HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

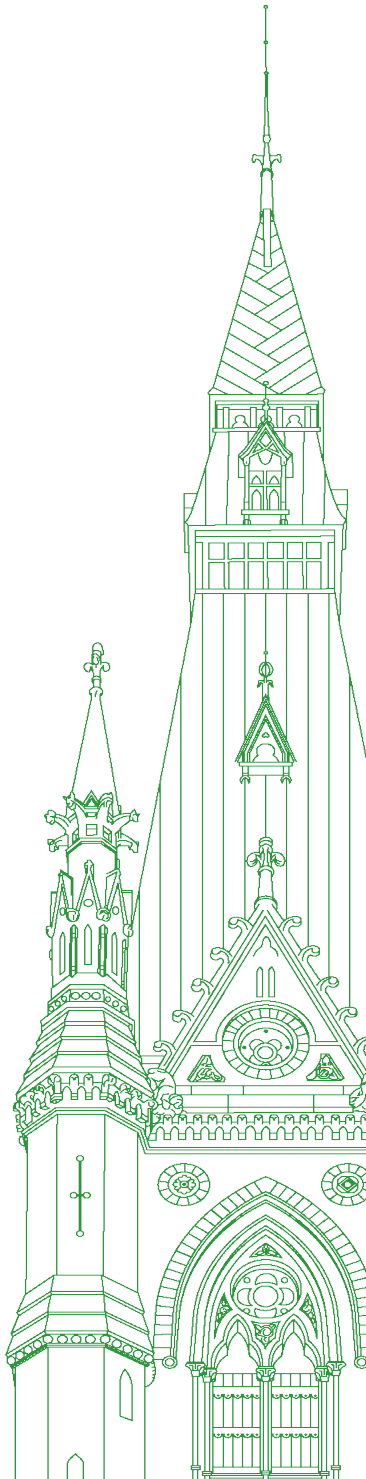
44th PARLIAMENT, 1st SESSION

# Standing Committee on Health

EVIDENCE

**NUMBER 065**

Tuesday, May 2, 2023



Chair: Mr. Sean Casey

# Standing Committee on Health

**Tuesday, May 2, 2023**

● (1100)

[*English*]

**The Chair (Mr. Sean Casey (Charlottetown, Lib.)):** I call this meeting to order.

Welcome to meeting number 65 of the House of Commons Standing Committee on Health. Today we meet for two hours to continue our study of the Patented Medicine Prices Review Board.

In accordance with our routine motion, I'm informing the committee that all witnesses have completed the required connection tests in advance of the meeting.

Please allow me to welcome the witnesses joining us today. We have Matthew Herder, director of the Health Law Institute at Dalhousie University, and Douglas Clark, executive director of the Patented Medicine Prices Review Board. Thank you both for taking the time to be with us today.

You're probably aware that the convention we use at this committee is that the person posing the question to you has the right to interrupt you once the length of your answer exceeds the length of their question. That may or may not come into play today. Just so you know, if you get a two-minute question, you have two minutes to answer it; if you get less than that and go past the time, it's the member's prerogative to interrupt you. Sometimes they'll let you go and sometimes they won't. I won't intervene unless you're being treated unfairly in regard to that convention.

With that, we're going to begin with opening statements, starting with Mr. Herder.

You have the floor for five minutes. Go ahead, sir.

**Professor Matthew Herder (Director, Health Law Institute, Dalhousie University, As an Individual):** Thank you for the invitation to appear today.

I'd like to use my opening statement to pose some questions that I hope will inform the committee's inquiry.

The first question is about the PMPRB's independence.

When he appeared before this committee last week, Minister Duclos claimed his decision to not consult with the board prior to November 28, 2022, was driven by a desire to protect the independence of the board. According to his testimony, when he finally wrote the acting chair of the board on November 28, he was simply exercising his duty to consult with the board under subsection 96(5) of the Patent Act. Why wait until the eleventh hour to consult with the board?

The minister had not been briefed by the PMPRB about its reforms on any occasion during his tenure. In what way does his request that we suspend our consultations—a step no previous minister of health has taken—help protect the board's independence?

Under section 96 of the act, it is the board that has the legal authority to make guidelines. During the fall consultation period, the industry publicly called for the board to suspend its consultations without naming what its concerns actually were. Instead, the industry went to the minister to ask him to repeat its request that the board suspend its consultations. The minister did exactly that, without ever meeting with the board to gain an understanding of the proposed guidelines. In this environment, how can the PMPRB credibly consult on guidelines in the future?

The answer is that it can't. Industry now knows it can bypass the PMPRB when it isn't satisfied with the board's policy direction and can get the minister to do its bidding. It is an arrow straight to the heart of the board's supposed independence.

My second set of questions is about influence, specifically industry's pervasive influence on pharmaceutical policy in Canada.

Look no further than the PMPRB itself. Several former officials have turned their time at the regulator into consulting careers, despite the fact that they are prohibited, under the Conflict of Interest Act, from acting in a manner that takes “improper advantage” of their time in office. One former executive director of the PMPRB moved to a VP position at Innovative Medicines Canada, only to return to Health Canada a few years later. She is, today, the head of Health Canada's Office of Pharmaceuticals Management Strategies and the lead official advising the assistant deputy minister, the deputy minister and the minister on all PMPRB-related matters.

There appear to be direct lines of communication between Health Canada and industry. Days before any public announcement was made about our resignations, pharmaceutical lobbying firms knew we were stepping down from the board. The newly appointed chair of the PMPRB is a practising lawyer with clients actively engaged in the development of patented medicines. How was the new board chair appointed, given these potential conflicts of interest? How did lobbyists know the executive director and I were stepping down? Did someone at Health Canada advise the minister not to meet with the PMPRB last fall?

My point is that the line between consultation and conflicts of interest has become completely blurred under the industry's influence. Unless we start taking conflicts of interest far more seriously, meaningful pricing reform will be impossible.

Finally, I want to raise a fundamental question about political courage in the face of industry's power. You have heard different accounts of what happened at the PMPRB. It's important for the truth to come to light, but it should not distract us from the larger issue.

I urge the members of this committee, Parliament and Canadians more broadly to remain focused on industry's power to control the policy conversation. They control it by playing fast and loose with the facts. They say pricing reforms will hurt research and development, but the evidence shows that the pharmaceutical industry's spending on R and D is already at an all-time low, and this in the absence of pricing reforms. Industry says pricing reforms will stop life-saving therapies from being launched in Canada, but the evidence suggests that almost all new drugs launched in the U.S. also make it to Canada. Trikafta, the cystic fibrosis drug, whose manufacturer threatened not to launch in Canada as a result of the PMPRB's pricing reforms, was actually exempt from our new pricing regime, yet industry continues to claim the PMPRB was to blame for Trikafta's delayed availability in Canada.

The industry plays fast and loose with the facts because patients are desperate for new therapies and because they pay the leaders of patient advocacy organizations to sell the line that the PMPRB is the problem. Industry plays fast and loose with the facts because they can and because we let them.

