IN THE MATTER OF A HEARING BEFORE THE HEARING

TRIBUNAL OF THE ALBERTA COLLEGE AND ASSOCIATION

OF CHIROPRACTORS ("ACAC") into the conduct of Dr. Curtis Wall, a Regulated Member of ACAC, pursuant to the Health Professions Act, R.S.A.2000, c. P-14

DISCIPLINARY HEARING

VOLUME 6

VIA VIDEOCONFERENCE

Edmonton, Alberta

November 20, 2021



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1		waiting room and is prepared to bring him into the
2		meeting, Mr. Kitchen, so I'll turn the floor over to
3		you.
4		MR. KITCHEN: Good morning, Mr.
5		can you hear us?
6		THE WITNESS: Yes, good morning.
7		MR. KITCHEN: Excellent. Are you able at
8		all to tip your camera down about yeah, perfect,
9		there you go, excellent.
10		All right, so, Mr. the first thing we're
11		going to do is we're going to swear you in, and
12		our court reporter, is going to do that, and
13		once she does that, then we'll get into the
14		questioning.
15		THE WITNESS: Sounds good.
16		Sworn, Examined by Mr. Kitchen
17		(Qualification)
18		MR. KITCHEN: So, Mr. Chair, I'm going to
19		start with some qualification questions. As you'll
20		know from my end the other day, there was consent
21		between the parties on the qualification of the next
22		witness but not on this one, so I'm going to run
23		through some questions and then propose a qualification
24		to you, and then, of course, Mr. will have some
25		opportunity to make some comments.
26	Q	MR. KITCHEN: Mr. the first thing

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I'll start with is what's your current occupation? 1 2 My current occupation is as an Occupational Health and А 3 Safety consultant. I have been doing that now for quite a number of years. Since 2004, I've had my own 4 company, but I've been working in Occupational Health 5 6 and Safety as a consultant since 1994. 7 Okay, thank you. Now, you said "consulting", what are 0 the types of things you consult on? 8 9 Α Well, I consult on all aspects of Occupational Health 10 and Safety training. Primarily what I do is one of my 11 specialties is respirator fit testing and training. So 12 respirator fit testing and training that I would 13 consult on would be for any atmospheric hazard from 14 anything that would require the most basic level of respiratory protection all the way up to and including 15 16 respiratory protection for emergency responders like a 17 self-contained breathing apparatus, both closed- and 18 open-circuit systems. 19 And do you teach any courses on respirators or how they 0 fit? 20 21 Yes, I do. I do teach a course, a course on respirator А 22 fit testing and training, and I have been teaching that 23 course as an advisor to the University of Alberta 24 Faculties of Medicine and Dentistry for several years, 25 as well as private clients. 26 I just want to -- on your résumé, you've got a long 0

list of certifications, I don't want to bring you through all of them, but I'll just ask you about a couple of them. One is a CSA respirator training and fit testing instructor. Can you tell me about that certification?

6 Α Sure. CSA, if you're not already aware, is equipment 7 certification, and they do have their own standards for equipment certification. So CSA stands for the 8 Canadian Standards Association, and if you have ever 9 10 worked in an industrial environment, from a very basic 11 perspective, you would know that CSA does the approvals 12 for basic safety equipment like steel-toed boots, hard 13 hats, and safety glasses, among many others, but those 14 would be probably basic ones that you would be aware of, and CSA is the certification body for the standards 15 set for the safety of that equipment and others as 16 well. 17

18 So as the course for CSA goes, it's a course that 19 is within the standards of the use of that equipment 20 through the Canadian Standards Association.

Q Thank you. I see also hazmat instructor. Now, I think I know what hazmat is, but could you please tell me what that's all about?

A Hazmat is hazards materials and training. So for
people that go into high-risk situations like
biohazardous environments, they need specialized

training and specialized equipment, because there is a lot of chemicals, vapours, and gases and even particulates that are very small, and those can penetrate through basically any part of your body.

5 So with hazmat training, it's all about, the 6 basics are, is you've got to have full containment, 7 you've got to have full encapsulation of workers or 8 responders, and they have to be provided for any 9 potential exposure through either inhalation or skin 10 absorption of contaminants that could negatively affect 11 their health.

12 Q Thank you. And just one more, right under that, you 13 have "H2S alive instructor". Can you tell me what the 14 H2S alive thing is?

Yes, absolutely. H2S is the chemical formula for 15 Α hydrogen sulphide gas. Hydrogen sulphide gas is a 16 common detriment to oil and gas workers for --17 18 primarily in Western Canada. We see our highest levels of hydrogen sulphide gas in Western Canada oil fields, 19 20 so that is a course that is required for anybody that works in oil and gas situations that they have that 21 22 course so that they know how to protect themselves and also respond to help others in the event of unintended 23 24 or accidental hydrogen sulphide release or exposure. 25 All right, thank you. So if I understand this, I don't 0 26 think I do, the 'S' stands for sulphide. I'm curious,

1		in your line of work, have you dealt with issues around
2		carbon dioxide?
3	A	Yes, absolutely.
4	Q	Have you dealt with issues around oxygen in the air?
5	A	Always, always. Yeah, you know, having a safe amount
6		of oxygen in air is pretty essential to personal
7		safety, so that's definitely a big part of my whole
8		career.
9	Q	And are you familiar with the Occupational Health and
10		Safety legislation?
11	А	M-hm, yes, I am.
12	Q	Thank you. Is that something you commonly work with?
13	А	You know, it depends on the course that I'm offering
14		and the training that I'm offering, but, yeah,
15		absolutely. Atmospheric hazards are a big, huge
16		component of Occupational Health and Safety.
17	Q	Have you done any testing on the cloth or nonmedical
18		masks that have been commonly used to try and prevent
19		the spread of COVID?
20	А	Yes, I have.
21	Q	Have you done any testing on the medical or procedural
22		or surgical masks that have been commonly used to try
23		and prevent the spread of COVID?
24	A	Yes, I have.
25	Q	Thank you.
26		MR. KITCHEN: Well, Mr. Chair, I'm going to

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1 read out for you -- those are all my questions on qualification -- I'm going to read out what I'd like to 2 3 have Mr. qualified as. I'd like to have qualified as an expert in the area of 4 Mr. Occupational Health and Safety, in particular, all 5 6 types of respirator masks, including the medical and nonmedical masks used to attempt to prevent the 7 transmission of COVID-19. And, of course, I --8 9 THE CHAIR: Can you just read that one 10 more time, please? 11 MR. KITCHEN: Sure. I'd like to have qualified as an expert in the area 12 Mr. of Occupational Health and Safety, in particular, all 13 14 types of respirator masks, including the medical and nonmedical masks used to attempt to prevent the 15 transmission of COVID-19. 16 17 THE CHAIR: Mr. did you wish to comment before we --18 I have I think two brief 19 MR. and then my friend is aware 20 questions for Mr. of this, I've got a few comments about the 21 22 qualification that's being tendered, so I'll just ask 23 my questions briefly. Cross-examines the Witness (Qualification) 24 Mr. 25 MR. Good morning, Mr. Q Good morning. 26 A

1	Q	My two questions for you are this: I'm looking at the
2		bottom of page 2 of your cv, and it talks about, you
3		say, "Associations: Member of Alberta College of
4		Paramedics"; are you still a regulated member of the
5		Alberta College of Paramedics?
6	А	No, I am not, but that is a that is a course that I
7		had that is a sorry, that is a membership that I
8		had a couple years ago. I had completed the Alberta
9		College of Paramedic program as far as the emergency
10		medical responder is concerned, and I did have that
11		membership, yes.
12	Q	Forgive me for not quite understanding this then, were
13		you a regulated member of the Alberta College of
14		Paramedics, so you could practice as a paramedic, or
14 15		Paramedics, so you could practice as a paramedic, or had
14 15 16	A	Paramedics, so you could practice as a paramedic, or had Yes
14 15 16 17	A Q	Paramedics, so you could practice as a paramedic, or had Yes just taken the
14 15 16 17 18	A Q A	Paramedics, so you could practice as a paramedic, or had Yes just taken the yes, I was
14 15 16 17 18 19	A Q A Q	Paramedics, so you could practice as a paramedic, or had Yes just taken the yes, I was courses
14 15 16 17 18 19 20	A Q A Q A	<pre>Paramedics, so you could practice as a paramedic, or had Yes just taken the yes, I was courses yes, I was. I was an actual member of the Alberta</pre>
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14 15 16 17 18 19 20 21 22 23 24 25	A Q Q A	<pre>Paramedics, so you could practice as a paramedic, or had Yes just taken the yes, I was courses yes, I was. I was an actual member of the Alberta College of Paramedics, registered through the course that I had taken, so I had specific registration by completing exams with the Alberta College of Paramedics to practice as a medic within Alberta. Sure, and I</pre>

1	Q	And how long were you a regulated member of the Alberta
2		College of Paramedics?
3	A	One year.
4	Q	And do you recall your designation, or were you an
5		advanced care paramedic, primary care paramedic, EMT,
6		EM you know, do you recall the designation that you
7		were in?
8	A	Of course. EMR, emergency medical responder.
9	Q	And you can correct me if I'm wrong, but I think "EMR"
10		is I think there's three designations; the first is
11		advanced care paramedic, then there's primary care
12		paramedic, and then there's the designation you were
13		in, which is EMR; is that correct, to your
14		understanding?
15	A	That's absolutely correct, yes.
16	Q	And, I'm sorry, you said you were an EMR for one year
17		with the College?
18	A	Yes.
19	Q	Okay.
20		MR. Those are all my questions,
21		Mr. Chair, for the witness. I wonder if I might
22		provide some responses to the qualification that
23		Mr. Kitchen has tendered.
24		THE CHAIR: Okay.
25		Discussion
26		MR. My friend will rightly point

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out to you that I could make these same comments during 1 2 my closing statement, and I made them during the 3 opening statement, but I just want to reiterate the 4 Complaints Director's position this is not a question of the efficacy of masking in this hearing, it's about 5 6 compliance with regulatory responsibilities. We'll 7 review that in greater detail. You can, of course, accept evidence in whatever manner you see fit. 8 The Complaints Director maintains his position that this 9 10 type of evidence should be given little weight in terms 11 of the charges that are in front of you.

