Dr. George Pawliuk, Inc.
The Eric Martin Pavilion
Royal Jubilee Hospital
2334 Trent Street
Victoria, B.C.
V8R 4Z3
250-370-8152

June 9, 2019

Daniel J. Reid
Harper Grey LLP
Barristers & Solicitors
3200 Vancouver Centre
650 West Georgia Street
Vancouver, B.C. V6B 4P7

Re: Crawford and Rizos v. Osuteye et al

I have been asked to provide my opinion with respect to the standard of care of Dr. Nazif and the duty of care of psychiatrists. I am aware that my duty is to assist the court and I am not to be an advocate for any party. I have made my report in conformity with that duty and I will, if called on to give oral or written testimony, give that testimony in conformity with that duty.

1. PROFESSIONAL QUALIFICATIONS

I am a qualified practitioner in Canada, licensed to practice medicine in the province of British Columbia with a specialty certification in Psychiatry from the Royal College of Physicians and Surgeons of Canada since June 2000.

My current position is that of Consultant Psychiatrist, Royal Jubilee Hospital, Department of Psychiatry, Victoria, British Columbia, a position I have held since 2000. From August 2000 until May 1, 2012, I worked in both the in-patient and out-patient units at the Royal Jubilee Hospital. Since May 1, 2012, I have worked in the out-patient department.

I was a Consultant Psychiatrist at the UVIC Student Health Clinic from October 2000 until April 2008. I am a Clinical Assistant Professor of UBC's Psychiatry Department. I organized psychiatric training for interns from 2002 until 2010. During the period 2006 to 2010, I was the Site Leader for the psychiatric residents' training program. I won two teaching awards as a resident and in 2010 I won a Career Teaching Award from UBC.

I received my psychiatric training in London, Ontario (UWO). During the 4 years of my psychiatric residency, I was on call weekly at one of the busiest emergency departments in Canada. I gained invaluable experience from some of Canada's experts in the assessment and management of patients who arrive at the hospital with a psychological or psychiatric concern.

Since 2000, I have been on call one or two times monthly at the Royal Jubilee Hospital and have gained extensive experience with the assessment and management of the seriously mentally ill. While on call, I cover in-patient units, out-patient units, community resources, as well as the emergency department. Additionally, I have always maintained a very busy clinical practice. I have attached my curriculum vitae for further reference (Attachment 1).

2. INFORMATION UPON WHICH I HAVE RELIED IN FORMING MY OPINIONS

Pleadings

1. Amended Notice of Civil Claim;
2. Response to the Amended Civil Claim filed on behalf of Drs. Pourvali, Nazif, Lindsay and Ko;
3. Amended Response to Civil Claim filed on behalf of the Defendents Providence Health Care, St. Paul's Hospital and Jen Hughes;

Protocals

1. Nursing Practice Standard from Providence Health Care re: NCS6317 – Seclusion Rooms, March 2012;
2. Managing Unsettled/Challenging Behaviours: Least Restraint Approach/PHC Non-Residential Sites from Providence Health Care, September 18, 2012;
3. Close or Constant Care: Decision Making Process from Providence Health Care, September 18, 2012;
4. Seclusion Room: Care of the Patient Requiring from Providence Health Care, September 18, 2012

Medical Records

1. St. Paul's Hospital records;
2. Forensic Psychiatric Assessment;
3. Report of Dr. Mark Reilly;
4. Report of Dr. Witold Widajewicz;

5. Addendum to Dr. Mark Riley report;
6. Alberta Review Board (4 documents);
7. Medical records from Dr. John Dewart;

Information from Family Members

1. Family member observations regarding Mr. Osuteye;
2. History of Mr. Osuteye from family member; and
3. Notes of Mercy Osuteye.

3. FACTUAL ASSUMPTIONS

I have relied upon the Statement of Assumed Facts dated January 26, 2018 (Attachment 2).

4. OPINION/DISCUSSION

1. Question One: In patients with a history of schizophrenia (whether medication compliant or not), is it possible to predict with any degree of certainty whether that patient will be violent in the future?

2. Response: In patients with a history of schizophrenia (whether medication compliant or not), it is not possible to predict with any degree of certainty whether the patient will be violent in the future. Although psychiatry is able to make a diagnosis of schizophrenia fairly accurately, psychiatrists cannot prognosticate about a schizophrenic patient's future behaviours with any degree of certainty. The predictions made in psychiatry are mostly inaccurate because psychiatry is not an exact science. Psychiatry lacks the clarity and specificity of, say, radiology, a specialty that offers considerable detail about a disease and makes accurate predictions about the course of an illness moving forward.

