

COURT FILE NUMBER: 2001-14300
COURT: COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE: CALGARY
APPLICANTS: REBECCA MARIE INGRAM, HEIGHT BAPTIST CHURCH, NORTHSIDE BAPTIST CHURCH, ERIN BLACKLAWS and TORRY TANNER
RESPONDENTS: HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ALBERTA and THE CHIEF MEDICAL OFFICER OF HEALTH
COURT FILE NUMBER: 2001-14300

CERTIFICATE FOR FILING OF AFFIDAVIT


**ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF
COMMISSIONER OF
DOCUMENT:**

Brooklyn LeClair
Alberta Justice, Constitutional and Aboriginal Law
10th Floor, 102A Avenue Tower
10025 – 102A Avenue
Edmonton, AB T5J 2Z2
Phone: 780-237-6894
Fax: 780-643-0852
Email: Brooklyn.leclair@gov.ab.ca

CERTIFICATE OF BROOKLYN LECLAIR, BARRISTER & SOLICITOR

Dated December 18th, 2020

1. Further to the Affidavit of Dr. Deena Hinshaw, I confirm that all necessary requirements for the electronic execution of the Affidavit as set out in the Notice to Profession & Public 2020-02, dated March 25, 2020, were met and that owing to public health concerns, it was not possible for the Affiant and the Commissioner of Oaths to be in the same location.


Brooklyn LeClair
Barrister & Solicitor

COURT FILE NUMBER	2001-14300	<div>Clerk's Stamp</div>
COURT	COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY	
APPLICANT	REBECCA MARIE INGRAM, HEIGHTS BAPTIST CHURCH, NORTHSIDE BAPTIST CHURCH, ERIN BLACKLAWS and TORRY TANNER	
RESPONDENTS	HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ALBERTA and THE CHIEF MEDICAL OFFICER OF HEALTH	
COURT FILE NUMBER COURT DOCUMENT	AFFIDAVIT OF DR. DEENA HINSHAW	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Alberta Justice, Constitutional and Aboriginal Law 10 th Floor, 102A Tower 10025 -102A Avenue Edmonton, Alberta T5J 2Z2 Attn: Nicholas Parker and Aleisha Bartier Tel: (780) 643-0853; (780) 415-2993 Fax: (780) 643-0852	

**AFFIDAVIT OF DR. DEENA HINSHAW
AFFIRMED ON DECEMBER 18, 2020**

I, Dr. Deena Hinshaw, MD, MPH, FRCPC, CCFP, of the City of Edmonton, in the
Province of Alberta, AFFIRM AND DECLARE THAT:

Introduction

1. I am currently employed by the Government of Alberta, in the Ministry of Health, as Chief Medical Officer of Health in the Ministry of Health. In this role, I provide public health expertise to support health surveillance, population health, and disease control initiatives on issues of public health importance under the authority of the *Public Health Act*, RSA 2000 c P-37.



2. I worked as a Medical Officer of Health in the Central Zone of Alberta Health Services (AHS) from January 2010 until July 2017. I also served as the Medical Officer of Health lead in the area of public health surveillance and infrastructure for AHS from 2014 to 2017. From 2017 until my appointment as the Chief Medical Officer of Health, I served as Alberta Health's Deputy Chief Medical Officer, supporting the Chief Medical Officer of Health in their duties.

3. As a part of my training and experience, I have expertise in assessing and interpreting evidence on public health matters, and my personal assessment of the facts in this affidavit based on my experience and expertise is that these facts represent the best currently-available evidence related to SARS-CoV-2 and COVID-19.

4. I can attest that the information contained in this affidavit is true based on two things:

- a. The rigorous framework of evidence assessment and use of this evidence in public health and healthcare standard and guideline development in Canadian and Albertan context; and
- b. My training and experience as a Public Health and Preventative Medicine specialist.

SARS-CoV-2 is a new and infectious virus that has caused a global pandemic

5. COVID-19 is a new disease caused by the SARS-CoV-2 virus. This virus is a type of coronavirus, which can infect humans and animals. COVID-19 was first recognized in the city of Wuhan, China in late 2019. COVID-19 is an infectious disease that primarily affects the respiratory tract and lungs but can also affect other organs.

6. COVID-19 disproportionally causes adverse health outcomes, including death, in people with pre-existing medical conditions and in people over 65 years of age. These classes of people are more likely to be hospitalized and more likely to be admitted to intensive care units ("ICU").

7. People not in a high risk group also can experience adverse health outcomes after contracting SARS-CoV-2. While it now is recognized that symptoms of SARS-CoV-2 infection can persist for months following acute COVID-19 disease, the understanding of the long term effects of COVID-19 are not yet completely understood.



8. There is now a licenced vaccine for COVID-19 in Canada (Pfizer BioNTech) which Alberta Health and Alberta Health Services began to deploy in December 2020. The vaccine requires two doses, at least three weeks apart, and an additional period of 7-10 days after the second dose before becoming maximally effective. The vaccine supply is limited. It is expected to take at least nine months to have sufficient vaccine supply to provide vaccine to all Albertans.

9. There are no drug therapies to cure COVID-19 or prevent the spread of SARS-CoV-2. In the absence of such treatments and sufficient vaccine supplies, public health measures are the only available resources to prevent or reduce the spread of the virus. These include, but are not limited to personal protective measures (handwashing, respiratory etiquette, mask wearing), environmental measures (cleaning and disinfection of surfaces, ventilation), surveillance and response measures (including contact tracing, isolation, and quarantine), physical distancing measures (limiting the size of gatherings, maintaining distance in public or workplaces, domestic movement restrictions), and international travel-related measures.

