HRTO FILE 2013-16149-I

HUMAN RIGHTS TRIBUNAL OF ONTARIO

ASSOCIATION OF ONTARIO MIDWIVES

Applicants

v.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS REPRESENTED BY THE MINISTER OF HEALTH AND LONG-TERM CARE

Respondent

AFFIDAVIT OF JOHN RONSON

I, John Ronson of the City of Peterborough in the Province of Ontario, MAKE OATH AND AFFIRM as follows:

1. I am an experienced health care consultant and lawyer and was a founding partner of the Courtyard Group. Currently I am the National Director, Health Strategy and Government Relations for TELUS Communications. TELUS purchased the Courtyard Group. The Courtyard Group was an expert in the health care sector. During my time with the Courtyard Group, I was responsible for the preparation of the September 2010 Courtyard Report "Compensation Review of Midwifery,"[1] along with my colleague Gia Marasco.

2. My background, knowledge and experience which support the statements in this Affidavit are set out in my Curriculum Vitae[2] and summarized in Part 1 below. This affidavit constitutes the main section of my examination in chief in this proceeding.

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1 "Compensation Review of Midwifery", The Courtyard Group, prepared on behalf of the Ministry of Health and Long Term Care and the Association of Ontario Midwives, September 2010, version final. AOM0000567

2 Curriculum Vitae of John Ronson. AOM0016606

I. BACKGROUND

1. Education

3. I obtained both a LLB and a Bachelor's degree from Queen's University. I also studied at the Institute of Corporate Directors.

2. Health Law Experience

4. As a law partner at Blake, Cassels & Graydon I specialized in health law and was an advisor to a variety of health care clients, including some of Canada's largest academic health sciences centres.

5. My background as a corporate lawyer and an advisor to, and member of, several boards of directors informs my approach to management and consulting. I have more than 35 years of progressive management experience including engagements within health care, business, organizational consulting, law, and government.

3. Health Care Consulting and Professional Services Experience

6. I have an extensive health care consulting and executive background, including board-level leadership of health care human resources and compensation governance.

7. From 1985-87, I served as Chief of Staff to the Minister of Health for Ontario. I was also a chair of the Advisory Council of the Centre for Health Economics and Policy Analysis (CHEPA) at McMaster University.

8. I have consulted for numerous healthcare organizations, governments, and commissions across Canada and internationally, including work for the Romanow Commission, the British Columbia Royal Commission on Health Care and Costs, the Premier's Health Council (Ontario), the United Kingdom Health Education Authority, the Health Council of Canada, Canada Health Infoway, and the governments of Ontario, Manitoba, and Alberta.

9. As a consultant, I have also led numerous engagements with the government of Ontario. The extensive consultation services I have provided for the Ministry of Health and Long Term Care including: leading the consulting team working jointly

with the Ministry, the Ontario Medical Association and the Ontario Hospital Association on issues related to emergency department overcrowding.

10. I also supported a Ministry team in developing the Province's first strategy for Chronic Disease Prevention and Management.

II. COURTYARD REPORT: REQUEST FOR SERVICES (RFS) AND PROPOSAL

1. Impetus for Report

11. As noted in our Report, the impetus for the review was Article 7 of the 2008 Memorandum of Understanding (MOU) between the MOHTLC and the Association of Ontario Midwives (AOM)[3] which specifically requires the organizations "to jointly retain an independent third party to conduct a compensation review of midwifery services."[4]

12. The Courtyard Group was awarded the contract to conduct this independent review in July, 2010.

2. Request for Service to provide General Management Consulting Services to MOHLTC (June 2010)

13. In early June of 2010 the Courtyard Group received an invitation to consider a Request for Services (RFS) issued by the MOHLTC.[5] Such invitations are a regular occurrence as the Courtyard Group was a Government vendor of record**.**

14. The RFS noted that midwifery compensation at that time was based on a compensation review report that had been conducted in February 2004 and that since February 2004 the Ministry had been providing additional funding annually to meet compensation requirements.[6]

15. The RFS was clear that the project was intended to be a collaboration between the Ministry and the AOM. This document identified that the Compensation Review and Advisory Committee would have three members from each party.

16. The RFS states that:

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3 2008 Memorandum of Understanding between Her Majesty the Queen in Right of Ontario as represented by the Ministry of Health and Long Term Care and the Association of Ontario Midwives (2009-05-07), at Article 7, AOM0000617.

4 "Compensation Review of Midwifery", The Courtyard Group, prepared on behalf of the Ministry of Health and Long Term Care and the Association of Ontario Midwives, September 2010, version final at p. 4. AOM0000567

5 Request for Proposals for General Management Consulting Services, for Compensation Review Committee (2010-06-08) AOM0004293

6 Request for Proposals for General Management Consulting Services, for Compensation Review Committee (2010-06-08) AOM0004293 at p 7

"the current compensation framework for midwives is based on a compensation review report that was conducted in February, 2004. Since 2004 the Ministry has been providing additional funding every year to meet the compensation requirements of the midwives."

"Two reports were previously commissioned to review the compensation for midwifery services: Morton compensation report in 1993 Hay Compensation report in 1994. Following the Compensation Report, the compensation scheme for midwives was revised in 1994. In 2004, the Association of Ontario Midwives presented MOHLTC with the Hay Group compensation report and a formal request for a midwife fee increase. Since 2004 the ministry has been providing additional funding for partial compensation. Schedule C of an Agreement that outlines the current fee scheduled for midwives is attached. The Ministry and the AOM have agreed to create a Compensation Review and Advisory Subcommittee of three members from each party."[7]

17. The Ministry RFS required:

"the development of a report that suggests the appropriate "total compensation" for midwifery based on evidence which will include but not be limited to comparable, relevant and both current and historical compensation levels and factors of nurses, doctors and other relevant health care providers; comparable and relevant midwifery compensation models in other jurisdictions; and the initial 1993 Morton compensation report and the February 2004 Hay compensation review report. Total compensation is defined as: Course of Care fees (includes: operational, on-call, secondary care, retention experience fee and rural and remote supplements) and all benefits or equivalent funding."[8]

18. The RFS included a draft schedule anticipating completion by September 20th 2010. The report was to inform the AOM MOHLTC negotiations which were scheduled to start by September 30, 2010. Vendors were asked to identify an implementation plan, a method for updating parties on progress and the methodologies to be used. [9]

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7 Request for Proposals for General Management Consulting Services, for Compensation Review Committee (2010-06-08) AOM0004293,*Section 1.3*

8 Request for Proposals for General Management Consulting Services, for Compensation Review Committee (2010-06-08) AOM0004293 at p 8

9 Request for Proposals for General Management Consulting Services, for Compensation Review Committee (2010-06-08) AOM0004293 at p 8

3. Courtyard's Proposal (July 2010)

19. Courtyard provided a detailed submission titled "Proposal for Compensation Review of Midwifery Services," dated July 6, 2010.[10] This document set out our proposal for carrying out the project. I co-authored the proposal with my colleague, Gia Marasco.

