



Government of Newfoundland and Labrador
Secretary to Cabinet (Health Issues)

May 23, 2008

Sandra Chaytor Q.C.
Bernard Coffey Q.C.
Counsel to the Commission of
Inquiry on Hormone Receptor Testing
Commission Offices
50 Tiffany Lane
St. John's, NL A1A 4H7

Re: Evidence

Dear Ms. Chaytor and Mr. Coffey:

Please find attached addition diary entries from Mr. Darrell Hynes from 07 October 2005 and 20 October 2006. Mr. Hynes found these earlier this week and has provided copies of the original as well as typed versions. These have been redacted to remove irrelevant material but I will be happy to show you unredacted versions.

In addition please note that Moira Hennessey wish to make the following statements:

In relation to whether she ever discussed the external reviews with a minister she states:

I was in a meeting with the Minister and Deputy Minister on May 21, 2007 in the Executive Boardroom, Department of Health and Community Services. Based on my recall, the purpose of the meeting was to discuss the options that Government was considering for a review of ER/PR. The Minister asked me to telephone a solicitor working with the Department to ask about disclosure of quality review reports and the Evidence Act and the Public Inquiries Act. I communicated this information back to the Minister. The Minister then asked the Deputy Minister to telephone the CEO at Eastern Health. Shortly after the call commenced, I took a phone call related to a [REDACTED] I left the meeting and went to [REDACTED]

Her original evidence on this point is found at pp. 88-89 of the transcript of her evidence given on 31 January 2008, reproduced below:

MR. COFFEY: Have you ever spoken to the Minister about this issue? Any Minister, about just that issue.

.../2

MS. HENNESSEY: About ordering Eastern Health to -- I did not speak to the Minister directly about ordering Eastern Health.

MR. COFFEY: How about indirectly? Have you provided -- have you been asked for your opinion on this, and provided it to another ADM or to the Deputy Minister, to be passed on to the Minister?

MS. HENNESSEY: Sorry, would I have ---

MR. COFFEY: Have you provided advice to the Minister directly or indirectly ---

MS. HENNESSEY: Yeah.

MR. COFFEY: As to whether or not he -- and it will always be he's, in this context --

MS. HENNESSEY: Yeah.

MR. COFFEY: --- should direct Eastern Health to provide the answers to those questions, to him?

MS. HENNESSEY: I did not advise the Minister directly or indirectly to order Eastern Health to provide the information to him.

In relation to the 18 August 2006 briefing note she states:

I was on vacation from July 25 to August 4, 2006 and returned to work on Monday, August 7.

Marilyn McCormack, Cabinet Secretariat, contacted me shortly after I returned to work about a briefing note and asked me for the ER/PR retesting results. I advised Marilyn that I did not have the retesting results. She called me back and asked me to get the retesting results from Eastern Health.

I contacted Heather Predham, Eastern Health to get the retesting results. She sent me a draft document which included the results.

I started a table, titled Eastern Health Summary of ER/PR Retesting on August 11 and finished it on the August 12-13 weekend.

I had the table typed on August 14 and did not get a chance to review it until late that day because I was busy doing work on Corner Brook LTC as requested by Sandra Barnes, Deputy Clerk of Executive Council.


I advised Ms. Mc Cormack on August 14 at 10:33 pm that the table would be sent to her on August 15. I also provided feedback on a note she was preparing.

The table was sent to Ms. McCormack on August 15 and she inserted it into the note. Ms. Mc Cormack then sent me some questions. I replied from Labrador (was there on August 15-16) and Ms. Mc Cormack subsequently added some information to the note.

On August 18, Ms. McCormack sent a note to me at 10:59 am indicating it was the final note if I approved of same. She subsequently called me. I advised her that I was not in a position to approve the note as I had not heard back from Mr. Abbott. During the conversation, we agreed to remove the word greatly from page 3 as the word was not used in the draft test results document provided by Heather Predham, Eastern Heath.

Her original evidence on this period is found at pp. 12-52 of the transcript of her evidence given on 07 February 2008. The focus of this statement is in the last sentence which clarifies evidence found at pp 43-50 of the 07 February 2008 transcript, (attached), and now specifies how the word “greatly” was removed from the 18 August 2006 briefing note.

I trust that this is satisfactory.

