

<p>COMMISSION OF INQUIRY ON HORMONE RECEPTOR TESTING</p> <p>BEFORE THE HONOURABLE JUSTICE CAMERON - COMMISSIONER</p> <p>MAY 1, 2008</p> <p>Appearances: Bernard Coffey, Q.C. Commission Co-counsel Sandra Chaytor, Q.C. Commission Co-counsel</p> <p>Rolf Pritchard/Megan Collins Her Majesty in Right of NL</p> <p>Jane Hennebury Doctors Kara Laing et al</p> <p>Daniel Simmons Eastern Regional Integrated Health Authority</p> <p>Aaron Felt. Members of the Breast Cancer Testing Class Action</p> <p>Mark Pike NL Medical Association</p> <p>Jennifer Newbury Canadian Cancer Society (NL Division) Stacey O’Dea Central, Western and Labrador-Grenfell Regional Integrated Health Authorities</p>	<p>LIST OF EXHIBITS</p> <p>EXHIBITS P-0800 TO P-0877 Pg. 5</p> <p>EXHIBITS P-0879 TO P-0886 Pg. 5</p> <p>EXHIBITS P-0888 TO P-0899 Pg. 5</p>
<p>TABLE OF CONTENTS</p> <p>MAY 1, 2008</p> <p>MR. JOHN ABBOTT - AFFIRMED</p> <p>Examination by Bernard Coffey, Q.C. Pgs. 4 - 318</p> <p>Certificate</p>	<p style="text-align: right;">Page 4</p> <p>1 THE COMMISSIONER: 2 Q. Please be seated. Mr. Coffey. 3 COFFEY, Q.C.: 4 Q. Good morning, Commissioner. Good morning, Mr. 5 Abbott. Commissioner, could we have, please, 6 Mr. Abbott sworn or affirmed? 7 MR. JOHN ABBOTT (AFFIRMED) EXAMINATION-IN-CHIEF BY 8 BERNARD COFFEY, Q.C. 9 REGISTRAR: 10 Q. And would you please state and spell your 11 complete name for the Commission? 12 MR. ABBOTT: 13 A. John G. Abbott, J-O-H-N G. A-B-B-O-T-T. 14 REGISTRAR: 15 Q. Thank you. 16 COFFEY, Q.C.: 17 Q. Just a moment, please, Commissioner, I just 18 want to check something. Yes. Commissioner, 19 please, before I begin with Mr. Abbott, I have 20 certain exhibits or more exhibits to enter, 21 please. They are numbered 0800 through 0899 22 inclusive, that’s P-0800 through P-0899, 23 inclusive, with the exceptions of P-0878 and 24 P-0887, with the exception of those two 25 numbers.</p>

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1 THE COMMISSIONER:
 2 Q. Okay. So we have Exhibits P-0800 through to
 3 P-0899 with the exceptions of 0878 and 0887?
 4 COFFEY, Q.C.:
 5 Q. Yes.
 6 THE COMMISSIONER:
 7 Q. So I don't have those, obviously the numbers
 8 are just -
 9 COFFEY, Q.C.:
 10 Q. No.
 11 THE COMMISSIONER:
 12 Q. But it is 0878 and 0887?
 13 COFFEY, Q.C.:
 14 Q. Yes.
 15 THE COMMISSIONER:
 16 Q. All right then, those are entered.
 17 COFFEY, Q.C.:
 18 Q. Thank you.
 19 THE COMMISSIONER:
 20 Q. With the two exceptions.
 21 EXHIBITS P-0800 TO P-0877 ENTERED INTO EVIDENCE
 22 EXHIBITS P-0879 TO P-0886 ENTERED INTO EVIDENCE
 23 EXHIBITS P-0888 TO P-0899 ENTERED INTO EVIDENCE
 24 THE COMMISSIONER:
 25 Q. Thank you.

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1 COFFEY, Q.C.:
 2 Q. Mr. Abbott, please, could you tell us your
 3 current occupation?
 4 MR. ABBOTT:
 5 A. Currently I am a management consulting with
 6 the Institute for the Advancement of Public
 7 Policy, which is a St. John's based management
 8 consulting firm here in the province.
 9 COFFEY, Q.C.:
 10 Q. And what type of consulting do you do?
 11 MR. ABBOTT:
 12 A. The focus is on public policy analysis
 13 development program, operations, strategic
 14 planning facilitation, primarily with and in
 15 and for the public sector for those dealing
 16 with the public sector.
 17 COFFEY, Q.C.:
 18 Q. And does that involve health care?
 19 MR. ABBOTT:
 20 A. From time to time, yes.
 21 COFFEY, Q.C.:
 22 Q. And, for example, right now or since you left
 23 your position as deputy minister, who are you
 24 doing work, who actually are you doing work
 25 for?

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1 MR. ABBOTT:
 2 A. Well, in terms of--and if I may ask -
 3 THE COMMISSIONER:
 4 Q. I think that maybe the witness is concerned
 5 about his client's confidentiality.
 6 COFFEY, Q.C.:
 7 Q. Oh, yes.
 8 MR. ABBOTT:
 9 A. Yes.
 10 COFFEY, Q.C.:
 11 Q. I apologize, okay. Well, I'll just ask this,
 12 are you doing any work for the Newfoundland
 13 government?
 14 MR. ABBOTT:
 15 A. In terms of a department versus an agency?
 16 COFFEY, Q.C.:
 17 Q. Yes.
 18 MR. ABBOTT:
 19 A. For agencies of the government, yes.
 20 COFFEY, Q.C.:
 21 Q. Okay. Do any of them relate to health care?
 22 MR. ABBOTT:
 23 A. Yes.
 24 COFFEY, Q.C.:
 25 Q. Okay. And is Eastern Health one of those?

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1 MR. ABBOTT:
 2 A. No.
 3 COFFEY, Q.C.:
 4 Q. Okay.
 5 MR. ABBOTT:
 6 A. I do apologize. In fact, yes.
 7 COFFEY, Q.C.:
 8 Q. Okay. And I take it, to put this in context,
 9 Mr. Abbott, I gather that you being, you know,
 10 other than the times you've actually been a
 11 civil servant, per se, and even at times when
 12 you have been a civil servant in the past,
 13 you've been involved in policy a lot of -
 14 MR. ABBOTT:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. A lot of your career. That's primarily what
 18 you have done?
 19 MR. ABBOTT:
 20 A. Yes.
 21 COFFEY, Q.C.:
 22 Q. Okay. And some of that has involved, I
 23 suggest to you, a significant portion of it
 24 has involved the health care policy?
 25 MR. ABBOTT:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. Okay. Could you take us, please, briefly
 4 through your career in terms of, you know,
 5 you're now--I'm just going to guess your age,
 6 you're about 50ish, give or take a bit. So
 7 you know, you've arrived and you're a policy
 8 consultant analyst, particularly in relation
 9 to health care, but public policy overall.
 10 How have you arrived at this?
 11 MR. ABBOTT:
 12 A. Well, I'm, you know, born and raised here in
 13 St. John's and attended Gonzaga High School,
 14 then went to Memorial University, graduated
 15 with a degree in political science and minor
 16 in economics. Subsequently attended Carlton
 17 University in Ottawa where I received a master
 18 of arts in public administration, focus on
 19 government industry relations,
 20 intergovernmental finance. After graduation
 21 my first, I guess, job in that regard was with
 22 the Provincial Department of Finance,
 23 subsequently with the Intergovernmental
 24 Affairs Secretariat, the Senior Expenditure
 25 Review Committee and then as assistant deputy

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1 minister with Treasury Board Secretariat, that
 2 would have been in 1989.
 3 COFFEY, Q.C.:
 4 Q. I'm sorry, Treasury Board?
 5 MR. ABBOTT:
 6 A. Secretariat.
 7 COFFEY, Q.C.:
 8 Q. Okay, yeah. The people who hold the purse
 9 strings, as it were or influence how the purse
 10 strings are -
 11 MR. ABBOTT:
 12 A. Certainly influence.
 13 COFFEY, Q.C.:
 14 Q. Yes, okay.
 15 MR. ABBOTT:
 16 A. And then in--I was with the Treasury Board
 17 Secretariat from 1989 to 1996, at which time I
 18 was appointed deputy minister of Municipal and
 19 Provincial Affairs. Then in 1997 I was
 20 appointed deputy minister of Work Services and
 21 Transportation. And I resigned that position
 22 in the spring of 1997 and took what would be,
 23 I guess, equivalent of a year's sabbatical.
 24 And then subsequently was hired by the
 25 provincial government on contract as the

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1 chairman, CEO of the Newfoundland and Labrador
 2 Housing Corporation. Subsequently went to,
 3 continued on contract with the government as
 4 the associate deputy minister of Health and
 5 Community Services in 1998, '99 and then
 6 completed that contract in June of 1999 and
 7 then entered the private management consulting
 8 practice. I continued there until December,
 9 2004 when I was appointed the deputy minister
 10 of Health and Community Services. I continued
 11 in that position until May, 2007 and resumed
 12 my consulting practice. Also, during the
 13 period 2002 to 2004 I was chairman of the
 14 board of trustees of the Health Care
 15 Corporation of St. John's.
 16 COFFEY, Q.C.:
 17 Q. Okay. So in relation to government service,
 18 Mr. Abbott, it would be fair to say, then, you
 19 have a fair amount of experience from the
 20 perspective of being involved in decisions
 21 involving how money gets spent?
 22 MR. ABBOTT:
 23 A. Yes.
 24 COFFEY, Q.C.:
 25 Q. Allocated and spent?

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1 MR. ABBOTT:
 2 A. I would include myself as being fortunate in
 3 terms of the types of positions I've held, the
 4 type of work I've been able to undertake and
 5 the people I've worked with over that period,
 6 both at the political level as well as at the
 7 bureaucratic level and but financial
 8 management was a large part of my work,
 9 certainly with the Treasury Board Secretariat.
 10 COFFEY, Q.C.:
 11 Q. And in terms of public policy and financial
 12 management, I take it, at times that involves
 13 considering issues of having to make choices,
 14 sometimes very tough choices?
 15 MR. ABBOTT:
 16 A. Very much so.
 17 COFFEY, Q.C.:
 18 Q. Bearing in mind that you're working with, at
 19 times, limited resources?
 20 MR. ABBOTT:
 21 A. Yes. And it is, you know, in the role of
 22 advising or recommending, obviously, to
 23 ministers.
 24 COFFEY, Q.C.:
 25 Q. And it won't be lost on anyone who just

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1 followed that chronology, I take it then that
 2 you were associate deputy minister in '98,
 3 '99, okay?
 4 MR. ABBOTT:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. That would have been during Joan Dawe's tenure
 8 as -
 9 MR. ABBOTT:
 10 A. She was -
 11 COFFEY, Q.C.:
 12 Q. - deputy minister?
 13 MR. ABBOTT:
 14 A. - the deputy minister for that period, yes.
 15 COFFEY, Q.C.:
 16 Q. And -
 17 MR. ABBOTT:
 18 A. As well as--certainly for most of that period
 19 when I was there, and Deborah Fry was also for
 20 a short period.
 21 COFFEY, Q.C.:
 22 Q. And, sir, I'll ask you because, you know, I
 23 think again, following a chronology, you've
 24 worked different political administrations?
 25 MR. ABBOTT:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. As a practical matter, you know, at that
 4 level, as an ADM or DM, how much in practice
 5 have you found over the years has that made
 6 any real difference? I won't ask you to talk
 7 about, I'm not asking you comment on people's
 8 politics -
 9 MR. ABBOTT:
 10 A. No, I understand.
 11 COFFEY, Q.C.:
 12 Q. - but I mean, in terms of the actual
 13 functioning role of an associate DM or a
 14 deputy minister?
 15 MR. ABBOTT:
 16 A. Not--the simple answer would be no. But to
 17 elaborate, I think from one administration to
 18 another, one premier to another, one party to
 19 another, no significant change. What has
 20 changed and will obviously continue to change
 21 is time and how societies change and how
 22 technology, for instance, will influence the
 23 decision making. And that would be probably
 24 the more critical element and that certainly
 25 has changed and had significant impact over my

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1 career.
 2 COFFEY, Q.C.:
 3 Q. Now, sir, if we could, just in terms of the
 4 ER/PR, I just want to, a couple of questions
 5 initially. If we could, please, look at,
 6 Commissioner, yes, if we could look at,
 7 please, Commissioner, at, I believe it's
 8 Exhibit, yes, P-0800?
 9 THE COMMISSIONER:
 10 Q. For your benefit, Mr. Abbott, any of our
 11 exhibits will come up on the screen in front
 12 of you or there's a hard copy.
 13 MR. ABBOTT:
 14 A. Yes.
 15 THE COMMISSIONER:
 16 Q. If you prefer to look at it in real life.
 17 MR. ABBOTT:
 18 A. Thank you, Commissioner.
 19 COFFEY, Q.C.:
 20 Q. Mr. Abbott, in fact, the hard copies begin at
 21 0800 and go all the way up through in terms of
 22 in finding them. And at times if you do wish,
 23 that mouse actually does control the cursor on
 24 your screen, too.
 25 MR. ABBOTT:

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1 A. Yes, thank you.
 2 COFFEY, Q.C.:
 3 Q. So, this is an e-mail of, well, it's two e-
 4 mails, actually. The bottom one is from
 5 yourself, July 19th, 2005 at 1:57 p.m. to
 6 George Tilley, copy to Carolyn Chaplin
 7 regarding the briefing of minister. And you
 8 say, "George, we would like for you and the
 9 appropriate staff to brief the minister on
 10 Thursday at 9 a.m. respecting the testing
 11 issue affecting breast cancer patients at
 12 Eastern Health. It would be appreciated that
 13 you forward a briefing note to me on Wednesday
 14 prior to the briefing. Thank you. Please
 15 call if you have any questions."
 16 MR. ABBOTT:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. So that, is it around that time, I take it,
 20 that you first became aware of the breast
 21 cancer testing issue?
 22 MR. ABBOTT:
 23 A. Yes.
 24 COFFEY, Q.C.:
 25 Q. If we could look, please, at Exhibit P-0784?

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1 And, Mr. Abbott, I appreciate that this actual
 2 letter, I have no reason to believe you ever
 3 actually saw, but I'll show it to you. It's a
 4 letter dated May 30th, 2007. It says, "To be
 5 delivered via courier," "delivered via
 6 courier." There's a stroke through it.
 7 Somebody has written "never sent" on it. And
 8 it says, it's written to you in your capacity
 9 as deputy minister of Health, "Dear John,
 10 Further to your request I am attaching reports
 11 that were prepared in relation to the ER/PR
 12 issue. Please note that the reports prepared
 13 by Trish Wegrynowski and Dr. Banerjee were
 14 prepared as a peer review request and to that
 15 extent we have performed it under a quality
 16 umbrella to ensure its protection from future
 17 release. The report prepared by Dr. Allan
 18 Gown was requested by HIROC, and therefore not
 19 ours to release. If need be we can arrange to
 20 have the laboratory leaders present" I
 21 suppose, "on these items. Sincerely, George
 22 Tilley." Enclosing five records. And I
 23 gather that this was written at a request that
 24 you had made?
 25 MR. ABBOTT:

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1 A. I'm not sure I follow your question.
 2 COFFEY, Q.C.:
 3 Q. Okay. You had asked that certain reports be
 4 sent over to you?
 5 MR. ABBOTT:
 6 A. Yes.
 7 COFFEY, Q.C.:
 8 Q. Okay. And that would have been within a day
 9 or so before this?
 10 MR. ABBOTT:
 11 A. I can't say within a day or so, but certainly
 12 within, from the middle of May to the end of
 13 May, that period.
 14 COFFEY, Q.C.:
 15 Q. And you left your position what day?
 16 MR. ABBOTT:
 17 A. May 30th.
 18 COFFEY, Q.C.:
 19 Q. That day.
 20 THE COMMISSIONER:
 21 Q. Just for the record, did you receive this or
 22 is the notation on the letter correct?
 23 MR. ABBOTT:
 24 A. I have not seen it before, so--and I'm
 25 assuming -

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1 THE COMMISSIONER:
 2 Q. You did not receive the letter?
 3 MR. ABBOTT:
 4 A. No.
 5 THE COMMISSIONER:
 6 Q. And did you ever receive a copy of the reports
 7 that are referred to?
 8 MR. ABBOTT:
 9 A. No, I did not.
 10 THE COMMISSIONER:
 11 Q. Okay. Thank you.
 12 COFFEY, Q.C.:
 13 Q. Okay, so, and again, I'm going to be
 14 canvassing the background of this in some
 15 detail.
 16 THE COMMISSIONER:
 17 Q. Right.
 18 COFFEY, Q.C.:
 19 Q. But just in terms of right now, so beginning
 20 on or about July 19th, 2005 you requested that
 21 the minister be briefed on July 21?
 22 MR. ABBOTT:
 23 A. Yes.
 24 COFFEY, Q.C.:
 25 Q. 2005. And shortly before you left your

Page 20

1 position as deputy minister of health, you'd
 2 asked Mr. Tilley for copies of these reports?
 3 MR. ABBOTT:
 4 A. Yes.
 5 COFFEY, Q.C.:
 6 Q. And the letter by which he was, covering
 7 letter by which he was sending them to you is
 8 dated the day you left your position, as it
 9 turns out?
 10 MR. ABBOTT:
 11 A. It would appear, yes.
 12 COFFEY, Q.C.:
 13 Q. If we could, please, if we could look at
 14 Exhibit P-0171? Now, Mr. Abbott, this is an
 15 e-mail from Moira Hennessey to yourself dated
 16 August 17th, 2006 at 12:41 p.m. It's
 17 forwarding a briefing note, ER/PR testing.
 18 And it says, "John FYI," for your information
 19 and review, "this note will likely go to the
 20 PO," which would be the premier's office,
 21 "later today or tomorrow. Signed Moira." And
 22 when we look at page 2 of this exhibit, I'm
 23 just going to scroll down a tiny bit, this is
 24 a briefing note that--it's an update on
 25 pathology reports and legal action for women

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1 diagnosed with breast cancer. And sir, this
 2 ultimately ends up as--in a slightly
 3 different, with some words changed--as the
 4 August 18th 2006 briefing note that went to
 5 Cabinet Secretariat. So I take it that, at
 6 least a draft version of that briefing note
 7 went through your e-mail account on August
 8 17th 2006?
 9 MR. ABBOTT:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. If we could look, please, at Exhibit P-0104?
 13 Now sir, this is an e-mail from Susan Bonnell,
 14 sent Monday, December 11th 2006 at 8:52 a.m.
 15 to Tansy Mundon, and the attachments are media
 16 briefing December 11, and there's a whole raft
 17 of material when we look through this, and we
 18 will be looking at it in a bit more detail,
 19 but Tansy Mundon was your director of
 20 communications at the time?
 21 MR. ABBOTT:
 22 A. Yes.
 23 COFFEY, Q.C.:
 24 Q. The Department's?
 25 MR. ABBOTT:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. Department of Health's, and if we could look,
 4 please, at Exhibit P-0196? This is an e-mail-
 5 -I apologize. Yes, P-0196, page two. This is
 6 an e-mail that same day from Tansy Mundon at
 7 10:25 a.m. to yourself, Moira Hennessey,
 8 Darrell Hynes and Tom Osborne. It's an
 9 embargoed news release, and this is a news
 10 release relating to the December 11th media
 11 briefing that Eastern Health held. So Mr.
 12 Abbott, I take it then that on December 11th
 13 or the following day, you would have received
 14 a copy of the news release, as well as the
 15 related materials?
 16 MR. ABBOTT:
 17 A. As the e-mail would indicate, yes.
 18 COFFEY, Q.C.:
 19 Q. Okay. So in terms of this matter then, on or
 20 about July 19th 2005, you were first involved
 21 with the ER/PR issue August, first half of
 22 August, August 17th certainly 2006, you were
 23 aware of the--became aware of the briefing
 24 note for the Premier's office?
 25 MR. ABBOTT:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. December 11th-12th 2006, you were aware of the
 4 media briefing by Eastern Health?
 5 MR. ABBOTT:
 6 A. Yes.
 7 COFFEY, Q.C.:
 8 Q. And just before you left your position as
 9 deputy minister, you requested of Mr. Tilley
 10 certain review reports, external review
 11 reports?
 12 MR. ABBOTT:
 13 A. Yes.
 14 COFFEY, Q.C.:
 15 Q. Okay. Mr. Abbott, could you tell us, please--
 16 I'm going to ask you about, as I have certain
 17 other people who have testified here, you
 18 know, how they came to know certain
 19 individuals who are also involved in this
 20 matter. Joan Dawe, you've referred to her
 21 just now at one point as the DM, in fact,
 22 while you were associate deputy minister. How
 23 do you know Ms. Dawe?
 24 MR. ABBOTT:
 25 A. Well, I believe my first meeting with Mrs.

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1 Dawe would have been probably 1989, 1990. She
 2 had been appointed as the assistant deputy
 3 minister of Health. At that time, I was the
 4 assistant secretary to Treasury Board and that
 5 would--I believe it was my first meeting with
 6 her.
 7 COFFEY, Q.C.:
 8 Q. And assistant secretary to Treasury Board,
 9 what does that actually mean, in terms of job
 10 function?
 11 MR. ABBOTT:
 12 A. My role in that position was financial
 13 management, overseeing both the development of
 14 the provincial budget, and monitoring
 15 expenditures over the year with the relevant
 16 departments and to advise and recommend to the
 17 Treasury Board, which is the ministers,
 18 committee of Cabinet, on expenditure matters.
 19 So in the case of Mrs. Dawe, if the department
 20 was looking for additional funding, transfer
 21 of funding within their expenditure vote, then
 22 those matters would have been brought to the
 23 Treasury Board secretary's attention and our
 24 advice and/or recommendation sought.
 25 COFFEY, Q.C.:

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1 Q. When you say monitoring expenditures of
2 departments?

3 MR. ABBOTT:

4 A. Yes.

5 COFFEY, Q.C.:

6 Q. Would that monitoring involve the Department
7 of Health?

8 MR. ABBOTT:

9 A. Yes.

10 COFFEY, Q.C.:

11 Q. Would you monitor all departments or just
12 certain ones?

13 MR. ABBOTT:

14 A. As a secretariat, we would monitor all.

15 COFFEY, Q.C.:

16 Q. But as assistant secretary?

17 MR. ABBOTT:

18 A. I would focus largely on the significant
19 expenditure items, as well as the larger
20 expending departments, such as the Department
21 of Health.

22 COFFEY, Q.C.:

23 Q. Okay. So the Department of Health, at that
24 time, as it then was, would have fallen within
25 your -

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1 MR. ABBOTT:

2 A. Well, yes, through our budget process as well
3 as our monitoring.

4 COFFEY, Q.C.:

5 Q. And okay, so that's when you met Ms. Dawe?

6 MR. ABBOTT:

7 A. Yes.

8 COFFEY, Q.C.:

9 Q. And from then?

10 MR. ABBOTT:

11 A. Obviously we would have collaborated on quite
12 a number of issues over time in our respective
13 roles, right up to this day.

14 COFFEY, Q.C.:

15 Q. And so she was an ADM in Health while you were
16 working with Treasury Board?

17 MR. ABBOTT:

18 A. Yes.

19 COFFEY, Q.C.:

20 Q. In terms of the health care kind of sphere of
21 life, when did you next encounter her?

22 MR. ABBOTT:

23 A. Well, she was in the assistant deputy minister
24 role roughly for the same period I was in the
25 assistant secretary role with Treasury Board.

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1 She was appointed to deputy minister of Human
2 Resources and Employment at the same time I
3 was appointed deputy minister of Municipal
4 Affairs. Then she subsequently became the
5 deputy minister of Health and I was associate
6 deputy minister for a period.

7 COFFEY, Q.C.:

8 Q. How did you come, in that context, to become
9 associate deputy minister of Health?

10 MR. ABBOTT:

11 A. I guess there's both the short and long.

12 COFFEY, Q.C.:

13 Q. Try the short.

14 MR. ABBOTT:

15 A. The short version was, as I had mentioned at
16 the outset, I was on contract to the
17 government at the Newfoundland and Labrador
18 Housing Corporation as chair and CEO with very
19 specific objectives. It was determined by
20 the, at the time, with the clerk of the
21 Executive Council, Mr. Malcolm Marrow, that--
22 and in consult, I think in certainly
23 discussion with the deputy minister of Health
24 that my skills and resources would be, at that
25 particular juncture, would be better served

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1 over with the Department of Health, given the
2 number of issues that they were dealing with
3 at that particular time. So I was asked, as
4 these things go, to switch from one portfolio
5 to the other and that's basically how it
6 happened.

7 COFFEY, Q.C.:

8 Q. And you say in consultation with the deputy
9 minister, that was the deputy minister of
10 Health, Joan Dawe at the time?

11 MR. ABBOTT:

12 A. Yes.

13 COFFEY, Q.C.:

14 Q. Effectively then Ms. Dawe wanted to avail of
15 your services?

16 MR. ABBOTT:

17 A. I do believe that would be correct, yes.

18 COFFEY, Q.C.:

19 Q. Okay, and the nature of what you were brought
20 in to do, what kind of role?

21 MR. ABBOTT:

22 A. Again, very specific. There were three or
23 four files that Ms. Dawe wanted me to focus
24 on, which would be not in the direct line of
25 activities in the department or the

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1 operational side. There were capital
 2 budgeting issues that they were dealing with,
 3 you know, proposals for hospital construction
 4 or there were issues around organization
 5 structure and management in the department.
 6 So they were the two or three areas that I
 7 focused on for the six or seven months I was
 8 there.
 9 COFFEY, Q.C.:
 10 Q. Okay, and that's management structure within
 11 the Department itself?
 12 MR. ABBOTT:
 13 A. Yes.
 14 COFFEY, Q.C.:
 15 Q. As opposed to within the hospitals?
 16 MR. ABBOTT:
 17 A. That's right.
 18 COFFEY, Q.C.:
 19 Q. Or health boards or whatever they were called
 20 at the time?
 21 MR. ABBOTT:
 22 A. Yes.
 23 COFFEY, Q.C.:
 24 Q. Okay. Was that your first hands on
 25 introduction to health?

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1 MR. ABBOTT:
 2 A. In terms of being within the health portfolio,
 3 yes, but while I was at the Treasury Board
 4 secretariat for six years or so, and even
 5 previous to that, I had, in the work I was
 6 doing, had spent a lot of time working with
 7 the Department of Health officials. So I was
 8 able to benefit from that exposure and my
 9 advice sought from time to time on quite a
 10 number of health related matters through those
 11 years.
 12 COFFEY, Q.C.:
 13 Q. And so Ms. Dawe is the deputy minister while
 14 you're associate deputy minister. Then your
 15 next, you know, professional relationship with
 16 her?
 17 MR. ABBOTT:
 18 A. I guess then really it would be as the--when I
 19 became deputy minister of Health and Community
 20 Services, she had been appointed as the chair
 21 of the new Eastern Regional Health Authority.
 22 So that's when--so that would be the -
 23 COFFEY, Q.C.:
 24 Q. And that continued on during your time as
 25 deputy minister?

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1 MR. ABBOTT:
 2 A. Yes.
 3 COFFEY, Q.C.:
 4 Q. Yes. Mr. Abbott, while you were chair of the
 5 Health Care Corporation of St. John's, did you
 6 encounter Ms. Dawe in any role there?
 7 MR. ABBOTT:
 8 A. Yes, and just as you were asking the question,
 9 she was also a member of the board at that
 10 time, in her--largely in her--well, she was
 11 also chair of the St. John's Health and
 12 Community Services Board.
 13 COFFEY, Q.C.:
 14 Q. Okay, and in that capacity, I take it, she was
 15 a member of -
 16 MR. ABBOTT:
 17 A. Yes, there were -
 18 COFFEY, Q.C.:
 19 Q. - the Health Care Corporation?
 20 MR. ABBOTT:
 21 A. - there were some cross appointments, yes.
 22 COFFEY, Q.C.:
 23 Q. Okay.
 24 MR. ABBOTT:
 25 A. And I guess both in her case and mine, they

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1 were, you know, sort of the volunteer
 2 capacity. That's why when you said
 3 professional, I sort of stepped aside.
 4 COFFEY, Q.C.:
 5 Q. Yes, I appreciate that, and that's--when you
 6 said it, I can see you were thinking actually
 7 kind of at work, like going to the job as it
 8 were.
 9 MR. ABBOTT:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. You know, early in the morning. Mr. Tilley,
 13 George Tilley.
 14 MR. ABBOTT:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. Now the same, effectively the same question.
 18 MR. ABBOTT:
 19 A. And again, a lot of parallels. I would have
 20 met Mr. Tilley when I was at the Treasury
 21 Board secretariat. He was with the--when I
 22 first met him, was with the Health Care
 23 Corporation of St. John's or its predecessor,
 24 and he would have been vice-president
 25 equivalent, and we would have talked and met

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1 on different financial matters over the
 2 period. Then he was--when he became CEO of
 3 the Health Care Corporation of St. John's, I
 4 would have had more meetings, again on a
 5 similar vein, and then as chair of the Health
 6 Care Corporation of St. John's, obviously he
 7 would have reported to me and to the Board,
 8 and then I, as deputy minister of Health and
 9 Community Services, would have been dealing
 10 with him as the new president CEO of the
 11 Eastern Regional Health Authority.
 12 COFFEY, Q.C.:
 13 Q. And let me see, Moira Hennessey.
 14 MR. ABBOTT:
 15 A. Moira Hennessey, both in terms of
 16 professionally was when I--again, probably at
 17 the Treasury Board secretariat, if not
 18 earlier. I knew Ms. Hennessey in my, you
 19 know, social circle, and certainly in the
 20 years before that, but it would have been in
 21 my days at the Treasury Board secretariat and
 22 then subsequently when I was with the
 23 department.
 24 COFFEY, Q.C.:
 25 Q. And when you were associate deputy minister,

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1 do you recall what position she held?
 2 MR. ABBOTT:
 3 A. She was a director of one of the divisions in
 4 the department at that time.
 5 COFFEY, Q.C.:
 6 Q. Which would be just--a director would have
 7 been just below an ADM?
 8 MR. ABBOTT:
 9 A. Yes.
 10 COFFEY, Q.C.:
 11 Q. And the ADM in that context would be assistant
 12 deputy minister?
 13 MR. ABBOTT:
 14 A. Yes.
 15 COFFEY, Q.C.:
 16 Q. Then when you became chair of the Board of
 17 Trustees, would you have had any dealings with
 18 her at that point?
 19 MR. ABBOTT:
 20 A. Yes, but it would be either at a meeting--it
 21 would be rare, but it's possible that there
 22 might have been a telephone conversation or
 23 two, but nothing extensive.
 24 COFFEY, Q.C.:
 25 Q. Nothing significant?

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1 MR. ABBOTT:
 2 A. No.
 3 COFFEY, Q.C.:
 4 Q. How about when you became deputy minister?
 5 MR. ABBOTT:
 6 A. Then if it wasn't hourly, it was certainly
 7 daily.
 8 COFFEY, Q.C.:
 9 Q. Okay. Daily, and at times hourly, I take it?
 10 MR. ABBOTT:
 11 A. Yes.
 12 THE COMMISSIONER:
 13 Q. And when you were DM, Ms. Hennessey's position
 14 was?
 15 MR. ABBOTT:
 16 A. She was the assistant deputy minister for what
 17 we referred to as regional board operations.
 18 THE COMMISSIONER:
 19 Q. Okay.
 20 COFFEY, Q.C.:
 21 Q. Eastern Health and its equivalents?
 22 MR. ABBOTT:
 23 A. Yes.
 24 COFFEY, Q.C.:
 25 Q. And let me see, Mr. Ottenheimer, John

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1 Ottenheimer.
 2 MR. ABBOTT:
 3 A. Mr. Ottenheimer, I guess professionally, the
 4 first time I remember speaking with him was
 5 when I was at the--as chair and CEO of the
 6 Newfoundland and Labrador Housing Corporation,
 7 because I think he had called on a particular
 8 matter. But, after that, it was when I became
 9 deputy minister of Health and Community
 10 Services, and I should step back. When I was
 11 chair of the Health Care Corp, sorry, yeah,
 12 the Health Care Corporation of St. John's, I
 13 did meet him on one or two occasions. He had
 14 come to some of our board meetings and
 15 functions. And then it was prior to my
 16 appointment as deputy minister, I did meet
 17 with him in a hiring capacity, I guess, and
 18 then subsequently, when I became deputy
 19 minister, then obviously I was, you know, came
 20 to know him quite well.
 21 COFFEY, Q.C.:
 22 Q. Tom Osborne.
 23 MR. ABBOTT:
 24 A. Mr. Osborne, I think it is fair to say that it
 25 was when he was appointed Minister. We might

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1 have had one or two telephone calls, but in
 2 terms of actually meeting and knowing him.
 3 COFFEY, Q.C.:
 4 Q. And Ross Wiseman.
 5 MR. ABBOTT:
 6 A. Mr. Wiseman, I have known probably from the
 7 mid 90s when he was working in Clarendville
 8 with the hospital board there, and we were on
 9 a task force together dealing with health
 10 information, and subsequently when I joined
 11 the department as parliamentary secretary, we
 12 sort of renewed our working relationship at
 13 that time.
 14 COFFEY, Q.C.:
 15 Q. And Dr. Robert Williams.
 16 MR. ABBOTT:
 17 A. Dr. Williams, I would have known probably
 18 certainly the early 80s when he was assistant
 19 and then associate deputy minister in the
 20 Department of Health and I was with the
 21 Intergovernmental Affairs secretariat and we
 22 were working on a lot of files at that time,
 23 and so -
 24 COFFEY, Q.C.:
 25 Q. You would have had fairly frequent contact

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1 with him?
 2 MR. ABBOTT:
 3 A. And then with Treasury Board and he was deputy
 4 minister, we were in a lot of -
 5 COFFEY, Q.C.:
 6 Q. He was DM Health and you were Treasury Board?
 7 MR. ABBOTT:
 8 A. Treasury Board secretariat, and we had a lot
 9 of working, a long working relationship during
 10 that period.
 11 COFFEY, Q.C.:
 12 Q. And then?
 13 MR. ABBOTT:
 14 A. So then he was, the period I was deputy
 15 minister with the Provincial Government back
 16 in 1996, he was deputy minister of Health, so
 17 we, as colleagues, we would have conferred on
 18 general government matters, nothing health
 19 specific at that time, and then when I was
 20 chair of the Health Care Corporation of St.
 21 John's, he was vice-president, so I would have
 22 dealt with him through George Tilley on
 23 different matters and he would attend board
 24 meetings. And then when I was deputy
 25 minister, we would have periodic

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1 conversations, e-mails from time to time on
 2 very specific matters.
 3 COFFEY, Q.C.:
 4 Q. We have at times here, during the hearings,
 5 heard references to the Hay Report.
 6 MR. ABBOTT:
 7 A. Yes.
 8 COFFEY, Q.C.:
 9 Q. Specifically involving the Health Care
 10 Corporation of St. John's and I believe it was
 11 2002, and I stand to be corrected on that, or
 12 thereabouts. What do you know about the Hay
 13 Report?
 14 MR. ABBOTT:
 15 A. Well, back in the fall, I believe of 2001, the
 16 Hay Group were commissioned to undertake a
 17 study of the Health Care Corporation of St.
 18 John's. I was asked, at that time, to sit in
 19 on a couple of meetings of the steering
 20 committee by the Minister of the day, Mrs.
 21 Bettney, in a volunteer capacity.
 22 Subsequently, and in relatively short order, I
 23 was asked by Mrs. Bettney would I take on the
 24 job of chair of Health Care Corporation of St.
 25 John's to spearhead largely the implementation

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1 of the Hay Report once it was received.
 2 COFFEY, Q.C.:
 3 Q. Okay. So you were asked by Ms. Bettney to
 4 take on the position, and it was a voluntary
 5 position of chair of the Board.
 6 MR. ABBOTT:
 7 A. Yes.
 8 COFFEY, Q.C.:
 9 Q. Even before the Hay Report was actually filed,
 10 as it were?
 11 MR. ABBOTT:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. And with a view to implementing its
 15 recommendations within that organization?
 16 MR. ABBOTT:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. And you became chair when?
 20 MR. ABBOTT:
 21 A. January 2002.
 22 COFFEY, Q.C.:
 23 Q. January '02, and you remained in that
 24 position, I take it, until December '04?
 25 MR. ABBOTT:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. So in effect, three full years almost?
 4 MR. ABBOTT:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. And the Hay Group Report was, from your
 8 perspective, was focused on doing what? Its
 9 mandate was to do what?
 10 MR. ABBOTT:
 11 A. Well the focus and primarily its mandate and
 12 why it was commissioned and the report does
 13 actually a good job in laying that out, was to
 14 help the board and the organization to address
 15 its deteriorating financial position.
 16 COFFEY, Q.C.:
 17 Q. And the Hay Group Report was commissioned by
 18 whom?
 19 MR. ABBOTT:
 20 A. Well, it was commissioned, as I understood at
 21 the time and certainly recall at this point,
 22 was certainly by the department, in
 23 conjunction with the Health Care Corporation
 24 Board at that time.
 25 COFFEY, Q.C.:

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1 Q. And who was your predecessor as board chair?
 2 MR. ABBOTT:
 3 A. I know his name and it's slipping here.
 4 COFFEY, Q.C.:
 5 Q. Okay, that's fine, it will come back to you
 6 and when it does, you can just interject to
 7 say it, okay, because it will.
 8 MR. ABBOTT:
 9 A. Yes.
 10 COFFEY, Q.C.:
 11 Q. So the Hay Group then, I take it, was
 12 commissioned to, in effect, find ways to save
 13 money?
 14 MR. ABBOTT:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. If it was possible.
 18 MR. ABBOTT:
 19 A. Yes.
 20 COFFEY, Q.C.:
 21 Q. And their report was eventually filed. You
 22 agreed to take on the chair person's role of
 23 the Health Care Corporation even before the
 24 report was filed?
 25 MR. ABBOTT:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. With a view to implementing it.
 4 MR. ABBOTT:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. Did you have any concerns about undertaking to
 8 implement something that you hadn't yet seen
 9 the result of?
 10 MR. ABBOTT:
 11 A. Not particularly, no.
 12 COFFEY, Q.C.:
 13 Q. Did you have any sense at the time as to what,
 14 in effect, the record was going to recommend,
 15 in a general way?
 16 MR. ABBOTT:
 17 A. In a general way, yes. As I said, I was on
 18 the steering committee, so I knew what the
 19 terms of reference, the terms were, how the
 20 review was being conducted, what its focus
 21 was, what were some likely outcomes, not the
 22 specifics, which would not be inconsistent
 23 with any other reviews that I would have been
 24 involved in, up to that point of time, it was
 25 just the scale was significant, relevant to

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1 some other reviews that I would have been
 2 party to up to that point.
 3 COFFEY, Q.C.:
 4 Q. And when the report was forthcoming, where
 5 were the savings to be found in the main?
 6 MR. ABBOTT:
 7 A. In improved operations, in a simple way. If
 8 you delved down into the specifics, it was
 9 improved deficiencies with respect to lengths
 10 of stay, utilization of hospital beds,
 11 appropriate treatment, appropriate staffing
 12 levels, looking at whether or not people
 13 should have been admitted in the first place,
 14 focus on ambulatory care. So it was a broad
 15 spectrum of factors that were addressed and it
 16 was very comprehensive and it looked at it in
 17 totality as best as one could at that time,
 18 with also focusing on that through this
 19 process, where is it that you can and should
 20 focus on improving outcomes and improving
 21 standards and improving the overall operation
 22 of the organization.
 23 COFFEY, Q.C.:
 24 Q. In terms of saving money, that can, I gather,
 25 can involve one of two things or a combination

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1 of them. You can just simply spend less money
 2 or not spend as much more money as you
 3 otherwise would have or some combination of
 4 that, depending upon the area, would that be -
 5 MR. ABBOTT:
 6 A. That's, you know, I guess the answer would be
 7 yes.
 8 COFFEY, Q.C.:
 9 Q. Okay, with respect to that, in terms of
 10 lowering costs, was this to involve layoffs?
 11 MR. ABBOTT:
 12 A. No.
 13 COFFEY, Q.C.:
 14 Q. Was it to involve not filling positions?
 15 MR. ABBOTT:
 16 A. If the positions weren't required, yes.
 17 COFFEY, Q.C.:
 18 Q. And these positions that the Hay Report
 19 identified for elimination, they were in the
 20 main, what types of positions?
 21 MR. ABBOTT:
 22 A. There were some management positions,
 23 primarily, and there were some changes made,
 24 as you consolidate departments, consolidate
 25 operations, but in terms of looking at nursing

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1 staff or operational and support staff, they
 2 were, the positions over time may not be
 3 required, but individuals would not be laid
 4 off.
 5 COFFEY, Q.C.:
 6 Q. I understand and I appreciate that, so your
 7 understanding was that they wouldn't lay off
 8 individuals, but as positions came empty, they
 9 wouldn't be filled.
 10 MR. ABBOTT:
 11 A. Yes.
 12 COFFEY, Q.C.:
 13 Q. The position itself would be eliminated and
 14 thereby result in a lower cost in a budgetary
 15 sense.
 16 MR. ABBOTT:
 17 A. On that particular side, yes.
 18 COFFEY, Q.C.:
 19 Q. The types of management positions that would
 20 be eliminated, from your perspective and I
 21 take it, would these be senior management,
 22 middle management?
 23 MR. ABBOTT:
 24 A. It could, you know, in terms of the review, it
 25 would look at all, whether it's executive

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1 right down to the, you know, the supervisory
 2 level. There were, if memory serves me
 3 correct, they were primarily at the program
 4 management level. As the organization was
 5 starting to mature, where can you bring
 6 operations together to improve the delivery.
 7 At the same time, where are there deficiencies
 8 so that you can channel those resources to
 9 those areas.
 10 COFFEY, Q.C.:
 11 Q. So as you brought programs together, merged
 12 them, programs that had otherwise existed in
 13 disparate hospitals?
 14 MR. ABBOTT:
 15 A. Well and within the same facility.
 16 COFFEY, Q.C.:
 17 Q. Okay. And they were primarily at the program
 18 management level. You've talked about
 19 merging, I take it the idea was rather than
 20 have two managers supervising ten people each,
 21 you might have one supervising twenty? Was
 22 that the idea?
 23 MR. ABBOTT:
 24 A. I think that's a bit too simple, so I won't--I
 25 wouldn't go there.