20. Gia Marasco brought to the project her education as a Bachelor of Science and MBA with a health services management specialty from McMaster University. Along with her international health care experience in Courtyard's UK office, she also had 6 years of experience in a wide variety of health care projects in Ontario. These included: MOHLTC projects, developing a provincial report mechanism for monitoring the performance of LHINs, strategic planning exercises concerning ER/ALC Performance and work for the Health Professionals Regulatory Council conducting a review of the scope of practice of Opticians and Optometrists. [11]

21. In our proposal we described how the Courtyard Group would go about developing a report reviewing the compensation of Midwifery Services that demonstrates the value of such services in Ontario. This proposal outlined our understanding of the MOHLTC's requirements, our proposed resources, our ability to engage a variety of stakeholders, and a summary of our experience conducting similar engagements.

22. In preparing this proposal we familiarized ourselves with the history and context of Ontario midwifery. In outlining our understanding of the requirements we emphasized our knowledge of the significant cost savings and excellent clinical outcomes associated with midwifery.[12] We noted that the Ministry had been providing additional funding annually to meet the compensation requirements of Ontario Midwives, to attract new registrants and to also minimize attrition.

23. In this document we described our proposed approach to the project as "a highly collaborative process" which would rely on a newly created Compensation Review and Advisory Subcommittee that includes membership from the Ministry as well as the Association of Ontario Midwives. We noted that the subcommittee would also identify other key stakeholders who should be consulted for this assignment on recommendations as well as implementation strategies and opportunities.

24. We proposed a three-phased approach to developing the compensation review.

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10 Courtyard Submission - Review of Midwifery Services (2010-07-06) AOM0016049

11 Courtyard Group Submission - Review of Midwifery Services (2010-07-06) AOM0016049 at p 17-18.

12 Courtyard Group Submission - Review of Midwifery Services (2010-07-06) AOM0016049 at p 7

(a) The first phase was to establish the process by which the project would be executed and to confirm the project work plan.

(b) During phase 2 (Environmental Scan and Stakeholder Engagement) we proposed conducting a comprehensive review of compensation levels of nurses, doctors and other relevant health care providers, a jurisdictional review of other midwifery compensation models**,** holding stakeholder interviews and analyzing the initial 1993 Morton compensation report and the February 2004 Hay compensation review report.

(c) In keeping with the collaborative approach we proposed that the final phase would require developing and presenting draft and final reports of a compensation review of midwifery services. Recommendations from the final report will be presented in a presentation package that is finalized by the Compensation Review and Advisory Subcommittee for review and feedback. [13]

25. We were well-positioned to provide this service as Courtyard had experience in the analysis of the scope of practice and work of health care professionals, including physicians and optometrists in Ontario as well as understanding of the Ontario health care environment including community and primary care.

26. On July 19, 2010 Courtyard attended an RFS interview meeting with Ministry and AOM representatives and responded to questions regarding our experience, qualifications and methodology.

27. The Ministry, in consultation with the AOM, selected Courtyard as meeting the RFP's requirements. This approval took place on July 21, 2010 with a project start date of July 27, 2010 and end date of September 20, 2010.

1. Statement of Work

28. A Statement of Work was signed by the MOHLTC's Mary Fleming and by the Courtyard Group in July of 2010. This Statement of Work set a ceiling price of $99,950.00 for the project. In that agreement the Services and Deliverables to be provided by the Vendor were identified as:

The development of a report that suggests the appropriate "total compensation" (experience fee, on-call fee, retention incentive, and secondary care fee) for midwifery services based on available evidence which will include but will not be limited to:

- *Comparable, relevant and both current and historical compensation levels and factors of nurses, doctors and other relevant health care providers.*

13 Courtyard Group Submission - Review of Midwifery Services (2010-07-06) AOM0016049 at p 7

- *Comparable and relevant midwifery compensation models in other jurisdictions; and*

- *The initial 1993 Morton compensation report and the February 2004 Hay compensation review report.* [14]

29. The Statement of Work defined:

(a) "Total Compensation" as: course of care fees (including: operational, on-call, secondary care, retention experience fee and rural and remote supplements) and all benefits or equivalent funding.

(b) set out anticipated timelines:

- July 27, 2010 – September 20, 2010 – The Vendor to undertake the review process as per established methodology as outlined in the response to the Request for Service.

- September 21 2010 – The Vendor to Present a draft findings to the Compensation Review and Advisory Subcommittee for review and feedback.

- September 30, 2010 – The Vendor shall present the final report.[15]

III. REVIEW PROCESS

1. Introduction

30. I acted as the strategic advisor and facilitation expert on the compensation review and my colleague Gia Marasco was the project lead.

2. Methodology

31. The methodology used by myself and Marasco is outlined in the final report and flows from the above-noted Statement of Work and RFS and our July 6, 2010 Response to the RFS.[16] The Courtyard Report's methodology included:

a) reviewing the 1993 Morton report and the Hay reports as required by the Statement of Work, RFS and the parties MOU. This included the compensation principles established by the Morton report (1993). At that

14 Statement of Work for General Management Consulting Services (2010-07-27) AOM0004685

15 Statement of Work for General Management Consulting Services (2010-07-27) AOM0004685

16 Report by Courtyard Group for MOH re Compensation Review of Midwifery (September 2010) AOM0000567 p. 14

time Morton had placed midwives between the Primary Care Nurse and the CHC physician. In the 2004 Hay report, the Primary Care Nurse had been replaced by the Nurse Practitioner;

b) reviewing published information on midwifery programs across Canada and conducting interviews with officials in Alberta and British Columbia to understand the rationale for their compensation models;

c) conducting stakeholder interviews and engaging in data analysis with regards to the historical fee schedules and salaries; reviewing its methodology with the Steering Committee in order to obtain feedback and guidance regarding the direction of the review, and

d) conducting a jurisdictional review of midwifery services in other provinces of Canada and an overview of the scope, volume and complexity of the work performed by midwives, including comparisons to other professions.[17]

3. Joint Steering Committee

32. A joint Steering Committee of MOHLTC and AOM representatives was created to advise the Courtyard Group. This committee consisted of three Ministry and three AOM representatives. The Ministry representatives were OMP Manager Seetha Raja and Melanius Finney, a financial staff person from the OMP, and Arda Ilgazli from the MOHLTC Negotiations Branch. AOM representatives were President Katrina Kilroy, AOM Executive Director Kelly Stadelbauer and AOM Director of Policy and Communications, Juana Berinstein.

