

Reginald Coates - Re: Request

Page 1

IMQ 204

From: Reginald Coates
To: Mundon, Tansy
Date: 12/07/2007 9:18:34 am
Subject: Re: Request

It is being scanned and I will send it via email in the next few minutes.

Reg

>>> Tansy Mundon 12/07/2007 8:49:36 am >>>

Reg,

They need the updated package - most recent version of what you intend to release, not the actual request. This needs to be delivered asap.

Thanks,
Tansy

Sent via Blackberry
Government of Newfoundland and Labrador

-----Original Message-----

From: Reginald Coates
To: Brian Crawley <BrianCrawley@gov.nl.ca>
Brian Taylor <BTaylor@gov.nl.ca>
Elizabeth Matthews <ElizabethMatthews@gov.nl.ca>
CC: Tansy Mundon <TansyMundon.HCSHQP.HCSD@gov.nl.ca>
Creation Date: 7/12 8:12 am
Subject: Re: Request

As per the request from your office, please find attached the ATIPPA requests respecting ER/PR. The requests were submitted separately and reflect the same information for different time periods. Our statutory response date is today. If we do not respond today the requester can request a review by the Information and Privacy Commissioner.

If you require further information, please advise accordingly.

Regards

Reg Coates
Director

>>> Tansy Mundon 11/07/2007 9:35 pm >>>

Reg,

We need a copy of the ATIPPA request sent to Elizabeth, Brian Crawley and Brian Taylor first thing tomorrow. There is one section included that was previously severed. Can you please call me. Tks

Sent via Blackberry
Government of Newfoundland and Labrador

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Date: 12/07/2007 8:49:36 am
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Sent via Blackberry
Government of Newfoundland and Labrador

From: Reginald Coates
To: Crawley, Brian; Matthews, Elizabeth; Taylor, Brian
Date: 12/07/2007 8:12:27 am
Subject: Re: Request

** Confidential **

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Sent via Blackberry
Government of Newfoundland and Labrador

CC: Mundon, Tansy

From: Reginald Coates
To: Pendergast, Renee
Date: 11/07/2007 10:28:23 am
Subject: ATIPP request

Please see attached. This pdf was lifted from the website upon a simple search. You asked the question on how would we know these names would be in the public domain. We knew.

Reg

From: Tansy Mundon
To: Reginald Coates
Date: 11/07/2007 9:35:49 pm
Subject: Request

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Sent via Blackberry
Government of Newfoundland and Labrador

From: Reginald Coates
To: Mundon, Tansy
Date: 11/07/2007 7:41:32 am
Subject: Re: Request

Legally, the request has to be responded to by the 12th. If the Minister does not sign today, then the applicant has a right of appeal with the IPC. If that happens, I would suggest that the Minister may have another embarrassing moment. The requester asked about this response last week.

Reg

>>> Tansy Mundon 10/07/2007 8:51 pm >>>
Premier's office has not yet signed off on request.

Sent via Blackberry
Government of Newfoundland and Labrador

From: Tansy Mundon
To: Reginald Coates
Date: 10/07/2007 8:51:04 pm
Subject: Request

Premier's office has not yet signed off on request.

Sent via Blackberry
Government of Newfoundland and Labrador

From: Connie Fry
To: Coates, Reginald
Date: 12/07/2007 2:54:57 pm
Subject: HOA BN - ER PR - Retesting of Breast Cancer Patients- March 2007

SENT ON BEHALF OF MOIRA

*Revised briefing note. Wrong date on
computers. - See attached.*

Question and Answer Briefing Note
Department of Health and Community Services

Title: ER/PR Testing, Eastern Health

Issue: Eastern Health released the outcome of its review of ER/PR testing in December. A mistake in testing may have led to incorrect treatment for 117 women in this province suffering from breast cancer. Legal proceedings have begun.

Anticipated Questions:

- Why has it taken more than one year for Eastern Health to go public and release the results of the ER/PR testing review?
- When will breast cancer screening test resume at the laboratory in St. John's?
- What has Government done to ensure the reliability and accuracy of the ER/PR testing at the St. John's hospitals?
- Are pathologists or laboratory staff to blame for the incorrect ER/PR test results?

