their offices play as advocates in addition to the role of friends and families and other dedicated organizations. This will involve an examination of perceived proper versus improper interventions on behalf of patients.
- Identifying the current complexities facing Alberta families in relation to accessing safe and appropriate health care, and some of the barriers to effective self and assisted advocacy.
- Recognizing how public policies and industry lobbies have opened the door to new private markets, conflicts of interest, and supplier induced demand that are creating problems of “fairness” in relation to preferential access as perceived by the public (based on ability to pay) and contributing to the allegations that are the subject of the Inquiry.

Your anticipated scope of participation in the Inquiry:

The Association anticipates having full participation in the Inquiry which will include the preparation of a submission (including relevant research), providing testimony if the Inquiry desires it, monitoring of the Inquiry hearings with the option of cross-examination and possible subsequent submissions based on information presented at the public hearings.

Respectfully submitted,

Deborah E. Prowse, Q.C. October 13

APPLICATION FOR FUNDING

The Association is applying for financial assistance pursuant to the Funding Policy for Witnesses and Interveners (O.C.264/2012). As we anticipate being both a Witness and Intervener in the Inquiry, we are seeking funding for both the purpose of preparing submissions, which may require research and consultation with other individuals or organizations, and for the costs of legal counsel, to facilitate our anticipated full participation.

In support of this Application and pursuant to section 7-6 of the Funding Policy, please find the following:

- a) Appendix A is a sworn statutory declaration proving that the Association does not have sufficient financial resources from any source to enable it to meaningfully participate in the Inquiry;
- b) Appendix B is a proposed Budget of estimated costs of participation;
- c) It is proposed by the Association that it will comply with any terms and conditions imposed by the Commissioner that will ensure the accounting of the funds is consistent with that of other witnesses and interveners. A committee of the Board of Directors of the Association will be overseeing the administration and disbursement of funds. It is anticipated that an itemized invoice would be submitted at the end of each month by the Association and a final report be submitted a reasonable time after the conclusion of the work undertaken by the Association.

The Association would also ask the Commissioner to consider the following with respect to this Application:

- a) The Association anticipates it will be both a witness and intervener at the Inquiry;
- b) The Association does not anticipate being compelled to appear before the Panel;
- c) There is the potential for the advocacy role of the Association to be adversely affected by the decision and recommendations of the Panel;
- d) The Association has a long demonstrated record of concern for and commitment to the broad public and consumer interest it seeks to represent;
- e) The Association submits that its special experience or expertise relevant to the Inquiry's mandate comes from its role as a resource and advocate for Alberta families and the broad public interest in health care and patient safety;
- f) The Association is not in a position to judge the extent of similarity or overlap in interests with other applicants at this time.

Respectfully submitted:

Deborah E. Prowse, Q.C. October 13, 2012

APPENDIX A

Statutory Declaration for the Public Inquiry into Preferential Access

I, **Wendy Armstrong**, of the City of Edmonton, in the Province of Alberta,

DO SOLEMNLY DECLARE THAT:

1. I am a member of the Board of Directors and appointed authorizing authority for the **Consumers' Association of Canada (Alberta)** (the Association), which also operates under the trade name the Consumers' Association of Alberta.
2. I am personally aware of the current financial situation of the Association.
3. The Association does not have sufficient financial resources from any source to enable it to meaningfully participate in the Public Inquiry.

And I make this solemn declaration conscientiously and believing it to be true in support of an application for Standing and Funding in the Health Services Preferential Access Inquiry.

Sworn before me at Edmonton,)
In the Province of Alberta,)

On the 14th of October, 2012)

WENDY ARMSTRONG

Commissioner for Oaths in and For The
Province of Alberta

Deborah E. Prowse, Barrister and
Solicitor