33. At every key stage of the project, our methodology, research, interview subjects, findings, draft recommendations and final report were discussed and reviewed with the Joint Steering Committee and the feedback taken into consideration in our analysis.

34. The project was conducted very collaboratively and the tone of the meetings was consistently constructive, with all three parties working to a common goal of delivering the answer to what the appropriate total compensation for midwifery services should be.

35. On July 28, 2010, Gia Marasco and I met with the Joint Steering Committee to discuss the review.[18] At that meeting we did a presentation which reviewed the process outlined in the Statement of Work (including our project management and methodology plan).

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17 Report by Courtyard Group for MOH re Compensation Review of Midwifery (September 2010) AOM0000567 at pg. 14

18 Presentation from Courtyard Review kick-off meeting on July 28, 2010. (2010-07-28) AOM0001579

4. Development of Evaluation Questions

36. During these early meetings I facilitated the initial discussion with the joint Steering Committee where the following evaluation questions were jointly developed and agreed on by the AOM and the MOHLTC:

(a) Does the current compensation model recognize adherence to best practice guidelines and the achievement of the Ministry's policy objectives?

(b) Does the current compensation model reflect the current scope of work performed?

(c) Does the current compensation model reflect the volume/complexity of work performed?

(d) Does the current compensation model reflect the costs of doing work?

(e) What is the value of benefits, or equivalent funding received by midwives?

(f) Does the current compensation model reflect the experience and training of midwives?

(g) Is the current compensation model comparable to other professions performing similar work?

(h) What market trends should be taken into consideration? Have compensation increases remained aligned with economic growth in Ontario? [19]

37. These questions were determined collaboratively with input from both the MOHLTC and the AOM representatives. We relied on these questions in guiding our research and compensation review analysis. The document "Compensation Review of Midwifery: Evaluation Questions" shows the work that was done early on in the process to identify research/interview questions and data sources that would allow Marasco and myself to answer each evaluation question.[20]

5. Identifying Research Sources

38. Following the July 28, 2010 meeting, Gia Marasco sent a follow up email listing the action items stemming from the kick-off meeting. These focused primarily on gathering the necessary background information to be reviewed by Marasco and myself. In this email Gia Marasco specifically noted that the parties had agreed to

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19 Report by Courtyard Group for MOH re Compensation Review of Midwifery (September 2010) AOM0000567 at pg. 3;

20 Evaluation Questions used by Courtyard Group (2010-08-01 – est) AOM0004898

provide information on Nurse Practitioners and Family Physicians (CHCs, FHTs).[21]

39. On August 3 2010 Gia Marasco followed up with the Steering Committee regarding these action items. In this email Marasco asked both AOM and Ministry representatives for interview contacts and for background documents to be reviewed.[22]

40. Gia Marasco and I both met with the Steering Committee again on August 6 2010.[23] During this meeting we reviewed the interview list, the remaining background documents to be reviewed and confirmed the evaluation framework – namely the questions to be used. We then led a discussion of the timeline and tasks to meet the project deadline of late September. All parties were interested in ensuring that the ultimate report was based on strong factual foundations. Given the short time frame, we asked everyone work with us to ensure all the information was collected and the interviews arranged as quickly as possible.

41. At that meeting the AOM's Katrina Kilroy did a PowerPoint presentation on the history of midwifery compensation.[24] At the same meeting we discussed the AOM's Workload Analysis, the interviews to be conducted by Courtyard and considered the evaluation questions.[25]

42. Following the August 6, 2010 meeting Marasco sent an email on August 9, 2010 setting out action items.[26] The email listed data sources promised to us by both the Ministry and the AOM. For example, this email reflects that:

    (a) the Ministry had agreed to provide: a comparison study (examining cost of other providers (MOH), fee schedules / negotiation agreements for other professions and a listing of caseload variables; and

    (b) the AOM had agreed to provide a study related to transfers and continuity of care.

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21 Email from G. Marasco to S. Raja, K. Kilroy, J. Berinstein, K. Stadelbauer, A. Ilgazli, M. Finney, J. Ronson re: Courtyard Report Follow Up Items (2010/07/28) AOM0010227

22 Various emails between G. Marasco and S. Raja copying K. Kilroy, K. Stadelbauer, J. Berinstein, A. Ilgazli, M. Finney and J. Ronson between July 28 and Aug. 3, 2010 re: starting Courtyard Report (2010-08-03) AOM0004863

23 Compensation Review of Midwifery Steering Committee Meeting Agenda (2010-06-08) AOM0016036

24 "Creating Equity for Midwives in Ontario's Health Care System", AOM PowerPoint Presentation (August 6, 2010) AOM0017368

25 Email from Gia Marasco to Seetha Raja, Katrina Kilroy, Juana Berinstein, Kelly Stadelbauer, Arda Ilgazi, Melanius Finney, John Ronson re: Kick-Off Meeting Follow-Up (2010-07-28) AOM0016089

26 Email from Gia Marasco to Members of Compensation Review Committee re: August 6th Meeting - Summary of Actions (2010-09-08) AOM0016092

(c) the data sources we collected were decided upon collaboratively and required the cooperation of the parties.

43. The Ministry and the AOM assisted us in gathering the necessary information. The determination of the comparisons to be analyzed flowed from Steering Committee discussions and agreement. It also flowed from the requirements of the RFS. The Ministry representatives through the Steering Committee participated in a discussion of comparators and in the ultimate selection of comparator jurisdictions and professions.

