



IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CANADIAN INDEPENDENT MEDICAL CLINICS ASSOCIATION, CAMBIE SURGERIES CORPORATION, DELBROOK SURGICAL CENTRE INC., FALSE CREEK SURGICAL CENTRE INC., OKANAGAN HEALTH SURGICAL CENTRE INC., and ULTIMA MEDICAL SERVICES INC.

PLAINTIFFS

AND:

MEDICAL SERVICES COMMISSION OF BRITISH COLUMBIA, MINISTER OF HEALTH SERVICES OF BRITISH COLUMBIA and ATTORNEY GENERAL OF BRITISH COLUMBIA

DEFENDANTS

AND:

SPECIALIST REFERRAL CLINIC (VANCOUVER) INC.

DEFENDANT BY COUNTERCLAIM

REPLY ON BEHALF OF THE MEDICAL SERVICES COMMISSION TO THE STATEMENT OF DEFENCE OF THE SPECIALIST REFERRAL CLINIC (VANCOUVER) INC.

1. In reply to paragraph 6 of the Statement of Defence, no specific date has been set for the audit of the Specialist Referral Clinic (Vancouver) Inc. (the "SRC") because counsel for SRC has made it clear that no audit will be permitted to proceed.

2. In reply to paragraph 7 of the Statement of Defence, the purpose of the audit is to enable the Commission to carry out its obligation under s. 5 of the Act to determine whether any of the services provided by the SRC are benefits under the Act and whether the SRC has breached the Act by charging for those services. In carrying out that obligation, the Commission is authorized by s. 36(5) of the Act to inspect *any* records of SRC.

3. In reply to paragraph 8 of the Statement of Defence, the *Personal Information Protection Act* permits the disclosure of information if such disclosure is required or authorized by law, and the Act requires such disclosure.

4. In further reply to paragraph 8 of the Statement of Defence, section 49 of the Act specifically protects the confidentiality of records to which the Commission or its staff or agents are given access under the Act. In addition, the employees of the Ministry engaged in the audit process have sworn an oath to safeguard confidential information, not divulging it unless either authorized or required to do so by law.

5. In further reply to paragraph 8 of the Statement of Defence, section 36(3) of the Act provides that medical records may only be requested and inspected by an inspector who is a medical practitioner. Such an inspector, in addition to being subject to section 49 of the Act, has both a professional obligation and a contractual obligation to keep confidential any patient information reviewed during the audit process.

DATED at Victoria, British Columbia, this 13th day of May 2009.

RGE H. CON EY, Q.C Counsel for the Defendants

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REPLY ON BEHALF OF THE MEDICAL SERVICES COMMISSION
TO THE STATEMENT OF DEFENCE OF THE SPECIALIST REFERRAL
CLINIC (VANCOUVER) INC.

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