

THE HEALTH LAW, ETHICS AND POLICY SEMINAR SERIES

Presents

Richard Elliott

Executive Director, Canadian HIV/AIDS Legal Network

DELIVERING ON THE PLEDGE: REFORMING CANADA'S ACCESS TO MEDICINES REGIME



CIHR IRSC
Canadian Institutes of Health Research
Institut de recherche en santé du Canada

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12:30 – 2:00

Faculty of Law, University of Toronto

78 Queen's Park, Flavelle House

Classroom: FLC

Toronto, Ontario, M5S 2C5



(Everyone is welcome to attend, no registration is required)

Abstract

In August 2003, after years of campaigning and negotiations, the WTO General Council adopted a decision to permit greater flexibility under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) to use compulsory licensing to export lower-cost, generic pharmaceutical products to eligible countries lacking sufficient domestic manufacturing capacity. In May 2004, following civil society campaigning, Canada's Parliament unanimously passed legislation creating "Canada's Access to Medicines Regime" (CAMR). In more than 5 years since, CAMR has been used but once, to supply one fixed-dose combination AIDS medicine to one country; no other use is expected absent reforms. In July 2007, Rwanda filed the first notification of intended use of the 2003 WTO mechanism, via CAMR, stating it planned to import 260,000 packs (15.6 million tablets) of Apo-TriAvir (WHO-recommended first-line regime AZT+3TC+NVP), manufactured by Canadian generic manufacturer Apotex at NGO request. In September 2007, the first compulsory licence was issued to Apotex, authorizing production of this amount for export. In May 2008, following a competitive international tender, Rwanda announced Apotex had secured the contract, at a price of US\$0.195/tablet (US\$146 per patient per year), lower than the publicly-reported price from any other generic source (US\$176 per patient per year) as of March 2008. In May 2008, Rwanda set a global precedent by purchasing a fixed-dose combination antiretroviral (ARV) medicine under Canada's law on compulsory licensing of patented pharmaceuticals for export. This is the first use of the 2003 World Trade Organization (WTO) decision to allow compulsory licensing for this end. It took four years, and sustained effort, to achieve this single use of the WTO decision. Apotex has indicated its reluctance to use CAMR again. No other countries or generic manufacturers have attempted to use the WTO decision. That decision is unnecessarily cumbersome; this is reflected in CAMR. Canada should streamline CAMR. Bills currently before Parliament would eliminate the requirement for separate negotiations and separate licences for each country and each medicines order, and instead enact a "one-license solution" granting a generic manufacturer authorization to produce any patented pharmaceutical product solely for export to any eligible developing country covered by the legislation.

Biography

Richard Elliott holds an undergraduate degree in economics and philosophy from Queen's University in Kingston, Ontario, and obtained his LL.B. and LL.M. from the Osgoode Hall Law School of York University in Toronto. He was called to the bar in Ontario in 1997, and has authored numerous reports, papers and articles on the legal and human rights issues related to HIV/AIDS. Richard joined the Legal Network staff in January 1999 as Director of Policy and Research, following a one and a half-year term on its board of directors. He became Deputy Director in 2005, and Executive Director in 2007. Previously, he worked as a lawyer in private practice and appeared before all levels of Ontario courts, as well as the Supreme Court of Canada. He has coordinated student legal aid clinic services for low-income people with HIV/AIDS, served on the boards of directors of HALCO, the HIV & AIDS Legal Clinic (Ontario), and the Prisoners with HIV/AIDS Support Action Network (PASAN), and been involved with other human rights organizations. Between 2001 and 2007, he was a member of the Ministerial Council on HIV/AIDS. Richard is a founding member of the Global Treatment Access Group (GTAG), an affiliation of Canadian civil society organizations advocating for access to medicines and other aspects of the human right to health in developing countries.

The Health Law Ethics and Policy Workshop series brings local, national, international scholars and policy makers as guest speakers to the Faculty of Law, University of Toronto to stimulate discussion of issues related to the intersection of law with health care and related ethical and social issues. The workshop series is organized by the **CIHR – Training Program in Health Law, Ethics and Policy** and is sponsored by **Canadian Institutes of Health Research (CIHR)** and the **Faculty of Law, University of Toronto**.

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For more information, contact: Melissa Casco at m.casco@utoronto.ca