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1 COFFEY, Q.C.:
 2 Q. Okay.
 3 MR. ABBOTT:
 4 A. I think it's looking at the functions, can
 5 they, should they be brought together? If so,
 6 then how are they best managed?
 7 COFFEY, Q.C.:
 8 Q. And at the supervisory level and that's the
 9 program management level, your understanding
 10 of--what's the function of a manager at the
 11 program management level?
 12 MR. ABBOTT:
 13 A. Well at the program management level, it would
 14 be to oversee the, both the design and
 15 delivery and the performance of the particular
 16 program. At the supervisory level, it would
 17 be in terms of the actual day-to-day execution
 18 of a particular service and the staff
 19 delivering that.
 20 THE COMMISSIONER:
 21 Q. I'm sorry, run that past me again? The
 22 program management level, you do--I missed
 23 something, I think.
 24 MR. ABBOTT:
 25 A. It would be looking at the design of the

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1 program, how it should be delivered and
 2 ensuring performance and that the resources
 3 were in place to deliver a program, such as
 4 mental health, children's health, those kinds
 5 of things. At the supervisory level and there
 6 may be, you know, different management levels
 7 in between, but at the, sort of the very
 8 supervisory level would be to ensure that the
 9 service is delivered based on the program
 10 management design and the resources are in
 11 place to in fact deliver the service. So it's
 12 a very complicated system and if you look at
 13 the history of the Health Care Corporation of
 14 St. John's of bringing the various hospitals
 15 together and the programs and the services and
 16 the staff and the different management
 17 regimes, they all came together in 1996 and it
 18 was an evolutionary period as to how that
 19 becomes integrated and "better managed". And
 20 the Hay consultants were asked obviously to
 21 address that as part of their review, so it
 22 wasn't strictly find us the numbers, find us
 23 the savings, it is how are we managed, how are
 24 we structured, how are we operating relative
 25 to the best practices as they were able to

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1 bring to bear and identify changes in
 2 operations to get you there.
 3 COFFEY, Q.C.:
 4 Q. And these best practices, I take it these
 5 comparisons were with Canadian averages?
 6 MR. ABBOTT:
 7 A. Would be, you know, comparable facilities
 8 types of services to agree that they would
 9 have had that basically in their databank, if
 10 I can put it that way, which would be sort of
 11 the standard for management consulting
 12 approach.
 13 THE COMMISSIONER:
 14 Q. Mr. Coffey, if you're going down this road,
 15 stop me because I won't interfere, but during
 16 the evidence of the last witness, who, prior
 17 to becoming the CEO had been a VP?
 18 COFFEY, Q.C.
 19 Q. COO.
 20 THE COMMISSIONER:
 21 Q. COO, sorry, right because there were all these
 22 management levels that seem to be at the same
 23 level but have different names within the
 24 current organization. In any event, you can
 25 be a VP or a COO or a manager, but you're all

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1 at the same level, depending on what it is
 2 that is done under you, but in any event, as I
 3 understood the evidence of Ms. Jones in the
 4 job which she had prior to taking on her
 5 current position as a COO, she had management
 6 of a number of areas which would have included
 7 an area under which would fall the question of
 8 fixation within the--which is a question that
 9 goes back to what happens in an OR.
 10 MR. ABBOTT:
 11 A. Uh-hm.
 12 THE COMMISSIONER:
 13 Q. And under Ms. Jones there was a person who
 14 was, whose title I've forgotten, Maria Tracey,
 15 and I've forgotten what her title was, but she
 16 was a middle management level, and then you
 17 had a director's level, which I translate to
 18 the old fashion chief nurse or head nurse?
 19 MR. ABBOTT:
 20 A. Uh-hm.
 21 THE COMMISSIONER:
 22 Q. So when you were talking about what the
 23 various of levels did, can you just illustrate
 24 that by those kinds of things to get to a head
 25 nurse in a department, just so I can picture

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1 it a little more clearly?
 2 MR. ABBOTT:
 3 A. Commissioner, you are possibly now in the
 4 position of trying to compare two different
 5 organizations.
 6 THE COMMISSIONER:
 7 Q. Okay, so that's apples and oranges.
 8 MR. ABBOTT:
 9 A. In many respects, yes, because the Eastern
 10 Health management structure is quite
 11 different, more complicated and more layered
 12 than what I would have been knowledgeable about
 13 at the Health Care Corporation in 2002 and so
 14 you're looking at a very significant change.
 15 Now fundamentally, in terms of management
 16 practices, it wouldn't necessarily be that
 17 much different, but who is now involved -
 18 THE COMMISSIONER:
 19 Q. Who does what, okay.
 20 MR. ABBOTT:
 21 A. And the layering and a good organizational
 22 chart of both, you know, could help you there.
 23 THE COMMISSIONER:
 24 Q. Well can you go back to what you were talking
 25 about as a result of the Hay Report?

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1 MR. ABBOTT:
 2 A. Yes, because in Hay and at that period, and
 3 again, the Hay Report does a good job of
 4 laying that out, but it looked at, I believe
 5 if I recall, you had 12 or 14 program areas,
 6 clinical areas and then you had, 3 or 4
 7 support areas. So ambulatory care would be a
 8 program area, lab services would be a support
 9 area. Each would have a program manager, I
 10 should say program director; it would also
 11 have a clinical chief, so when you add that, I
 12 mean, it becomes a typical -
 13 THE COMMISSIONER:
 14 Q. A twinning kind of process.
 15 MR. ABBOTT:
 16 A. Yes, different responsibilities, but both had
 17 to work together to deliver the program and
 18 invariably then, they would report to--the
 19 program director would report to a vice
 20 president; the clinical chief would report to,
 21 as well, through their--that process to
 22 eventually then the VP of Medical Services.
 23 So it's, to really do justice to it, it really
 24 needs those, almost those organization charts
 25 to show you how that all flows.

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1 THE COMMISSIONER:
 2 Q. Okay.
 3 COFFEY, Q.C.:
 4 Q. Okay, I'll come to that. The Hay Report at
 5 the time was focused on, in terms of that, and
 6 just use the lab services program, which is
 7 the support area, as an example, the Hay
 8 Report or Hay Group's Report was focused on
 9 examining elimination of management positions
 10 where in that context? Like the program
 11 director -
 12 MR. ABBOTT:
 13 A. Wherever they felt in their analysis that they
 14 felt that you could make the change to improve
 15 the management and delivery of the service.
 16 So in their judgment, they said, you know, you
 17 can now bring certain programs together and
 18 manage them as one, and as a result, here are
 19 the changes that will result. So now in fact,
 20 you only need one program director. What you
 21 need at manager level, supervisory level then
 22 would flow from that analysis.
 23 COFFEY, Q.C.:
 24 Q. In some instances then what had formerly been
 25 two could now become one person's job

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1 function?
 2 THE COMMISSIONER:
 3 Q. So was that really how it worked? It was a
 4 sense of "we can accomplish this more
 5 efficiently, the program will be better by
 6 putting these things together"
 7 MR. ABBOTT:
 8 A. Yes.
 9 THE COMMISSIONER:
 10 Q. Therefore we only need one of each on the way
 11 up?
 12 MR. ABBOTT:
 13 A. In a simple fashion, yes, and then what would--
 14 --you know, they would look at the indicators
 15 to allow you to arrive at that decision and
 16 looking at your patient requirements, your
 17 facility requirements, layouts, the fact that--
 18 --as an example now, that you had the Janeway
 19 on the same site as the Health Sciences,
 20 allows you to look at how you deliver those
 21 services together, which had never been done
 22 before.
 23 COFFEY, Q.C.:
 24 Q. You could use--you didn't need two
 25 laboratories, in that sense.

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1 MR. ABBOTT:
 2 A. Yeah, and in their--the Hay Report, there were
 3 specific examples provided or recommendations
 4 to say just where you can bring them together.
 5 The labs wouldn't be necessarily one in that
 6 regard, but how they're administered would be,
 7 you know, was raised.
 8 COFFEY, Q.C.:
 9 Q. Now getting into, right now, the nitty gritty
 10 of that report. You did take on the chair's
 11 role. The report was filed. How did you make
 12 out as a board in terms of implementing it?
 13 MR. ABBOTT:
 14 A. Well, I think it's fair to say that the board,
 15 and it was--at that time, there was a change
 16 of membership on the board and I believe, I
 17 don't know the exact number now, but I think
 18 there were maybe six new members on the board
 19 and six members whose terms had expired.
 20 COFFEY, Q.C.:
 21 Q. So how many people would be on the board at
 22 the time approximately?
 23 MR. ABBOTT:
 24 A. At that time, I think we were looking at, I'm
 25 going to say 15 members.

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1 COFFEY, Q.C.:

2 Q. So there were six whose terms had expired and

3 they were replaced?

4 MR. ABBOTT:

5 A. I'm saying six, I don't know the exact number,

6 but yes, but it was a significant change, both

7 numbers and in terms of temperament and

8 mandate of the board. The board now was given

9 a very specific mandate, direction by the

10 minister to address the Hay Report, in a

11 meaningful way and report to her on what was

12 doable, what was not. And then to tell her

13 what that was going to mean in terms of impact

14 on services, impact on staff, impact obviously

15 on patient care and obviously the impact on

16 the financial requirement for the subsequent

17 year.

18 COFFEY, Q.C.:

19 Q. While you were chair of the board of the

20 Health Care Corporation of St. John's--so you

21 provided this report to the minister. What

22 were you then told to do or suggested you do?

23 MR. ABBOTT:

24 A. I guess just as I said, is to proceed,

25 implement. We were given, sort of, a clear

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1 mandate to do that. And as a board we were

2 left to undertake that.

3 COFFEY, Q.C.:

4 Q. Were you given, like, annual goals as to

5 amounts of money to be saved?

6 MR. ABBOTT:

7 A. Well, consistently and it was no different

8 then, a balanced budget.

9 COFFEY, Q.C.:

10 Q. Okay, so that was the goal, the mandate. How

11 did that work itself out?

12 MR. ABBOTT:

13 A. Well, the board felt, I think, at the time

14 with this report that that goal was

15 achievable, but it was left then to the CEO

16 and his executive and senior management team

17 to devise the strategies and the options,

18 based on the report and any other factors that

19 they felt were appropriate to, in fact,

20 proceed on that basis to develop next year's,

21 the subsequent year's budget and to present

22 that to the board through our finance

23 committee.

24 COFFEY, Q.C.:

25 Q. And then what happened?

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1 MR. ABBOTT:

2 A. Well, that was the work that was undertaken.

3 COFFEY, Q.C.:

4 Q. Okay. Was a balanced budget achieved?

5 MR. ABBOTT:

6 A. Yes.

7 COFFEY, Q.C.:

8 Q. And that would be in, balanced for which

9 fiscal year first?

10 MR. ABBOTT:

11 A. Well, in terms of 2001/2002, so I would have

12 joined the board at the last quarter. I think

13 at the outset the projected budget debts, it

14 was going to be around six, six and a half

15 million dollars. The previous year it was

16 around 12 million dollars. So, the government

17 felt it had no--something had to happen here.

18 And the projections for subsequent years were

19 that that deficit was going to increase to 12,

20 13, 14 million dollars. So, the review was

21 undertaken. What the minister did say to me

22 at the time of taking this, because--I think,

23 as I understood it--she knew my skills, we had

24 worked together in minister, deputy minister

25 role. She had asked me for my best advice,

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1 once you get in there, you know, what is it we

2 can realistically do and advise me so that I

3 can advise, obviously, the premier of the day

4 and the cabinet as to what, in fact, was

5 achievable. She was, no doubt, under a lot of

6 pressure by treasury board and others to, so

7 call, reign in the deficit. And it was an

8 affordability issue if nothing else at the

9 time. So, with the Hay report, with the

10 board, with the senior management acting

11 together, what is it we can do? What is

12 achievable? And develop the operational plans

13 to arrive at that fiscal goal and that was

14 what was done.

15 COFFEY, Q.C.:

16 Q. And so then in the year '02/'03, I take it,

17 financial year '02/'03.

18 MR. ABBOTT:

19 A. Yes, I believe it was balanced or thereabouts.

20 Now, again, depending which accounting

21 standard you use at the day, but we achieved

22 that goal and I think subsequent year,

23 actually ran a surplus.

24 COFFEY, Q.C.:

25 Q. Which would have been used, I take it, to pay

Page 61

1 down the deficit, the accumulated deficit.
 2 MR. ABBOTT:
 3 A. Primarily there was some savings achieved to
 4 re-invest in some other services. You know,
 5 we took the whole--and we consciously said,
 6 we're taking the whole report, we're not just
 7 those items that said save money and forget
 8 those that said you need to reinvest in
 9 certain areas. So, we took it as a whole and
 10 the board's direction to the CEO and his team
 11 was here's the Hay Report, we want you to
 12 implement and our only guidance that there--I
 13 guess there was two really. There will be no
 14 lay-offs and we want to see improvements in
 15 patient care, in the broadest term.
 16 COFFEY, Q.C.:
 17 Q. And sir, the Health Care Corporation of St.
 18 John's, what governance model was used while
 19 you were there?
 20 MR. ABBOTT:
 21 A. Well, I guess in terms of--I don't know if I
 22 can put any one model on it, but we focused on
 23 sort of a policy governance model, though we
 24 were also conscious, I certainly was also
 25 conscious to say and to know that there are

Page 62

1 going to be, from time to time, key critical
 2 operational issues that need to be brought to
 3 the attention of the Board and the Board could
 4 and should have some say in terms of some
 5 direction, but we would balance that very
 6 carefully, and so in that sense, it would be a
 7 bit of a hybrid.
 8 COFFEY, Q.C.:
 9 Q. And was your view in that regard shared by
 10 your fellow board members?
 11 MR. ABBOTT:
 12 A. I would think so, yes. We had a well
 13 functioning board.
 14 COFFEY, Q.C.:
 15 Q. Was it communicated to the CEO, Mr. Tilley, at
 16 the time?
 17 MR. ABBOTT:
 18 A. Yeah, I--yes, in the--because I remember a
 19 very brief conversation when I took on the
 20 job, when we did meet to reintroduce ourselves
 21 in at least my new role, because I said to him
 22 his worst nightmare would be that I, as chair,
 23 would get very interested in operational
 24 issues, because I also had, from my work in
 25 government, been very close to operational

Page 63

1 issues. But at the same time, my expectation
 2 of him was that, as a board, we want to be
 3 focused on policy. We want to be focused on
 4 moving forward. We want to be focused on
 5 implementation of Hay. But that from time to
 6 time, obviously there will be issues that need
 7 to be brought to our attention. I would
 8 expect that you would, and then we, as a--I,
 9 as chair, and the board would have to decide,
 10 in fact, how far down that road we wanted to
 11 go. But we would judge that more or less on a
 12 case-by-case basis.
 13 COFFEY, Q.C.:
 14 Q. Now, your approach which you just described as
 15 chair, did that differ from the board that you
 16 were replacing?
 17 MR. ABBOTT:
 18 A. I can't answer that because I really, you
 19 know, I don't know how they operated
 20 particularly. The difference, I think, was in
 21 how we viewed and approached and worked with
 22 the department, the minister and government
 23 generally, that we would be and are not going
 24 to be adverse to taking very specific
 25 direction from the minister of the day and we

Page 64

1 work with her and that administration to
 2 achieve a, what should be a common goal.
 3 COFFEY, Q.C.:
 4 Q. I take it that that was, you understood,
 5 perhaps, in contradistinction to the
 6 relationship before you became chair?
 7 MR. ABBOTT:
 8 A. There was some suggestion to that and some--
 9 yes. So that was, there was a concern,
 10 obviously, that both the Health Care
 11 Corporation of the day and the department, on
 12 behalf of government, were not, shall we say,
 13 on the same page.
 14 COFFEY, Q.C.:
 15 Q. And the Health Care Corporation of the day,
 16 was that the Health Care Corporation's board
 17 of the day or its, you know, senior executive?
 18 MR. ABBOTT:
 19 A. Well, when I would say that it would be the
 20 board.
 21 COFFEY, Q.C.:
 22 Q. So I take it that that related to a difference
 23 of opinion between the government of the day
 24 and your predecessor board about the ability
 25 of the corporation to control its deficit, in

Page 65

1 the main?

2 MR. ABBOTT:

3 A. Yes. And again, it's difficult to answer with

4 not being party to any of those discussions

5 and how they were related and how they were

6 communicated and how they communicated with

7 each other. It's not always done well, and

8 I'm sure we'll be talking about some of that

9 later. But it was a critical factor, I think,

10 in Minister Bettney's decision to make the

11 changes she did.

12 COFFEY, Q.C.:

13 Q. Now, the board of the Health Care Corporation

14 of St. John's while you were chair, the idea

15 of patient safety, was there any aspect of the

16 board that was involved, you know,

17 particularly in patient safety matters?

18 MR. ABBOTT:

19 A. In terms of, you know, our committee

20 structure, we did have a committee focused on

21 quality initiatives and it was really the--

22 with some of the board members as well as

23 management and clinical staff worked as a

24 committee to identify and address issues

25 around risk, patient, quality issues around

Page 66

1 the service. In terms of the term "patient

2 safety" not a term really used that much at

3 that time. Obviously it's one that has at

4 least within that organization and at the

5 board level, but one that obviously has gained

6 much greater credence, obviously, in recent

7 years. But I think the issues around quality

8 of care, those things were, you know, were top

9 of the mind, sort of thing, of that committee.

10 COFFEY, Q.C.:

11 Q. When you were chair of the board of the Health

12 Care Corporation of St. John's, if somebody

13 had asked you, "Look, you know, the quality of

14 clinical care," and you had to say, "well,

15 who's responsible for that, Mr. Chairman?"

16 MR. ABBOTT:

17 A. Well, I -

18 COFFEY, Q.C.:

19 Q. Who would you have identified?

20 MR. ABBOTT:

21 A. Well, the simple solution if--it would be I

22 would go to the CEO and say, "This has been

23 raised with me. What is happening? Why is it

24 being raised with me? What's your

25 understanding? Where are things happening and

Page 67

1 how are things happening?" At the board level

2 if there was a discussion, obviously it would

3 be our chair of that subcommittee of the

4 board.

5 COFFEY, Q.C.:

6 Q. While you were chair, what was the--what

7 position did the MAC, the medical advisory

8 committee, you know, occupy in terms of

9 clinical matters? What was your

10 understanding?

11 MR. ABBOTT:

12 A. Well, I viewed them as a pivotal and important

13 role for the board because they were able to

14 bring their very specific issues on medical

15 service, clinical services to the attention of

16 the board and not to act as a counterpoint,

17 but at sometimes it could have been that, but

18 from the management side to say, "Look, you

19 know, this is the issue, this is how we've

20 addressed it." And the clinical side they may

21 have said, "Yes, but," or "Yes, and", and we

22 could have that discussion. I found the

23 representative of the day to be very helpful

24 and supportive of what the board was doing and

25 also working with the executive and senior

Page 68

1 management in the Health Care Corporation to

2 address issues and generally in a common

3 approach.

4 COFFEY, Q.C.:

5 Q. Who was the MAC chair of the day?

6 MR. ABBOTT:

7 A. Dr. Cindy Whitman, I think, for the full

8 period I was there.

9 COFFEY, Q.C.:

10 Q. And how would the--during your tenure as board

11 chair, did the MAC report to the board in

12 relation to clinical matters?

13 MR. ABBOTT:

14 A. Well, it reported both in written form and

15 verbally. But they were masters, shall we

16 say, of their issues. We didn't direct them

17 and dare I say we didn't interfere in--but

18 that was just the way, you know, how they

19 operated. They had their own mandate in terms

20 of reference and they, you know, took it

21 seriously. I think I did meet with them as a

22 large group at one or two occasions just to

23 let them know, that's all medical staff, what

24 the board was doing, where we were going, what

25 their issues were and, you know, obviously

Page 69

1 looking to make sure that we all could, we
 2 would work together.
 3 COFFEY, Q.C.:
 4 Q. In terms of the quality of care provided by
 5 the Health Care Corporation of St. John's to
 6 patients, if it involved a physician or
 7 physician's activities or physician type
 8 activities, I take it it fell under the MAC's
 9 control? As you said they were masters of
 10 their own house?
 11 MR. ABBOTT:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. And if it was not a physician, if it was a
 15 technologist or a nurse or whomever else,
 16 whatever other type of occupation might be
 17 involved, it did come within, like, the
 18 control of the board itself?
 19 MR. ABBOTT:
 20 A. Again -
 21 COFFEY, Q.C.:
 22 Q. Indirectly?
 23 MR. ABBOTT:
 24 A. Again, you might--or it's implying, or there's
 25 lots of gaps here. The MAC would not be shy

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1 in talking about any issue, whether it was
 2 those of their colleagues or that which
 3 supported the work they did. So it would not
 4 surprise me if they talked about "We have a
 5 shortage of technology support or IT support"
 6 or what have you to help them do their job.
 7 At the same time, on the quality side, as an
 8 example, we had the committee involved both
 9 board members and senior management as well as
 10 clinical support, so they would have the full,
 11 full context within a particular program. And
 12 then there were other processes if issues
 13 were--if it was a specific lab issue or a
 14 specific nursing issue, then they would report
 15 up to, through their program areas to their VP
 16 and to the CEO and to the board, if necessary.
 17 So there were multiple avenues for obviously
 18 issues to be brought forward, multiple avenues
 19 for direction to be sent down, as it were.
 20 COFFEY, Q.C.:
 21 Q. But in terms of the, at least the physician
 22 end it, I take it you just told us a moment
 23 ago that you wouldn't presume to tell them
 24 certain things?
 25 MR. ABBOTT:

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1 A. No, but we would share information and
 2 perspectives. But, no, you know, their role,
 3 their mandate was very, very specific and
 4 very, you know, and obviously very valuable to
 5 a board.
 6 COFFEY, Q.C.:
 7 Q. But they were masters of their own affairs as
 8 physicians?
 9 MR. ABBOTT:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. MAC?
 13 MR. ABBOTT:
 14 A. Yes.
 15 COFFEY, Q.C.:
 16 Q. Everyone else fell within the board kind of at
 17 large's control?
 18 MR. ABBOTT:
 19 A. Yeah. Well, there was also at that time, and
 20 I'm assuming still is, you know, the Medical
 21 Staff Association.
 22 COFFEY, Q.C.:
 23 Q. Yes.
 24 MR. ABBOTT:
 25 A. Which, you know, they had their elected

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1 officers and they were also attended all our
 2 board meetings. So again, there was an avenue
 3 for them even outside the MAC to bring an
 4 issue forward.
 5 COFFEY, Q.C.:
 6 Q. To take a concrete example here, while you
 7 were chair of the Health Care Corporation
 8 staffing levels for pathologists.
 9 MR. ABBOTT:
 10 A. Um-hm.
 11 COFFEY, Q.C.:
 12 Q. If there were concerns about it, how, if at
 13 all, would that come to the attention of the
 14 board?
 15 MR. ABBOTT:
 16 A. Well, I don't recall, you know, in terms of
 17 for that period that there were that
 18 particular issue. But issues, you know, like
 19 that or with nursing issues or possible
 20 support issues, there would be a number of
 21 different ways that an issue could come
 22 forward -
 23 COFFEY, Q.C.:
 24 Q. Well, with respect to in particular
 25 physicians.

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1 MR. ABBOTT:
 2 A. Yes.
 3 COFFEY, Q.C.:
 4 Q. Staffing levels for physicians, like,
 5 concentrate on that, if I could.
 6 MR. ABBOTT:
 7 A. Okay, sure.
 8 COFFEY, Q.C.:
 9 Q. How would that, while you were chair, how--if
 10 it was to be brought forward, should it have
 11 been brought forward or would you have
 12 expected it to be brought forward?
 13 MR. ABBOTT:
 14 A. On two fronts, through the MAC and through the
 15 quality program, excuse me, the quality
 16 initiatives committee at the board level to
 17 say we have reviewed the lab, we have reviewed
 18 the pathology services and we have reached the
 19 conclusion that there is a shortage, it is
 20 impacting patient care and that is something
 21 that the board should be both apprised of and
 22 a recommendation provided as to how to deal
 23 with it.
 24 COFFEY, Q.C.:
 25 Q. And while you were board chair you have no

Page 74

1 recollection of pathology staffing levels
 2 impacting, you know, potentially impacting
 3 quality of patient care being brought to your
 4 attention as the board chair?
 5 MR. ABBOTT:
 6 A. No, no.
 7 COFFEY, Q.C.:
 8 Q. And I take it from what you've told us, it was
 9 your experience as board chair that you did
 10 not perceive that the MAC was reticent about
 11 coming forward with concerns?
 12 MR. ABBOTT:
 13 A. No.
 14 COFFEY, Q.C.:
 15 Q. They were perhaps quite prepared?
 16 MR. ABBOTT:
 17 A. They were, I think, typical of any MAC, they
 18 brought forward what they felt was needed to
 19 be brought forward and that was encouraged.
 20 COFFEY, Q.C.:
 21 Q. On that point, while you were chair of the
 22 Health Care Corporation of St. John's, do you
 23 know if pathologists were employees of the
 24 Health Care Corporation?
 25 MR. ABBOTT:

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1 A. I never had a thought one way or the other on
 2 that. I mean, I understood, certainly, the
 3 differences with respect to salaried versus
 4 fee for service. So, you know, I didn't know
 5 I knew--I mean, at the time I was there one of
 6 the--Dr. Denic, as president of the Medical
 7 Staff Association, was attending our meetings.
 8 I knew what his role was. But whether he was
 9 fee for service or salaried wasn't something
 10 that factored into my knowledge at the time.
 11 COFFEY, Q.C.:
 12 Q. Yeah, the Medical Staff Association at that
 13 time, what was their role?
 14 MR. ABBOTT:
 15 A. Again, they were to bring issues forward on
 16 behalf of their members.
 17 COFFEY, Q.C.:
 18 Q. What sorts of--there is an MAC too.
 19 MR. ABBOTT:
 20 A. Yes.
 21 COFFEY, Q.C.:
 22 Q. So what's, from your perspective as board
 23 chair, what was the difference -
 24 MR. ABBOTT:
 25 A. Well, they could bring -

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1 COFFEY, Q.C.:
 2 Q. - in the roles of the MAC versus the staff
 3 association?
 4 MR. ABBOTT:
 5 A. I think they could bring individual, you know,
 6 issues forward that they felt as physicians
 7 versus the MAC, which would probably more look
 8 at in a broader context the overall program
 9 area that they may be working in. Some might
 10 say is it redundant or whatever, but, you
 11 know, they were two different processes, two
 12 different functions, two different mandates.
 13 Because the opposite was, well, you know,
 14 where are the other health professionals and,
 15 you know, why aren't they having something
 16 similar at the board level?
 17 COFFEY, Q.C.:
 18 Q. Yes.
 19 MR. ABBOTT:
 20 A. But there you go.
 21 COFFEY, Q.C.:
 22 Q. And, in fact, that leads to exactly that
 23 question. As board chair at the time did you
 24 have any thoughts on that as to, well, why
 25 are--the physicians are here twice sitting at

Page 77

1 the board -

2 MR. ABBOTT:

3 A. Yeah, it's--and I did have, you know, thoughts

4 at the time, but nothing that I brought

5 forward to a board or anybody else to say we

6 would change it.

7 COFFEY, Q.C.:

8 Q. Issues of, and I've asked you about, you know,

9 staffing levels for pathologists and the

10 Health Care Corporation of St. John's. How

11 about issues involving remuneration for

12 pathologists while you were board chair?

13 MR. ABBOTT:

14 A. No, nothing as board chair.

15 COFFEY, Q.C.:

16 Q. Not board chair. Sir, the--you've told us

17 about how you came to be board, you know,

18 chair from your perspective, who, in effect,

19 recruited you and what you understood your

20 role was. How about--and as well your time as

21 associate deputy minister. How about deputy

22 minister?

23 MR. ABBOTT:

24 A. Well -

25 COFFEY, Q.C.:

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1 Q. And I mean deputy minister of health, of

2 course.

3 MR. ABBOTT:

4 A. Um-hm. Well, I was, you know, working as a

5 consultant at the time, the fall of 2004. I

6 had--obviously monitoring, watching events and

7 talking to different people with the

8 resignation of the former minister and the

9 firing of the deputy minister. I end up

10 having a conversation with Mr. Thompson, clerk

11 of the council, late that fall and had asked

12 him how the recruitment was going for the

13 position. And he said, "Well, we're still

14 recruiting." I said, "Very good." I said,

15 "Well, you know, if you want to have a

16 conversation with me at any point, I'll be

17 more than happy to do that." And that was

18 where that was left. Then subsequently I did

19 get a telephone call from Mr. Thompson asking

20 me attend a meeting with him and Mr. Crawley,

21 the premier's chief of staff.

22 COFFEY, Q.C.:

23 Q. That would be Brian Crawley?

24 MR. ABBOTT:

25 A. Yes.

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1 COFFEY, Q.C.:

2 Q. And go ahead.

3 MR. ABBOTT:

4 A. I attended the meeting. We talked about the

5 position, would I be interested, if so, how

6 would--yeah, so we talked about the position,

7 my interest in it. Mr. Crawley would not have

8 known me, Robert Thompson would have, so

9 wanted to know a bit about my background.

10 Meeting ended. A week or two later got a call

11 from Mr. Thompson again, "John, are you

12 interested, or still interested in the

13 position?" I said, "Yes, I can be." He said,

14 "Well, if that's the case, I would like to

15 talk to you a bit further and then to meet

16 with Mr. Ottenheimer." And subsequently the

17 appointment was made.

18 COFFEY, Q.C.:

19 Q. As you've just indicated, you did not know Mr.

20 Crawley before this but--before that point,

21 but you had known Mr. Thompson?

22 MR. ABBOTT:

23 A. Yes.

24 COFFEY, Q.C.:

25 Q. And it was a mere oversight that I didn't ask

Page 80

1 about him amongst the list of individuals who

2 were involved with this matter. How did you

3 know Mr. Thompson?

4 MR. ABBOTT:

5 A. Well, we grew up in the same neighbourhood.

6 COFFEY, Q.C.:

7 Q. Okay.

8 MR. ABBOTT:

9 A. But if I move forward to when I was again

10 working with the Treasury Board Secretariat

11 and he had been in, I think initially the

12 Department of Education or Career Development,

13 as those departments changed, so I got to know

14 him, you know, in that, professionally in that

15 and those capacities. And I guess really when

16 I was approached in the fall of 2001, both in

17 terms of the steering committee for the Hay

18 Review and then subsequently as chair, and

19 that's really when I--our working relationship

20 took on, you know, the definition of working

21 as colleagues.

22 COFFEY, Q.C.:

23 Q. What was he doing at the time?

24 MR. ABBOTT:

25 A. He was deputy minister of health.

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1 COFFEY, Q.C.:

2 Q. Of health.

3 MR. ABBOTT:

4 A. Community services.

5 COFFEY, Q.C.:

6 Q. And so the point where he was DM of health,

7 who approached you about becoming or becoming

8 a member of the steering committee?

9 MR. ABBOTT:

10 A. Mrs. Bettney.

11 COFFEY, Q.C.:

12 Q. Okay, Mrs. Bettney, okay. And but Mr.

13 Thompson was her deputy minister at the time?

14 MR. ABBOTT:

15 A. Yes.

16 COFFEY, Q.C.:

17 Q. And so he was the deputy minister while you

18 were on the steering committee?

19 MR. ABBOTT:

20 A. Yes.

21 COFFEY, Q.C.:

22 Q. How about then when you became chair of the

23 Health Care Corporation?

24 MR. ABBOTT:

25 A. Yes, he was -

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1 COFFEY, Q.C.:

2 Q. He was still deputy minister?

3 MR. ABBOTT:

4 A. Yes.

5 COFFEY, Q.C.:

6 Q. So you would have at times had contact with

7 him in that regard?

8 MR. ABBOTT:

9 A. Yeah, but they were, as I recall that, very

10 few.

11 COFFEY, Q.C.:

12 Q. And then next, because you're board chair and

13 I take it at one point he is no longer deputy

14 minister?

15 MR. ABBOTT:

16 A. Then, well, he became clerk of the executive

17 council.

18 COFFEY, Q.C.:

19 Q. Yes.

20 MR. ABBOTT:

21 A. So I might have had--I would have had very few

22 dealings until then that December of--late

23 fall of 2004.