The question we should all be asking is this: When will we ever stand up to industry's power and take the steps that are needed to make medicines more affordable for Canadians?

Thank you. I welcome your questions.

● (1105)

**The Chair:** Mr. Herder, we were advised that you might be longer than five minutes. You kept it under five minutes, and it was concise and well done.

Mr. Clark, it's over to you for the next five minutes.

**Mr. Douglas Clark (Executive Director, Patented Medicine Prices Review Board):** I suspect that I won't follow Professor Herder's example in that regard. I may need a little more time.

[*Translation*]

Good morning.

Thank you for the invitation to appear before the committee today.

I have been the executive director of the Patented Medicine Prices Review Board, or PMPRB, since 2013, including during the latest consultation on new guidelines that took place last fall. However, I am currently on leave from the PMPRB and will be formally stepping down as executive director on June 1.

Any facts I cite in my opening remarks or in my ensuing answers to your questions can be corroborated by either the relevant documentary record, which I understand the committee is seeking to obtain or by remaining members of the board who were involved in last fall's consultation, the management team at the PMPRB, and of course Professor Herder who is with me today. I will try my best to limit my remarks to those facts and to keep any expressions of opinion to a minimum.

I want to first address the confusion from last week's testimony around the protocol for briefing the minister and who dialogues with whom between the PMPRB and Health Canada. Before doing so, I should point out that the PMPRB chairperson position is a part-time appointment and has always been occupied by persons residing outside of the National Capital Region and who juggle multiple other professional responsibilities. As such, in order for the PMPRB to operate effectively day to day, the executive director is often called upon to exercise functions that, based on a pedantic interpretation of the PMPRB's org chart and reporting structure, would normally fall to the chairperson.

Accordingly, with the exception of the current minister, I have personally briefed every minister of Health on guidelines reform as far back as Minister Ambrose under the previous government, either on behalf of the chairperson or together. Some of these ministers I have briefed on this topic multiple times. To the best of my recollection, every such briefing was initiated and arranged by the deputy minister's office, often at the behest of the minister's office.

In addition, as Mr. Bélair indicated in his testimony last Thursday, it is routine for meetings to take place at the working level between PMPRB staff and Health Canada officials. Insofar as last fall's guidelines consultation is concerned, PMPRB policy staff met with and briefed their Health Canada counterparts a total of seven times between early October and late November. At no time over the course of those consultations did Health Canada officials express concern about the proposed guidelines. On the contrary, the feedback we got from them was consistently supportive and that our policy approach was sound.

[*English*]

While it's perfectly fair to describe the guidelines proposed last fall as a departure from the status quo, their content was informed by recent developments in our operating environment and based on the best advice of our policy and legal experts. It was also endorsed by our board, the members of which are appointed based on career-long knowledge and expertise in subject areas relevant to our mandate.

Although the initial reaction from stakeholders was muted, it did not take long for anti-PMPRB rhetoric from industry to ramp up along recent lines.

On November 10, IMC—Innovative Medicines Canada—issued a news release calling on Health Canada to direct the PMPRB to suspend its consultations, failing which "Canadian patients will be deprived of potentially life-saving new medicines." On November 22, IMC issued another news release claiming that the PMPRB was "misleading" Canadians because the findings in our latest annual report about domestic R and D did not agree with the report IMC commissioned from StatsCan. This is the same annual report that the PMPRB has published every year for the past 35 years, which is bound by a legislative definition of R and D set by Parliament and the Minister of Health.

Despite assurances from Health Canada officials about the proposed guidelines, the acting chairperson became increasingly concerned that no briefing with the minister had been scheduled, and industry reaction to them had me sharing that concern. She directed me and one of my senior staff to seek out such a briefing. She also instructed me to push back on industry claims in my meeting with them.

As a result, I personally made multiple overtures to the minister's chief of staff and senior policy adviser via texts, emails and phone calls. The chief of staff told me he would get back to me on my offer of a briefing, which he never did, and the senior policy adviser refused to take or return my calls.

Again, in my 10 years as executive director, under all previous ministers I would routinely speak or meet with members of her staff to discuss matters of overlapping concern, as authorized by the chairperson, and most such meetings were initiated by staff, not me.

● (1110)

On November 22, I and several other senior PMPRB staff met in person with IMC and approximately 20 industry representatives to discuss the proposed guidelines. At the end of that meeting, I urged those present to cease calling for a suspension of the consultations. I explained to them that under the act, the board was the master of its consultations on changes to its guidelines and that it was highly inappropriate for them to be calling for such an intervention on the part of Health Canada or any other third party.

A colleague and I met virtually with the acting chair later that same day. She was pleased to learn of my having passed that message along on behalf of the board.

Nevertheless, as you know, on November 28 the minister wrote to the acting chairperson to request precisely what the industry had called for in its November 10 news release. To say that I was surprised by that letter would be an understatement. Its content was of grave concern to me and my senior staff and our general counsel.

As you know, the acting chairperson responded to the minister in a letter dated November 30, in which she expressed her own surprise at learning of the minister's concerns. She also drew his attention to the fact that consulting on changes to the guidelines is a legislative function that goes to the heart of the board's expertise and independence.

In closing, I would like to try to put these recent events in their broader context.

The PMPRB is a microagency of fewer than 80 people that regulates a market of about 1,300 products that account for about $20 billion in annual sales in Canada. It has no legal obligation to issue guidelines—only to consult if it does so—and any guidelines it chooses to issue are not binding on anyone. They have no force of law. The only binding authority the board has in relation to pricing is to make a determination, following a public hearing, that a patented medicine has been priced excessively.

[*Translation*]

Thank you.

I will be pleased to answer any questions you may have.

[*English*]

**The Chair:** Thank you, Mr. Clark.

We will go right to questions, beginning with the Conservatives.

Dr. Kitchen, you have six minutes, please.

**Mr. Robert Kitchen (Souris—Moose Mountain, CPC):** Thank you, Mr. Chair.

Thank you to both of you for your presentations and for being here today. It's greatly appreciated. It's a chance for us to discuss this issue.

Mr. Herder, on your first question that you asked us, I might as well drop the mike and ask you that question. I'm wondering if you could expand on that a little bit.

● (1115)

**Prof. Matthew Herder:** Sure. I was trying to ask questions about PMPRB independence.

As my former colleague Doug Clark just mentioned, under the act we have the capacity to complete guidelines. We have to consult, yes, but we make the final decision. That was one of my jobs as a board member.

If it becomes possible for industry to put pressure through other channels—through Health Canada, through the minister's office—that effectively stops that consultation or asks us to do so, it signals to the world that we may not be able to finish guidelines on our own. Even though we're empowered by law, the politics of the situation complicate it. When it has been communicated that there is this end-around that is now possible, it makes it very hard, not just for guidelines but for any kind of decision-making that we want to do, for us to arrive at final decisions on our own.

**Mr. Robert Kitchen:** Thank you.

My understanding is that you were with the PMPRB for roughly five years. Is that correct?

