

REDACTED LETTER TO HEALTH CARE PROVIDERS REGARDING THEIR VIOLATION OF THE BC INFANTS ACT "MATURE MINOR" PROVISION FOR CONSENT TO HEALTH CARE

Date: November 22, 2020

To:

From:

Re: \*\*\*\*\*; violations of: the BC Infants Act, Canadian Charter of Rights and Freedoms, and BC Human Rights Code

1 - This letter is written as a warning of potential legal action.

2 - \*\*\*\*\*'s health care providers have acted in an intolerable, dangerous, life-threatening, harmful, contemptuous, cavalier, arrogant, prejudicial, discriminatory, racist, sexist, stereotypical, unprofessional, invasive, authoritarian, grossly negligent, arbitrary, overbroad, and illegal manner regarding depriving his mother of her parental rights, interfering with her parental duties, and in the provision of health care to her son.

3 - Their actions are neither in accordance with the law nor with the principles of fundamental justice in a free and democratic society.

4 - Violating a right as fundamental and crucial to a free and democratic society as parents' right to raise their children, including the right to consent to or refuse medical decisions for their child, requires stringent safeguards and thorough assessment and documentation to be legally valid in accordance with the BC Infants Act.

5 - The Supreme Court of Canada states in 1995 B. (R.) v. Children's Aid Society of Metropolitan Toronto:

**"The right to nurture a child, to care for its development, and to make decisions for it in fundamental matters such as medical care, are part of the liberty interest of a parent. The common law has long recognized that parents are in the best position to take care of their children and make all the decisions necessary to ensure their well-being. This recognition was based on the presumption that parents act in the best interest of their child. Although the philosophy underlying state intervention has changed over time, most contemporary statutes dealing with child protection matters, and in particular the Ontario Act, while focusing on the best interest of the child, favour minimal intervention. In recent years, courts have expressed some reluctance to interfere with parental rights, and state intervention has been tolerated only when necessity was demonstrated, thereby confirming that the parental interest in bringing up, nurturing and caring for a child, including medical care**

**and moral upbringing, is an individual interest of fundamental importance to our society.”**

6 - Moreover, in 2009 *A.C. v. Manitoba (Director of Child and Family Services)*, the Supreme Court of Canada has found that a so-called "mature minor's" consent to accept or refuse health care is not absolute even when health care providers' and/or a court's and/or other state agent's assessment of maturity and capacity has been accepted as correct by that court.

7 - The BC Infants Act defines health care:

**"health care" means anything that is done for a therapeutic, preventive, palliative, diagnostic, cosmetic or other health related purpose, and includes a course of health care;**

and health care provider:

**"health care provider" includes a person licensed, certified or registered in British Columbia to provide health care.**

8 - Individuals including \_\_\_\_\_

\_\_\_\_\_ have provided and/or are currently providing health care as defined in the Infants Act to an infant (minor), namely \*\*\*\*\*.

9 - Health care has been and/or is being provided to and/or refused by the infant without the consent and/or without the knowledge of and/or without informing his mother, \*\*\*\*\*.

10 - The Infants Act allows infants (minors) to consent to or refuse to consent to health care provided by health care providers only under clearly specified conditions:

**(3) A request for or consent, agreement or acquiescence to health care by an infant does not constitute consent to the health care for the purposes of subsection (2) unless the health care provider providing the health care**

**(a) has explained to the infant and has been satisfied that the infant understands the nature and consequences and the reasonably foreseeable benefits and risks of the health care, and**

**(b) has made reasonable efforts to determine and has concluded that the health care is in the infant's best interests.**

11 - An infant's consent or refusal to consent cannot be given "once and for all"; it must be given for each and every health care procedure or action. This has not happened.

12 - Therefore the assessment of the infant's capacity must be made for each and every health care treatment. This has not happened.

13 - Therefore documentation of all tests and other means of assessment for each and every health care procedures must be given to his mother. This has not happened.

14 - Documentation must include the names, signatures, and contact information of all health care providers involved, as well as dates. The signature of \*\*\*\*\* is also required as a routine and standard part of any informed, meaningful consent procedure. This has not happened.

