

July 7, 2009

New Laws Crush Doctors' Rights – Part 2

In Part 1 of our 2-part series, we revealed that changes to **The Regulated Health Professionals Act (RHPA)**, currently being rolled out, seriously undermine our basic rights as citizens of Ontario.

We understand that behind the actions of the MOHLTC and CPSO rests the concern about public safety. Clearly, protecting members of the public from medical incompetence and errors is vital. It is incumbent on our profession to see that this is done effectively and fairly. However, the fundamental rights of health professionals must not be trampled or disregarded as the goal of improved public safety is achieved. In a civilized society the rights of all individuals, including physicians, must be valued. The right to remain silent, to be presumed innocent until proven guilty and to continue in their employment until proven guilty must be upheld. Consider these examples, which illustrate how criminals will have more rights than doctors under the new laws:

- 1) Criminals have the right to remain silent; health professionals are now required to "cooperate fully" with investigators, who are allowed to observe doctors doing procedures and to interview them, even with a view to gathering evidence to use against them.
- 2) Health professionals can be suspended or have their licence restricted (albeit on a temporary basis) without a hearing and in some circumstances without notice to the doctor. Criminals cannot be legally fired from their jobs because a police investigation is being conducted.
- 3) Past suspensions and discipline committee decisions, as well as current referrals to discipline and even findings of negligence or malpractice are available to anyone who visits a College website or searches the doctor's name on the internet - not even criminals have their history so readily accessible!
- 4) Professionals and facility operators have obligations to report on their colleagues in a wider variety of circumstances - including when they have reasonable grounds to believe that another professional is "incompetent" or "incapacitated". No-one is mandated to report to the police if they believe someone is a criminal! Further, it is unclear how the terms "incompetent" or "incapacitated" are defined leaving them wide open to broad interpretation.
- 5) Health professionals who are the subject of complaints could be required by the new Inquiries, Complaints and Reports Committee to participate in remediation or other courses, without any finding of professional misconduct having been made. That is like the court forcing a suspected drunk driver to attend rehab before any findings of guilt have been made against them!

The legal system of the land has been established keeping in mind the need to protect the rights of the individual. The state must not be allowed to trample the rights of its citizens. Similarly, physician regulatory bodies must not be allowed to run roughshod over the rights of physicians as citizens under the pretense of patient safety when the real reasons may be more politically driven than we are being led to believe.

Please support our actions to bring back fair treatment of Ontario doctors.

- 1) Please support our attached letter to OMA President Dr. Suzanne Strasberg and calling for immediate and definitive action by phone, letter, fax or email (via OMA CEO Mr. Jonathan Guss jonathan.guss@oma.org).
- 2) Please provide us your feedback via the attached form by mail, fax or email to info@cofp.com.
- 3) Family physicians, show your support by joining or renewing with the COFP so we can continue to help you!

Yours truly,

Douglas Mark MD, President
and the Board of the Coalition of Family Physicians of Ontario

Join, renew, give feedback, make political action & legal challenge contributions online at www.cofp.com

Regulated Health Professionals Act (RHPA) Feedback Questionnaire

Part A: Do you support the following actions?

1. The COFP lobby to OMA president Dr. Suzanne Strasberg for action. YES / NO
2. A media campaign to ensure the public is made aware of how Ontario physicians are being treated. YES / NO
3. Job actions. YES / NO

Part B: Please tell us your concerns about the new legislation or your experiences with the CPSO.

Name: _____ City/Town: _____ Fax/Email: _____

Please mail or fax to: (416) 412-7297 or 1-866-495-4349, or email to: info@cofp.com THANK-YOU!

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2009 COFP MEMBERSHIP FORM

New Member Renewal Member Update my information

LAST NAME: _____ FIRST NAME: _____ Member No. _____

ADDRESS: _____

CITY: _____ POSTAL CODE: _____ OMA DISTRICT #: _____

PHONE: (____) _____ EXT: _____ FAX: (____) _____

E-MAIL: _____ I prefer only email correspondence

HOSPITAL AFFILIATION: _____ CURRENT FUNDING MODEL: _____

I am submitting my 2009 Membership Dues: \$200/yr \$75/yr retired (Residents/Students free)

I am making a further Political Action Contribution: \$50 \$100 \$250 \$500 Other \$ _____

I am making a further Legal Challenge Contribution: \$50 \$100 \$250 \$500 Other \$ _____

TOTAL MEMBERSHIP CONTRIBUTION SUBMITTED: \$

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Dedicated to Ontario's Family Physicians and Their Patients

July 7, 2009

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Dear Dr. Strasberg,

We are writing to you with a matter of grave concern. As you are aware, there have been a number of changes to the **The Regulated Health Professionals Act (RHPA)** that have been the topic of 2 recent bulletins from our organization. Many of the legislative changes are not only unpleasant, but are a blatant violation of doctors' basic rights as citizens of Ontario.

We call on you and the OMA to immediately begin lobbying for changes to the RHPA through a transparent process to restore physicians' rights and dignity, as well as the morale of our profession. We would be pleased to assist you in this endeavour.

Yours truly,

Douglas Mark MD, President
and the Board of the Coalition of Family Physicians of Ontario

Attachments: COFP Bulletins "New Laws Crush Doctors' Rights" Parts 1 & 2
CC. Minister of Health