**Prof. Matthew Herder:** I was appointed in June 2018.

**Mr. Robert Kitchen:** To your knowledge, has the federal health minister ever refused a briefing or ignored your office's request for a meeting?

**Prof. Matthew Herder:** To my knowledge, no.

**Mr. Robert Kitchen:** Would you consider that unusual?

Mr. Clark, if you think you can answer that too, then by all means please do.

**Mr. Douglas Clark:** Yes, I would consider that unusual.

As I said in my opening remarks, I've met on multiple occasions with all previous ministers to brief them on guidelines reform—some ministers three, four, five or six times. I made multiple attempts to obtain a briefing with the minister or his office and received basically no response to those efforts.

As you may recall from Thursday's testimony, in her letter in response to the minister, dated November 30, the acting chair once again made a formal request for a meeting with the minister to talk about their two letters, and nothing came of that.

**Mr. Robert Kitchen:** Thank you.

You sort of indicated a number of times, Mr. Clark....

I guess this is to both of you: What sort of methods did your offices use to attempt to initiate that dialogue with the minister?

**Mr. Douglas Clark:** Well, typically we don't initiate it. Usually it comes to us via the deputy minister's office, often at the request of the minister's office.

In this instance, since no such attempts were forthcoming, I reached out myself through text to the chief of staff, emails to the chief of staff and calls to the senior policy director in the minister's office. I also have a senior management colleague who made her own efforts to reach out through, I believe, the deputy minister's office to arrange such a meeting. Again, nothing came of those efforts.

**Mr. Robert Kitchen:** A lot of this interaction was not only in that direction. Was it also within the PMPRB staff as well?

**Mr. Douglas Clark:** I'm sorry; I don't understand you.

**Mr. Robert Kitchen:** You indicated that you were texting and along those lines, but I'm not a techie, so I don't know the systems people use. I'm just wondering if that was going back and forth with interactions between you and staff or between you and the board and with the minister.

**Mr. Douglas Clark:** Certainly my staff and the board were aware of the efforts we were making to arrange a meeting, if that's what you mean. In terms of the channels we used to seek out a meeting, as I said, they were texts, emails, phone calls, etc.

I'm not sure if I'm answering your question. I apologize.

**Mr. Robert Kitchen:** Would there be another method? Would there have been personal emails that might have been used or personal texts that would have been used, or something along those lines?

**Mr. Douglas Clark:** One could argue that texting is a more personal channel of communication, and I did use that at one point with the chief of staff. As I said, I didn't get a response to it.

I followed up by email and I did get a response. I made an offer of a briefing and was told that they'd get back to me, which they never did.

I have copies of those texts and emails.

**Mr. Robert Kitchen:** Thank you.

As you're more likely aware, your former colleague Ms. Bourassa Forcier has a very different view of the situation than what is set out in your letter of resignation, Mr. Herder.

In your opinion, was the consultation period adequate?

● (1120)

**Prof. Matthew Herder:** I think it was an adequate time frame. We had been in the process of reform for several years to hear views.

I'd like to stress that we wanted to meet in Ottawa, as the remaining board members did in mid-December, to discuss all of the feedback. There was no decision at the time of her resignation about what would happen next—whether we would move forward with those guidelines, whether we would go through another consultation. All of that was on the table, so I think the time frame was adequate.

**The Chair:** You have 10 seconds.

**Mr. Robert Kitchen:** I'm good. I will defer my 10 seconds. Thank you very much, Chair.

**The Chair:** Thank you very much, Dr. Kitchen.

Next we have Mr. van Koeverden, please, for six minutes.

**Mr. Adam van Koeverden (Milton, Lib.):** Thank you very much, Mr. Chair.

Welcome to the witnesses, and thanks for being here.

Last week our witness, Madame Bourassa Forcier, was cut a little bit short, so I'd like to read into the record something from her letter, which I think is relevant to this meeting today regarding the new chair, Thomas Digby.

I quote the translated version: “I have not met the new chairperson, who has expertise in intellectual property and has previously worked in the pharmaceutical industry. I see this experience not as a problem but as an asset. It's important to know the industry and its strategies well to identify the elements that will motivate change in practices. I'm also confident that this new chairperson will know how to create the change required within the PMPRB so that this agency can fulfill its mandate in the best possible way for all Canadians.”

Professor Herder, before I ask a question, I'd like to take umbrage with the allegation that members of the government didn't take the opportunity to challenge, particularly in the case of Trikafta, suggestions from industry that the PMPRB was standing in the way of access to that drug.

I have a young man in my riding named Liam Wilson, who's an extraordinary young guy. I talked to him almost every week throughout that process and ensured that his family was aware of the fact that the manufacturers had not yet applied for regulatory approval, while the pharmaceutical industry was alleging that the PMPRB was the stopgap.

I'll go on to my questions.

Mr. Herder, the Court of Appeal of Quebec found that the amendment in question that would allow the PMPRB to collect price information on third party rebates and the new price regulatory factors, including their associated reporting requirements, to be outside the patent power and therefore invalid. That was the Court of Appeal of Quebec. This was corroborated by the Superior Court of Quebec, the Federal Court and the Federal Court of Appeal.

Do you think the Court of Appeal was wrong?

**Prof. Matthew Herder:** I'm not sure that the summary you just provided is accurate. I don't think the Federal Court of Appeal corroborated that finding. The issues were different in the two cases; however, I think the real problem is that there was an opportunity to seek further guidance from the Supreme Court of Canada, and the decision was made not to seek leave to appeal.

**Mr. Adam van Koeverden:** I will clarify. They were declared out of scope or unconstitutional not only by the Superior Court of Québec but also the Court of Appeal of Quebec and the Federal Court of Appeal.

To move on, last week Mélanie Bourassa Forcier shared with us, speaking as a lawyer, that she had doubts of the constitutionality of those reforms before the court decision, so she wasn't surprised by the Court of Appeal's decision. I take it by your answer that you disagree with that view.

Did you ever speak with Madame Bourassa Forcier as acting chair of the board about her views on this matter? Do you have a legal rationale for disagreeing with her?

**Prof. Matthew Herder:** I was surprised by her comment last week that she was skeptical about the constitutionality of the provisions. I was surprised because I was not clear about why you would accept the role as a member of the board if you had questions along those lines.

I think there is real debate about the constitutionality of some of those amendments and to have a better understanding of the real prices being paid in Canada for those drugs. I think the changes that were proposed to the regulations were warranted. Then the Quebec Court of Appeal decision happened, and we have to live with that, especially in the absence of an attempt to appeal to the Supreme Court.

I think there are ample grounds under the federal patent-related power to seek more information about the real prices of drugs, but obviously the Quebec Court of Appeal decision is binding upon us. Our new guidelines tried to take that into account to continue to move forward.

● (1125)

**Mr. Adam van Koeverden:** Thank you, Professor Herder.

I would also like to point out to Mr. Clark, as an official who reported to Mélanie Bourassa Forcier, that she said there was no invitation to meet the minister. She said there was little or any attempt to comment.

