

## SCHEDULE "B"

### **NOTICE OF CLASS ACTION CONCERNING LONG TERM CARE**

#### **Introduction**

The Court of Queen's Bench of Alberta has certified the following action as a class proceeding:

Elder Advocates of Alberta Society and James O. Darwish, Personal Representative of the Estate of Johanna H. Darwish, deceased v Her Majesty the Queen in Right of Alberta and Alberta Health Services, Judicial District of Edmonton Action No. 0503-13196

#### **What is the case about?**

The class for whom the action is brought consists of eligible persons, or the estates of persons, who since August 1, 2003:

- (a) were residents in a nursing home in Alberta,
- (b) were patients in an auxiliary hospital in Alberta, or
- (c) were patients in a general hospital in Alberta and were assessed as requiring auxiliary hospital or nursing home level care,

and who personally paid, in whole or in part, the Accommodation Charge. Some exceptions to this general class definition apply. The full class definition is available at [www.parlee.com](http://www.parlee.com).

The action alleges that the class members have been charged an unlawfully high Accommodation Charge since August, 2003. The claim alleges that the Defendants acted in bad faith and in breach of legal duties owed to the Class members. The claim seeks financial compensation for Class members. None of the allegations have been proven in court, and the Defendants deny all of the allegations.

The full statement of claim is available at [www.parlee.com](http://www.parlee.com).

#### **How will the case proceed?**

The Court of Queen's Bench has ruled that this claim may proceed as a class action with Elder Advocates of Alberta Society and James O. Darwish as representative plaintiffs. The Alberta Court of Appeal has upheld that decision. The Alberta Government is seeking leave to appeal the decision to the Supreme Court of Canada.

If the Supreme Court of Canada allows the case to go ahead, the class action will proceed in two stages. The first stage is the resolution of issues that are common to the potential claims of all Class members (the common issues stage). A list of the common issues is available from Parlee McLaws LLP and can be found on their website at [www.parlee.com](http://www.parlee.com).

If these common issues are resolved in favour of the class, there will be a second stage (the individual claims stage). The court will decide what further steps individual class members need to take, if any, to determine if they are entitled to recover any money.

### **Who are the Lawyers for the Class and How do I Find Out More?**

The lawyers for the class are Parlee McLaws LLP. Class members who wish to know the status of the class action or to review the background information on the case should monitor Parlee McLaws' website: [www.parlee.com](http://www.parlee.com).

The representative plaintiffs will instruct the lawyers for the class during the common issues stage. The lawyers must act in the interests of all class members.

### **How do I participate in the class action?**

All Alberta residents who fall in the definition of the class are automatically included in the class unless they opt out. If you fall within the definition of the class and wish to be part of the class action you do not need to do anything at the common issues stage. If you want to participate on your own behalf at the common issues stage, you must apply to the Court of Queen's Bench of Alberta.

If you fall within the definition of the class but **do not** want to be part of the class action, you may opt out by completing an opt-out form available from Parlee McLaws LLP at [www.parlee.com](http://www.parlee.com). The opt-out form must be received by Parlee McLaws **no later than April 26, 2010**. Persons who opt out will not be entitled to receive any money recovered in the class proceedings.

### **Do I need to Pay Anything?**

You do not need to pay any legal fees out of your own pocket at the common issues stage. If the common issues stage of the case is successful, the fees payable to the lawyers for the class will be paid out of any judgment, and will not be paid directly by Class members.

The representative plaintiffs have entered into a fee agreement with the lawyers for the class that provides for the lawyers to be paid 25% of any amounts recovered, plus disbursements, plus applicable GST. This is subject to approval of the court.

If the class loses the case on the common issues, Class members are not responsible for the fees of any of the lawyers involved in the case.

If you decide to hire a lawyer to pursue an individual claim at the individual claims stage, you will be responsible for that lawyer's fees.

If you have questions regarding this notice, please see Parlee McLaws' website at [www.parlee.com](http://www.parlee.com) or contact Parlee McLaws LLP at (780)423-8549 or by email to [smcelhinnev@parlee.com](mailto:smcelhinnev@parlee.com).