Regards

ROLE PRITCHARD
Solicitor

Attachment

Oct 20/06

Executive Meeting

[REDACTED]

[REDACTED]

-ER/PR – after a year – all patient still not notified.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Oct 20/06

EXECUTIVE MEETING

[REDACTED]

[REDACTED]

→ ER/PR - after a year - all patients still not
notified.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

neg

1

1

7

7

65

Oct 7/05

Executive Meeting

[REDACTED]

- Breast cancer issue
- need for protocols to address situation
- how Board reacts vs our reaction

027/5

EXECUTIVE MEETINGS

[REDACTED]

→ Broad lower zone
- need for protocols the address solution
- how Broad roots is our section

MS. HENNESSEY: I don't recall ---

MR. COFFEY: Okay. Okay.

MS. HENNESSEY: --- speaking to me about this August 18th letter.

MR. COFFEY: How about the Minister? Tom Osborne?

MS. HENNESSEY: I don't recall a discussion with the Minister on this matter.

MR. COFFEY: Who's responsibility was it at that time -- you know -- August 17th and 18th, 2006 to ensure that Tom Osborne saw the Briefing Note?

MS. HENNESSEY: It would have been the Deputy Minister's responsibility. It's -- you know -- when the Deputy Minister is available, it is my understanding of the organization is that it is always the Deputy's responsibility to ensure that the Minister sees the Note. I did not give this Note to him at the time.

MR. COFFEY: And with respect to that the Note itself -- there's a couple of different versions of the Note -- at least two versions and I'm not going to suggest to that these are the only -- that these are the only differences -- but the one for example, that has kind of a stamp August 18th, 2006 and it's got copy to the Premier, B. Crawley, you know -- et cetera, et cetera -- that one -- and it's got on the fourth page, Executive Council August 18th, 2006 registered stamped, okay. That one, when you look under Summary on the third page you'll see Eastern Health advises twenty-two women were impacted by the change in status of the ER/PR receptor tests and it goes on from there.

Now there are other -- at least one other version of this -- and it's one that looks identical -- it has the same dates on it -- the same review -- prepared by reviewed by people -- but this one under summary says,

"Eastern Health advises twenty-two women were greatly impacted by the change in status of the ER/PR receptor tests."

Are you able to explain why the "greatly" was taken out of the version that ended up in the Cabinet Secretariat register -- Cabinet Secretaries register?

MS. HENNESSEY: I wouldn't have seen this Note.

MS. CHAYTOR: Which Note?

MS. HENNESSEY: The Note that was sent to circulation of Cabinet Secretary.

MR. COFFEY: So, and I appreciate ---

MS. HENNESSEY: The Note that I saw would have been the
Note that was attached to (unintelligible) ---

MS. CHAYTOR: (unintelligible) and what is the version that you
have attached.

MS. HENNESSEY: Yes.

MS. CHAYTOR: Does it say, "greatly" or not?

MS. HENNESSEY: The version I have, the word "greatly" is
there.

MS. CHAYTOR: The word "greatly" is there. I'd be able to
change -- the other is -- the Cabinet Secretary Note up top has the Department of Health and
Community Services put on it?

MR. COFFEY: That's the -- which one? The one that you last
saw or the one -- that oh, the one that ended up ---

MS. HENNESSEY: The one that ended up in circulation ---

MR. COFFEY: Yes.

MS. HENNESSEY: --- has the Department of Health and
Community Services put on the top and my Note did not have that information on it.

MR. COFFEY: The version that you last got from Marilyn.

MS. HENNESSEY: That's correct.

MR. COFFEY: On the morning of the 18th, 17th it would have
been? Because (unintelligible)

MS. HENNESSEY: No, no, the morning of the 18th.

MR. COFFEY: The morning of the 18th, yes.

I apologize, yes.

MS. CHAYTOR: So you are confident that the last version that
you saw and forwarded onto John Abbott would have had the word "greatly" was included in
that paragraph?

MS. HENNESSEY: The Note that I would have forwarded to
John Abbott would have been the August 17th, Note.

MR. COFFEY: Yes.

MS. CHAYTOR: What did that have in it? How did that ---

1 MS. HENNESSEY: That Note did not have the word "greatly" in
2 it.

3 MS. CHAYTOR: But the word "greatly" wasn't in it ---

4 MS. HENNESSEY: No.

5 MS. CHAYTOR: --- on August 17th, ---

6 MS. HENNESSEY: No.

7 MS. CHAYTOR: --- is back in it -- or is in it in the final version
8 that --

9 MS. HENNESSEY: The one that I have.

10 MS. CHAYTOR: --- sent to you or indicated in the August 18th
11 e-mail from Marilyn McCormick as being the final version. Has the word "greatly" in it. And
12 then the version -- then it comes out again -- comes out again in what -- ends up in the Premier's
13 office.