These accounts of the situation and how diligent people were in trying to contact the minister seem to be very different. At the same time, last week Mélanie Bourassa Forcier, who again was the acting chair of the PMPRB, told the committee she did not feel there was any interference from the minister stemming from a letter, although you have shared very different views today.

How do we rationalize this very diametric difference in opinion?

**Mr. Douglas Clark:** To your first point, I'm very surprised to hear her say that no efforts were made to contact the minister, because I made multiple efforts and I kept her apprised of those efforts. I have a documentary record that corroborates the fact that I did make those efforts.

I think intelligent people can disagree on substantive matters of law and policy. That's just the way things are. I was not in agreement with Madame Bourassa Forcier at the time, and obviously Professor Herder wasn't either. I think it was that lack of agreement that ultimately led the acting chairperson to step down, which is her right under the circumstances.

**Mr. Adam van Koeverden:** Thank you, Mr. Clark.

Moving on, do I have time, Mr. Chair?

**The Chair:** You have about 10 seconds. You have time to offer a closing comment, I think.

**Mr. Adam van Koeverden:** Thank you. I will leave it there.

**The Chair:** Thank you, Mr. van Koeverden.

[*Translation*]

Mr. Thériault, you have six minutes.

**Mr. Luc Thériault (Montcalm, BQ):** Thank you, Mr. Chair.

Mr. Clark, did you keep any information from the chair, yes or no?

I'm speaking in French, so you'll have to put in your earpiece to hear the interpretation.

**Mr. Douglas Clark:** What does that mean? I'm sorry, but I don't understand.

**Mr. Luc Thériault:** Put in your earpiece, Mr. Clark.

Did you stop the clock, Mr. Chair?

**The Chair:** Yes.

**Mr. Luc Thériault:** Did you keep any information from the chair, Mr. Clark?

**Mr. Douglas Clark:** No.

**Mr. Luc Thériault:** The chair, under the existing rules, is the chief executive officer and is responsible for the conduct of the work of the PMPRB as a whole and for the management of its internal affairs. You mentioned it, but you dismissed it out of hand at the outset.

Why did she inform us that there was resistance—you have the same administrative secretary—to her requesting a meeting with the minister?

**Mr. Douglas Clark:** Do you mean from the minister's office?

**Mr. Luc Thériault:** No, from your office, from the secretary whose services you share.

Why was there resistance?

**Mr. Douglas Clark:** There wasn't any resistance. I've mentioned several times that I tried many times to—

**Mr. Luc Thériault:** In this case, why did she resign?

**Mr. Douglas Clark:** You'd have to ask her.

**Mr. Luc Thériault:** I'm asking you, Mr. Clark. If everything was going well, why did the chair resign?

**Mr. Douglas Clark:** Actually, Mr. Thériault, everything wasn't going well.

I think Ms. Bourassa Forcier resigned because the other members of the board didn't agree with her willingness to give in to the minister's request. I think it's more—

**Mr. Luc Thériault:** What you're saying is that she wanted to make sure that the views of all stakeholders were heard.

There was enough time in the process to hear everyone's views, but all members were against it.

Did you have a meeting on that, Mr. Clark?

● (1130)

**Mr. Douglas Clark:** We had many meetings.

She wanted to suspend the consultation, not extend it.

**Mr. Luc Thériault:** Right.

Professor Herder, in your letter of resignation, you describe the pharmaceutical industry as hostile. Your media release came at the same time as your resignation, we understand that, but it shows that you were far from being a neutral and impartial member regarding certain stakeholders.

Yet in the chair's guidelines for member conduct, which you probably signed, board members are held to a high standard of impartiality because of the quasi-judicial nature of the hearings and their responsibility as Governor-in-Council appointees.

Why did you remain in your position after the Court of Appeal verdict and the government's decision not to challenge it? Your letter shows that you were no longer neutral or qualified to be commissioner during the hearings. Why did you resign only in February?

[*English*]

**Prof. Matthew Herder:** The first point to make is that administrative tribunals are composed, in this case, of folks who have expertise relevant to the work of that tribunal. They are not held to the same standard as a matter of law as in the case of a court or a judge. The level of impartiality is not supposed to be the same. They are invited or appointed in those roles because of their expertise, and we bring that to our work.

I did not have decided views in any way about whether a particular price of a particular medication was too high. That is the work in which I need to maintain a high level of impartiality in the context of the hearing.

In making policy decisions, the other role that board members play, about what the guidelines should look like, how we should consult and so forth, I'm allowed to have particular views about what that process entails and how many communications and meetings with stakeholders we ought to have. When taking into account all of our stakeholders, not just industry, we're losing patients in the equation here. What should be the best decision about how to move forward?

Respectfully, I disagree that I lacked the level of impartiality required for that work.

[*Translation*]

**Mr. Luc Thériault:** According to the guidelines, you must be impartial, or even appear to be impartial. In other words, you should not make political statements.

You criticize the minister for respectfully asking the board to consider suspending the consultation process and suggest that this is interference. However, at Mr. Clark's last appearance in 2020, he was asked if he thought it was wise for the federal government to delay implementation, given that the dispute was before the courts. Mr. Clark responded as follows:

> Well, it's really not for me to pronounce myself on the wisdom of the timing of those regulatory amendments.
>
> As I explained, they are the responsibility of the Minister of Health.

Do you disagree with Mr. Clark's analysis?

[*English*]

**Prof. Matthew Herder:** The power to finalize regulations is vested with the Governor in Council, the federal cabinet, on the recommendation of the Minister of Health. Mr. Clark was simply explaining that the board itself cannot pass regulations.

In contrast, under the legislation we have the power to finalize guidelines. Regulations and guidelines are two different things.

[*Translation*]

**Mr. Luc Thériault:** You referred to the fact that it's been five years.

In 2017, 2018 and 2019, before the court ruled, if the reform had been initiated, you understand that, in some ways, stakeholders were allowed to see that there was a problem. Consulting with all stakeholders ensured that their rights were not infringed upon by putting in place a reform that did not hold water.

Isn't that right?

[*English*]

**Prof. Matthew Herder:** I'm sorry; my translation stopped. I don't know why.

**The Chair:** That was the last question. We're going to give you a chance to answer it, but you also need to have the chance to understand it.

[*Translation*]

Is the interpretation working now?

**Prof. Matthew Herder:** No, not for me.

[*English*]

**Mr. Douglas Clark:** I can take a stab at answering it.

[*Translation*]

**The Chair:** Mr. Thériault, do you have any objections to having Mr. Clark answer?

**Mr. Luc Thériault:** If Professor Herder didn't understand the question, I'm okay with it.

**The Chair:** The interpretation is working now.

Please ask your question again, and he can answer it. Then, we'll give the floor to Mr. Davies.