I do want to mention that the College anticipated 12 13 testimony would be confined or that Mr. 14 largely confined to the question of surgical or procedure masks that are set out in the Pandemic 15 Directive, and, of course, the College does not have 16 17 any ability to regulate or control the types of masks that members of the public wear. So I think the 18 qualification that's been tendered is perhaps a little 19 bit broad in terms of it referring to all types of 20 respirator masks, so I have a little concern in that 21 22 regard -- have a concern in that regard.

And I'll just, for reference sake, I just want to remind the Tribunal of some comments that were made by Mr. Kitchen during the qualification -- pardon me, the preliminary application that occurred in terms of

1 whether Mr. could be called at all as an expert witness, and you'll recall we objected to that, 2 3 and you made a ruling that you would allow 4 Mr. And just very briefly, this is on page 55 of the 5 6 transcripts, this is my friend commenting on what will be called to testify about: 7 (as Mr. 8 read) 9 It should be quite obvious that this report 10 [meaning] deals with a 11 different subject than Dr. Wall's other three experts. The other three experts are various 12 scientists and medical doctors ... They are 13 14 all dealing with COVID-19; they're dealing with the SARS-CoV-2 virus. They're not 15 dealing with whether or not masks are 16 17 harmful. Certainly not in a specific sense that is doing, that being 18 oxygen levels and carbon dioxide ... 19 The effectiveness of masks is a different 20 21 subject from the harms of masks. 22 And a few pages later, you made a ruling that 23 Mr. can testify. So my client's clear expectation is that Mr. testimony will be 24 25 confined to, again, the harms of masks, not the science related to COVID or transmissibility or anything along 26

1 those lines.

2 So Mr. Kitchen has been scribbling, and I'm sure 3 may want to made some response comments to what I said, but again I think it's important to remember the basis 4 on which this witness was offered initially when we had 5 6 our preliminary application on that, and I think it's 7 very important for Mr. comments to be confined to the question of the harm of masks and 8 9 nothing more. Thank you, Mr. Chair. 10 MR. KITCHEN: Mr. Chair, if I could, just a 11 couple comments in response. 12 THE CHAIR: Yeah. 13 MR. KITCHEN: First, the reason I say all 14 types of respirator masks is because, well, that's just the reality; that's what Mr. has dealt with in 15 his line of work. And I'm a little surprised to hear 16 that the Complaints Director didn't anticipate evidence 17 about nonmedical masks in addition to medical, as, of 18 course, you'll see in the first paragraph of 19 20 Mr. report, it talks about the different kinds of masks, and so it's a little surprising. 21 22 But the reason that I've asked inclusion of cloth masks is -- or nonmedical masks is because that's a 23 24 reality of what we're dealing with, and that's what 25 Mr. has dealt with, and those aren't 26 dramatically different, they're very similar, and so I

don't think that scope is too broad, I don't think it's inappropriately broad, I don't think it's irrelevantly broad. So I would ask that he not be limited to talk about medical masks but also be permitted to talk about nonmedical or cloth masks.

6 And, of course, I have no issue with my friend's comments about being limited to talk about the harms of 7 8 masks and not the efficacy. We won't have any questions about that, so it's just the harms of masks, 9 10 but when I say "masks", I mean medical and nonmedical. 11 Those are all my submissions in response. THE CHAIR: Thank you. I think we'll take 12 a short break while the Hearing Tribunal caucuses to 13 14 give you an answer to your request, Mr. Kitchen. So if we could be moved to a break-out room. Hopefully this 15 won't take very long. Thank you. 16 17 MR. KITCHEN: Thank you. (ADJOURNMENT) 18 19 THE CHAIR: Okay, we're back in session, and the Hearing Tribunal discussed your request, 20 Mr. Kitchen, and we have one question for Mr. 21 22 and we wanted a clarification on why Mr.

MR. I think, Mr. Chair -THE CHAIR: Is it because of what's in the
transcript? Is it because of what's in the CMOH

should be limited to medical masks.

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1 orders?

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I think it's because primarily 2 MR. 3 of what is in the Pandemic Directive that the College has, which refers to the requirement for chiropractors 4 to wear surgical or procedure masks as being the 5 6 minimum acceptable standard.

I think I said in my comments about this question, 7 and I'll invite Mr. to comment if he wants to, 8 but we anticipated that the primary focus of 9 10 Mr. testimony would be on those matters,

because the College cannot -- I see Mr. nodding his head -- the College cannot regulate what 12 members of the public do, it can only regulate what 13 14 chiropractors do. I'm not sure if that answers your question, but that was the concern. We didn't want 15 16 this net to be cast too broadly.

17 THE CHAIR: Okay, I think we're just going to take that under advisement, Mr. 18 We'll go back into our cubbyhole, and we should have an answer 19 here shortly, thank you. Just please bear with us, and 20 we'll go to our break-out room. 21

22 (ADJOURNMENT)

Ruling (Qualification) 23

THE CHAIR: The hearing is back in 24 25 session. The Hearing Tribunal has discussed the issues raised. We just want to clarify that the testimony 26

1 will be regarding the harm and not the efficacy

2 associated with these masks, and we've also ruled that 3 the testimony will relate to the medical masks not the 4 nonmedical masks.

Having said that, we're aware that there are some 5 6 issues here, and if Mr. feels that the line of questioning goes beyond the scope that we've discussed, 7 then he certainly has the option to raise objections. 8 9 MR. KITCHEN: I wonder, and I invite 10 comments on this, and I can be corrected if I'm off the mark on this, is it possible for me to receive written 11 reasons for that decision, because that will likely be 12 something that will end up being appealed, so -- and 13 14 maybe that comes at the very, very end when we get written decisions -- written reasons on the whole 15 decision, but that's something I would -- I'd ask for 16 written reasons on it. 17

At the risk of taking us back THE CHAIR: 18 to a break-out room, my thought would be that we can 19 address it in the decision, once the decision is made, 20 make a note to that effect. I don't think we want to 21 22 interrupt this hearing to be doing that. I don't want to start writing parts of decisions, so --23 MR. KITCHEN: No, no, I'm not asking you for 24 25 it right now, I apologize. No, what I meant is I'm

just asking whether it's, you know, tomorrow or a week

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1 from now or a month from now or at the very end, that's -- I'm not asking for it right now. 2 I'm just, 3 in general, I'm making it known that, you know, likely that will be a source of appeal, so I think it best 4 that there be reasons for that. 5 6 THE CHAIR: Duly noted, Mr. Kitchen. 7 MR. KITCHEN: Thank you. Previously sworn, Examined by 8 9 Mr. Kitchen 10 Q MR. KITCHEN: All right, well, with that, 11 you can hear me? Mr. Yes, I can. 12 A Excellent, we'll jump right in. And I think you've 13 0 14 already answered this, but just to clarify, you live and work in Alberta; is that correct? 15 That is correct, yes. 16 A Can you tell me what was the, generally speaking, what 17 0 was the type of work you did prior to the onset of 18 19 COVID? I had been doing safety training for my own company, 20 A but I had been doing safety training for a lot longer 21 22 than that, but -- so safety courses in a variety of disciplines, as well as fit testing and training. 23 So -- but fit testing and training has definitely been 24 25 a significant portion of the work that I've done in clients that range from the military, to health care, 26

to educational institutions and private industry. 1 2 Has that work changed any since the onset of COVID? Q 3 Α Absolutely, it's changed a lot. It's changed a lot 4 primarily because there's so much -- there's no real -there's no real requirement for many of the masks that 5 6 are mandated for COVID, that they would be fit tested, 7 there's no requirement to that.

8 So before the COVID thing, everything -- any type 9 of mask whatsoever had to be fit tested on the wearer. 10 They had to have approval fit test for safety. But 11 since COVID, since this virus, there has been no 12 requirement for the majority types of these devices to 13 require a fit test to the user, which is really, really 14 odd.

15 Q And why is that odd?

16 A It's odd, because in order to determine whether or not 17 the wearer is suitable for wearing a mask, there are 18 some screening processes that have be completed first.

So, for instance, if you have difficulty breathing 19 20 without a mask, wearing a mask is going to make it much harder for you to breathe. It will increase breathing 21 22 resistance for everybody. So if you're healthy, you breathe effortlessly right now, you will experience 23 increased breathing effort by covering your mouth and 24 25 nose, and so there's a screening process. Not 26 everybody is capable of wearing a mask. Nobody -- like

1 there's a screening process that has to be completed.

2 So for people that have pre-existing medical 3 conditions or identify pre-existing medical conditions 4 within screening to wear a mask, they have to go to their doctor and get further testing done to determine 5 6 their suitability or ability to be able to wear a mask 7 and stay healthy. So that's one thing. The screening process, there's no screening to determine the 8 suitability of masking for the general population and 9 10 employment in general, right? So any workers, there's 11 no screening anymore; it's just wear one or else, and 12 that's never happened before.

13 The other thing is is that in order for any type of mask to protect the wearer, that mask has to make an 14 airtight seal around the face. Without an airtight 15 seal, there's no way that it can provide any 16 17 respiratory protection. So a fit test determines that it is making an air-tight seal to your face so that it 18 can verify that the contaminant is being filtered; it 19 20 is having to flow through the filter into the wearer's 21 mouth and then lungs.

But if you don't have an airtight seal, then the air that you inhale is -- a lot of it's going to follow the path of least resistance, which is through the openings, any openings, available openings, because it's harder to pull air through a filter than it is just to breathe surrounding air. So if there's leaks,
 that's where you're going to be pulling the contaminant
 in from.

And so you talked about air coming in, and it coming in 4 0 through what I'm going to call the path of least 5 6 resistance, is that also true for air going out? 7 Well, you know, there is some air coming in, but when Α you look at the volumes of breathing of inhalation and 8 exhalation, it's going to cause an insufficient air 9 10 supply. You're going to get a buildup of your own exhaled carbon dioxide in the cover, and if you're 11 12 going to get -- see, in an actual respirator --

13 Let me explain in an actual respirator, actual 14 respirators have an exhalation valve built into them, so that every time you exhale, your carbon dioxide gets 15 pushed out the exhalation valve so you don't rebreathe 16 it. 17 If you just put a closed cover on your face, then 18 it will capture some part of dioxide, and as you inhale, it will force you to rebreathe some air but 19 20 also carbon dioxide that can be significant amounts above and beyond what is considered safe according to 21 22 Occupational Health and Safety air quality standards. Thank you. All right, well, you've already answered 23 0 24 some questions, but just to go back to sort of a 25 preliminary issue, let me ask you a couple different 26 do you know Dr. Curtis Wall questions. Mr.

