

## COURT APPROVED PROTOCOL

### PAYMENTS OF \$50,000 OR LESS TO CERTAIN ESTATES

DECEMBER 2025

**This protocol provides guidance to the Administrator for payments of \$50,000 or less to the Estate of an Approved Class Member or an Approved Late Claims Class Member in a common law province who was a competent adult. For greater certainty, it does not apply to payments to estates of an Approved Class Member or an Approved Late Claims Class Member who was a minor or incompetent person.**

#### Definitions

1. In addition to the terms defined in this protocol, capitalized terms used but not defined herein shall have the meaning given to them in the Transfused HCV Plan, the Hemophiliac HCV Plan, and the HCV Late Claims Benefit Plan (collectively, the “**Plans**”).

#### Relevant Plan Provisions

2. For ease of reference, the definition of “**Personal Representative**” in Article 1.01 of the Plans is set out below.

**"Personal Representative" includes, if a person is deceased, an executor, administrator, estate trustee, trustee or liquidator of the deceased** or, if the person is a minor or mentally incompetent, the tutor, committee, Guardian or curator of the person. (emphasis added)

3. Article 3.05.1.c of the Plans sets out the proof that a person claiming to be the HCV Personal Representative of a deceased HCV Infected Person, who was a competent adult,<sup>1</sup> must deliver to the Administrator concerning the right of the claimant to act for the deceased HCV Infected Person. It states that they must deliver:

the original certificate of appointment of estate trustee, grant of probate or of letters of administration or notarial will (or a copy thereof certified to be a true copy by a lawyer or notary) **or such other proof of the right of the claimant to act for the estate of the deceased as may be required by the Administrator.** (emphasis added)

This same proof requirement shall apply to a person claiming to be the Personal Representative of a deceased Dependant or deceased Family Member who was a competent adult under Articles 3.06 and 3.07 of the Plans.

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<sup>1</sup> Article 3.05.2.b. sets out the proof that a person claiming to be the HCV Personal Representative of a deceased HCV Infected Person, who was a minor or incompetent, must deliver to the Administrator. This protocol does not apply to the estates of a minor or incompetent person.

## Purpose

4. This protocol has two purposes. The first purpose is to provide guidance to the Administrator regarding what it may consider to be adequate “other proof of the right of a person to act for the estate” of a deceased Approved HCV Infected Person/Approved Late Claims HCV Infected Person, a deceased Approved Dependant/Approved Late Claims Dependant or a deceased Approved Family Member/Approved Late Claims Family Member who was a competent adult (“**Estate**” of an “**Approved Class Member**”) where:
  - a. the payment to the Estate is for \$50,000 or less; and
  - b. the circumstances described below apply.
5. The second purpose of this protocol is to provide guidance to the Administrator regarding what it may consider as adequate proof of the right of a person to act for the Estate of an Approved Class Member where the Personal Representative has died and:
  - a. the payment to the Estate is for \$50,000 or less; and
  - b. the circumstances described below apply.
6. For clarity, this protocol only provides guidance for the Administrator’s consideration. The Administrator retains the right to require delivery of the documents listed in Article 3.05.1.c. by any person claiming to have a right to act for an Estate of an Approved Class Member before making a payment, in any amount, regardless of the provisions of this protocol.

## Singular and Plural

7. Words used in this protocol in the singular include the plural and vice versa, where the context permits. For example, executor includes executors, and person includes persons, and vice versa.

### A. The Approved Class Member Dies Without a Will

8. Where an Approved Class Member dies without leaving a will and it is undesirable or unnecessary to obtain probate because the cost of obtaining probate or a certificate of appointment is disproportionate to the amount of the payment to the Estate, the Administrator may in its sole discretion accept the following documents:
  - 1) A letter from a lawyer which provides an opinion identifying everyone who is entitled to share in the Estate and the payment at issue and in what proportion, based on the intestate succession laws in the applicable jurisdiction.