Transmission of SARS-CoV-2 can Occur Even When Infected People are Asymptomatic

10. SARS-CoV-2 is spread primarily from close person to person contact. The virus may be transmitted by respiratory droplets or droplet nuclei (aerosols) produced when an infected person breathes, coughs, sneezes, talks, or sings. The virus may also be transmitted by touching a surface or object contaminated with the virus and then touching the eyes, nose, or mouth

11. Risk of SARS-CoV-2 transmission depends on many variables, such as location (indoors versus outdoors), quality of ventilation, and activity. Alberta has provided public health guidance recommending that people maintain a distance of two meters from one another. This physical distance guideline is based on current knowledge of droplet spread which is the main way the virus spreads between people.

12. The recommended measures are designed to be implemented together as no one measure alone will prevent all SARS-CoV-2 person-to-person transmission.

13. The time from infection with SARS-CoV-2 until the development of observable symptoms is called the incubation period. The incubation period can last 14 days or very rarely longer. Unfortunately, infected people can transmit SARS-CoV-2 to others beginning about 48

hours before symptoms are present (pre-symptomatic transmission) until at least 10 days after, longer if symptoms continue past 10 days.

14. Not all people infected with SARS-CoV-2 develop symptoms but, even without symptoms, an infected person can transmit the virus to others. This is called asymptomatic transmission.

15. SARS-CoV-2 can be spread through direct or indirect (surfaces) contact with an infected person. Community spread refers to the spreading of a disease from person to person in the community. Community spread can occur when the source is known or unknown. The latter form of spread poses a serious threat to the community. The effectiveness of contact tracing is greatly reduced in cases of unknown community spread.

16. COVID-19 testing is available in Alberta for symptomatic people, people in outbreak settings, and people identified as a close contact of a case. Asymptomatic testing was available for Albertans until September 17, 2020 but was limited in order to reserve testing capacity for higher risk groups. A COVID-19 test result only reflects a snapshot of a moment in time. A negative result does not necessarily mean that the person is not infected. A person infected with SARS-CoV-2 could have 13 days of negative results and a positive test on day 14.

Alberta's Current COVID-19 Situation

The Spread of COVID-19

17. SARS-CoV-2 can spread exponentially if left unchecked. It is critical that Albertans follow public health guidance in order to minimize the spread of the virus, reduce the long-term consequences, and reduce the number of hospitalizations and deaths.

18. Left unchecked SARS-CoV-2 virus will spread within a population resulting in an exponential growth in the number of people infected. Since the summer in Alberta, even with some public health measures in place, the number of recognized SARS-CoV-2 infections (COVID-19 cases) has continued to grow dramatically as can be seen in table below.

Week Beginning	Cases (Average Daily Increase)	Hospitalizations (Average Daily in Hospital)	ICU Count (Average Daily)	Daily Deaths (Average per Week)
July 13	89	86	11.5	1.2
July 20	114	85	15.4	2.2
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August 13	90	47	12.8	1.0
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November 22	1366	368	75.4	9.2
November 29	1729	507	96.8	14.0
December 6	1664	657	117.0	14.0

19. The very nature of exponential growth means even in areas with low numbers of COVID-19 cases, the number of cases can grow very quickly. Attached and marked Exhibit "A" to this Affidavit is a graph demonstrating a trend of exponential growth of the number of COVID-19 cases across Alberta. In response to this growth, Alberta declared a state of public health emergency on November 24, 2020.

20. While a person has COVID-19 and is still able to spread the virus to others that person is called an "active case." As the number of active cases of COVID-19 increase in the community, the possible sources of infection increase. This makes it more difficult for the infected person to know how or when they may have been infected with the SARS-CoV-2 virus.

21. In addition, as the number of individuals testing positive for COVID-19 increases, the capacity of the health care system to contact cases, identify contacts and link cases is significantly limited. Therefore, the capacity to identify and control the spread in a targeted way is severely curtailed. For instance, of the active COVID-19 cases on December 18, 2020, 78% of cases do not have an identifiable source. A source is identifiable if a case of COVID-19 can be linked to: (1) a close contact of another confirmed case; (2) an associated outbreak; or (3) travel. Attached and marked Exhibit "B" to this Affidavit is a chart showing suspected routes of acquisition.

22. Because of the high number of active COVID-19 cases, including those cases with no identifiable source of exposure to SARS-CoV-2, reducing the number of contacts an individual has with others will reduce the risk of spread.

Alberta's COVID Health Care Capacity related to COVID-19

23. Alberta's capacity for hospitalization due to COVID-19 is dependent on demand for other health issues. I am advised by AHS and do believe to be true that Alberta's main hospitals are operating at over 90% capacity for COVID-19 inpatient care.

24. When this capacity is exceeded, non-COVID-19 patients will experience cancelled treatments for non-urgent conditions. The cancellation of these non-urgent, but necessary, surgeries can have health impacts, such as ongoing pain and mobility issues.

25. If Alberta's COVID-19 hospitalization capacity is significantly exceeded, it could result in the need to ration acute care resources. This may mean that some patients, who are in need of critical care supports, may be unable to receive those supports.

26. In Alberta, as of December 17, 2020, there were 763 people in the hospital due to COVID-19. There were 138 patients in the ICU and 790 people have died since March. This high level of hospitalization will result in continued cancellation of non-urgent surgical treatments. If the requirements for in hospital care continue to escalate, a need to triage access to care supports, especially supports in intensive care, may be required. This could require doctors and nurses to make decisions between which patients live and which die.

COVID-19 Causes More Hospitalizations than the Seasonal Flu

27. The rapid spread of the SARS-CoV-2 virus and resulting COVID-19 disease is associated with a corresponding increase in hospitalizations, including intensive care and deaths. This requirement for inpatient health care and deaths is significantly higher than that associated with seasonal influenza.

28. Over the last 10 years, 659 deaths from seasonal influenza have been reported in Alberta. The first case of COVID-19 was recognized on March 5, 2020 and as of December 17, 2020,

there have been 790 deaths from COVID-19 reported despite significant measures in place to prevent the spread of the illness.