1		personally?
2	A	I've never met him. I don't know what he looks like,
3		and I really don't know much about him at all.
4	Q	Do you have any personal interest or personal stake in
5		the outcome of this case?
6	A	Absolutely not. I've just been hired to give my expert
7		opinion, and that's what I'm here for.
8	Q	You don't have any financial interest or stake in the
9		outcome of this case then?
10	A	No, because I'm getting paid by the hour, and so it
11		doesn't matter to me what the outcome is.
12	Q	And just to confirm, do you understand your duty to
13		provide this Tribunal with your expert knowledge and
14		opinions in an objective and neutral manner?
15	А	Absolutely.
16	Q	Thank you. Now, just to give a bit of a road map,
17		we've already got into the meat of it a little bit, but
18		I'm going to be asking you about, you know, what masks
19		really actually are, and then I'm going to ask you
20		about carbon dioxide, about oxygen, a little bit about
21		testing, and then, lastly, I'll ask you, from an
22		Occupational Health and Safety perspective, a little
23		bit about the harms or hazards involved.
24		So to start off, now and my friend may want to
25		object to this, because we've got issues with different
26		types of masks, but in the very first paragraph of your

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1 report, you say -- we're talking about the masks that 2 are being mandated to attempt to prevent the stop of 3 COVID, you say: (as read) These masks are the medical, nonmedical, and 4 procedural masks. 5 6 Now, can you please explain for us what those terms and 7 what those types of masks mean to you? Sure, absolutely. So a medical mask in a health care 8 Α 9 setting is referred to an N95. It's something that 10 is -- what health care uses is a closed cover 11 primarily, it is N95, which means that it's a filter, a 12 filtration that's not resistant to oil, that's what the 13 'N' is. 95 refers to the best-case scenario protection 14 that you could get with that device if it's properly fitted and used and disposed of and replaced as 15 specified, as required, as the manufacturer requires. 16 17 And that's what the medical is. The nonmedical is any device that is really you 18 put it on your mouth and nose. So you could take a 19 20 plastic bag put it over your head; I mean, that's not a nonmedical mask, but, you know what, a nonmedical mask 21 22 is anything that covers your mouth and nose. So if you want to put a bandana on your mouth and nose, you want 23 24 to -- you want to -- anything literally that covers 25 mouth and nose is classified as a nonmedical mask. And a procedural mask is something that is -- is 26

something that they will typically use, and I won't say 1 2 what they use it for because it's kind of -- you know, 3 they use it for different things in health care settings, but it's a looser fitting -- it's a slightly 4 looser fitting style, but it's still -- it's still 5 6 enclosed enough that it typically -- it's like the blue 7 mask, right? So a procedural mask is kind of -- it's a looser fitting than the N95, N95 is a tighter fitting 8 9 and, depending on nonmedical, it can be anything from 10 cloth to virtually anything anybody wants to do to 11 cover their mouth and nose, because there's really 12 no -- there's no rules on nonmedical masks; it's really 13 just anything you put on your mouth and nose could be 14 considered a nonmedical mask that covers your face. And procedural mask, like I said, it's really just 15 a -- it's a device. These are all -- they're all like 16 17 the -- N95 and procedural would be considered temporary use only, to be replaced regularly, as needed when 18 there's moisture buildup inside, and disposed of 19 20 immediately. So the procedural and the medical in health care settings, both have to be used -- they're 21 22 really only designed for short duration use and then to be immediately disposed of. 23 They were never designed 24 for hour upon hour use. It was never designed that 25 way, and it's still not designed that way. So it's been used that way, but it's not designed that way. 26

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1 So there are some dangers to that, but as far as 2 procedural masks go, just -- it's a looser fitting mask 3 that they use in the health care settings and 4 disposable, just like N95. N95s are tighter fitting; procedurals are looser fitting. 5 Thank you, that's helpful. Would you say that when we 6 0 7 use the word "surgical mask", in your experience, is that typically a reference to that category of 8 procedural or blue masks? 9 10 Α Yeah, you know, surgical masks, you know, in surgery, 11 physicians and other health care practitioners, they 12 may use N95, or they may use procedural. It's -- it 13 depends on -- depends on what's going on, but both may 14 be used. So you're aware that what the Alberta College of 15 0 Chiropractors has mandated that chiropractors must 16 wear -- this mandate is found in the COVID-19 Pandemic 17 18 Practice Directive, you're aware that the masks -- the type of masks that the Alberta College of Chiropractors 19 20 is requiring chiropractors to wear are those procedural or blue masks? 21 22 Yes, I am aware. Α And you're aware that the CMOH orders that 23 Ο Okay. 24 mandate masking for the general public mandates the 25 nonmedical masks? 26 Α Yes, I am aware.

1 All right, in the second paragraph of your report, you 0 2 state that: (as read) 3 Masks are required to have engineered breathing openings. 4 Can you explain what "engineered breathing openings" 5 6 are, and why masks are required to have them? 7 Okay, so if you are going to cover your mouth and nose Α with any device, it's important that you do not 8 9 restrict your oxygen coming in, the air coming in, and 10 your carbon dioxide and expelled toxic air leaving, and 11 that is why we exhale outside of our bodies in the 12 first place. 13 If we take a look at a mask, a mask has to have 14 engineered openings. So, for instance, if you take a 15 look at, say, here is a common Halloween-style mask, it's got engineered openings for nostrils for 16 17 breathing, as well as mouth for breathing. It's 18 important to be able to have easy, free breathing. When you restrict your breathing, then you get that 19 accumulations of exhaled carbon dioxide that are then 20 rebreathed because there's no exhalation valve to purge 21 22 it, so you rebreathe your own exhaled waste toxic carbon dioxide, which is not going to be good for 23 24 anybody, and for people over a longer period of time 25 and if there's any pre-existing medical conditions 26 could be a very serious situation.

Now, if you look at an actual respirator, like 1 2 this, you can see that it is covered, there are two 3 filters attached in the design. In the middle, there's 4 an exhalation valve. That's to purge exhaled heat, moisture, and carbon dioxide, okay, for a reason, 5 6 because we don't want to rebreathe it. So air comes in 7 here, air can only enter through inhalation, air can only leave through exhalation. 8

9 And when I say "engineered openings" -- I say 10 engineered opening and exhalation, but also engineered 11 opening and inhalation. So if I unscrew the filter, 12 you can see, if I just turn it like this, you can see 13 it's a big hole, there's a big hole there. The reason the hole is there is so that air can flow in very 14 easily and freely so that, you know, it can enter your 15 lungs as unobstructed as possible, because anything 16 17 that you put on your mouth or nose, it makes it harder 18 Depending upon the person, the length of to breathe. exposure, the type of work or activity they're engaged 19 20 in, and any pre-existing medical conditions could all 21 change their ability to be able to wear that device at 22 all. I notice you used the word "device", just to clarify, 23 Ο

23 Q I notice you used the word "device", just to clarify, 24 you would say that these procedural or blue masks we're 25 talking about, you would call that a device? 26 A Well, let me explain something, it's very difficult for

me to refer to any of the mandated masks for COVID as 1 2 It's really difficult. actual masks. I struggle with 3 it. It's hard, because they don't meet the actual definition of a mask from anything as simple as a 4 Halloween mask, to a goalie mask, to a scuba mask, any 5 6 kind of actual mask that's engineered, it's engineered 7 for easy breathing.

8 If you look in a goalie mask, it looks full faced, 9 it looks pretty encapsulated, but it does have 10 breathing vents, so the air can flow in and out easily. 11 Every type of mask, it's important that air flows in 12 easily and air flows out easily.

Now, a goalie mask isn't going to offer anybody respiratory protection or a scuba mask, but they are devices that are engineered for breathing, but if you just close your -- take a piece of material or a paper and cover your mouth and nose with it, it will restrict breathing, it will restrict your ability to inhale, and it will restrict your ability to exhale.

Q So I know in your report, you use the term "breathing barriers" to describe these types of so-called masks that are mandated for COVID. Can you just explain to me why you use that term?

A Well, I coined that term actually, and the reason I use it is because I think it most accurately describes the situation -- what actually happens when you wear one of

If you've ever worn one, and, for most people, 1 these. they probably have, they probably notice immediately 2 3 that it does become increasingly difficult to breathe 4 There's a reason that you're blocking with one on. your breathing. So when I call them breathing 5 6 barriers, it's based upon the practicality that they 7 block breathing, they block the normal flow of 8 breathing.

9 Now, all respirators, even proper respirators, 10 like the one I showed you, with the two filters and 11 exhalation valve in the middle will increase breathing 12 difficulty a little bit because you are going to pull 13 air through the filter, so it's going to be a slight 14 increase in inhalation effort but very minimal, and because it's designed for breathing, it's very minimal. 15 Let me remind you what I said earlier, anybody 16 17 that wears any respirator before COVID needed -- or 18 mask, for that matter -- needed any type of filtering mask needed to be fit tested. And before they could be 19 20 fit tested, they had to be screened for their ability 21 to wear it safely.

And without that screening, it's like Russian roulette, who's going to have to wear one and shouldn't be wearing one. Somebody with COPD, somebody with heart conditions, lung conditions of any type, high blood pressure, these are all people that need to be, before COVID, needed to be examined by a physician to determine their ability to safely wear a respirator that's actually engineered for breathing, much less a closed cover over your mouth and nose that caps -- that makes it exponentially harder to breathe and captures carbon dioxide in significant amounts.

So that's why I call it a breathing barrier.
Q Thank you. Do you find it strange that we seem to be
doing -- based on what you've said, we seem to be doing
things very differently post-COVID than pre-COVID when
it comes to things like fit testing? Do you find that
strange?

13 I think it's incredibly strange that there would be Α mandates for closed-cover barriers that aren't 14 engineered -- aren't engineered for easy breathing, and 15 I find it very strange that there is no requirement for 16 17 a fit test for a filtering mask or respirator. That should be paramount; that should be primary. 18 Now, I know you've touched on this, but just to 19 0 20 clarify, you say in the fourth paragraph in your report

21 that wearing these what we're going to call breathing22 barriers are hazardous to the wearer.

23 A M-hm.

24 Q Why exactly are they hazardous?

25 A Well, think about it like this, if you take something,26 like if you take a piece of cloth or a piece of paper

towel or whatever it is, hold it closely to your mouth 1 and nose, it becomes more difficult to breathe, right? 2 3 So we know that it's harder to breathe, which 4 increases respiration effort. For people with pre-existing conditions, it's not going to be good. 5 6 But even for people without pre-existing conditions, 7 increased breathing effort, you increase the capture of carbon dioxide, and then you are re-inhaling that 8 carbon dioxide, it's going to cause a variety of 9 10 negative health effects, even if the person has no 11 pre-existing medical conditions.

