Affidavit #1 of Dr. Richard Kramer
Sworn October 2, 2012
No. S090663
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CAMBIE SURGERIES CORPORATION, CHRIS CHIAVATTI by his litigation guardian RITA CHIAVATTI, MANDY MARTENS, KRYSTIANA CORRADO by her litigation guardian ANTONIO CORRADO and ERMA KRAHN.

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.

DEFENDANTS BY COUNTERCLAIM

DR. DUNCAN ETCHES, DR. ROBERT WOOLARD, DR. GLYN TOWNSON, THOMAS MCGREGOR, THE BRITISH COLUMBIA FRIENDS OF MEDICARE SOCIETY, CANADIAN DOCTORS FOR MEDICARE, MARIËL SCHOOFF, DAPHNE LANG, JOYCE HAMER, MYRNA ALLISON, and CAROL WELCH

INTERVENORS

AFFIDAVIT #1 OF DR. RICHARD KRAMER

I, Dr. Richard Kramer, pediatric dentist, of suite 200-650 Oakridge Center South Site, West 41st Avenue, V5Z 2M9, MAKE OATH AND SOLEMNLY AFFIRM THAT:

1. I am a pediatric dentist who works both within public hospitals in British Columbia and at the Cambie Surgeries Corporation (herein referred to as "**CSC**"), and as such have personal knowledge of the matters hereinafter deposed to other than where stated to be based on information and belief, in which I believe it to be true.

2. I make this affidavit in support of CSC's and Specialist Referral Clinic's ("**SRC**") opposition to the injunction sought by the Medical Services Commission (the "**Commission**") to prohibit SRC and CSC from providing medical services in contravention of certain provisions of the *Medicare Protection Act* (the "***Act***") (specifically sections 17(1) and 18(3), which relate to billing practices for benefits under the *Act*) prior to a ruling on the constitutionality of these provisions.

3. As I explain below, I believe that if the residents of British Columbia are not able to pay a facility fee for surgeries at CSC, just as residents of Alberta, for example, can lawfully do, it will have a negative impact on the ability of the residents of British Columbia (and in particular children) to access necessary and timely health care.

Pediatric Dental Surgery in British Columbia

4. I am fully licensed as pediatric dentist in British Columbia ("**B.C.**"). I completed a degree in dentistry at McGill University in 1967. I received a graduate degree in Pediatric Dentistry and a Masters of Science at the Boston University School in 1969.

5. Dental decay is the most prevalent disease in our country, and infant decay rates have been rising. Changes in maternal feeding patterns, such as prolonged nursing by mothers, and night-time bottles of milk or juice, have helped to contribute to this increased rate of decay.

6. The types of dental procedures young children require include interventions to address dental decay, removing teeth and the treatment of abscesses, cellulitis and other oral infections. Dental procedures are typically invasive and can be uncomfortable for a patient.

7. Pediatrics patients are a distinct and vulnerable patient group. Children need specialized care for medical and dental procedures, and are more vulnerable to painful procedures than adults.

8. Due to the unique physiology of infants and the associated risks involved in sedating infants, a pediatric anesthesiologist is required to administer the sedatives and monitor sedation procedures carefully.

9. The number of children who require dental surgeries continues to grow significantly each year. The need for pediatric dental surgical treatments far exceeds the availability of public surgical facilities. The overwhelming shortage of appropriate facilities has left the dental community scrambling to meet their patients' needs.

10. Presently, the wait times for pediatric dental surgeries in the public health care system in British Columbia are between six months and 9 months.

11. The extensive wait times for pediatric dental surgical procedures are not due to a shortage of pediatric dentists. There are currently 40 pediatric dental specialists in the Vancouver area. The limiting factor to timely care is the shortage of appropriate facility time and space.

12. Due to these limitations, some dentists are administering drugs and sedation to pediatric patients in office settings, without the presence of a pediatric anesthetist.

13. I am informed by pediatric anesthetists, and do verily believe, that it is unsafe practice to perform pediatric sedation in a 'dental office' environment, administered without the supervision of a pediatric anesthetist.

My work as a pediatric dental surgeon in the public health care system in B.C.

14. I have been on staff at B.C.C.H. since 1971 as a pediatric dentist.

15. Approximately ten years ago, the B.C.C.H dental department became a teaching and residency facility. Prior to this change, I was able to access approximately 2 days a month of OR time at B.C.C.H., however, my available surgical days were cut back to four per year and have remained rationed to this low rate since that time. There are 40 pediatric dentists in the lower mainland. While some of these pediatric dentists have privileges at B.C.C.H it is also to a maximum of four days of OR access per year.