29. Seasonal influenza also results in fewer ICU and hospital stays than SARS-CoV-2. For example:

- a. The 2018-2019 influenza season resulted in 341 ICU stays and 2,310 hospital stays.
- b. The 2019-2020 influenza season resulted in 262 ICU stays and 2,339 hospital stays.

30. Between March 5, 2020 and December 16, 2020, there have been 2,862 COVID-19 cases hospitalized and 506 have required ICU.

Alberta's COVID-19 Public Health Measures

31. Alberta has attempted to control the spread of the SARS-CoV-2 virus by implementing a number of public health measures. Restrictions on how people interact with others outside of their households are necessary to prevent the transmission of SARS-CoV-2 and are effective in reducing cases of COVID-19. Attached and marked as Exhibit "C" are charts, demonstrating actual and predicted numbers of hospital and ICU admissions with and without additional public health measures.

32. Alberta's approach has been to attempt to control the spread of the virus while protecting, as much as possible, an individual's ability to interact with others and participate in work, recreational, religious and social activities. As the number of COVID-19 cases and related hospitalizations, ICU stays, and deaths have increased, public health measures have also evolved.

33. One of the health measures that Alberta has employed to control the spread is to implement mandatory masking. Masks, when worn properly, are a valuable tool in reducing the transmission of SARS-CoV-2. The use of masking can prevent an infected person from transmitting the virus to others and use of masks, especially medical masks, can help protect a healthy individual from infection, particularly in indoor settings. Masking, on its own, is not sufficient to control the spread of COVID-19.



35. The available evidence shows that widespread public masking, in addition to other public health measures, such as reducing time spent indoors with large groups of people (relative to the size of the room and the spacing of people within the room) while engaging in high risk activities, can contribute to controlling the overall transmission of SARS-CoV-2.

37. I was not physically present before the Commissioner the Oaths, but was linked for the Commissioner of Oaths utilizing video technology, and the process outlined in the Notice to the Profession 2020-02 was utilized.

(Commissioner for Oaths in and for the
Province of Alberta)

BROOKLYN LECLAIR
BARRISTER &
SOLICITOR

**Dr. Deena Hinshaw, MD, MPH,
FRCPC, CCFP**

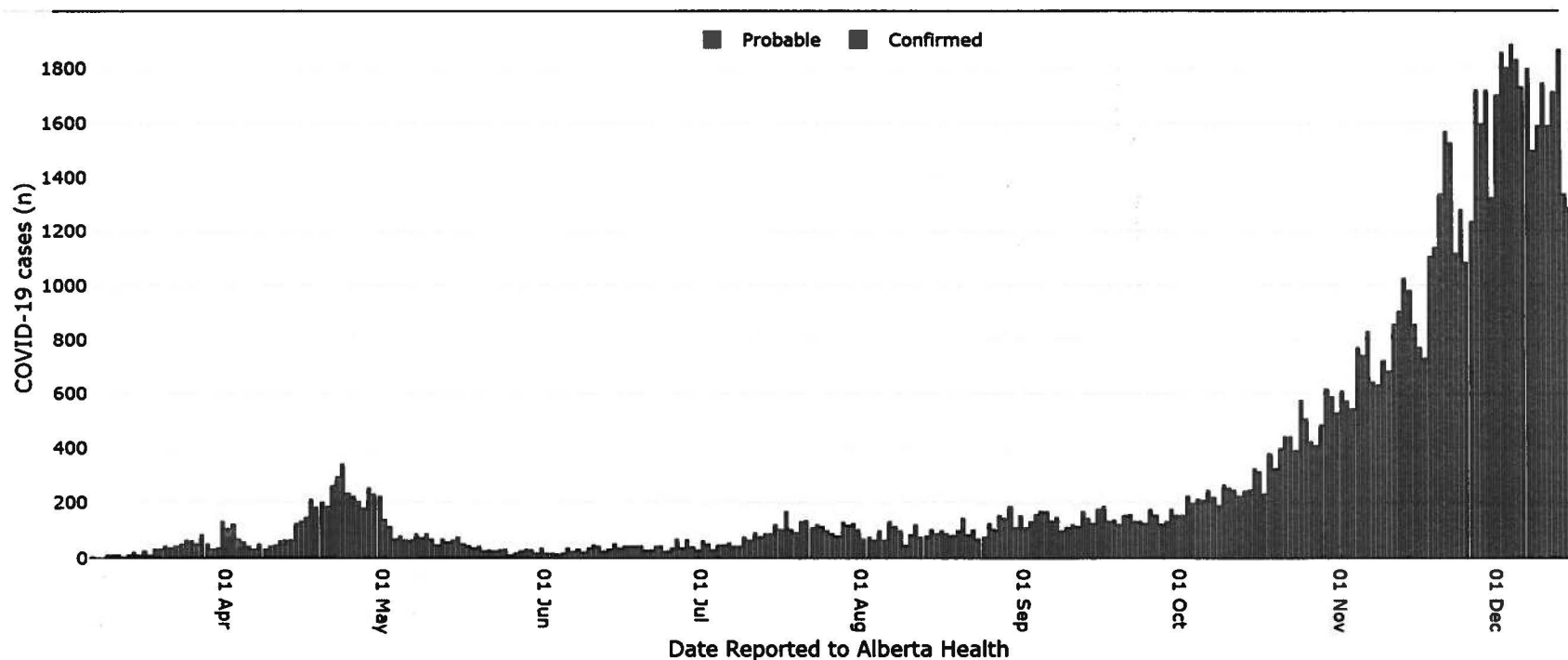
This is Exhibit "A" referred to in the Affidavit of Dr. Deena Hinshaw
Affirmed before me this 18th day of December, 2020



Commissioner of Oaths in and for the Province of Alberta
Brooklyn LeClair, Barrister & Solicitor



