

Faulty Breast Cancer Testing at Eastern Health Women's Lives at Risk

When a woman has breast cancer, it is critical she receives the best possible treatment for the type of cancer she is fighting. As part of her care, she must receive hormone receptor testing. If she tests positive, she may need to take an anti-hormonal drug, such as Tamoxifen.

Between 1997 and 2005, Eastern Health tested approximately 2,800 women with breast cancer. Shockingly, Eastern Health has admitted these tests were flawed for over nine years. As a result, over 350 women tested negative but were actually positive. Because they had false negative tests, none of the women were considered candidates for the anti-hormonal drugs. Of the women who died during this time, 197 also had false negative tests. No one knows how many of those women would have benefited from the drugs.

Since finding out about the testing errors, Eastern Health has withheld information from the women and the public. While first reports indicated 10% of the tests had errors, that number has climbed to over 40%.

Public pressure has steadily mounted due to the efforts of a group of women who decided to take Eastern Health to court. A class action lawsuit was given the green light by the NL Supreme Court on May 28, 2007. All of the 2,800 women who had a hormone receptor test between 1997 and 2005 are eligible to sign onto the class action.

There are serious questions about what went wrong with the tests and why it took so long to identify the problem. There are also grave concerns about how the women were treated by Eastern Health once the errors were discovered. Women say it was nearly impossible to speak to anyone in Eastern Health and they could not get answers to their questions.

On May 22, 2007, the provincial government announced they would create a judicial inquiry, called the Commission of Inquiry on Hormone Receptor Testing. The terms of reference were developed by Cabinet.

On June 24, 2007, Justice Margaret A. Cameron was appointed commissioner of the inquiry. Justice Cameron started work on July 3, 2007 and her final report is due on July 30, 2008. Sandra R. Chaytor, Q.C., and Bernard Coffey, Q.C., have been appointed as co-counsel for the inquiry.

Terms of Reference for Commission of Inquiry on Hormone Receptor Testing

The Commission of Inquiry shall:

- *Inquire into why the estrogen and progesterone hormone receptor tests done between 1997 and 2005 in the Newfoundland and Labrador health system resulted in a high rate of conversions when re-tested;*
- *Inquire into why the problem with the estrogen and progesterone hormone receptor tests was not detected until 2005, whether it could have been detected at an earlier date, and whether testing protocols during that period between 1997 and 2005 were reasonable and appropriate;*

- *Inquire into whether, once detected, the responsible authorities responded and communicated in an appropriate and timely manner to those women and men who needed re-tests and those who were being tested for the first time;*
- *Inquire into whether, once detected, the responsible authorities communicated in an appropriate and timely manner with the general public and internally within the health system about the issues and circumstances surrounding the change in test results and the new testing procedures;*
- *Advise whether the estrogen and progesterone hormone receptor testing systems and processes and quality assurance systems currently in place are reflective of "best practice"; and*
- *Make the recommendations that the commission of inquiry considers necessary and advisable relating directly to the matters of public concern referred to in paragraphs (a) to (e).*

The commission of inquiry shall not express any conclusion or recommendation regarding the civil or criminal responsibility of any person or organization.

The commission of inquiry shall terminate its work and deliver the final report to the Minister of Health and Community Services, who shall be the minister responsible for the commission of inquiry, on or before July 30, 2008.