12 So common symptoms of blocking your flow of 13 breathing and inhaling excess carbon dioxide can be 14 things like experiencing a headache, nausea, dizziness, lack of coordination, maybe impaired hearing, 15 impaired -- sometimes impaired vision. It can be a --16 it can be feeling faint, overheating. 17 And it can be worse than that, it could be people that have a very 18 difficult time breathing, feel like they can't catch 19 their breath, and it can go down from there. 20 So 21 anybody that inhales more than what the -- anybody that 22 inhales above what the indoor Occupational Health and Safety standard is for carbon dioxide is at risk. 23 24 So if you were to look at my report, you would see 25 the standards for carbon dioxide according to the 26 Alberta standards for safety and see that the maximum

exposure for indoor carbon dioxide is a thousand parts 1 2 That's not very high. That's not very per million. 3 high. That's over a 24 period -- 24-hour period, but 4 it's not very high. Because the normal oxygen that we have currently in our atmosphere is around 3 to 400 5 6 parts per million. So it doesn't have to go very high 7 to get to a thousand.

8 And the testing that I've done inside these 9 breathing barriers is very high levels of carbon 10 dioxide. Even if somebody like -- here's the thing, if 11 you wear a breathing barrier, and you are just sitting 12 at a desk, looking at a computer, you're going to have 13 hazardous levels of low oxygen just from having it on, 14 any one of those three devices on it.

15 And if you are doing an activity like lots of 16 speaking, those levels will drop dramatically, because 17 your oxygen demand will increase dramatically.

And as well as, if you look at physical activity 18 like, say, going for a run or something, and your 19 20 oxygen demands go up significantly, then putting a 21 closed cover on your face and blocking that ability to 22 breathe can have a very severe negative impact of your 23 ability to properly absorb oxygen or as much oxygen as 24 your body needs and dispel -- disperse and dispel 25 carbon dioxide away from you so you don't re-inhale it. 26 0 Thank vou. I know you said that a thousand parts per

1 million is the sort of the safe limit for carbon
2 dioxide. How long is too long to be exposed to that
3 much carbon dioxide or more?

4 Well, according to the -- the highest level that you Α can legally be exposed to in Alberta, according to 5 6 Alberta standards -- and they revised their standards 7 in the spring of this year, they actually -- it was actually higher, but they lowered it, instead it's 8 9 lower, so -- is a thousand parts per million. That's 10 based on a 24-hour exposure.

11 But I'll tell you based upon the testing that I've 12 done and other research publications that I have as 13 references, medical reports and research that I 14 could -- I'm more than happy to submit a long list of certified medical scientific reports to show that 15 levels of carbon dioxide in one of these devices exceed 16 17 5, 10,000 parts per million within a minute, anybody 18 wearing any one of those three.

And oxygen levels -- here's -- carbon dioxide is 19 20 only one part of the equation. The other immediately life-threatening condition is low oxygen. Hypoxemia is 21 22 low oxygen in the blood; hypoxia is low oxygen in 23 So what happens is is if you are not inhaling tissues. oxygen concentration, enough of an oxygen concentration 24 25 in air, you're going to suffer -- you're going to 26 suffer oxygen deficiency in your blood and in your

1 tissues.

And so the normal oxygen level in air is 19.5 --20.9 percent, 20.9 percent. Where it becomes dangerous to health becomes immediately dangerous, life and health, according to our regulations is 19.5 percent or lower.

7 So using instrumentation, you could see that the oxygen drop between the breathing barrier in the 8 person's mouth or nose is significantly below 19.5 9 10 percent. Immediately, within the first 20 seconds, 11 you'll see oxygen drop below 19.5 percent, which is 12 safe levels. And if they're -- if they've got a tight-fitting cover, if their cover is very 13 14 tight-fitting, especially like the N95 style or some of these cloth covers that are especially tight fitting, 15 but even with a procedural-based mask, you're going to 16 see unsafe levels of carbon dioxide and unsafe levels 17 And even with the procedural-based what 18 of oxygen. they call mask, which I call breathing barrier, is 19 levels far in excess of a thousand parts per million, 20 21 multiples higher, 10,000, 20,000 parts per million. 22 And I have done -- I've done testing. I've done 23 video to show it. I am competent to operate testing 24 equipment, and my testing equipment has been, you know, 25 properly calibrated and properly tested to ensure that 26 it's working properly as well, so I could verify it.

1 The readings that I take would hold up in a court of 2 law. 3 What's the device that you use; what's the name of it? 0 4 Well, there's -- I -- there's a number of devices that Α It's not -- it's not restricted to one 5 I could use. 6 type of device, because any device that has those 7 appropriate sensors with those arrangers -- with those ranges of gas detection, as well as, you know, proper 8 use and maintenance of the device would be suitable, 9 10 but the one that I used was a MultiRAE Lite most 11 recently. 12 And is that -- is that testing device, is it designed 0 13 to test levels of carbon dioxide and oxygen in the 14 atmosphere? 15 Yes, it is. Α 16 Okay. Ο 17 Α So with these devices, you can get to a (INDISCERNIBLE) quick with any number of sensor configurations, because 18 they're designed to test multiple types of gases, but 19 20 carbon dioxide and oxygen is a very common 21 configuration, and the sensors can be -- they can be in 22 the monitor and installed in the monitor for that 23 purpose, yes. So we know the limit for carbon dioxide is a thousand 24 0 25 parts per million, and I heard you say that you took 26 readings inside these masks while they're being worn,
and some of those readings were 5 or 10,000 parts per million, but could you give me an idea of what an average would be inside the mask after it's been on for a bit?

Okay, so let's say a couple minutes of wearing either a 5 Α 6 nonmedical, a medical, or a procedural based, you're 7 looking at, a couple minutes of wearing, 20,000 parts per million carbon dioxide, oxygen levels as low as 18 8 9 percent, 18 to 18-and-a-half percent. The lowest 10 oxygen can go legally is 19.5 before it becomes immediately dangerous to life and health. 11

12 So in Occupational Health and Safety standards, 13 when we talk about IDLH, which stands for immediately 14 dangerous to life and health, we're looking at device -- we're looking at levels that might not 15 necessarily cause you to drop dead once they're 16 17 reached, but certainly they're considered levels that now become -- those exposures become harmful without 18 19 protection from those exposures.

20 And so now I've heard you use the number 20,000. 0 So are these -- well, let me ask you this: 21 The parts per 22 million of carbon dioxide inside the mask while it's 23 being worn, does it fluctuate, or is it steady? 24 Well, it depends on a number of things. Α It depends 25 upon what's the activity level of the person that's 26 wearing it. The hard -- the more exertion, the higher

the carbon dioxide's going to go. It also depends upon 1 2 what is the -- how tight-fitting is it around mouth and 3 If it's very tight-fitting, obviously it's going nose. to trap more carbon dioxide than if it's a looser 4 5 fitting. 6 So there's various factors. So, yes, it can 7 fluctuate, or it can remain steady, depending upon the fit of it and depending upon the activity level of the 8 9 person that's wearing it. 10 0 But in your experience with the loose-fitting ones, 11 even though there are these leaky areas where air gets 12 in and out, the parts per million of carbon dioxide 13 stays above a thousand inside --14 Α Absolutely. It's still harmful to wear. It's still 15 hazardous to wear for sure, because when you're exposed to levels that are levels that are far in excess, even 16 17 with the looser -- even if it's not loose-fitting, it's 18 a looser, slightly looser fitting, you're still going to find levels of oxygen that are lower than what is 19 20 legislatively allowed and levels of carbon dioxide that 21 are higher than what is legislatively allowed. 22 Now, you talked about some of the effects of this 0 23 overexposure to carbon dioxide. Have you, in your line 24 of work, have you ever encountered individuals 25 suffering from these effects? 26 Α You know, I am not a physician; I am an Occupational

Health and Safety specialist, so I primary measure the 1 hazard. So I test people and equipment for their 2 3 occupations to ensure that they are protected from respiratory hazards, but I do not evaluate the health 4 5 conditions of people that may be affected by low carbon 6 dioxide or high levels. 7 0 Okay. 8 MR. I'm sorry, to interrupt, 9 Mr. Chair, I don't see Dr. on the screen. I'm 10 just wondering, did we lose somebody? Excuse me, 11 sorry, Mr. Kitchen. 12 MR. KITCHEN: That's okay. I don't see him 13 either. He's --14 MR. She. 15 MR. KITCHEN: I'm sorry, yes, she. Yeah, 16 that's a concern. MR. Oh, there she is, okay. 17 Sorry. 18 DR. So I'm not sure if we want to 19 MR. just read the last couple of minutes back for 20 Dr. Aldcorn's benefit. 21 22 MR. Maybe we can ask Dr. when she went offline --23 Yeah. 24 DR. 25 MR. -- intentionally or not or when she came back. 26

1 Completely unintentionally. DR. The last we were discussing was the fact that the 2 3 numbers of the CO2 and O2 levels would depend on the nature of the tight-fittingness of the mask and the 4 exercise level of the individual. And I apologize. 5 6 MR. KITCHEN: So that means you did miss one question --7 8 DR. I'm so sorry. -- well, there's two ways we 9 MR. KITCHEN: 10 can handle this: One, there's going to be a 11 transcript, of course, you'll get to read it; two, we could just give Miss -- Miss to read it. It 12 doesn't matter to me, so I leave it to the Tribunal. 13 14 THE CHAIR: Let's have the court reporter read it back. That way, she'll get the same thing we 15 all got. 16 17 THE COURT REPORTER: (by reading) Now, you talked about some of the effects 18 0 of this overexposure to carbon dioxide. 19 Have you, in your line of work, have you 20 21 ever encountered individuals suffering 22 from these effects? 23 A You know, I am not a physician. I am an Occupational Health and Safety specialist, so 24 25 I primary measure the hazard. So I test people and equipment for their occupations to 26

ensure that they are protected from 1 respiratory hazards, but I do not evaluate the 2 3 health conditions of people that may be affected by low carbon dioxide or high levels. 4 MR. KITCHEN: 5 0 Mr. -- I take it --6 yes, everybody's here, good -- Mr. are you confident that if somebody else did the same tests that 7 you've done on these masks or breathing barriers, are 8 9 you confident they would come up with the same results 10 that you have? If they're properly --11 A I'm a little concerned, that's 12 MR. a little speculative. I don't know if you want to 13 14 consider rephrasing that, because I mean that -- what studies, who is conducting them? I think that's just a 15 little bit broad, because there may well be studies 16 17 which disagree with Mr. I'm just a little concerned about that type of question. 18 Well, I didn't use the word 19 MR. KITCHEN: "studies", but let me try this. 20 MR. KITCHEN: Are you confident, 21 0 22 that if somebody did the same testing Mr. you've done with the same device that you used that 23 they would produce the same data regarding carbon 24 25 dioxide and oxygen? Well, if they're following the proper procedure, as I 26 A

have, and they had done everything the same that I did as far as making sure that the equipment is -- has been properly calibrated, properly bump-tested, and making sure that everything is working as it should, then I would anticipate that the difference being them holding it versus you holding it should have no effect on the readings whatsoever.