14 MR. COFFEY: See looking at Marilyn McCormick's
15 August 18th, 10:59 a.m. e-mail to yourself ---

16 MS. HENNESSEY: Right.

17 MR. COFFEY: --- in CAPS, bold print -- the final copy -- do you
18 see that? Of the above noted Briefing Note, she refers having to go back to Heather to ask how
19 many women were most impacted and she gave me the number of twenty-two as indicated in the
20 third page of the Briefing Note which is that third page ---

21 MS. HENNESSEY: Right.

22 MR. COFFEY: --- and that's the twenty-two. Presumably this is
23 the only place on page three that "twenty-two" occurs. So at best you can tell I take it that on the
24 17th when the exchange of Notes with Marilyn and you sent it on to John Abbott, ---

25 MS. HENNESSEY: --- right

26 MR. COFFEY: --- the word "greatly" is not there, in terms of
27 impacted ---

28 MS. HENNESSEY: No, it's not -- I'm pretty sure that -- I have
29 these notes accurately in my book and ---

30 MR. COFFEY: Sure.

31 MS. HENNESSEY: --- and in my files.

32 MR. COFFEY: And on the 18th when it comes back down, the

1 version you have -- comes back over from Marilyn -- has the word "greatly" inserted in the copy
2 that you happen to have and there is this e-mail and it does talk about -- the e-mail only actually
3 references really generally that twenty-two.

4 **MS. HENNESSEY:** Right.

5 **MR. COFFEY:** That aspect of the Briefing Note and then what
6 we do know or what we understand that what gets filed in the registry on the 18th has the word
7 "greatly" removed again.

8 Did you have any involvement in the insertion or removal of the
9 word "greatly".

10 **MS. HENNESSEY:** The Note was done at Cabinet Secretary so I
11 didn't ---

12 **MR. COFFEY:** Yeah, I -- you ---

13 **MS. HENNESSEY:** --- put the word in or out. I can remember
14 Marilyn asking me a question with respect to degree of impact on patients. I did not, based on
15 the information that I had from Eastern Health which is Heather's draft document ---

16 **MR. COFFEY:** M'hm.

17 **MS. HENNESSEY:** --- there was no information in that Note that
18 I can recall that I would expect to impact Marilyn -- you know -- based on this e-mail she
19 followed up with Heather and so what's in that Note is what Heather provided.

20 **MR. COFFEY:** It's the -- twenty-two -- you're right -- in what
21 Heather originally sent over as a draft -- the word -- the number twenty-two itself is not there
22 right now -- it's -- maybe some numbers that add up ---

23 **MS. CHAYTOR:** Thirteen plus the nine (unintelligible) ---

24 **MR. COFFEY:** Yes. Yes.

25 **MS. HENNESSEY:** The other point that I'd like to make is that I
26 wouldn't be in a -- I mean my background -- I wouldn't be able to interpret the degree of impact
27 on any patient -- test results.

28 **MR. COFFEY:** And you are saying she got the number -- the
29 number -- Marilyn -- where ever Marilyn got the number twenty-two she didn't get it from you?

30 **MS. HENNESSEY:** No, she didn't get the number from me.

31 **MR. COFFEY:** Okay. That's ---

32 **MS. CHAYTOR:** Did you notice that difference?

1 **MR. COFFEY:** --- when it came back.

2 **MS. HENNESSEY:** I may have noticed it at the time but Sandy I
3 honestly don't remember. I'm sure I've read this e-mail -- I tend to be -- you know ---

4 **MS. CHAYTOR:** This e-mail brings that paragraph back to your
5 attention.

6 **MS. HENNESSEY:** Yes, that's right and it looks to me in this
7 e-mail that some one at Cabinet Secretariat was looking for more details than what I was able to
8 provide from the information that I had.

9 **MS. CHAYTOR:** And you would have had the two versions
10 then. One saying Eastern Health advises twenty-two women were impacted ---

11 **MS. HENNESSEY:** Right.

12 **MS. CHAYTOR:** --- by the change in status ---

13 **MS. HENNESSEY:** Yeah.

14 **MS. CHAYTOR:** --- or Eastern Health advises twenty-two
15 women were "greatly" impacted. So you would have had those two versions plus Marilyn's
16 e-mail bringing that paragraph to your attention and what does that -- like when you read that --
17 you know -- one small word sometimes can make it -- a significant difference in interpretation.

