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**Physicians for a Smoke-Free Canada**  
**Quebec Coalition for Tobacco Control**

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September 4<sup>th</sup>, 2020

*[Sent by email only]*

**Christine Elliott**

Minister of Health  
Government of Ontario  
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**Doug Downey**

Attorney General  
Government of Ontario  
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**Re: Financial costs of not including the binding smoking prevalence reduction target as part of the CCAA settlement of the tobacco healthcare cost recovery litigation.**

Honourable Ministers,

As a result of tobacco industry-led tactics, Ontario government's lawyers are currently engaged in secret talks under the Companies' Creditor Arrangements Act (CCAA). Tobacco companies hope to reach a settlement of all claims against them by the provinces and others, including a Quebec court ruling awarding victims \$13 billion. Ontario's claim for cost recovery is \$330 billion, while the overall claims are well over 500 billion\$. Since the purpose of the CCAA is to do all that is possible to keep companies that are in bankruptcy protection *viable*, as the tobacco companies currently are, it follows that the amounts claimed will never be realized. CCAA negotiations, under current circumstances, would either result in a one-time payment that would likely be too small to be meaningful, or a somewhat larger payment made in instalments over several years, of which Ontario would get its proportionate share. In either case, payments would represent pennies on the dollars claimed, and ultimately have perverse consequences on public health.

We are concerned that a critical and historical opportunity is being missed to use these negotiations to achieve the important public health goal of reducing tobacco supply and demand - and related disease, death, and future health care costs. Getting a few billion dollars from tobacco companies over several years will do nothing to change the current practices of tobacco companies. They will continue to sell and promote their products and lobby and litigate to weaken or block effective anti-tobacco measures, and tobacco consumption will continue its too-slow rate of decline.

Worse, should settlement payment be scheduled over several years, this would have the effect of future smokers, through higher prices, paying for wrongs done to smokers in the past. Moreover, the government would acquire a financial interest in seeing tobacco sales remain high so that settlement payments could continue to be made. More lives would be lost prematurely, affecting productivity. The healthcare system would continue to be overburdened by conditions resulting from the use of tobacco industry products, affecting government spending as well as the care of all your citizens.

Yet there is a way, through these settlement talks, that tobacco use prevalence could be substantially reduced, lives could be saved and tens of billions in future tobacco-related costs could be avoided.

The attached report, commissioned by Physicians for a Smoke-Free Canada and the Coalition

Québécoise pour le contrôle du tabac and prepared by H. Krueger and Associates Inc.\* , shows that \$26.1 billion in smoking-related costs from 2019 to 2035 could be avoided if smoking prevalence were reduced to 5% by 2035. Furthermore, these savings would come with 990,000 fewer smokers in Ontario alone. (In Quebec, Canada's second-most populous province, \$22.2 billion in tobacco-related costs would be avoided, and there would be 641,000 fewer smokers.)

Such an achievement would not only free up hospital beds and services, but also spare hundreds of Ontario families the pain, distress and impacts of having a loved-one go through the agonizing state of many debilitating and fatal tobacco-related illnesses.

We urge you, in collaboration with your Quebec colleagues, to insist that, as part of any settlement, companies be required to implement a court-supervised strategy to progressively reduce demand and supply of tobacco and recreational nicotine products so as to reach less than 5% prevalence by 2035, the official target of the federal strategy tabled in 2018. The court should also require the companies to meet annual milestones for tobacco use reduction. Failure to meet interim targets would carry significant and dissuasive court-imposed penalties.

As we have all come to realize through this pandemic, provincial governments and all our communities stand to benefit the most in both the short- and long-term from initiatives that align financial interests with those of public health.

We would also remind you that Quebec and Ontario have the largest claims against tobacco companies in the CCAA proceedings. By working together, these two provinces can determine the direction that the settlement talks take. Jointly, Ontario and Quebec can steer the talks in a direction that will help protect the health and health care of all Canadians. Please seek to use these talks to oblige tobacco companies to reduce supply and demand for their products so that tobacco and recreational nicotine use prevalence actually reaches 5% or less by 2035.

Yours sincerely,

*[Signatures removed for publication]*

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Cc: Premier of Ontario  
President and (acting) CEO of Public Health Ontario

Att.: [Summary points](#)  
[Krueger Report](#)

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\* Commissioned by Physicians for a Smoke-Free Canada and the Coalition québécoise pour le contrôle du tabac (Quebec Coalition for Tobacco Control), the report was produced by H. Krueger & Associates Inc., a firm based in the Greater Vancouver area. Dr Hans Krueger is an epidemiologist, health economist and adjunct professor at the UBC School of Population and Public Health. His firm has provided counselling, modelling, and other services to federal and provincial agencies, as well as NGO's from across the country.