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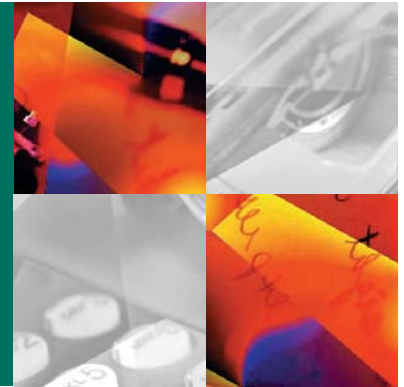


OBA • ABO

Ontario Bar Association
Association du Barreau de l'Ontario

The Ontario branch of the Canadian Bar Association
La division ontarienne de l'Association du Barreau canadien

CRITICAL ISSUES IN HEALTH LAW: A NATIONAL SUMMIT



Presented by the National Health Law Section and the Continuing Legal Education Committee of the Canadian Bar Association in partnership with the Ontario Bar Association

MAY 3-4, 2007
Delta Chelsea Hotel
Toronto, Ontario

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Don't miss out on this National Health Law summit, jointly sponsored by the Canadian Bar Association (CBA) and the Ontario Bar Association (OBA), designed to bring together health law practitioners from across Canada for an update on a variety of critical health law issues. This exciting program will appeal to all members of the Health Law Bar, as well as other stakeholders in the health care system, with a focus on three main themes: Private Health Care; Patient Safety; and Medical Malpractice. The issues we will cover include: the proliferation of private health care initiatives, and new developments on the "business" and legal side of private health care; developments in tort law, patient safety, disclosure of error, and reporting of adverse events; and current issues in expert evidence and causation. Anyone who is regularly involved in advising health sector clients or making decisions related to these issues, including public and private sector lawyers who focus on health-related corporate transactions, litigation or policy development, and professionals working in the area of risk management, will not want to miss this program.

Conference Co-Chairs:

Tracey M. Bailey, Executive Director, Health Law Institute, University of Alberta, Edmonton, and Chair, Canadian Bar Association Health Law Section

Lonny J. Rosen, partner, Gardiner Roberts LLP, Toronto, and Secretary-Treasurer, Canadian Bar Association Health Law Section

Roselle P. Wu, associate, Harper Grey LLP, Vancouver, and Vice-Chair, Canadian Bar Association Health Law Section

ENJEUX IMPORTANTS LIÉS AU DROIT DE LA SANTÉ : SOMMET NATIONAL

Le Sommet national sur le droit de la santé sera un événement à ne pas manquer. Organisé conjointement par l'Association du Barreau canadien (ABC) et l'Association du Barreau de l'Ontario (ABO), il regroupera des professionnels, professionnelles du droit de la santé venus de partout au Canada dans le but de dresser un bilan des divers enjeux importants liés au droit de la santé. Le sommet intéressera toutes les personnes œuvrant dans le secteur du droit de la santé, ainsi que d'autres intervenants et intervenantes du système de santé, car il traitera de trois thèmes principaux liés aux soins de santé privés, à la sécurité des patients et patientes et à la faute professionnelle médicale. Les enjeux abordés sont variés : la prolifération des services de santé privés ainsi que l'évolution des volets commercial et juridique des soins de santé privés; le droit de la responsabilité civile délictuelle; la sécurité des patients et patientes; la divulgation des erreurs et la communication d'événements défavorables; et les enjeux actuels des témoignages d'experts et du lien de causalité. Tout juriste qui, dans le cadre de ses fonctions normales, conseille des clients et clientes du secteur de la santé ou prend des décisions liées à ces questions, y compris les avocats et avocates qui s'intéressent de près aux décisions d'entreprise liées à la santé, au litige, à l'élaboration de politiques et à la gestion des risques, ne voudra pas manquer cet événement.