18 Did you have any concerns about how the -- about how the word
19 greatly changes that paragraph?

20 **MS. HENNESSEY:** I didn't have any concerns about how the
21 word would have changed. No, I don't recall being focused on how that word would have
22 changed that paragraph, I guess. Now with respect to the Note -- you know -- I certainly knew
23 the final bullets in the Note was that we were -- to the Premier's Office -- he asked for George
24 Tilley and his officials to come in and brief the Premier and -- you know -- I would think that
25 that -- know that he or one of the physician's would be able to explain that to the Premier's
26 office but I don't recall being -- you know -- focused on that word "greatly".

27 **MS. CHAYTOR:** And it was your understanding one it left,
28 when -- the last version you saw had the word "greatly" in it.

29 **MS. HENNESSEY:** Yes. That was my understanding. And this
30 is the copy of what -- now I can go back to -- and recheck my e-mails ---

31 **MR. COFFEY:** Did you ---

32 **MS. CHAYTOR:** No that's fine. (unintelligible) you thought it

1 was going -- that the Premier or others who would receive this would be informed that twenty-
2 two women were greatly impacted.

3 **MS. HENNESSEY:** Yes, this is the Note that I understood was
4 going to the Premier, because it did say to me -- the message to me was that this was the final
5 Note.

6 **MR. COFFEY:** Did you have any problems with the usage of the
7 word "greatly"? Yourself. Did you object to it?

8 **MS. HENNESSEY:** I don't recall a discussion around that.

9 **MR. COFFEY:** So you ---

10 **MS. HENNESSEY:** (unintelligible)

11 **MR. COFFEY:** If you did notice it, it didn't cause you any
12 concerns ---

13 **MS. HENNESSEY:** No, it did cause me ---

14 **MR. COFFEY:** --- to say, "take that out".

15 **MS. HENNESSEY:** No, it didn't cause me -- you know --
16 because this Note was going to the Premier. We were providing enough opportunity for George
17 and his staff to come and do a briefing and on that a person who wouldn't be able to assess
18 whether patients were -- to the degree of impact on patients.

19 **MS. CHAYTOR:** But the version leaving the word "greatly"
20 out ---

21 **MS. HENNESSEY:** Yes. Yes.

22 **MS. CHAYTOR:** --- does that cause you any concern to have it
23 left out? What's the impression left if the word "greatly" comes out of that sentence?

24 **MS. HENNESSEY:** Sandy, I don't know whether I would have
25 been really focused on that word because the ---

26 **MS. CHAYTOR:** Oh, okay, what about now? What's your
27 impression if you read it that Eastern Health advises twenty-two women were impacted ---

28 **MS. HENNESSEY:** Right.

29 **MS. CHAYTOR:** --- by the change. What impression would that
30 leave with you?

31 **MS. HENNESSEY:** Well, I don't know -- I mean -- right now it
32 might be -- you know it might mean something back then -- I don't recall it meaning anything --

1 to me ---

2 **MS. CHAYTOR:** What does it mean to you now?

3 **MS. HENNESSEY:** Well, it -- to me it would mean -- that there
4 is a group of people, twenty-two women where there was some significance, or serious impact .

5 **MS. CHAYTOR:** Why serious?

6 **MS. HENNESSEY:** Well, I guess it is just my interpretation of
7 the word "greatly". One might interpret that word ---

8 **MS. CHAYTOR:** Take the word "greatly out ---

9 **MS. HENNESSEY:** Right.

10 **MS. CHAYTOR:** --- Eastern Health advises twenty-two women
11 were impacted by the change in status.

12 **MS. HENNESSEY:** Right.

13 **MS. CHAYTOR:** What does that tell you? What impression do
14 you form from that sentence?

15 **MS. HENNESSEY:** (unintelligible) whether the word is there or
16 not -- I mean -- my sense for this was that there was an impact on these twenty-two women that
17 someone should have been told besides Eastern Health.

18 **MS. CHAYTOR:** And does it leave you with the impression that
19 it was only twenty-two women who were impacted?

20 **MS. HENNESSEY:** I mean I guess one could probably read it
21 that way.

22 **MR. COFFEY:** Did you ---

23 **MS. HENNESSEY:** I don't think it was -- it wasn't a big focus
24 for me as we were going through this.