**Mr. Luc Thériault:** I'm going to ask another question.

Last week, in a question to the minister, Mr. Davies said that you, Professor Herder—

● (1135)

[*English*]

**Mr. Don Davies (Vancouver Kingsway, NDP):** On a point of order, Mr. Chair, you said that Mr. Thériault was out of time and he put his last question. You said you were going to give the witness time to answer the question that was put. Now Mr. Thériault is putting a different question after his time. That's not appropriate.

[*Translation*]

**The Chair:** Mr. Thériault, could you repeat the question that Professor Herder didn't understand because of the technical problem?

**Mr. Luc Thériault:** I'll rephrase the question.

Professor Herder, do you really feel that the minister tried to interfere with the consultation process, even though section 102 of the Patent Act gives him the opportunity to intervene?

[*English*]

**Prof. Matthew Herder:** Thank you for the opportunity to respond.

The letter was a request as it was worded, but it happened in a context where no such request had ever been made, to my knowledge, by a former minister of health or the present one. In addition, it was happening in a context when—as you've heard from my colleague—there were multiple attempts to reach his office, and the answer back was silence.

That's why it came across as more of a demand than a request. It was incredibly divisive inside the board, so it absolutely interfered with our work, in my view.

[*Translation*]

**Mr. Luc Thériault:** But that was his prerogative.

[*English*]

**The Chair:** Mr. Davies, you have six minutes, please.

**Mr. Don Davies:** Thank you.

Let me get some context with some short questions.

This government identified reforms to PMPRB starting in 2017. Is that correct?

**Mr. Douglas Clark:** Yes, it was in 2017. The PMPRB started consulting on reforms to its guidelines in 2016, and then the government picked up that process and elevated it to changes to the regulations.

**Mr. Don Davies:** My understanding is that there have been three major policy reforms identified since that time. Is that correct?

**Mr. Douglas Clark:** Three major policy reforms....

**Mr. Don Davies:** There was the change of comparator countries—

**Mr. Douglas Clark:** Yes.

**Mr. Don Davies:** —the disclosure of confidential price rebates by pharmaceutical companies, and the ability to amend the act to take into account pharmacoeconomics and market size.

**Mr. Douglas Clark:** That's correct.

**Mr. Don Davies:** Those are the three.

How many of those three proposed changes to the Patent Act for PMPRB reform are in place today?

**Mr. Douglas Clark:** Just the change to the schedule of countries.

**Mr. Don Davies:** To my understanding, that's not actually in place. The minister pointed to the June 22 passing of PMPRB-amended drug regulations, but it's my understanding that those regulations cannot take effect until the guidelines are passed by the PMPRB.

Is that correct?

**Mr. Douglas Clark:** That's correct.

**Mr. Don Davies:** Is it correct that not one of those three reforms identified since 2017 to lower the price of prescription medications in Canada is in force today in Canada in 2023?

**Mr. Douglas Clark:** From a technical, legal standpoint, they're in force, but they're not being applied by the PMPRB in its day-to-day work. The board will be down to two members as of June of this year. I think the government's hopeful that it will have a newly constituted board, but it will be a while before these regulations are being actively applied by the PMPRB.

**Mr. Don Davies:** I'm just trying to find out.... Do the guidelines have to be passed before those regulations can be applied by the PMPRB?

**Mr. Douglas Clark:** Outside of a hearing context, yes, absolutely.

**Mr. Don Davies:** Thanks.

I'm trying to find out.... We had so many contradictions last week that I can't keep this straight.

The minister wrote to the board on November 28, 2022, and asked the board to suspend consultations. He said publicly it was because he had not been consulted. Is that correct?

**Mr. Douglas Clark:** That's my understanding.

**Mr. Don Davies:** Subsection 96(5) of the Patent Act reads, "Before the Board issues any guidelines, it shall consult with the Minister". Is that correct?

**Mr. Douglas Clark:** It is correct.

**Mr. Don Davies:** Mr. Clark, to your knowledge, how many times did the PMPRB reach out to the minister's office in order to brief him or consult with him about the guidelines?

**Mr. Douglas Clark:** To back up for a second, typically we brief at the officials level, and we had seven of those briefings. However, we have also in the past always had at least one briefing with the minister.

The record will reflect that we made five attempts to reach out to the minister's office to obtain a briefing with the minister.

**Mr. Don Davies:** Who is the chief of staff you sent the request to?

**Mr. Douglas Clark:** It was Jamie Kippen.

**Mr. Don Davies:** Thank you.

The minister wants to be consulted. He said the guidelines can't go forward until he's consulted. However, you're reaching out to consult with him, and you're met with silence.

Do I understand that correctly?

● (1140)

**Mr. Douglas Clark:** Yes.

**Mr. Don Davies:** Now, for her part, Madam Bourassa Forcier told this committee that she felt it was inappropriate to reach out to the minister for a meeting. Did you hear that testimony?

**Mr. Douglas Clark:** If I did, then I don't recall that part of it. I would have understood the—

**Mr. Don Davies:** Mr. Herder, do you remember that testimony?

**Prof. Matthew Herder:** I don't recall that specific statement.

**Mr. Don Davies:** She says, in her letter elucidating on her resignation, that PMPRB staff failed to follow up on her request to meet with the Minister of Health, despite her insistence. Is that correct?

**Mr. Douglas Clark:** I think what she means is that we failed to obtain a meeting for her.

**Mr. Don Davies:** To your knowledge, did she attempt to get a meeting with the minister to discuss his guidelines?

**Mr. Douglas Clark:** She directed me and one of my staff on multiple occasions to do that. We sought to operationalize that. She also, in her letter of reply to the minister, asked for a meeting.

**Mr. Don Davies:** In the minister's letter of November 28, he requested that the PMPRB suspend the consultations, not extend them. What's the difference between these two? Why would he suspend the consultations instead of extending them if he wanted time to be consulted?

**Mr. Douglas Clark:** That is a question that baffles me to this day.

First of all, we have a duty to consult the minister on our guidelines, not on our consultation process. If the concern is that stakeholders haven't had enough time to properly understand the mechanisms that are being consulted on—it would be out of order to make any kind of request in relation to the process—you would think that if you were going to ask for anything, it would be for an extension.

Professor Herder already spoke about this. At the end of the day, once the board had gotten all of the feedback from stakeholders, I think it was more likely than not that given the tenor of the feedback from industry, we would have extended or even put forward a second round of—

**Mr. Adam van Koeverden:** Mr. Chair, I have a point of order. I'd like to point out a misquote.

I believe that Mr. Davies is unintentionally misquoting the minister with respect to inviting the board "to consider pausing the consultation process [so as] to allow more time" to work collaboratively with all stakeholders to "understand fully the short- and long-term impacts of the proposed new guidelines." That's being taken well out of context in the line of questioning.

**The Chair:** Keep in mind that this is not a point of order. It is something that you will have the opportunity to clarify when you have the floor.

Mr. Davies, you still have a minute.

**Mr. Don Davies:** Thank you, Mr. Chair.

During the 60-day consultation period, the minister and his staff met with the pharmaceutical industry 15 times. That's just in that consultation period alone. With the PMPRB, which is apparently legally obligated by the Patent Act to consult, it was zero times.