24 COFFEY, Q.C.:

25 Q. Okay. When you became deputy minister?

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1 MR. ABBOTT:

2 A. Yes.

3 COFFEY, Q.C.:

4 Q. And when you became deputy minister, Mr.

5 Thompson was already clerk of the council?

6 MR. ABBOTT:

7 A. Yes.

8 COFFEY, Q.C.:

9 Q. And then while you were deputy minister of

10 health, during that period, Mr. Thompson

11 continued throughout that period to be the

12 clerk of the council?

13 MR. ABBOTT:

14 A. Yes, up until I finished in the end of May.

15 COFFEY, Q.C.:

16 Q. And how much contact would you, as deputy

17 minister of health, have had with him?

18 MR. ABBOTT:

19 A. Well, we had weekly meetings, as deputy

20 ministers, with the clerk of council,

21 secretary to cabinet pretty well weekly

22 meetings and then as specific issues would

23 arise--and they would be all deputies meeting

24 with him. And then as specific issues would

25 arise that were of interest to him or that I

Page 84

1 felt I needed to bring to his attention, seek

2 his advice or direction, so that would be

3 intermittent over the period.

4 COFFEY, Q.C.:

5 Q. And there's a weekly meeting, I'm sorry, of

6 the clerk of the council with the deputy

7 ministers?

8 MR. ABBOTT:

9 A. Yes.

10 COFFEY, Q.C.:

11 Q. And without going into the nitty gritty of any

12 particular one or more, what sorts of things

13 were discussed?

14 MR. ABBOTT:

15 A. Well, the standard agenda was debriefing of

16 cabinet for that week, any government-wide

17 issues that he felt needed to be discussed,

18 initiatives. There would be periodic

19 presentations by either his staff or other

20 staff on critical issues. So it was, I viewed

21 it more in the information exchange type of

22 meeting.

23 COFFEY, Q.C.:

24 Q. And it would be topics, I take it, that the

25 clerk wanted to bring up?

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1 MR. ABBOTT:
 2 A. Yes.
 3 COFFEY, Q.C.:
 4 Q. Or that might be raised by a deputy minister
 5 if he or she saw fit?
 6 MR. ABBOTT:
 7 A. Yes. And the deputy minister of finance would
 8 provide and update the director, the
 9 communications if there was any of these,
 10 assistant deputy minister of communications in
 11 the cabinet secretariat, so they would be--
 12 provide briefings, as well.
 13 COFFEY, Q.C.:
 14 Q. Was the ER/PR issue ever brought up there?
 15 MR. ABBOTT:
 16 A. No.
 17 COFFEY, Q.C.:
 18 Q. Are there--okay, that's one sort of executive
 19 management, I'll call it, meeting. As deputy
 20 minister of health were there other types of
 21 or similar sorts of meetings with kind of
 22 subgroups or -
 23 MR. ABBOTT:
 24 A. There were, might have been a couple over the
 25 period. Laterally there was an attempt to

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1 bring--have different groups of deputy
 2 ministers talk on common issues, so in the
 3 social sector where health was, but not,
 4 nothing extensive.
 5 COFFEY, Q.C.:
 6 Q. Did ER/PR ever come up in those meetings?
 7 MR. ABBOTT:
 8 A. No.
 9 COFFEY, Q.C.:
 10 Q. No?
 11 MR. ABBOTT:
 12 A. No.
 13 THE COMMISSIONER:
 14 Q. Mr. Coffey, wherever you find a spot to break,
 15 we'll take the morning break.
 16 COFFEY, Q.C.:
 17 Q. Why don't we break now. Thank you.
 18 THE COMMISSIONER:
 19 Q. In 15.
 20 (RECESS)
 21 THE COMMISSIONER:
 22 Q. Thank you. Please be seated. Mr. Coffey.
 23 COFFEY, Q.C.:
 24 Q. Thank you, Commissioner. Mr. Abbott, before I
 25 move on to the specifics, circumstances

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1 involved here, I'm going to ask you about
 2 your, you know, your various functions that
 3 you referred to, how you interacted with not
 4 so much the individuals as the positions.
 5 Here's an example. While you were chair of
 6 the board of trustees of the Health Care
 7 Corporation, amongst your Health Care
 8 Corporation's employees who primarily would
 9 you deal with?
 10 MR. ABBOTT:
 11 A. CEO. The CEO.
 12 COFFEY, Q.C.:
 13 Q. That would be George?
 14 MR. ABBOTT:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. Tilley. And at board meetings would there be
 18 any other employees routinely there?
 19 MR. ABBOTT:
 20 A. Initially it would have been the CEO and his
 21 administrative assistant. As the board became
 22 coalesced and working together, the vice
 23 presidents were--attended the meetings.
 24 COFFEY, Q.C.:
 25 Q. Okay. And that would be, include Dr.

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1 Williams?
 2 MR. ABBOTT:
 3 A. Yes.
 4 COFFEY, Q.C.:
 5 Q. While you were on that board, Peter Dawe?
 6 MR. ABBOTT:
 7 A. Yes.
 8 COFFEY, Q.C.:
 9 Q. Was Mr. Dawe a member of the board?
 10 MR. ABBOTT:
 11 A. Yes, he was.
 12 COFFEY, Q.C.:
 13 Q. In what capacity did he serve on the board?
 14 MR. ABBOTT:
 15 A. Board member, trustee.
 16 COFFEY, Q.C.:
 17 Q. And had you known Mr. Dawe before that?
 18 MR. ABBOTT:
 19 A. No, I--we may have met but I can't say we
 20 really knew each other, no.
 21 COFFEY, Q.C.:
 22 Q. So him, but he was a member of the board of
 23 the Health Care Corporation of St. John's
 24 during the period that you were the chair?
 25 MR. ABBOTT:

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1 A. Yes.

2 COFFEY, Q.C.:

3 Q. Had he been on the board before yourself?

4 MR. ABBOTT:

5 A. I'm thinking not, but to be honest, I'm not

6 sure.

7 COFFEY, Q.C.:

8 Q. And as chair of the board who with, or if

9 anyone, would you have contact with at the

10 Department of Health?

11 MR. ABBOTT:

12 A. It was in that role it was very limited.

13 Minister -

14 COFFEY, Q.C.:

15 Q. That be Ms. Bettney?

16 MR. ABBOTT:

17 A. Yes. And I'm going to say the deputy

18 minister, but I just can't think of actually

19 very specific occasions where we really had

20 any specific conversations around what the

21 board was doing and the corporation at that

22 time.

23 COFFEY, Q.C.:

24 Q. How about other board chairs?

25 MR. ABBOTT:

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1 A. Yes, there was, through the Health Care

2 Association of--Newfoundland and Labrador

3 Health Care Association, at that time board

4 chairs did meet on a sort of regular basis.

5 COFFEY, Q.C.:

6 Q. And regular would -

7 MR. ABBOTT:

8 A. I'm going to say quarterly.

9 COFFEY, Q.C.:

10 Q. Okay. When you became deputy minister of

11 health--first of all, with respect to others

12 in your department, you know, those in

13 subordinate positions, what type of contact

14 would you have with them? How often would you

15 meet with your ADMS, and how many ADMS did you

16 have, and things like that?

17 MR. ABBOTT:

18 A. Well, the contact with the ADMS would have

19 been on a regular basis, as daily, hourly,

20 depending on the issues of the day. As a

21 senior executive group, we met or attempted to

22 meet certainly once a week, on Fridays, to

23 review issues in the department, issues in the

24 health care sector that we, as a department,

25 would have a role in, and then it would be

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1 directors, both I would deal with them either

2 directly from time to time or with or through

3 their assistant deputy minister. My, sort of,

4 approach and style was to be--deal with the

5 individual based on what I felt was their

6 knowledge, their skills, and work from there.

7 So it was a fairly open management

8 environment, if I can put it that way.

9 COFFEY, Q.C.:

10 Q. And these senior management meetings on

11 Fridays, were there minutes kept of those?

12 MR. ABBOTT:

13 A. Yes.

14 COFFEY, Q.C.:

15 Q. So there'd be minutes kept and would there be

16 an agenda?

17 MR. ABBOTT:

18 A. Yes.

19 COFFEY, Q.C.:

20 Q. And so there'd be an agenda prepared

21 beforehand?

22 MR. ABBOTT:

23 A. Yes.

24 COFFEY, Q.C.:

25 Q. Prepared by whom?

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1 MR. ABBOTT:

2 A. My assistant/secretary.

3 COFFEY, Q.C.:

4 Q. And so would it be his or her idea as to what

5 should go into the agenda or would it be yours

6 and they'd actually type it up?

7 MR. ABBOTT:

8 A. She would poll, if I can use that word, the

9 executive managers, are there issues they wish

10 to bring forward, and she would include me in

11 that. From time to time, I would direct

12 obviously specific things to be put on the

13 agenda.

14 COFFEY, Q.C.:

15 Q. And so there'd be an agenda. Would there be

16 supporting documents that would be circulated

17 beforehand?

18 MR. ABBOTT:

19 A. Ideally if they were available and we needed

20 them, yes. Sometimes beforehand and not--it

21 wasn't uncommon for them to be tabled and

22 circulated at the meeting itself.

23 COFFEY, Q.C.:

24 Q. And who was charged with keeping the minutes?

25 MR. ABBOTT:

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1 A. It tended to rotate, and while I--because
 2 nobody particularly wanted the task. It was
 3 the newest or latest member to the group who
 4 would normally take the minutes, so an
 5 indoctrination as to what we do.
 6 COFFEY, Q.C.:
 7 Q. And -
 8 MR. ABBOTT:
 9 A. So, and it would have been one of the
 10 executive, as opposed--or directors, depending
 11 on who was sitting at the meeting.
 12 COFFEY, Q.C.:
 13 Q. And so there'd be minutes kept. Would the
 14 minutes be circulated?
 15 MR. ABBOTT:
 16 A. Certainly to the group, but I encouraged them
 17 to be shared, yes.
 18 COFFEY, Q.C.:
 19 Q. And would they be approved of at the next
 20 meeting?
 21 MR. ABBOTT:
 22 A. That was the general approach, yes.
 23 COFFEY, Q.C.:
 24 Q. Or approved or amended and/or approved?
 25 MR. ABBOTT:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. And would ER/PR have come up in those meeting?
 4 MR. ABBOTT:
 5 A. It may have come up as an information item,
 6 maybe part of my verbal briefing, to say look,
 7 here are some of the things that I or the
 8 department or the Minister are engaged in over
 9 the past week. But that would have been the
 10 extent of it.
 11 COFFEY, Q.C.:
 12 Q. So I take it you wouldn't--at this sort of a
 13 meeting, you wouldn't be looking for input
 14 from people?
 15 MR. ABBOTT:
 16 A. No.
 17 COFFEY, Q.C.:
 18 Q. It would be reporting item?
 19 MR. ABBOTT:
 20 A. Yes.
 21 COFFEY, Q.C.:
 22 Q. Now your own working style, as deputy
 23 minister, did you keep your own notes?
 24 MR. ABBOTT:
 25 A. Generally, no.

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1 COFFEY, Q.C.:
 2 Q. And well then, generally no. Specifically, at
 3 times?
 4 MR. ABBOTT:
 5 A. If there was a particular issue that I needed,
 6 for my own purposes, to keep apprised of, I
 7 might keep some notes, either in a file or on
 8 my desk until I knew that the issue was
 9 addressed or handled or delegated to someone
 10 else to deal with and report to me on.
 11 COFFEY, Q.C.:
 12 Q. And so you'd keep handwritten notes. Would
 13 you keep computer--would you type your notes?
 14 MR. ABBOTT:
 15 A. Notes for me would be a scratching, you know,
 16 using my pen to write a few notes. Most of
 17 what, how I operated and how I did it is that
 18 which I recalled in my own brain, I guess.
 19 COFFEY, Q.C.:
 20 Q. And on any one topic, I take it, once a file
 21 was created within the department on it, like
 22 within your executive group, it would be--if
 23 it wasn't your file, it would be your ADM's
 24 file?
 25 MR. ABBOTT:

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1 A. Either the ADM or one of the divisions, and
 2 generally, that's how we were structured was
 3 on a divisional basis with an ADM responsible
 4 for one, two or three of those.
 5 COFFEY, Q.C.:
 6 Q. And do you know if you--did you have any notes
 7 kept in relation to ER and PR?
 8 MR. ABBOTT:
 9 A. No, I did not.
 10 COFFEY, Q.C.:
 11 Q. And so neither first nor last?
 12 MR. ABBOTT:
 13 A. That's correct.
 14 COFFEY, Q.C.:
 15 Q. Is there any reason that there was never any
 16 notes kept?
 17 MR. ABBOTT:
 18 A. Well, as I said, the issue, once I was
 19 apprised of it, we knew that the Eastern
 20 Health was managing it, so they would keep the
 21 information. To the degree the department was
 22 involved, then it was going to be with our
 23 board services division, and I was
 24 comfortable, as with all other issues, that's
 25 how I would manage then for me, as opposed to

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1 having it all recorded and logged and held in
 2 my office.
 3 COFFEY, Q.C.:
 4 Q. So while you were the deputy minister, in
 5 terms of like the estrogen receptor
 6 progesterone receptor issue of breast cancer
 7 testing issue, if you had to kind of name
 8 someone at the time within your own department
 9 as to who was handling the file, as it were?
 10 MR. ABBOTT:
 11 A. Um-hm.
 12 COFFEY, Q.C.:
 13 Q. Who would you have named?
 14 MR. ABBOTT:
 15 A. Well, Ms. Hennessey and her staff in terms of
 16 obtaining information or input for the
 17 minister, and on a communication side, it
 18 would have been Carolyn Chaplin initially and
 19 then Tansy Mundon, if there was some
 20 communications issues that we--for the
 21 minister that we needed to be apprised of.
 22 Later in the period, there would have been one
 23 or two other people brought in. But the
 24 operating premise is that the file, this file,
 25 was Eastern Health's file, but we, at the

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1 department, through the minister or for the
 2 minister, needed to know certain things.
 3 COFFEY, Q.C.:
 4 Q. And in relation to ER/PR, if you wanted to
 5 know something -
 6 MR. ABBOTT:
 7 A. If I personally wanted to know something, I
 8 would call Mr. Tilley.
 9 COFFEY, Q.C.:
 10 Q. Okay, and I'll come back to that. Within the
 11 department itself, your executive, did your
 12 executive include your communications
 13 director?
 14 MR. ABBOTT:
 15 A. She did sit in on our weekly meetings, as did
 16 one or two other directors who reported
 17 directly to me, and that was the general
 18 operating premise. Those who reported to me
 19 would be included in that group, and the
 20 minister's executive assistant or policy
 21 advisor, depending on the title or role at the
 22 time, was also to sit in on those meetings.
 23 COFFEY, Q.C.:
 24 Q. So executive meeting on the Fridays would be
 25 your ADMS and the directors who reported

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1 directly to you?
 2 MR. ABBOTT:
 3 A. Yes.
 4 COFFEY, Q.C.:
 5 Q. And the executive assistant/policy advisor to
 6 the minister?
 7 MR. ABBOTT:
 8 A. Yes.
 9 COFFEY, Q.C.:
 10 Q. I take it during the time you were there, as
 11 deputy minister, that person was whom?
 12 MR. ABBOTT:
 13 A. Darrell Hynes.
 14 COFFEY, Q.C.:
 15 Q. Darrell Hynes?
 16 MR. ABBOTT:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. And your understanding of his role was what?
 20 What was the purpose of having him there?
 21 MR. ABBOTT:
 22 A. He was there at my invitation. That's
 23 something I instituted when I joined the
 24 department, largely because of the nature of
 25 the working relationship between the

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1 department and the minister's office. It only
 2 made sense to me that his staff, in this case
 3 Mr. Hynes, would be knowledgeable of what is
 4 going on in the department, and vice versa.
 5 If there were issues that the minister had
 6 that we should be aware of collectively, that
 7 that would be a very good opportunity to share
 8 and help understand each other's roles,
 9 responsibilities and the day-to-day activities
 10 that we were involved in, and I found it
 11 something that actually worked quite well for
 12 us in allowing each other to understand how we
 13 operated.
 14 COFFEY, Q.C.:
 15 Q. And so that's the program--sorry, the
 16 directors who reported directly to you, that
 17 was the director of communications, either
 18 Carolyn Chaplin or her successor, Tansy
 19 Mundon?
 20 MR. ABBOTT:
 21 A. Yes.
 22 COFFEY, Q.C.:
 23 Q. And why was it that the director of
 24 communications reported directly to you, as
 25 opposed to an ADM?

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1 MR. ABBOTT:
 2 A. That's--I think I inherited that structure,
 3 but I also believe that that was common
 4 throughout and an expectation from the Cabinet
 5 secretariat for that particular function, and
 6 if I may, and we may talk about this at some
 7 other point, that the director of
 8 communications was closely aligned to the
 9 minister of the day, in terms of working with,
 10 reporting on the communications issues.
 11 COFFEY, Q.C.:
 12 Q. So the director of communications, whomever he
 13 or she was, in your context it was Ms. Chaplin
 14 and Ms. Mundon, reported to you as deputy
 15 minister?
 16 MR. ABBOTT:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. Reported to the minister?
 20 MR. ABBOTT:
 21 A. Yes.
 22 COFFEY, Q.C.:
 23 Q. Of the day, whoever he was. And the director
 24 of communications, did that person also have
 25 any reporting role or liaison role with any

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1 other communications people elsewhere in the
 2 government?
 3 MR. ABBOTT:
 4 A. Yes. The assistant secretary to Cabinet for
 5 communications and from time to time, the
 6 director of communications or equivalent in
 7 the Premier's office.
 8 COFFEY, Q.C.:
 9 Q. So your director of communications, Ms.
 10 Chaplin or Ms. Mundon, would report to you,
 11 report to the minister, from time to time,
 12 whoever the minister was.
 13 MR. ABBOTT:
 14 A. If I may, it was more--in terms of the day to
 15 day, it was more closely aligned with the
 16 minister than the department.
 17 COFFEY, Q.C.:
 18 Q. Okay, I was going to ask you about that.
 19 Okay, and I appreciate that clarification. So
 20 she did report to you, but on a day-to-day
 21 basis, it was your observation that in fact
 22 she spent more time reporting to the minister?
 23 MR. ABBOTT:
 24 A. Yes.
 25 COFFEY, Q.C.:

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1 Q. And you understood as well that she had a role
 2 in reporting to or keeping the assistant
 3 secretary -
 4 MR. ABBOTT:
 5 A. At Cabinet, for communications.
 6 COFFEY, Q.C.:
 7 Q. And that would have been, in the main here, in
 8 this time period, UDM would be Ms. Cheeseman?
 9 MR. ABBOTT:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. Josephine Cheeseman, and as well, you
 13 understood that your director of
 14 communications, your department's director of
 15 communications, would as well report at times
 16 to the director of communications for the
 17 Premier's office?
 18 MR. ABBOTT:
 19 A. Yes.
 20 COFFEY, Q.C.:
 21 Q. That would be Elizabeth Matthews.
 22 MR. ABBOTT:
 23 A. Yes.
 24 COFFEY, Q.C.:
 25 Q. And in your understanding, there was nothing

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1 unique about your department in that regard?
 2 MR. ABBOTT:
 3 A. No.
 4 COFFEY, Q.C.:
 5 Q. And you also understood that that kind of
 6 reporting arrangement was done, was already in
 7 existence before you became deputy minister?
 8 MR. ABBOTT:
 9 A. Yes.
 10 COFFEY, Q.C.:
 11 Q. You inherited that?
 12 MR. ABBOTT:
 13 A. Yes.
 14 COFFEY, Q.C.:
 15 Q. And it was prevalent throughout the
 16 government?
 17 MR. ABBOTT:
 18 A. Yes.
 19 COFFEY, Q.C.:
 20 Q. And it was at the--it was the structure that
 21 was, from your perspective, desired by the
 22 government of the day?
 23 MR. ABBOTT:
 24 A. Yes.
 25 COFFEY, Q.C.:

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1 Q. On that point, because you had been associate
 2 deputy minister of health before and you had
 3 been a deputy minister in other departments,
 4 other than Health -
 5 MR. ABBOTT:
 6 A. Yes.
 7 COFFEY, Q.C.:
 8 Q. - how did the director of communications
 9 position and role that you encountered in
 10 December 2004 and then lived with until May of
 11 2007, how did that compare with, you know, the
 12 equivalent to the director of communications
 13 back in your earlier time?
 14 MR. ABBOTT:
 15 A. Well, it's interesting because if there's one
 16 position in government that has changed and
 17 evolved and changed and evolved is that
 18 position, and largely reflective of the
 19 administration in office, and their approach
 20 to communications, the role of the director of
 21 communications, whether they are political
 22 staff member, are they a government or a
 23 departmental staff, are they on contract. So
 24 it was constantly changing and so over time,
 25 the departmental role and management of the

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1 function was minimized and the ministerial and
 2 central agency -
 3 COFFEY, Q.C.:
 4 Q. Cabinet secretariat communications.
 5 MR. ABBOTT:
 6 A. - and the Premier's office, you know, and even
 7 that varied in terms of how that was
 8 structured and who reported to whom over time.
 9 So it was becoming a bit more centralized and
 10 I'm going to use the word politicized in the
 11 sense that it was more the political arm as it
 12 was the departmental arm that was taking--was
 13 ascending.
 14 COFFEY, Q.C.:
 15 Q. And did that evolve while you were deputy
 16 minister? Like from the time you showed up to
 17 the last day you were there, did you notice
 18 any change, looking back on it now?
 19 MR. ABBOTT:
 20 A. Not--no, not specifically, in terms of the
 21 role and how it evolved. The thing, as the
 22 deputy minister of the department, is trying
 23 to get your departmental leads addressed from
 24 a communications point of view always took
 25 second or third fiddle.

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1 COFFEY, Q.C.:
 2 Q. And this was something, when you came in as
 3 deputy minister of Health -
 4 MR. ABBOTT:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. Because you didn't come back to that, you
 8 actually came in as deputy minister of Health
 9 in late 2004, that was one thing you noticed
 10 was different about the day-to-day role?
 11 MR. ABBOTT:
 12 A. As I said, there were different evolutions and
 13 changes, but that was more pronounced for me
 14 anyway.
 15 COFFEY, Q.C.:
 16 Q. Okay, and while you were deputy minister of
 17 Health, how many people worked in
 18 communications for your department?
 19 MR. ABBOTT:
 20 A. We had -
 21 COFFEY, Q.C.:
 22 Q. A director of communications.
 23 MR. ABBOTT:
 24 A. - the director, one communications officer,
 25 and secretarial support.

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1 COFFEY, Q.C.:
 2 Q. And communications officer, what was his or
 3 her role?
 4 MR. ABBOTT:
 5 A. To support the director primarily, but as
 6 depending on her workload, she took on some
 7 more, some of the departmental activities as
 8 well.
 9 COFFEY, Q.C.:
 10 Q. And what type of activities would they be?
 11 MR. ABBOTT:
 12 A. Looking at public health communications
 13 activities, we have a direct responsibility.
 14 So as a department, we have, you know, quite a
 15 series of programs and services that we
 16 administer and that we had communications
 17 needs as well, and would meet inquiries on the
 18 services we offered, those kinds of things.
 19 COFFEY, Q.C.:
 20 Q. So the communications officer would at times
 21 be, from your perspective, was more involved
 22 when--and I think it was she throughout?
 23 MR. ABBOTT:
 24 A. Yes.
 25 COFFEY, Q.C.:

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1 Q. Tended to focus more, when available, upon the
 2 department's own communications needs?
 3 MR. ABBOTT:
 4 A. Yes.
 5 COFFEY, Q.C.:
 6 Q. And the director would be more involved with
 7 the ministerial aspect of the job?
 8 MR. ABBOTT:
 9 A. Yes. We had, you know, our press releases.
 10 We had ministerial speaking engagements, all
 11 of that, that required attention.
 12 COFFEY, Q.C.:
 13 Q. Now while I'm on the topic of departments, the
 14 Department of Health and Community Services,
 15 when you became deputy minister, was how large
 16 in relation to the rest of government?
 17 MR. ABBOTT:
 18 A. Large in terms -
 19 COFFEY, Q.C.:
 20 Q. Large in the sense of I'll ask you in terms of
 21 expenditures overseen.
 22 MR. ABBOTT:
 23 A. Well, our budget was in the neighbourhood,
 24 when I joined, about 1.8-1.9 billion dollars.
 25 We had a staff of maybe 250 people. The

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1 health sector itself is obviously, you're
 2 talking 20,000 or so. So as a percentage of
 3 the budget, and depending on who you speak
 4 with and what have you, but you know, you're
 5 between 40 and 45 percent of the annual
 6 budget.
 7 COFFEY, Q.C.:
 8 Q. And 250 approximately departmental employees?
 9 MR. ABBOTT:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. But indirectly, would employ through the
 13 regional--what turned out to be the regional
 14 health authorities, upwards of 20,000 people?
 15 MR. ABBOTT:
 16 A. Yes.
 17 COFFEY, Q.C.:
 18 Q. And at 1.8 to 1.9 billion, now we heard Mr.
 19 Tilley tell the Commission that the budget of
 20 Eastern Health, when it was finally formed in
 21 April 1 2005, was approximately a billion
 22 dollars a year.
 23 MR. ABBOTT:
 24 A. Yes.
 25 COFFEY, Q.C.:

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1 Q. So out of that 1.8 to 1.9 billion,
 2 approximately one billion would be Eastern
 3 Health's?
 4 MR. ABBOTT:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. So by that, and if--I'm kind of quickly doing
 8 the arithmetic, Eastern Health then was
 9 spending about 25 percent of the provincial
 10 budget, give or take a bit?
 11 MR. ABBOTT:
 12 A. Yeah.
 13 COFFEY, Q.C.:
 14 Q. That would be a rough figure. If it's 40 to
 15 45 for your -
 16 MR. ABBOTT:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. And it's 1.8 to 1.9 billion -
 20 MR. ABBOTT:
 21 A. In that range, yes.
 22 COFFEY, Q.C.:
 23 Q. Now sir, okay, as the deputy minister, first
 24 of all, within the department, how about with
 25 respect to--I've asked you about your ADMs,

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1 your directors, the director of communications
 2 and the executive assistant to the minister.
 3 How about the minister, did that--how much
 4 interaction would you have with the minister
 5 of the day?
 6 MR. ABBOTT:
 7 A. You know, the day-to-day engagement or
 8 involvement or meetings, it varied, but from
 9 my perspective, if I needed to see the
 10 minister, I got to see him, and if he needed
 11 to see me, he got to see me. So it was very
 12 open, shall we say open door. Our offices
 13 were adjacent and we always--I think there was
 14 a good flow of communication and recognizing,
 15 and if he was attending a meeting or if he was
 16 previously engaged and I indicated I had to
 17 see him, I saw him, wherever or communicated
 18 with him wherever he might be.
 19 COFFEY, Q.C.:
 20 Q. Now in terms of communications, are you a
 21 Blackberry or the equivalent, I don't mean to
 22 use the trademark name, but -
 23 MR. ABBOTT:
 24 A. I was a late user of that within the
 25 department.

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1 COFFEY, Q.C.:

2 Q. Late in your--as a deputy minister, late in

3 what sense?

4 MR. ABBOTT:

5 A. I was there for two and a half years. I was a

6 year and a half before I began using one.

7 COFFEY, Q.C.:

8 Q. So it was about in the last year or so, you

9 would have used them?

10 MR. ABBOTT:

11 A. Yes.

12 COFFEY, Q.C.:

13 Q. And would you use that for communications, in

14 the sense of text messaging, that kind of

15 thing?

16 MR. ABBOTT:

17 A. Just for e-mail and you know, occasional phone

18 call, but you know, I also was careful in how

19 it was used and to the extent that it was

20 used.

21 COFFEY, Q.C.:

22 Q. And so I don't forget it, I asked you just

23 then, e-mails, of course the e-mail system

24 that government employees use for their

25 Blackberries, government-issued Blackberries,

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1 that is the e-mail that you utilized on your

2 computer system as well?

3 MR. ABBOTT:

4 A. Yes.

5 COFFEY, Q.C.:

6 Q. It's utilized throughout the government. Text

7 messaging, ever do any text messaging?

8 MR. ABBOTT:

9 A. No.

10 COFFEY, Q.C.:

11 Q. So pinning then isn't -

12 MR. ABBOTT:

13 A. No, no pinning.

14 COFFEY, Q.C.:

15 Q. Do you know what pinning is?

16 MR. ABBOTT:

17 A. Yes.

18 COFFEY, Q.C.:

19 Q. What is pinning?

20 MR. ABBOTT:

21 A. Well, it is a means to use your, in this case

22 the Blackberry, and to bypass the central

23 server and recording of those messages.

24 COFFEY, Q.C.:

25 Q. So the pin function on a Blackberry is

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1 utilized in respect of text messaging, which

2 is effectively the same as an e-mail, like

3 it's something -

4 MR. ABBOTT:

5 A. Yes.

6 COFFEY, Q.C.:

7 Q. - it's letters typed out on a screen. And

8 your understanding is that if a pin is used,

9 it bypasses and doesn't get recorded on your

10 e-mail account?

11 MR. ABBOTT:

12 A. That's what I'm -

13 COFFEY, Q.C.:

14 Q. Of yours or -

15 MR. ABBOTT:

16 A. That's what I'm been informed.

17 COFFEY, Q.C.:

18 Q. - the sender or the recipient's?

19 MR. ABBOTT:

20 A. That's what I was informed, yes.

21 COFFEY, Q.C.:

22 Q. When did you learn that?

23 MR. ABBOTT:

24 A. When did I learn it? Either just before I got

25 the Blackberry or just after.

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1 COFFEY, Q.C.:

2 Q. Okay, so somebody told you there is this

3 function?

4 MR. ABBOTT:

5 A. Yes.

6 COFFEY, Q.C.:

7 Q. And you yourself never had occasion to use it?

8 MR. ABBOTT:

9 A. No.

10 COFFEY, Q.C.:

11 Q. Do you know if others in the department used

12 it?

13 MR. ABBOTT:

14 A. I suspect they did, but you know, only because

15 they informed me that there was a function and

16 they may have used it, or what have you.

17 COFFEY, Q.C.:

18 Q. Do you know if there was any governmental

19 policy in terms of utilizing or avoiding

20 having text messages recorded in the email

21 system by utilizing a pin function?

22 MR. ABBOTT:

23 A. No, I wasn't aware of that.

24 COFFEY, Q.C.:

25 Q. I'm not saying there was. I'm just asking

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1 were you aware.
 2 MR. ABBOTT:
 3 A. No.
 4 COFFEY, Q.C.:
 5 Q. Do you know who--so you don't really recall
 6 who told you about pinning? Was it somebody
 7 within your department or elsewhere?
 8 MR. ABBOTT:
 9 A. No, it would have been somebody in the
 10 department, but exactly who, I couldn't say.
 11 COFFEY, Q.C.:
 12 Q. With respect to your own function as a deputy
 13 minister, who did you report to? Who does a
 14 deputy minister report?
 15 MR. ABBOTT:
 16 A. The deputy minister reports to the minister.
 17 COFFEY, Q.C.:
 18 Q. And who is a deputy minister appointed by?
 19 MR. ABBOTT:
 20 A. He's appointed technically by the Lieutenant
 21 Governor-in-Council, but certainly on the
 22 nomination and approval of the premier of the
 23 day.
 24 COFFEY, Q.C.:
 25 Q. So a deputy minister is appointed by the

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1 premier of the day?
 2 MR. ABBOTT:
 3 A. Yes.
 4 COFFEY, Q.C.:
 5 Q. And in this context, in terms of your own,
 6 your know, hiring as deputy minister, it was
 7 the clerk of the council would be the chief--
 8 Mr. Thompson, the chief civil servant of the
 9 province at the time?
 10 MR. ABBOTT:
 11 A. Yes.
 12 COFFEY, Q.C.:
 13 Q. And Brian Crawley, the chief of staff of the
 14 premier.
 15 MR. ABBOTT:
 16 A. Yes.
 17 COFFEY, Q.C.:
 18 Q. Would there be any direct reporting by a
 19 deputy minister to the premier's officer or
 20 the cabinet secretariat?
 21 MR. ABBOTT:
 22 A. I know from time to time that that has
 23 happened on a particular--either on a file or,
 24 you know, a particular function, but as a
 25 departmental deputy minister doing the day-to-

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1 day and normal activities, no.
 2 COFFEY, Q.C.:
 3 Q. Okay, and on a matter that was on in the day-
 4 to-day realm, okay, something outside of that,
 5 how would that work if you had to actually--
 6 how would you know that you're expected on a
 7 matter to report to the premier's office or
 8 the cabinet secretariat above that?
 9 MR. ABBOTT:
 10 A. Either the premier of the day would tell you
 11 that or the clerk of the council would tell
 12 you that.
 13 COFFEY, Q.C.:
 14 Q. Or somebody on his behalf.
 15 MR. ABBOTT:
 16 A. Yes.
 17 COFFEY, Q.C.:
 18 Q. Did that ever happen with respect to ER/PR?
 19 MR. ABBOTT:
 20 A. No.
 21 COFFEY, Q.C.:
 22 Q. Now in your days as deputy minister of health,
 23 with respect to the Regional Health
 24 Authorities, well first of all, when you first
 25 took over it was the Health Care Corporation

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1 of St. John's -
 2 MR. ABBOTT:
 3 A. Yes.
 4 COFFEY, Q.C.:
 5 Q. It was still in existence. And then
 6 subsequently--and the other equivalents to the
 7 Health Care Corporation at the time and then
 8 when the Regional Health Authorities were
 9 formed April 1, 2005, what was the point of
 10 contact you would have with the health
 11 authorities or their predecessors as the
 12 deputy minister?
 13 MR. ABBOTT:
 14 A. In terms of I would be in contact with the CEO
 15 of those organizations.
 16 COFFEY, Q.C.:
 17 Q. Now as the deputy minister of health, would
 18 you have any formal or semi-formal
 19 relationship with any other groups or outside
 20 agencies? I'm thinking, for example, of the
 21 Medical Association and the Nurses
 22 Association.
 23 MR. ABBOTT:
 24 A. I would either have meetings directly with,
 25 I'll say my equivalent, their executive

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1 director from time to time or a committee of
 2 any one of those associations whether it was
 3 nursing, health, pharmacy, you know, Medical
 4 Association, other advocacy groups in the
 5 community, what have you, sometimes on my own,
 6 sometimes with the minister, sometimes with
 7 staff. So depending on the nature of the
 8 request by the agency in question.
 9 COFFEY, Q.C.:
 10 Q. And speaking of advocacy groups, the Canadian
 11 Cancer Society and Mr. Dawe.
 12 MR. ABBOTT:
 13 A. Yes.
 14 COFFEY, Q.C.:
 15 Q. Would you, as deputy minister, have had any
 16 interaction with him in that regard?
 17 MR. ABBOTT:
 18 A. Yes.
 19 COFFEY, Q.C.:
 20 Q. And could you tell us, please, generally what
 21 that would be about, how that would work?
 22 MR. ABBOTT:
 23 A. Well shortly after I joined the department, I
 24 do know I did meet with Mr. Dawe and Dr. Roy
 25 West to talk about, you know, cancer, their

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1 advocacy issues around a cancer control
 2 strategy for the province, which was the
 3 beginning of work that was done there and I
 4 might have had a couple of meetings with Mr.
 5 Dawe over the period, as well as when he came
 6 and his president of the society to meet with
 7 the minister. And I attended, you know, some
 8 of their annual general meetings, brought
 9 greetings, spoke to their association.
 10 COFFEY, Q.C.:
 11 Q. The point being that if he phoned you, and you
 12 got a phone message from Peter Dawe, you'd
 13 know who Peter Dawe was and generally -
 14 MR. ABBOTT:
 15 A. Well whether it was Peter Dawe or anybody else
 16 who called, I returned their messages.
 17 COFFEY, Q.C.:
 18 Q. With respect to the advocacy groups, the
 19 Newfoundland and Labrador Medical Association,
 20 okay.
 21 MR. ABBOTT:
 22 A. Yes.
 23 COFFEY, Q.C.:
 24 Q. And they're certainly, at least in one
 25 context, an advocacy group. Mr. Ritter,

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1 Robert Ritter, did you know Mr. Ritter?
 2 MR. ABBOTT:
 3 A. I got to know him, you know, fairly well while
 4 I was at the department. We met, I met in his
 5 offices, he met in mine, we met elsewhere to
 6 talk about, you know, position issues.
 7 COFFEY, Q.C.:
 8 Q. So did you know him before he became deputy
 9 minister?
 10 MR. ABBOTT:
 11 A. Did I meet Mr. Ritter before then? I don't
 12 believe I did.
 13 COFFEY, Q.C.:
 14 Q. And it's not so much -
 15 MR. ABBOTT:
 16 A. No, I don't believe I did. I knew of him, but
 17 no.
 18 COFFEY, Q.C.:
 19 Q. But when you became deputy minister of health,
 20 one of your duties was or would involve
 21 physician services.
 22 MR. ABBOTT:
 23 A. Yes, and there was, at that time there was a
 24 formal process committee in place between the
 25 Medical Association and government, which the

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1 deputy minister was party to. So I would have
 2 attended meetings and we held those meetings
 3 over at their offices.
 4 COFFEY, Q.C.:
 5 Q. And what sort of process was that? What was
 6 that all about?
 7 MR. ABBOTT:
 8 A. It came out of the memorandum of understanding
 9 between the Medical Association and
 10 government, previous, and it was a joint
 11 management committee to the--it may not have
 12 the right term on that, but it was to look, to
 13 identify and deal with issues, problem
 14 solving, bringing issues forward to their
 15 respective organizations to get resolved, if
 16 need be.
 17 COFFEY, Q.C.:
 18 Q. And did those issues at times involve
 19 remuneration?
 20 MR. ABBOTT:
 21 A. Quite often.
 22 COFFEY, Q.C.:
 23 Q. Can you tell us, please, during the period you
 24 were deputy minister, were there ever any
 25 contract negotiations went on between or

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1 remuneration negotiations went on involving
 2 the NLMA?
 3 MR. ABBOTT:
 4 A. Yes, their agreement was renegotiated during
 5 the period that I was deputy minister.
 6 COFFEY, Q.C.:
 7 Q. Specifically what years, do you recall?
 8 MR. ABBOTT:
 9 A. I'm going to say 2005, 2006, period.
 10 COFFEY, Q.C.:
 11 Q. So early on, your first year or so -
 12 MR. ABBOTT:
 13 A. Yes.
 14 COFFEY, Q.C.:
 15 Q. - as deputy minister. Within the department,
 16 who primarily would deal with that? And then
 17 the second part of that is as deputy minister,
 18 what involvement would you have?
 19 MR. ABBOTT:
 20 A. It was Dr. Ed Hunt and Dr. Cathy Bradbury were
 21 the prime officials in the department dealing
 22 with the Medical Association and those issues,
 23 Dr. Bradbury in particular around the
 24 agreement and re-negotiation thereof. And
 25 then I was apprised, if I can step back, as

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1 lead on those discussions, their negotiations,
 2 was the treasury board secretariat or, and
 3 subsequently the public service secretariat
 4 under Mr. David Gale (phonetic) and we were
 5 working in a support role to Mr. Gale and his
 6 staff in those negotiations.
 7 COFFEY, Q.C.:
 8 Q. So Mr. Gale was, I take it, primarily
 9 responsible for in dealing with -
 10 MR. ABBOTT:
 11 A. Yeah, in terms of lead negot--and responsible
 12 would have been at the official's level and
 13 then the minister of finance, president of
 14 treasury board at the ministerial level.
 15 COFFEY, Q.C.:
 16 Q. Now before I come back to Mr. Ritter, you have
 17 mentioned Dr. Hunt and Dr. Bradbury, that's Ed
 18 Hunt and Cathy Bradbury. They are both
 19 physicians, I take it?
 20 MR. ABBOTT:
 21 A. Yes.
 22 COFFEY, Q.C.:
 23 Q. And they were both, while you were deputy
 24 minister, Dr. Hunt was an ADM or the
 25 equivalent?