Daily New Cases in Alberta



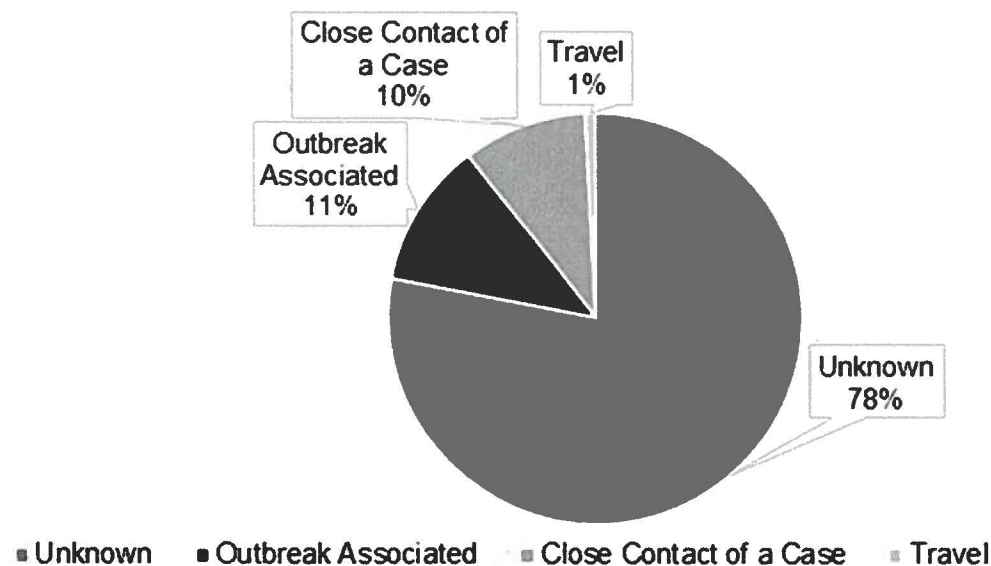
This is Exhibit "B" referred to in the Affidavit of Dr. Deena Hinshaw
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Commissioner of Oaths in and for the Province of Alberta
Brooklyn LeClair, Barrister & Solicitor

Routes of Transmission

Active COVID-19 cases in Alberta by route of suspected acquisition- Dec 18

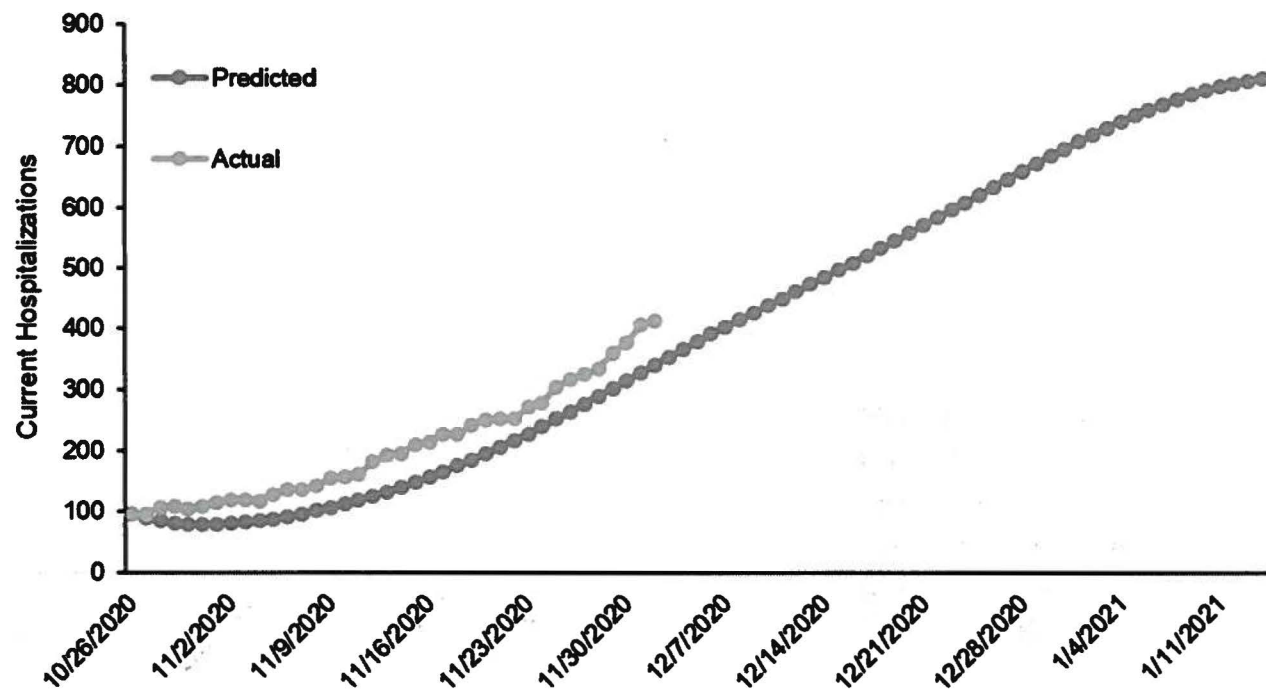


This is Exhibit "C" referred to in the Affidavit of Dr. Deena Hinshaw
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Commissioner of Oaths in and for the Province of Alberta
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Actual Hospitalizations vs Predicted

