

PATENTED MEDICINE PRICES REVIEW BOARD

**IN THE MATTER OF the *Patent Act*,
R.S.C., 1985, c. P-4, as amended**

**AND IN THE MATTER OF
Alexion Pharmaceuticals Inc. (“Respondent”)
and the medicine “Soliris”**

WRITTEN SUBMISSIONS OF THE RESPONDENT: REPLY

**(CANADIAN LIFE AND HEALTH INSURANCE ASSOCIATION INC.
MOTION FOR LEAVE TO INTERVENE)**

1. Alexion respectfully requests leave to file this short reply to the Canadian Life and Health Insurance Association Inc.’s (“CLHIA’s”) 5 June 2015 response (“Response”) to Alexion’s 29 May 2015 written Submissions. The reply addresses specific issues raised by CLHIA in its Response.
2. Contrary to CLHIA’s submissions in paragraphs 2 and 3 of its Response, CLHIA does not represent persons who actually pay the cost of Soliris. The member companies of CLHIA act as conduits through which payments are made by insurance plan sponsors and individuals covered under those plans.
3. CLHIA has taken two contradictory positions in its Response. It asserts in paragraph 8 that it will offer “some element of evidence that is unique and argument that is usefully supplemental to that adduced by the Board Staff.” In paragraph 10 of the Response, CLHIA asserts that the disgorgement amount is a “straightforward

calculation ... not materially different than the calculation required if the Board Staff's requested Order were granted".

4. CLHIA claims its participation is necessary because it has "unique" evidence and argument to offer. At the same time, CLHIA does not actually plan to submit anything other than a proposed remedy, which it says is "not materially different" from the remedy proposed by Board Staff.

5. CLHIA cannot have it both ways. If CLHIA plans to introduce "unique" evidence and argument, as it claims in paragraph 8 of the Response, Alexion will require specific particulars and disclosure and may have no choice but to respond with fact and/or expert evidence of its own. If, as claimed in paragraph 10 of the Response, CLHIA only intends to address the same remedy as Board Staff, its presence is superfluous and unnecessary.

6. CLHIA's statement in paragraph 10 that "...it is unknown what expert evidence Alexion is alleging it would need to introduce..." underscores the problematic nature of CLHIA's argument. The evidence Alexion "will need to introduce" is "unknown" precisely because CLHIA has failed or refused to state what "unique" evidence or argument it plans to introduce. CLHIA cannot credibly argue that its own failure to articulate a "unique" contribution favours its motion for intervention.

7. In light of CLHIA's failure or refusal to articulate any meaningful contribution, Alexion respectfully asks the Panel to dismiss CLHIA's intervention request.

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for 

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