Ce programme est offert uniquement en anglais

F I E L D L A W

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**MILLER
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Personal Injury Lawyers LLP

OSLER

Osler, Hoskin
& Harcourt LLP



Program

Thursday, May 3, 2007

12:30 Registration

**Session
I**

Private Health Initiatives: The Business and Legal Side of Healthcare

1:00 – 1:15 **Opening Address on the State of Private
Healthcare Across Canada**

Moderated by: Bill Georgas, Ministry of Health and Long-Term Care, Toronto

Tom Archibald, graduate student, Faculty of Law, University of Toronto, Toronto: Tom has researched and written on many health law topics including private physician practice, private medical facilities, health information privacy, the regulation of medical research, and human resource issues. His dissertation is on labour law for nurses, specifically focusing on the implications of Canadian nurse collective bargaining trends for health human resource policy.

1:15 – 3:15 **Panel Presentation on Private Health Initiatives:
The Business and Legal Side of Healthcare across
Canada**

The recent proliferation of private health care options across Canada has led many Canadians to wonder how these initiatives can exist within our single-tier public health care system. This program will address the questions and concerns that legal practitioners have as to how physicians and clinics are engaging in private health care practices. Panelists of senior practitioners from across the country will engage in a legal and business analysis of private health care initiatives within their respective provinces. Recent developments in legislation and case law will be examined to determine how they impact and shape the private health landscape. This program will undertake an analysis of the legal framework of private clinics and their operation, and examine what the future holds for private health care initiatives in Canada.

Speakers:

David G. Finlay, Q.C., partner, Bennett Jones LLP, Edmonton: David has practiced extensively in all areas of corporate commercial law. He acts for both public and private sector clients with respect to commercial matters involving the health and medical sector. David is active in the Edmonton community and has served on boards of directors for public and private companies as well as not-for-profit charitable organizations.

Annette Lefebvre, sole practitioner, Montreal: Annette Lefebvre is a former R.N. who, for the last sixteen years, has devoted her law practice exclusively to representing Plaintiffs in medical malpractice lawsuits. She has her own law firm in Montreal. Annette Lefebvre has appeared before all levels of court in Quebec, and before the Supreme Court of Canada.

Kathryn A. Raymond, partner, Boyne Clarke Barristers and Solicitors, Dartmouth: A graduate of the Dalhousie Law School in 1985, Kathryn A. Raymond began her Health Law practice 20 years ago as counsel to the Ontario Ministry of Health. She has for many years been a partner with Boyne Clarke in Dartmouth, Nova Scotia where she is the Team Leader for the firm's long-standing and vibrant Health Law practice. Her experience is extensive, encompassing representation of a broad range of stakeholders in the health care system including hospitals, District Health Authorities, professional regulatory colleges and other health care providers. She has collaborated with government in developing health care legislation and has unique experience in governance and system reform.

Ron Skolrood, partner, Lawson Lundell LLP, Vancouver: Ron has broad experience in health law including the regulatory framework governing the delivery of healthcare services and alternative models for service delivery and billing.

Tracey Tremayne-Lloyd, partner, Gardiner Roberts LLP, Toronto: Tracey has been practicing health law for over two decades. She joined Gardiner Roberts LLP in February 2006 after managing her own health law advocacy boutique for twelve years. Tracey is the Chair of the Health Law Group. Widely recognized as a health law advocate, Tracey has served the Canadian Bar Association as the founding chair of the Health Law Section of its Ontario Branch, its past National Health Law chair and chair of its original AIDS Committee. She has appeared before numerous administrative boards and tribunals and has extensive experience in the Superior and Divisional Courts of Ontario.