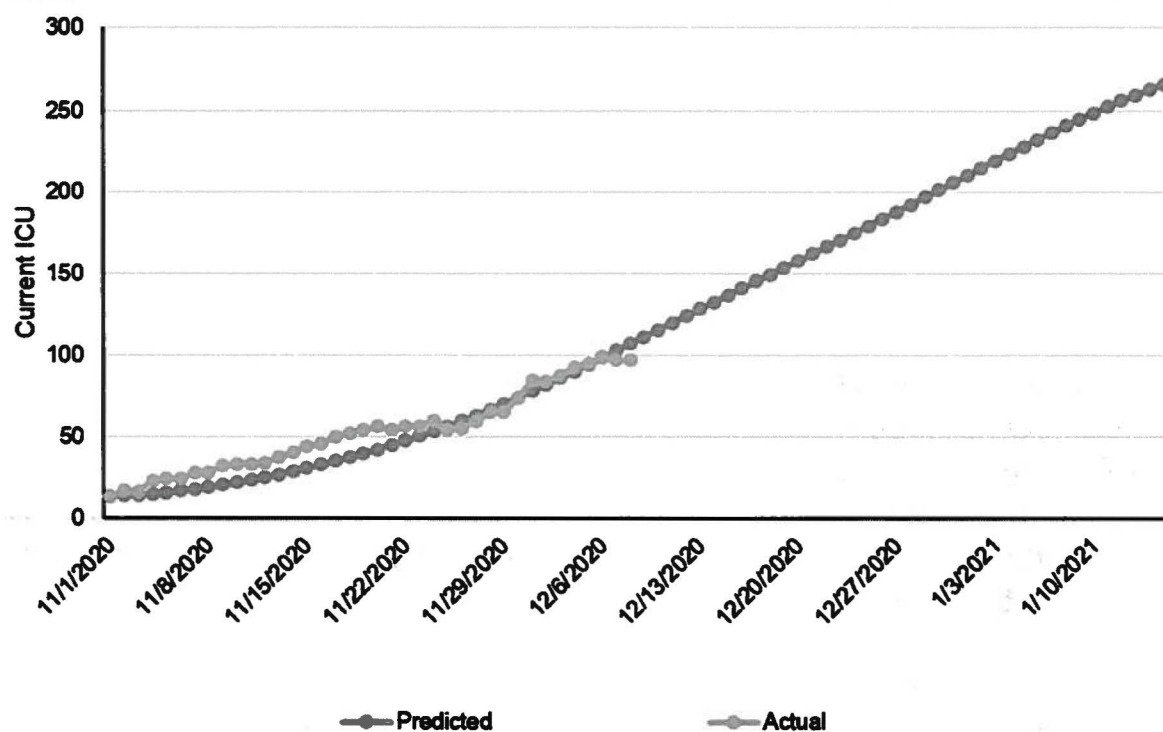


Results based on
model run Oct. 26.
No adjustments for
any public health
measures after
October 26





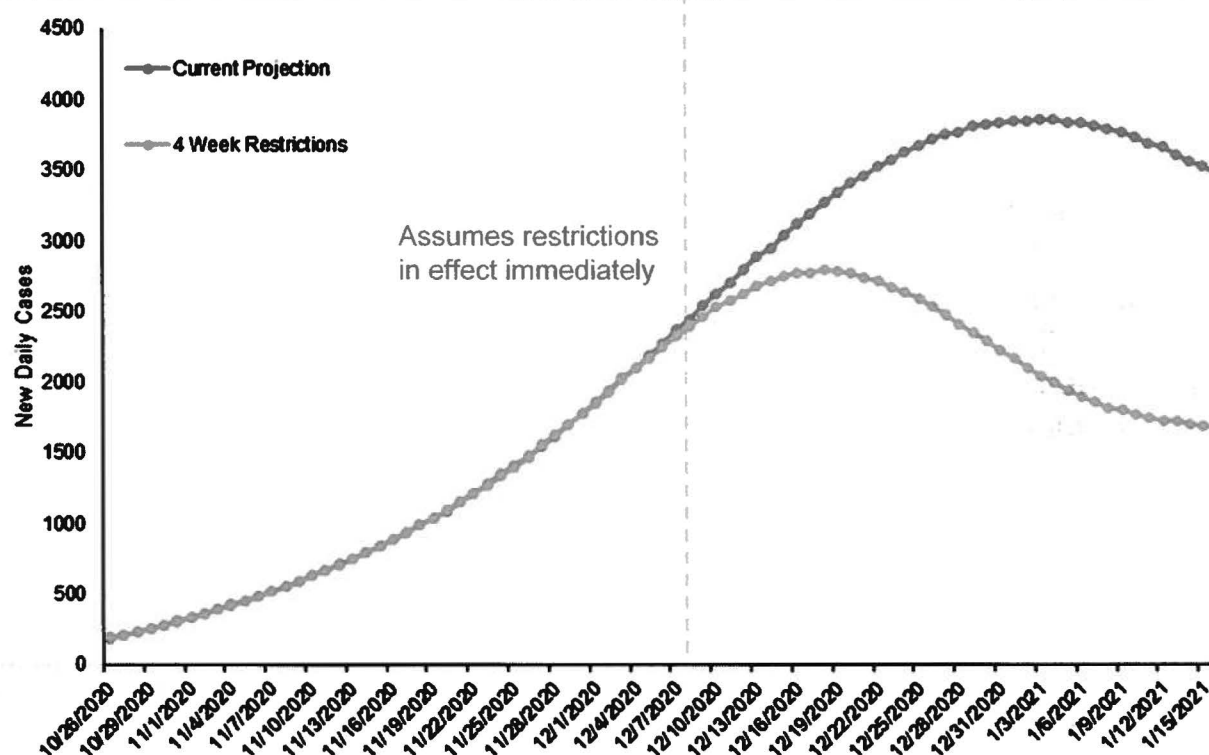
Actual ICU Admissions vs Predicted



Results based on model run Oct. 26.
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Expected Results from Restrictions



Current projection here is different than slide 8 because it builds in the most current information and measures.

Alberta

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INFORMATION OF PARTY 10025 -102A Avenue
FILING THIS DOCUMENT Edmonton, Alberta T5J 2Z2

Clerk's Stamp

Attn: Nicholas Parker and Aleisha Bartier
Tel: (780) 643-0853; (780) 415-2993
Fax: (780) 643-0852

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The Spread of COVID-19

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COVID-19 Causes More Hospitalizations than the Seasonal Flu

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31. Alberta has attempted to control the spread of the SARS-CoV-2 virus by implementing a number of public health measures. Restrictions on how people interact with others outside of their households are necessary to prevent the transmission of SARS-CoV-2 and are effective in reducing cases of COVID-19. Attached and marked as Exhibit "C" are charts, demonstrating actual and predicted numbers of hospital and ICU admissions with and without additional public health measures.