3. Question Two: In your opinion, based on Mr. Osuteye's presentation, history and the assessments on December 5, 2012 and December 6, 2012, did Mr. Osuteye present as a patient who posed an appreciable risk of harm or violence to strangers/unknown persons/the public at large? Please explain your answer.

4. Response: In my opinion, based on Mr. Osuteye's presentation, history and the assessments on December 5, 2012 and December 6, 2012, Mr. Osuteye did not present as a patient who posed an

appreciable risk of harm or violence to strangers/unknown persons/the public at large.

5. Mr. Osuteye acted out once in the remote past by punching a hole in the wall, ripping a door off its hinges, and by swearing at and threatening his mother. This conflict with his family does not help in any way with predicting his future risk of harm or violence to strangers/unknown persons/the public at large. One simply cannot extrapolate from that remote domestic outburst to some future harm or violence to strangers/unknown persons/the public at large with any degree of certainty. Mr. Osuteye had no other history of violence. He had not previously physically harmed anyone and had no history of violence directed at strangers or members of the public.

6. Mr. Osuteye's behaviour in the St. Paul's emergency department on the two assessment dates raised no concerns about his posing an appreciable risk of harm or violence to strangers/unknown persons/the public at large. He was calm and cooperative. He did not endorse any suicidal or homicidal ideation. He did not seem to be paranoid or to be struggling with persecutory delusions.

7. Mr. Osuteye's history and collateral history indicated that he wanted help, medication, and out-patient care. Psychiatrists would conclude that Mr. Osuteye was very willing to engage in his treatment and, thus, posed very little risk of harm or violence to strangers/unknown persons/the public at large.

8. Question Three: For this question, please assume a hypothetical patient is assessed by a psychiatrist for the purpose of determining whether the patient meets the criteria for involuntary admission under section 22 of the *Mental Health Act*, or for the purposes of continued detention pursuant to section 24 of the *Mental Health Act*.

9. This hypothetical patient had a previous diagnosis of schizophrenia, and was being treated with risperidone. The patient had, in one incident approximately six-months prior when he was not medication compliant, swore at and threatened his mother, punched a hole in a wall and ripped a door off the hinges at his mother's house, which lead to him being restrained by his brother and taken by the police to hospital, where he was involuntarily committed for a period of three weeks.

10. The patient has no other history of violence. The patient had not previously physically harmed anyone, and had no history of violence directed at strangers or members of the public.

11. On examination, the patient presents as calm and cooperative. The patient advises he has no suicidal or homicidal ideation and no desire or intention to harm others. The patient denies feelings of persecution. The patient further advises that he intends to continue taking his risperidone and collateral information discloses that he had recently obtained a prescription.

12. At the time of assessment this hypothetical patient does not, in the opinion of a psychiatrist, pose an appreciable risk of harm or violence to either a) a specified or identifiable person or class of persons (such as the patient's mother or family members) or to b) the public at large. The psychiatrist is also of the opinion that the patient does not meet the criteria for involuntary admission under the *Mental Health Act*. Accordingly, the patient is discharged.

13. Approximately one day after discharge, the hypothetical patient physically assaults three strangers/unknown persons/members of the public at large in unprovoked attacks.

14. In your opinion, how would the imposition of legal liability on a psychiatrist for injury to a member of the public at large, in circumstances such as those outlined above, impact the practice of psychiatry with respect to how psychiatrists deal with patients under the *Mental Health Act* in British Columbia.

15. Response: In my opinion, the imposition of legal liability on a psychiatrist for injury to a member of the public at large, in circumstances such as those outlined above, would adversely impact the practice of psychiatry with respect to how psychiatrists deal with patients under the *Mental Health Act* in British Columbia.

16. The practice of psychiatry would become far too defensive. If there was even the remotest chance of the patient injuring a member of the public at large, the psychiatrist would detain the patient. The mentally ill would likely experience more frequent and lengthier confinements.

17. Another consequence would be that psychiatrists would attempt to warn members of the public more often. The confidentiality of the mentally ill person would suffer.