6. Weekly Summaries of Progress and Activities and Interviewing Stakeholders

44. As part of our ongoing communications and methodology, we submitted weekly summaries of Progress and Activities from July to Sept 2010 to the parties for review and feedback.[27] These weekly summaries:

(a) documented numerous meetings with MOHLTC staff and representatives;

(b) detailed our efforts to collect and review background documentation from both the AOM and the MOHLTC; and

(c) reflected the breadth of interviews conducted as part of the Courtyard research process.

45. In order to obtain balanced information we interviewed stakeholders from the MOHLTC, the AOM and the broader medical community. Interviews conducted during the summer of 2010 included: Charlotte Moore, Provincial Lead for Maternal Child and Youth, MOHLTC, Wendy Katherine, Manager, Population Health Strategy and Integration Unit and former OMP Manager, MOHLTC, Robin Kilpatrick, Regulatory Issues, College of Midwives, Beverly Sealy (BC MOH), Vicki Van Wagner, Ryerson Midwifery Education Program, Eileen Hutton, McMaster Midwifery Education Program. In early September we conducted interviews with representatives from the AOM (Juana Berinstein, Katrina Kilroy, Kelly Stadelbauer) as well as the Ministry (Seetha Raja, Melanius Finney).

46. Other key informant interviews included the MOHLTC Director of Primary Care, Mary Fleming, and the co-chair of the OMA's Obstetrics and Gynecology section, Dr. Bill Mundle.[28]

47. The interview with Vicki Van Wagner had noted that MEP students had been graduating at higher skill levels and that in their final year of training, midwives have had more labour and delivery experience than an undergraduate medical student, and a family physician resident.

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27 Progress Reports by Courtyard Group (2010/08/06-2010/09/24 Est.) AOM0004704

28 Invoice from Courtyard Group (second) (2010-10-13) AOM0004637

48. As of the September 24, 2010 Progress and Activities Summary we noted that there continued to be difficulties obtaining historical compensation data related to CHC physicians and FHT physicians. At that time we noted that the Ministry was working with internal staff to try to obtain the necessary information. [29] Courtyard had also contacted a CHC executive director to try to obtain the information. At that time we noted that the interview with the section of the OMA addressing CHC physicians was outstanding. On September 23, 2010 we contacted Dr. Lofsky to request information regarding obstetrician practices in Ontario.[30]

IV. CROSS-CANADA JURISDICTIONAL REVIEW

49. A cross-Canada jurisdictional review was completed as required by the RFS. The AOM raised a concern about the appropriateness and weight to be given to the analysis in the context of the *Pay Equity Act* which did not look to other provinces and the unique features of Ontario's midwifery compensation system.

50. In order to obtain this jurisdictional information, we conducted interviews with relevant Ministry officials in other provinces, with both parties collaborating to provide cross-jurisdictional information and contacts.

1. Collaboration with the AOM and MOHLTC Representatives During Research

51. From July, 2010 to September, 2010 both Marasco and I communicated with the Ministry and AOM representatives individually as well as jointly through communications and meetings. We carried out our research and worked with the Joint Working Group with respect to obtaining all appropriate information.

52. Starting in September, we provided to the Steering Committee drafts of the report's research results which were updated through the month as we continue to obtain research results. We also used the process to identify research gaps in order to allow the parties to consider what further information or analysis needed to be pursued.

53. The Steering Committee was very active and co-operative and gave good direction as required during September. Each of the parties from time to time requested that the Courtyard representatives follow up on issues which they regarded as relevant to the review process and we did so.

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29 Status Report from Courtyard Group (2010/09/24) AOM0005021

30 Email from Kelly Stadelbauer to Gia Marasco, Katrina Kilroy, Maryellen Boyes, Juana Berinstein, Seetha Raja, Melanius Finney, Arda Ilgazi, John Ronson re: Draft Midwifery Compensation Review Report (2010-09-23) AOM0016107

V. SEPTEMBER COMMUNICATIONS AND DRAFT REPORTS, FINDINGS AND RECOMMENDATIONS

1. Methodology

54. As with every stage of our research we kept the parties informed of the information we had gathered and requested input and direction from both parties. Starting with our initial outline document dated September 2, 2010, our methodology involved during the month of September providing the parties with further drafts of the research findings of the report. This permitted the parties to provide us with feedback on that research which would form the basis for our Draft Findings and Recommendations which was provided to the parties on September 29, 2010.

2. September Communications and Meetings

55. The Steering Committee met with Gia Marasco and myself on September 2, 2010. At that meeting we reviewed our initial document “Compensation Review of Midwifery, Steering Committee Meeting” which included a draft report outline, the findings that had been made up to that point including synopsis of interviews to date, context and background, jurisdictional review, evaluation questions and review of the Ministry's Midwifery Outcomes database or 'MOR'' data analysis to date. [31] We also presented the information we had collected specific to each of the evaluation questions. We came prepared with discussion questions and information gaps, and took input from the committee on each evaluation question. I then facilitated a discussion of the parties with respect to the above, including our findings from various interviews, including that midwives spoke of an increased workload.

56. During September, Gia Marasco continued to communicate with the parties to obtain further research data in order to meet the September 30, 2010 deadline required by the MOHLTC in our contract. [32]

57. On September 14, 2010 the MOHLTC's Seetha Raja provided us with the 2008 OHIP fee schedules[33] and CHC physician salary data.[34] On September 17

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31 Compensation Review of Midwifery, Steering Review Committee Meeting September 2, 2010 prepared by Courtyard Group (2010/09/02) AOM0004915

32 For example, see email from G Marasco to S Raja re: Outstanding information requirements (2010-09-07) AOM0004942

33 Email from S Raja to G Marasco re: Schedule of Benefits (2010-09-14) AOM0004948; Various emails between G Marasco and S Raja dated September 14-16, 2010 re: Historic Schedule of Benefits for Physician Services AOM0004994

34 Email from S Raja to G Marasco re: CHC physicians salaries (2010-09-14) AOM0004949

Seetha Raja provided historical information regarding physician benefits.[35] She also provided us with Obstetric billing codes on September 28, 2010.[36] On October 1, 2010 Seetha Raja provided us with answers to various questions regarding FHT Compensation.[37]

58. On September 14, 2010, Gia Marasco forwarded by email an iterative draft of the Courtyard compensation review report with attached supporting calculations spreadsheet[38] for review of the parties prior to meetings of the Steering Committee.[39]

59. In the above-noted email Marasco asked that all parties review the draft so that we could review it together and get feedback the following week. By providing the draft and background calculations we worked to provide sufficient opportunity for the AOM and MOHLTC to raise and address any concerns.