3:15 - 3:30 **Refreshment Break**

3:30 - 4:00 **Panel Discussion and Questions from the
Audience on Private Health Initiatives: The
Business and Legal Side of Healthcare across
Canada**

4:00 - 5:15 **Closing Comments and Discussion on the Future of Health Care in Canada – Where are we going?**

Moderated by: Shelley R. Birenbaum, Barrister & Solicitor, Health Law and Policy, Toronto

The Honourable Dr. Carolyn Bennett, PC, MP has served as the MP for the Toronto riding of Saint-Paul's since 1997. Under the previous Liberal government Dr. Bennett was Minister of State for Public Health and served on various parliamentary committees. In 2006 she entered the Federal Liberal Leadership race. Currently, Dr. Bennett is the Opposition Critic for seniors, the disabled and the social economy portfolio, and serves on the Standing Committee for Health. Prior to her election she was a family physician and founding partner of Bedford Medical Associates in Toronto. Dr. Bennett is the recipient of numerous awards and is the author of *Kill or Cure? How Canadians Can Remake their Healthcare System* published in 2000.

Alexandra Shimo. Alexandra Shimo is a Toronto-based journalist who writes about science, health, and health care for numerous publications including *The Globe and Mail* and *Macleans*. She is the author of the *Macleans* "Complete User's Guide to Private Medical Care in Canada". The guide generated much debate and request for interviews from across the country. She is currently writing a second health care guide for *Maclean's* magazine.

6:00 - 10:00 **Cocktail reception and dinner – location TBC**

Friday, May 4

8:30 **Registration**

Session II

Developments in Patient Safety and Policy

9:00 – 10:30 **Tort Reform**

Is tort reform and consideration of no-fault back on the national agenda? Will the patient safety movement create momentum on this issue? Recent examinations of the Canadian tort system, including Professor Joan Gilmour's report for Health Canada and discussion papers by the Canadian Medical Protective Association have resulted in the reemergence of this topic on the national and international scene. This session will examine critiques of the tort system from these diverse perspectives, and their practical implications for

medical negligence litigation and the indirect regulation of health care professionals and the institutions in which they work.

Moderated by: Lydia Stewart Ferreira, Ministry of Health and Long-Term Care, Toronto

Speakers:

Professor Joan M. Gilmour, Osgoode Hall Law School, York University, Toronto: Professor Gilmour joined Osgoode Hall Law School's faculty in 1990, after practicing civil litigation and administrative law. She teaches Health Law, Legal Governance of Health Care, Torts and Disability and the Law. She is Director of Osgoode's Master's Program specializing in health care. She recently completed a report, "Patient Safety, Medical Error and Tort Law: An International Comparison" (May 2006), for Health Canada's Health Policy Research Program.

Joseph V. Miller, partner, Weir Bowen LLP, Edmonton: Joe Miller's practice is focused almost exclusively on advising and representing plaintiffs in medical malpractice cases. He has a special interest in birth cases, cases involving injuries to children, and women's issues. He has litigated many medical malpractice cases involving children with cerebral palsy, brachial plexus/erb's palsies, traumatic brain injury due to forceps or vacuum deliveries and injuries arising from intra-uterine growth restriction. Joseph Miller has conducted seminars and delivered a number of presentations on medical malpractice issues for lawyers and doctors, as well as on trial advocacy.

Margaret Ross, partner, Gowling Lafleur Henderson LLP, Ottawa: Ms. Ross is an involved member of numerous associations where she has served in a variety of executive positions, including the Advocates' Society (president 1996-1997); the Ontario Law Reform Commission (commissioner 1986-1992), the County of Carleton Law Association (president 1987), the Medical-Legal Society of Ottawa-Carleton (president 1988), the Canadian Bar Association National Editorial Board (past chair), the Civil Litigation Specialty Committee for the Law Society of Upper Canada Certification Board (member for three years) and the Thomas More Lawyers' Guild of Ottawa (director 1984-1987). In 1992, she was the recipient of the Law Society Medal in recognition of outstanding service in accordance with the highest ideal of the legal profession.