8 Q And just to be clear, you used the same device to test 9 the levels of oxygen and the levels of carbon dioxide? 10 A Yes, because the device was equipped with two sensors, 11 one with oxygen and one with carbon dioxide, to measure 12 these simultaneously, so I measured them both at the 13 same time actually.

14 So there's a display on the monitor, there's a 15 display for the readings of oxygen, and there's a 16 separate display for the readings of carbon dioxide, so 17 you can see both in realtime.

18 Q I see. Now, I notice you used the word "asphyxiation" 19 at one point in your report; can you just, for those of 20 us who do not know what that means, can you explain to 21 me what asphyxiation is?

22 A Well, asphyxiation is when your body is suffering from 23 insufficient oxygen, so whether it's, you know, 24 accidental, intentional, whatever it may be, your 25 body's not getting enough oxygen, that's asphyxiation. 26 And so there's various levels of it, but

asphyxiation may be fatal. It may cause injury. 1 So these are the kinds of things that this is what -- and 2 3 it's all due -- asphyxiation's due exclusively in 4 this -- in this -- I quess how I should say -- view to insufficient oxygen. 5 Now, you say carbon dioxide is an asphyxiant, and it 6 0 7 displaces oxygen. M-hm. 8 Α 9 Ο Can you explain why or how that happens? 10 Α Well, carbon dioxide is used to -- carbon dioxide can displace oxygen, because it is considered an inert gas, 11 12 so pure carbon dioxide is able to displace oxygen. 13 So, for instance, let me give you an example, 14 carbon dioxide is often used in industrial situations 15 to purge out hazardous atmospheres of, say, things like 16 confined spaces and such to remove oxygen from those So we know carbon dioxide can cause 17 spaces. 18 displacement of oxygen. And it can do that in any closed container, it doesn't have to be a confined 19 20 space like industrial, but any closed container where you've got accumulations of carbon dioxide, and it can 21 22 affect how you can absorb and how you can be exposed to 23 oxygen, how you can absorb oxygen basically. Now, I know you've mentioned the 19.5 figure, but I'm 24 0 25 just curious, what is the number that the Occupational 26 Health and Safety code in Alberta describes as being

		the point at which, if you go below it, it becomes
2		hazardous?
3	А	19.5 percent. That's immediately dangerous to life and
4		health. So you can't go below 19.5 percent for any
5		reason.
6		And if you are exposed to air in Alberta, if you
7		are exposed in air breathing air that has an oxygen
8		concentration below 19.5 percent, you have to be
9		equipped with a separate air source, like
10		self-contained breathing apparatus, a supplied-air
11		system, that will give you the correct oxygen
12		requirement that you need.
13	Q	That number of 19.5, is that fairly universal
14		throughout jurisdictions?
15	А	Yes, it is.
16	Q	Okay. I know in your report, you mention the
17		Occupational Health and Safety Administration [sic];
18		could you tell us what that is?
19	А	Occupation Health and Safety Administration? What
20		exactly is your question?
21	Q	I'm just wondering what is the Occupational Health and
22		Safety Administration, because that's not Occupational
23		Health and Safety Alberta. I just want to know what
24		that is.
25	А	Okay, so Occupational Health and Safety
26		Administration [sic] is the US standard of safety

So it's funny, because when you say 1 requirements. 2 it -- you said it full out; I'm more familiar with it 3 in its abbreviated form, which is OSHA. 4 Ο OSHA. If you would have said "OSHA", I'm like absolutely, but 5 Α 6 because I never hear it as Occupational Safety and 7 Health Administration, that's why I kind of just hesitated for a second. 8 9 So anyhow, OSHA is the governing body for safety 10 standards and exposures in the United States. 11 Okay, and is that -- are they similar to OHS here in 0 12 Alberta? 13 Yeah, many of the OSHA standards are accepted in Α 14 various jurisdictions in Canada as well. 15 So in your report, you refer to a 2007 letter from 0 16 OSHA. Can I just get you to turn to the first page of 17 this letter, that's page 085 or 85 from your report, 18 and for those who are following along, that's near the end of the report, and then the top left-hand corner is 19 20 the page number, 085. Now, this letter, can I just ask 21 you to read out the first sentence of the third 22 paragraph there at the bottom of that page. 23 (as read) Α 24 This letter constitutes OSHA's interpretation 25 of the requirements discussed. 26 We must be on different pages. So I'm looking at the 0

1		first page of the letter
2	A	Okay, I'm looking at I'm on page 085.
3	Q	Maybe you've got a different page 085. Well, can I get
4		you to go to just the first page of this letter, where
5		it says "April 2nd, 2007, Mr. William Costello"; do you
6		see that?
7	A	Oh, okay, okay, yes, I see that now, yeah.
8	Q	Okay. And if we go down, the first paragraph starts
9		with "Thank you", second paragraph
10	A	Yeah.
11	Q	starts "Within your letter", if you could just read
12		the first sentence of the third paragraph there.
13	A	Okay, so the third sentence of the second paragraph
14		third paragraph, okay, okay, I got you, okay. So it
15		is is it the one "to ensure that employees", is that
16		the second one?
17	Q	No, it's starts with the word "Paragraph".
18	А	Oh, "Paragraph", okay: (as read)
19		Of paragraph (d)(2)(iii) of the respiratory
20		protection standard considers any atmosphere
21		with an oxygen level below 19.5 percent to be
22		oxygen deficient and immediately dangerous to
23		life or health.
24		Did you want me to continue?
25	Q	No. That sounds a little dramatic to me. Can you help
26		me understand, you know, from the perspective of an

Occupational Health and Safety expert, what does "immediately dangerous to life or health" actually mean?

4 A Well, I thought I actually explained that a little
5 earlier, but I'll tell you what, I'll go over it again.

6 So "immediately dangerous to life and health" 7 means that if you are exposed at that level or below that level especially, then you are going to be putting 8 9 your health in harm's way. So that can have 10 significantly dangerous impacts on your health. And 11 the lower it goes, the lower it goes, like the more it 12 differentiates, like if it's -- the lower it -- for 13 oxygen, oxygen requirements here, the lower it goes 14 below the minimum oxygen requirement, the 19.5 percent, the more dramatic and the more negative those effects 15 So it's bad. 16 are going to be.

You never are allowed to exceed -- you're never, ever allowed to breathe air less than 19.5 percent under any circumstance in Occupational Health and Safety settings. There's no -- there's no exceptions. This is the deadline. You can't go below 19.5.

If you do, if somebody is tested and they are exposed to levels of oxygen below 19.5 percent, the operation, the working operation, would have to be immediately shut down, and they would have to be evacuated from that space; even if it was 19.4, they'd have to be immediately evacuated. There's nothing
 below 19.5 that's acceptable.

If somebody had to work in an atmosphere of 19.5 3 4 percent or lower, they would have to be equipped with a separate source of clean air with -- delivered via air 5 6 line, supplied air-breathing apparatus. For those of 7 you listening that might not necessarily be aware what 8 that is, that is the same type of breathing apparatus 9 that fire fighters wear when they go into smoking buildings, so they have a separate source of air. 10 Why? 11 Because they need it, because they go into 12 oxygen-deficient atmospheres. And that's the type of 13 equipment you need to be exposed to any oxygen 14 concentration below 19.5 percent.

15 Q So when people are working with a procedural mask on, 16 are they working in an environment that's immediately 17 dangerous to life or health?

A The barrier, the breathing barriers create this
environment. So if you are in your office or home or
wherever it may be, and you are exposed to good
breathing air without a breathing barrier, wearing a
breathing barrier will create this hazardous
environment for your body.

Q Could I get you to turn the page over on this letter, and you'll see there a box containing two paragraphs of text; do you see that?

1 Α Yes, I do. 2 Can I just get you to read the first three sentences of 0 3 text inside that box? 4 (as read) Α Human beings must breathe oxygen to survive 5 6 and begin to suffer adverse health effects 7 when the oxygen level of their breathing air drops below 19.5 percent oxygen. 8 9 So for the person doing the documentation on this, I 10 should probably say that -- I'll read it over again, 11 just so that they can do their recording properly on it 12 by hand. So: (as read) 13 Human beings must breathe oxygen ... to 14 survive, and begin to suffer adverse health effects when the oxygen level of their 15 breathing air drops below (19.5 percent 16 17 oxygen). Below 19.5 percent oxygen ..., 18 air is considered oxygen deficient. At considerations of 16 to 19.5 percent, workers 19 20 engaged in any form of exertion can rapidly 21 become symptomatic as their tissues fail to 22 obtain the oxygen necessary to function 23 properly. 24 And do you want me to read what's in the brackets as 25 well there as reference? 26 No, that's good, thank you. Now, this concentration of 0

16 to 19.5, that range, is that what you've discovered 1 when you've tested the levels of oxygen between these 2 3 breathing barriers and the faces of those wearing them? 4 Absolutely. Every oxygen concentration, whether it's Α procedural they're wearing, and even at resting rate 5 6 without any form of exertion, just resting rate, 7 resting rate, we're seeing an oxygen drop of below 19.5 percent within 2 minutes of wearing it on either 8 procedural, nonmedical, or medical masks. Within 2 9 10 minutes, and that's without, that's without speaking a 11 lot or any other type of obvious exertion. 12 THE CHAIR: Mr. Kitchen --13 MR. KITCHEN: Yes. 14 THE CHAIR: -- I'm just wondering, it's 15 quarter to 11, we started at 9, and I don't want to interrupt the flow, but I'm wondering if people would 16 17 like to take a 5- or 10-minute break just to stretch 18 and whatever. T'm fine with that. 19 MR. KITCHEN: Can T 20 just -- because I'm almost done with this area of 21 questioning; can I just -- can I ask one question to 22 tie that up? THE CHAIR: Certainly, certainly. 23 24 MR. KITCHEN: I'll just get 0 Mr. 25 you to turn the next page over, can you just tell me 26 who is it that wrote this letter, and what's his title?