32. Alberta's approach has been to attempt to control the spread of the virus while protecting, as much as possible, an individual's ability to interact with others and participate in work, recreational, religious and social activities. As the number of COVID-19 cases and related hospitalizations, ICU stays, and deaths have increased, public health measures have also evolved.

33. One of the health measures that Alberta has employed to control the spread is to implement mandatory masking. Masks, when worn properly, are a valuable tool in reducing the transmission of SARS-CoV-2. The use of masking can prevent an infected person from transmitting the virus to others and use of masks, especially medical masks, can help protect a healthy individual from infection, particularly in indoor settings. Masking, on its own, is not sufficient to control the spread of COVID-19.

34. In response to the number of COVID-19 cases with no identifiable source, Alberta implemented additional public health measures, aimed at limiting the spread in high-risk settings or in settings with high-risk activities. High risk activities are activities that have more expulsions of air than ordinary activities. With increased expulsions of air, there is an increased risk of respiratory droplets or aerosols. For example, singing, shouting, and activities that result in heavy breathing, such as heavy exercising, are higher risk activities. These activities also may occur in higher risk settings, such as in indoor settings or settings where individuals will remain for prolonged periods of time. Reducing time spent indoors with large groups of people and reducing the time spent indoors engaging in high-risk activities can reduce the risk of the spread of COVID-19.

35. The available evidence shows that widespread public masking, in addition to other public health measures, such as reducing time spent indoors with large groups of people (relative to the size of the room and the spacing of people within the room) while engaging in high risk activities, can contribute to controlling the overall transmission of SARS-CoV-2.

36. I make this affidavit in response to the Applicants' interlocutory injunction application.

37. I was not physically present before the Commissioner the Oaths, but was linked for the Commissioner of Oaths utilizing video technology, and the process outlined in the Notice to the Profession 2020-02 was utilized.

AFFIRMED BEFORE ME in the City of
Edmonton, Province of Alberta, this 18th day
of December, 2020. I certify that Dr. Deena
Hinshaw satisfied me that she is a person
entitled to affirm.

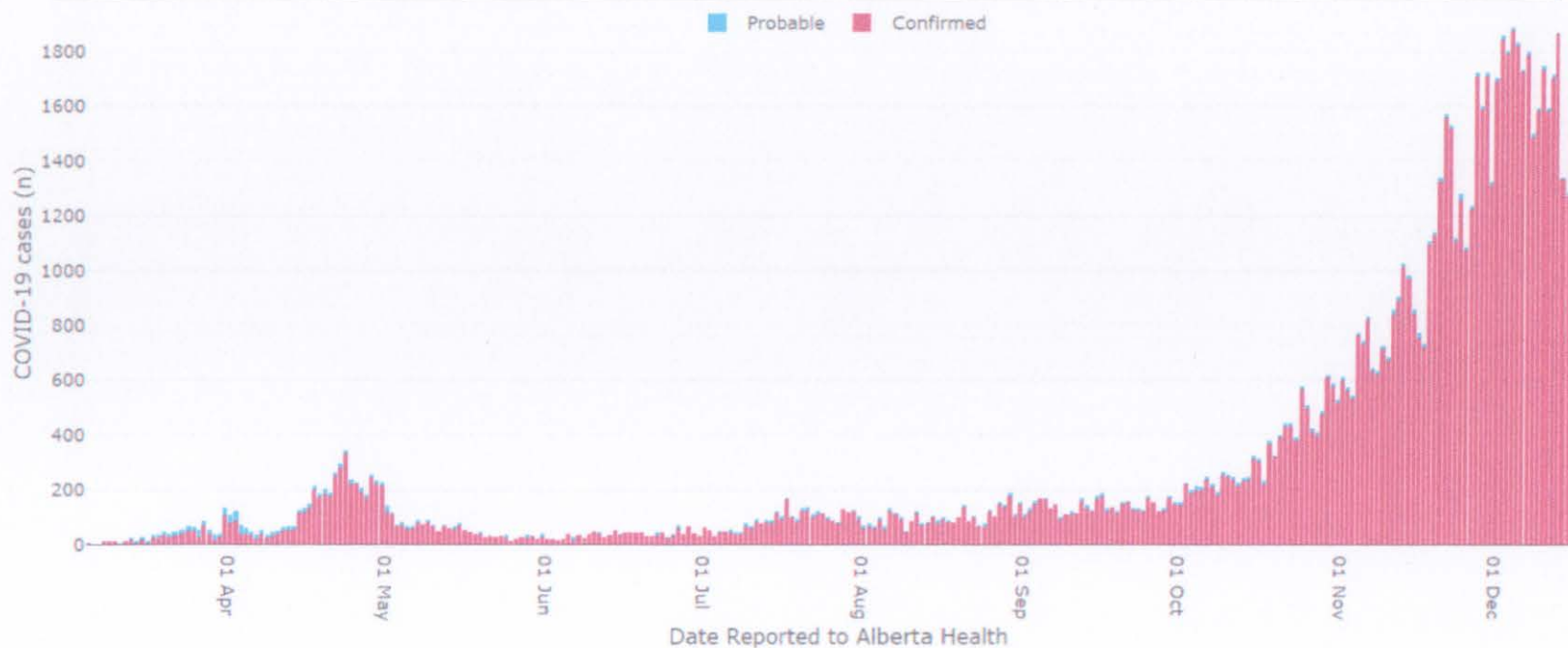
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This is Exhibit "A" referred to in the Affidavit of Dr. Deena Hinshaw
Affirmed before me this 18th day of December, 2020

Commissioner of Oaths in and for the Province of Alberta
Brooklyn LeClair, Barrister & Solicitor