60. The AOM's Kelly Stadelbauer replied with some feedback on September 17, 2010.[40]

61. We conducted a further Steering Committee meeting on September 20, 2010 to obtain feedback on this draft.[41] Seetha Raja was feeling unwell so Melanius Finney attended on behalf of the Ministry and provided feedback As a result, the above-noted feedback was incorporated into the Report and additional content was added.

62. On September 22, 2010, another version of the draft Report was distributed to the Steering Committee for review.[42] In the email attaching this version Marasco

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35 Emails between G Marasco and S Raja re: Historic physician Schedule of Benefits (2010-09-17 2010/09/17) AOM0004999; Email from S Raja to G Marasco re: Schedule of Benefits - 2005 (2010-09-20) AOM0005015

36 Email from Seetha Raja to Gia Marasco re: Obstetric Codes (2010-09-28) AOM0005117

37 Email from S Raja to Marasco dated Sept. 28 to Oct. 1, 2010 re FHT Compensation Validation/Questions (2010-10-01) AOM0005131

38 Draft Findings by Courtyard Group re: Compensation Review of Midwifery (2010-09-14) AOM0010171

39 Email from Courtyard's G Marasco to OMP & AOM re: Draft Midwifery Compensation Report (2010-09-14) AOM0004954

40 Various Emails Between K. Stadelbauer and G. Marasco replying to email from G. Marasco to K. Kilroy, S. Raja, M. Finney, A. Ilgazli, K. Stadelbauer, J. Berinstein, M. Boyes re: Courtyard Report Feedback (2010-09-17) AOM0010222; Draft Compensation Review of Midwifery by Courtyard Group with Comments from K. Stadelbauer (2010-09-17) AOM0010184

41 Progress Reports by Courtyard Group – report as of September 24, 2010 (2010/08/06-2010/09/24 Est.) AOM0004704

42 2010/09/-- Draft Version of Courtyard Report (2010/09/22) AOM0005901; Email from Gia Marasco to K. Kilroy, M. Boyes, K. Stadelbauer, M. Finney, S. Raja, A. Ilgazli re: Compensation Review of Midwifery (2010-09-22) AOM0010155

set out a number of the changes that we had made in response to our discussion with the parties.

63. On September 23, 2010 Kelly Stadelbauer provided us with further feedback by email.[43] Stadelbauer particularly emphasized the value of comparing the three professions in a manner that would be easy to understand. We brought this feedback to the committee meeting on the same day.

64. On September 28, 2010 we distributed another iteration of the report along with a list of outstanding information.[44] At this time, we advised the parties that we would be providing them with our document "draft findings and recommendations" at our meeting the next day for discussion.

3. Draft Findings and Recommendations

(a) Introduction

65. On September 29th, 2010 we conducted a further Steering Committee meeting. During the first part of that meeting we reviewed sections of the report with major updates and received additional comments from the AOM and Ministry representatives.

66. During the second half of the September 29, 2010 meeting Marasco and I provided the Joint Committee with our Findings and Recommendations- Draft which we had prepared based on the research information and data and the communications and discussions of the parties over the period of the project. We reviewed the document with the Committee members and discussion followed with us answering any questions.[45]

67. Our Findings and Recommendations – Draft focused on the key areas including:

(a) the expansion of the scope of midwifery;

(b) the fact that there appeared to be no need to change the basic model of compensation established in the 1993 Morton report;

(c) initial reflections on compensation levels;

(d) highlights of the negotiation history; and

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43 Various Emails btw K. Stadelbauer, G. Marasco, K. Kilroy, M. Boyes, J. Berinstein, S. Raja, M. Finney, A. Ilgazli dated September 22, 2010 to September 23, 2010 re: Draft Courtyard Report (2010-09-22) AOM0010223; Draft Compensation Review Report by Courtyard Group with Comments by K. Stadelbauer (2010-09-23) AOM0010182 and AOM0016041

44 Email from G. Marasco to S. Raja, M. Finney, A. Ilgazli, J. Berinstein, K. Kilroy, M. Boyes, J. Ronson, K. Stadelbauer re: compensation review status report (2010-09-28) AOM0005071

45 "Findings and Recommendations – Draft", Courtyard Group (September 29, 2010) AOM0005121

(e) key recommendations (restoring midwives to their historic position of being compensated at a level between that of nurse practitioners and family physicians).

(b) Midwifery Profession and Midwifery Services in Ontario

68. The Draft started with the following findings:

1. Since first being regulated in 1994, midwifery has emerged as a mature, self-regulating healthcare profession that currently has over 500 members practicing in Ontario.

2. The profession has grown rapidly, placing pressures on members to assume extensive and intensive roles in teaching, mentoring and supervising of students and new graduates.

3. Enrolment in the midwifery education program, offered at three Ontario universities, was increased by 50% in 2007, but there is still significant unmet demand for midwifery services in Ontario. In 2009/10, over 7500 women requested midwifery services and were denied service due to capacity limits.

4. Midwives are primary maternal care providers who deliver healthy babies safely and effectively and provide excellent pre- and post-birth care. They are trained and capable of supporting a significant majority of all pregnancies, often with no consultation of another healthcare provider such as an obstetrician. However, they are also trained to recognize high-risk situations and to consult and refer as appropriate.

5. The scope of practice of midwifery was expanded in 2009. While not changing the essence of midwifery services, additional responsibilities were added to the scope of practice that require additional specialized education and on-going continuing education and certification.

6. The absolute number of home births continues to rise modestly, but most births supported by midwives now occur in hospital settings, in accordance with the preferences of expectant mothers. There have been shifting patterns of maternal care over time, as family physicians increasingly have exited from providing maternity care; a combination of midwives and obstetricians have filled the gap.

7. Midwives produce excellent care outcomes for both mothers and babies— with lower rates of caesarian sections and higher rates of breastfeeding to cite just two examples.

8. The Ministry of Health and Long-Term Care has significant reporting requirements that must be met before a midwife is paid for a birth. This data is useful and reporting is supported by the profession, but it does represent a

growing administrative burden that midwives must assume and requires a significant amount of duplicative manual data entry.[46]

(c) **Existing Compensation Model**

69. The Draft concluded as follows:

1. The compensation model principles established in the Morton Report of 1994, and that have evolved somewhat since that time, appear to have served the public, the profession and the Ministry very well. There appears to be no appetite or need to change the fundamental model of compensation.