Program

10:30 – 10:45 Refreshment Break

10:45 – 12:15 Disclosure and Adverse Event Reporting

The patient safety movement has brought the issue of disclosure of error to patients, as well as adverse event reporting to others, to the forefront of policy and procedural work in the Canadian health care system. This panel will discuss the legal obligations to disclose errors to patients, including initiatives that are underway across Canada. Privilege (such as that afforded by provincial evidence legislation) and other statutory directives around reporting will also be addressed.

Moderated by: Tracey M. Bailey, Executive Director, Health Law Institute, University of Alberta, Edmonton.

Speakers:

Robert-Jean Chenier, partner, McCarthy Tétrault, Montreal: Robert-Jean Chenier has practiced in all areas of civil litigation and is responsible for the Medical Law sector for his firm's Montreal and Quebec City offices. An expert in the area of health law, Mr. Chenier represents physicians in a wide variety of matters, including professional disciplinary proceedings, civil disputes, internal hospital issues, and criminal proceedings, amongst others. He has been a speaker on various health law issues at numerous conferences and seminars in Quebec.

Robert Roth, partner, Sommers & Roth, Toronto: Robert was called to the Ontario Bar in 1974, and was certified as a Specialist in Civil Litigation by the Law Society of Upper Canada in 1990. His specialized practice in civil litigation has an emphasis in medical malpractice. He is designated by Lexpert in the category of "Most Frequently Recommended" counsel representing plaintiffs in Medical Malpractice actions. Mr. Roth has numerous reported decisions and has contributed to legal education through publication in legal periodicals and participating in, lecturing and teaching numerous seminars and courses.

Michael Watts, partner, Osler, Hoskin & Harcourt, Toronto: Michael is a partner in the Toronto office of Osler, Hoskin & Harcourt LLP and is Co-Chair of the firm's National Health Care Group. Michael's practice focuses on providing legal, regulatory and governance advice to the firm's public and private health care sector clients. Michael provides regulatory opinions and advice to clients in order to ensure that their healthcare initiatives comply with federal and provincial legislation. Michael is involved in negotiating and drafting a wide spectrum of corporate transactions, and has extensive experience in reviewing and updating

health care organizations' by-laws and policies to ensure statutory compliance and adoption of best practices from both a governance and risk management perspective.

Brent Windwick, partner, Field LLP, Edmonton. Brent represents health care organizations and professionals in malpractice litigation, public inquiries and administrative tribunal proceedings and provides strategic, legal and risk management advice on issues including clinical policy and practice, corporate governance, information access and privacy, research regulation, and patient safety. Brent is Chair of the Legal and Regulatory Advisory Committee of the Canadian Patient Safety Institute and its Disclosure Working Group, and is an Adjunct Assistant Professor in the Faculty of Medicine and Dentistry and the Faculty of Pharmacy, University of Alberta. He has been national chair of the Canadian Bar Association Health Law Section, Executive Director of the Health Law Institute, and member of the Privacy Advisory Committee of the Canadian Institutes for Health Research.

12:15 - 1:30 Lunch – Sponsored by Oatley, Vigmond Personal Injury Lawyers LLP

Session III

Medical Malpractice Litigation

1:30 – 4:45 Panel Discussion and Trial Demonstration on Expert Evidence and Causation Issues

Medical malpractice litigation is a highly specialized and challenging area of practice, where expertise, strategy and creativity are crucial. This session will provide a legal update on the law of causation and the use of expert evidence in medical malpractice trials. The panel, consisting of senior plaintiffs' and defence counsel from across the country, will demonstrate the mock cross examination of medical experts. The Honourable Madam Justice Joan L. Lax, of the Ontario Superior Court of Justice, will moderate the panel, and will provide views from the bench on causation, and commentary on the effectiveness of the mock cross examinations. Topics that will be covered include:

- Choosing the right medical expert, including the use of joint experts, selection of experts, and admissibility of expert evidence
- The challenge of cross examination of experts, including a demonstration of the common pitfalls, and the key to success
- Mock direct examination and cross examination of medical experts