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1 MR. ABBOTT:
 2 A. Yeah, equivalent in terms of our structure,
 3 yes.
 4 COFFEY, Q.C.:
 5 Q. And Dr. Bradbury?
 6 MR. ABBOTT:
 7 A. She would be classified or referred to as a
 8 director of Medical Services.
 9 COFFEY, Q.C.:
 10 Q. In terms of the Department of Health and
 11 Community Services, as a department, like the
 12 250 -
 13 MR. ABBOTT:
 14 A. Yes.
 15 COFFEY, Q.C.:
 16 Q. - approximate people. Actual medical
 17 expertise, like specialized medical expertise,
 18 does the department actually have any of its
 19 own?
 20 MR. ABBOTT:
 21 A. Well, Dr. Hunt -
 22 COFFEY, Q.C.:
 23 Q. I appreciate they're physicians, I'm talking
 24 about particularized medical expertise, like a
 25 specialist knowledge?

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1 MR. ABBOTT:
 2 A. I'm not sure if I follow your question.
 3 COFFEY, Q.C.:
 4 Q. Well pathology, an example.
 5 MR. ABBOTT:
 6 A. No.
 7 COFFEY, Q.C.:
 8 Q. There'd be no particular, and surgery or -
 9 MR. ABBOTT:
 10 A. No.
 11 COFFEY, Q.C.:
 12 Q. So if the Department of Health and Community
 13 Services, as a department wanted to avail
 14 itself of actual medical expertise, expertise
 15 in the sense of, you know, specialized -
 16 MR. ABBOTT:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. - medical expertise, how would the department
 20 go about doing that?
 21 MR. ABBOTT:
 22 A. As when need be, we could contract for that
 23 service or that expertise.
 24 COFFEY, Q.C.:
 25 Q. And you would have to go a fee-for-service

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1 physician, locally or elsewhere for -
 2 MR. ABBOTT:
 3 A. Well whether fee-for-service would not be--I
 4 guess, to me the relevant part is their
 5 availability and their willingness to work on
 6 our particular issue under a contract.
 7 COFFEY, Q.C.:
 8 Q. And your understanding at the time you were
 9 deputy minister as to Dr. Hunt's and Dr.
 10 Bradbury's backgrounds as physicians was what?
 11 MR. ABBOTT:
 12 A. They were family physicians, primarily, and
 13 had been involved--I know in Dr. Hunt, in
 14 terms of the Medical Association and
 15 administrative issues and medical policy
 16 issues and Dr. Bradbury had been with MCP
 17 before it was integrated in the department.
 18 COFFEY, Q.C.:
 19 Q. Were there any other physicians working for
 20 the department directly, do you know?
 21 MR. ABBOTT:
 22 A. Yes, Dr. Blair Fleming and Dr. Stratton.
 23 COFFEY, Q.C.:
 24 Q. And Dr. Fleming's role?
 25 MR. ABBOTT:

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1 A. He was supervising on the medical services
 2 side, on the medical claim's issue for MCP.
 3 And we had Dr. Bowden and then Dr. Williams o
 4 the dental side, that's Dr. Ed Williams.
 5 COFFEY, Q.C.:
 6 Q. And the physicians all reported to Dr. Hunt?
 7 Am I correct on that or through Dr. Hunt?
 8 MR. ABBOTT:
 9 A. Except for Dr. Stratton. Dr. Stratton
 10 reported to me.
 11 COFFEY, Q.C.:
 12 Q. With respect to the contract that was
 13 negotiated while you were deputy minister with
 14 the NLMA, you say your department was there in
 15 a supporting role?
 16 MR. ABBOTT:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. Were you actually there at times yourself?
 20 MR. ABBOTT:
 21 A. At some meetings, yes.
 22 COFFEY, Q.C.:
 23 Q. Do you recall and this would have been
 24 primarily, I take it, 2005, from your
 25 perspective, do you recall whether or not

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1 remuneration for pathologists ever came up?
 2 MR. ABBOTT:
 3 A. Well it came up independent of those
 4 discussions.
 5 COFFEY, Q.C.:
 6 Q. I was going to ask you, okay, and I appreciate
 7 that. But during the actual contract
 8 negotiations themselves, do you have any -
 9 MR. ABBOTT:
 10 A. I can't, it wouldn't have surprised me that it
 11 did because there were other speciality
 12 issues, remuneration issues being considered
 13 and there were pressure points for the system
 14 and used, I guess, or advocated by the Medical
 15 Association in the negotiations. So, but I
 16 don't remember anything specific -
 17 COFFEY, Q.C.:
 18 Q. To pathology.
 19 MR. ABBOTT:
 20 A. - on one way--I was quite familiar with the
 21 issue and that's why I said it wouldn't
 22 surprise me if it got raised and discussed if
 23 I was in the room or not. I knew what the
 24 issues were.
 25 COFFEY, Q.C.:

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1 Q. Did the pathology issue, because you were
 2 aware of it while you were deputy minister
 3 really almost from the beginning, I'm going to
 4 suggest to you.
 5 MR. ABBOTT:
 6 A. Yes.
 7 COFFEY, Q.C.:
 8 Q. As deputy minister, the pathologists' desire
 9 for more remuneration. Did that get resolved
 10 during the 2005 contract negotiations with the
 11 NLMA?
 12 MR. ABBOTT:
 13 A. No, and specific issues, specialities or
 14 others, were not addressed per se, it was more
 15 one general approach in terms of remuneration
 16 for the entire group.
 17 COFFEY, Q.C.:
 18 Q. Now you were aware of the pathologists'
 19 particular concerns.
 20 MR. ABBOTT:
 21 A. Yes.
 22 COFFEY, Q.C.:
 23 Q. Is there any reason why, you know, looking
 24 back on it that it didn't get addressed during
 25 the contract negotiations? Because it

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1 continued to be a sore point for some period
 2 of time afterward. When I say a "sore point",
 3 it was pursued vigorously.
 4 MR. ABBOTT:
 5 A. Oh, yes, absolutely in that regard. But in
 6 terms of the negotiating mandate, it was
 7 developed by the public service secretariat as
 8 it is called now. That mandate was approved
 9 by, obviously the minister and premier, so any
 10 other issues outside of that, there was no
 11 mandate, there was no resolution and they were
 12 going to continue to be, to use your term
 13 "sore points" and to be addressed by, I think,
 14 both the Medical's Association understand at
 15 the time, my working premise and maybe my
 16 ministers of the day as well, we may not
 17 resolve it here through this new agreement,
 18 but we will try to address it over time.
 19 COFFEY, Q.C.:
 20 Q. And in fact, I will be addressing it in some
 21 detail with you, but you, yourself, as the
 22 deputy minister, did push this significantly
 23 afterward.
 24 MR. ABBOTT:
 25 A. Before?

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1 COFFEY, Q.C.:
 2 Q. Before and after, yes, certainly and I'm not
 3 suggesting that you didn't before because the
 4 documentation suggests you did, before, during
 5 and after. And it was only resolved just
 6 before you left your deputy minister's role.
 7 MR. ABBOTT:
 8 A. Yes.
 9 COFFEY, Q.C.:
 10 Q. Now in terms of information flow, before I
 11 pass on to that, the Department of Health, was
 12 there a parliamentary secretary for the
 13 Department of Health?
 14 MR. ABBOTT:
 15 A. Yes, for the period I was there was Mr. Ross
 16 Wiseman.
 17 COFFEY, Q.C.:
 18 Q. And in your capacity as deputy minister of
 19 health, how much interaction would you have
 20 with Mr. Wiseman in his role as parliamentary
 21 secretary?
 22 MR. ABBOTT:
 23 A. There was nothing consistent about it, but
 24 because we knew each other, we obviously would
 25 have conversations in the hallway, those kinds

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1 of things or we might drop into each other's
 2 office to have conversations. But he had
 3 certainly a couple of files that he was
 4 responsibility for, or at least delegated to
 5 him by Minister Ottenheimer at the time,
 6 dealing with seniors issues and aging and it
 7 was in that context that we would have had
 8 some discussions around those activities.
 9 COFFEY, Q.C.:
 10 Q. While Mr. Wiseman was parliamentary secretary,
 11 not while he was minister of health, but while
 12 he was parliamentary secretary, did the ER and
 13 PR issue ever get discussed by you with him?
 14 MR. ABBOTT:
 15 A. No.
 16 COFFEY, Q.C.:
 17 Q. With respect to information flow, while you
 18 were deputy minister of health, how would you
 19 be briefed on, like any particular topic by
 20 your subordinates?
 21 MR. ABBOTT:
 22 A. Primarily through a verbal briefing,
 23 occasionally there may be a briefing note,
 24 occasionally there may be an e-mail or a
 25 report to go with it, but primarily it was

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1 verbal briefing. If the materials were
 2 brought in, we discussed them, but most times
 3 that material then was taken away, by them, at
 4 the end of the meeting.
 5 COFFEY, Q.C.:
 6 Q. And if you gave direction, how would that be
 7 recorded?
 8 MR. ABBOTT:
 9 A. It may not be recorded in a written fashion
 10 and so I relied on verbal and follow up, quote
 11 often people took their own notes and took
 12 their own action, but I--so from that point of
 13 view, we did not have a very structured or
 14 formalized decision-making process in terms of
 15 day-to-day issues that we dealt with. It was
 16 a, dare I say, a very fluid environment in
 17 that regard.
 18 COFFEY, Q.C.:
 19 Q. Did your office utilize any kind of bring-
 20 forward system, in a sense of a particular
 21 issue, manually or by computer is brought
 22 forward, you know, this has to be attended to,
 23 today, tomorrow, the next day, that kind of a
 24 system?
 25 MR. ABBOTT:

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1 A. Not, well, in terms of if we wanted to do that
 2 or I wanted to do that, you know, we had the
 3 document tracking system in the department, my
 4 assistant, secretary, would record all the
 5 documentation that needed to be recorded and
 6 if we needed to follow up and find out what
 7 the status was, we could do that. Now that
 8 was primarily for correspondence and that's
 9 what we--I would have used that for.
 10 COFFEY, Q.C.:
 11 Q. So there's a document tracking--there was when
 12 you would have been minister, a document
 13 tracking system.
 14 MR. ABBOTT:
 15 A. And we had a very good registry system for
 16 documentation reports, so if there was any
 17 issue to find out what the status--what the
 18 information we held, at least we could go to
 19 that. So if I may go back just a point in
 20 terms of my approach, if the issue was of
 21 critical importance to me and I wanted to
 22 ensure follow up, I would do a note to myself
 23 to say "issue to follow up" and then would
 24 tend to be more the exception than the rule.
 25 COFFEY, Q.C.:

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1 Q. And do you know if any such note on ER/PR ever
 2 got written?
 3 MR. ABBOTT:
 4 A. Not--no, not that way, I may have written
 5 ER/PR speak to George Tilley, speak to
 6 whomever for that particular issue or
 7 incident, but no, I did not keep, as I said
 8 before, no particular file on that.
 9 COFFEY, Q.C.:
 10 Q. And I appreciate that, also getting at the
 11 idea of it's one thing to have that. It's
 12 another thing entirely to have a system that
 13 actually, not so much keeps track of what
 14 you've done as is to bring to your attention,
 15 you have to do something.
 16 MR. ABBOTT:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. And that kind of bring-forward system wasn't
 20 utilized by yourself?
 21 MR. ABBOTT:
 22 A. No, wasn't my style.
 23 COFFEY, Q.C.:
 24 Q. Do you know if it was utilized by Ms.
 25 Hennessey?

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1 MR. ABBOTT:
 2 A. I can't say one way or the other. I know she
 3 was a person who kept and I suspect still
 4 does, very detailed notes of all of her
 5 meetings. And I'm assuming, on that basis,
 6 she's using that for her own follow up.
 7 COFFEY, Q.C.:
 8 Q. Did she keep them, and you know this because
 9 you watched her write them out or she typed
 10 them or -
 11 MR. ABBOTT:
 12 A. No, she uses a black covered book and it was
 13 just quite common in certainly government
 14 circles.
 15 COFFEY, Q.C.:
 16 Q. Now, you had never utilized that practice,
 17 this black covered book?
 18 MR. ABBOTT:
 19 A. No.
 20 COFFEY, Q.C.:
 21 Q. In terms of others here--did Ms. Hennessey use
 22 one of those black type books?
 23 MR. ABBOTT:
 24 A. Yes.
 25 COFFEY, Q.C.:

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1 Q. That's what she used?
 2 MR. ABBOTT:
 3 A. Yes.
 4 COFFEY, Q.C.:
 5 Q. Did Mr. Thompson use one?
 6 MR. ABBOTT:
 7 A. Hard for me to say, I'm thinking yes, but I
 8 can't say with certainly.
 9 COFFEY, Q.C.:
 10 Q. Certainly.
 11 MR. ABBOTT:
 12 A. No.
 13 COFFEY, Q.C.:
 14 Q. You would normally be briefed in writing or
 15 verbally or some combination?
 16 MR. ABBOTT:
 17 A. Most verbally.
 18 COFFEY, Q.C.:
 19 Q. Yes, I appreciate that, you said mostly
 20 verbally. And we have seen briefing notes
 21 from ministers, some briefing notes for the
 22 ministers of health of the day. How many
 23 types of briefing notes were there for
 24 ministers? Is there different types of them?
 25 MR. ABBOTT:

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1 A. Well, again, it's hard to answer in terms of
 2 types, but we would have a briefing note in
 3 general consistent format for his house of
 4 assembly briefing book. If an issue came up
 5 during the day or week on an issue, we would
 6 develop a so-called departmental briefing note
 7 on the subject matter.

8 COFFEY, Q.C.:

9 Q. They're kind of different formats, aren't
 10 they?

11 MR. ABBOTT:

12 A. Slightly. And for those notes, they would
 13 have been done by the different divisions,
 14 directions, whomever. And we tried to keep a
 15 consistent format for those. And from time-
 16 to-time notes may have come from different,
 17 other people just for information to the
 18 minister.

19 COFFEY, Q.C.:

20 Q. And that would be from outside agencies, for
 21 example, eastern health might send in a
 22 briefing note.

23 MR. ABBOTT:

24 A. Yes.

25 COFFEY, Q.C.:

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1 Q. Okay. Now, in terms of the house of assembly
 2 briefing notes, whose role was it to prepare
 3 those while you were deputy minister of
 4 health?

5 MR. ABBOTT:

6 A. How did that work?

7 COFFEY, Q.C.:

8 Q. Begin at the beginning when you first arrived
 9 in December of '04, January '05.

10 MR. ABBOTT:

11 A. Yes, generally they were done at the
 12 divisional level, then the director would
 13 forward them to the ADM who, in turn, then
 14 would forward them to maybe the director of
 15 communications and myself for review and then
 16 they were sent and put together, I should say,
 17 in a briefing book for the minister.

18 COFFEY, Q.C.:

19 Q. Now, any one house of assembly briefing note,
 20 would they be revised by people such as
 21 yourself?

22 MR. ABBOTT:

23 A. Yeah, certainly from time to time, you know,
 24 obviously as the deputy minister, your
 25 expectation is when it arrived on the desk,

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1 that all the relevant pieces are there and
 2 you, sort of, look at it and say, yeah, okay,
 3 I think, you know, that it captures the issue
 4 and then that's ready to go on to the
 5 minister. The practicality of all of that it
 6 was generally a very significant time crunch
 7 here and you were trying to make sure that all
 8 of the materials were ready for the minister.
 9 So that he or she had time to review that
 10 before the house of assembly resumed in the
 11 fall or spring session. And at the same time,
 12 once the house was in session, these were
 13 being periodically updated with any new
 14 information and certainly new notes were being
 15 added as time went on. So, the book might
 16 start off one inch before the session and it
 17 was three inches by the time the session was
 18 over.

19 COFFEY, Q.C.:

20 Q. And in terms of house of assembly briefing
 21 notes, the purpose of those, from your
 22 perspective as DM was what?

23 MR. ABBOTT:

24 A. To apprise the minister that there's an issue
 25 that you could possibly get questioned on in

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1 the house.

2 COFFEY, Q.C.:

3 Q. Yes. They were to address those issues, but
 4 what was the purpose of them?

5 MR. ABBOTT:

6 A. To provide them with some background
 7 information.

8 COFFEY, Q.C.:

9 Q. To respond to questions that he or she might
 10 be asked?

11 MR. ABBOTT:

12 A. Yes.

13 COFFEY, Q.C.:

14 Q. What about in relation to a matter that wasn't
 15 yet in--if the house wasn't in session and
 16 wasn't anticipated to be in session in the
 17 immediate future, but it was anticipated that
 18 there might be media interest, what type of
 19 briefing note would be prepared?

20 MR. ABBOTT:

21 A. I guess something fairly similar, but there
 22 may be more, the lead in would say, you know,
 23 there is a media inquiry, here's what we think
 24 the media inquiry is about and here are some
 25 key messages that, minister, you may want to

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1 use or refer to in responding to the inquiry
 2 and here's some detail on the matter in
 3 question.
 4 COFFEY, Q.C.:
 5 Q. Now, in terms of the minister of the day being
 6 briefed on any particular issue, what function
 7 or role did these briefing notes have in
 8 relation to that?
 9 MR. ABBOTT:
 10 A. Well, it acted certainly--the notes acted as a
 11 base of information for him. And that's how I
 12 see it and saw it.
 13 COFFEY, Q.C.:
 14 Q. This is what I'm asking, I'm asking from your
 15 perspective, of course.
 16 MR. ABBOTT:
 17 A. And it would then help informulate his views,
 18 perspectives, responses to the issue or
 19 question at hand. I've never saw it as
 20 defacto, here's all the information and here's
 21 all the issues, but a snapshot in time to help
 22 you through this very immediate media inquiry
 23 and/or house of assembly question. Here's
 24 what you may need to know as a base to support
 25 an answer.

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1 COFFEY, Q.C.:
 2 Q. Now, and you have made the distinction there
 3 between--just point out it's not all the
 4 information. If a minister wanted to be what
 5 I'll refer to as fully briefed on an issue in
 6 the sense of having--he or she may not
 7 understand all the nuances of the particular
 8 matter, but to be fully apprised of it.
 9 MR. ABBOTT:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. How would that happen?
 13 MR. ABBOTT:
 14 A. If he--two ways of looking at that. If he
 15 specifically said that, you know, Mr. Abbott,
 16 will you please arrange a detailed briefing on
 17 this because of the nature of the issue and
 18 the importance of the issue and what have you.
 19 I would say yes, and when? And then I would
 20 bring the appropriate officials to a briefing
 21 meeting with him. If it's an issue that I
 22 thought -
 23 COFFEY, Q.C.:
 24 Q. Would he or she be briefed in writing as well
 25 as verbally at that point?

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1 MR. ABBOTT:
 2 A. No, at that point, using that example, it
 3 would say, since you had the briefing note,
 4 then we will bring the people, with the
 5 knowledge, to you. Now, should he say, no,
 6 just give it to me in writing, then we'll give
 7 it to you in writing. But I thought when they
 8 asked that question which was generally not
 9 that often, then that was a signal to me, as a
 10 deputy minister, that there was a little bell
 11 ringing that he or she needed, or for that
 12 period, needed the full context and the full
 13 information. If there was a particular issue
 14 that I thought that the briefing note was fine
 15 for the moment, but minister you really need
 16 to get more, you know, knowledgeable or in
 17 tune on this particular issue because of the
 18 nature of it or where we are, I think I should
 19 arrange a briefing for you on that and we will
 20 do that for you if that's that you want. And
 21 invariably, I think, similarly, when a
 22 minister heard that the deputy of the day was
 23 saying, you know, you really need to know
 24 about this, then that took place as well.
 25 COFFEY, Q.C.:

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1 Q. Now, in relation to ER/PR did any such full
 2 briefing, I'll refer to it, ever happen?
 3 MR. ABBOTT:
 4 A. Well, the initial briefing, by Mr. Tilley and
 5 eastern health's people in July 2005 would be
 6 an example where I think the issue came
 7 forward, I said, from Mr. Tilley to me, I said
 8 yes, the minister needs to be fully briefed.
 9 I don't even know if we used the language, but
 10 that's--we arranged that.
 11 COFFEY, Q.C.:
 12 Q. So, it will turn about to be the July 21
 13 briefing.
 14 MR. ABBOTT:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. That would fit into that category.
 18 MR. ABBOTT:
 19 A. Yes. There was, I'm going to say three
 20 briefings that I can recall at this moment
 21 where, I believe, Minister Ottenheimer, it may
 22 have been in the fall of 2005 again getting
 23 ready for the house, there was a more detailed
 24 briefing by eastern health on the issues.
 25 COFFEY, Q.C.:

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1 Q. For Mr. Ottenheimer.
 2 MR. ABBOTT:
 3 A. Yes.
 4 COFFEY, Q.C.:
 5 Q. Probably November 17.
 6 MR. ABBOTT:
 7 A. And the next full briefing was November 2006,
 8 that's the event that took place over in the
 9 clerk's office in the house of assembly. And
 10 then the next briefing was with Minister
 11 Wiseman on May 15 or thereabouts of 2007. So,
 12 they're the four that I recall on this
 13 particular issue.
 14 COFFEY, Q.C.:
 15 Q. That fall into this category of if not an
 16 exhaustive briefing, certainly a full on.
 17 MR. ABBOTT:
 18 A. Yes.
 19 COFFEY, Q.C.:
 20 Q. In the sense of -
 21 MR. ABBOTT:
 22 A. Yes, yes.
 23 COFFEY, Q.C.:
 24 Q. The first was arranged at your behest?
 25 MR. ABBOTT:

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1 A. Yes, as you know Mr. Tilley had called -
 2 COFFEY, Q.C.:
 3 Q. And I'll ask you about that -
 4 MR. ABBOTT:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. - but it was at your behest?
 8 MR. ABBOTT:
 9 A. Yes.
 10 COFFEY, Q.C.:
 11 Q. Your instigation?
 12 MR. ABBOTT:
 13 A. Yes.
 14 COFFEY, Q.C.:
 15 Q. The second one, the one in the fall of '05,
 16 was that -
 17 MR. ABBOTT:
 18 A. I believe that I suggested at the time,
 19 minister, we should get Mr. Tilley and his
 20 people, again, to give it to you with their
 21 knowledge, their information because they can
 22 put it in context for you much better that I
 23 could though--just relying on a briefing note.
 24 COFFEY, Q.C.:
 25 Q. November of '06?

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1 MR. ABBOTT:
 2 A. That was, I think, a discussion again, going
 3 in the house--not sure now if I had suggested
 4 it or the minister, but anyway, we coalesced
 5 on that we needed a full briefing, he
 6 certainly needed that for the house.
 7 COFFEY, Q.C.:
 8 Q. And the one with Mr. Wiseman in May of '07?
 9 MR. ABBOTT:
 10 A. That, I believe was at Mr. Wiseman's request
 11 at that time.
 12 COFFEY, Q.C.:
 13 Q. You've referred to, used the word key
 14 messages, or phrase, key messages.
 15 MR. ABBOTT:
 16 A. Yes.
 17 COFFEY, Q.C.:
 18 Q. When you rejoined government service in
 19 December of '04 as deputy minister was that
 20 phrase, key messages, was that new to you at
 21 the time?
 22 MR. ABBOTT:
 23 A. I wouldn't say new, but it became defacto
 24 basis of briefing materials to, I guess, focus
 25 the briefing material or the information in

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1 the note to support -
 2 COFFEY, Q.C.:
 3 Q. The key messages.
 4 MR. ABBOTT:
 5 A. - those messages, I guess, yes.
 6 COFFEY, Q.C.:
 7 Q. And you had last, before December of '04, had
 8 last worked with government when?
 9 MR. ABBOTT:
 10 A. Well, in terms of full time, as it were, as a
 11 non-contract, was in May 1997.
 12 COFFEY, Q.C.:
 13 Q. Yes, so it was the late '90s.
 14 MR. ABBOTT:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. And I'll just pick '97 or so. So, when you
 18 left in '97, at that time, kind of thinking
 19 back on it, in your days back then, were
 20 things framed in terms of being key messages?
 21 MR. ABBOTT:
 22 A. Well, I mean, you pick a good period because
 23 that's, I would say, is when things seemed to
 24 be changing and that was under the Tobin
 25 administration, you know, this external

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1 communication and focusing on that and we, as
 2 bureaucrats, well that's not where we were.
 3 That wasn't our focus or our interest. So,
 4 you know, you can narrowly trace it back to
 5 that period, whether we used the term key
 6 messages at the time, but -
 7 COFFEY, Q.C.:
 8 Q. But the idea -
 9 MR. ABBOTT:
 10 A. The idea -
 11 COFFEY, Q.C.:
 12 Q. - of the notion.
 13 MR. ABBOTT:
 14 A. - of the notion of, you know, whatever happens
 15 here, departments, ministers, you know, you
 16 got to remember, it's the public that we are
 17 speaking to and you got to be focused on
 18 communicating appropriately and effectively.
 19 And the standard bureaucratic language and
 20 text isn't going to do it.
 21 COFFEY, Q.C.:
 22 Q. And that was, from memory of it, it was
 23 introduced back then in the mid '90s. By the
 24 time you left in '97, if the phrase key
 25 messages wasn't being used, the notion

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1 certainly existed throughout government, to
 2 your knowledge.
 3 MR. ABBOTT:
 4 A. Well, if you recall, Mr. Tobin's period, that
 5 was something he certainly brought into the
 6 bureaucracy.
 7 COFFEY, Q.C.:
 8 Q. And by the time you arrived back in December
 9 of '04, the very phrase was being used, key
 10 messages, on briefing notes.
 11 MR. ABBOTT:
 12 A. And the director of communications obviously
 13 was very helpful to staff in saying, nice
 14 briefing note, but, you know, we think, you
 15 know, these are probably the key message and
 16 we need to make sure that the briefing
 17 material is consistent, you know, with that,
 18 or supports that. And not to say that it's
 19 doing anything other than making sure that
 20 there's some consistency in the material.
 21 COFFEY, Q.C.:
 22 Q. And while we're on the topic, do you have any
 23 thoughts--because you have a very extensive,
 24 wide experience, both within civil service and
 25 outside, any thoughts on the suitability of

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1 the key messages approach where you're dealing
 2 with a subject that is complicated to start,
 3 intellectually complicated or technical
 4 complicated, number one, and/or involves
 5 nuances, as a nuanced subject, I mean, do you
 6 have any thoughts on the suitability of the
 7 key messages approach to providing
 8 information?
 9 MR. ABBOTT:
 10 A. Well, I don't have any particular thought on
 11 referencing to key messages. It would be more
 12 around who is communicating to whom.
 13 COFFEY, Q.C.:
 14 Q. Yes.
 15 MR. ABBOTT:
 16 A. On what and the appropriateness of the
 17 messenger, shall we say.
 18 COFFEY, Q.C.:
 19 Q. Could you tell please the Commissioner about
 20 that, your thoughts on that?
 21 MR. ABBOTT:
 22 A. Well, one of the things around, in terms of
 23 our system in terms of health boards and
 24 managing the day to day operations and dealing
 25 directly with patient and then obviously

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1 reporting to a board who reports to a
 2 minister, the question is who is best
 3 positioned and should be positioned to speak
 4 to the public on what I would call clinical
 5 and patient management issues. And I see a
 6 separation of roles here and responsibilities.
 7 The minister can speak in a broader context in
 8 terms of policy and direction in where we're
 9 going. I never felt or continue to feel that
 10 a minister should speaking on specific patient
 11 matters or operational matters affecting
 12 patient care. And so, if you're releasing
 13 information around that then it should be in
 14 the purview of the, in this case, the
 15 authority, the health authority. If you're
 16 speaking of general policy and direction,
 17 legislation, those kinds of things, obviously
 18 the purview of the minister. What we have
 19 seen happen over time is that both public, the
 20 media and, I'd say the opposition are going to
 21 the minister on those questions and the
 22 government and the minister of the day is, in
 23 essence, forced to respond and I would
 24 suggest, may not be the right person to be
 25 responding, but, you know, that's my take on

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1 it.

2 COFFEY, Q.C.:

3 Q. And I ask you that because the government, the

4 minister of the day, I take it, right now

5 anyway, certainly during the period of time

6 you were there as deputy minister, was being

7 informed or briefed using a particular mode -

8 MR. ABBOTT:

9 A. Yes.

10 COFFEY, Q.C.:

11 Q. - which is this, as you say, either

12 departmental briefing note, so described or

13 house of assembly briefing, Q. & A. briefing

14 note, question and answer briefing note style.

15 MR. ABBOTT:

16 A. Yes.

17 COFFEY, Q.C.:

18 Q. And the focus was on key messages and how

19 amenable is a key message approach to covering

20 a subject that is nuance, that are legitimate

21 differences of opinion about?

22 MR. ABBOTT:

23 A. Well -

24 COFFEY, Q.C.:

25 Q. From your perspective.

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1 MR. ABBOTT:

2 A. Well, it's reality whether it's the ER/PR

3 issue and all that entails, but it's any

4 subject matter complicated whether it's a

5 hydro development issue, whether it's a nasa

6 space issue for the president of the United

7 States to deal with. It all boils down to,

8 there's an issue, people are going to ask you

9 a question and you are speaking in terms of

10 your role of being accountable to the public.

11 And here's what you can say, need to say,

12 might want to say. But at the end of the day

13 it's the messenger, the minister in this case,

14 he or she had to decide for him and herself

15 what she wants to say, how she wants to say.

16 If you--or if she wants to say anything. And

17 I've had periods where ministers refuse to

18 respond, and that's their choice.

19 COFFEY, Q.C.:

20 Q. And so the information concerning what one can

21 say, needs to say or might want to say, they

22 would, in these briefing notes would be the

23 views formulated by the departmental

24 personnel?

25 MR. ABBOTT:

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1 A. Yeah. And to me it's, the minister is in a

2 very vulnerable position because he, in this

3 case, has to rely on this information, how

4 it's put together, what's there, relying on

5 its accuracy and credibility and those kinds

6 of things. But because there's so much of it,

7 it is very difficult to insure that it is

8 accurate and at the level. And it's done at

9 the staff level, it's, you know, it's screened

10 coming up through, but there is a lot going

11 on. And so that's why I say, why the minister

12 is best served by speaking on which he really

13 knows, that this is what he is, he or she is

14 master of and leave it to, if he or she isn't,

15 leave it to somebody else to do that.

16 COFFEY, Q.C.:

17 Q. So in terms of that, while you were deputy

18 minister, you would have been aware of just

19 what you've referred to?

20 MR. ABBOTT:

21 A. Yeah.

22 COFFEY, Q.C.:

23 Q. Was there any process in place or system in

24 place to keep track of sources of information

25 that ended up in briefing notes? Like, who

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1 could be tagged with or -

2 MR. ABBOTT:

3 A. Well, generally -

4 COFFEY, Q.C.:

5 Q. - or who provided it?

6 MR. ABBOTT:

7 A. Yeah, there was a process, the quality of it

8 one might question, but the author of the note

9 and who verified it, you know, in terms of

10 their name was attached to the note as--so for

11 anybody reading it can say, yes, so certain

12 person did it, certain person vetted it and at

13 least that gave you some context of the

14 source, you know, in terms of just--and it is

15 drafting. It isn't, you know, developing the

16 information in that note, it is pulling from

17 multiple sources. You may be pulling from an

18 e-mail, you may be pulling from a telephone

19 call, a conversation in the hallway to what is

20 the minister needs for this particular note,

21 this particular day, and that's really the

22 focus.

23 COFFEY, Q.C.:

24 Q. Would the deputy minister's name ever end up

25 on a note?

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1 MR. ABBOTT:
 2 A. Quite often, yes.
 3 COFFEY, Q.C.:
 4 Q. Now, in terms of you just started to point out
 5 about the system in theory had, you know,
 6 drafted by, approved by.
 7 MR. ABBOTT:
 8 A. Um-hm.
 9 COFFEY, Q.C.:
 10 Q. On it?
 11 MR. ABBOTT:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. Or appended to the end of the note. You said,
 15 I think you offered some kind of a caveat,
 16 well, that didn't always work or you weren't
 17 certain -
 18 MR. ABBOTT:
 19 A. Well, either the name would not be included,
 20 it could have been included inadvertently
 21 because they had--they were, may have done
 22 the previous version of it and somebody in
 23 terms of reiterating the note might have
 24 continued to keep their name on it where they
 25 may not have seen it. I have known where my

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1 name was attached to a briefing note that went
 2 forward where when I actually read the note,
 3 it was, you know, shall we say, after the
 4 fact, and that happened.
 5 COFFEY, Q.C.:
 6 Q. And you had not had any input into the note,
 7 that particular--a particular note at all?
 8 MR. ABBOTT:
 9 A. No, no. That was just an assumption, you
 10 know, that I would have.
 11 COFFEY, Q.C.:
 12 Q. Now, the staff who were tasked with preparing
 13 briefing notes, departmental staff, as you've
 14 indicated, they would get the information from
 15 a number of different sources, depending upon
 16 the note?
 17 MR. ABBOTT:
 18 A. Yes.
 19 COFFEY, Q.C.:
 20 Q. The subject matter. Was there any policy in
 21 terms of them having to keep track of where
 22 the information came from?
 23 MR. ABBOTT:
 24 A. Not in terms of policy. They were relied on
 25 for their knowledge and professionalism to do

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1 the best that they could, given the task at
 2 hand and there--so it wasn't formalized. You
 3 could have literally arrived in the, as a new
 4 employee, on day two asked to do a briefing
 5 note.
 6 COFFEY, Q.C.:
 7 Q. And how one must go about it, other than
 8 perhaps being given a precedent -
 9 MR. ABBOTT:
 10 A. That was more the--that was the way, most
 11 likely. And I--or I had people come to me as
 12 deputy and they said to me, you know, the only
 13 way I can find out about something is by,
 14 through this briefing note and that there was
 15 a sample to draw on. And we knew, in terms of
 16 how we manage information and how we relay
 17 information internally it was both a bit of a
 18 strength because we could turn these around
 19 pretty quickly, the weaknesses were in what
 20 information may be in there at any point in
 21 time.
 22 COFFEY, Q.C.:
 23 Q. The reliability of the information -
 24 MR. ABBOTT:
 25 A. Reliability.

