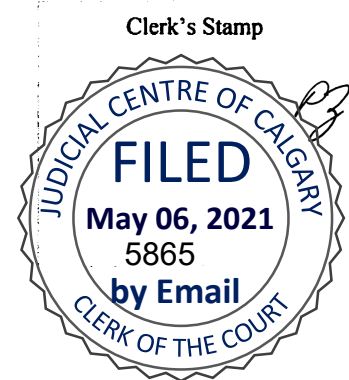


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COURT QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANT ALBERTA HEALTH SERVICES
RESPONDENTS CHRISTOPHER SCOTT, WHISTLE
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**AFFIDAVIT OF DR. DEENA HINSHAW
AFFIRMED ON MAY 6, 2021**

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 the Canadian and Albertan context; and
- b. My training and experience as a Public Health and Preventive 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 disproportionately 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 are now three licenced vaccines for COVID-19 available in Alberta (Pfizer BioNTech, Moderna, and AstraZeneca/COVISHIELD). Alberta Health and Alberta Health

Services began to deploy COVID-19 vaccine in December 2020. The vaccines require two doses, and an additional period of 7-10 days after the second dose before becoming maximally effective. It is expected that we will have sufficient vaccine supply to provide a first dose of vaccine to all Albertans age 12 and over by early June 2021 or sooner. It is expected that we will have sufficient vaccine supply to provide a second dose of vaccine to all Albertans in this age group by September 2021.

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. Public health measures put in place in late November and early December 2020 brought cases, and subsequently hospitalizations for COVID-19, down. When public health measures were eased in February and March, cases plateaued and began to rise again. Even with some public health measures in place, the number of recognized SARS-CoV-2 infections (COVID-19 cases) has continued to grow dramatically in the past 6 weeks, as can be seen in the graph below.

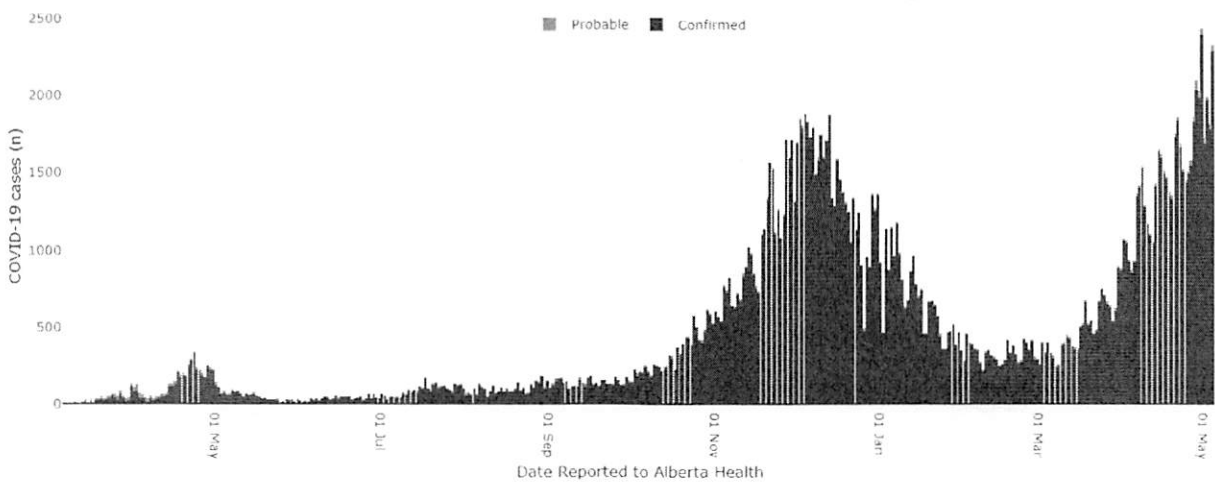


Figure 6: COVID-19 cases in Alberta by day and case status. Probable cases include cases where the lab confirmation is pending. Data included up to end of day May 04, 2021.

(source: <https://www.alberta.ca/stats/covid-19-alberta-statistics.htm#total-cases> accessed May 5 at 18:30h)

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. This is also demonstrated in the graph above, showing the a trend of exponential growth of the number of COVID-19 cases across Alberta

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 interactions between people increases in the community, it becomes more difficult to identify the source of infection of a case. As of May 5, 30.7% of current active 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.

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. 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.

24. 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.

25. In Alberta, as of May 4, 2021, there were 666 people in the hospital due to COVID-19. There were 146 patients in the ICU and 2,102 people have died since March 2020. 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

26. 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.

27. Over the last 10 years, 659 Albertans have died from seasonal influenza in total. The first case of COVID-19 was recognized on March 5, 2020 and as of May 4, 2021, there have been 2,102 deaths from COVID-19 reported.

28. 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.

29. Between March 5, 2020 and May 4, 2021, there have been 8,177 COVID-19 cases hospitalized and 1,433 have required ICU.

Alberta's COVID-19 Public Health Measures

30. 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.

31. 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.

32. 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.

33. 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. Recent evidence also shows that even outdoors, if people are not distanced from each other or masked, transmission can happen from an infectious person to someone else.

34. 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. In addition, outdoor gatherings must also include measures such as distancing, masking, or both, in order to prevent COVID-19 transmission.

35. I make this affidavit in support of the Applicants' interlocutory injunction application.

AFFIRMED BEFORE ME in the City of)
 Edmonton, Province of Alberta, this 6th)
 day of May, 2021. I certify that Dr. Deena)
 Hinshaw satisfied me that she is a person)
 entitled to affirm.)

George T. Christidis
 (Commissioner for Oaths in and for the)
 Province of Alberta), *grc*)

George T. Christidis
Being a Barrister & Solicitor
in and for the
Province of Alberta

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