- 2) Subject to the terms of paragraph 9 below, an affidavit from one of the persons identified in the lawyer's letter as being entitled to the largest proportion of the residue of the Estate which:
  - i. confirms that it is undesirable or unnecessary to obtain probate because the cost of obtaining probate or a certificate of appointment is disproportionate to the amount of the payment to the Estate;
  - ii. attests to the accuracy of the facts that form the basis of the lawyer's opinion letter, which should be attached as an exhibit to the affidavit;
  - iii. confirms that there is no dispute about entitlement among those who are entitled to share in the Estate, as identified in the lawyer's letter; and
  - iv. confirms their agreement to distribute the payment received from the Administrator in accordance with the lawyer's opinion letter to the person(s) and in the proportion(s) set out in the letter.
- 3) A completed Direction, Indemnity and Release, in the form attached as **Appendix A**, signed by the person who swore the affidavit and by each person who the Administrator is directed to make payment to in Section 2.01 of that document.
9. The affidavit referred to in paragraph 8 should be provided by one of the persons identified in the lawyer's letter as being entitled to the largest proportion of the residue of the Estate (or by that person's Personal Representative), unless all persons entitled to the largest proportion of the residue of the Estate and their respective Personal Representatives have died or are incapacitated, in which case the affidavit should be provided by one of the persons identified as being entitled to the second largest proportion, and so on. The affidavit should provide proof of the death or incapacity of every person identified as being entitled to a larger proportion of the Estate than the person swearing/affirming the affidavit.

#### **B. The Approved Class Member Dies Leaving a Will**

10. Where an Approved Class Member dies leaving a will and it is undesirable or unnecessary to obtain probate because the cost of obtaining probate or a certificate of appointment is disproportionate to the amount of the payment to the Estate, the Administrator may in its sole discretion accept the following documents:
  - 1) An affidavit from the person appointed under the will as the executor and/or estate trustee (or liquidator), which:

- i. confirms that it is undesirable or unnecessary to obtain probate because the cost of obtaining probate or a certificate of appointment is disproportionate to the amount of the payment to the Estate;
  - ii. identifies the beneficiaries under the will who are entitled to share in the payment at issue and in what proportion;
  - iii. confirms that there is no dispute about entitlement among the beneficiaries; and
  - iv. confirms their agreement to distribute the payment received from the Administrator in accordance with the will.
- 2) A completed Direction, Indemnity and Release, in the form attached as **Appendix A**, signed by the executor and/or estate trustee (or liquidator) and each person who the Administrator is directed to make payment to in Section 2.01 of that document.

### **C. The Personal Representative of an Approved Class Member Dies without a Will**

#### *a. Where the Approved Class Member Died Leaving a Will*

11. Where the sole or sole surviving Personal Representative appointed under the will of an Approved Class Member dies without leaving a will, the Administrator may in its sole discretion accept the following documents:
- 1) Subject to the terms of paragraph 12 below, an affidavit from the alternate executor and/or estate trustee (liquidator) of the Approved Class Member or, where there is no alternate executor and/or estate trustee (liquidator) named under the terms of the Approved Class Member's will, a beneficiary named in the will or an individual who is able to sufficiently demonstrate, to the satisfaction of the Administrator, that he or she falls within a class of beneficiaries set out in the will of the Approved Class Member which:
    - i. confirms that it is undesirable or unnecessary to obtain probate because the cost of obtaining probate or a certificate of appointment is disproportionate to the amount of the payment to the Estate;
    - ii. identifies the beneficiaries under the will who are entitled to share in the payment at issue and in what proportion;
    - iii. confirms that there is no dispute about entitlement among the beneficiaries; and

- iv. confirms their agreement to distribute the payment received from the Administrator in accordance with the will.
  - 2) A completed Direction, Indemnity and Release, in the form attached as **Appendix A**, signed by the person who swore the affidavit and by each person who the Administrator is directed to make payment to in Section 2.01 of that document.
12. Where the affidavit referred to in paragraph 11 is provided by a beneficiary, it should be one of the beneficiaries entitled to the largest proportion of the residue of the Estate under the will of the Approved Class Member or their Personal Representative, unless all persons entitled to the largest proportion of the residue of the Estate and their respective Personal Representatives have died or are incapacitated, in which case the affidavit should be provided by the one of the beneficiaries entitled to the second largest proportion, and so on. The affidavit should provide proof of the death or incapacity of every beneficiary entitled to a larger proportion of the Estate than the person swearing/affirming the affidavit.