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1 COFFEY, Q.C.:
 2 Q. - might be in question?
 3 MR. ABBOTT:
 4 A. Right. In terms of the detail, is it exactly
 5 what we knew. And the further you were removed
 6 from the issue as an official or the
 7 department generally, then obviously the less
 8 assured you could be of what that information
 9 was.
 10 COFFEY, Q.C.:
 11 Q. Now, you did say at times there was, I don't
 12 know if you used the word--I've noted it here,
 13 perhaps I got it wrong, you were pressed for
 14 time or time crunch preparing House of
 15 Assembly briefing notes -
 16 MR. ABBOTT:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. - at times. Why would that be, bearing in
 20 mind that you'd know, I suppose, months in
 21 advance that there's be House of Assembly
 22 briefing notes?
 23 MR. ABBOTT:
 24 A. Well -
 25 COFFEY, Q.C.:

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1 Q. The House of Assembly would be open?
 2 MR. ABBOTT:
 3 A. Yeah, but the--one would be--the notes for
 4 that, getting ready for that period, the
 5 challenge, of course, was not the only work
 6 being done in the department that day, that
 7 week, that month, and this was the least,
 8 shall we say, interesting or glamorous work of
 9 the department. It was a chore, because it--
 10 you know, simply that. But it was critical
 11 for the minister to be--to have that
 12 information and for a department who had a
 13 minister that had been there for some time,
 14 this became easier.
 15 For a new minister, obviously you would
 16 spend more effort on that. Again, a lot of
 17 the--some of the other information then would
 18 be through the verbal briefings. Quite often,
 19 before the House would sit, the Minister would
 20 say, "I have my briefing book. I've gone
 21 through it. Now is there anything else I
 22 should know? What do you think are the
 23 critical topics? What's coming at me?" But
 24 then, once the House was in session, dare I
 25 say, the 8:00, you know, 6 or 8:00 a.m. news

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1 dictated then a whole -
 2 COFFEY, Q.C.:
 3 Q. What might be needed in a briefing note that
 4 day?
 5 MR. ABBOTT:
 6 A. Yes, yeah.
 7 COFFEY, Q.C.:
 8 Q. And a briefing note would be required by, I
 9 take it, 1 or 1:30 in the afternoon, or before
 10 that?
 11 MR. ABBOTT:
 12 A. Yeah, and then the official who was dealing
 13 with that topic, were they available at that
 14 time, and then so if not, then somebody else
 15 was pulled into service to prepare the note.
 16 COFFEY, Q.C.:
 17 Q. Now you did refer to a new minister. When new
 18 ministers took over the portfolio of Health,
 19 as they came in, were they updated with
 20 briefing notes? Updated in the sense of up to
 21 the point where they became minister, was that
 22 the practice?
 23 MR. ABBOTT:
 24 A. That was certainly the practice, and we
 25 obviously did that to the best of our ability

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1 at that time, and sometimes, depending when
 2 that transition took place, so for the period
 3 I was there, I had three ministers, so there
 4 were two transitions, and then a third when
 5 Minister Ottenheimer was on sick leave and
 6 Minister Sullivan stepped in. So you are
 7 scrambling, you know, to get them ready
 8 because quite often, it wasn't done in the
 9 lazy days of summer. It was done while the
 10 House is in session or about to go in session
 11 and that minister was inundated with whatever
 12 was happening at that point, and so you
 13 provided material, asked what else he or she
 14 might need to get them, literally get them
 15 through that first couple of days and weeks.
 16 COFFEY, Q.C.:
 17 Q. Now briefing notes for the minister, a new
 18 minister, the ones presented to, in this
 19 context, him, or those that ended up in the
 20 House of Assembly briefing book for the
 21 minister, would they all have to be reviewed
 22 by you as the deputy minister?
 23 MR. ABBOTT:
 24 A. Certainly the assumption would be that, in
 25 fact, I reviewed them all. The reality was

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1 that they could very well end up in his book
 2 at the same time I got a copy of his book.
 3 COFFEY, Q.C.:
 4 Q. If you had any concerns, I take it, about the
 5 accuracy of the information, you could then
 6 have, you know, you'd either have it changed
 7 before it made it to the briefing book or you
 8 could just simply have it changed and a new
 9 one put in?
 10 MR. ABBOTT:
 11 A. That's right, yes.
 12 COFFEY, Q.C.:
 13 Q. But whether you vetted it before it made it
 14 into the book or simultaneously to it going
 15 into the book, you were expected to vet them
 16 all?
 17 MR. ABBOTT:
 18 A. Yes.
 19 COFFEY, Q.C.:
 20 Q. And while we're on the topic, because we will
 21 come to it, when you would see anticipated
 22 questions in these Q and A briefing notes,
 23 very often, would you agree that the
 24 questions, in fact, were fairly pointed and
 25 direct?

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1 MR. ABBOTT:
 2 A. Yes.
 3 COFFEY, Q.C.:
 4 Q. As laid out, and it wasn't at all unusual
 5 though that the key messages did not respond
 6 or did not respond directly to the anticipated
 7 questions?
 8 MR. ABBOTT:
 9 A. That's right.
 10 COFFEY, Q.C.:
 11 Q. Was that by design?
 12 MR. ABBOTT:
 13 A. I don't know about by design. You went with
 14 either the information you had or to say
 15 though the question may be asked, you don't
 16 have to answer it and we don't feel that--you
 17 know, and I'm putting it in a hypothetical
 18 sense here now, and so no, and we didn't
 19 purposely line up a specific answer to those
 20 questions. So it was sort of "here's what
 21 might come at you. Here's what we know" or
 22 "here's what we think you can say, and here's
 23 what we know."
 24 COFFEY, Q.C.:
 25 Q. The background would be here's what we know.

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1 MR. ABBOTT:
 2 A. Yes.
 3 COFFEY, Q.C.:
 4 Q. In relation to the questions, specific matter
 5 of the questions.
 6 MR. ABBOTT:
 7 A. Yeah.
 8 COFFEY, Q.C.:
 9 Q. And the key messages was here's what we
 10 suggest you can say?
 11 MR. ABBOTT:
 12 A. Based on what I would think is appropriate for
 13 the time, what we know for the time.
 14 COFFEY, Q.C.:
 15 Q. Now Commissioner, it's a good point.
 16 THE COMMISSIONER:
 17 Q. Good place for lunch, all right. 2:00.
 18 (LUNCH BREAK)
 19 THE COMMISSIONER:
 20 Q. Please be seated. Mr. Coffey.
 21 COFFEY, Q.C.:
 22 Q. Thank you, Commissioner. Afternoon, Mr.
 23 Abbott. Exhibit--could we bring up, please,
 24 Registrar, Exhibit P-0128? Now Mr. Abbott,
 25 you had taken over as deputy minister during

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1 December 2004?
 2 MR. ABBOTT:
 3 A. Yes.
 4 COFFEY, Q.C.:
 5 Q. This is a news release by the Government of
 6 Newfoundland and Labrador, NLIS-3. See that
 7 there? Right there.
 8 MR. ABBOTT:
 9 A. I see 1.
 10 COFFEY, Q.C.:
 11 Q. I apologize, 0128. Oh, I apologize, page
 12 three. I apologize. I can appreciate your
 13 confusion. Mr. Abbott, yes, this is a news
 14 release of--it's NLIS-3, May 16th 2005, Health
 15 and Community Services. As you were the
 16 deputy minister at the time, this particular
 17 one involves "government tables new medical
 18 act to increase accountability on public
 19 protection."
 20 MR. ABBOTT:
 21 A. Yes.
 22 COFFEY, Q.C.:
 23 Q. What, if any, role would you have as deputy
 24 minister of Health or had you had as deputy
 25 minister of Health in bringing forward this

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1 new Medical Act?
 2 MR. ABBOTT:
 3 A. Well, as it was a departmental initiative to
 4 revise and change, in this case, and implement
 5 a new act, so I led that on behalf of the
 6 department, though there were others in the
 7 department who actually did a lot of the
 8 preparatory policy and drafting work with
 9 legislative council.
 10 COFFEY, Q.C.:
 11 Q. And what stage was that process in when you
 12 arrived as deputy minister?
 13 MR. ABBOTT:
 14 A. I believe we may have been near or about the
 15 stage of drafting a Cabinet paper to seek
 16 approval to develop a new act and then move
 17 forward to, once we had that approval, to in
 18 fact do the drafting.
 19 COFFEY, Q.C.:
 20 Q. Okay, so any drafting then that occurred,
 21 occurred between December of '04 when you
 22 arrived and, at least in its final form, and
 23 May 16th 2005 when this was tabled in the
 24 House?
 25 MR. ABBOTT:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. So December '04, January through May of '05?
 4 MR. ABBOTT:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. Do you recall what the impetus was for that?
 8 Your understanding of why it was felt--what
 9 the perceived need for a new Medical Act in
 10 2005?
 11 MR. ABBOTT:
 12 A. Well, there had been a white paper done by
 13 government many years before that talked about
 14 self regulating occupations and the need to
 15 review and revise to reflect, you know,
 16 current practices, what other jurisdictions
 17 were doing and particularly with a focus on
 18 the disciplinary process, reporting to the
 19 public.
 20 COFFEY, Q.C.:
 21 Q. When we look down through, the quotation
 22 distributed to Minister Sullivan, who I gather
 23 was temporarily replacing Mr. Ottenheimer who
 24 was off on sick leave at the time -
 25 MR. ABBOTT:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. - in the second paragraph says "'changes to
 4 the existing Medical Act reflect government
 5 and the board's commitment to ensure that
 6 adequate safeguards are in place to protect
 7 the public interest and the regulation of the
 8 province's medical practitioners,' said
 9 Minister Sullivan. The proposed legislation
 10 will create a disciplinary process that
 11 inspires confidence and is fair and
 12 accountable to patients, physicians, the board
 13 and general public." So was it your
 14 understanding that there were perceived
 15 inadequacies or issues that needed to be
 16 addressed by revamping the discipline process?
 17 MR. ABBOTT:
 18 A. I think the simple answer is yes.
 19 COFFEY, Q.C.:
 20 Q. Within your department, from your perspective
 21 as deputy minister, who was the person
 22 primarily responsible for addressing this, in
 23 a nuts and bolts way? I appreciate you as the
 24 deputy minister would have -
 25 MR. ABBOTT:

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1 A. Yes, we had a division of legislative and
 2 regulatory affairs that was--the director
 3 there was Reg Coates, and he basically had the
 4 day-to-day responsibility for this file. He
 5 would work with our department solicitor from
 6 the Department of Justice and also would work
 7 with legislative council, in terms of any
 8 drafting, would work with others in the
 9 department as required, and certainly work
 10 with the medical board and Dr. Young and
 11 others at that time.
 12 COFFEY, Q.C.:
 13 Q. Now here in the fifth paragraph, it reads
 14 "under the proposed Medical Act 2005, the NMB"
 15 which would be the Newfoundland Medical Board,
 16 I take it?
 17 MR. ABBOTT:
 18 A. Yes.
 19 COFFEY, Q.C.:
 20 Q. "Would be renamed and continue as the College
 21 of Physicians and Surgeons of Newfoundland and
 22 Labrador, CPSNL, a title consistent with the
 23 majority of medical licensing authorities in
 24 Canada." As the deputy minister, and in fact
 25 before you assumed that role, what was your

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1 understanding about who licensed physicians to
 2 practice in Newfoundland? How did that work?
 3 MR. ABBOTT:
 4 A. It would be the Newfoundland Medical Board.
 5 COFFEY, Q.C.:
 6 Q. And from the perspective of, I take it, the
 7 Department of Health, then licensing
 8 requirements and criteria, as the deputy
 9 minister of Health, had you thought about
 10 that, you would immediately point to the
 11 Newfoundland Medical Board or the College, as
 12 it then became, subsequently became?
 13 MR. ABBOTT:
 14 A. Yes, as a self regulating occupation.
 15 COFFEY, Q.C.:
 16 Q. And harkening back to your days then as the
 17 chair of the Board of Trustees of the Health
 18 Care Corporation, how did licensing of or
 19 extending privileges to physicians work within
 20 the Health Care Corporation?
 21 MR. ABBOTT:
 22 A. Again, being certainly different functions to
 23 practise and to considered for privileges and
 24 credentials in the health authority, one would
 25 first need to be licensed.

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1 COFFEY, Q.C.:

2 Q. By the College?

3 MR. ABBOTT:

4 A. By the College. Then the individual physician

5 would make application to the health authority

6 for privileges to use and have access to the

7 services and provide credentials to say that

8 they meet--they have the skills and the

9 requirements under law and within their

10 individual practice to, in fact, provide that

11 service.

12 COFFEY, Q.C.:

13 Q. And that is in the context of providing it

14 within the environs of the then Health Care

15 Corporation?

16 MR. ABBOTT:

17 A. Yes.

18 COFFEY, Q.C.:

19 Q. And the decision as to whether or not to grant

20 such privileges in respect of the Health Care

21 Corporation was made by which body?

22 MR. ABBOTT:

23 A. It would be, in the final analysis, it would

24 be the Board of Trustees.

25 COFFEY, Q.C.:

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1 Q. And the Board of Trustees though in that

2 regard took whose advice?

3 MR. ABBOTT:

4 A. It was through the Medical Advisory Committee

5 that they would make a recommendation. On a

6 working basis, it would be the VP of medical

7 affairs.

8 COFFEY, Q.C.:

9 Q. The VP medical affairs for the Health Care

10 Corporation?

11 MR. ABBOTT:

12 A. Yes.

13 COFFEY, Q.C.:

14 Q. In a practical way?

15 MR. ABBOTT:

16 A. Yes.

17 COFFEY, Q.C.:

18 Q. And in your experience anyway, while you were

19 chair of the Board of the Health Care

20 Corporation of St. John's, do you ever recall

21 the Board turning down an MAC recommendation

22 in that regard?

23 MR. ABBOTT:

24 A. No.

25 COFFEY, Q.C.:

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1 Q. And how much actual consideration, in your

2 experience, would the Board as a whole give

3 to, you know, the MAC's advice? Was it just

4 simply MAC provided a list of physicians and

5 particular services and the Board would

6 approve of them?

7 MR. ABBOTT:

8 A. Primarily that. From time to time, a question

9 may have been asked of a particular physician,

10 but more so just for information, as opposed

11 to questioning -

12 COFFEY, Q.C.:

13 Q. Their capability

14 MR. ABBOTT:

15 A. Yeah, or their ability to practice.

16 COFFEY, Q.C.:

17 Q. If we could turn to page five, please, of this

18 exhibit? I'm sorry, I apologize, I just want

19 to put this in context for you, as part of it.

20 We have the main news release, which appears

21 at page three of the exhibit. At page four of

22 the exhibit, the second page of the release,

23 there's a backgrounder, Medical Act 2005 to

24 increase accountability, public protection.

25 See that?

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1 MR. ABBOTT:

2 A. Yes.

3 COFFEY, Q.C.:

4 Q. And your understanding of the purpose of a

5 backgrounder was what, in this context?

6 MR. ABBOTT:

7 A. To provide additional information,

8 clarification, context of the subject of the

9 release itself.

10 COFFEY, Q.C.:

11 Q. Now as the deputy minister, would these news

12 releases that originated in the Department of

13 Health and Community Services, would they have

14 to be vetted by you at some stage?

15 MR. ABBOTT:

16 A. As practice, yes.

17 COFFEY, Q.C.:

18 Q. I take it that the idea was is they wouldn't

19 go out until at least you had approved them?

20 MR. ABBOTT:

21 A. Ideally that would be the case. That's not to

22 say that, you know, it didn't happen, but

23 generally, yes, that was the purpose. The

24 process was for me, before the minister would

25 actually approve the release or do a press

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1 conference, that I would sign off on that that
 2 I would be comfortable in the material.
 3 COFFEY, Q.C.:
 4 Q. Was there any actual formal process that you
 5 had to initial something?
 6 MR. ABBOTT:
 7 A. No.
 8 COFFEY, Q.C.:
 9 Q. Okay, it was just as it went up through the
 10 chain, at some point it would pass through you
 11 and you'd either pass it to the minister or
 12 send -
 13 MR. ABBOTT:
 14 A. Well, it would be, you know, whether it was e-
 15 mail attachment, a hard copy, somebody bring
 16 it in and put it in front of me to review it
 17 because we are getting ready to roll with it.
 18 COFFEY, Q.C.:
 19 Q. Could you tell us, please--of course you have
 20 some acquaintance with the Terms of Reference
 21 of the Commission of Inquiry?
 22 MR. ABBOTT:
 23 A. Yes.
 24 COFFEY, Q.C.:
 25 Q. Could you tell us, please, about how you first

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1 became aware of the general subject matter
 2 that brings us here? In the sense of, you
 3 know, the breast cancer testing. When did you
 4 first become aware of it?
 5 MR. ABBOTT:
 6 A. It was a telephone call by Mr. Tilley back in
 7 July of 2005, and that was it.
 8 COFFEY, Q.C.:
 9 Q. And so you're at your desk in the
 10 Confederation Building. Could you tell us,
 11 please, I mean, you know, what happened, what
 12 you recall about what he told you, what you
 13 did?
 14 MR. ABBOTT:
 15 A. What he said in the telephone conversation is
 16 that this issue had just come to his
 17 attention. He felt it was significant.
 18 That's why he was calling me, and he explained
 19 it in a sentence or two really, that as I
 20 remember it, in terms of the terms breast
 21 cancer testing and we have a problem, and that
 22 was sort of the words that I recall at the
 23 time, and my instant reaction and the fact
 24 that he called me is this is obviously, must
 25 be a major issue, not knowing any more than

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1 that, and that it would be appropriate that
 2 we, on his behalf, that we arrange a briefing
 3 with the minister because if there need to be
 4 going public on this issue in the near future,
 5 that the minister should be apprised of the
 6 issue.
 7 COFFEY, Q.C.:
 8 Q. Mr. Abbott, what did you do then?
 9 MR. ABBOTT:
 10 A. Arranged a time for the briefing.
 11 COFFEY, Q.C.:
 12 Q. And you did that by what means?
 13 MR. ABBOTT:
 14 A. I do believe I would have spoken to the
 15 minister's secretary, whose desk was very
 16 close to my office, to say "we need some time
 17 on the minister's calendar as soon as possible
 18 for a briefing by Eastern Health," and that's
 19 basically what transpired in the short period.
 20 COFFEY, Q.C.:
 21 Q. And then what happened?
 22 MR. ABBOTT:
 23 A. Once we have agreed--once I knew that we had a
 24 time, let Mr. Tilley know that. I don't know
 25 if I called him or e-mailed him or the

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1 minister's office, and at some point, whether
 2 it was that day, the next day, would have, in
 3 a very brief way, with the minister, Minister
 4 Ottenheimer, to say that "Mr. Tilley is coming
 5 in. I understand he has, you know, a
 6 significant issue he wishes to brief you on,
 7 but that's all I know."
 8 COFFEY, Q.C.:
 9 Q. Now how did you know it was a significant
 10 issue?
 11 MR. ABBOTT:
 12 A. Well -
 13 COFFEY, Q.C.:
 14 Q. What was it about what he had said?
 15 MR. ABBOTT:
 16 A. Women and breast cancer.
 17 COFFEY, Q.C.:
 18 Q. Okay. But that could be--and I'm not
 19 suggesting it wouldn't be important, but that
 20 could be as few--if it's women, that could be
 21 as few as two, or as many as thousands.
 22 MR. ABBOTT:
 23 A. Yeah, we didn't talk numbers. But when Mr.
 24 Tilley called me and basically, he's
 25 indicating to me, through that conversation

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1 that he has a significant issue, that was--and
 2 when he told me what it was, in very short
 3 terms, without knowing any of the detail that
 4 came subsequently, my antenna, and I'll put it
 5 in the small p, political antenna, look up and
 6 said yes, that's something the minister is
 7 going to need and will want to know about.
 8 COFFEY, Q.C.:
 9 Q. And so you spoke with the minister's secretary
 10 and then, about his availability and then
 11 confirmed with Mr. Tilley a time for the
 12 briefing?
 13 MR. ABBOTT:
 14 A. Yes.
 15 COFFEY, Q.C.:
 16 Q. Did you speak with anyone else?
 17 MR. ABBOTT:
 18 A. I don't remember, you know, for that period,
 19 but you know, I know in terms of some
 20 subsequent e-mails and what have you that it
 21 looks likely that I did, but it wouldn't be on
 22 really the substance of the issue, because all
 23 I knew, and until we had the briefing was
 24 basically what I just said.
 25 COFFEY, Q.C.:

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1 Q. Major issue, Eastern Health has a major issue,
 2 women, breast cancer testing?
 3 MR. ABBOTT:
 4 A. Yes.
 5 COFFEY, Q.C.:
 6 Q. And as well, you had understood from what Mr.
 7 Tilley had told you that he had just learned
 8 this?
 9 MR. ABBOTT:
 10 A. That was -
 11 COFFEY, Q.C.:
 12 Q. That was the sense you had?
 13 MR. ABBOTT:
 14 A. That was certainly my strong impression, yes.
 15 COFFEY, Q.C.:
 16 Q. You subsequently, I take it, learned--because
 17 that would have been a two--was that--that
 18 would have been the day, I take it, you sent
 19 the e-mail to Mr. Tilley setting up the
 20 meeting?
 21 MR. ABBOTT:
 22 A. I'm think it's the Monday.
 23 COFFEY, Q.C.:
 24 Q. Monday, okay.
 25 MR. ABBOTT:

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1 A. Right. When he called me. And then the
 2 Tuesday, the e-mails was when things got--were
 3 confirmed.
 4 COFFEY, Q.C.:
 5 Q. Okay. And so it could have been the day
 6 before and -
 7 MR. ABBOTT:
 8 A. I believe it was -
 9 COFFEY, Q.C.:
 10 Q. - I'm looking at some of the--so Monday,
 11 itself, in fact, you think?
 12 MR. ABBOTT:
 13 A. Yeah.
 14 COFFEY, Q.C.:
 15 Q. And Tuesday there certainly is an e-mail from
 16 yourself on Tuesday to Mr. Tilley at midday
 17 about this. And there was a meeting on
 18 Thursday?
 19 MR. ABBOTT:
 20 A. Yes.
 21 COFFEY, Q.C.:
 22 Q. The 21st. On Thursday when you found out
 23 that, you know, this issue dated back at least
 24 to May 11th, 2005, when we look at that
 25 briefing note we'll see that -

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1 MR. ABBOTT:
 2 A. Um-hm.
 3 COFFEY, Q.C.:
 4 Q. - it goes back to at least then. Did you ever
 5 raise then or ever afterward raise it with Mr.
 6 Tilley why it was only during that week that
 7 you had first heard about this?
 8 MR. ABBOTT:
 9 A. No, no, I didn't.
 10 COFFEY, Q.C.:
 11 Q. And did Mr. Tilley ever give you any
 12 indication as to when he had actually first
 13 learned about this?
 14 MR. ABBOTT:
 15 A. As I said a few seconds ago, it was in a
 16 recent time. Now, whether that was days or a
 17 couple of weeks, but it was in that -
 18 COFFEY, Q.C.:
 19 Q. Okay.
 20 MR. ABBOTT:
 21 A. I'd say it was the July period or what have
 22 you.
 23 COFFEY, Q.C.:
 24 Q. Okay. So when you say "just" you don't mean
 25 just as in, like, two hours ago, you mean just

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1 as in, well, within the past week or so?

2 MR. ABBOTT:

3 A. Yes.

4 COFFEY, Q.C.:

5 Q. Or two?

6 MR. ABBOTT:

7 A. Yes.

8 COFFEY, Q.C.:

9 Q. Okay, that's in that sense?

10 MR. ABBOTT:

11 A. Yeah.

12 COFFEY, Q.C.:

13 Q. Did you speak with Mr. Ottenheimer on the day

14 that you first found out about this, do you

15 know?

16 MR. ABBOTT:

17 A. I don't remember that. But as I said, whether

18 it was that day, the next day, just to say

19 that, you know, that Mr. Tilley is coming in

20 to do a briefing and I've set it up, and that

21 would have been the extent of it.

22 COFFEY, Q.C.:

23 Q. Okay. If I could, please, just a moment, I'm

24 sorry, locate something here? If we could

25 bring up, please, Exhibit P-0300, Registrar?

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1 Thank you. Now, sir, this is an e-mail from

2 Heather Predham, Monday, July 18th, 2005 at

3 12:29 p.m.

4 MR. ABBOTT:

5 A. Um-hm.

6 COFFEY, Q.C.:

7 Q. To Dr. Robert Williams and carboned to several

8 people within Eastern Health. The subject is

9 ER/PR receptor letter.

10 MR. ABBOTT:

11 A. Um-hm.

12 COFFEY, Q.C.:

13 Q. "Attachments, Update on ER/PR.." And it says,

14 "Hi, Dr. Williams, I heard back," should be

15 "from Dr. Cook and Terry Gulliver re the

16 letter." And then "Changes have been made.

17 Both agreed that it should come from you. I

18 was speaking to Deborah Thomas today and the

19 Department of Health has been notified and is

20 now involved. They would like a letter sent

21 to each woman outlining the problem and the

22 steps we are taking to address it. That draft

23 letter will have to be seen by our lawyer

24 first, of course. I guess we'll have to

25 decide tomorrow or the next day re advising

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1 the public?" That's a question mark at the

2 end.

3 MR. ABBOTT:

4 A. Um-hm.

5 COFFEY, Q.C.:

6 Q. Signed, "Heather". Now, sir, I appreciate

7 this was not sent to you, but it does refer to

8 on Monday, July 18th, 2005 at almost 12:30

9 p.m. that "The Department of Health has been

10 notified and is now involved." So that would

11 be consistent with your own recollection it

12 was probably that Monday?

13 MR. ABBOTT:

14 A. Yeah, as far as has been notified.

15 COFFEY, Q.C.:

16 Q. Yes.

17 MR. ABBOTT:

18 A. Yes.

19 COFFEY, Q.C.:

20 Q. Now, there is a reference here to "they", in

21 this context it would be the Department of

22 Health, "would like a letter sent to each

23 woman outlining the problem and the steps we

24 are taking to address it."

25 MR. ABBOTT:

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1 A. Um-hm.

2 COFFEY, Q.C.:

3 Q. And at that point, I mean, on that Monday or

4 Tuesday, well, certainly that Monday, July

5 18th, did you have any knowledge of that?

6 MR. ABBOTT:

7 A. No.

8 COFFEY, Q.C.:

9 Q. Like, now looking back at it, you know, at

10 what level do you think that might have come

11 from if it didn't come from you?

12 MR. ABBOTT:

13 A. My response to that is I don't think it came

14 from anyone in the department.

15 COFFEY, Q.C.:

16 Q. Okay. Have you ever asked Moira Hennessey

17 about that?

18 MR. ABBOTT:

19 A. About?

20 COFFEY, Q.C.:

21 Q. Whether or not she was involved in asking that

22 a letter be sent?

23 MR. ABBOTT:

24 A. No, I would have no reason to. This is almost

25 new. I did see it the other day, but, no.

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1 COFFEY, Q.C.:

2 Q. You weren't aware that -

3 MR. ABBOTT:

4 A. No.

5 COFFEY, Q.C.:

6 Q. - about this issue about a letters and--at

7 that point in time?

8 MR. ABBOTT:

9 A. No.

10 COFFEY, Q.C.:

11 Q. When you first--so, if rather than you

12 receiving a phone call you've just referred to

13 from George Tilley, Ms. Hennessey had received

14 a phone call from her counterpart, Dr.

15 Williams, to the same effect, you know, breast

16 cancer, women, major issue, would you have

17 expected that she would have told you, Ms.

18 Hennessey would have brought that to your

19 attention right away?

20 MR. ABBOTT:

21 A. I don't like to speculate, but I would, on

22 this one I would certainly say yes.

23 COFFEY, Q.C.:

24 Q. When I say you would expect, as the deputy

25 minister, to be so informed, it's in that

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1 context I'm asking you. You know, as the

2 deputy minister of the day at the time, would

3 you -

4 MR. ABBOTT:

5 A. Yes, I understand your question, but you put

6 it in the context of a certain person and me.

7 COFFEY, Q.C.:

8 Q. Yes.

9 MR. ABBOTT:

10 A. But if you're talking position to position, so

11 the answer would be yes probably in both

12 cases, but certainly the way you put it that

13 if it was Ms. Hennessey, she would have

14 certainly, as I said, I can speculate that 100

15 -

16 COFFEY, Q.C.:

17 Q. Yeah. You'd be very surprised if she had

18 known about it and sent--or had communicated

19 direction about a letter -

20 MR. ABBOTT:

21 A. Yes.

22 COFFEY, Q.C.:

23 Q. - and hadn't brought it to your attention?

24 MR. ABBOTT:

25 A. Now, whether you're talking, you know, hours

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1 or a day or so, just in terms of being able to

2 connect, but that's how I would see it.

3 COFFEY, Q.C.:

4 Q. When you first spoke to John Ottenheimer about

5 this issue, do you recall whether or not he

6 already appeared to know about it?

7 MR. ABBOTT:

8 A. No. Not--and again, it was just that we have a

9 meeting set up. But, no, I don't recall him

10 indicating one way or the other, because once

11 I indicated that the briefing was set up and

12 that was fine for him. Whether he had any

13 other knowledge, he certainly didn't impart

14 that to me.

15 COFFEY, Q.C.:

16 Q. How about do you recall when you first spoke

17 to Ms. Hennessey about this?

18 MR. ABBOTT:

19 A. It would be after the briefing, for sure.

20 COFFEY, Q.C.:

21 Q. That's the Thursday briefing?

22 MR. ABBOTT:

23 A. Yes.

24 COFFEY, Q.C.:

25 Q. How about Darrell Hynes?

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1 MR. ABBOTT:

2 A. I would say that would have been, again, I

3 believe he was at the briefing, so it would

4 have been at that time. I would not have

5 spoken to very many people about anything I

6 didn't have any information which to have a

7 conversation.

8 COFFEY, Q.C.:

9 Q. Did you speak with Carolyn Chaplin about it?

10 MR. ABBOTT:

11 A. Again, if I had a conversation with her,

12 because I can't recall any specific time, it

13 would be around the fact that Mr. Tilley is

14 coming in for a briefing of the minister. And

15 whether she had known via the minister for

16 however that could have happened, but nothing

17 more than that.

18 COFFEY, Q.C.:

19 Q. Okay. Did you speak with anyone else about

20 the matter before the briefing?

21 MR. ABBOTT:

22 A. No.

23 COFFEY, Q.C.:

24 Q. If you look, please, at Exhibit P-0312? And

25 this is an e-mail from Gary Cake, Tuesday,

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1 July 19th, 2005 at 10:32 a.m. to Robert
 2 Thompson. The subject is "Major Health
 3 Matter." And I should say before I go further
 4 in this, when I say speak to, I also include
 5 in that communicate with in any manner, okay,
 6 so you understand the context when I say speak
 7 to -
 8 MR. ABBOTT:
 9 A. Well, now that you've clarified it, I'll be
 10 sure -
 11 COFFEY, Q.C.:
 12 Q. Oh, no, just in terms of that, you know, just
 13 in terms of that, I'm just thinking about it
 14 looking at the e-mail. This is an e-mail, as
 15 I said, from Mr. Cake to Mr. Thompson. Gary
 16 Cake was whom, do you know, did you know Mr.
 17 Cake?
 18 MR. ABBOTT:
 19 A. Oh, yes. He was assistant secretary to
 20 cabinet for the social policy files.
 21 COFFEY, Q.C.:
 22 Q. And you had known Mr. Cake, I take it, you
 23 know, in one capacity or another over the
 24 years?
 25 MR. ABBOTT:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. Going back to your days as a DM in different
 4 departments before -
 5 MR. ABBOTT:
 6 A. And we worked together in Intergovernmental
 7 Affairs Secretariat.
 8 COFFEY, Q.C.:
 9 Q. Okay. And this say, "Robert, Carolyn Chaplin
 10 just called from HCS to provide a heads up
 11 that a major story will break from the Eastern
 12 Health board as early as this Thursday, but
 13 more like next Monday. The Eastern Health
 14 board has recently discovered errors in its
 15 breast cancer testing program. This matter
 16 affects clients who were subject to breast
 17 cancer testing from 1997 to April, 2004. I
 18 understand that an estimated 1200 to 1500
 19 clients will need to be retested. The Eastern
 20 Health board is currently working on a
 21 strategy for communicating this news to
 22 affected clients and the public at large.
 23 Legal advice is being engaged in this process.
 24 HCS will be advised of the communication
 25 strategy. A briefing note is currently being

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1 prepared. Carolyn has also alerted Elizabeth
 2 to this matter. Gary." Signed, "Gary." Now,
 3 sir, this is dated 10:32 on the morning of
 4 Tuesday, July 19th.
 5 MR. ABBOTT:
 6 A. Um-hm.
 7 COFFEY, Q.C.:
 8 Q. The information contained in this or the types
 9 of--you know, or the information in terms of
 10 the scope or size of the problem, the nature
 11 of it, at least as perceived at the time, how
 12 did that compare with your knowledge at the
 13 time?
 14 MR. ABBOTT:
 15 A. I had none of that.
 16 COFFEY, Q.C.:
 17 Q. Look at, please, Exhibit P-0800? Now, that
 18 was, P-0312 was at 10:32 that morning. In
 19 this Exhibit P-0800 the original message right
 20 here in the middle of the text is from
 21 yourself, sent Tuesday, July 19th, 2005 at
 22 1:57 p.m., Mr. Tilley and Carolyn Chaplin,
 23 subject is "Briefing of Minister." And this
 24 is the one where you say, "George, we would
 25 like for you and the appropriate staff to

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1 brief the minister on Thursday, at 9 a.m.
 2 respecting the testing issue affecting breast
 3 cancer patients of Eastern Health. It would
 4 be appreciated that you forward a briefing
 5 note to me on Wednesday prior to the briefing.
 6 Thank you. Please call if any questions."
 7 Signed, "John Abbott." So why were you
 8 copying this to Ms. Chaplin?
 9 MR. ABBOTT:
 10 A. Because if we were setting up a briefing of
 11 the minister, she would be in attendance.
 12 COFFEY, Q.C.:
 13 Q. Would there be others in attendance?
 14 MR. ABBOTT:
 15 A. The norm would be, depending on the issue,
 16 maybe his executive assistant might be in
 17 attendance.
 18 COFFEY, Q.C.:
 19 Q. Would be Darrell Hynes?
 20 MR. ABBOTT:
 21 A. Yes. And again, depending on who was in the
 22 office that week, given it was sort of mid
 23 summer, that would have been common to do that
 24 when we set up external briefings.
 25 COFFEY, Q.C.:

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1 Q. And if, if Ms. Hennessey was, you know, was
 2 available that week, as it involved then
 3 Eastern Health would she be asked to come?
 4 MR. ABBOTT:
 5 A. No, it wouldn't necessarily be automatic. And
 6 not knowing exactly what the issue was and the
 7 extent and what involvement that the
 8 department was required, I wouldn't
 9 automatically have invited her or others.
 10 COFFEY, Q.C.:
 11 Q. Now, there's no location indicated here. How
 12 would people know where to go?
 13 MR. ABBOTT:
 14 A. Well, you brief the minister, you brief him on
 15 his terms and his local, so the automatic
 16 premise would have been that it was his
 17 boardroom.
 18 COFFEY, Q.C.:
 19 Q. Now, up to that point in your career as deputy
 20 minister had you ever arranged for a minister
 21 of health to be briefed on a clinical issue?
 22 MR. ABBOTT:
 23 A. It's difficult to answer. Certainly, you
 24 know, client issue, patient issues, you know,
 25 singular issues, that would happen from time

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1 to time. So there was nothing out of the norm
 2 here.
 3 COFFEY, Q.C.:
 4 Q. Well, in terms of major issue, breast cancer,
 5 women and as you said, you're small P,
 6 political antenna went up, so I'm taking about
 7 in the context of what you sensed at the time
 8 might be a major issue, well, in fact, it had
 9 been described to you as a major issue.
 10 MR. ABBOTT:
 11 A. If you're looking in the period from, say,
 12 December, 2005 -
 13 COFFEY, Q.C.:
 14 Q. Yes.
 15 MR. ABBOTT:
 16 A. - within the department to then, no, I don't--
 17 there's nothing that registers with me on
 18 that.
 19 COFFEY, Q.C.:
 20 Q. Bring up, please, exhibit P-0312, perhaps if I
 21 can just for a moment, I apologize, can we
 22 just bring up P-0800 again? The text here at
 23 the bottom of the page, sir, the original
 24 message, would you have typed the text itself,
 25 like are you a person who types your own e-

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1 mails?
 2 MR. ABBOTT:
 3 A. Yes. The spelling errors are mine as well.
 4 COFFEY, Q.C.:
 5 Q. Well the date would be generated
 6 automatically, but the cc'd -
 7 MR. ABBOTT:
 8 A. They would have been built in my e-mail -
 9 COFFEY, Q.C.:
 10 Q. Yeah, when you hit "C" you get a range of
 11 names and stuff.
 12 MR. ABBOTT:
 13 A. Yes.
 14 COFFEY, Q.C.:
 15 Q. But the text "George" all the way down to the
 16 word "if any questions".
 17 MR. ABBOTT:
 18 A. Yes.
 19 COFFEY, Q.C.:
 20 Q. That would be typed in by yourself. If we
 21 could again look at, please, exhibit P-0312.
 22 Now this is an e-mail from Carolyn Chaplin,
 23 Tuesday, July 19th, 2005 at 2:37 p.m., which
 24 is approximately 40 minutes after your e-mail
 25 to Mr. Tilley. It's from Carolyn Chaplin to