Daily New Cases in Alberta



3

Classification: Protected B

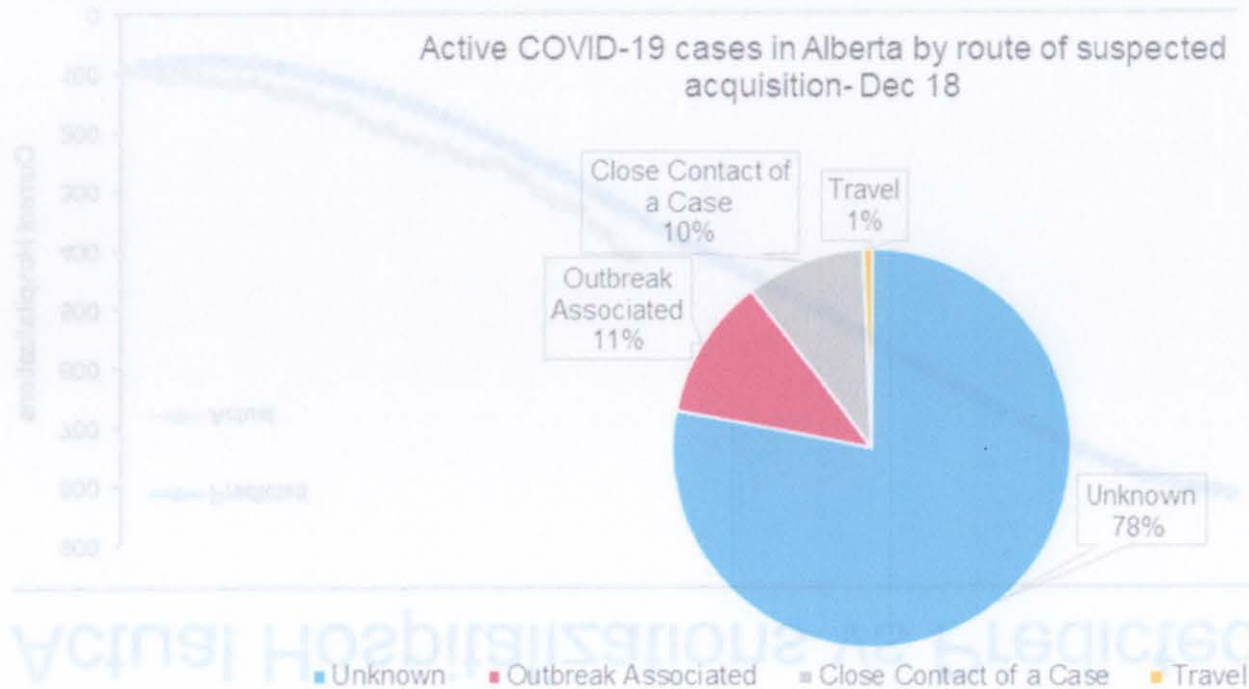
Alberta

oot

This is Exhibit "B" referred to in the Affidavit of Dr. Deena Hinshaw
Affirmed before me this 18th day of December, 2020

Commissioner of Oaths in and for the Province of Alberta
Brooklyn LeClair, Barrister & Solicitor

Routes of Transmission



18

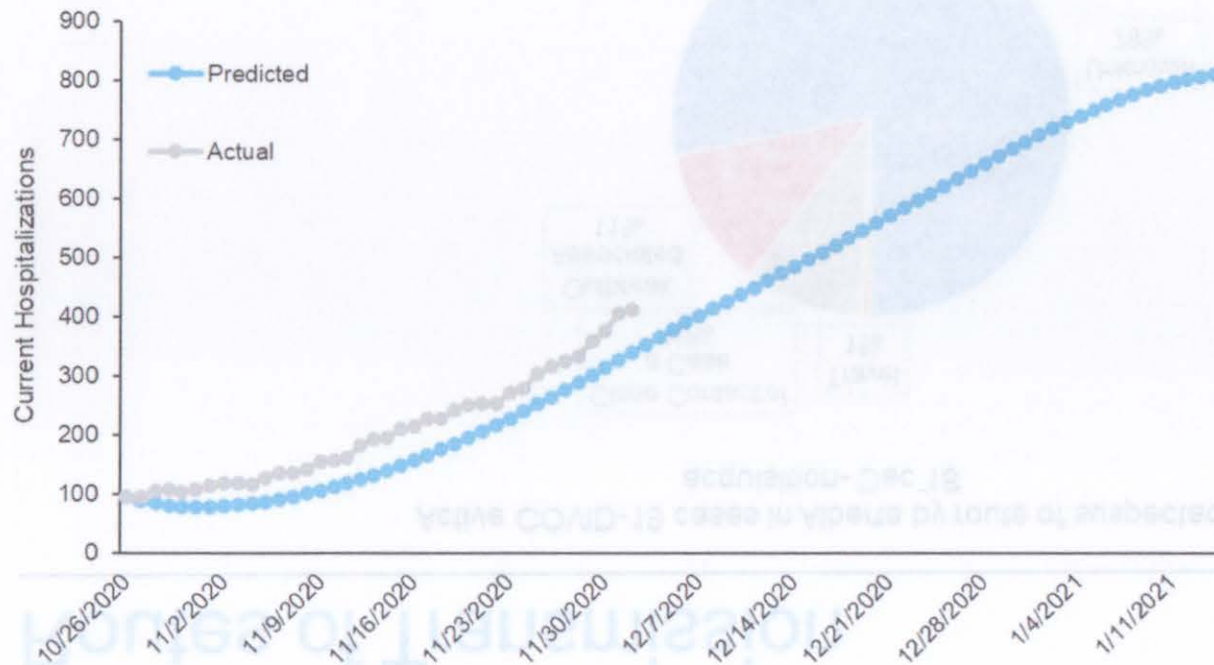
Classification: Protected B

Alberta

This is Exhibit "C" referred to in the Affidavit of Dr. Deena Hinshaw
Affirmed before me this 18th day of December, 2020

