

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CANWEST MEDIAWORKS INC.

Applicant

- and -

ATTORNEY GENERAL OF CANADA

Respondent

**AFFIDAVIT OF LINDA SILAS
(sworn July 31, 2006)**

I, LINDA SILAS, of the City of Ottawa, in the Province of Ontario, AFFIRM THAT:

1. I am and have been the President of the Canadian Federation of Nurses Unions (hereafter referred to as "CFNU") since 2003. I have been a registered nurse since 1983 and, as such, have knowledge of the facts to which I hereinafter depose.
2. CFNU represents 135,000 unionized nurses in nine provinces. The Federation is the national voice for unionized nurses – its objectives include: advancing the social, economic and general welfare of its members; providing its members with a national forum for the purpose of promoting desirable legislation on matters of national significance which affect its member organizations; promoting the highest standards of health care throughout Canada; and advocating for social justice and equality.
3. CFNU is a member of the Canadian Health Coalition and has collaborated in preparing a policy paper describing the essential features of a national pharmacare strategy: *More for Less: A National Pharmacare Strategy*. Our proposals aim to make prescription drugs

accessible, safe, cost effective, and affordable. A key element of this policy framework calls for a strengthening of current controls on drug advertising to include mandatory filtering of broadcast ads from the United States and drug company promotional activities directed towards doctors and other health care providers. In addition, federal officials need to do a better job of enforcing current controls on drug advertising if the cost of pharmaceutical products is to be contained, and access to needed medication is assured for all Canadians.

4. Based on our internal research and numerous years of nursing experience, it is the view of CFNU that direct-to-consumer advertising (DTCA) leads to:
 - (a) increased, and sometimes inappropriate use of prescription medications;
 - (b) a belief among a significant number of individuals that they have a particular medical condition when they in fact do not;
 - (c) increased stress on the physicians/nurse practitioners – patient relationship, when patients pressure health care professionals to prescribe particular medications they have seen advertised; and
 - (d) inappropriate prescribing, which, in turn, increases the risk of adverse drug reactions.

5. It is well known that nurses spend the more time with patients than other health care professionals. They are on the front lines of observing adverse drug reactions, which they are required to record on the patient's chart, or report to the attending physician in the case of severe reaction. Ultimately, severe adverse drug reactions are to be reported to Health Canada, but many other adverse reactions go unreported and the absence of electronic recording of patient health records makes tracking such reactions very difficult. The combination of poor post-market surveillance and underreporting of adverse drug

reactions increases the risks of such adverse reactions and can delay the ultimate decision to withdraw an unsafe drug.

6. I am familiar with studies that show that DTCA results in more rapid uptake of new drugs before all of their risks are fully known. It also leads to higher rates of polypharmacy (use of many medicines per person) and increased prescribing for unapproved uses (“off-label” prescribing-term), both contributing risk factors to adverse drug reactions. These influences are consistent with our observations as professional health care providers.
7. Given the current and increasing shortages of professionals within the medical and nursing fields, CFNU is also and particularly concerned about the pressure that DTCA can put on the health system to respond to marketing campaigns, rather than evidence-based medicine. These pressures arise when DTCA encourages unqualified consumers to self-diagnose medical problems and treatment. Our capacity as nurses to work together with other professionals and patients to provide excellent care and treatment based on education and professional judgment is directly hampered by sophisticated and manipulative advertising practices that may convince a consumer that she or he needs a particular medication, whatever the health care professionals may say.
8. The Canadian Nurses Association shares many of our concerns, and these are reflected in a position statement it adopted in October 2004:

Consumers have the right to evidence-based, independently developed, comparative information on which to make decisions about their health. The Canadian Nurses Association believes that in developing and distribution information, public safety must be paramount. CNA recognizes that, with regard to over-the-counter drugs and prescription products, information distribution is one of the influencers of use and prescribing patterns. At the same time, CNA recognize that expertise and skill are needed to diagnose health problems and select appropriate remedies.

CNA believes, therefore, that the federal government must maintain and enforce the legislated prohibition on distributing information to consumers about:

- *Pharmacological treatment options for diseases and conditions;*
- *New products offering unspecified treatment options; and*
- *Product-specific therapeutic claims.*

9. Increased demand for prescription drugs will affect private as well as public payers. About half of working people in Canada get extra health care coverage through employer-sponsored health plans. Prescription drugs are the biggest cost component. In a recent survey of employers across Canada, 95% said rising health care costs were their number one concern. Rising employer costs of drug benefits is increasing labour tension and is considered a factor in many recent strike actions.
10. Our member unions negotiate on behalf of their members for the benefits of private health insurance for services not covered by medicare, such as dental care and prescription drugs.
11. These costs have risen sharply in recent years because of the cost of insurance for prescription drugs. These costs are rising because both drug use and drug costs are rising. Both cost pressures can be related to the promotional activities of the pharmaceutical industry, including direct to consumer advertising. In consequence, many employers have modified or try to negotiate down existing benefits. This can and has become a contention issue at the bargaining table for nurses.
12. CFNU is seeking intervener status in this case, as it believes that DTCA will negatively impact patients, our public health care system and our members.

13. I make this affidavit in support of our application for intervener status in the matter of CanWest MediaWorks v. Canada and for no other purpose.

AFFIRMED BEFORE ME AT
the City of Ottawa, in the Province
of Ontario, this 31st day of July,
2006



A Commissioner for taking affidavits

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LINDA SILAS