The person who wrote this letter is Richard E. Fairfax, 1 Α 2 F-A-I-R-F-A-X, Director, and his title is Directorate 3 of Enforcement Programs. So he would be in charge of -- just for the record, this is somebody that's in 4 charge of enforcement programs for all of OSHA, which 5 6 is -- encompasses all of the United States, and in 7 Canada, we have the same even, within our own individual provinces, we have the same standards for 8 oxygen that nothing under 19.5 percent. 9 Everything 10 below 19.5 percent is immediately dangerous to life and 11 health. It's universal throughout North America -- or 12 I should say through the US and Canada. 13 One last question before we break, do you find it 0 14 strange that the public has been mandated to wear, by various government bodies, devices that cause their 15 oxygen to be below a level that's safe? 16 17 Well, I don't know if "strange" is the right word, Α 18 I'm not sure if "strange" is the right word. James. Ι think it's much more serious than "strange", because I 19 20 know how serious it is, I know how serious the rules 21 are regarding oxygen concentrations below 19.5 percent. 22 In every one I've tested, every one, I've tested 23 adults, I've tested children, everyone, within 2 24 minutes of wearing either a procedural, nonmedical, or 25 the medical N95, even that's (INDISCERNIBLE) approved, 26 within 2 minutes is having oxygen drops below 19.5

1 percent. 2 Thank you. 0 3 MR. KITCHEN: And that's it for me for now until we come back after our break. 4 5 THE CHAIR: Okay, well, let's reconvene at 6 11:00 then, and we'll continue on with Mr. Kitchen and 7 Thank you. Mr. MR. KITCHEN: Thank you. 8 9 (ADJOURNMENT) 10 THE CHAIR: We are back in session, and 11 we'll have Mr. Kitchen continue with his direct exam of 12 Mr. 13 MR. KITCHEN: All right, thank you. 14 MR. KITCHEN: Now, Mr. I think you 0 15 touched on this, but just to clarify, in your experience, do some people tolerate wearing these 16 breathing barriers better than others? 17 Oh, absolutely, because some people have pre-existing 18 Α 19 medical conditions that make it difficult to breathe 20 without any restriction. If you added a restriction on top of that, it could be life threatening for those 21 22 people, and every bit of, you know -- depending upon -there's levels, right? So if it's -- it depends on the 23 24 level of pre-existing medical condition they have and 25 the severity of it, but it could be life threatening, 26 it could cause somebody a life-threatening medical

emergency to wear a breathing barrier, even a properly 1 2 certified respirator, if they haven't -- if they don't 3 have the health and they haven't been properly screened 4 beforehand, before wearing it. It's important. It's 5 important that we check out and people are health-assessed before we restrict our breathing. 6 It's 7 important. Do you do screening and fit testing at workplaces for 8 0 9 employees? 10 Α Absolutely. Screening is a prerequisite for fit 11 testing. I can't fit test anybody that hasn't 12 completed screening protocol. 13 Can you tell me what are some of the things you look 0 14 for when you're screening? 15 Well, the screening is a document that the patient -- I Α shouldn't say "patient", but the client, the customer 16 17 or client is going to complete in their own -- with 18 their own privacy, so they're going to complete it completely themselves, and then I just look at the 19 20 results. 21 The results that I'm looking for, there's a list 22 of pre-existing medical conditions, and if they 23 identify that they currently have any of those pre-existing medical conditions, then my obligation, as 24 25 an Occupational Health and Safety fit testing 26 professional, is that I have to refer them to their

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1		physician for further testing and analysis to determine
2		whether or not they have the physical fitness to be
3		able to handle a restriction in their breathing.
4	Q	Is asthma one of those conditions?
5	A	Yes. Do you want me to mention some of the conditions?
6	Q	Well, you can only do that if I ask you to do that.
7		Well, let me ask you, just off the top of your head,
8		you don't need to go through the whole list, but just
9		give me some examples of some of these conditions just
10		so we have an idea. We know one of them is asthma, but
11		give us an idea.
12	A	Allergies, high blood pressure, cardiac conditions,
13		lung illnesses. I'm not reading; I'm just going off
14		memory right now. Let's just see here, I can look up
15		that form quickly here if you would like me to read
16		them all, but, you know, those are included in that, so
17		allergies, asthma, heart disease, high blood pressure.
18		Okay, I'm just going to open it up right now.
19	Q	Well
20		MR. Mr. Kitchen, I'm not going to
21		contest your client's view on different conditions.
22		I'm not sure if we have to go down this road, to be
23		honest with you. I don't
24		MR. KITCHEN: Yeah
25		MR want to have to get him to
26		read from something, if that's what you need him to do.

1 MR. KITCHEN: No, I don't. MR. KITCHEN: 2 And, you know, since what 0 3 you're reading from, Mr. is not actually in the record. I think that's fine, that answers my 4 5 question anyways. 6 Now, we've talked about this immediate danger, 7 that life and health, but does it surprise you then that most people, when they wear these breathing 8 barriers, even for hours on end, that they don't pass 9 10 out from wearing them? 11 Well, it doesn't surprise me, but just because they're А 12 not physically passing out does not mean that harm is 13 not being done. 14 So here's the facts that I've been able to establish from my testing: People that wear breathing 15 barriers are subjecting themselves to an oxygen 16 17 deficient IDL -- IDLH inhalation atmosphere. And in 18 many cases, they subject themselves to an IDLH level carbon dioxide as well. 19 20 If you subject yourself to IDLH levels of low 21 oxygen, it will negatively impact your health whether 22 you're aware of it or not, and that's why all the governing bodies that govern the rules of health and 23 24 safety legislate what the minimum oxygen concentration 25 in air that you can be exposed to, because you might 26 not necessarily feel harm right away, you might not

necessarily have a headache right away or dizziness,
 you might not necessarily feel nausea right away, any
 of these other minor -- more minor types of symptoms of
 low oxygen.

5 But we know that if you are exposed to a hazard in 6 a low enough concentration or a high enough 7 concentration, depending on what the hazard is, harm 8 will occur, and it might be something -- it might not 9 necessarily be something that the wearer or user is 10 aware of, at least not immediately.

11 In your experience, has Alberta Health Services or the 0 12 Alberta Public Health authorities generally, have they 13 acknowledged the risks and harms associated with these 14 breathing barriers that you've been talking about? I've reached out to Dr. Hinshaw back in June of last 15 Α year with a very detailed letter on pointing out -- at 16 17 that time, it was -- nothing was mandated, it was just a recommendation that people wear, in Alberta, N95, 18 nonmedical, or procedural what they call, you know, 19 20 surgical mask for protection from COVID, and I had to point out a lot of the errors that she had stated. 21

I have read -- the only reply that I have received from Dr. Hinshaw's office to date is a read receipt. Actually it was CC'd to 23 other doctors in charge of public health in Alberta. So I have a lot of read receipts, no official response.

To also clarify, besides not having an official 1 2 response, I have never -- there's been numerous 3 attempts to contact Dr. Hinshaw's office for a 4 response, and it has not been granted, it's been denied. 5 6 0 Do you have any thoughts on why Alberta Health Services or the Chief Medical Officer of Health hasn't been 7 willing to discuss these risks and harms? 8 9 A I have thought --10 MR. I don't want to be difficult here, but I think that question really is asking your 11 witness to talk about what's in the minds of the other 12 I think if you rephrase it and ask him a people. 13 14 different question, I might not object, but I don't think he can speak to why they're not doing or doing 15 anything. 16 17 MR. KITCHEN: Right, I was asking him his thoughts, so I'll just ask it again with those words in 18 19 there. 20 MR. KITCHEN: Mr. and, you know, 0 maybe you just have no idea, and that's okay, but do 21 22 you, from your perspective, can you think of any reason -- or what do you think the reason is that there 23 hasn't been any discussion on this? 24 25 A I don't know. In all honesty, Mr. Kitchen, I have no clue, but I will tell you this, is that normally, 26

normally, before any types of mask mandates are -would be even recommended in Occupational Health and
Safety settings, professionals like myself would be
consulted long in advance of any potential mandates
that would occur, and that has not happened this time,
in this instance.

7 Now, as an Occupational Health and Safety expert, as an 0 Occupational Health and Safety consultant, do you work 8 at all with Occupational Health and Safety Alberta? 9 10 Α I'm always -- I don't work specifically for 11 Occupational Health and Safety Alberta; they have their 12 employees, their own government employees, but do I 13 work in union with them, like in cooperation? 14 Absolutely. Everything that is Occupational Health and Safety-related in Alberta works in cooperation with 15 Occupational Health and Safety representatives in 16 Alberta. 17

And in your experience, has Occupational Health and 18 0 Safety, OHS, have they acknowledged any of these risks 19 or harms associated with these breathing barriers? 20 21 There hasn't been any -- there hasn't been any real Α 22 willingness to discuss that on behalf of OH&S, and 23 they're more than happy to back Provincial mandates without discussion and without discussion or any other 24 25 opinion that's contrary to the AHS mandate. 26 Why do you think that is? 0

A I don't know. I don't know, Mr. Kitchen, but it is
very strange, because in a normal time, before COVID,
there was so much discussion about any new policy that
could be implemented long in advance before it would
become a mandate. There's planning, there's
discussion, there's determination.

7 But I think what I find that's very interesting is that this is not just an Alberta situation; this is a 8 9 worldwide thing. How strange is it that something like 10 this type of breathing barrier could be mandated, 11 rolled out so fast without any consulting of, you know, 12 no one, no one trusted respirator professionals, by 13 medical staff, who aren't experts in respiratory 14 protection, they aren't qualified to -- medical doctors alone are not qualified to comment or give advice on 15 various aspects of respiratory protection because 16 17 they're not asked -- they don't deal in respirators 18 professionally, they have very limited knowledge about respirators and masks and their protection levels and 19 20 what they can do and what they can't do. And I find it strange that this has been implemented on a worldwide 21 22 basis with virtually no contest, without official 23 contesting of it, it's very strange. 24 In fact, earlier you said, it was more than strange, 0 25 you said it was serious?

