Health Law

The health care industry is marked by unprecedented opportunity, innovation and change—all of which create unique patient care, compliance, transactional and litigation issues. It's essential to have a specialized legal team that understands the industry's complexity and has substantial strategic and practical experience—from the waiting room to the boardroom to the court room.

Our multidisciplinary team of over 100 specialists is Canada's undisputed leader in health care law. We are the only firm serving health care institutions to achieve a Band 1 rating in *Chambers Canada* for Health Care Corporate/Commercial & Regulatory. We provide innovative and effective legal services through our integrated, sector-wide approach.

With an unmatched understanding of what's required to thrive in this increasingly complex and changing industry, our health care team crafts legal strategies that are tailored to our clients' unique needs and objectives.

As part of our full-spectrum support for Canada's health care sector, we provide specialized legal services in fertility law to hospitals, clinics and other health care organizations across the country.

Our team advises on the unique regulatory, clinical and operational issues that arise in fertility care, including compliance with the *Assisted Human Reproduction Act*, clinical risk management, privacy and data protection, and corporate governance. We offer guidance on matters involving assisted human reproductive technologies, embryo creation and use, and surrogacy in Canada, helping clients manage risk, address complex patient questions and meet licensing requirements.

Our clients include:

- hospitals, including academic health sciences centres, specialty children's and psychiatric hospitals, and community and rural hospitals
- community care networks and agencies
- seniors' housing and long-term care facilities
- private health care companies
- pharmacies
- laboratories

We monitor the legal issues and trends that can impact health care, and constantly remain at the forefront of shaping new law. We embrace technology and innovation to improve efficiency and to create value.

We are proven thought leaders on the toughest issues faced by our clients—whose mission is to provide the highest quality health care.

Experience

- Acted in the leading cases of *Steep v. Kingston General Hospital* and *Hospital for Sick Children v. Leone*, in which the court recognized the importance of quality assurance principles applying to documentation generated in the course of quality assurance initiatives at hospitals.
- Advised on province-wide information technology initiatives involving more than 100 hospitals with regards to critical care, emergency department, surgical efficiency, and eMPI, WTIS and PACS services.
- Manages patent portfolios for therapeutic and nutritional technologies generated at a major research-based Toronto hospital. We work with the hospital's technology transfer officers to assess patentability, draft and file patent applications and assess freedom-to-operate based on competing technologies.
- Acted pro bono for an intervener (the Schizophrenia Society of Canada), in its intervention before the Supreme Court of Canada in *Starson v. Swayze* case, which considered the legal test for capacity to consent to treatment in psychiatric care under Ontario's *Health Care Consent Act*. The Court accepted our unique submissions as to the requisite burden of proof on health practitioners, thereby clarifying an important principle of law in a direction favourable to healthcare providers and families.
- Acted as counsel for the successful hospital in the leading Canadian case defining the relationship between the public hospital and an independent practitioner with privileges — *Yepremian v. Scarborough General Hospital*, (1980) 110 D.L.R. (3rd) 513 (Ont. C.A.).
- Advised on responding to adverse events and unexpected outcomes, including investigations and disclosure to patients, residents or family members.
- Represented the Ontario Hospital Association at the Daniel/Dupont Inquest (Windsor, Ontario) and helped ensure a systemic hospital management perspective was brought to the inquest.
- Provided project advice to health care facilities, and project lenders in respect of the financing of major capital projects; an example is The Hospital for Sick Kids Research and Learning Tower.
- Lakeridge Health Corporation and OPSEU (Koscik Arbitration). Labour arbitration before Arbitrator Carrier. Decision issued March 12, 2012. We successfully represented Lakeridge Health Corporation in upholding the discharge of an employee for time theft
- Regularly advise retirement communities and long-term care facilities on the following matters, among others: statutory compliance accreditation regulations and guidelines complaints process and mandatory reporting obligations acts that can only be performed by certain categories of health care professionals ("controlled acts") health and safety risks issues pertaining to leases / tenancies privacy issues such as access to a resident's file by family members advertising and promotions

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

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