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1 Gary Cake.
 2 THE COMMISSIONER:
 3 Q. You're saying this e-mail is from Chaplin?
 4 COFFEY, Q.C.:
 5 Q. No, this is P-0312? Oh, I'm sorry, Gary Cake,
 6 I apologize, it's page 5, I apologize,
 7 Commissioner and I apologize, Mr. Abbott, for
 8 any confusion. I have the pages open but not
 9 the computer, I'm not looking at the computer
 10 screen closely enough. This is from Carolyn
 11 Chaplin, this is a series of e-mails that we
 12 received not too long ago from Mr. Thompson.
 13 It's from Carolyn Chaplin, Tuesday, July 19th,
 14 2005 at 2:37 p.m. to Gary Cake, it's cc'd to
 15 John G. Abbott. The subject is Re: Update
 16 Eastern Health Matter. And the text, "Gary,
 17 further to this morning and incoming
 18 information this afternoon, no action is
 19 required at this time. We have arranged a
 20 briefing with the health authority for the
 21 latter part of this week and will be in a
 22 better position to forward relevant briefing
 23 materials at that time. No public
 24 announcement will be forthcoming this week and
 25 there's a possibility that the significance of

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1 any announcement will be minimized." Signed
 2 Carolyn Chaplin, Director of Communications.
 3 Now, sir, were you aware that Ms. Chaplin was
 4 sending this e-mail?
 5 MR. ABBOTT:
 6 A. My answer is no and the, I guess this one and
 7 the previous, in terms of Carolyn Chaplin and
 8 her role would initiate a number of
 9 communications, e-mails, whatever, both
 10 internally in the department, outside to other
 11 agencies in government or in departments of
 12 government and with Eastern Health and view
 13 that in a proactive way. So when I saw this,
 14 I reflect back on did we have this
 15 conversation and I certainly don't remember
 16 it. The point being is I do not have any
 17 information more than what George Tilley had
 18 told me on the phone, which didn't speak to
 19 numbers or those kinds of things until the
 20 Thursday.
 21 COFFEY, Q.C.:
 22 Q. That's July 21?
 23 MR. ABBOTT:
 24 A. Yes.
 25 COFFEY, Q.C.:

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1 Q. Now if we could go back, I'm sorry, to page
 2 one of exhibit P-0312?
 3 THE COMMISSIONER:
 4 Q. Just before we do, this was copied to Mr.
 5 Abbott.
 6 COFFEY, Q.C.:
 7 Q. Oh it is, it's copied--he would have received
 8 this.
 9 MR. ABBOTT:
 10 A. Yes, and -
 11 THE COMMISSIONER:
 12 Q. When you answered, you're saying prior to
 13 getting it you hadn't had any of this, are
 14 you?
 15 COFFEY, Q.C.:
 16 Q. See this e-mail is Tuesday, 2:37 p.m., July
 17 19th. It's sent to Mr. Cake from Ms. Chaplin,
 18 who is your director of communications, your
 19 department's direction of communications, it's
 20 copied to yourself, John Abbott.
 21 MR. ABBOTT:
 22 A. Yes.
 23 COFFEY, Q.C.:
 24 Q. It's "Re: Update Eastern Health Matter." And
 25 when you look at the text, referring to this

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1 morning, incoming information this afternoon,
 2 no action required, briefing with health
 3 authority latter part of this week, better
 4 position to forward relevant briefing
 5 materials at that time. No public
 6 announcement forthcoming this week,
 7 possibility and significance of any
 8 announcement will be minimized." I mean, as
 9 the deputy minister of the day, you would have
 10 received that that afternoon, presumably?
 11 MR. ABBOTT:
 12 A. According to--yeah, what was noted there in
 13 terms of the time. What I want to say here on
 14 this is I do not remember and I'm pretty well
 15 sure I did not direct her to send that e-mail
 16 and the fact that she sent it to me and was
 17 signed, now whether I read it that afternoon,
 18 the next day, I couldn't tell you. Unless
 19 somebody can tell me when I opened the e-mail,
 20 as I said, she took it on her own initiative
 21 to do that and that's, you know, I don't have
 22 any issue with that.
 23 COFFEY, Q.C.:
 24 Q. Well see, in terms of this, again because you
 25 just referred to, you're sure that you did not

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1 tell her to send this? Is that what you're -
 2 MR. ABBOTT:
 3 A. That's my--that's what I believe and that's
 4 where I am. The point being I did not have
 5 the information to say in fact we had a big
 6 issue that we needed to do or not do anything
 7 about it, until Mr. Tilley did the briefing.
 8 COFFEY, Q.C.:
 9 Q. And do you have any reason to believe that Ms.
 10 Chaplin was in a position to?
 11 MR. ABBOTT:
 12 A. Well, -
 13 COFFEY, Q.C.:
 14 Q. I have some understanding as to what she, you
 15 know, we anticipate her coming in here and
 16 saying.
 17 MR. ABBOTT:
 18 A. And whether or not she was in contact with
 19 the, her counterpart at Eastern Health, which
 20 would be ongoing, but that's all I can say on
 21 that because I really, I don't have anything
 22 else to add to that.
 23 COFFEY, Q.C.:
 24 Q. But did you ask, when you got this e-mail, did
 25 you ask Ms. Chaplin, like, you know, what's

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1 this about, where did that come from?
 2 MR. ABBOTT:
 3 A. No, I don't think I did.
 4 COFFEY, Q.C.:
 5 Q. Can you tell us why not? She's telling the
 6 cabinet secretariat something very specific.
 7 MR. ABBOTT:
 8 A. Uh-hm, well unless, you know, Ms. Chaplin has
 9 told you that she has told me and that's fine,
 10 and she may have, I don't recall that and the
 11 fact that she took it on her own initiative
 12 based on that and sent it to me, knowing that
 13 the briefing was set up and it's not a perfect
 14 world here and I guess my point this morning,
 15 when I talk about the change in the system,
 16 how government was operating, I think the
 17 spread of e-mails to multiple sources without
 18 any particular direction, was becoming common
 19 practice, one that, as the deputy in this
 20 case, I wasn't controlling all the
 21 communication around any particular issue, as
 22 much as I would like to some days, but that's
 23 just the fact of life. Now whether--so that's
 24 sort of how I see that. But again, I guess
 25 the earlier e-mail, in terms of she had

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1 indicated to, I guess to Mr. Cake, that there
 2 was an issue. Again, I don't think I had
 3 directed that she send that e-mail. I read
 4 this in the context when I saw it, in terms of
 5 for the inquiry, as that she had some
 6 additional information to suggest, let's wait
 7 until the briefing to know what in fact we
 8 were dealing with. So I didn't find it -
 9 COFFEY, Q.C.:
 10 Q. Well see, now Mr. Abbott, she's a director of
 11 communications. Having received that e-mail,
 12 the 2:37 p.m. one, being copied on it, you, as
 13 a deputy minister would have been aware that
 14 your department's director of communications
 15 was telling a cabinet secretariat officer
 16 certain things. I mean, wouldn't that raise
 17 your eyebrows?
 18 MR. ABBOTT:
 19 A. No.
 20 COFFEY, Q.C.:
 21 Q. It wouldn't, if she was going directly to a
 22 cabinet -
 23 MR. ABBOTT:
 24 A. She was, is very competent in her area and I,
 25 knowing how she operated, she, if there was an

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1 issue, potential issue, it was not uncommon
 2 for her to raise that with others outside the
 3 department and then as an example here, well
 4 things are not what they appear to be, at
 5 least at this stage.
 6 COFFEY, Q.C.:
 7 Q. Well do you have any knowledge as to why or
 8 how someone in her position might have arrived
 9 at the view that things are not as they appear
 10 to be or as they appeared to be earlier this
 11 morning?
 12 MR. ABBOTT:
 13 A. Obviously she, again, I'm interpreting this as
 14 to knowing for sure, obviously, but the fact
 15 that a briefing session is being set up, to
 16 which we will now be advised as to what in
 17 fact are the issues.
 18 COFFEY, Q.C.:
 19 Q. See how would she know, Mr. Abbott, that the
 20 major story was not going to break on
 21 Thursday, July 21, as apparently she had told
 22 Mr. Cake earlier that morning, if you look at
 23 page one, I mean, based upon what you've told
 24 us and your knowledge looking back on it, how
 25 would somebody in Carolyn Chaplin's position

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1 know that Eastern Health was not going to go
 2 ahead and announce this anyway on Thursday?
 3 MR. ABBOTT:
 4 A. Well, you know, I can say you're reading too
 5 much into this, in one sense.
 6 COFFEY, Q.C.:
 7 Q. Okay, how is that? Would you explain?
 8 MR. ABBOTT:
 9 A. The point is that she had some information
 10 that I certainly did not have. She acted on
 11 that in her role in how she proceeded and the
 12 fact that she was writing or e-mailing to the
 13 cabinet secretariat before I or in this case
 14 the minister was briefed. Not uncommon, one
 15 that I would, you know, one which she felt
 16 that was appropriate for her to do, to give
 17 them--this is out there, this is a bit of a
 18 heads up -
 19 COFFEY, Q.C.:
 20 Q. To give the cabinet secretariat and the
 21 premier's communication's director a heads up.
 22 MR. ABBOTT:
 23 A. Yes. And she had a very close working
 24 relationship with these people, so that didn't
 25 surprise me, and if we had, you know, to step

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1 down or slow it down, then she would do that.
 2 COFFEY, Q.C.:
 3 Q. And the direction to step down and slow down,
 4 see, and again, I want to be fair to you, I
 5 have reason to believe that she's going to
 6 come in and tell us, tell the Commissioner
 7 that the e-mail at page 5, the 2:37 p.m. one,
 8 that you directed her to send that. Is that
 9 possible?
 10 MR. ABBOTT:
 11 A. That is possible, particularly if she says
 12 that, but I certainly don't have any
 13 recollection of that for that period. Now,
 14 that being said and if she came to me and
 15 said, you know, we're taking this on, the fact
 16 that I did not have any information to alert
 17 anybody to, I may--it is very possible that we
 18 may have had a conversation in which I said,
 19 well let's wait until we get the information.
 20 But I really can't explain it any more than
 21 that.
 22 COFFEY, Q.C.:
 23 Q. So let's wait until we get the information in
 24 her world, I take it, might be interpreted as
 25 tell Eastern Health--well not tell Eastern

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1 Health, tell the cabinet secretariat that
 2 let's wait means there will be nothing
 3 happening this week, in a sense of there's be
 4 no announcement this week?
 5 MR. ABBOTT:
 6 A. Well again, the word "announcement", I wasn't,
 7 you know, we weren't there by any stretch in
 8 that, that I recall at that time.
 9 COFFEY, Q.C.:
 10 Q. "A possibility that the significance of any
 11 announcement will be minimized." Looking at
 12 page 5 of exhibit P-0312, can you be of any
 13 assistance where that information may have
 14 come from, what was the source of that?
 15 MR. ABBOTT:
 16 A. No.
 17 COFFEY, Q.C.:
 18 Q. The answer is no?
 19 MR. ABBOTT:
 20 A. No, they're her words, so I can't -
 21 COFFEY, Q.C.:
 22 Q. I appreciate they're her words, and I have an
 23 understanding as to what--again I want to be--
 24 because you're testifying now, she will
 25 testify later. So they're her words and I'm

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1 asking you do you have any knowledge of where
 2 the notion that "there's a possibility the
 3 significance of any announcement would be
 4 minimized" comes from or came from?
 5 MR. ABBOTT:
 6 A. No, again, in the absence of having any real
 7 information on which to know what the issue
 8 was about and what was even being considered,
 9 so that's, again, that's all I can say on
 10 that.
 11 COFFEY, Q.C.:
 12 Q. Now, Mr. Abbott, on July, well it could have
 13 been actually July 18th, I gather from your
 14 recollection, that you first spoke to Mr.
 15 Tilley about this, that Monday. The e-mail
 16 which we've looked at is from you to Mr.
 17 Tilley in on Tuesday, about 1:57 or so p.m.
 18 You're asking Mr. Tilley to come down and
 19 brief the minister on a major story or major
 20 issue, I'm sorry, involving women, breast
 21 cancer and the word "major". You understood
 22 the word "major" to mean what in this context?
 23 MR. ABBOTT:
 24 A. Well if there were major, you know, it would
 25 be of significance, public, political, what

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1 have you.
 2 COFFEY, Q.C.:
 3 Q. I'm sorry, what?
 4 MR. ABBOTT:
 5 A. Political in terms of that there will be an
 6 issue that may get raised that the minister of
 7 the day may have to address.
 8 COFFEY, Q.C.:
 9 Q. And sir, I'm going to suggest to you that you
 10 had known Mr. Tilley for a number of years,
 11 correct?
 12 MR. ABBOTT:
 13 A. Yes.
 14 COFFEY, Q.C.:
 15 Q. Had you found Mr. Tilley being a person who is
 16 given to hyperbole?
 17 MR. ABBOTT:
 18 A. No, I wouldn't -
 19 COFFEY, Q.C.:
 20 Q. He's not, is he?
 21 MR. ABBOTT:
 22 A. I wouldn't say that.
 23 COFFEY, Q.C.:
 24 Q. He doesn't exaggerate things in your
 25 experience with him, does he?

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1 MR. ABBOTT:
 2 A. Well he communicates differently than I do, so
 3 he would use language and words and terms that
 4 I wouldn't necessarily use and vice versa, to
 5 be fair.
 6 COFFEY, Q.C.:
 7 Q. But when he called you and you're sitting in
 8 your deputy minister's chair and said I've got
 9 a major issue here -
 10 MR. ABBOTT:
 11 A. But he was calling me so that he could get
 12 access to the minister and that was what the
 13 focus of the discussion was about.
 14 COFFEY, Q.C.:
 15 Q. Okay. And so that takes, I'm going to suggest
 16 to you, all of 30 seconds to actually get that
 17 information from a person, like Mr. Tilley.
 18 You understood, in 30 seconds, he needs to
 19 talk to the minister about this issue.
 20 MR. ABBOTT:
 21 A. Whatever the time -
 22 COFFEY, Q.C.:
 23 Q. Yeah, 30, 40 seconds.
 24 MR. ABBOTT:
 25 A. I wouldn't expect it was very long. I agree.

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1 COFFEY, Q.C.:
 2 Q. Now, sir, can you tell the Commissioner why
 3 you didn't then call him back when you nailed
 4 down the minister's availability and say,
 5 George, what's this about?
 6 MR. ABBOTT:
 7 A. I have no particular answer other than he was
 8 requesting a briefing and we set it up and we
 9 would wait to get the briefing. And that
 10 would be no different than if somebody
 11 requested it in the department, somebody
 12 outside. Let's let them bring the information
 13 forward.
 14 COFFEY, Q.C.:
 15 Q. Except that this was different, wasn't it,
 16 sir?
 17 MR. ABBOTT:
 18 A. Well, I really didn't know other than that
 19 there was an issue that he wished to bring
 20 forward, which didn't happen obviously every
 21 day. But it was my way, my practice then to
 22 make sure that happens as quickly as possible
 23 and that he and the minister would connect.
 24 COFFEY, Q.C.:
 25 Q. Now, were you aware on that Tuesday, at the

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1 time that you were sending your e-mail,
 2 approximately at the time you were sending
 3 your e-mail at midday or in the midday hours
 4 of that Tuesday to Mr. Tilley, hadn't Mr.
 5 Tilley had at least been scheduled to meet
 6 with the minister just around that same time?
 7 Had you been aware of that?
 8 MR. ABBOTT:
 9 A. I did hear part of Mr. Ottenheimer's testimony
 10 and I remember, I guess it was some question
 11 about he and Mr. Tilley having lunch or
 12 whatever. And my thought when I heard that
 13 was yes, I thought that something was planned
 14 between the two of them at roughly that
 15 period. Now, whether it was the Monday,
 16 Tuesday, Wednesday of that weekend, couldn't
 17 say.
 18 COFFEY, Q.C.:
 19 Q. Now sir, when Mr. Tilley called you on either
 20 Monday or Tuesday, the 18th or 19th, and told
 21 you about a major issue, women, breast cancer
 22 testing and you had arranged the minister to
 23 be briefed on the Thursday morning at 9:00 and
 24 had sent your e-mail to Mr. Tilley to tell him
 25 to be there, they sent a briefing note the day

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1 before. Did you take any steps to ensure that
 2 the cabinet secretariat knew about this?
 3 MR. ABBOTT:
 4 A. No.
 5 COFFEY, Q.C.:
 6 Q. Or the premier's office?
 7 MR. ABBOTT:
 8 A. No.
 9 COFFEY, Q.C.:
 10 Q. Why not?
 11 MR. ABBOTT:
 12 A. I don't--I look at it as, why would I? My job
 13 was to understand an issue. If I felt that
 14 the cabinet secretariat or the premier's
 15 office or others should be involved or
 16 informed I would certainly ensure that
 17 happened. I was nowhere near knowing what the
 18 issue was to talk to anyone or inform anyone.
 19 And that would be true right across the board.
 20 COFFEY, Q.C.:
 21 Q. So, what kind of criteria, at the time that
 22 you, in that area, were you utilizing to
 23 determine whether or not the cabinet
 24 secretariat or the premier's office should be
 25 informed about an issue?

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1 MR. ABBOTT:
 2 A. Well -
 3 COFFEY, Q.C.:
 4 Q. And the timing of it?
 5 MR. ABBOTT:
 6 A. Well, I guess if there were two indicators,
 7 one would be the minister suggesting that, in
 8 fact, we do that or, in my professional
 9 judgment, that in fact, they needed to be
 10 alerted.
 11 COFFEY, Q.C.:
 12 Q. And why would they need--what sort of factors
 13 played or influenced whether they needed to
 14 alerted?
 15 MR. ABBOTT:
 16 A. It was either an issue that we would have
 17 known that they had a particular interest in
 18 or that I felt, as a deputy minister, that we,
 19 as a department, either couldn't handle it or
 20 it was larger than us. So, a very general
 21 approach there. Through my two and a half
 22 year I would say the number of issues that
 23 fell in that category were a handful.
 24 COFFEY, Q.C.:
 25 Q. And if you look please at Exhibit P-0312, page

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1 I, would the following fall into that
 2 category, recently discovered errors in its
 3 breast cancer testing program affects clients
 4 who are subject to breast cancer testing from
 5 1997 to April 2004, an estimated 1200 to 1500
 6 clients will need to be retested. Would that
 7 fall into that sort of category, that the
 8 premier's office--bearing in mind that before
 9 that, or there was information in a major
 10 story will break from the board in question as
 11 early as Thursday or likely next Monday. Is
 12 that the sort of thing that would warrant
 13 contacting a cabinet secretariat or the
 14 premier's office?
 15 MR. ABBOTT:
 16 A. I suppose if it was -
 17 COFFEY, Q.C.:
 18 Q. Framed -
 19 MR. ABBOTT:
 20 A. How to say that, in terms of for me, at that
 21 particular point in time, the answer was no
 22 because I was waiting on the briefing from Mr.
 23 Tilley. I felt comfortable and still do that
 24 if he had indicated that this was going to be
 25 in the public domain, literally, that day,

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1 that hour, and we're calling to give you a
 2 heads up, then yes, we would have made sure
 3 that that information was communicated to the
 4 other parties. But I, very careful of not,
 5 sort of, getting ahead of, shall we say, the
 6 minister in that regard, to the degree we can,
 7 try to avoid that so that he would be first
 8 advised and then, you know, and does he want
 9 us to advise other outside the department at
 10 that time. But now, that's--and the
 11 distinction here is, as the deputy minister,
 12 that how I approach it. The communication
 13 folks were working in a slightly different
 14 modus operendi in terms of that they had
 15 ongoing direct communication on a daily--
 16 pretty well on a daily, not hourly basis--with
 17 the communications staff and the cabinet
 18 secretariat and the premier's office and the
 19 health authorities. So, the line of
 20 communication on many issues could literally
 21 bypass the deputy minister or the minister and
 22 we would be, sort of, brought along. And
 23 that's the environment in which we're working
 24 and that's the sense I have around these early
 25 set of e-mails.

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1 COFFEY, Q.C.:
 2 Q. That it was the communications, effectively,
 3 the communications people.
 4 MR. ABBOTT:
 5 A. Yeah. Again, that was sharing information,
 6 not that anybody acting on it, but there's
 7 something here, there's something possibly
 8 happening and here's a heads up. But in terms
 9 of what action is to be taken and then that
 10 obviously requires a different set of exchange
 11 of information to the appropriate parties.
 12 COFFEY, Q.C.:
 13 Q. A different set of actions such as to advise
 14 the cabinet secretariat that no action was
 15 required at this time. That's a different--
 16 that is a directive.
 17 MR. ABBOTT:
 18 A. Yes and it, again, based on--you know, I'm
 19 interpreting these e-mails from, you know -
 20 COFFEY, Q.C.:
 21 Q. That's the one that you received actually,
 22 page five.
 23 MR. ABBOTT:
 24 A. And I received it, and if I gave Carolyn
 25 Chaplin the direction, well Carolyn, yeah,

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1 there is an issue, but we're waiting for
 2 George Tilley and his staff to come in to
 3 brief us. There's nothing we can do and no
 4 action, whatever that means, can be taken
 5 until such time as we know what the issue is.
 6 Now, that to me is just fairly common sense
 7 and we just wait until we had that information
 8 and that's what it was.
 9 COFFEY, Q.C.:
 10 Q. And so it's your recollection that at no point
 11 on the 19th or for that matter, on the 20th of
 12 July did Carolyn Chaplin tell you or refer you
 13 to, you know, numbers of patients, like 1200
 14 to 1500 patients, that sort of -
 15 MR. ABBOTT:
 16 A. As I said, I don't remember that, but if
 17 Carolyn Chaplin suggests or says that she did,
 18 then that's fair enough, but I don't remember
 19 any of those numbers.
 20 COFFEY, Q.C.:
 21 Q. Bearing in mind that at least, according to
 22 Mr. Cake's e-mail of 10:32 that morning, he
 23 had spoken to Carolyn about this. She'd given
 24 him the information that's in his e-mail.
 25 What are the odds or what are the chances

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1 really that day or the next, certainly
 2 probably that day, that she didn't tell you
 3 that? Not only did she--she'd spoken to that
 4 floor, but as well that she conveyed certain
 5 information to?
 6 MR. ABBOTT:
 7 A. I'm not going to speculate on that.
 8 COFFEY, Q.C.:
 9 Q. Okay. Wouldn't you have expected her to tell
 10 you, if she was aware that it was 12 to 1500
 11 or thought there was 12 to 1500 people
 12 involved?
 13 MR. ABBOTT:
 14 A. As I said, she may have. I certainly don't
 15 remember numbers along at that juncture, and
 16 they wouldn't have meant a whole lot to me in
 17 the context I would want the full picture.
 18 What does that really mean? What is the
 19 issue, and you know, what actions are Eastern
 20 Health considering and why is it coming to the
 21 Minister now at this stage, those kinds of
 22 thing, to put it in context to understand it,
 23 and then to say what actions or directives
 24 should one take.
 25 COFFEY, Q.C.:

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1 Q. Now breast cancer testing, at that point, to
 2 you meant what?
 3 MR. ABBOTT:
 4 A. Well, I -
 5 COFFEY, Q.C.:
 6 Q. In the world in which you operated at that
 7 time.
 8 MR. ABBOTT:
 9 A. Yeah, it was in a very, you know, layman's
 10 perspective and you know, the concept of ER/PR
 11 hormone receptor was not in lexicon at all.
 12 COFFEY, Q.C.:
 13 Q. I appreciate that. So in terms of breast
 14 cancer testing, as a lay--in effect, a layman
 15 in medical terms, at that time, did breast
 16 cancer testing at that point really mean to
 17 you just diagnosis? I'm going to suggest to
 18 you it did, because that, for most--the vast
 19 majority of people -
 20 MR. ABBOTT:
 21 A. You asked me the question.
 22 COFFEY, Q.C.:
 23 Q. Yes, okay.
 24 MR. ABBOTT:
 25 A. If you let me answer it.

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1 COFFEY, Q.C.:
 2 Q. Okay, go right ahead.
 3 MR. ABBOTT:
 4 A. Then that'll be fine. It was breast cancer,
 5 it was testing. They were the key words that
 6 were brought to me. What underlay that,
 7 whether it's mammography to the fact that
 8 there were cancer--so that could and did
 9 assume that there was more than just
 10 mammography consideration, as it were. So
 11 that was, so just pulling that together, for
 12 me, it was a clinical issue here that is
 13 before us and we tried to figure out what it
 14 is.
 15 COFFEY, Q.C.:
 16 Q. What kind of testing were you aware of at the
 17 time, breast cancer testing? Mammography you
 18 mentioned.
 19 MR. ABBOTT:
 20 A. Yeah.
 21 COFFEY, Q.C.:
 22 Q. What else?
 23 MR. ABBOTT:
 24 A. I really can't add much more to that.
 25 COFFEY, Q.C.:

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1 Q. i.e., that was it?
 2 MR. ABBOTT:
 3 A. Well, no, in -
 4 COFFEY, Q.C.:
 5 Q. Is that what you're saying? I mean, I'm just-
 6 -I'm asking you, sir, in terms of that, what
 7 were you--when you were first told breast
 8 cancer testing, in what context did you
 9 understand it?
 10 MR. ABBOTT:
 11 A. I would have understood it in the context that
 12 there had been testing done that suggests that
 13 there is--they are testing for cancer or there
 14 was cancer.
 15 COFFEY, Q.C.:
 16 Q. Okay.
 17 MR. ABBOTT:
 18 A. And that was it for me, but in terms of -
 19 COFFEY, Q.C.:
 20 Q. Which is diagnosis.
 21 MR. ABBOTT:
 22 A. Or post, that there were other, you know,
 23 other things happening. But outside of that,
 24 I didn't put it in any particular other
 25 context than that.

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1 THE COMMISSIONER:
 2 Q. So at that point, you had never heard of
 3 ER/PR, do I take it?
 4 MR. ABBOTT:
 5 A. No, I did not.
 6 THE COMMISSIONER:
 7 Q. So that would not have been on your radar.
 8 Whatever else it was, you would not have known
 9 to -
 10 MR. ABBOTT:
 11 A. Not in those terms.
 12 THE COMMISSIONER:
 13 Q. - consider those things?
 14 MR. ABBOTT:
 15 A. No.
 16 THE COMMISSIONER:
 17 Q. All right, thank you.
 18 COFFEY, Q.C.:
 19 Q. Could we look at P-0300 again, please? So
 20 you've told the Commissioner that, when we
 21 looked at this e-mail, that you don't think
 22 that the idea of sending a letter came from
 23 the department. Have you ever made any actual
 24 inquiries into that?
 25 MR. ABBOTT:

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1 A. No. Again, I've only seen this particular e-
 2 mail recently, just last week I guess.
 3 COFFEY, Q.C.:
 4 Q. But the subject matter of it, were you aware
 5 of the subject matter before, the idea that
 6 the department was pushing that a letter be
 7 sent to individual patients?
 8 MR. ABBOTT:
 9 A. Again, I have no idea where that came from.
 10 COFFEY, Q.C.:
 11 Q. Fair enough.
 12 MR. ABBOTT:
 13 A. Because as the deputy minister, I was
 14 certainly not talking about letters to
 15 patients on Monday, July 18th. So again,
 16 don't know where that came from.
 17 COFFEY, Q.C.:
 18 Q. When did you first hear of that idea?
 19 MR. ABBOTT:
 20 A. It would be either from the--at the briefing
 21 on the 21st in terms of patient notification
 22 and a process to do that. It would have been
 23 raised in that discussion.
 24 COFFEY, Q.C.:
 25 Q. By whom?

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1 MR. ABBOTT:
 2 A. I would say from Eastern Health. Now exactly
 3 who would have raised it specifically, I can't
 4 say.
 5 COFFEY, Q.C.:
 6 Q. Exhibit P-0134 please. Sir, there's two e-
 7 mails actually, one from Deborah Thomas to
 8 Susan Bonnell early in the morning of July
 9 20th, but that's forwarding an e-mail from
 10 Carolyn Chaplin, Tuesday, July 19th 2005 at
 11 4:05 p.m. to Deborah Thomas. The subject is
 12 for briefing of minister. She says "can you
 13 forward this to Susan as well, can't seem to
 14 find her address on my system. I," that's I,
 15 Carolyn, "have spoken with the minister and
 16 everyone else in here, and all are fine with
 17 proceeding with a briefing on Thursday a.m. I
 18 will be coming in for that one, and then
 19 assessing where we are. As you can see, John
 20 has asked for briefing materials in advance of
 21 the meeting, but these will not go beyond the
 22 department for now. Thanks, Carolyn Chaplin,"
 23 and as you look up here, briefing of minister,
 24 that attachment apparently was your e-mail
 25 earlier in the day to George setting up the

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1 nine a.m. meeting.
 2 MR. ABBOTT:
 3 A. Um-hm.
 4 COFFEY, Q.C.:
 5 Q. The reference to "these will not go beyond the
 6 department for now--but, these will not go
 7 beyond the department for now." Do you know
 8 where that information came from? I
 9 appreciate Carolyn typed it, but the idea that
 10 it wouldn't go beyond the department?
 11 MR. ABBOTT:
 12 A. No, I can't answer that one way or the other.
 13 I don't have any -
 14 COFFEY, Q.C.:
 15 Q. Did you have any input into that decision, do
 16 you know, and to give any assurance to Eastern
 17 Health that it wouldn't go beyond the
 18 department?
 19 MR. ABBOTT:
 20 A. Again, I don't have any recollection of a
 21 discussion around that at that--around that
 22 point.
 23 COFFEY, Q.C.:
 24 Q. Going beyond the department for now, I mean,
 25 where might--you know, other than the

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1 department, where might it go?
 2 MR. ABBOTT:
 3 A. Well, Cabinet secretariat, Premier's office,
 4 wherever.
 5 COFFEY, Q.C.:
 6 Q. And you have no recollection of being involved
 7 in given any such assurance or directing that
 8 any such assurance be given?
 9 MR. ABBOTT:
 10 A. No.
 11 COFFEY, Q.C.:
 12 Q. The answer is no?
 13 MR. ABBOTT:
 14 A. No.
 15 COFFEY, Q.C.:
 16 Q. If we could look at, please, Exhibit P-0135?
 17 Now this is again two e-mails. One is your--
 18 the one from John Abbott, send none to George
 19 Tilley. This "sent: none" do you know--any
 20 idea of how that ends up in a -
 21 MR. ABBOTT:
 22 A. No. No, as a matter of--I just noticed that
 23 now that you point it out, so I can't speak to
 24 that.
 25 COFFEY, Q.C.:

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1 Q. Okay. And this is from Deborah--at the top of
 2 the page on the exhibit, Deborah Thomas,
 3 Wednesday, July 20th 2005, 8:23 a.m., to
 4 yourself and Mr. Tilley, copied to Carolyn
 5 Chaplin and Susan Bonnell. Subject is re:
 6 briefing of Minister. "Good morning. Will
 7 not be fully briefed and updated on this
 8 situation until after five p.m. today. We
 9 will have a four p.m. briefing today with lab
 10 officials, etcetera, to obtain the latest
 11 information. So any briefing materials which
 12 will be sent over today will not be up to date
 13 as we'll be expecting more information at this
 14 meeting. I'll be happy to update the BN after
 15 the meeting and send it on later tonight.
 16 Please advise if this is the way you would
 17 like me to proceed. Deborah," and "Susan is
 18 in interviews all day."
 19 So when you got this, what was your
 20 position vis-a-vis with respect to the
 21 briefing note and the timing of it?
 22 MR. ABBOTT:
 23 A. Other than it was delayed, one point, the
 24 second point that Deborah Thomas was actually,
 25 you know, sort of e-mailing me at that point

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1 because I was, you know, relying on George
 2 Tilley to provide that through his office
 3 because I would expect him to sort of approve
 4 or sign off on any briefing material that was
 5 sent over.
 6 COFFEY, Q.C.:
 7 Q. And in this context, Ms. Thomas was at least
 8 communicating with the recipients of this e-
 9 mail, including yourself, you then being the
 10 deputy minister, that she'd be "happy to
 11 update it after the meeting and send it on
 12 later tonight." i.e. she'd be sending it to--
 13 that's what you're commenting upon there, she
 14 would actually be sending it?
 15 MR. ABBOTT:
 16 A. Well, that--well, again, it was the direct
 17 communication from Deborah to myself, I guess.
 18 COFFEY, Q.C.:
 19 Q. To yourself, exactly, and in fact, not only
 20 the fact that she--that was kind of different,
 21 wasn't it, or at least not in keeping with
 22 your expectations?
 23 MR. ABBOTT:
 24 A. Well, dare I say, you know, the challenge that
 25 I was having in terms of how we were

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1 communicating and how information was, you
 2 know, just fanning out, not this item but any
 3 item, we were seeing obviously similar on,
 4 say, Eastern Health's side at that point.
 5 COFFEY, Q.C.:
 6 Q. i.e. that the communications people would be
 7 bypassing their seniors, in the sense of not
 8 necessarily, you know, ill-advisedly or
 9 whatever, but just to make the observation,
 10 they were bypassing -
 11 MR. ABBOTT:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. - their superiors?
 15 MR. ABBOTT:
 16 A. Yeah.
 17 COFFEY, Q.C.:
 18 Q. And not only internally within the
 19 organization, but as well, even externally?
 20 MR. ABBOTT:
 21 A. Yes.
 22 COFFEY, Q.C.:
 23 Q. And communicating with each other or in this
 24 context, a communications officer or the
 25 equivalent, Deborah Thomas, communicating

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1 directly with yourself?
 2 MR. ABBOTT:
 3 A. Yes. I mean, knowing the individuals again,
 4 and how they worked, that became the norm.
 5 But it was always a challenge.
 6 THE COMMISSIONER:
 7 Q. Mr. Abbott, the particular point of
 8 communications, perhaps not just necessarily
 9 in this way, but has been raised by other
 10 witnesses from Eastern Health in the sense of
 11 they were concerned that information was going
 12 out of their operation, their organization,
 13 which senior people in the organization did
 14 not know about, and then they'd find
 15 themselves in meetings where Department of
 16 Health might have information that a CEO or
 17 COO or whatever the appropriate title might
 18 be--had not been aware of.
 19 MR. ABBOTT:
 20 A. Um-hm.
 21 THE COMMISSIONER:
 22 Q. From what you're saying, it seems like that
 23 would not have been unusual?
 24 MR. ABBOTT:
 25 A. That's correct. Because I had--you know, I

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1 can share that experience myself, in terms of
 2 -
 3 THE COMMISSIONER:
 4 Q. And it works the other way around as well?
 5 MR. ABBOTT:
 6 A. Yes, in government and going to meetings when
 7 you--there's something put there in front of
 8 you that, you know, the minister would have
 9 had it, I didn't, and sort of having to
 10 respond and deal with that. So that's the
 11 world in which we now live in.
 12 THE COMMISSIONER:
 13 Q. And you seem to be indicating that you had to
 14 accept that if you're working in government
 15 these days?
 16 MR. ABBOTT:
 17 A. Government, for sure, and I think, anywhere in
 18 the, you know, sort of the world now through--
 19 because of Blackberries and e-mails and cell
 20 phones. You know, it's just spanning out and
 21 there is no way of really controlling or
 22 formalizing it, but the other side of that is
 23 that the people's ability to process the
 24 information and share it, and you'll see
 25 through the e-mails, all the number of people

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1 being copied, and you sometimes would ask
 2 yourself, well, why are these people being
 3 copied. My practice, when I was copied on
 4 many is just if I got to read the e-mails,
 5 fine, but if it wasn't directed to me, then I
 6 didn't do that. You know, if you had to
 7 prioritize, you would prioritize those that were
 8 sent directly to you versus those which you
 9 were copied on. So, and there's a false sense
 10 here that by copying, that you're informed,
 11 and that is sort of a plague that we're living
 12 in at this time.
 13 COFFEY, Q.C.:
 14 Q. So in terms of that, and I take it certainly
 15 by July 20th 2005, you had been deputy
 16 minister for about six to seven months, that--
 17 and you just used this as an example, you were
 18 aware, perhaps acutely aware, of the
 19 predicament one could find one's self in if a
 20 subordinate had sent something to someone
 21 outside your organization?
 22 MR. ABBOTT:
 23 A. Yes.
 24 COFFEY, Q.C.:
 25 Q. Or further up in the organization without you

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1 being made aware of it?
 2 MR. ABBOTT:
 3 A. Sure.
 4 THE COMMISSIONER:
 5 Q. Mr. Coffey, wherever you can find a convenient
 6 place, we'll take a break.
 7 COFFEY, Q.C.:
 8 Q. Fine. So just so I'm clear then, Mr. Abbott,
 9 until the meeting on the morning of July 21st
 10 at nine a.m., with the minister and Mr. Tilley
 11 and so on and the others who were there, you
 12 knew nothing more about ER/PR or breast cancer
 13 testing? You heard nothing between -
 14 MR. ABBOTT:
 15 A. Not of any--no, I mean, nothing substantive by
 16 any stretch and the numbers that were quoted
 17 earlier, they--I don't recall seeing those or
 18 in fact, they were not numbers that were, in
 19 fact, used subsequently.
 20 COFFEY, Q.C.:
 21 Q. And nor hearing them?
 22 MR. ABBOTT:
 23 A. I have no recollection of hearing them.
 24 COFFEY, Q.C.:
 25 Q. Thank you, Commissioner.