26 A Well, strange that it hasn't been documented, but when

1 I said serious, I said serious in relation to oxygen --2 I said serious in response to your question for me on 3 the effects on people being exposed to less than 19.5 percent oxygen. Yes, that is beyond strange. 4 That is alarming. That is alarming that these devices could be 5 6 mandated when they clearly -- when the testing that I am trained to perform clearly shows oxygen levels 7 dropping below 19.5 percent with all three of these 8 9 versions of mandated breathing barriers, whether it's 10 an adult or a child even at resting rate, and we know that the drop is going to be even more significant for 11 people that are engaged in any kind of activity. 12 And do you understand that we're here today because 13 0 14 Dr. Wall has contested these breathing barriers and that, for doing so, he is facing professional 15 discipline? 16 17 A Yes, I'm aware. On page 8 of his report, Dr. I think his first name 18 0 but Dr. says -- and just to clarify, he is 19 is the expert tendered by the Alberta College of 20 Chiropractors -- on page 8 of his report, he says: 21 (as 22 read) There are no known harms associated with 23 24 masking. 25 Now, maybe it's obvious, but do you disagree with his statement? 26

1 Completely. I completely disagree with Dr. A statement, because there are numerous scientific 2 3 research papers and studies. I've looked through references, and I didn't see one registered 4 Dr. scientific study in any one of his references, but I 5 6 have references from registered scientific journals, medical journals. I have references from the --7 published by the National Library of Medicine to show 8 9 quite the opposite of what Dr. references claim. 10 Plus, in addition, my own -- obviously, my own 11 testing, of course, but then as far as scientific

12 references go, there's -- I can send a whole bunch of 13 actual registered, published, scientific medical 14 researchers that have shown quite the contrary to what 15 Dr. has stated.

16 Q A number of witnesses in this hearing, including 17 Dr. have said that the issue of masking as it 18 relates to COVID is a politicised issue. Do you think 19 it's a politicised issue?

I am going to have to object 20 MR. to that, Mr. Chair, that runs afoul of commenting on 21 22 the harm or lack thereof in terms of masking. MR. KITCHEN: I think that's a fair 23 question. 24 25 THE CHAIR: Can you restate it? And this is part of the reason 26 MR. KITCHEN:

1 why I raised the fact that this has been a constant issue in the hearing, the other expert, Dr. who 2 3 just responded to, said that masking is a Mr. 4 politicised issue, and so have several other witnesses, so now I'm asking Mr. if he thinks masking as 5 6 it relates to COVID is a politicised issue. 7 I'll just again state, MR. Mr. Chair, that I think this witness is being tendered 8 9 for a very specific purpose, and that was harms, in his 10 view, that are caused by masking, and I don't think this witness is anywhere near the -- is a very 11 different type of witness from the other experts that 12 have testified. 13 14 MR. KITCHEN: I don't see what entitles 15 to talk about the politicisation of the issue Dr. that doesn't also entitle Mr. to talk about 16 it. 17 THE CHAIR: Well, I don't want to go back 18 and retroactively deal with Dr. but I do think this 19 witness was qualified as an expert in a very specific 20 area, and I do think the question extends beyond that. 21 22 MR. KITCHEN: Well, just one more question 0 23 then, Mr. from your perspective, do you think Occupational Health and Safety is the primary 24 25 consideration in forming these mask mandates? Well, Mr. Kitchen, Occupational Health and Safety has 26 A

not been a consideration at all in these mask mandates, 1 as demonstrated, and I would contest any safety 2 3 professional with qualifications equal to mine to prove otherwise, that oxygen deficiency is created by wearing 4 a breathing barrier. That is why our parents taught us 5 6 to never put a bag over our heads. It is pretty standard, you cover your mouth and nose with a random 7 object, it limits your ability to breathe naturally, 8 and anything that limits your ability to breathe 9 10 naturally can potentially be harmful to health. That's why we have screening, and anybody with pre-existing 11 medical conditions that has a limit on their breathing 12 could cause a life threatening medical emergency. 13 14 MR. KITCHEN: Thank you. Those are all my 15 questions. Mr. Chair, if you're MR. 16 comfortable, I'll just continue on. I don't expect to 17 be too long. 18 19 THE CHAIR: Yes, that's fine. Just before 20 you start, Mr. Mr. you're okay to continue with this cross-examination, or did you want a 21 22 break? I'm fine. 23 A Thank you very much, Mr. 24 THE CHAIR: Okay. 25 Cross-examines the Witness Mr. 26 0 MR. Mr. I've got some

questions I'm going to take you to in a couple of 1 2 minutes that I had thought of in advance of the 3 hearing, but I want to touch on a few things that are fresh in my mind now that you've just talked about with 4 Mr. Kitchen, if you don't mind. 5 6 Α Sure. 7 So a few minutes ago, you talked about the fact that Ο some people tolerate masking better than others and 8 that that was a function of pre-existing medical 9 10 conditions and the severity of those medical 11 conditions; do you remember that exchange you had? 12 Yes, I do. Α And I think you talked about properly screening 13 0 14 individuals as well, and it's important that people are health-tested in terms of masking and medical 15 preconditions; do you remember that? 16 17 Α Well, at least as far as identifying pre-existing medical conditions that could make them not a good 18 candidate for wearing any type of mask or respirator. 19 20 And you would agree with me that it's important 0 Sure. 21 to go to a doctor to determine whether they have any 22 pre-existing medical conditions? That is correct. 23 Α 24 I want to touch on a few things that you talked about Ο 25 with Mr. Kitchen. You talked about, in your view, that Dr. Hinshaw didn't contact OHS, I think that's the 26

1		Provincial OHS, but I think you'd agree with me that
2		you don't have any direct knowledge of that, do you?
3	A	I didn't say that Dr. Hinshaw didn't contact OH&S.
4		What I had said was that Dr. Hinshaw has not been
5		air testing on these masks has not been done, so they
б		haven't the safety of people wearing them has not
7		been properly determined, because there has been
8		absolutely no air testing on oxygen deficiencies or
9		carbon dioxide accumulations on these masks by
10	Q	Well, I don't want to belabour oh, sorry, so sorry,
11		were you finished?
12	А	Yeah.
13	Q	I don't want to belabour this, but I think,
14		Mr it's fair to say though you haven't been
14 15		Mr. Mr. it's fair to say though you haven't been involved in the development of the CMOH orders, have
14 15 16		Mr. It's fair to say though you haven't been involved in the development of the CMOH orders, have you?
14 15 16 17	A	<pre>Mr it's fair to say though you haven't been involved in the development of the CMOH orders, have you? That is fair to say; I have not been involved in the</pre>
14 15 16 17 18	А	<pre>Mr it's fair to say though you haven't been involved in the development of the CMOH orders, have you? That is fair to say; I have not been involved in the development of those orders.</pre>
14 15 16 17 18 19	A Q	<pre>Mr it's fair to say though you haven't been involved in the development of the CMOH orders, have you? That is fair to say; I have not been involved in the development of those orders. You made a comment I think it was a couple times during</pre>
14 15 16 17 18 19 20	A Q	Mr. Involved in the development of the CMOH orders, have you? That is fair to say; I have not been involved in the development of those orders. You made a comment I think it was a couple times during your testimony then, Mr. Kitchen had sort of a wrap-up
14 15 16 17 18 19 20 21	A Q	Mr. it's fair to say though you haven't been involved in the development of the CMOH orders, have you? That is fair to say; I have not been involved in the development of those orders. You made a comment I think it was a couple times during your testimony then, Mr. Kitchen had sort of a wrap-up question for you, and you were talking about the fact
14 15 16 17 18 19 20 21 22	A Q	Mr. it's fair to say though you haven't been involved in the development of the CMOH orders, have you? That is fair to say; I have not been involved in the development of those orders. You made a comment I think it was a couple times during your testimony then, Mr. Kitchen had sort of a wrap-up question for you, and you were talking about the fact that it was strange that devices are mandated, that
14 15 16 17 18 19 20 21 22 23	A Q	Mr. it's fair to say though you haven't been involved in the development of the CMOH orders, have you? That is fair to say; I have not been involved in the development of those orders. You made a comment I think it was a couple times during your testimony then, Mr. Kitchen had sort of a wrap-up question for you, and you were talking about the fact that it was strange that devices are mandated, that breathing devices are mandated. Would you agree with
14 15 16 17 18 19 20 21 22 23 24	A Q	Mr. it's fair to say though you haven't been involved in the development of the CMOH orders, have you? That is fair to say; I have not been involved in the development of those orders. You made a comment I think it was a couple times during your testimony then, Mr. Kitchen had sort of a wrap-up question for you, and you were talking about the fact that it was strange that devices are mandated, that breathing devices are mandated. Would you agree with me that it is clear they are mandatory though?
14 15 16 17 18 19 20 21 22 23 24 25	A Q A	Mr. it's fair to say though you haven't been involved in the development of the CMOH orders, have you? That is fair to say; I have not been involved in the development of those orders. You made a comment I think it was a couple times during your testimony then, Mr. Kitchen had sort of a wrap-up question for you, and you were talking about the fact that it was strange that devices are mandated, that breathing devices are mandated. Would you agree with me that it is clear they are mandatory though? I would agree with you that it is clear that these

correct.

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So, Mr.

- 2 Q And you've had a chance to look at the College's3 Pandemic Directive, I assume?
- 4 A I have not memorized it, but I have had exposure to it;
 5 I have looked at it, yes.

6 0 Yeah, and it's not a memory test for you. I'm just --7 there's a phrase, and my friend and I talked about this when you were being qualified, there's a phrase in it 8 9 that says "surgical or procedure masks are the minimum 10 acceptable standard", and it goes on to say that 11 chiropractors and staff must be masked. You'd agree 12 with me that that's mandatory for chiropractors? 13 You know, I can't agree with -- look, just because --Α 14 just because it's -- just because one of these or more of these breathing barriers is mandatory for 15 chiropractors and other professions, doesn't mean 16 17 they're safe.

Oh, I'm not asking you that. I'm asking you it's 18 0 mandatory for chiropractors, question mark, full stop. 19 Aware a procedural-based is what you're saying? 20 Α 21 Yeah, I'm just saying that the Pandemic Directive, and 0 22 I pointed you to the masking situation in particular, that's mandatory for chiropractors; aside from your 23 24 views on the safety or harm, that's mandatory? 25 Α That appears to be correct.