18. The only recourse for the mentally ill would be to request a review panel in order to avoid being deprived of their liberty. Psychiatrists might hope to evade liability after their patients request a review panel. Psychiatrists would certify patients prior to the review panel and would argue for continuing confinement of patients. If the review panel "released the patient," the psychiatrist would be on record as having disagreed with that position.

Sincerely,

George Pawliuk, MD, FRCPC
Psychiatrist
Royal Jubilee Hospital
Victoria, BC

CURRICULUM VITAE

Education:
1) BSc. 1982 from The University of Alberta
2) M.A. 1991 from U.B.C.
3) M.D. 1995 from U.B.C.
4) Psychiatric Training U.W.O. 1995-2000
5) Fellowship in psychiatry from the Royal College of Canada 2000.

Awards:
1) Paul Patterson Prize awarded twice to me during my residency
2) Career Teaching Award, U.B.C., 2010

Responsibilites:
1) Coordinator for psychiatric training for interns and Royal College residents 2002-2010.
2) Site Leader for psychiatric training for psychiatric residents (Victoria) 2006-2010.
3) Teach and supervise medical students, interns, residents, international medical graduates, re-entry students, and nursing students.
4) Involved in teaching (continuing professional development) family physicians and psychiatrists.

Work:
1) On call at Royal Jubilee Hospital once or twice monthly for the past 15 years.
2) Inpatient care at RJH (2000-2012).
3) UVIC Student Health Clinic from October 2000 to April 2008.
4) Mental Health Triage from May 2012 until the present.
5) Outpatient Mental Health Clinic at the RJH since 2000.

Committee Work:
1) Quality Assurance Committee
2) Educational Committees

Memberships:
1) B.C.M.A.
2) C.M.A.
3) Fellow of the Royal College of Canada
4) Canadian Psychiatric Association
5) B.C. College of Physicians and Surgeons

Harper Grey LLP

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DANIEL J. REID
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File Number: 127470/135117

June 7, 2019

BY EMAIL

PRIVATE & CONFIDENTIAL

Dr. G. Pawliuk
2328 Trent Street
Victoria, BC V8N 4Z3

Dear Dr. Pawliuk:

Re: Crawford and Rizos v. Osuteye et al

Thank you for agreeing to provide us with an expert report in the above matter. Once you have reviewed this letter and had the chance to consider the questions, I would be grateful if you would telephone me before beginning to prepare your report.

Given that your opinion may ultimately be used for trial, in this letter we provide detailed instructions as to how to comply with the court requirements for expert reports.

First, please include the following introductory paragraph in your report:

> I have been asked to provide my opinion with respect to the standard of care of of Dr. Nazif and the duty of care of psychiatrists. I am aware my duty is to assist the court and I am not to be an advocate for any party. I have made my report in conformity with that duty and I will, if called on to give oral or written testimony, give that testimony in conformity with that duty.

Next, your report should be set out in four parts and I ask that you include the following headings and information:

1. PROFESSIONAL QUALIFICATIONS

This section should include a statement of your professional qualifications and the nature of your practice. This may be done by referring to your curriculum vitae, attaching a copy of it to your report, and by giving a brief description of your area of expertise, a synopsis of your qualifications, employment and educational experience in your area of expertise, and a profile of patients seen in your practice.

2. INFORMATION UPON WHICH YOU HAVE RELIED IN FORMING YOUR OPINION(S)

In this section, please list the records, documents and information you have relied on in forming your opinion(s). I note from reviewing the correspondence we have had with you that we have provided you with copies of the following:

Pleadings

1. Amended Notice of Civil Claim;
2. Response to the Amended Civil Claim which we have filed on behalf of Drs. Pourvali, Nazif, Lindsay and Ko;
3. Amended Response to Civil Claim filed on behalf of the Defendants Providence Health Care, St. Paul's Hospital and Jen Hughes;

Protocols

1. Nursing Practice Standard from Providence Health Care re: NCS6317 – Seclusion Rooms, March 2012;
2. Managing Unsettled/Challenging Behaviours: Least Restraint Approach/PHC Non-Residential Sites from Provence Health Care, September 18, 2012;
3. Close or Constant Care: Decision Making Process from Providence Health Care, September 18, 2012;
4. Seclusion Room: Care of the Patient Requiring from Providence Health Care, September 18, 2012;

Medical Records

1. St. Paul's Hospital records;
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3. Report of Dr. Mark Reilly;
4. Report of Dr. Witold Widajewicz;
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6. Alberta Review Board (4 documents);
7. Medical records from Dr. John Dewart;

Information from Family Members

1. Family member observations regarding Mr. Osuteye;

2. History of Mr. Osuteye from family member; and

3. Notes of Mercy Osuteye.

If you reviewed any articles, publications or other sources in forming your opinion, please list those as well. In particular, you are required under the Rules to describe any research you conducted that led you to form your opinion(s). We also ask that you provide us with a copy of the publications, articles, internet pages and/or other sources that you relied on in forming your opinion(s).