*b. Where the Approved Class Member Died Without a Will*

13. Where the sole or sole surviving Personal Representative of an Approved Class Member who died without a will also dies without leaving a will, the Administrator may in its sole discretion accept the following documents:
- 1) A letter from a lawyer which provides an opinion identifying everyone who is entitled to share in the Estate of the Approved Class Member and the payment at issue and in what proportion, based on the intestate succession laws in the applicable jurisdiction.
  - 2) Subject to the terms of paragraph 14, an affidavit from one of the persons identified in the lawyer's letter as being entitled to the largest proportion of the residue of the Estate of the Approved Class Member which:
    - i. confirms that it is undesirable or unnecessary to obtain probate because the cost of obtaining probate or a certificate of appointment of the Personal Representative's estate is disproportionate to the amount of the payment to the Estate;
    - ii. attests to the accuracy of the facts that form the basis of the lawyer's opinion letter, which should be attached as an exhibit to the affidavit;
    - iii. confirms that there is no dispute about entitlement among those who are entitled to share in the Estate, as identified in the lawyer's letter; and

- iv. confirms their agreement to distribute the payment received from the Administrator in accordance with the lawyer's opinion letter to the person(s) and in the proportion(s) set out in the letter.
  - 3) A completed Direction, Indemnity and Release, in the form attached as **Appendix A**, signed by the person who swore the affidavit and by each person who the Administrator is directed to make payment to in Section 2.01 of that document.
14. The affidavit referred to in paragraph 13 should be provided by one of the persons identified in the lawyer's letter as being entitled to the largest proportion of the residue of the Estate of the Approved Class Member or their Personal Representative, unless all persons entitled to the largest proportion of the residue of the Estate and their respective Personal Representatives have died or are incapacitated, in which case the affidavit should be provided by one of the persons identified as being entitled to the second largest proportion, and so on. The affidavit should provide proof of the death or incapacity of every person identified as being entitled to a larger proportion of the Estate than the person swearing/affirming the affidavit.

#### **D. The Personal Representative of an Approved Class Member Dies Leaving a Will**

##### ***a. Where the Approved Class Member Died Leaving a Will***

15. Where the sole or sole surviving Personal Representative appointed under the will of an Approved Class Member dies leaving a will and it is undesirable or unnecessary to obtain probate of their estate because the cost of obtaining probate or a certificate of appointment is disproportionate to the amount of the payment to the Estate of the Approved Class Member, the Administrator may in its sole discretion accept the following documents:
- 1) An affidavit from the person appointed under the Personal Representative's will as the executor and/or estate trustee (or liquidator) which:
    - i. confirms that it is undesirable or unnecessary to obtain probate of the Personal Representative's estate because the cost of obtaining probate or a certificate of appointment is disproportionate to the amount of the payment to the Estate of the Approved Class Member;
    - ii. identifies the beneficiaries under the will of the Approved Class Member who are entitled to share in the payment at issue and in what proportion;
    - iii. confirms that there is no dispute about entitlement among the beneficiaries under the will of the Approved Class Member; and

- iv. confirms their agreement to distribute the payment received from the Administrator in accordance with the will of the Approved Class Member.
- 2) A completed Direction, Indemnity and Release, in the form attached as Appendix A, signed by the executor and/or estate trustee (or liquidator) of the Personal Representative and by each person who the Administrator is directed to make payment to in Section 2.01 of that document.

**b. *Where the Approved Class Member Died without a Will***

16. Where the sole or sole surviving Personal Representative of an Approved Class Member who died without leaving a will dies leaving a will and it is undesirable or unnecessary to obtain probate of their estate because the cost of obtaining probate or a certificate of appointment is disproportionate to the amount of the payment to the Estate of the Approved Class Member, the Administrator may in its sole discretion accept the following documents:

- 1) A letter from a lawyer which provides an opinion identifying everyone who is entitled to share in the Estate of the Approved Class Member and the payment at issue and in what proportion, based on the intestate succession laws in the applicable jurisdiction.
- 2) An affidavit from the person appointed under the Personal Representative's will as the executor and/or estate trustee (or liquidator) which:
  - i. confirms that it is undesirable or unnecessary to obtain probate of the Personal Representative's estate because the cost of obtaining probate or a certificate of appointment is disproportionate to the amount of the payment to the Estate of the Approved Class Member;
  - ii. attests to the accuracy of the facts that form the basis of the lawyer's opinion letter, which should be attached as an exhibit to the affidavit.
  - iii. confirms that there is no dispute about entitlement among those entitled to share in the Estate of the Approved Class Member; and
  - iv. confirms their agreement to distribute the payment received from the Administrator in accordance with the lawyer's opinion letter to the person(s) and in the proportion(s) set out in the letter.
- 3) A completed Direction, Indemnity and Release, in the form attached as **Appendix A**, signed by the executor and/or estate trustee (or liquidator) of the Personal Representative and by each person who the Administrator is directed to make payment to in Section 2.01 of that document.