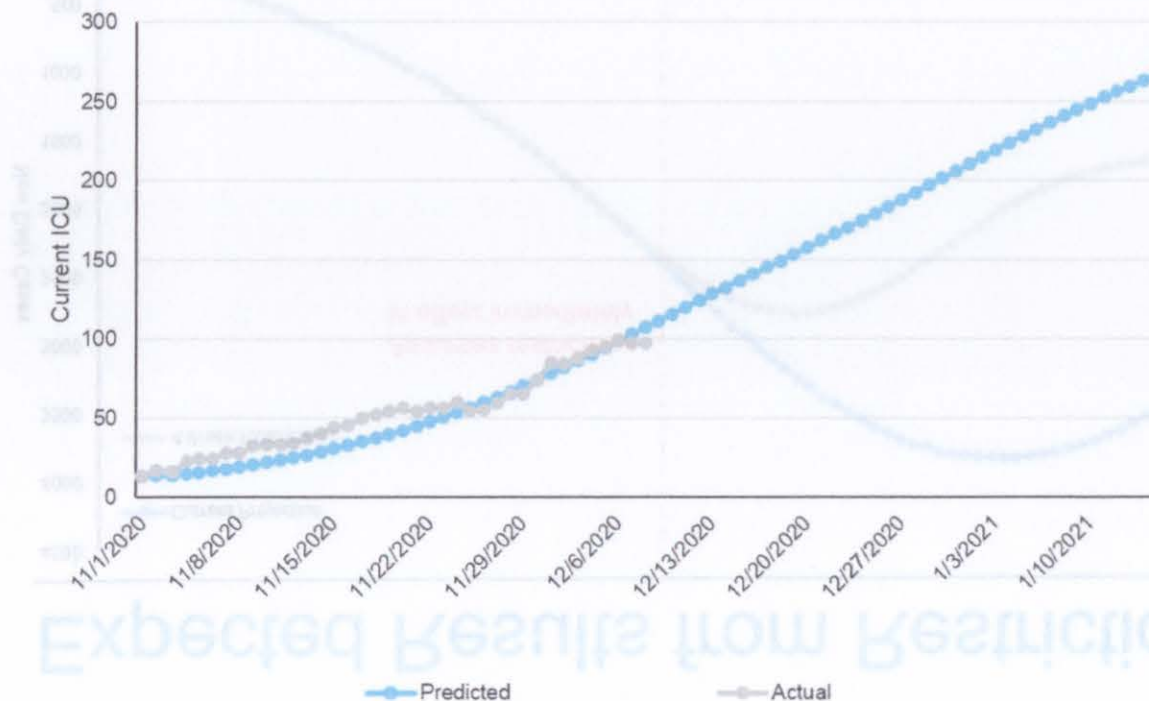
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Actual Hospitalizations vs Predicted



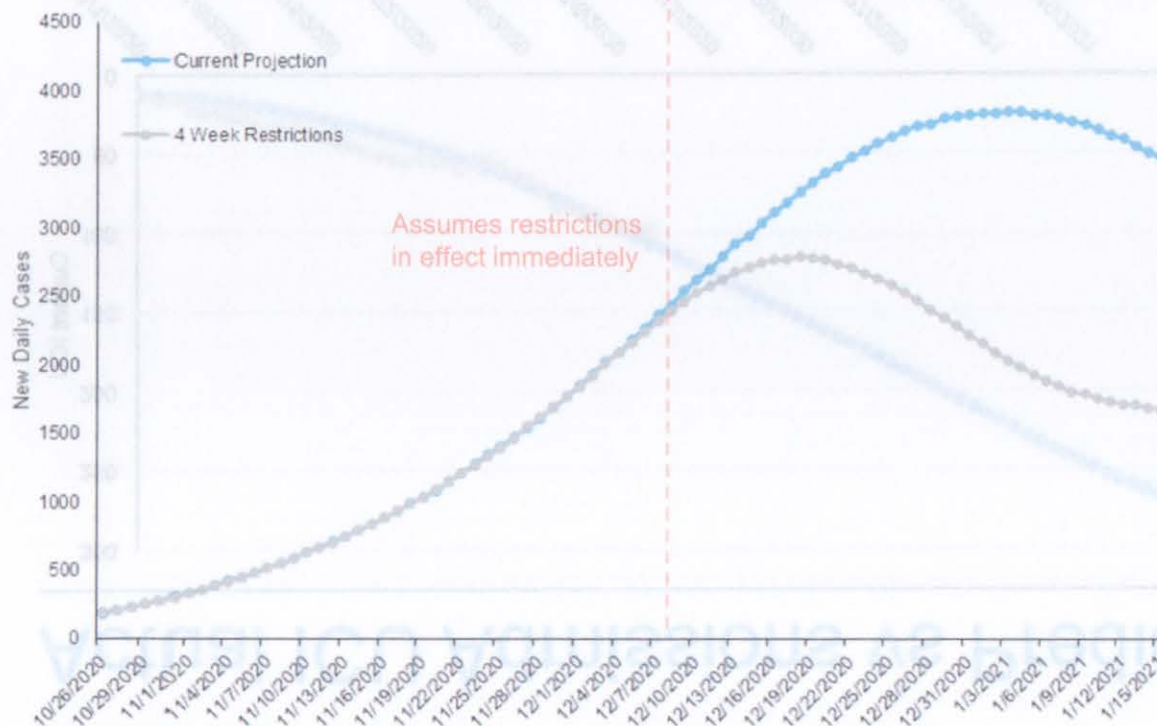
Results based on
model run Oct. 26.
No adjustments for
any public health
measures after
October 26

Actual ICU Admissions vs Predicted



Results based on model run Oct. 26. No adjustments for any public health measures after October 26

Expected Results from Restrictions



Current projection here is different than slide 8 because it builds in the most current information and measures.