*2. Compensation consists of several broad elements; payment for a course of care that includes prenatal, intrapartum, and postnatal care; progress over time through six experience levels; a process to apply for and receive payment for *case-load variables" that recognize an increasing number of non-clinical activities assumed by midwives; and, coverage of certain practice expenses such as malpractice insurance. These elements continue to be well supported and appear to be appropriate.*

3. The 1994 Morton report found that the income of a midwife should be somewhere above that of a nurse practitioner and below that of a family doctor, taking into account a variety of factors, including training, scope of practice, responsibility, overtime and other requirements. We see no reason to change this positioning, and believe it has only been reinforced given the history and development of both the profession and maternal care in the province over the past 16 years.

(d) **Compensation Level**

70. The Draft concluded as follows:

1. It is difficult to find exact comparators either in Ontario or elsewhere on which to base an assessment of the appropriate level of midwifery compensation. To some extent, comparisons are always "apples to oranges" as different professions and jurisdictions cover, or don't cover, particular expenses of the cost of practice, or provide direct or indirect compensation in different forms.

2. Looking at broad economic indicators, the income of midwives has roughly kept pace with increases in the Canadian Consumer Price index (CPI) between 1994 and 2010; however, increases for midwives fell well below those of salaried health and social assistance employees as well as public sector salaries in health and social services over the same period.

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46 "Findings and Recommendations – Draft", Courtyard Group (September 29, 2010) AOM0005121 p.1-2

3. Examining nurse practitioners as a comparator profession reveals that nurse practitioners at the bottom end of the compensation range are now paid the same as level 1 midwives; and in some practice settings such as hospitals they may be paid significantly more. At the top end of the range nurse practitioner pay may again exceed that of Level 6 midwives.

4. For family physicians working in Community Health Centres and in Family Health Teams, compensation is now well above that paid to midwives.

5. The two provinces with midwifery programs that approach the maturity of Ontario's program are British Columbia and Alberta. Compensation in Alberta for midwives is close to double what it is in Ontario; although midwives in that Province are expected to personally pay for many of the expenses of running a practice that are covered by the Ministry in Ontario. In recent fees setting, Alberta explicitly applied the Ontario principle of setting midwifery compensation between that of a nurse practitioner and that of a family physician. Compensation in British Columbia for midwives appears to be modestly higher than the current levels in Ontario, although an "apples to apples" comparison is difficult.

71. Our Draft focused on 3 recommendations:

1. The Ministry should provide a one-time equity adjustment of 20% to the compensation of midwives effective April 1, 2011. Benefits allowances should remain at 20% of income, but will increase correspondingly. We stated in our recommendations:

"*This would restore midwives to their historic position of being compensated at a level between that of nurse practitioners and family physicians. While not completely consistent with the original Morton principles (which would push the upper limits of compensation for experience midwives even higher) we believe such an adjustment is fair in all the circumstances."*

2. "Regular negotiations on other elements of compensation and any annual changes in compensation should take place in 2011 and at regular intervals thereafter to avoid similar situations in the future."

3. The Ministry should provide for increased flexibility around payment for specialized clinical services. This would benefit both midwives and the public.

72. At the end of the meeting, we asked both parties to provide us with their comments and feedback.

4. Feedback on Draft Findings and Recommendations

73. On October 1, 2010 the MOHLTC's Seetha Raja emailed Gia Marasco with some feedback. Raja highlighted that the Ministry was concerned that:

(a) midwifery grants and disbursement did not seem to be accounted for in the recommendations;

(b) a synopsis of midwifery compensation would be helpful so that comparisons could be made to other provinces;

(c) our findings indicated that there was no reason to change the Morton report and reference to Nurse Practitioners but that the Morton report had in fact used primary care nurses;

(d) our findings did not appear to account for educational differences or differences in length of training between professions; and

(e) some clarification regarding the quantitative justification of our finding of 20%. [47]

74. Marasco and Raja by email communications on October 1, 2010 and October 5, 2010 also provided additional compensation information on FHT physician compensation[48] and other compensation and research information.[49]

75. Note: During this process by the Committee and therefore, by Marasco and I, the provision of liability insurance was always considered as an expense and not as compensation.

76. Marasco by email dated October 5, 2010 advised Seetha Raja that "John and I are almost done on adjusting the document to address the items that you sent me on Friday" (October 1).[50]

5. Final Report Circulated Taking Feedback into Consideration

77. On October 8, 2010, Gia Marasco sent out a final version of the report to committee members which had been revised to incorporate the Ministry feedback, including that in Seetha Raja's October 1, 2010 email. For example:

(a) Our final report provided further analysis with respect to the 20% adjustment at pp. 43-44 which included two charts comparing the midwifery compensation as adjusted by 20% with other professions in Ontario and also a second chart comparing the adjusted compensation levels with midwifery compensation in Alberta. In our view, the 20%

47 Emails between G. Marasco and S Raja re: feedback from OMP on Courtyard draft (October 1, 2010 AOM0005133

48 Emails between G. Marasco and S Raja (October 1, 2010) re: FHT Compensation Validation Questions. AOM0005138

49 Emails between G. Marasco and S Raja (October 5, 2010) re: Update. AOM0005138

50 Email dated October 5, 2010 from Gia Marasco to Seetha Raja. AOM0005138

adjustment was what we believe in all the circumstances in the detailed report was appropriate, given our mandate.

(b) The final report at p. 42 refers to the compensation differences between Alberta and Ontario midwives, including the differences in overhead costs between the two provinces. This includes reference to the fact that midwives in Ontario receive supplemental grants and disbursements and takes that into account.

(c) With respect to educational differences and training between midwives and physicians, the final report set out information already collected with respect to the differences in training and education and included the greater number of births which midwives had attended during their clinical training compared to medical training and family physician residents.