Key Messages:

- Providing quality health services to the people of this province is a priority for our Government. We regret that the past two years (since May 2005) has been a stressful period for some patients and their families.
- When the ER/PR testing problem was discovered in May 2005, arrangements were put in place quickly for an independent laboratory to review the test results and complete ongoing work. Eastern Health took the time it felt was necessary to review the test results from Mount Sinai and conduct an extensive quality review of the laboratory prior to releasing the outcomes to the public in December 2006.
- Eastern Health's first priority was its patients. Clinical team members communicated individually with all patients impacted by this review. The organization has acted in what it determined to be in the best interest of its patients.
- Eastern Health resumed ER/PR testing in St. John's on February 1, 2007. We are confident that Eastern Health has implemented the appropriate new measures to ensure the highest standard of care for breast cancer patients.
- There were multiple factors involved in the ER/PR testing. There has been no blame assigned within Eastern Health. Since legal proceedings have been initiated, Government will have to allow the legal process to determine if in fact error has occurred.

Other Suggested Response(s):

- Eastern Health has put a number of measures in place to provide a high standard of ER/PR testing. These measures include a quality management program, seeking national accreditation for the laboratory and ensuring all technologists and pathologists receive special training.
- Eastern Health has implemented the recommendations from two external reviews and a dedicated laboratory has been established to perform the ER/PR testing with 3 designated technologists, a lab medical director, and a dedicated cutter. A centre of excellence for breast cancer cases has been established at Eastern Health so

that examination and reporting will be directed to a dedicated group of pathologists.

Background:

- In May 2005, the laboratory at the Health Sciences Centre discovered inconsistent results in breast tumour samples. The tests examine hormone receptors Estrogen (ER) or Progesterone (PR) in breast cancer cells to help physicians determine what course of treatment to follow for each patient (eg. chemotherapy, radiation).
- In the review period from 1997 to 2005, there were 2760 ER/PR tests conducted at the laboratory. Nine hundred and thirty-nine (939) of these tests were originally negative and were sent to Mount Sinai for retesting. This number represents about 34% of the patients tested for breast cancer. All retesting has been completed. The chronology of the ER/PR retesting is attached as Annex I.
- Eastern Health did not initially advise patients of the retesting (despite the Department's suggestion that it should consider doing so) and many learned of it from the media before they were contacted by Eastern officials last Fall. Eastern waited for the actual results before disclosing information to the patients instead of telling them that they may or may not be impacted by the review; Eastern didn't know what this would mean for them without the results. Eastern also did not want to unnecessarily raise alarm for individuals who may not be affected.
- The details on the test results are as follows:

| | | |
|---|--------------------------------------|------|
| - | Total Cases Reviewed 1997-2005 | 2760 |
| - | Total Patients Retested | 939 |
| - | Patients Requiring Treatment Changes | 117 |
- The 939 patients included 176 individuals who are deceased. One hundred and one (101) patients were retested and results received. There were two (2) patients who were retested upon request. The remaining 73 will not be retested unless the families request it.
- Last Spring (2006), the family of the late Michelle Hanlon filed a claim against Eastern Health. Ms. Hanlon tested negative on a breast tumour sample in 2000 but on retesting was found to be positive. The family claim that if the correct test result was known earlier, the appropriate treatment would have been started which would have prevented the spread of her disease, and possibly her death. Eastern has filed a statement of defence asking that the case be dismissed.
- A claim has been filed, named Verna Doucette vs. Eastern Regional Health Authority (ERHA), with the Newfoundland Supreme Court, Trial Division. Government is not named as party to the action. Ches Crosbie is representing the approximately 40 plaintiffs; Dan Boone is representing Eastern Health and Judge Carl Thompson is assigned as case management judge.
- The claim alleges faulty ER and PR testing by Eastern Health, resulting in the administration of inappropriate treatment to some cancer patients. The claim has not yet been certified as a class action. It is still in the early stages of litigation.
- Eastern Health has filed an affidavit in court on December 15, 2006. The lawyers for the plaintiff and the defendant have filed documents for certification and case law with the court on February 9, 2007. A hearing of the certification application is scheduled for May 23-25, 2007.
- Eastern Health has also taken measures to address the system issues including a review by two laboratory experts from outside the province, investments in

technology, recruitment of four pathology assistants, accreditation with the CCHSA and consolidation of pathologist review of breast tissue samples.