15 - The infant, \*\*\*\*\*, has not had his capacity to "understand the nature and consequences and the reasonably foreseeable benefits and risks of the health care" he was and/or is being provided; and/or documentation of the assessments, tests, or other means of assessing his capacity to understand in each and every instance of health care provision have not be provided to his mother and/or to \*\*\*\*\*88 himself.

16 - It is clear that \*\*\*\*\* has limited capacity to fully understand the health care he is offered because his comprehension is frequently incapacitated by his use of narcotics, and other mental health issues, in addition to the facts that he is immature and an infant (minor).

17 - His use of narcotics in and of itself indicates that he lacks capacity to make informed decision for himself in his best interests.

18 - Therefore because he is an infant (minor), his mother's consent to accept or refuse health care is legally required and not \*\*\*\*\*'s.

19 - Similarly, health care providers must have made reasonable efforts to determine and have concluded that the health care is in the infant's best interests.

20 - Documentation including names, signatures, and contact information of health care providers of the processes and assessments used to determine if the health care provided to and or refused by \*\*\*\*\* is and/or was in his best interests has not been provided to his mother, or even to \*\*\*\*\* himself.

21 - Harm, including preventable death and disability, may result from consent to and/or refusal of health care. Health care providers may be liable for harm caused by their provision or non-provision of health care.

22 - The Infants Act cannot exempt health care providers from their professional duty and actions if they have not followed the requirements of the law in obtaining consent from an infant.

23 - Additionally, the Infants Act does not allow for any infant or any health care provider to deny the infant's parent(s) from access to full information regarding the health care provided and/or refused with the infant's consent in accordance with the procedures described in the Act.

24 - Excluding a parent from discussion or meetings or any form of communication related to the health care of an infant is not permitted by the Infants Act.

25 - Simply put, to allow an infant to make health care decisions for themselves when they are not capable of doing so is illegal.

26 - **The Charter and human rights under the BC Human Rights Act** of both \*\*\*\*\* and his mother \*\*\*\*\* are now/and have been grievously violated by these health care providers and by any person on any government body which has authorized or monitored or approved their health care and/or failures to provide health care as discussed in this letter.

27 - Excluding parents from communications and/or meetings related to their children's health care violates parents' Charter rights to: liberty and security of person; freedom of expression; freedom of association; freedom of belief, conscience, and religion; and freedom from search and seizure.

28 - Excluding parents in this also violates infants' rights to (potentially) life, liberty, and security of person, and Charter equality rights to equal treatment regardless of age.

29 - \*\*\*\*\* is of First Nations ancestry. The historic, tragic disregard for the parent-child relationship in Canada's First Nations people by state agents including health care providers is a matter of well-known public record. As such he belongs to historically discriminated against, discrete minority and as such is particularly protected by human rights and Charter legislation.

30 - He is also a person with a mental disability. The historic abuse, stigmatization of, and neglect of persons with mental disabilities by state agents including health care providers is a matter of well-known public

record. As such he belongs to historically discriminated against, discrete minority and as such is particularly protected by human rights and Charter legislation.

31 - He is also the child of a single mother, and his mother is a single mother: as such they both belong to historically discriminated against, discrete minorities and as such are particularly protected by human rights and Charter legislation.

32 - The negligence and possibly criminal negligence of health care providers in their violation of the BC Infants Act provisions related to medical consent has been alleged to have caused the deaths of infants including Elliot Eurchuk and Steffanie Lawrence.

33 - The illegal actions of health care providers in relation to infants' (minors') medical consent must cease for the sake of \*\*\*\*\* and \*\*\*\*\* and all other families with dependent children.

34 - Because the stringent restrictions in the provisions for infants' (minors') medical consent are routinely, systemically ignored and/or violated by health care providers; and/or because even if followed these provisions violate parents' and infants'/minors' Charter and human rights; and because these laws are overbroad, vague, and arbitrary and thus violate the principles of fundamental justice; and/or because parents are in an extreme power imbalance in defending their and their children's rights against illegal and/or invasive overreaching actions of state agents including health care providers, "mature minor" consent laws including section 17 of the BC Infants Act should be struck.

written by: Helen Ward, President, Kids First Parent Association of Canada

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