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1 THE COMMISSIONER:
 2 Q. All right, we'll take 15 minutes.
 3 (RECESS)
 4 THE COMMISSIONER:
 5 Q. Please be seated. Mr. Coffey.
 6 COFFEY, Q.C.:
 7 Q. Thank you, Commissioner. Mr. Abbott, if we
 8 could just look, please, at Exhibit P-0312,
 9 page three? I appreciate, sir, you are not
 10 copied on either of these e-mails, but the one
 11 at the top of the page from Robert Thompson,
 12 Tuesday, July 19th 2005 at 10:51 a.m. to Gary
 13 Cake, subject re: major health matter, and I'm
 14 just going to, if I could, read the four lines
 15 of the text here and I have a question about
 16 it. "Thanks. Please ensure the department
 17 and the board include in their comm plan the
 18 assurance that once the solution is set into
 19 motion that an evaluation will be done to
 20 determine the specific or systemic reasons why
 21 this occurred so that the matter will be
 22 properly addressed in the long term. I'd like
 23 to see this aspect before it goes out.
 24 Thanks."
 25 Sir, first of all, and I appreciate--

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1 well, I'll ask you, first of all. Was this e-
 2 mail ever forwarded to you?
 3 MR. ABBOTT:
 4 A. No, the first time that I saw it was just
 5 getting ready for testimony.
 6 COFFEY, Q.C.:
 7 Q. Thank you. And I take it that you can be
 8 fairly certain of that because it would stand
 9 out in your mind if it had come, in relation
 10 to this entire issue?
 11 MR. ABBOTT:
 12 A. If it came from Mr. Thompson's office, I would
 13 have to say yes.
 14 COFFEY, Q.C.:
 15 Q. Now the idea that--or the subject matter
 16 though of what's in this, in 2005, the middle
 17 of 2005 until the end of 2005, the subject
 18 matter involving "the department and the board
 19 include in their comm plan an assurance that
 20 once the solution is set into motion that an
 21 evaluation will be done to determine the
 22 reasons why this occurred." Were you ever
 23 made aware that the clerk of the Council had
 24 given that sort of a direction?
 25 MR. ABBOTT:

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1 A. No.
 2 COFFEY, Q.C.:
 3 Q. No?
 4 MR. ABBOTT:
 5 A. No.
 6 COFFEY, Q.C.:
 7 Q. Sorry. I'm sorry, I just couldn't hear you.
 8 I apologize. The idea that the clerk of the
 9 Council might direct the Department of Health
 10 and a regional health authority such as
 11 Eastern Health include certain thing or things
 12 in their communications plan, that idea, would
 13 you be surprised by that?
 14 MR. ABBOTT:
 15 A. No. Again, because, you know, as clerk of the
 16 Council, he would have responsibility for
 17 government's overall communication activities
 18 and so from time to time, if he was apprised
 19 and was involved or interested in a particular
 20 issue, he would provide some advice or
 21 commentary, and for me would be very few
 22 occasions, but I have had those in other
 23 cases.
 24 COFFEY, Q.C.:
 25 Q. And in fact, at the tail end of this case, in

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1 fact, ER/PR, in May of '07, they ended up--Mr.
 2 Thompson's office got involved. We will see
 3 that.
 4 MR. ABBOTT:
 5 A. Yes, oh yes.
 6 COFFEY, Q.C.:
 7 Q. I'm sorry, the very tail end of it. Tail end
 8 from your perspective.
 9 MR. ABBOTT:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. Your involvement as deputy minister. But over
 13 the years then, it would be very rare?
 14 MR. ABBOTT:
 15 A. No, I'm saying it would happen from time to
 16 time and in my tenure, there were a couple of
 17 cases where Mr. Thompson would have provided
 18 some advice or input into a news release that
 19 we were involved in.
 20 COFFEY, Q.C.:
 21 Q. Can you give the Commissioner some idea of
 22 what -
 23 MR. ABBOTT:
 24 A. Well, I think a good example would be the
 25 release of the Turner investigation report,

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1 and government's response to that. That one
 2 certainly stands out.
 3 THE COMMISSIONER:
 4 Q. Would you expect that if Mr. Thompson were
 5 giving advice respecting how the things
 6 happened within the department of which you
 7 were the deputy minister, that he might copy
 8 it to you?
 9 MR. ABBOTT:
 10 A. I would expect that, yes. Again, the fact
 11 that he e-mailed, in this case, to Gary Cake
 12 and asked to follow up, again not uncommon
 13 either. So you take it whatever way it
 14 happens really.
 15 THE COMMISSIONER:
 16 Q. Okay.
 17 COFFEY, Q.C.:
 18 Q. And as you were not copied on this particular
 19 e-mail, if it--I take it in the normal course
 20 then, you know, if it was to be followed
 21 through on by the Cabinet secretariat, you
 22 would receive an e-mail from Gary Cake
 23 forwarding--presumably forwarding this?
 24 MR. ABBOTT:
 25 A. That has happened, for sure.

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1 COFFEY, Q.C.:
 2 Q. Yes. Now, "include in their com plan," what
 3 is a com plan in this context?
 4 MR. ABBOTT:
 5 A. Well, I mean, this is all very speculative,
 6 but, you know, a com plan would be a
 7 communications plan which would say how an
 8 issue was going to be communicated, whether
 9 it's to the public, the engagement of the
 10 media, engagement of the ministers or
 11 ministries, stakeholder community, depending
 12 on the subject matter.
 13 COFFEY, Q.C.:
 14 Q. Who draws up a com plan?
 15 MR. ABBOTT:
 16 A. For a departmental initiative it would be the
 17 director of communications. And so again,
 18 there's a protocol where that was generally
 19 followed. Certainly all cabinet submissions
 20 would include a communications plan and that's
 21 how they were done. So I view it in that--I
 22 would view that in that context.
 23 COFFEY, Q.C.:
 24 Q. A protocol, in cabinet submissions there is a
 25 communications plan that accompanies each -

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1 MR. ABBOTT:
 2 A. Yes. And there's a protocol -
 3 COFFEY, Q.C.:
 4 Q. And a protocol -
 5 MR. ABBOTT:
 6 A. - involved.
 7 COFFEY, Q.C.:
 8 Q. - to be utilized?
 9 MR. ABBOTT:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. How about if there's not a cabinet submission,
 13 but -
 14 MR. ABBOTT:
 15 A. No, but you would generally follow the same,
 16 you know -
 17 COFFEY, Q.C.:
 18 Q. Approach?
 19 MR. ABBOTT:
 20 A. What's the issue, who are you trying to
 21 communicate, what are you trying to
 22 communicate, what are your key messages, what
 23 are the--where are the challenges, how are you
 24 going to overcome those in terms of your
 25 communications, those kinds of things.

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1 COFFEY, Q.C.:

2 Q. Is there a written policy in that regard, do

3 you know, or protocol?

4 MR. ABBOTT:

5 A. Well, there is a standard protocol. The word

6 "policy" I couldn't speak to, but you know,

7 the communications branch in the cabinet

8 secretariat that reported to Mr. Thompson

9 would manage that on behalf of government.

10 COFFEY, Q.C.:

11 Q. And a department com plan, if they were

12 drawing one up, would be expected to generally

13 adhere to that approach?

14 MR. ABBOTT:

15 A. Yes.

16 COFFEY, Q.C.:

17 Q. Do you know if the Department of Health ever

18 formulated such a plan in relation to the

19 ER/PR matter at any time?

20 MR. ABBOTT:

21 A. I think the answer is no, but I'm just trying

22 to hark to the latter, you know, the May, 2007

23 when there were certain events and

24 announcements by government, so that took on a

25 different tact. But up, certainly up to that

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1 point the answer would be no.

2 COFFEY, Q.C.:

3 Q. And, you know, as the ER/PR matter was a, you

4 know, matter of a major issue, and I

5 appreciate that it may have been perceived as

6 Eastern Health's issue in the main, but Mr.

7 Thompson here certainly envisages as of July

8 19th, that morning, that it would be both

9 department and the board include in their comp

10 plan.

11 MR. ABBOTT:

12 A. Um-hm.

13 COFFEY, Q.C.:

14 Q. Can you tell us, please, as the deputy

15 minister, why the department itself never had

16 a comp plan until May of '07?

17 MR. ABBOTT:

18 A. I think your lead in, which was that the

19 Eastern Health was responsible for this

20 particular issue and it would be communicating

21 and advising the minister on any communication

22 that he might need to make. We would support,

23 provide support in that regard, but there

24 would be, in fact, ideally, anyway, one

25 approach here. And so we were not, certainly

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1 at this point, on the Tuesday, envisaging any

2 specific communication activity. So I view

3 this as sort of very early, you know, thoughts

4 without knowing any of the detail.

5 COFFEY, Q.C.:

6 Q. I appreciate then.

7 MR. ABBOTT:

8 A. Yeah.

9 COFFEY, Q.C.:

10 Q. But that's why I couched the question in terms

11 of, you know, from then until May of '07 is

12 not quite two years, but it's close. And the

13 ER/PR was in the media a number of times.

14 MR. ABBOTT:

15 A. Yes.

16 COFFEY, Q.C.:

17 Q. In that time frame or intervening time frame,

18 and the department never had a com plan first

19 nor last until May of '07.

20 MR. ABBOTT:

21 A. No. And we--and any communications activity

22 was related to, as time went on, obviously, in

23 terms of any media, any coverage, excuse me,

24 in the media and any issues on how to address

25 any issue that was arising at that time. But

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1 -

2 COFFEY, Q.C.:

3 Q. Who was attending at that, Eastern Health for

4 the minister, like in the sense of providing

5 the minister with a com plan?

6 MR. ABBOTT:

7 A. No. You're asking from the department's

8 perspective so -

9 COFFEY, Q.C.:

10 Q. Yes, that's -

11 MR. ABBOTT:

12 A. - that's what we limited our activity to media

13 inquiries, responses. So the simple point was

14 that we did not develop one and did not feel

15 we needed to develop one.

16 COFFEY, Q.C.:

17 Q. Yes, that's what--why didn't you need to, do

18 you have any -

19 MR. ABBOTT:

20 A. It was an Eastern Health issue that it would

21 run any of the communications, critical

22 communications activities around that issue

23 and that they would engage and advise the

24 minister at the appropriate steps.

25 COFFEY, Q.C.:

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1 Q. Did the department ever ask to see Eastern
 2 Health's com plan or even inquiry whether they
 3 had one?
 4 MR. ABBOTT:
 5 A. I certainly didn't, so I can't speak for
 6 anybody else.
 7 COFFEY, Q.C.:
 8 Q. Okay. You didn't ask yourself. Would it be--
 9 did you see it as your job to ask whether they
 10 had one or would it be your communication
 11 director's job to ask to the ADM's, whose job
 12 would it be to insure that Eastern Health had
 13 a com plan?
 14 MR. ABBOTT:
 15 A. The CEO of Eastern Health.
 16 COFFEY, Q.C.:
 17 Q. Okay. But in this context, I mean, at least
 18 at first blush, Mr. Thompson that morning
 19 certain it struck him as apparently, and we'll
 20 hear from him eventually on it, but he did
 21 write the department and the board include in
 22 their -
 23 MR. ABBOTT:
 24 A. But they didn't write me so, you know, I
 25 can't, I can't answer that any more than that.

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1 COFFEY, Q.C.:
 2 Q. We understand from Mr. Ottenheimer's
 3 testimony, as he pointed out here, that, well,
 4 he was never asked first nor last by the
 5 media, nor by the opposition about this matter
 6 while he was minister of health. I gather it
 7 wasn't raised in the House of Assembly until
 8 May of '07. What was the department's plan
 9 between July of '05 and May of '07 if the
 10 department received an inquiry about ER/PR
 11 from the media or from a member of the public,
 12 for that matter?
 13 MR. ABBOTT:
 14 A. If there was a media inquiry, and we obviously
 15 had expected some, based on the media reports
 16 and briefing notes were done and what have
 17 you, so if the minister so desired, he would
 18 have responded.
 19 COFFEY, Q.C.:
 20 Q. Was that--that was the plan, I take it, if
 21 anyone was going to say anything, it would be
 22 the minister?
 23 MR. ABBOTT:
 24 A. Yes.
 25 COFFEY, Q.C.:

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1 Q. That was -
 2 MR. ABBOTT:
 3 A. At least -
 4 COFFEY, Q.C.:
 5 Q. - understood throughout the department, do you
 6 think? Well, first of all, was it your
 7 understanding?
 8 MR. ABBOTT:
 9 A. I just want to make sure I'm clear on that.
 10 COFFEY, Q.C.:
 11 Q. Sure.
 12 MR. ABBOTT:
 13 A. If it was anybody on the government side
 14 speaking, it would be the minister.
 15 COFFEY, Q.C.:
 16 Q. Okay.
 17 MR. ABBOTT:
 18 A. Anybody in Eastern Health, they had their own
 19 process as to who would speak on an issue at
 20 any point in time.
 21 COFFEY, Q.C.:
 22 Q. In terms of anyone on the government's side
 23 speaking to the issue it would be the
 24 minister, as you put it. Is that a blanket
 25 understanding or is -

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1 MR. ABBOTT:
 2 A. It's not only a blanket understanding, it is
 3 pretty well, you know, a blanket direction
 4 from the premier and the ministers. And if -
 5 COFFEY, Q.C.:
 6 Q. Enforced while you were deputy minister?
 7 MR. ABBOTT:
 8 A. Yes. And if an official was to speak, it
 9 would be sanctioned by the director of
 10 communications in consultation with the
 11 minister's office. I had no particular say in
 12 that.
 13 THE COMMISSIONER:
 14 Q. So it would be very unusual to have an
 15 official speaking on an issue?
 16 MR. ABBOTT:
 17 A. Unless he was directed, he or she was directed
 18 by the minister's office or the director of
 19 communications that would be rare.
 20 THE COMMISSIONER:
 21 Q. Okay. So an official would not take it upon
 22 him or herself to do that without some
 23 specific direction?
 24 MR. ABBOTT:
 25 A. No, that would--and the corollary of that, if

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1 it did happen, it was cause for grief for that
 2 individual.
 3 THE COMMISSIONER:
 4 Q. Okay. Thank you.
 5 COFFEY, Q.C.:
 6 Q. And in terms of that, you say unless the
 7 minister's office sanctioned -
 8 MR. ABBOTT:
 9 A. Yes.
 10 COFFEY, Q.C.:
 11 Q. - the official speaking or the director of
 12 communications?
 13 MR. ABBOTT:
 14 A. Yes. And I say that in that in our case she
 15 would be in close liaison with the minister or
 16 may say, "Look, we have this inquiry, they're
 17 looking for a response from the department."
 18 She would either do possibly one of two
 19 things, I'd say, "Look, that's where the
 20 minister should speak on that, approach the
 21 minister or his office to say are you and
 22 going to?" If he said, "Yes," fine, if not,
 23 you know, "I'd prefer that official A speak on
 24 that," that would happen. Or alternately, the
 25 director would say, "Look, this is really a

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1 very technical issue question. The minister
 2 won't be the person to respond. We'll let him
 3 know about the inquiry, but I'll direct it to
 4 the particular official to speak." And in our
 5 department for that period there were only,
 6 that I can think of maybe three or four people
 7 that actually would have spoken on an issue.
 8 And I think I've only, for my two and a half
 9 years, maybe spoken once or twice to the
 10 media.
 11 COFFEY, Q.C.:
 12 Q. Was there, in terms of the regional health
 13 authorities and the Department of Health in
 14 terms of communications approach during the
 15 time you were deputy minister, was there any
 16 understanding or indeed direction in terms of
 17 whether you should be all on the same page, as
 18 it were?
 19 MR. ABBOTT:
 20 A. Yeah, that, I think, is one way of describing
 21 it. What I did was seen over time and talked
 22 a bit about that this morning, but the central
 23 agencies, premier's office, cabinet
 24 secretariat, were wanting to insure that if,
 25 in this case, a health authority was speaking

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1 in the public, that they had a sense on a key
 2 issue what was being said and how it was being
 3 said. And that was sort of the ministers were
 4 encouraged to insure that through their
 5 director of communications that, in fact, what
 6 they were saying the department, you know, had
 7 a heads up, be comfortable. And I say we, but
 8 mainly the minister would be comfortable with
 9 it. And we, through our director of
 10 communications, would provide some input into
 11 some of their press -
 12 COFFEY, Q.C.:
 13 Q. The health authorities?
 14 MR. ABBOTT:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. Press approach?
 18 MR. ABBOTT:
 19 A. Yeah. And it was on that, but also on issues
 20 that may be going public that the minister's
 21 office would be given a heads up.
 22 COFFEY, Q.C.:
 23 Q. And this understanding or the, you know, this
 24 approach, I take it, was mandated by the
 25 premier's office and the cabinet secretariat

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1 or communications director?
 2 MR. ABBOTT:
 3 A. And that the minister--and each, different
 4 ministers, I think, worked from that premise
 5 and they saw its implementation in different
 6 ways.
 7 COFFEY, Q.C.:
 8 Q. The expectation throughout government while
 9 you were deputy minister was that the
 10 Department of Health, which you were DM, as
 11 supposed to keep in touch with the authorities
 12 on these sorts of issues?
 13 MR. ABBOTT:
 14 A. Yes.
 15 COFFEY, Q.C.:
 16 Q. Make sure, as much as you could, that they
 17 were ad idem, as it were, or use the legal
 18 phrase. And how about in terms of whether the
 19 premier's office, communications office was
 20 kept in the loop and the cabinet secretariat
 21 communications director was kept in the loop
 22 on this?
 23 MR. ABBOTT:
 24 A. It would vary by the issue.
 25 COFFEY, Q.C.:

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1 Q. Okay.
 2 MR. ABBOTT:
 3 A. So a judgment call would be made by the
 4 director of communications generally to say,
 5 "Look, this issue is there. Maybe they should
 6 be given a heads up." And in some cases they
 7 would provide some input into a press release
 8 or what have you.
 9 COFFEY, Q.C.:
 10 Q. And the--in relation to that, Exhibit P-0312,
 11 page 3, please? I appreciate you did not see
 12 this e-mail, the one from Mr. Cake at 10:32 in
 13 the morning of the 19th of July to Mr.
 14 Thompson. But the last line says, "Carolyn
 15 has also alerted Elizabeth to this matter."
 16 The idea, anyway, or the notion that Carolyn
 17 Chaplin would have alerted Elizabeth Matthews
 18 directly about such an issue wouldn't be a
 19 surprise to you?
 20 MR. ABBOTT:
 21 A. No.
 22 COFFEY, Q.C.:
 23 Q. In fact, I take it, it wouldn't be surprise,
 24 it would be in keeping with your expectation,
 25 perhaps?

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1 MR. ABBOTT:
 2 A. I'd stick with the first. Again, it's
 3 depending on, obviously, the issue.
 4 COFFEY, Q.C.:
 5 Q. Well, in this context in relation to what is
 6 described as the nature of the issue in the
 7 lines above it?
 8 MR. ABBOTT:
 9 A. Yeah.
 10 COFFEY, Q.C.:
 11 Q. And issue of that size?
 12 MR. ABBOTT:
 13 A. Yeah. And I guess my reaction to that is, you
 14 know, this is way too early to be involving
 15 the premier's office in this evolving issue, I
 16 guess, as we're trying to find out what it is.
 17 COFFEY, Q.C.:
 18 Q. Okay. So it's not so much that it's not a big
 19 enough issue to alert the premier's office to
 20 -
 21 MR. ABBOTT:
 22 A. No.
 23 COFFEY, Q.C.:
 24 Q. But it's too early in terms of trying to find
 25 out how big it is?

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1 MR. ABBOTT:
 2 A. Right.
 3 COFFEY, Q.C.:
 4 Q. That's -
 5 MR. ABBOTT:
 6 A. But because of their working relationship,
 7 that--and in how they operated right across
 8 the communications function that that was
 9 quite common.
 10 COFFEY, Q.C.:
 11 Q. Did you ever become aware that Ms. Chaplin had
 12 alerted the cabinet secretariat and premier's
 13 office to this to this issue, by, you know,
 14 apparently on July 19th?
 15 MR. ABBOTT:
 16 A. You know, again, through the--where the copies
 17 on the e-mail or e-mails.
 18 COFFEY, Q.C.:
 19 Q. Yes.
 20 MR. ABBOTT:
 21 A. Again, whether we had a conversation around
 22 it, I, you know, simply don't remember that
 23 one way or the other. But as I said, the way
 24 she operated, took that type of initiative, it
 25 doesn't surprise me.

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1 COFFEY, Q.C.:
 2 Q. And presumably when you got the copied on the
 3 e-mail at 2:37 that day, then it wouldn't
 4 surprise you?
 5 MR. ABBOTT:
 6 A. No. And when I read it -
 7 COFFEY, Q.C.:
 8 Q. The fact that she was communicating directly
 9 with -
 10 MR. ABBOTT:
 11 A. And as I said, when I read it, I don't know if
 12 I read it that afternoon, that evening. It's
 13 not uncommon for me not to read those e-mails
 14 until after the close of business, as it were,
 15 to do the catch up.
 16 COFFEY, Q.C.:
 17 Q. And you certainly, if you saw an e-mail from--
 18 indicating it was from Carolyn, gone to Gary
 19 Cake and copied to you, you'd certainly open
 20 that e-mail? That is an e-mail of sort you'd
 21 open?
 22 MR. ABBOTT:
 23 A. Well, not--well -
 24 COFFEY, Q.C.:
 25 Q. Not necessarily that moment, but -

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1 MR. ABBOTT:
 2 A. No. But I open up all my e-mails.
 3 COFFEY, Q.C.:
 4 Q. Okay.
 5 MR. ABBOTT:
 6 A. As I said, when is another matter.
 7 COFFEY, Q.C.:
 8 Q. Can we go to--if we could, please, look at
 9 Exhibit P-0075? Now, this is an Eastern
 10 Health letterhead briefing note, ER/PR
 11 receptors. It's three pages. It's dated July
 12 20th, 2005. Someone has handwritten, "Met
 13 with minister July 21, 2005." Did you have a
 14 copy of this before you went to the briefing
 15 on the morning of July 21st?
 16 MR. ABBOTT:
 17 A. I'm thinking about that, but my belief is no.
 18 COFFEY, Q.C.:
 19 Q. And where did the meeting take place, do you
 20 know?
 21 MR. ABBOTT:
 22 A. It took place in the executive boardroom in
 23 the Department of Health and Community
 24 Services.
 25 COFFEY, Q.C.:

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1 Q. Do you recall who was present?
 2 MR. ABBOTT:
 3 A. Minister Ottenheimer, his executive assistant,
 4 Darrell Hynes, I think Carolyn Chaplin and
 5 myself on behalf of the department. From
 6 Eastern Health would have been Mr. Tilley, Dr.
 7 Williams, Dr. Cook and I believe Susan
 8 Bonnell.
 9 COFFEY, Q.C.:
 10 Q. And what happened?
 11 MR. ABBOTT:
 12 A. The Eastern Health, under Mr. Tilley's lead,
 13 began the--did the briefing with Minister
 14 Ottenheimer.
 15 COFFEY, Q.C.:
 16 Q. And what was said and what happened?
 17 MR. ABBOTT:
 18 A. Well I guess they started to the minister that
 19 we have an issue around the testing for ER/PR
 20 which is the first time I was introduced to
 21 the particular topic, and it spoke, a couple
 22 of things that come to my memory are talking
 23 about the DAKO system, the Ventana approach
 24 and the difference; talking about the
 25 conversion rates and the concern there, trying

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1 to interpret what those changes meant and
 2 talked about, I guess the false negatives and
 3 those factors, so they put sort of all that on
 4 the table, put it in context and indicated
 5 they started to detect this in the spring and
 6 had taken a series of steps to confirm that in
 7 fact from their perspective there was a
 8 significant issue and that they were now
 9 having to move to determine how to resolve it,
 10 and also there was a discussion around, I
 11 guess, disclosure and patient notification.
 12 COFFEY, Q.C.:
 13 Q. Okay, so they explained all that and then what
 14 happens?
 15 MR. ABBOTT:
 16 A. Well, you know, the minister, I think there
 17 were questions asked for clarification on some
 18 of the technical issues, then there was--got
 19 into a discussion on how then this should be
 20 communicated to patients and potentially to
 21 the public. And that discussion took place
 22 and different perspectives were put on the
 23 table, but at the end of that, the minister, I
 24 think was satisfied--at least my
 25 interpretation and reading of his reaction was

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1 that he was satisfied with the briefing, felt
 2 that it was comprehensive and that he wanted
 3 to see, again, how we were going to, as
 4 Eastern Health, to notify patients and there
 5 was some discussion as to how to do it and how
 6 best to do it. And the conclusion of that
 7 meeting was that it wasn't going to be
 8 imminent, that there was further time to be
 9 allowed to make that determination, and I
 10 believe the, again, my recollection on that
 11 was waiting for some initial test results to
 12 come back.
 13 COFFEY, Q.C.:
 14 Q. Wait for some initial -
 15 MR. ABBOTT:
 16 A. Yeah, I should say they were going to start
 17 sending out the specimens for testing to Mount
 18 Sinai in Toronto and then, based on the
 19 results, would start that notification. That
 20 was, I think, the general sort of premise of
 21 there, at that point.
 22 COFFEY, Q.C.:
 23 Q. At least the documentary record would suggest
 24 that the idea of using Toronto to do a mass
 25 retesting occurred a little later than that

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1 day. Again, that's the documentary, that's
 2 why I'm asking you about your recollection.
 3 MR. ABBOTT:
 4 A. Yeah, that was--again, that was my
 5 recollection and it is possible it is clouded
 6 by subsequent events over the next week or
 7 two.
 8 COFFEY, Q.C.:
 9 Q. Sure.
 10 MR. ABBOTT:
 11 A. But that was what I recall.
 12 COFFEY, Q.C.:
 13 Q. Now, as the deputy minister of health, before
 14 you attended the meeting that day, were you
 15 aware of a lawsuit going on in Labrador or
 16 relating to the Labrador Grenfell Board?
 17 MR. ABBOTT:
 18 A. Yes, I would have been -
 19 COFFEY, Q.C.:
 20 Q. A class action lawsuit.
 21 MR. ABBOTT:
 22 A. Yes, I knew generally of the case, yes.
 23 COFFEY, Q.C.:
 24 Q. And were you aware that, I gather there had
 25 been a certification order given in July,

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1 earlier in July?
 2 MR. ABBOTT:
 3 A. I would say, yes.
 4 COFFEY, Q.C.:
 5 Q. Did the matter of class actions or potential
 6 class actions and in terms of patient
 7 notification come up during the July 21st
 8 meeting.
 9 MR. ABBOTT:
 10 A. Not that I remember.
 11 COFFEY, Q.C.:
 12 Q. Do you remember Darrell Hynes being there?
 13 MR. ABBOTT:
 14 A. Yes.
 15 COFFEY, Q.C.:
 16 Q. Do you remember whether or not Ches Crosbie's
 17 name was mentioned?
 18 MR. ABBOTT:
 19 A. I don't remember that name coming forward at
 20 that time, no.
 21 COFFEY, Q.C.:
 22 Q. Now, sir, you're attending this meeting,
 23 you've told us you know really nothing about
 24 this, other than it's major, women, breast
 25 cancer testing in which you received during

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1 your telephone conversation with Mr. Tilley.
 2 You show up at the meeting, you get these
 3 three pages and you get a verbal briefing.
 4 Who did most of the talking on behalf of
 5 Eastern Health?
 6 MR. ABBOTT:
 7 A. If you were to balance it out, I would say Dr.
 8 Williams.
 9 COFFEY, Q.C.:
 10 Q. By the time the meeting clued up, well first
 11 of all, do you recall how long the meeting
 12 was?
 13 MR. ABBOTT:
 14 A. I'm going to say an hour and a half, two hours
 15 at the outside.
 16 COFFEY, Q.C.:
 17 Q. By the time the meeting ended, did you have
 18 any sense of how many people were involved?
 19 How many patients?
 20 MR. ABBOTT:
 21 A. Again, that was going to be difficult to
 22 answer because knowing what the numbers have
 23 been and what I knew at that point, I cannot
 24 distinguish now between what I knew from that
 25 meeting or what I've know subsequently, so I

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1 really--that's about the best I can say on
 2 that.
 3 COFFEY, Q.C.:
 4 Q. You see, sir, when we look at those three
 5 pages of exhibit P-0075, right there, you can
 6 scroll down through them, if you like. Can
 7 you find actually an estimate of the total
 8 number of people involved or potentially
 9 affected? You can take your time and have a
 10 look.
 11 MR. ABBOTT:
 12 A. Well no, if it's not there, it's not there, so
 13 I accept if the number is not there. Whether
 14 it was discussed in the meeting, a particular
 15 number or potential number, I don't know and
 16 though the number was starting to come forward
 17 later, so whether it was raised then or not, I
 18 don't know.
 19 COFFEY, Q.C.:
 20 Q. Now when attending such a meeting, as the
 21 deputy minister of health, wouldn't it have
 22 been important to get some estimate or some
 23 sense of how many people are we talking about
 24 here?
 25 MR. ABBOTT:

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1 A. I would say yes, and I suspect the question
 2 was asked, but I cannot tell you what was said
 3 on that point.
 4 COFFEY, Q.C.:
 5 Q. Who would you be relying upon to take notes on
 6 this? I mean, you're there, you know, you're
 7 there, you weren't taking notes yourself?
 8 MR. ABBOTT:
 9 A. Other than if--I did not take any recorded
 10 notes or minutes of that meeting, so Eastern
 11 Health were coming to brief the minister.
 12 They were, in essence it was their briefing,
 13 so that if there were any notes and follow up,
 14 it would have been on Eastern Health's, I
 15 guess, behalf and my expectation was just
 16 that.
 17 COFFEY, Q.C.:
 18 Q. In terms of, wait now, so you're the one being
 19 briefed, you and your minister are the ones -
 20 MR. ABBOTT:
 21 A. No, I want to be very clear on this point, the
 22 minister was being briefed. I was attending
 23 the briefing in a support role only to
 24 facilitate the briefing and to make sure that
 25 the pieces were put forward for the minister,

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1 but Mr. Tilley and his staff were responsible
 2 to ensure all the material, all the
 3 information at their disposal was provided.
 4 COFFEY, Q.C.:
 5 Q. Yeah and I'm not taking any issue with that,
 6 they are conducting the briefing.
 7 MR. ABBOTT:
 8 A. Uh-hm.
 9 COFFEY, Q.C.:
 10 Q. The minister is being briefed.
 11 MR. ABBOTT:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. You knew about eight words about this, you've
 15 told us before the meeting.
 16 MR. ABBOTT:
 17 A. At that point, yes.
 18 COFFEY, Q.C.:
 19 Q. Okay, so in terms of when you show up to this
 20 briefing, are you telling the Commissioner
 21 that you, yourself, are not being briefed?
 22 MR. ABBOTT:
 23 A. Not in--not in the context that it was done
 24 for me.
 25 COFFEY, Q.C.:

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1 Q. It was done for the minister.
 2 MR. ABBOTT:
 3 A. It was done for the minister.
 4 COFFEY, Q.C.:
 5 Q. Well, okay, so it's being done Mr.
 6 Ottenheimer, his benefit, but certainly it is
 7 being done for your benefit too, because
 8 otherwise, how are you going to know what's
 9 going on?
 10 MR. ABBOTT:
 11 A. Another way of looking at that, if I was not
 12 there, the same briefing would have gone ahead
 13 and the minister would have had the benefit,
 14 the full benefit of the briefing and the
 15 department would then be reliant on Eastern
 16 Health for any of the information. Now, by
 17 the fact that I was there, I was then
 18 obviously being exposed to the issue and that
 19 was my, I guess my approach at that point. If
 20 there was a role for me to play subsequent to
 21 that, then it would follow, but the decisions
 22 or the actions coming out of that were left
 23 with Eastern Health to follow up.
 24 COFFEY, Q.C.:
 25 Q. I just want to be clear on this because, so

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1 you didn't see your role as deputy minister at
 2 the time to be one of those people being
 3 briefed? I appreciate the minister is being
 4 briefed -
 5 MR. ABBOTT:
 6 A. Yes.
 7 COFFEY, Q.C.:
 8 Q. But the converse is also true that if you're
 9 not there, Mr. Ottenheimer gets briefed, but
 10 if he's not there, you get briefed, so if I
 11 could on that point, in terms of any record
 12 being kept of what the department at that
 13 point is being told, got a piece of paper, I
 14 appreciate that -
 15 MR. ABBOTT:
 16 A. Uh-hm.
 17 COFFEY, Q.C.:
 18 Q. But you're also being told things verbally,
 19 was there any record being kept?
 20 MR. ABBOTT:
 21 A. Not by me.
 22 COFFEY, Q.C.:
 23 Q. And by your officials?
 24 MR. ABBOTT:
 25 A. Whether or not Carolyn Chaplin or Darrell

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1 Hynes, the minister's office took notes or the
 2 minister, for that matter, it was left to them
 3 to decide if that was appropriate.
 4 COFFEY, Q.C.:
 5 Q. And in terms of from your perspective, if it
 6 turned out that someone afterward wanted you
 7 to do something in connection with this, for
 8 example the minister did, they had a role for
 9 you afterwards or he had a role for you
 10 afterwards, wouldn't it be important for you
 11 to know actually what was said?
 12 MR. ABBOTT:
 13 A. Well if, based on that scenario and if I
 14 didn't have the information, by recall or in
 15 the briefing note, I would have contacted Mr.
 16 Tilley directly.
 17 COFFEY, Q.C.:
 18 Q. To get the information that he may have
 19 already actually given to you or had given to
 20 you.
 21 MR. ABBOTT:
 22 A. That could very well be.
 23 COFFEY, Q.C.:
 24 Q. So at that time did you see your role as being
 25 one of having a managerial aspect in the sense

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1 of in relation to Eastern Health or are you
 2 merely a conduit or a facilitator between the
 3 minister and the CEO?
 4 MR. ABBOTT:
 5 A. For this particular event or activity, as a
 6 facilitator. Formally in law and otherwise
 7 and how we practice, the CEO reported to the
 8 board, reported to the minister for Eastern
 9 Health operations; I reported to the minister
 10 for departmental operations, but I had no role
 11 or authority to direct or to influence an
 12 action on Eastern Health or any of the other
 13 health authorities.
 14 COFFEY, Q.C.:
 15 Q. Now who gave you that understanding?
 16 MR. ABBOTT:
 17 A. Well both, in terms of legislation and in
 18 terms of practice, but there was nobody sat
 19 down with me and I doubt before or since to
 20 actually have that titled discussion.
 21 COFFEY, Q.C.:
 22 Q. Well had you ever made any inquiries in that
 23 regard? I mean, you're taking, you're hired
 24 to be the deputy minister of health -
 25 MR. ABBOTT:

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1 A. But the governance model and the legislation
 2 speaks to whom, reports to whom, whom appoints
 3 whom and that's how--we use that as the basic
 4 structure in terms of how we operated.
 5 There's no great mystery in any of that, I, as
 6 deputy minister of the Department of Health
 7 and Community Services, I had a series of
 8 programs and services and responsibilities,
 9 one of which was to oversee the policy and
 10 program development and funding for health
 11 authorities in general, but not a specific
 12 service offered by or delivered by an
 13 authority.
 14 COFFEY, Q.C.:
 15 Q. Did you ever make any inquiry, before you
 16 became deputy minister or during the time you
 17 were there, as to the extent of your authority
 18 as the deputy minister in relation to these
 19 regional health authorities?
 20 MR. ABBOTT:
 21 A. No.
 22 COFFEY, Q.C.:
 23 Q. So when you say you didn't have an authority,
 24 you really don't--you assumed you didn't, I
 25 take it?