**E. The Personal Representative's Personal Representative Dies**

17. Where the sole or sole surviving Personal Representative's Personal Representative has died, without leaving a will or leaving a will, the Administrator may consider the scenarios and proof requirements under Section C and Section D and in its sole discretion apply them by analogy.

**F. Recoverable Out of Pocket Expenses**

18. The Administrator may reimburse reasonable out of pocket expenses incurred for notarization or commissioner of oaths services in connection with providing a certified copy of a will upon being provided evidence satisfactory to the Administrator that the expense has been incurred.

## Appendix A

### DIRECTION, INDEMNITY and RELEASE

#### 1.0 Definitions

“**Administrator**” means the Administrator of the Settlement Agreement appointed by the Courts from time to time. At the time of signing this Direction, Indemnity and Release, the Administrator is Epiq Class Action Services Canada Inc.

“**Benefits**” means amounts payable under the Settlement Agreement, the HCV Late Claims Benefit Plan and/or any Orders allocating excess capital in favour of Class Members.

“**Direction**” means the direction given by the undersigned to the Administrator in section 2.01 hereafter.

“**Settlement Agreement**” means the Hepatitis C January 1, 1986 - July 1, 1990 Class Action Settlement Agreement.

#### 2.0 Direction

2.01 **[Insert full name of person who swore/affirmed the affidavit and every person who will be receiving a payment as set out below]** hereby direct(s) the Administrator to make payment of the Benefits that are payable to the Estate of **[insert name of Approved HCV Infected Person, Approved Family Member/Approved Late Claims Family Member]** as follows:

**[insert details – for example:**

**[\$X] payable to [name of person who swore/affirmed the affidavit]**

**OR**

**list each amount payable to each person, as directed by the person who swore/affirmed the affidavit i.e. the beneficiaries]**

#### 3.0 Release and Indemnity

3.01 In consideration of the Administrator making the payment(s) in accordance with the Direction, I/we:

- a. agree to fully indemnify and hold harmless the Administrator against all claims, demands, actions, suits, proceedings, assessments, losses, damages, costs, legal fees, expenses and disbursements arising from or relating in any way to the Administrator making the payment as directed; and
- b. release and forever discharge the Administrator from all actions, causes of action, claims, accounts and demands whatsoever in relation to the payment referred to in section 2.01.

3.02 If more than one person signs this Direction, Indemnity and Release, we agree that the Administrator has the option to require indemnification and reimbursement in full from any one of us or a portion from each of us, as the Administrator may in its sole discretion elect.

3.03 I/we agree that this Direction, Indemnity and Release is binding on my/our heirs administrators, executors, personal representatives and assigns and it operates to the benefit of any successor Administrator appointed by the Courts under the Settlement Agreement.

**4.0 General**

4.01 I/we have carefully read this Direction, Indemnity and Release and have had the opportunity to seek the advice of a lawyer regarding the nature and effect of this document before signing it. I/we confirm that I/we understand all of the terms in this Direction, Indemnity and Release and have signed it voluntarily with knowledge of the consequences.

4.02 This Direction, Release and Indemnity may be signed and delivered by electronic systems, such as email, in which case signatures shall be deemed to be original. This Direction, Indemnity and Release may also be signed in two or more counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same document.

4.03 This Direction, Indemnity and Release shall be governed by the laws of **[insert BC, Quebec, or Ontario for all other cases, based on which of the three supervising courts have jurisdiction over the approved HCV Infected Person]**.

**[NOTE: Administrator to complete below the name, address and telephone number of the person who swore/affirmed the affidavit and of every person listed under s. 2.01 who will receive a payment.**

**ALL payment recipients must sign BEFORE a payment can be made to anyone under s. 2.01]**

Dated: \_\_\_\_\_

\_\_\_\_\_

**[NAME]**

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_