What is your reaction to that?

**Mr. Douglas Clark:** Well, I think, as everybody here knows, the government is quite intent on attracting investment in domestic manufacturing capacity in the event of a future pandemic. I think it's also pretty clear that the PMPRB reforms are the fly in the ointment in those efforts. I think the imperative of smoothing out relations with the industry trumped any consideration of whether the guidelines were sound policy or had merit.

**Mr. Don Davies:** Mr. Herder, do you have a take on that?

**Prof. Matthew Herder:** Only to echo the same. It was a choice.

It in some ways suggests to me that perhaps the minister was more informed about what industry's concerns actually were than we were. We were told by industry that they wanted us to suspend, but outlining in detail what their concerns with the proposed guidelines actually were didn't happen until the very end of the consultation process.

**The Chair:** Thank you, Mr. Davies and Mr. Herder.

Next is Mr. Jeneroux, please, for five minutes.

**Mr. Matt Jeneroux (Edmonton Riverbend, CPC):** Thank you, Mr. Chair.

Thanks to the witnesses for being here today.

This isn't really a good look for the PMPRB in general. I imagine both of you probably joined the PMPRB—you, Mr. Clark, through the executive director role and you, Mr. Herder, through the board role—in a way, to make drug pricing better in this country. It's obviously spiralled to this point where you're here testifying before a health committee, as some of your former colleagues have.

Mr. Clark, you've been there at the PMPRB for quite a while. Where did this all start going down this path? Where did this begin that led you here today?

**Mr. Douglas Clark:** That's a really good question.

Look, the government adopted a regulatory policy that its own analysts said was going to result in $10 billion less revenue for the industry. They turned it over to us to operationalize that policy, but I think with an expectation that we were all going to have a good time and get along. That was just not possible.

The PMPRB is the David to the Goliath of a transnational trillion-dollar industry. Our annual budget is a fraction of what many multinational pharmaceutical CEOs make in executive compensation. If the expectation is that we are required to operationalize a policy that will remove $10 billion or $3 billion out of industry coffers in a way that has the blessing of that industry, it's a recipe for futility.

● (1145)

**Mr. Matt Jeneroux:** Would you agree, Mr. Herder?

**Prof. Matthew Herder:** Yes.

**Mr. Matt Jeneroux:** Going back to the earlier questioning about what did or didn't happen with the minister getting an invitation or not to meet with the PMPRB, to summarize, the executive director of the PMPRB reached out—at your count, in five attempts—to meet with the minister. The minister was careful in his wording last week when he said, "I never received an invitation from the chair of the board."

In the past, you said that you've met with ministers Hajdu, Petitpas Taylor and Ambrose. Was it the same approach taken by you to get there, Mr. Clark?

I'll put a second question on that. When you didn't get a positive response to meet with the minister, did you perhaps reach out to the parliamentary secretary of health to provide a briefing instead?

**Mr. Douglas Clark:** The process has always varied in the past, depending on the circumstances. Sometimes I would reach out to the chief of staff or the senior policy adviser and say that this issue is on the radar and we should probably discuss it.

I would say that more often then not, it was reversed. I would get a call from the minister's office wanting to discuss something, and then we would have to make a decision as to whether this warranted elevating it to the minister and briefing the minister.

Typically, more formally, when ministerial briefings were arranged that I attended and briefed the minister on, that request came from the minister's office via the deputy minister's office and came over to our group. Under the act, section 102 of the Patent Act—I think Mr. Davies raised this point on Thursday—the minister has the authority to convene the chair. No corresponding authority resides in the chairperson. It has almost always come from the other direction, so I don't understand that.

**Mr. Matt Jeneroux:** You said that you got a response that I guess was basically a non-response from the minister's chief of staff.

Did you get a response, then, from the deputy minister on why the minister wasn't planning to meet with you or didn't end up meeting with you?

**Mr. Douglas Clark:** No.

**Mr. Matt Jeneroux:** You said no. Okay.

The briefings weren't available, obviously, through this major reform that was about to happen. Is that part of—I guess to my initial question—what leads you here today? That didn't help the situation in terms of getting the PMPRB together as a cohesive group, and now we're seeing mass resignations from the board.

**Mr. Douglas Clark:** Yes, for sure. That's where things started to basically unravel.

When you're meeting 13 times with the industry and zero times with an agency within your own portfolio, I don't think good things can come from that generally. That doesn't include the meetings that were also held between industry and Health Canada officials at the bureaucratic level.

Again, we met with our counterparts at Health seven times over the course of those consultations. At no time were we told that that there was any concern about either the substance of the guidelines or the process surrounding them.

**The Chair:** Thank you, Mr. Clark.

We're going to go now to Ms. Sidhu, please, for five minutes.

**Ms. Sonia Sidhu (Brampton South, Lib.):** Thank you, Mr. Chair.

Thank you to all the witnesses for being with us.

My question is to Mr. Herder.

In your letter, you stated that you believe the Minister of Health undermined the board's independence. However, subsection 5 of section 96 of the Patent Act states that the PMPRB must consult with the various parties, including the Minister of Health. Before that issuance of any guidelines, this requirement to consult and who must be consulted was also highlighted in the letter published on March 3, 2023, by the former acting chairperson.

How can you say that the minister undermined the board's independence in light of the requirements of consulting in the Patent Act?

● (1150)

**Prof. Matthew Herder:** I think communicating and talking in depth about what potential issues might arise if we were to move forward with those proposed guidelines—all of that is best practice.

What you have to remember is that we didn't have any of those conversations until a request to suspend occurred, which I interpreted as a very strong suggestion, if not a demand. There was no communication directly with the minister until that point in time.

The same request had been made in December by the most vocal stakeholder—to suspend, and not to consider our concerns and reflect as a board and make a decision about whether to extend or to move forward, etc., but rather to stop the consultation altogether. The language echoed the point very closely, I would say, very closely in time on the same day that we got the letter from the minister. It's my understanding that we also received a similar request from Innovative Medicines Canada. Again it was to suspend.

It's in that context that our independence was undermined.

**Ms. Sonia Sidhu:** Thank you.

Mr. Chair, I'm going to share my time with Majid Jowhari.

**The Chair:** Go ahead, Mr. Jowhari.

**Mr. Majid Jowhari (Richmond Hill, Lib.):** Thank you, Mr. Chair.

Given the fact that I only have about two and a half minutes, I have a couple of clarifying questions.

Mr. Clark, a number of times you mentioned you reached out to the minister or the ministry staff to ask for a briefing. The act also requires the PMPRB to undertake consultations.

Can you explain the difference between a briefing request and a consultation request?

**Mr. Douglas Clark:** We had seven meetings with Health Canada officials, and I would characterize all of those as briefings. We were briefing them on the content of the guidelines and also discussing the feedback we were getting from stakeholders.

