

# STERN • LANDESMAN • CLARK LLP

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## BARRISTERS & SOLICITORS

PAUL D. STERN [pstern@sternlaw.ca](mailto:pstern@sternlaw.ca)  
 DAVID M. LANDESMAN [landesman@sternlaw.ca](mailto:landesman@sternlaw.ca)  
 JAMES R. D. CLARK [jclark@sternlaw.ca](mailto:jclark@sternlaw.ca)

390 Bay Street, Suite 1724  
 Toronto, Ontario M5H 2Y2  
 Telephone: (416) 869-3422  
 Facsimile: (416) 869-3449

September 8, 2015

Recipients:

### **PATENTED MEDICINE PRICES REVIEW BOARD**

#### **Legal Services Branch**

Standard Life Centre  
 333 Laurier Avenue West, Suite 1400  
 Ottawa, Ontario  
 K1P 1C1  
 Tel: 613-952-7623  
 Fax: 613-952-7626

**Guillaume Couillard** (Secretary of the Board)

[guillaume.couillard@pmprb-cepmb.gc.ca](mailto:guillaume.couillard@pmprb-cepmb.gc.ca)

**Parul Shah** (Legal Counsel PMPRB)

[parul.shah@pmprb-cepmb.gc.ca](mailto:parul.shah@pmprb-cepmb.gc.ca)

### **PERLEY-ROBERTSON HILL & MCDUGAL LLP**

340 Albert Street  
 Suite 1400  
 Ottawa, Ontario  
 K1R 7Y6  
 Tel: 613-566-2833  
 Fax: 613-238-8775

**David Migicovsky**

[dmigicovsky@perlaw.ca](mailto:dmigicovsky@perlaw.ca)

**Christopher Morris**

[cmorris@perlaw.ca](mailto:cmorris@perlaw.ca)

Lawyers for Board Staff

**Ministry of Justice**  
**Legal Services Branch**  
PO Box 9280 STN PROV GOVT  
1001 Douglas Street  
Victoria, British Columbia  
V8W 9J7  
Tel: 250-356-893  
Fax: 250-356-8992

**Ms. Sharna Kraitberg**  
[sharna.kraitberg@gov.bc.ca](mailto:sharna.kraitberg@gov.bc.ca)

Lawyer for Her Majesty the Queen in Right of the Province of British Columbia, as represented by the Minister of Health  
Representative for the Interveners, the Provinces of Manitoba, Ontario and Newfoundland and Labrador

**CANADIAN LIFE AND HEALTH INSURANCE ASSOCIATION**  
79 Wellington St. West, Suite 2300  
P.O. Box 99, TD South Tower  
Toronto, Ontario  
M5K 1G8  
Tel: 416-777-2221  
Fax: 416-777-1895

**Craig Anderson**  
[canderson@clhia.ca](mailto:canderson@clhia.ca)

Lawyer for the Canadian Life and Health Insurance Association

**GOWLING LAFLEUR HENDERSON LLP**  
1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto, Ontario M5X 1G5

**Malcolm N. Ruby**  
Tel: 416-862-4314  
Fax: 416-863-3614  
[malcolm.ruby@gowlings.com](mailto:malcolm.ruby@gowlings.com)

**Alan West**

Tel: 416-862-4308

Fax: 416-863-3480

[alan.west@gowlings.com](mailto:alan.west@gowlings.com)

Lawyers for the Respondent

Dear Counsel:

**Re: THE MATTER OF Alexion Pharmaceuticals Inc. ("Respondent")**  
**and the medicine "Soliris"**

Enclosed please find a combined Motion for leave to intervene and Submissions, filed on behalf of Ms. Lindberg.

Should anything further be required, we would appreciate being so advised.

We understand that the proceedings are set for September 16, 2015, in Ottawa. If our Motion could be considered in advance of that date, that would be helpful, and we will make every effort to be ready to argue the substantive issues of alleged bias on September 16. Alternatively, perhaps some guidance as to timelines would be of assistance.

Thank you for your consideration.

Yours very truly,



**Paul D. Stern**

PDS/ar

**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"

**NOTICE OF MOTION FOR LEAVE TO INTERVENE, AND  
SUBMISSIONS IN SUPPORT,  
ON BEHALF OF THE APPLICANT MARY CATHERINE LINDBERG**

TAKE NOTICE that Mary Catherine Lindberg, of 333 Laurier Avenue West, Suite 1400, Ottawa, Ontario, K1P 1C1, hereafter "Ms. Lindberg", seeks leave to intervene by counsel in these proceedings, set to be heard on September 16, 2015, and submits that intervenor status should be granted on the following basis:

1. The Respondent states that Ms. Lindberg is in "an irreconcilable conflict of interest" as Chair of this Board, and as a director of Green Shield Canada. Her conduct is said to present "a serious and important issue that must be dealt with to protect the integrity of the administration of justice in this proceeding, and in any other present or future proceedings before the Board".
2. Ms. Lindberg seeks leave to intervene in this matter in order to ensure that the Hearing Panel has before it all information required to properly determine the issue(s) raised by counsel on behalf of Alexion Pharmaceuticals Inc., and because Alexion Pharmaceuticals Inc. has called into question the propriety of Ms. Lindberg and the integrity of her conduct

in issuing the Notice of Hearing and appointing the Hearing Panel in this matter.