25 **MR. COFFEY:** Well, somebody obviously thought enough of it
26 to insert it ---

27 **MS. HENNESSEY:** Yeah. Yeah.

28 **MR. COFFEY:** --- and then to remove it.

29 **MS. HENNESSEY:** Yeah.

30 **MR. COFFEY:** Take it out. Why did they do it. But they did do
31 it. Somebody obviously (unintelligible) as you point out it's -- one version on the 17th goes to
32 the DM from you where the word "greatly" is not there ---

50

MOIRA HENNESSEY
FEBRUARY 7th, 2008

MS. HENNESSEY: Yeah.

MR. COFFEY: --- there is an e-mail on the morning of the 18th
and the e-mail text refers to the twenty-two issue ---

MS. HENNESSEY: Right. Yeah.

MR. COFFEY: --- and that version has the word "greatly" in it.
You understand that that is the final.

MS. HENNESSEY: Well, I thought that was the final version of
the Note.

MR. COFFEY: And eventually then, well, what we understand it
got removed. Were you ever advised afterwards -- did you ever get a copy of the version that
ended up being filed in the Executive Council register?

MS. HENNESSEY: No, I didn't and I would never get copies of
those Notes.

MR. COFFEY: On this point -- and I'm just trying to get some
sense of how things operate. And maybe I'm being naïve -- Heather had sent over this draft ---

MS. HENNESSEY: Right.

MR. COFFEY: --- back on the 14th I believe, or thereabouts --
you know you leave (unintelligible) spread sheets ---

MS. HENNESSEY: Yeah.

MR. COFFEY: --- all kinds of things -- what ever she --
exchange -- there had been some exchange between yourself and Marilyn. Why not just simply
photocopy ---

MS. HENNESSEY: Well, honestly ---

MR. COFFEY: --- because there's nothing lost in the translation
-- (unintelligible) whether it's accurate or not, it's not lost in the translation. This is what Eastern
Health told me, Marilyn, I'm the DM -- Eastern Health tells me and Gary -- that's what -- here it
is ---

MS. HENNESSEY: Yeah.

I mean a normal process -- when information is provided by one of
our Health authorities on any of our files they normally -- the information -- our Briefing Notes -
- our general rule of thumb in our Briefing Notes which our Briefing Notes show a maximum of
a couple of pages long so -- you know -- in hindsight it might have been better to say, "attached

Pritchard, Rolf

From: Hennessey, Moira
Sent: May 16, 2008 10:24 AM
To: Pritchard, Rolf
Subject: ER/PR Testing- August 18,2006 BN

Rolf,

As discussed, I wish to revise my evidence related to the August 18,2006 briefing note on ER/PR Testing:

-I was on vacation from July 25 to August 4, 2006 and returned to work on Monday, August 7.

-Marilyn McCormack, Cabinet Secretariat, contacted me shortly after I returned to work about a briefing note and asked me for the ER/PR retesting results. I advised Marilyn that I did not have the retesting results. She called me back and asked me to get the retesting results from Eastern Health.

- I contacted Heather Predham, Eastern Health to get the retesting results. She sent me a draft document which included the results.

- I started a table, titled Eastern Health Summary of ER/PR Retesting on August 11 and finished it on the August 12-13 weekend.

- I had the table typed on August 14 and did not get a chance to review it until late that day because I was busy doing work on Corner Brook LTC as requested by Sandra Barnes, Deputy Clerk of Executive Council.

- I advised Ms. Mc Cormack on August 14 at 10:33 pm that the table would be sent to her on August 15. I also provided feedback on a note she was preparing.

- The table was sent to Ms. McCormack on August 15 and she inserted it into the note. Ms. Mc Cormack then sent me some questions. I replied from Labrador (was there on August 15-16) and Ms. Mc Cormack subsequently added some information to the note.

- On August 17, Ms. Mc Cormack sent the note to me which I sent to John Abbott for review. I advised Mr. Abbott that the note was going to the Premier's Office later that day or the next. If I was preparing the note, I would have sought Mr. Abbott's approval of the note as I do not have authority to release a note from the Department without Mr. Abbott's approval or the Minister's approval.

- On August 18, Ms. Mc Cormack sent a note to me at 10:59 am indicating it was the final note if I approved of same. She subsequently called me. I advised her that I was not in a position to approve the note as I had not heard back from Mr. Abbott. During the conversation, we agreed to remove the word greatly from page 3 as the word was not used in the draft test results document provided by Heather Predham, Eastern Health.

Moira

Sent Via BlackBerry