Patient Care

The laws surrounding patient care are complex and require expert advice. It's crucial to have a specialized team of advisors and advocates who can provide immediate answers and long-term solutions to regulatory, legal, reputational and human considerations.

We offer advice and advocacy across the spectrum of patient care.

Risk and Incident Management Advice

We respond to clinical situations, including adverse events, to reduce the risk of future litigation. We also make recommendations on policy changes and best practices to reduce risk. We assist our clients with:

- reviews of critical and patient safety events
- quality reviews
- patient and family disclosure

We collaborate with clients to resolve situations with minimal disruption to regular operations.

Patient Privacy and Access to Information

We have extensive experience in health care privacy and access to information, including:

- helping clients, including the Ontario Hospital Association (OHA) and Healthcare Insurance Reciprocal of Canada (HIROC) with submissions on new legislation, including the *Personal Health Information Protection Act* and *Freedom of Information and Protection of Privacy Act*
- drafting and editing privacy toolkits, policies, educational materials and training sessions
- responding to patient requests for access and correction
- responding to complaints to privacy commissioners

We help hospitals and other health care providers respond to privacy breaches, including situations potentially involving thousands of patient records. We develop breach notification and remediation protocols and represent hospitals in privacy breach litigation, including class actions.

Advising on Mental Health and Consent and Capacity

Our lawyers' expertise in mental health and capacity law includes:

- consent to treatment
- substitute decision-making

- involuntary admissions
- transfers between psychiatric facilities
- community treatment orders
- secure treatment orders for youth
- admission to long-term care
- treatment capacity
- end-of-life decision making
- Criminal Code review board proceedings

We represent clients before administrative tribunals, including the Consent and Capacity Board (CCB) and the Ontario Review Board (ORB). We regularly appear before all levels of court and at Coroner's Inquests, representing our clients on mental health and consent and capacity issues.

Who We Serve

We help a range of health care clients, including:

- hospitals, including academic health sciences centres, and community and rural hospitals
- specialty psychiatric facilities
- children's mental health facilities
- community care networks and agencies
- seniors' housing and long-term care facilities
- health care associations
- individual health care professionals

Experience

- 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.
- Routinely represent the interests of forensic psychiatric facilities and health care providers before the Ontario Review Board and the Consent and Capacity Board.
- Provide general legal advice to the senior team and Board of Directors on patient care issues relating to the psychiatric patient population. As examples: hospital policies relating to the duties of the officer or person in charge, compliance with the legislation governing mental health care, privacy legislation, the use of restraints and seclusion, risk management, documentation, quality of care reviews, physician privilege issues and corporate governance.
- Represent psychiatric facilities and children's mental health centres and their staff at Coroner's Inquests and other public inquiries, and in civil litigation defending against claims in relation to suicide attempts, completed suicides, wrongful detention, adverse outcomes after elopements and other psychiatric issues.

- Routinely advise some of the leading providers of mental health services to children and youth, enabling the provision of treatment even in the face of oppositional behaviours, dysfunctional family relationships and scarce resources.

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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