Drafted by: Beverley Griffiths, 729-0717

Approved by: Moira Hennessey

Date: March 9, 2007

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Drafted by: Beverley Griffiths, 729-0717

Approved by: Moira Hennessey

Date: March 9, 2006

←

Wrong
date



Memo

Legislative and Regulatory Affairs
 Department of Health & Community Services
 1st Floor, West Block, Confederation Building
 P.O. Box 8700, St. John's, NL A1B 4J6
 Telephone: (709) 729-3421
 Fax: (709) 729-5824
 Email: rcoates@gov.nl.ca

| | | | |
|----------|---|-------|-------------------------------|
| To: | Ms. Gerrie Smith, Department of Justice Ms. Paula Burt, Cabinet Secretariat Ms. Josephine Cheeseman, Communications – Executive Council Mr. George Tilley, CEO, Eastern Health | Date: | July 4, 2007 |
| CC: | Dr. Ed Hunt, HCS Ms. Moraj Hennessey, HCS Ms. Tansy Mundon, HCS | | OK with release July 10/07 |
| From: | Reg Coates, HCS | | |
| Subject: | Access to information request(s) under Part II of the <i>Access to Information and Protection of Privacy Act</i> [Our Files #: HCS ATI 07010, HCS ATI 07011, HCS ATI 07012] | | |

The Department of Health and Community Services has received three requests for information respecting the ER/PR Hormone receptor testing issue, as follows:

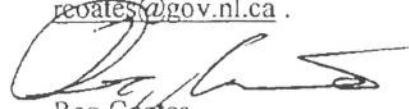
1. Briefing notes - in any and all formats, including paper & electronic – prepared for the Minister on the ER/PR cancer testing issue at Eastern Health. Time frame of request is Jan. 1, 2005, to March 14, 2006, inclusive.
2. Briefing notes - in any and all formats, including paper & electronic – prepared for the Minister on the ER/PR cancer testing issue at Eastern Health. Time frame of request is March 14, 2006 through Jan. 19, 2007, inclusive.
3. Briefing notes - in any and all formats, including paper & electronic – prepared for the Minister on the ER/PR cancer testing issue at Eastern Health. Time frame of request is Jan. 19, 2007 to present.

We have collected and reviewed the relevant documents in the context of the *Access to Information and Protection of Privacy Act*. Attached please find a copy of the responsive documents. We have highlighted our preliminary screen of passages that may be severed and exempted from disclosure. You will also note a couple of highlighted questions on two notes. These questions are intended for our legal counsel.

Our response date is July 12, 2007. We also have to brief the Minister prior to that time, so I would appreciate your response, comments and or opinions by Tuesday July 10, 2007.

I would ask that the Communications Branch with Executive Council liaise with the Premier's Office concerning this request.

If you have any further questions concerning this ATIPP request, please contact me via email at rcoates@gov.nl.ca.


 Reg Coates
 Director

Question and Answer Briefing Note
Department of Health and Community Services

Title: ER/PR Testing, Eastern Health

Issue: Ongoing concerns regarding ER/PR testing at Eastern Health. On May 28, Justice Carl Thompson of the NL Supreme Court certified a class action suit on behalf of up to 100 individuals. The Opposition may ask about Government settling the matter out of court.

Anticipated Questions:

- Will Government consider settling this out of court rather than go through litigation?
- Was there an attempt by the Department and/or Eastern Health to “cover up” the findings of the test results?
- Has Eastern Health now notified all affected patients of the results of retesting and why wasn’t this done sooner?
- At what time did former Ministers of Health become aware of this issue and why didn’t they disclose the magnitude of the problem?
- Why was Government and Eastern Health more concerned with the risk of litigation than patient care?
- Can women’s groups be consulted on how the judicial inquiry will be carried out?

Key Messages:

- The Judge’s decision on the certification of the class action suit was made on May 28. It is premature to determine next steps. We understand from the media that Mr. Crosbie will be speaking to Eastern Health’s lawyer and we will monitor these discussions. I will be refraining from any further public comment.
- Absolutely not. There was full disclosure with patients and their families once test results became available. Eastern Health contacted each patient who was affected by the ER/PR test review or their family physician to make sure they received all the information and support they required. They were told either one of three things:
 - That their tissue had been retested and there was no change in the original results;
 - That their tissue had been retested and that Eastern Health was recommending a change in their treatment; or
 - That although there was a change from their original test result, no change in treatment was recommended.
- This issue has also been in the public domain since late 2005. Eastern Health placed an ad in local papers in October 2005 to provide further details and a number where those with questions could call. The accusation that there was a “cover-up” is unfounded.
- The inquiry will address these questions. However, I must reiterate that all patients who were affected by the ER/PR test review were contacted, media interviews were conducted in late 2005 and early 2006, and an ad was placed in