- Developments in causation since *Athey v. Leonati*

Moderated by: The Honourable Madam Justice Joan L. Lax, Ontario Superior Court of Justice:

Madam Justice Lax, former Bencher of the Law Society of Upper Canada, was appointed as a judge of the Ontario Superior Court of Justice, in Toronto, in 1996. From 1976 to 1986, she practised general litigation and administrative law with the firm Weir & Foulds in Toronto. Prior to her appointment, Madam Justice Lax was Assistant Dean, Director of Admissions and a special lecturer in trial advocacy at the University of Toronto. She has also served as Vice-Chair of the Worker's Compensation Appeals Tribunal from 1986 to 1990. Since her appointment, Madam Justice Lax has presided over numerous civil actions involving claims of medical malpractice.

Speakers:

Plaintiffs' Counsel:

Annette Lefebvre, sole practitioner, Montreal: Annette Lefebvre is a former R.N. who, for the last sixteen years, has devoted her law practice exclusively to representing Plaintiffs in medical malpractice lawsuits. She has her own law firm in Montreal. Annette Lefebvre has appeared before all levels of court in Quebec, and before the Supreme Court of Canada.

Joseph V. Miller, partner, Weir Bowen LLP, Edmonton: Joseph Miller's practice is focused almost exclusively on advising and representing plaintiffs in medical malpractice cases. He has a special interest in birth cases, cases involving injuries to children, and women's issues. He has litigated many medical malpractice cases involving children with cerebral palsy, brachial plexus/erb's palsies, traumatic brain injury due to forceps or vacuum deliveries and injuries arising from intra-uterine growth restriction. Joseph Miller has conducted seminars and delivered a number of presentations on medical malpractice issues for lawyers and doctors, as well as on trial advocacy.

Roger G. Oatley, partner, Oatley Vigmond LLP, Barrie: Regarded by lawyers in the personal injury field across Canada as one of the country's leading, most successful and effective personal injury lawyers, Roger Oatley's practice is dedicated to personal injury and death claims. He is certified by the Law Society of Upper Canada as a Specialist in Civil Litigation and a frequent speaker and teacher of personal injury advocacy.

Defence Counsel:

William D.T. (Bill) Carter, partner, Borden Ladner Gervais, Toronto: Bill Carter has practised civil litigation since he was called to the bar in 1977. He is general counsel to a number of major public hospitals and pharmaceutical companies. He has taken numerous malpractice cases through trial and appeal. He is a former Bencher of the Law Society of Upper Canada and taught Trial Advocacy at Osgoode Hall Law School for 12 years.

James J. Heelan, Q.C., managing partner (Edmonton), Bennett Jones LLP, Edmonton: James Heelan has extensive litigation experience on matters involving physicians. He has appeared before all levels of Court in Alberta, and numerous health regulatory bodies. He has recently completed a term as Past-Chair of the Canadian Bar Association, National Health Law Section. James Heelan is a Director with the Caritas Health Group. He was appointed Queen's Counsel in 2005. In 2006, *Lexpert* magazine recognized James Heelan as one of Canada's Top 40 Lawyers Under 40.

Christopher E. Hinkson, Q.C., partner, Harper Grey LLP, Vancouver: Chris Hinkson has extensive experience in defending medical professionals, and has appeared as counsel in numerous leading health law cases before the Supreme Court of Canada, including *Arndt v. Smith* (1997, S.C.C.), *ter Neuzen v. Korn*, (1995, S.C.C.), *Novak v. Bond* (1999, S.C.C.), *Smith v. Jones* (1999, S.C.C.), *Krangle v. Brisco* (2003, S.C.C.), *Dr. Q. v. College of Physicians of British Columbia* (2003, S.C.C.), and *A.M. v. Ryan* (1997, S.C.C.). He served as Adjunct Professor, Faculty of Law, UBC (1983-1988), and Clinical Assistant Professor, Faculty of Medicine, UBC (1989-1998). Chris Hinkson was appointed Queen's Counsel in 1990.