3. FACTUAL ASSUMPTIONS

It is important the court understands the facts upon which your opinion is based. For the purposes of your report, please rely on the Statement of Assumed Facts dated January 26, 2018 enclosed with this letter and attach it to your report. There is no need to retype the facts into the body of your report.

If you have reviewed any examination for discovery transcripts and are relying on any of the answers, please identify the name of the person discovered and the question number(s) relied on. For example, after summarizing the facts add "(Smith Q47-51)".

If you feel there are facts not contained in the enclosed Statement of Assumed Facts that are relevant to your opinion you should list such further facts in this section of your report. However, to ensure those facts are admissible in court, please contact me prior to adding them to your report.

4. OPINION / DISCUSSION

In this section, please set out the following questions and provide your answers to each:

1. In patients with a history of schizophrenia (whether medication complaint or not), is it possible to predict with any degree of certainly whether that patient will be violent in the future?

2. In your opinion, based on Mr. Osuteye's presentation, history and the assessments on December 5, 2012 and December 6, 2012, did Mr. Osuteye present as a patient who posed an appreciable risk of harm or violence to strangers/unknown persons/the public at large.

   Please explain your answer.

3. For this question, please assume a hypothetical patient is assessed by a psychiatrist for the purpose of determining whether the patient meets the criteria for involuntary admission under section 22 of the *Mental Health Act,* or for the purposes of continued detention pursuant to section 24 of the *Mental Health Act.*

This hypothetical patient had a previous diagnosis of schizophrenia, and was being treated with risperidone. The patient had, in one incident approximately six-months prior when he was not-medication compliant, swore at and threatened his mother, punched a hole in a wall and ripped a door of the hinges at his mother's house, which lead to him being restrained by his brother and taken by the police to hospital, where he was involuntarily committed for a period of three weeks.

The patient has no other history of violence. The patient had not previously physically harmed anyone, and had no history of violence directed at strangers or members of the public.

On examination, the patient presents as calm and cooperative. The patient advises he has no suicidal or homicidal ideation and no desire or intention to harm others. The patient denies feelings of persecution. The patient further advises that he intends to continue taking his risperidone and collateral information discloses that he had recently obtained a prescription.

At the time of assessment this hypothetical patient does not, in the opinion of a psychiatrist, pose an appreciable risk of harm or violence to either a) a specified or identifiable person or class of persons (such as the patient's mother or family members) or to b) the public at large. The psychiatrist is also of the opinion that the patient does not meet the criteria for involuntary admission under the *Mental Health Act*. Accordingly, the patient is discharged.

Approximately one day after discharge, the hypothetical patient physically assaults three strangers/unknown persons/members of the public at large in unprovoked attacks.

In your opinion, how would the imposition of legal liability on a psychiatrist for injury to a member of the public at large, in circumstances such as those outlined above, impact the practice of psychiatry with respect to how psychiatrists deal with patients under the *Mental Health Act* in British Columbia.

Finally, please **number the paragraphs of your report**, and include your address and a signature line, and sign your report.

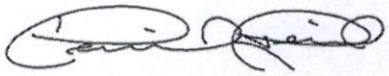
In general terms, I also ask that you consider your words carefully when writing your report. You may be cross-examined on it. Any vagueness and uncertainty should therefore be avoided. Technical terminology should be used so that your report is precise, but explanations of any language that may not be obvious to a layperson should be explained in the body of the letter. It is important to be as clear and complete as possible in drafting your opinion(s), as a clear statement of your opinion(s) may allow us to simply file your report at the trial of this matter rather than having to call you as a witness.

If your opinion changes in a material way at any time after drafting and sending us your report, please immediately contact me directly.

Do not hesitate to contact me if these instructions are unclear or you have any questions.

Yours truly,

HARPER GREY LLP



Per: Daniel J. Reid

DJR/kjs