I'm going to turn you to now a couple

1		of, I quess, more generic questions, and I just wanted
2		to be clear, and you kind of touched on this with
3		Mr. Kitchen and I think with me a minute or 2 ago, you
4		haven't been involved in the Government's response to
5		COVID-19; that's correct?
6	A	That is correct.
7	0	And you've been qualified today to provide your opinion
8	~	about the harms that masking can cause for the wearer.
9		and that's correct?
10	A	That's correct.
11	0	And you're not here of course to provide any evidence
10	X	when you it not here, of course, to provide any evidence
12		about the benefits that might accrue from masking for
13		people in the presence of the person being masked; is
14		that correct?
15		MR. KITCHEN: Hold on, hold on
16	A	Well well
17		MR. KITCHEN: that question
18		THE CHAIR: Just (INDISCERNIBLE),
19		Mr. Sorry, go ahead, James.
20		MR. KITCHEN: That question is premised on
21		efficacy of masks, which my friend, my learned friend,
22		went out of his way to make sure we were not going to
23		talk about, and now he's trying to talk about it.
24		MR. I'm trying to just make a
25		comment that this witness isn't providing that
26		evidence.

1 MR. KITCHEN: Well, that's been established time and over again, so I don't understand why we're 2 3 just filling the record with repeats of what we've already established. 4 MR. Well, I just wanted to be 5 6 clear that this witness is not providing evidence about any potential benefits to persons in the presence of 7 8 the wearer of a mask. 9 MR. KITCHEN: Well, I think we're --10 MR. I'll move on, I'll move one, 11 Mr. Kitchen, if you have a problem with this, yeah. you'll let me know. 12 You're not here to provide any MR. 13 0 14 evidence about the transmission of COVID for preventive measures for COVID? 15 That's correct. 16 A Would it be fair to say that your views about mandatory 17 0 masking are inconsistent with most government Public 18 Health agencies, in Canada I should say? 19 In Canada, as far as the mandates that have come down 20 A 21 provincially and nationally? 22 Yeah, that would be correct. 0 Yeah, I would say that we definitely have a difference 23 A of opinion. 24 You talked with my friend, Mr. Kitchen, about the 25 0 testing that you've done. None of that testing is 26

attached to your expert report, is it? 1 That testing that I've done is not -- let me just take 2 A 3 a look here. MR. KITCHEN: Perhaps you could be a little 4 more specific, Mr. 5 - -6 MR. Yeah (INDISCERNIBLE) --MR. KITCHEN: -- there's no exhibit that has 7 a list of the readings. Is that what you're getting --8 9 MR. Yeah, that's kind of what I'm 10 getting at. And, Mr. this isn't 11 MR. 0 a gotcha question, but I'm just looking at the second 12 page of your report, and you talk about using the 13 14 MultiRAE Lite, and you observed that upon commencement, 15 and you have some comments then. I'm just saying there's no data or test results from those tests you 16 17 performed which are part of your expert report, correct? 18 I don't have it in the report, specific readings, but I 19 A have -- I've done lots of documentation on it and 20 21 reports on it, so --22 Yeah, I'm just -- I wasn't trying to take you down the 0 road of what you did; I just wanted to be clear they're 23 not attached. 24 Yeah, the specific testing, I've done a lot of testing, 25 A so for me to have all of the different test subjects 26

1		and all of the different readings would be quite
2		extensive as far as those testing results would be, so
3		they're not attached, no.
4	Q	Okay. I want to ask you some questions about your
5		registration with the Alberta College of Paramedics,
6		and I think you've told me that you were at EMS for one
7		year, you were a regulated member of that college for
8		one year. Did you have to meet any entry requirements
9		to get your EMS registration with the ACP
10	A	Absolutely.
11	Q	College of Paramedics?
12	А	Yes, I did.
13	Q	And that's a mandatory requirement to become an EMS
14		with the College of paramedics?
15	А	It's a mandatory requirement to be registered with the
16		Alberta College of Paramedics to work in an
17		occupational setting as a medic in Alberta.
18	Q	And even though you were only a I shouldn't say
19		"only" but it was a one-year period you were a
20		regulated member, there were mandatory requirements you
21		had to follow during that year like con ed or paying a
22		licence fee; would you agree with that?
23	А	Yes, in fact, the only requirements they registered
24		with Alberta College of Paramedics, because I completed
25		all of their requirements, the only requirement, moving
26		forward from year to year, was to pay the fee to stay

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1 registered. And that registration is required to work as a medic in Alberta, and I had no intention of 2 working as a medic in Alberta as I was already fully 3 4 employed as an Occupational Health and Safety specialist, so that's why I ended it. 5 6 Sure. And just to be clear, is it your understanding 0 7 that if you don't follow those requirements, you can't be a member of the College? 8 9 Α Yeah, you have to follow -- you have to work -- you 10 have to practice your skills within a protocol as 11 determined by Alberta College of Paramedics, yes, in an 12 occupational setting. 13 I'm going to ask you a fairly specific question 0 Sure. 14 here, but would you comply with the paramedic equivalent of the College's pandemic requirement about 15 mandatory masking if you were in the field? 16 17 Α I would comply with wearing a mask, but I would not wear a breathing barrier. 18 I have not worn a breathing barrier, and I won't. So, remember, there's a big 19 20 difference between what's currently been mandated and 21 what an engineered mask is. 22 A mask is safe to wear. A mask is engineered 23 inhalation openings. A mask has an engineered 24 exhalation opening. That's safe. It's established as 25 safe. It's proven as safe over many decades. 26 So a closed cover is not something that I would

wear, no, but I would wear an actual mask.

1

2	Q	So I just want to be clear, again, when we look at the							
3		Pandemic Directive for the College of Chiropractors, it							
4		says that the requirement is a surgical or a procedure							
5		mask; you would comply with that kind of directive from							
6		your regulatory body if that was applicable?							
7	A	I know that those aren't masks. Those are breathing							
8		barriers. I'm not going to jeopardize my health and							
9		safety through low oxygen and accumulations of carbon							
10		dioxide for any occupation, because that's my health,							
11		and my health is important to me. It's more important							
12		than anything else.							
13	Q	So you would choose to not comply with it?							
14	A	I would wear I would wear something that far exceeds							
15		the recommended protection, which is an actual							
16		certified respirator that actually is designed for easy							
17		and safe breathing, I would wear that, and it would far							
18		exceed any potential respiratory benefit that a							
19		breathing barrier could provide.							
20	Q	Those are all my questions							
21	A	(INDISCERNIBLE)							
22	Q	Sorry, did you want to finish? I cut you off.							
23	A	Oh, sorry, I just wanted to say that so what I would							
24		wear would be far and above what has been currently							
25		mandated.							
26		MR. Those are all my questions,							
1		Mr. thank you.							
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2	A	Thank you very much, Mr.							
3		THE CHAIR: Mr. Kitchen, did you have							
4		anything on redirect?							
5		MR. KITCHEN: Just a couple.							
6		Mr. Kitchen Re-examines the Witness							
7	Q	MR. KITCHEN: Mr. you attest to							
8		the truth of what you said about the results of the							
9		testing you did?							
10	A	Well, I am under oath in this courtroom, so I believe							
11		I've already done that.							
12	Q	You just finished a discussion with my learned friend							
13		about whether or not you would wear a breathing barrier							
14		if your regulatory body told you you had to in order to							
15		practice, and if you didn't have access to the							
16		respirator, if all you had access to was the breathing							
17		barrier that they said you had to wear, would you wear							
18		it to keep your licence?							
<mark>1</mark> 9	A	No, I would not wear it to keep my licence because my							
20		health is more important than my job.							
21		MR. KITCHEN: Thank you.							
22	Q	MR. KITCHEN: Wait, hold on, forgive me.							
23		Mr. asked you about screening and							
24		pre-conditions. Just to clarify, you would say that							
25		masks well, would you say that masks are harmful to							
26		people who have no pre-existing conditions at all?							
I I									

1	A	Look, a mask is engineered	d for breathing. People					
2		without pre-existing cond:	itions should be able to wear					
3		an actual engineered mask	with engineered inhalation					
4		and exhalation valves no problem, provided you know,						
5		depend again, it depends like on previous if						
6		there's no pre-existing conditions, they're considered						
7		fit, then an actual mask is safe to wear for that						
8		person.						
9		But if you're talking I'm not talking about a						
10		breathing barrier here. A	A breathing barrier with no					
11		inhalation valves, no exhalation valve, that's not safe						
12		for anybody.						
13		MR. KITCHEN:	Thank you. Those are actually					
14		all my redirect questions.						
15		THE CHAIR:	Thank you very much,					
16		Mr. I believe t	that concludes your testimony					
17		this morning, and we thank you for your attendance and						
18		for your testimony, and you're free to leave the						
19		hearing.						
20	A	Thank you very much, Mr.						
21		THE CHAIR:	It's 20 to 12, and we could					
22		start at 12:45. Mr.						
23		MR.	Yes, I wondered, do you have					
24		any questions? You didn't have any questions, I'm						
25		assuming, of Mr.						
26		THE CHAIR:	Oh, I'm sorry, I jumped the					

qun there. Did the Members of the Tribunal want to 1 caucus and discuss that? I think I'll have to take a 2 3 lashing for that, probably ten lashes, but yeah. So I suggest then that we break for lunch, and we 4 reconvene at 12:45 with Mr. Kitchen's witness and go 5 6 from there. Just so I'm clear, Mr. Chair, 7 MR. 8 my apologies, will you want Mr. Kitchen -- maybe this 9 is a question Mr. Kitchen is going to ask, do you want 10 him to have Mr. available then at 12:45 if you 11 have any further questions? And I'm just asking, I don't know exactly where we're heading at 12:45. 12 Okay, I'll touch base with the THE CHAIR: 13 14 Tribunal Members when we break here, and if there are some follow-up issues from the Hearing Tribunal with 15 I'll get in touch with respect to Mr. 16 17 Mr. Kitchen, and we'll arrange to get him back. MR. KITCHEN: Yeah, if you could just please 18 let me know within 10, 15 minutes, just that way, I can 19 release him or I can keep him around. 20 Yeah, thank you for bringing 21 THE CHAIR: 22 that up. That's my fault, I got ahead of myself. When we break now, we'll go into a break-out room first, the 23 Panel Members and our legal counsel, and we'll just 24 25 find out if there are any follow-up questions, and then I will let you know, Mr. Kitchen. 26

MR.	KITCHEN	:	Oka	ay, tha	ank	you.
PROC	CEEDINGS	ADJOURNED	UNTIL	12:45	РМ	

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