4:45 Closing Remarks

Planning Committee: Lonny Rosen, Tracey M. Bailey, Roselle P. Wu, Lisa C. Alleyne, Lydia Stewart Ferreira, Steven T. Robertson, William P. Georgas, Elizabeth L. Corrente, Jasmine Ghosn, Stacey Grubb, Kate A. Crawford, Annette Lefebvre and Shelley Birenbaum.



This program has been accredited by the Specialty Committee(s) of the Law Society of Upper Canada towards the professional development requirement for certification.

Civil Litigation and Health Law 11 hours

For more information please consult the link below to Law Society web page relating to the Certified Specialist Program/CLE Accreditation. www.lsuc.on.ca/services/services_specialist_intro_en.jsp

Registration Form

MEETING VENUE

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HOTEL RESERVATION

Please contact the hotel directly and refer to the **CBA/OBA National Health Law** conference to obtain the preferred rate. Special room rate available until **April 2, 2007**.

TRAVEL

Air Canada is the official carrier for all our CBA meetings. For travel assistance, please call the CBA's travel agent, Algonquin Travel, at 1-866-216-1251 and quote CBA Account # **Q9MU4ZAI**. Discounts will not be available if you call Air Canada direct.

REGISTRATION

Pay by credit card (Visa or MasterCard **only**), or send cheque or money order made payable to the Canadian Bar Association together with this registration form to:

Ann Suurland
CLE Program Coordinator
Canadian Bar Association
865 Carling Ave., Suite 500
Ottawa, ON, K1S 5S8 or
Fax information to 613-237-0185

REFUND POLICY

There will be a 20% administrative charge for any cancellation received in writing prior to **April 2, 2007**. No refund will be given after this date.

There will be no refunds for "no-show" registrants.

INFORMATION

For further information about this program, please contact **Ann Suurland** at the CBA National Office by telephone at **613-237-2925 or 1-800-267-8860 ext. 186**, or by e-mail at ann-maries@cba.org.

We encourage limited use of scented product during the conference in consideration of scent-sensitive participants. Thank you.

For updates on the program, please visit our web-site at www.cba.org/CBA/CLE

PERSONAL INFORMATION CONSENT

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By checking this box , I do not wish my contact information disclosed to the preferred suppliers, sponsors, and exhibitors of this program. I understand that my name will not appear on the delegates list.

2007 NATIONAL HEALTH LAW CONFERENCE

May 3 - 4, 2007 - Delta Chelsea, Toronto, ON

	FEE	GST (6%)	TOTAL
CBA/OBA Members			
<input type="checkbox"/> Full Conference Pass	\$500.00	\$30.00	\$530.00
<input type="checkbox"/> Thursday Pass	\$180.00	\$10.80	\$190.80
<input type="checkbox"/> Friday Pass	\$380.00	\$22.80	\$402.80
Students (CBA/OBA Members)			
<input type="checkbox"/> Full Conference Pass	\$195.00	\$11.70	\$206.70
<input type="checkbox"/> Thursday Pass	\$70.00	\$4.20	\$74.20
<input type="checkbox"/> Friday Pass	\$150.00	\$9.00	\$159.00
Non-Members			
<input type="checkbox"/> Full Conference Pass	\$600.00	\$36.00	\$636.00
<input type="checkbox"/> Thursday Pass	\$230.00	\$13.80	\$243.80
<input type="checkbox"/> Friday Pass	\$480.00	\$28.80	\$508.80

- Yes**, I wish to attend the reception and dinner on Thursday night (all delegates welcome).
- Yes**, I would like to join the CBA now and pay the member fee to attend this program. I understand that a membership representative will be contacting me.
- No**, I cannot attend but would like to purchase the course material. The publication coordinator will contact me after the conference to discuss cost and shipping.

CBA Membership No.

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