3. Given the serious allegations against Ms. Lindberg, she asks that her counsel be permitted to intervene, not in relation to the substantive issues at this hearing, but in the Respondent's motion for relief due to "Conflicts of Interest", in order to challenge and if so advised present evidence and submissions before this Honourable Board pertaining to the allegations made concerning her alleged bias and conflict of interest.

**AND FURTHER TAKE NOTICE THAT IN SUPPORT OF THIS MOTION FOR LEAVE TO INTERVENE, THE APPLICANT RELIES UPON THE FOLLOWING:**

1. Rule 20 "Intervention" of the Rules of Practice and Procedure;
2. This Notice of Application;
3. The Notice of Motion (Conflicts of Interest) filed by Alexion Pharmaceuticals Inc.;
4. The Affidavit and argument filed by Alexion Pharmaceuticals Inc.;
5. The record of proceedings to date;
6. The common law duty of fairness captured in the concurring reasons of Griffiths J.A. in the case of *Hurd v. Hewitt* (1994), 20 O.R. (3d) 639 (C.A.) (on the last page of the decision):

While we are setting aside the declaration issued below I would note, that the declaration had salutary effect in that it conveyed the message

that the findings of the arbitration panel impugning the reputations of the respondents were made without affording the respondents an opportunity to respond. One would hope that where it is convenient and practical to do so, that is without unduly lengthening or complicating the process, that decision-makers generally would afford non-parties the opportunity to be heard before making findings reflecting on their character or integrity. However, I agree with the well reasoned conclusions of my colleague, that it would be inappropriate to hold that every decision-maker has an absolute duty in law to afford non-parties the opportunity to be heard before making adverse findings against them.

7. Such further and other material as counsel may advise and this Board permit.

Dated: September 8, 2015



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**Paul Stern**

**STERN LANDESMAN CLARK LLP**  
390 Bay Street, Suite 1724  
Toronto, Ontario  
M5H 2Y2

Paul Stern  
Tel: 416-869-3422  
Fax: 416-869-3449  
[psfern@sternlaw.ca](mailto:psfern@sternlaw.ca)

Lawyers for the Applicant Intervenor,  
Mary Catherine Lindberg.

**TO: PATENTED MEDICINE PRICES REVIEW BOARD**  
**Legal Services Branch**  
Standard Life Centre  
333 Laurier Avenue West, Suite 1400  
Ottawa, Ontario  
K1P 1C1  
Tel: 613-952-7623  
Fax: 613-952-7626

**Guillaume Couillard** (Secretary of the Board)  
[guillaume.couillard@pmprb-cepmb.gc.ca](mailto:guillaume.couillard@pmprb-cepmb.gc.ca)

**Parul Shah** (Legal Counsel PMPRB)  
[parul.shah@pmprb-cepmb.gc.ca](mailto:parul.shah@pmprb-cepmb.gc.ca)

**PERLEY-ROBERTSON HILL & MCDUGAL LLP**  
340 Albert Street  
Suite 1400  
Ottawa, Ontario  
K1R 7Y6  
Tel: 613-566-2833  
Fax: 613-238-8775

**David Migicovsky**  
[dmigicovsky@perlaw.ca](mailto:dmigicovsky@perlaw.ca)

**Christopher Morris**  
[cmorris@perlaw.ca](mailto:cmorris@perlaw.ca)

Lawyers for Board Staff

**AND**  
**TO: Ministry of Justice**  
**Legal Services Branch**  
PO Box 9280 STN PROV GOVT  
1001 Douglas Street  
Victoria, British Columbia  
V8W 9J7  
Tel: 250-356-893  
Fax: 250-356-8992

**Ms. Sharna Kraitberg**  
[sharna.kraitberg@gov.bc.ca](mailto:sharna.kraitberg@gov.bc.ca)

Lawyer for Her Majesty the Queen in Right of the Province of British Columbia, as represented by the Minister of Health  
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**AND TO: CANADIAN LIFE AND HEALTH INSURANCE ASSOCIATION**  
79 Wellington St. West, Suite 2300  
P.O. Box 99, TD South Tower  
Toronto, Ontario  
M5K 1G8  
Tel: 416-777-2221  
Fax: 416-777-1895

**Craig Anderson**  
[canderson@clhia.ca](mailto:canderson@clhia.ca)

Lawyer for the Canadian Life and Health Insurance Association

**AND TO: GOWLING LAFLEUR HENDERSON LLP**  
1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto, Ontario M5X 1G5

**Malcolm N. Ruby**  
Tel: 416-862-4314  
Fax: 416-863-3614  
[malcolm.ruby@gowlings.com](mailto:malcolm.ruby@gowlings.com)

**Alan West**  
Tel: 416-862-4308  
Fax: 416-863-3480  
[alan.west@gowlings.com](mailto:alan.west@gowlings.com)  
Lawyers for the Respondent