The proper platform, or vehicle, for consulting a minister is typically by officials, but also, less frequently, a briefing with the minister as an opportunity to exchange information and answer questions. That is everything a briefing would typically entail.

**Mr. Majid Jowhari:** Did the board at any time consider what the minister, or the ministry, was busy with, and what crisis was being dealt with specifically during the shortage of medicine at that time?

**Mr. Douglas Clark:** Yes, it was a crazy time all around, for sure.

**Mr. Majid Jowhari:** Perfect. It was a crazy time, and you reached out to brief the minister a number of times.

To me, with 35 years of consulting background, there's a huge difference between consultation and briefing. I usually consult all my stakeholders, and then I go to my executives and brief them with what I had heard.

I know you didn't get a chance to brief the minister because of the competing, but I'm hearing a lot and I'd like to follow up on what was asked by my colleague, MP Jeneroux.

How do you define the working culture within the PMPRB? It looks like there are many issues there.

**Mr. Douglas Clark:** If you were to look at our public service survey results, we would typically outscore the public service as a whole on over 95% of the questions in terms of everything positive and outscore 90% of the other microagencies. I think we're doing just fine, in the main.

There's no question that three delays and a significant paring back of the regulations has had an impact on the morale of staff, but staff, I'm sure, were listening to the minister's testimony last week. He expressed multiple times his earnest desire to get pricing under control in Canada. That would have done an awful lot to boost morale among staff. The impact that's had on staff was aptly characterized in Professor Herder's letter.

● (1155)

**The Chair:** Thank you, Mr. Clark and Mr. Jowhari.

[*Translation*]

Mr. Thériault, you have two and a half minutes.

**Mr. Luc Thériault:** Mr. Clark, did you inform the chair about each attempt to meet with the minister?

**Mr. Douglas Clark:** Yes.

**Mr. Luc Thériault:** Professor Herder, in your resignation letter, you state that the minister's request was no different in form and substance from industry talking points.

Industry talking points go beyond just wanting to suspend consultations. When I read the letter, what I see is a federal minister of Health who is concerned about the views of his provincial counterparts, who questions the impact of federal reform on potential drug shortages and who wants to ensure that the serious concerns raised by some stakeholders are unfounded. There is a lot of talk about the industry, but that also includes many patient groups.

How is that similar to what the industry is saying, and how does that undermine the credibility of the board?

[*English*]

**Prof. Matthew Herder:** Thank you.

Again, in the context of a fall consultation period when there was no dialogue or briefing directly with the minister, the language of asking us to suspend is what hurt our credibility.

Second, there were broad similarities. Of course the wording was not exactly the same. The language of “shortages” could be interpreted to refer to “Well, we won't launch products in this country if these pricing reforms become real.” That is very much a talking point that industry has offered.

With the uncertainty of new guidelines, of course there was going to be a period of change. There was going to be a transitional period when we collected information and started to apply the new guidelines in practice. Of course, nobody likes change, but there were new regulations, so we needed new guidelines.

That point about uncertainty was also very similar to industry's talking points.

[*Translation*]

**Mr. Luc Thériault:** Mr. Clark, still, the opinion of provincial counterparts or the fact that a province decides to bring a dispute before a court of law is not trivial.

You initially introduced a reform, and two of its three points were disqualified by the Quebec Court of Appeal. You had a chair who was trained in this area and who said that she had concerns and wanted to ensure that the board would be able to carry out the reform without once again being involved in legal proceedings. That's what she wanted. What you're saying is that internally, you rejected this concern.

Basically, Mr. Clark, when someone disagrees with you, the executive director, they don't belong at the PMPRB, right? It's your business; the PMPRB is your baby. Is that what should be understood about the atmosphere within the PMPRB?

[*English*]

**The Chair:** Mr. Clark, we're well past time, but you're entitled to a response if you want.

[*Translation*]

**Mr. Douglas Clark:** They weren't my reforms; they were the minister's reforms. If the acting chair had concerns about the constitutionality of these reforms, she never expressed them to me when she was in the position.

[*English*]

**The Chair:** Mr. Davies, go ahead, please, for two and a half minutes.

**Mr. Don Davies:** Thank you.

The Patent Act says, “Before the Board issues any guidelines, it shall consult with the Minister”.

Last week, though, the minister told this committee that it would have been inappropriate for him to contact the chair to initiate the consultations without an invitation from the chair.

The acting chair at the time, Madam Bourassa Forcier, said that the rules said she couldn't meet him. She was told that she was the equivalent of a deputy minister reporting to the minister and that she had to wait for the minister's invitation to meet him.

Help me explain it. How is this mandatory consultation called for by the Patent Act supposed to occur if neither the minister nor the chair of the PMPRB can initiate the consultation, or is there something wrong with what we were told?

● (1200)

**Mr. Douglas Clark:** Yes, it's just plain wrong, and it's completely inconsistent with past practice.

Typically, the chair, as I said.... I mean, it's true that the chair, from a purely pedantic standpoint, is a deputy head of the organization. Deputy heads of organizations are supposed to have “regular” interaction with the ministers who are responsible for their portfolios. The PM's directive on openness and accountability, on open and accountable government, says that very thing. It's completely within common practice for ministers and heads of administrative tribunals to have discussions about issues of overlapping concern—

**Mr. Don Davies:** Mr. Clark, if I can interrupt, because I have very little time, section 102 of the act says the following:

> The Minister may at any time convene a meeting of the following persons:
>
> (a) the Chairperson and such members of the Board as the Chairperson may designate;

Was the minister correct when he told us that it was inappropriate for him to initiate a meeting with the chair, given section 102 of the Patent Act?

**Mr. Douglas Clark:** I think the minister was improperly briefed.

**Mr. Don Davies:** Okay. Thank you.

The minister admitted to this committee on Thursday that he hasn't engaged in those consultations that he apparently requested to be suspended, the consultations with the PMPRB about the guidelines, to this day, and this is over five months after he wrote his letter. What is your take on that?

**Mr. Douglas Clark:** Well, I think the first and most important point is that it's not his place to consult his provincial counterparts on our guidelines.

Again, that's—

**Mr. Don Davies:** No, I meant the consultations with the PMPRB.

**Mr. Douglas Clark:** Oh, I'm sorry. I thought you said....

I'm not aware of him having met at all with his counterparts in other provinces. We briefed provincial ministries on our guidelines, and I'm not aware of his having met with the board since that letter.

**The Chair:** Thank you, Mr. Clark.

Mr. Aboultaif, you have five minutes.

**Mr. Ziad Aboultaif (Edmonton Manning, CPC):** Thank you.

Thanks to both of you for appearing today.

Dr. Herder, you joined the PMPRB to make changes to policies to positively affect the bottom line of getting the best value for the dollar. How many policy changes were you able to achieve in being there since June 2018?

**Prof. Matthew Herder:** Effectively, we were not able to achieve any changes in that time frame. Obviously, the pandemic was a major factor in all of that. We worked quite hard to try to change guidelines as the court cases were proceeding and as we waited for the regulations to be declared into force. We did a lot of consultation and policy development, but none of those things have translated into actual policy changes to date.