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1 MR. ABBOTT:
 2 A. No, I'm not assuming anything, I'm telling you
 3 I didn't and for that two and a half period, I
 4 had no authority to direct the activities or
 5 the operations of a health authority.
 6 COFFEY, Q.C.:
 7 Q. And in the, under the legislation under which
 8 the ministry of health operated at the time,
 9 in a minister's stead, who acts in his stead?
 10 MR. ABBOTT:
 11 A. If it's a delegated? I would act in his stead
 12 if it was delegated to me to act. But the
 13 norm obviously of the minister's absence of
 14 any extended period would be the alternate
 15 minister.
 16 COFFEY, Q.C.:
 17 Q. So when you left the meeting on July 21st,
 18 what, if anything did you have, what
 19 impression did you have about the numbers
 20 involved? You had recorded, I understand, but
 21 did you have any understanding of the scope?
 22 MR. ABBOTT:
 23 A. Again, as I said, to give you an answer would
 24 be based on what has happened subsequently, so
 25 I don't recall a particular number. My sense

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1 would be, obviously, that we are talking in
 2 the hundreds, for sure, but whether or not a
 3 specific number was used at the briefing, I
 4 don't know.
 5 COFFEY, Q.C.:
 6 Q. If you look, please, at the bottom of page one
 7 of P-0075, under the heading "May 17th, 2005"
 8 at the bottom of that first page, there's a
 9 reference to, "It was decided to retest all
 10 negative results from 2002 to determine if
 11 these were isolated cases or symptomatic of a
 12 bigger issue. Specimens collected from 25
 13 women initially tested as negative in 2002
 14 were retested. 16 of these came back
 15 positive. Testing on 33 more patients found
 16 25 converted to positive, 12 of these patients
 17 have been informed by their oncologists."
 18 Presumably means informed of the changed
 19 result. What, if anything, was said at that
 20 meeting about notification of patients that
 21 had already occurred?
 22 MR. ABBOTT:
 23 A. I don't recall any particular discussion
 24 around that.
 25 COFFEY, Q.C.:

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1 Q. If 12 patients had been informed by their
 2 oncologists that they had been retested and
 3 results have changed, and your understanding
 4 at this point in time was this was, in effect,
 5 going to be kept, I'll use the word "secret"
 6 by Eastern Health in the sense of the fact
 7 that there was this retesting going on. Did
 8 you understand that on July 21?
 9 MR. ABBOTT:
 10 A. Well, I don't like your word of the use
 11 "secret" but in terms of ready to disclose,
 12 using that line as an example, as I said, I
 13 felt and I expressed the opinion and that's
 14 all it was, at the meeting that it terms of
 15 the number of patients, then that is the way
 16 eastern health was presenting the issue that
 17 it was timely to notify that patients, however
 18 many, that, in fact, there would be now
 19 retesting. So, -
 20 COFFEY, Q.C.:
 21 Q. You said what at the meeting, yourself, in
 22 terms of that issue?
 23 MR. ABBOTT:
 24 A. That was my--that's my point, is that I felt
 25 and expressed the opinion that, in fact, they

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1 should begin notification.
 2 COFFEY, Q.C.:
 3 Q. That's the individual patients.
 4 MR. ABBOTT:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. That they were being retested or that their
 8 tissues -
 9 MR. ABBOTT:
 10 A. No--yes, I'm just reading here now -
 11 COFFEY, Q.C.:
 12 Q. Sure.
 13 MR. ABBOTT:
 14 A. - but in terms of--yes, you've identified and
 15 you think you have--and you can identify the
 16 patients, then it would seem, based on this,
 17 that and based on the discussion that it would
 18 be timely now to start notification.
 19 COFFEY, Q.C.:
 20 Q. Okay. So, on this point, because you've
 21 identified, in fact, there's different
 22 categories of patients. You show up at this
 23 meeting and you would have read this or had it
 24 read to you at the meeting, wouldn't you?
 25 MR. ABBOTT:

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1 A. Well, again whether it was specifically--we
 2 didn't go through it line by line, I'm pretty
 3 well sure of that, but the gist of it and the
 4 issues were certainly put on the table.
 5 COFFEY, Q.C.:
 6 Q. So, you understood that there were a number of
 7 women who originally tested, initially tested
 8 in 2002 and categorized as negative -
 9 MR. ABBOTT:
 10 A. Yeah.
 11 COFFEY, Q.C.:
 12 Q. - had already been retested. The actual
 13 numbers according to this are there. And just
 14 a quick glance at those four lines, three or
 15 four lines at the bottom of that page
 16 indicates that--let me see--25 and 16 which
 17 would be 41 had converted to positive, but
 18 only 12 of those had been informed.
 19 MR. ABBOTT:
 20 A. Um-hm.
 21 COFFEY, Q.C.:
 22 Q. So, that would leave 29 that hadn't been
 23 informed, the difference. So, was it your
 24 position on that that the 29 or those who had
 25 converted, but hadn't been told yet, should be

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1 told?

2 MR. ABBOTT:

3 A. It wasn't, as I said, it wasn't on that

4 specific sample there -

5 COFFEY, Q.C.:

6 Q. Sure.

7 MR. ABBOTT:

8 A. - it was on the issue overall that based on

9 this evidence there that it would be timing

10 now to notify all who could be retested, that

11 now--that process will be starting.

12 COFFEY, Q.C.:

13 Q. Was there any discussion, I mean, you put that

14 forward--I take it, Mr. Ottenheimer's position

15 in that regard was what?

16 MR. ABBOTT:

17 A. Again, as I said, the eastern health would, in

18 terms of the process that they were following,

19 the timeliness, they weren't ready, they

20 wanted to wait to get the results back, you

21 know, that they were going to retest. They

22 felt they weren't quite in the position to do

23 the notification and wanted really some more

24 time to do that. And the conclusion of the

25 discussion around that, I think the minister

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1 concurred with that advice. So, if I may, the

2 feeling I had around why I thought the issue

3 was important to have the briefing, I came

4 away from the meeting thinking that

5 notification--if we're going to err, we should

6 err on notification, not to hold off much

7 longer.

8 COFFEY, Q.C.:

9 Q. Was Mr. Ottenheimer of the same mind you were

10 in terms of what he said? I'm not suggesting

11 he was or wasn't, I'm just -

12 MR. ABBOTT:

13 A. No, and I don't think he expressed at the

14 meeting, which is not uncommon for a minister

15 to do, his view. He wants the view of those

16 who are briefing him, in the room, and then to

17 take that away. But as I said, I think--my

18 sense at the end of the meeting that he was

19 concurring with eastern health for that

20 immediate period and that was it.

21 COFFEY, Q.C.:

22 Q. He was going to give them a certain amount of

23 time to -

24 MR. ABBOTT:

25 A. Yes.

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1 COFFEY, Q.C.:

2 Q. That was your sense of it at the time?

3 MR. ABBOTT:

4 A. Yes, time being, you know, we weren't talking

5 a long time, we were talking well, you know,

6 come back to me and tell me how we can do

7 this, how best to do this in a reasonable

8 period of time.

9 COFFEY, Q.C.:

10 Q. Was there any discussion at the meeting about,

11 well what's going to happen in the meantime if

12 this does go public, as it were? Was there

13 discussion during the July 21 meeting about

14 what might happen if, for example, any of

15 those 12 patients who'd already been told

16 about -

17 MR. ABBOTT:

18 A. Well, yes, and I was trying to follow your

19 question and I guess that was one of the

20 points, if there are patients that have

21 already been notified, people know that this

22 is going on, St. John's and Newfoundland being

23 what it is, just communication of people, that

24 people were, patients and families were going

25 to know this was going on. So why not come

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1 forward now to say, folks, we have an issue.

2 We are having to retest. We'll keep you

3 informed, you know, all the appropriate steps

4 and so why not do that now?

5 COFFEY, Q.C.:

6 Q. Yes.

7 MR. ABBOTT:

8 A. That was, sort of, again, that was sort of

9 where I was coming from. But at the same time

10 I knew eastern health had to reach that same

11 conclusion as would the minister. They

12 weren't there. And I had the luxury of being

13 able to say, I did not have to deliver on it.

14 COFFEY, Q.C.:

15 Q. Now, at that meeting were you told by anybody

16 from eastern health, you know, was any--do you

17 recall the Department of Health or the

18 minister being told by anybody from eastern

19 health that they already had draft press

20 releases. They already had a draft letter to

21 patients.

22 MR. ABBOTT:

23 A. No, no, I don't think that came up.

24 COFFEY, Q.C.:

25 Q. Was there any discussion about well, with

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1 eastern health's people at the meeting, well
 2 what's going to happen if tomorrow or this
 3 afternoon this is in the media. Did anyone
 4 ever put to them squarely, well, what are you
 5 going to do about it, Mr. Tilley, if this is
 6 in the -
 7 MR. ABBOTT:
 8 A. No, I don't think the conversation got to that
 9 point. I know what you're asking, but I don't
 10 think it got to that point.
 11 COFFEY, Q.C.:
 12 Q. Looking back on it, do you find it puzzling
 13 that it didn't?
 14 MR. ABBOTT:
 15 A. No, not based on the way the briefing went,
 16 no.
 17 COFFEY, Q.C.:
 18 Q. If we could look, please, at Exhibit P-0073.
 19 Again, I appreciate, Mr. Abbott, that you
 20 certainly had not been sent a copy, I gather,
 21 of this e-mail or these e-mails. But the
 22 subject matter, it's an easy way to
 23 encapsulate a particular subject matter and
 24 ask you if it was discussed. The e-mail at
 25 the bottom of this exhibit, the one from

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1 Heather Predham, July 19, 2005 at 8:22 a.m.
 2 The subject is "Information from HIROC". And
 3 the third paragraph, well actually, I'm going
 4 to go back. The second paragraph talks about
 5 the class action lawsuit against Health
 6 Labrador re: processing of equipment. And
 7 I've asked you about that and you don't recall
 8 that coming up at the meeting. But the idea--
 9 in the third paragraph, "the organization felt
 10 the need to disclose publicly and ran it by
 11 their legal counsel and then wrote letters to
 12 every person affected and sent out a news
 13 release (sound familiar). Their vulnerability
 14 comes from the lack of weighing out the risk
 15 from the exposure versus the anxiety of being
 16 told about it. In this case the risk from the
 17 exposure was very small. This leads us to our
 18 situation. It's not that they don't want us
 19 to disclose, they just don't want us to
 20 disclose until we are sure of our facts".
 21 She mentions a voice mail. Says, "I guess
 22 we'll have to re-evaluate where we are before
 23 we send those letters, etc."
 24 Now sir, did that come up or any of that
 25 subject matter come up during the meeting of

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1 July 21?
 2 MR. ABBOTT:
 3 A. Well the fourth paragraph which speaks to the
 4 disclosure and not to disclose until we are
 5 sure of our facts, that theme was certainly
 6 prevalent in our July 21 meeting, but it
 7 wasn't couched in terms of legal constraints,
 8 if I can put it that way, or--previous example
 9 in Labrador, it was, I think they were trying
 10 to--that's how they positioned the disclosure
 11 issue.
 12 COFFEY, Q.C.:
 13 Q. The position based upon they, eastern health,
 14 don't want to disclose until we, eastern
 15 health, are sure of our facts.
 16 MR. ABBOTT:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. The position they were putting forward.
 20 MR. ABBOTT:
 21 A. Yes.
 22 COFFEY, Q.C.:
 23 Q. But the fact that that might be able to be
 24 traced back to HIROC and/or health Labrador
 25 issue, that was not articulated during the

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1 meeting that you can recall?
 2 MR. ABBOTT:
 3 A. No, certain--and I said, even if it came up,
 4 it wasn't the main theme that they were
 5 focused on, having the detail to, if they do
 6 go, do they have enough information to
 7 respond, those kinds of things.
 8 COFFEY, Q.C.:
 9 Q. You just indicated, if it did come up, so is
 10 it possible that it came up?
 11 MR. ABBOTT:
 12 A. Well, you know, you indicated that Darrell
 13 Hynes suggested it did, but I just don't
 14 recall. So, now, I'm again having to say
 15 that, but I don't know.
 16 COFFEY, Q.C.:
 17 Q. So, in that regard, I take it you're in a
 18 position where you can't say it didn't come
 19 up, if Mr. Hynes comes in and says it did.
 20 Then you're not going to contradict him, you
 21 just don't recall -
 22 MR. ABBOTT:
 23 A. No, I would accept Mr. Hynes' views on that or
 24 comments without reservation.
 25 COFFEY, Q.C.:

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1 Q. When the meeting of July 21 ended, in whose
 2 court was it, the next move as it were between
 3 the department and eastern health?
 4 MR. ABBOTT:
 5 A. It was eastern health were to get back to the
 6 minister as to where they were going with this
 7 issue next and to make sure that he was
 8 advised on that and meet, if need be.
 9 COFFEY, Q.C.:
 10 Q. By when?
 11 MR. ABBOTT:
 12 A. I don't know if there was a time frame put on
 13 that, but I think certainly the impression
 14 would be as soon as possible.
 15 COFFEY, Q.C.:
 16 Q. Now there is, in this P-0075, please, thank
 17 you, Registrar, page 3, please. Thank you.
 18 There is in the second last paragraph on this
 19 page entitled, the word at the top of the page
 20 is "Actions" in italics. The second last
 21 paragraph refers to eastern health Vice
 22 President of Quality Diagnostic and Medical
 23 Service, Dr. Robert Williams has also asked
 24 that an "investigation be conducted into the
 25 five week stoppage of immunoperoxidase

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1 staining for ER/PR receptors in 2003 by Dr.
 2 Ejeckam". Did that topic come up during the
 3 meeting?
 4 MR. ABBOTT:
 5 A. Not that I remember.
 6 COFFEY, Q.C.:
 7 Q. If we could look please at Exhibit P-0159.
 8 Now, these are notes, I gather, taken by
 9 Carolyn Chaplin and she'll be along eventually
 10 to identify them, and these are in relation to
 11 that July 21 meeting. "Here"--right there -
 12 MR. ABBOTT:
 13 A. I see it there, yes.
 14 COFFEY, Q.C.:
 15 Q. - about a third of the way down the page.
 16 "2003, six week disruption in testing" and the
 17 written briefing says "five week stoppage of
 18 immunoperoxidase staining for ER/PR receptors
 19 in 2003", by Dr. Ejeckam. So, her note would
 20 suggest that at least it came up during the
 21 meeting.
 22 MR. ABBOTT:
 23 A. Fair enough, but again, I didn't recall that,
 24 again, standing out in the discussion.
 25 COFFEY, Q.C.:

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1 Q. Your understanding by the time that meeting
 2 ended on July 21 was what in relation to when
 3 this ER/PR matter had first come to the
 4 attention to eastern health or the health care
 5 corporation?
 6 MR. ABBOTT:
 7 A. Well, in terms of the current issue, it would
 8 have been based on that briefing note in the
 9 spring of 2005.
 10 COFFEY, Q.C.:
 11 Q. Would it have been of interest to you at the
 12 time, as the deputy minister of Health, if
 13 there was a reference to some issue having
 14 arisen about this testing back in 2003?
 15 MR. ABBOTT:
 16 A. It's hard to say in the context obviously what
 17 it meant, what that particular disruption or,
 18 you know, stoppage might have been, what it
 19 was for. Was it, again, within the
 20 operations of Eastern Health? I can only
 21 assume that there are disruptions and delays
 22 and stoppage of all kinds of services from
 23 time to time that would never, you know, come
 24 to my attention, or even if it did, that it
 25 would cause me to act or to ask anything

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1 further, and it was just a piece of
 2 information in passing.
 3 COFFEY, Q.C.:
 4 Q. And here, if we look at--again, at P-0075,
 5 please? That second last paragraph on page
 6 three, though this in fact refers to a
 7 stoppage of immunoperoxidase staining for
 8 ER/PR receptors. This is the particular
 9 stains that are in issue now.
 10 MR. ABBOTT:
 11 A. Yes.
 12 COFFEY, Q.C.:
 13 Q. In '05.
 14 MR. ABBOTT:
 15 A. Um-hm.
 16 COFFEY, Q.C.:
 17 Q. And as deputy minister of Health, wouldn't it
 18 be of interest to you to know, well, what had
 19 caused--if it's the same staining and it arose
 20 two years before or there was some concern
 21 about it two years before, would you want to
 22 know what was all that about?
 23 MR. ABBOTT:
 24 A. Well, again, it was in the context of the
 25 overall issue, so you know, I can say that--or

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1 you can ask me about any particular point
 2 there, but you know, the simple answer is no,
 3 unless--and this was not the case, that the
 4 CEO had specifically, you know, said to me, as
 5 the deputy minister, "we have an issue, and
 6 here's the cause, and we need some support or
 7 direction, what have you, from either the
 8 minister or the department." Other than that,
 9 it would have been left, as many issues are--
 10 all issues are really, even to this day, left
 11 with the authority to address and sort out.
 12 COFFEY, Q.C.:
 13 Q. Sir, could you tell us, please, then--could
 14 you just look at Exhibit P-0159, please, page
 15 two? This refers to--and again, this is just
 16 the second page of Ms. Chaplin's notes. She
 17 has "messaging, public message, individual
 18 message," and then "positioning, option for
 19 retesting, new tech available, etcetera,
 20 instead of 'errors in testing'" So did the
 21 idea of errors in testing come up during that
 22 July 21st meeting?
 23 MR. ABBOTT:
 24 A. Based on the briefing and what we were hearing
 25 from Eastern Health was in the issue around

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1 conversion rates and the word "error" I don't
 2 recall it standing out. They could very well
 3 have said one shouldn't necessarily refer to
 4 it as an error. But, and she has it in quotes
 5 I noticed, but I never came away from the
 6 meeting with the view that errors were the
 7 basis of the issue.
 8 COFFEY, Q.C.:
 9 Q. So what did you come away from that meeting
 10 with?
 11 MR. ABBOTT:
 12 A. Well, it was a very complicated process and
 13 there now was a new system. It was brought to
 14 the Eastern Health lab attention that there's
 15 a concern about the testing results and
 16 through retesting, there were quite a number
 17 of conversions, and we are trying to find out
 18 what it is, what it means, and what we need to
 19 do to address it, and that was what I took
 20 away from the meeting.
 21 COFFEY, Q.C.:
 22 Q. If we look at P-0075, page three, please?
 23 Just looking at that paragraph right there
 24 next to the cursor, "a technology consultant
 25 from Mount Sinai will be reviewing our

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1 laboratory to assess the immunoperoxidase
 2 system, and at that time, we will ask the
 3 consultant his or her opinion of the past
 4 several years results under the DAKO
 5 methodology and for advice on the future
 6 direction of the immuno service." So here
 7 there's an assertion that someone from Mount
 8 Sinai, and there's something about technology,
 9 will be reviewing the lab to assess the
 10 immunoperoxidase system. Were any questions
 11 raised during the July 21st meeting about,
 12 well, why is that necessary?
 13 MR. ABBOTT:
 14 A. No question raised. It was a statement of
 15 fact that they wanted to bring some expert--or
 16 external expert advice to Eastern Health to
 17 review. They recognized they had a problem,
 18 but the nature of it, and what was
 19 contributing to it, they were still working
 20 that through and felt, which I think I
 21 certainly felt at the meeting and others, that
 22 you know, this makes sense that you would
 23 actually bring somebody from the outside to
 24 look at your system to see if, in fact, they
 25 can define where there may be deficiencies.

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1 COFFEY, Q.C.:
 2 Q. With respect to that, ER, estrogen receptor
 3 stain and progesterone receptor stain are two
 4 stains, two separate stains, okay.
 5 MR. ABBOTT:
 6 A. Yeah.
 7 COFFEY, Q.C.:
 8 Q. What, if anything--what, if any, understanding
 9 did you have about the relationship of those
 10 two stains to immunoperoxidase staining?
 11 MR. ABBOTT:
 12 A. I haven't--I can make--did not make any
 13 connection or have any understanding of the
 14 basis of your question.
 15 COFFEY, Q.C.:
 16 Q. Well, at any point in time, did you have any
 17 understanding or acquire any understanding as
 18 to whether or not ER and PR stains are merely
 19 two of many more IHC stains?
 20 MR. ABBOTT:
 21 A. No.
 22 COFFEY, Q.C.:
 23 Q. So despite the briefing that you had by Dr.
 24 Williams that day and any briefings
 25 subsequently, did you ever acquire any

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1 understanding about how many IHC stains that
 2 lab actually processes?
 3 MR. ABBOTT:
 4 A. No. No, and if I was to look for it, I would
 5 have gone to Eastern Health.
 6 COFFEY, Q.C.:
 7 Q. So when you were told that "the technology
 8 consultant will be reviewing our lab to assess
 9 the immunoperoxidase system," did you
 10 understand that this technology consultant was
 11 looking at ER and PR alone or anything wider
 12 or did you know?
 13 MR. ABBOTT:
 14 A. I'm--you know, again, I never thought of it
 15 one way or the other. They were coming in.
 16 If ER/PR was the issue that he'd be--he, the
 17 consultant, would be focused on, or something
 18 broader, he or she would address that.
 19 THE COMMISSIONER:
 20 Q. Are you started--could we just go back for a
 21 moment to the role that you saw yourself
 22 playing in this meeting. I'm getting an
 23 impression of how you felt your role was in
 24 the context of being deputy minister and vis-
 25 a-vis a health authority, and I just want to

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1 make sure that I'm not misinterpreting what
 2 you're saying. It seems to me that you are
 3 saying that effectively you had no role vis-a-
 4 vis a health authority. That health
 5 authorities report to ministers. You might
 6 facilitate their access to the minister, but
 7 your presence at any meeting with the minister
 8 where the health authority was reporting to
 9 him, might be to aid the minister if he wished
 10 it, but you really weren't there because you
 11 had any role to properly play, other than
 12 that?
 13 MR. ABBOTT:
 14 A. You know, fundamentally that would be it.
 15 Obviously ministers would, from time to time,
 16 would rely on the deputy minister in terms of
 17 an issue affecting a health authority to seek
 18 further information, clarification, some
 19 advice around that, but at the core, from the
 20 accountability and roles and responsibilities
 21 here, where you had two tracks here. We had
 22 the authorities on one track. I was on the
 23 department in another track, and we would now,
 24 would--in terms of the working relationships,
 25 certainly on operational issues. The

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1 department obviously responsible for
 2 legislation, policy issues, regulations and
 3 those kinds of things and would work with the
 4 health authorities and others in that process.
 5 But once the legislation was done, once the
 6 regulations were in place, the policy in
 7 place, the authority would and had full
 8 responsibility to enact and follow on that,
 9 and a large part of our activity, the
 10 department dealing with the health
 11 authorities, would be around different--
 12 certainly on the acute care services, hospital
 13 services, our involvement with the health
 14 authorities were very, very limited and they
 15 were limited to resource allocation. We need--
 16 we have the service. We have a budget and we
 17 need this financial support. So the bulk of
 18 our engagement with the health authorities
 19 tended to--around acute care services, would
 20 be in that type of discussion, very little--I
 21 mean, we did not get into program development
 22 issues with them, by any stretch, on a regular
 23 basis -
 24 THE COMMISSIONER:
 25 Q. But wasn't it up to the minister to determine

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1 if a new program was to be implemented or not?
 2 I understood from what Mrs. Dawe was saying -
 3 MR. ABBOTT:
 4 A. Yes.
 5 THE COMMISSIONER:
 6 Q. - that she didn't have the authority to say
 7 "we're going to open a department of X or Y,
 8 unless the minister said go do that."
 9 MR. ABBOTT:
 10 A. Yes, but then it would be--and again,
 11 depending on the situation of the case,
 12 because you would find in a number of
 13 instances where health authorities were
 14 amending programs, delivering and changing
 15 programs, adding services, without specific
 16 approval from the minister. They would do it
 17 based on, you know, patient and client need
 18 and if they had the financial resources to do
 19 that. So it is certainly not clear cut. But
 20 certainly by practice on the hospital side of
 21 the operation, the department had very limited
 22 involvement where, as in some other services,
 23 we were intimately involved with child
 24 protection services, those kinds of things.
 25 So, and it varied based on the program or the

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1 service.

2 THE COMMISSIONER:

3 Q. Well, would it surprise you to know that you

4 got the information about this problem before

5 the chairman of the Board did?

6 MR. ABBOTT:

7 A. Yes, and no. Yes, you would expect that that

8 would have been the case. But as evidenced by

9 the relationships between players here and

10 positions that sometimes the formal systems,

11 at least on paper, were, you know, there's

12 some shortcuts, shall we say. So but then,

13 you know, in this case why, you know, Mr.

14 Tilley did not--he felt that he needed to come

15 right to the minister as opposed to his board

16 chair and then to the minister, I don't know

17 the answer to that.

18 THE COMMISSIONER:

19 Q. You see, my problem is that I'm getting two

20 pictures. One is here's the formal structure.

21 MR. ABBOTT:

22 A. Um-hm.

23 THE COMMISSIONER:

24 Q. Here's how this works in the grand theory.

25 And then what you're seeing are places where

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1 maybe on the ground things don't quite work

2 like they do in the grand theory.

3 MR. ABBOTT:

4 A. Um-hm.

5 THE COMMISSIONER:

6 Q. And one of the things that I've noticed in the

7 descriptions of what occurred thus far is that

8 in respect of ER/PR there seemed to be a lot

9 more traffic with the Government of

10 Newfoundland than there was within their own

11 structure where I would have anticipated a

12 fair amount of contact between the executive

13 and the board on the subject through their

14 CEO, naturally enough.

15 MR. ABBOTT:

16 A. Yeah.

17 THE COMMISSIONER:

18 Q. But it seems to me that once this thing broke,

19 when Eastern Health went outside of its

20 operations, it had a tendency to go to the

21 Department of Health rather than the going in

22 the way that the structure official might

23 indicate one should go.

24 MR. ABBOTT:

25 A. Yes. And -

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1 THE COMMISSIONER:

2 Q. So I'm left wondering is--does the official

3 structure really reflect what happens when

4 something major occurs within an authority?

5 MR. ABBOTT:

6 A. Well, if I may on that point or, you know,

7 your observation, Commissioner, is for me and

8 my premise on this is that this really should

9 never have come to the department other than

10 the CEO, through the board chair would say,

11 "We are now informing our patients and the

12 public of a critical issue and we need to

13 advise you, Minister, we are doing that

14 because you will be accountable and are

15 accountable, obviously, for that in the House

16 of Assembly and the public's mind."

17 THE COMMISSIONER:

18 Q. Um-hm.

19 MR. ABBOTT:

20 A. And that's where I am and that was my point

21 earlier is so George Tilley did not need to

22 call me to set up the meeting. He did. He

23 normally should have advised his chair and

24 said, "Look, Mrs. Dawe, we need to brief the

25 minister on this" and set that up. The

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1 department might have been, by then whether it

2 was me or somebody else, to, you know, sit in

3 on the meeting. But this was and still is, in

4 my mind, a significant operational issue that

5 is left and should be left in the health

6 authority's hands to address, resolve and

7 communicate. As we've seen, it got murky, at

8 best, and consequently the lines look--are

9 blurred and ideally needs to be, you know,

10 restated. When I was chair of the board, it

11 was quite clear to me, you know, what the

12 authority of that day had in terms of

13 responsibility and the relationship with the

14 minister and the department, and that we

15 should try to keep the lines as clear as

16 possible. And that's my premise here. So

17 when I look at this issue, when it came to me,

18 why I didn't, as Mr. Coffey may be suggesting,

19 pushing down into the issues, is that the

20 issue was over here, it belonged over here,

21 the expertise was over here. We didn't have

22 and never have the approach that we would also

23 have whole set of experts over here and

24 another set over here. We relied on Eastern

25 Health. Obviously if the minister did not

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1 have the confidence in what Eastern Health was
 2 doing on this or any other issue, as been in
 3 the past, then he has a role and right and
 4 responsibility to address that with the board,
 5 board of trustees. And we have seen evidence
 6 of that in recent time. So it's--so that's--
 7 the closer one can state (phonetic) in that
 8 sphere, the easier it is, I guess, to dissect
 9 the decision making around that.

10 THE COMMISSIONER:
 11 Q. All right. Thank you.

12 COFFEY, Q.C.:
 13 Q. Can I ask a question or two before you
 14 conclude, Commissioner? One is you did take
 15 Mr. Tilley's phone call, you did set up the
 16 meeting?

17 MR. ABBOTT:
 18 A. Um-hm.

19 COFFEY, Q.C.:
 20 Q. In light of your assumptions about the way and
 21 your views about the way things should
 22 operate, of course the question naturally
 23 arises is why, why wouldn't you tell Mr.
 24 Tilley, because you would have known him as
 25 George, I gather, say, you know, "Why are you

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1 calling me? I mean, have you spoken to Ms.
 2 Dawe and have her call the minister?" I mean,
 3 at that time. That didn't happen, so why not?

4 MR. ABBOTT:
 5 A. Because he made a request of me and I conceded
 6 to that request. And again, that was no great
 7 mystery. When I look back on it, yeah, where
 8 was the board chair. Because I, when I was
 9 the board chair, I may have had one or two
 10 meetings with the department than with the
 11 CEO. But I also knew that the CEO would have
 12 had meetings, obviously, without, without me,
 13 but I would have been informed. Now, whether
 14 that was a hiccup in their particular internal
 15 communications, you know, they've addressed
 16 that, I guess. But that's--you know, so the
 17 real world is, you know, obviously different
 18 than what we would certainly like it to be.
 19 The new legislation, which we have, was trying
 20 to be a bit clearer on those, so that the
 21 minister can direct, he should direct and that
 22 the boards would be responsive to that. There
 23 is no reference to the department, no
 24 reference to the deputy minister because
 25 that's not the way it happens.

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1 COFFEY, Q.C.:
 2 Q. Now with respect to this, did you ever voice
 3 any reservations to anyone about this while
 4 you were deputy minister, along the lines of
 5 what you just told the Commissioner?

6 MR. ABBOTT:
 7 A. About -

8 COFFEY, Q.C.:
 9 Q. About the relationship and the sense and
 10 interaction, the way things were -

11 MR. ABBOTT:
 12 A. No, because it generally, it worked the way it
 13 was designed. From time to time we had issues
 14 that do cross over, but I put in motion a
 15 process where the CEOs and myself would speak
 16 in, you know, collectively on issues, but if a
 17 board had a particular critical issue that
 18 they wanted to bring forward, I said to the
 19 CEO of the day, talk to your board chair and
 20 have the board chair set up that meeting.

21 COFFEY, Q.C.:
 22 Q. So when was that?

23 MR. ABBOTT:
 24 A. You know, throughout the two and a half years
 25 I was there, certainly after April, 2005, when

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1 the boards were in place--yes, 2005 and,
 2 obviously periodic meetings were held. And,
 3 if I may, the flip side here is that the
 4 minister is not always clearly understood,
 5 that dynamic and would have said--and have
 6 said to me, "John, I want you to tell the
 7 board to do this, this and this" and I said,
 8 "Well now, minister, that's not my job. Your
 9 job is to pick up the phone and call the board
 10 chair and say you think or you want this to be
 11 done." And because if you really need it to
 12 be done, then that's what he needed to do.
 13 So, you know, there was--needed to be clear
 14 understanding on everybody's part as to when
 15 critical issues were to be addressed that to
 16 the degree we could, we would follow those
 17 lines of authority.

18 COFFEY, Q.C.:
 19 Q. So in terms of that, what was your
 20 understanding about why George Tilley was
 21 informing yourself or the minister or both of
 22 you at all about ER/PR, because you could not
 23 give any direction?

24 MR. ABBOTT:
 25 A. Yeah, and when I look back at the time and

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1 when I look back at it, hasn't changed. They
 2 were getting ready to go public and that they
 3 wanted to advise the minister that this issue
 4 is there, we will be going public, there's
 5 patient disclosure and reporting to the
 6 public, and this is a heads up for you. They
 7 didn't come in and ask us for, the department,
 8 for anything to help them or the minister,
 9 other than to sanction their approach.

10 COFFEY, Q.C.:

11 Q. Well why would he need to sanction your
 12 approach, that's what I'm getting at.

13 MR. ABBOTT:

14 A. Because they appreciated that this was going
 15 to be, once it came out, to be a significant
 16 public issue and the minister of the day will
 17 be accountable for responding to the House and
 18 to the public, through the media, generally,
 19 on this issue and it was their obligation to
 20 do that.

21 COFFEY, Q.C.:

22 Q. So if the minister did not sanction it, they'd
 23 have to act in a different manner?

24 MR. ABBOTT:

25 A. The point would be if the minister said do "A"

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1 verses "B" or "B" verses "C", then if they
 2 were not comfortable with that, then there
 3 would be, obviously a series of discussions
 4 with the board and figure that out, but they,
 5 the CEO was accountable to the minister
 6 through the board chair and to me, it's as
 7 simple as that. He, Mr. Tilley recognized the
 8 nature of the issue, the importance of the
 9 issue and that the minister needed to be in
 10 the loop.

11 COFFEY, Q.C.:

12 Q. Do you know if Mr. Ottenheimer at any point
 13 understood that he, in effect, from that
 14 model, had veto power? Did you ever make that
 15 plain to Mr. Ottenheimer that in terms of,
 16 like the approach by Eastern Health on
 17 communications and disclosure, did you ever
 18 tell Mr. Ottenheimer in effect it's my view -

19 MR. ABBOTT:

20 A. We never had that discussion and I don't think
 21 it ever got--I don't think it ever got to the
 22 point that he, you know, he fundamentally said
 23 I disagree and I want them to do something
 24 different, didn't tell them and told me, that
 25 never happened or occurred or even got close

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1 to that. He was comfortable with the advice
 2 he was given, but or an and to that, in saying
 3 that, he was assuming and working on the
 4 premise that this was going to be, like
 5 imminent, not weeks and months down the road.

6 COFFEY, Q.C.:

7 Q. Just before we break, Commissioner, I said I
 8 wanted to come back to it, that exhibit P-
 9 0075, page 3, second last paragraph. The
 10 reference to 2003, now you had been board
 11 chair of the health care corporation of the
 12 health care corporation in 2003.

13 MR. ABBOTT:

14 A. That's right.

15 COFFEY, Q.C.:

16 Q. And when you read that three page briefing
 17 note, did it occur to you, "that was on my
 18 watch"?

19 MR. ABBOTT:

20 A. Well, if it didn't then; it certainly has
 21 since, but as I said, that was certainly new
 22 information to me.

23 COFFEY, Q.C.:

24 Q. It was new when you read this. You hadn't
 25 heard about this when you were board chair at

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1 all?

2 MR. ABBOTT:

3 A. That's right. So again, it raises a whole set
 4 of questions, the board was not apprised of
 5 that, the closing down of that part of the lab
 6 for five weeks. And you've asked yourself why
 7 that would be the case And -

8 THE COMMISSIONER:

9 Q. Operational as opposed to a policy issue.

10 MR. ABBOTT:

11 A. Absolutely. It was -

12 THE COMMISSIONER:

13 Q. And would you have expected to know about it?

14 MR. ABBOTT:

15 A. No.

16 THE COMMISSIONER:

17 Q. You don't think that would have been something
 18 that was big enough to bring to the attention
 19 of -

20 MR. ABBOTT:

21 A. No, unless there was some, you larger, piece
 22 that was impacting on the service overall and
 23 a real concern about patient safety or
 24 concerns that were really critical to changing
 25 a policy or procedure that the board should be

1 apprised of.
 2 COFFEY, Q.C.:
 3 Q. So, in terms of--you're being told then in
 4 2005 there's a problem with ER/PR, probably
 5 affects hundreds of patients, potentially.
 6 MR. ABBOTT:
 7 A. Yes.
 8 COFFEY, Q.C.:
 9 Q. We're looking into it. There was a problem
 10 with ER/PR staining in 2003 while you were a
 11 board chair.
 12 MR. ABBOTT:
 13 A. Um-hm.
 14 COFFEY, Q.C.:
 15 Q. Alarm bells didn't go off for you in the sense
 16 of wait now, that was me, in a sense, I was
 17 chair of the board, ER/PR is the same four
 18 letters as they're talking about to me now.
 19 MR. ABBOTT:
 20 A. Um-hm.
 21 COFFEY, Q.C.:
 22 Q. And it didn't, at the time, stand out to you
 23 in terms of--I'll give you pause at that
 24 point, you don't recall whether it gave you
 25 pause at the time?

1 CERTIFICATE
 2 I, Judy Moss, hereby certify that the foregoing is
 3 a true and correct transcript of the Commission of
 4 Inquiry on Hormone Receptor Testing heard on the
 5 1st day of May, A.D., 2008 before The Honourable
 6 Madam Justice Cameron, Commissioner sitting at the
 7 Commission of Inquiry, St. John's, Newfoundland and
 8 Labrador and was transcribed by me to the best of
 9 my ability by means of a sound apparatus.
 10 Dated at St. John's, Newfoundland and Labrador
 11 this 1st day of May, A.D., 2008
 12 Judy Moss

1 MR. ABBOTT:
 2 A. Not--no, no, it didn't.
 3 COFFEY, Q.C.:
 4 Q. Thank you, Commissioner.
 5 THE COMMISSIONER:
 6 Q. All right then, we'll break for the day. 9:30
 7 in the morning. Thank you.

<p align="center">-&-</p> <p>& [1] 157:13</p> <hr/> <p align="center">-?-</p> <p>' [1] 174:8 '02 [1] 40:23 '02/'03 [2] 60:16,17 '04 [7] 40:24 142:9 151:19 152:7 154:9 172:21 173:3 '05 [5] 142:9 150:15 173:3 254:9 296:13 '06 [1] 150:25 '07 [7] 151:8 245:1 250:16 251:11,19 254:8 254:9 '90s [2] 152:13 153:23 '97 [3] 152:17,18 153:24 '98 [1] 13:2 '99 [2] 11:5 13:3 'changes [1] 174:3 'errors [1] 297:20</p> <hr/> <p align="center">---</p> <p>-as [1] 55:18 -I [1] 22:5 -I'm [1] 229:6 -we [1] 303:16 -you [1] 55:14</p> <hr/> <p align="center">-0-</p> <p>0075 [1] 315:9 0128 [1] 171:11 0800 [2] 4:21 15:21 0878 [2] 5:3,12 0887 [2] 5:3,12 0899 [1] 4:21</p> <hr/> <p align="center">-1-</p> <p>1 [7] 1:4 2:2 110:21 120:9 166:9 171:9 222:1 1.8 [3] 110:18 111:1,19 1.8-1.9 [1] 109:24 1.9 [3] 110:18 111:1,19 100 [1] 194:14 10:25 [1] 22:7 10:32 [5] 197:1 199:3,18 225:22 261:12 10:51 [1] 242:12 11 [1] 21:16 11th [4] 21:14 22:10,12 187:24 11th-12th [1] 23:3 12 [9] 53:5 59:16,19 226:10,11 281:16 282:1 284:18 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