(d) With respect to the issue of continuing to use the model of comparison reflected in the Hay and Morton reports of the CHC physician and Primary Care Nurse/Nurse Practitioners, the final report provides a detailed comparison of the following professions: nurse practitioners, CHC physicians, FHT physicians and obstetricians.[51]

VI. COURTYARD REPORT CONCLUSIONS

1. Introduction

78. On October 8, 2010 Gia Marasco distributed the final version of the report to all committee members.[52] In that email she noted that we had finished incorporating feedback from both parties into the final version.[53] She also attached spreadsheets with the calculations, tables and graphs found in the report. These include: tables comparing midwives and physicians in terms of gender breakdown and educational background[54] and tables comparing midwife and

51 "Compensation Review of Midwifery", The Courtyard Group, prepared on behalf of the Ministry of Health and Long Term Care and the Association of Ontario Midwives, September 2010, version final, pp 20-24. AOM0000567

52 "Compensation Review of Midwifery", The Courtyard Group, prepared on behalf of the Ministry of Health and Long Term Care and the Association of Ontario Midwives, September 2010, version final. AOM0000567

53 Email from G. Marasco to S. Raja, M. Finney, A. Ilgazli, J. Berinstein, K. Kilroy, M. Boyes, J. Ronson, K. Stadelbauer re: Final Midwifery Report and Associated Files (2010-10-08) AOM0005194

54 Compensation Review Analysis Tables by Courtyard Group re: Admissions and Length of Stays (2010-10-08) AOM0010176

physician (CHC and OHIP) and primary care nurse practitioner total compensation.[55]

79. The final report recommended: implementation of a one-time equity adjustment to midwifery compensation that would raise the income of midwives at each experience level by 20% effective April 1, 2011. We also recommended ensuring regular negotiations on other elements of compensation and any annual changes in compensation take place in 2011 and at regular intervals thereafter and that the MOHLTC consider introducing a caseload variable for specialized clinical services.

80. That final report set out overviews with respect to midwifery services in Ontario, midwifery education, and the current compensation model. It also summarized the jurisdictional review of midwifery services in other provinces of Canada and provided an overview of the scope, volume and complexity of the work performed by midwives, and comparisons to other professions in order to support its recommendation for an appropriate compensation adjustment for midwives.

2. Key Findings

81. The key findings of the Courtyard report on midwifery compensation were as follows:

(a) Better Health Outcomes with Midwifery Care

82. The Courtyard Report noted that the health outcomes for mothers and babies cared for by midwives are better than the provincial average, when comparing women of a similar risk profile. This included the fact that:

- Interventions amongst midwifery clients are often lower than the provincial average, and cited a study where the proportion of women who had an epidural in a level 1 hospital in 2006/7 was 35.4%, but only 1.1% among midwifery clients.

- The proportion of midwifery clients using any form of anesthetic decreased by nearly 5% since 2003/4.

- The use of vacuum or forceps is much lower amongst midwifery clients with a rate of 6.7%, whereas all other low-risk pregnancies had a rate of 13.9%.

- There are higher breastfeeding rates amongst midwifery clients. For example, the rate of breastfeeding six weeks postpartum was consistently reported at 91% from 2006/7 to 2008/9, whereas the same proportion of

55 Compensation Review Analysis Tables by Courtyard Group re: Midwife and Physician Compensation (2010-10-08) AOM0010178

all women breastfeeding their babies at discharge from hospital was only 59%.

- The proportion of low birth weight babies amongst midwifery clients is lower (3%) than the provincial average (6.7%).[56]

(b) **Maternity Care and Compensation History**

83. The Courtyard report recognized physicians and nurses also provide maternal and newborn care in Ontario. It noted the proportion of family physicians that practice obstetrics had declined significantly in the past decade because of the perception that attending births is too disruptive of personal life. The report observed that as between obstetricians, family physicians and midwives, only midwives are guaranteed to provide intrapartum care upon graduation and registration.[57]

84. The Courtyard report noted that the fee schedule for midwives as set by Ministry based on the Morton report, remained constant for over 11 years and then with the exception of the more substantial increase in 2005, there were only 1% to 2% annual increases since that date.[58]

3. Investigative Findings

85. In answer to the investigation questions identified by the Steering Committee, the report concluded as follows:

(a) The direct linkage between compensation and adherence to practice guidelines is quite strong in midwifery as compared to other professions.

(b) The legal scope of midwifery had changed to include:

(i) More controlled acts such as communicating a diagnosis and identifying, as the cause of a woman's or newborn's symptoms, a disease or disorder that may be identified from the results of a laboratory or other test or investigation that a midwife is authorized to order or perform on a woman or a newborn during normal pregnancy, labour and delivery and for up to six weeks postpartum.

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56 "Compensation Review of Midwifery", The Courtyard Group, prepared on behalf of the Ministry of Health and Long Term Care and the Association of Ontario Midwives, September 2010, version final at p. 7. AOM0000567

57 "Compensation Review of Midwifery", The Courtyard Group, prepared on behalf of the Ministry of Health and Long Term Care and the Association of Ontario Midwives, September 2010, version final at p. 8. AOM0000567

58 "Compensation Review of Midwifery", The Courtyard Group, prepared on behalf of the Ministry of Health and Long Term Care and the Association of Ontario Midwives, September 2010, version final at pp. 11-12. AOM0000567

(ii) Prescribing authority for additional drugs designated in the regulations.

(iii) Intubation beyond the larynx of a newborn (not yet operationalized pending regulations).

(iv) Putting an instrument, hand or finger beyond the anal verge.

(v) Taking blood from fathers and donors for the purpose of tests.

(c) The expanded scope of practice reflected an increase in the level of responsibility given to midwives, as well as a shift in terms of the accountability of midwives and has resulted in a much larger scope of practice than nurse practitioners with respect to maternity care.

(d) The use of the course of care funding model and the organization of midwifery services as a provincially managed program has an impact on the manner in which some midwives practice.

(e) While midwives that actively practice in a hospital setting are increasingly participating in inter professional team meetings, hospital committees and other initiatives, it is unclear if they are being compensated for this type of work on par with other professions performing similar work inside the hospital.

(f) The requirement that new midwives practice under the guidance and mentorship of an experienced midwife for one year places a significant demand on the relatively small population of practicing midwives.

(g) Administrative activities performed by midwives are considered to be above and beyond the normal requirements and are compensated through a billable caseload variable. It can be challenging for smaller practices to secure the necessary support staff to ensure these administrative activities are conducted in a thorough and proactive manner.

(h) Managing midwifery practice schedules to accommodate high volumes of clients as well as student placement requires a significant amount of dedicated resources.

(i) With respect to the complexity and demand for midwifery work,

(i) The demand for midwifery services in Ontario is unmet.

(ii) Midwives are increasingly delivering babies in hospital settings. The complexity of such hospital based work is significant as a result of the potential use of more complicated labour and pain management techniques.