16. Accordingly, the current wait time for a child to receive dental surgery at B.C.C.H. is approximately 6-9 months.

17. In addition to restrictions on the availability of surgical days for pediatric dental surgeries at B.C.C.H, there are restrictions on the categories of patients which are eligible for treatment at B.C.C.H. The patients eligible for treatment at B.C.C.H. have become

increasingly limited over the past several years. Currently, patients need to be under four years of age, or emotionally or physically disabled.

18. Children who are generally well, and over four years of age, yet are suffering from advanced dental decay are not eligible for treatment at B.C.C.H.

19. I see many patients who are in need yet are unable to obtain treatment at B.C.C.H in the public system because of restrictions imposed on surgical times and eligibility. This is an unacceptable situation.

Detriments to pediatric patients caused by dental decay

20. All dental decay is progressive. Untreated decay can create pain, compromise eating and sleeping patterns, lead to severe infections, and cause irreparable harm, such as the loss of teeth that could have been salvaged.

21. As an example, delayed treatment for minor dental decay that could have been rectified with a simple filling might progress to the point of requiring a full crown. In other instances, a child might require an extraction of a decayed tooth that would have been salvageable with earlier treatment.

22. Children may have abscesses, cellutis, and infections in their mouths, which can in turn affect their overall wellness. The prevalence of antibiotic resistant bacteria makes this situation more likely and more dangerous. Children with progressive infections are required to be admitted into the hospital for intravenous ("IV") antibiotics, and these infections can lead to further secondary infections of greater severity.

My work as a pediatric dental surgeon in the private health sector in British Columbia

23. I have worked full-time in the private practice of pediatric dentistry since 1971.

24. I developed a private practice of pediatric dentistry, the Pediatric Dental Group (**"PDG"**) in 1976 I am currently the senior associate of PDG. PDG is an association of dental practitioners and includes 6 pediatric dentists and 4 orthodontists.

25. PDG has four dental clinics in the lower mainland of British Columbia. However, these sites are not equipped to perform dental surgery. We feel these procedures must be done in a safe environment such as Cambie Surgery Centre.

26. To address the overwhelming need for appropriate facilities for pediatric dental surgery in British Columbia, I developed the Dental Department at CSC and have also invested in CSC as a shareholder.

27. PDG conducts the majority of their pediatric dental surgery cases at CSC due to lack of public facilities.

28. I am informed by dentists who refer pediatric patients to PDG, and do verily believe, that they often refer pediatric patients to PDG because of limited treatment options.

29. PDG is very fortunate to have a dedicated surgical suite at CSC. My practice group counts on the availability of the CSC suite to perform up to four to five pediatric surgical procedures each day, five days a week.

30. B.C.C.H. is the only public facility in the lower mainland equipped for pediatric dental surgery.

31. Without CSC, PDG would have no means to conduct the approximately 960 pediatric dental procedures we perform each year using CSC surgical suites. The situation is already untenable. If PDG's access to CSC surgical suites for pediatric dental procedures is limited or compromised in any way, I believe this would seriously undermine access to pediatric dental services in British Columbia.

32. I personally treat approximately 16-20 pediatric dental patients each month at CSC.

33. CSC and B.C.C.H are the only facilities where I am able to perform pediatric dental surgeries in appropriate surgical suites with access to pediatric anesthetists. The Monarch Private Dental Group also has a suitable surgical room and access to a pediatric anesthetist, Raymond Kawaji, in their facilities, however it is only available for the treatment of Monarch patients directly. Apart from B.C.C.H. and these two private facilities, there are no other facilities in Vancouver that provide suitable dental surgical suites with the supervision of pediatric anesthetists for pediatric dental surgery in the lower mainland.

34. If the injunction against CSC were granted, my patients would not be able to access timely treatment due to the wait-times at B.C.C.H. Many of my patients would not be able to access B.C.C.H at all, as they do not fit the restricted categories for eligibility at B.C.C.H. As a result, my patients would remain untreated until they became urgent or emergent. This would result in them experiencing ongoing pain or discomfort, and potentially developing other more complex health problems and/or losing teeth which could be otherwise saved. In my view, this is an unacceptable result. Simply put, this is downright dangerous.

35. I work in the private system, through CSC, because the public health care system does not provide me with the sufficient means to provide appropriate and timely care to my pediatric dentistry patients. The private system does not threaten the public system. Rather, it provides additional methods of care, which are not available to pediatric dentistry patients through the public system, and allows me to provide more effective and timely care to a far greater number of British Columbia children than would otherwise be possible.

AFFIRMED BEFORE ME at the City of Vancouver, in the Province of British Columbia, this 2 day of October, 2012	)	
[signature]	)	[signature]
A Commissioner for taking affidavits in the Province of British Columbia Ania Kolodziej Exp. August 31 2014	)	**DR. RICHARD KRAMER**