**Mr. Ziad Aboultaif:** When you were hired to do the job, how many interviews did you have with the department before you got the job?

**Prof. Matthew Herder:** There were at least two interviews and also a written exam, which I was quite nervous about. I teach patent law, so in being examined on it for the first time in a long time, I was worried that I wouldn't do so well, but obviously I did okay.

**Mr. Ziad Aboultaif:** I'm sure that you probably asked about the process and how the communication was going to be between you and what you do with the department. All this clear communication or road map was clear to you before you joined. Have you seen any difference after you joined? Were you surprised about how this communication is taking place?

**Prof. Matthew Herder:** What happened in the late fall was a departure from all of the communication patterns, the attempt to develop policy, that had occurred during my tenure. It was a dramatic change from the past.

**Mr. Ziad Aboultaif:** As I said earlier, I think the intention is to get the best value for the dollar. It seems that those multiple resignations are a protest over the role of the PMPRB towards the department and the ministry of health in general. Would you describe that as a protest?

**Prof. Matthew Herder:** My term would have ended this coming June. I was sufficiently concerned about what had happened with the minister and pressure from stakeholders that I wasn't sure I was able to do anything further inside.

I think there was division within the board, but there remain a lot of very dedicated staff who hope to follow through and improve prices in Canada for Canadians. It was a decision I struggled with greatly. The last thing I wanted to do was call into question the work of those colleagues for whom it is a full-time job. It was only a part-time job for me.

● (1205)

**Mr. Ziad Aboultaif:** That negative pressure from the government must have provided a major obstacle to the job of the board. Is that correct?

**Prof. Matthew Herder:** Yes. As I tried to stress, I think it has made the prospect of developing new guidelines—and other kinds of decisions the board might face in the future—very difficult, in light of what's happened.

**Mr. Ziad Aboultaif:** Thank you, Mr. Chair.

I would like to defer the rest of my time to Mr. Kitchen.

**The Chair:** Go ahead, Mr. Kitchen.

**Mr. Robert Kitchen:** Thank you, Mr. Chair.

I'd like to move to resume debate on the motion presented at the last meeting.

**The Chair:** The motion before the committee is not debatable. It's a dilatory motion to resume debate on the motion we debated at the last meeting, so it is not debatable. We're going straight to a vote.

(Motion negatived)

**The Chair:** You still have a minute and a half, Dr. Kitchen.

**Mr. Robert Kitchen:** I'll defer it back to Mr. Aboultaif.

**Mr. Ziad Aboultaif:** Thanks again.

What measures do you think should be taken to assure that the board will be able to function with its own capability in the proper way in the future?

**Prof. Matthew Herder:** I think we have to make sure that the independence is actually safeguarded so that there can be lots of consultation led by the board with the minister and others and other parts of the government.

We have to remain the master of our own guidelines, for instance. Certainly there can be no interference. We need a recommitment to independence.

Part of that is the relationships some members have with industry, perhaps, through their day jobs. We need to take conflicts of interest much more seriously, as I said in my opening comments.

**Mr. Ziad Aboultaif:** Mr. Clark, in a publicly published letter from MS Canada to this committee, it appears stakeholders are under the impression they have not been considered in decision-making processes in the last six years.

Would you believe other stakeholders and interest groups are under the same impression?

**Mr. Douglas Clark:** I think the stakeholder group is divided, on one hand, between private insurers, public payers, independent patient groups and academics who support reforms and feel they have been heard, and on the other hand, industry and industry-funded patient groups that feel they have not been heard.

Some of you know I testified on two occasions—in 2019 and 2020—during our last round of consultations. We undertook to provide a number of documents to the committee. I have some of them here, one of which shows all the changes we made over the course of that previous round of consultations in light of feedback from industry.

They were significant and substantive. In that period of time alone, we spent over 110 hours meeting with industry stakeholders, so I don't agree with that point. I believe the briefing note Mr. Davies cited at last Thursday's testimony.... The acting chair made the same point. The industry would come to every meeting and read out a disclaimer that they were there against their wishes and had no intention of engaging on the substance. Where does that leave you, in terms of an exchange of ideas?

I don't know.

**The Chair:** Thank you, Mr. Aboultaif.

Next, we have Mr. van Koeverden for five minutes.

**Mr. Adam van Koeverden:** Thank you, Mr. Chair.

Repeatedly throughout this meeting, the number 13 has been quoted with respect to pharmaceutical company consultations with the minister.

To either witness, do you recall anything happening across Canada last year with respect to analgesics that might have warranted some of those meetings with pharmaceutical companies? Also, are analgesics patented drugs?

● (1210)

**Mr. Douglas Clark:** I think you're referring to children's Tylenol. I think that's what the minister was alluding to in his letter to us, and of course it isn't a patented medicine. It doesn't have anything to do with products under our jurisdiction.

**Mr. Adam van Koeverden:** I didn't think it had anything to do with the PMPRB, so it's fair to say that all those meetings with industry groups were to benefit Canadians in their access to non-patented drugs. Is that correct?

**Mr. Douglas Clark:** I wasn't privy to those meetings, so I have no idea what the subject matter was.

**Mr. Adam van Koeverden:** The timing is pretty obvious, isn't it?

**Mr. Douglas Clark:** It overlapped with our consultations.

**Mr. Adam van Koeverden:** Moving on to the definition of the word “suspend”, as it's been brought up once or twice, in English the letter said, “respectfully consider temporarily delaying”. Do you think that suspending—implying temporarily delaying or requesting further consultation or consideration—is undue interference or is making a very direct recommendation?

**Mr. Douglas Clark:** I've never seen an English copy of that letter. The only copy I have says:

[*Translation*]

“*Sur la base de ces considérations, je demande respectueusement au Conseil d'envisager de suspendre le processus de consultation.*”

[*English*]

I take you at your word that this is the English translation.

**Mr. Adam van Koeverden:** Your French is better than mine, and I heard the translation as well. The words are “consider temporarily suspending”.

**Mr. Douglas Clark:** Right.

**Mr. Adam van Koeverden:** I think it's fair to suggest that the interpretation of that, whether it's in French or English, has been broadly interpreted.

I'd like to correct the record on one thing before I move on. No attempt from the PMPRB to brief me, as parliamentary secretary, has ever come through my office or through any of my staff.

Moving on now, last week we had a meeting with Mélanie Bourassa Forcier. She received only about 30 minutes for an opportunity to provide testimony to this committee. Out of fairness, now that we are upwards of an hour for these two witnesses, I move to adjourn this meeting.

**The Chair:** A motion to adjourn is not debatable. We'll go straight to a vote.

[*Translation*]

**Mr. Luc Thériault:** One moment. I don't understand, Mr. Chair.

**The Chair:** He put forward a motion to adjourn this meeting.

[*English*]

The vote is on “Shall the meeting now be adjourned?”

(Motion agreed to)

**The Chair:** The meeting is adjourned.