(iii) An increase in the non-clinical workload of the profession is significant.

(j) With respect to costs of providing midwifery care, the report contains a chart outlining the costs of the profession and noted that other professions do not necessarily incur all of the same costs as midwives.

(k) The report contains several charts illustrating the types of benefits/disbursements provided for CHC family physicians, family health teams and nurse practitioners.

(l) With respect to the experience and training of midwives, the report noted that:

(i) The Midwifery Education Program ("MEP") has continually expanded to reflect the evolving role of midwives in maternity care in Ontario.

(ii) Additions to the clinical scope of practice within the *Midwifery Act* had also led to expansions in the type and content of courses provided. For example, additions to the prescribing authority of midwives had been reflected in updates to the pharmacology related curriculum.

(iii) In 2007, the MEP underwent a significant update when the program was expanded to 90 students. An additional term of interprofessional and community placements was added to the third year.

(iv) While the majority of students at the inception of the MEP program were unregulated midwives, current students applying to the program often had a previous undergraduate or graduate level degree, and the decision to enter the profession has been based on significant contemplation and consideration of multiple options.[59]

(m) With respect to the current compensation model comparable to other professions performing similar work, the report contained the following chart:

Profession	**Salary Range**	**Comments**
Midwife – Urban Practice	$81,713 to $104,847	Range reflects levels one to six, for a midwife

59 "Compensation Review of Midwifery", The Courtyard Group, prepared on behalf of the Ministry of Health and Long Term Care and the Association of Ontario Midwives, September 2010, version final at p. 32. AOM0000567

Profession	Salary Range	Comments
		practicing in an urban setting, attending 40 births as the primary provider, and 36 births as the secondary attendant.
Nurse Practitioner – MOHLTC Funded	$78,054 to $89,203	In 2008/09 adjustment were made to all primary health care funding models to bring compensation to this level.
Nurse Practitioner – Hospital Funded	$90,000 to $120,000	Salary funding is derived from hospital global budgets and varies by organization.
CHC Family Physician	Salary 1: $181,233 to $209,035 Salary 2: $217,575 to $252,815	Salary 1 - communities not designated as underserviced. Salary 2 – Northern or designated underserviced communities. Salaries include $5454/physician per FTE/year received for providing 24/7 coverage.
FHT Family Physician – Blended Salary Model (as of April 1, 2008)	Level 1: $137,204.11 Level 2: $155,564.74 Level 3: $173,925.38	Salary levels are dependent on patient roster size. Physicians are eligible for additional service premiums and incentives (outlined below).

(a) Market Trends and Alignment with Economic Growth

86. With respect to market trends and the aligning of compensation increases to Ontario's economic growth, the report noted that:

(a) The consumer price index must be taken into account. This figure was an increase of 33.5% overall between 1994 and 2009.

(b) The average weekly earnings of individuals working within the health and social assistance industry, as based on the North American Industry Classification System should be considered. It was reported that income levels increased by 48% between 1994 and 2009. Also, that annual public sector salaries of individuals working within health and social service institutions increased by 78.5% between 1994 and 2009.[60]

4. Recommendations:

(a) Existing Negotiation Model

87. The report concluded that:

(a) The intermittent and irregular negotiations between the midwifery profession and the Ministry hurt the compensation of midwives. We noted that there were no true negotiations between 1994 and 2005 and no compensation increases during this time either. Our report stated that it was critical to establish a pattern of regular negotiations.

(b) That delays by the Ministry contributed to the midwives' compensation being settled just after the economic downturn in 2008/9. This resulted in the OMA and the Ontario Nurses' Association ("ONA") settling multi-year contracts with the Ontario government with income increases averaging about 3% annually, while the midwives were required to have a much smaller increase of 2%.[61]

88. In order to prevent these trends our report recommended that:

(a) Regular negotiations on other elements of compensation and any annual changes in compensation should take place in 2011 and at regular intervals thereafter to avoid similar pay gaps emerging in the future.

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60 "Compensation Review of Midwifery", The Courtyard Group, prepared on behalf of the Ministry of Health and Long Term Care and the Association of Ontario Midwives, September 2010, version final at p. 39. AOM0000567

61 "Compensation Review of Midwifery", The Courtyard Group, prepared on behalf of the Ministry of Health and Long Term Care and the Association of Ontario Midwives, September 2010, version final at pp. 11-12. AOM0000567

(b) Changes in compensation should reflect the pattern of wage settlements with other professions and the general economic climate.[62]

(b) **Existing Compensation Model**

89. The Report found that:

(a) Compensation increases for midwives fell well below those of salaried health and social assistance employees as well as public sector salaries in health and social services over the same period.

(b) The original Morton compensation model, where the compensation of the midwife fell above that of the **nurse practitioner**, but below that of the CHC physician, had not been adhered to.

(c) Nurse practitioners at the bottom end of the compensation range were paid the same as level 1 (entry-level) midwives; and in some practice settings such as hospitals they may have been paid significantly more. It also noted that at the top end of the range, nurse practitioner pay may again exceed that of level 6 (top-earning) midwives.

90. Family physicians working in CHCs and in family health teams enjoyed compensation that was well above that paid to midwives.[63]

VII. FOLLOWING COMPLETION OF THE COMPENSATION REPORT

91. Following the release of the final draft of the report the MOHLTC did not contact me with any concerns or requests for clarification or further investigations.

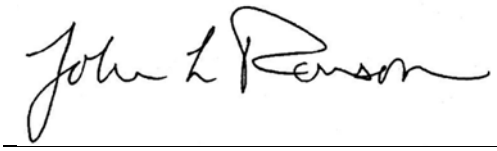
62 "Compensation Review of Midwifery", The Courtyard Group, prepared on behalf of the Ministry of Health and Long Term Care and the Association of Ontario Midwives, September 2010, version final at p. 44. AOM0000567

63 "Compensation Review of Midwifery", The Courtyard Group, prepared on behalf of the Ministry of Health and Long Term Care and the Association of Ontario Midwives, September 2010, version final at p. 36. AOM0000567

92. We continued to be in contact with the Ministry until November of 2010 regarding some invoicing issues. During those exchanges no one from the Ministry commented on the quality of our work or suggested that we had failed to meet the project deliverables. The invoice issues were not related to quality of the work, and Courtyard was paid in full.

SWORN this 26th day of July 2016.

A Commissioner for taking Affidavits.



John Ronson