

# New Expanded Duty to Notify the College of Physicians and Surgeons of Ontario

31 août 2016

On August 1, 2016, the legislature significantly expanded a hospital's duty to report to the College of Physicians and Surgeons of Ontario ("CPSO") where there are concerns about a physician's competence, negligence or conduct. The new mandatory reporting obligations in the Public Hospitals Act provide:

Notice to college of disciplinary action against physician

## 33. Where,

1. the application of a physician for appointment or reappointment to a medical staff of a hospital is rejected by reason of his or her incompetence, negligence or misconduct;
2. the privileges of a member of a medical staff of a hospital are restricted or cancelled by reason of his or her incompetence, negligence or misconduct;
3. a physician resigns from a medical staff of a hospital or restricts his or her practice within a hospital and the administrator of the hospital has reasonable grounds to believe that the resignation or restriction, as the case may be, is related to the competence, negligence or conduct of the physician; or
4. a physician resigns from a medical staff of a hospital or restricts his or her practice within a hospital during the course of, or as a result of, an investigation into his or her competence, negligence or conduct,

**the administrator of such hospital shall prepare and forward a detailed report to The College of Physicians and Surgeons of Ontario.**

This amendment is in-line with the legislative evolution in Ontario towards enhanced patient safety and transparency.

The effect of this amendment will be to decrease the scope for discretion on the part of hospital administrators when considering whether or not to report a physician to the CPSO. Historically, there was no express statutory obligation to report to the CPSO, where, for example, a physician voluntarily restricted his/or her practice while a mid-term or other review was unfolding in hospital.

With this new amendment, whenever there is a resignation from staff or a voluntary **restriction in practice (even without formal alteration of a physician's privileges)** related to issues of competence, negligence or conduct, a report is mandatory.

Notably, a report is now mandatory where a physician voluntarily restricts his or her hospital practice pending the results of a review. In order to avoid any unfairness to the physician under investigation, we recommend that reports to the CPSO include enough detail to distinguish between cases where the hospital has insufficient information to come to any conclusion (for example where cases of concern are being investigated but the conclusion remains uncertain) and cases where there is compelling evidence of incompetency, negligence or misconduct.

Although not required by the legislation, we recommend that whenever possible, a physician be given advance notice of any CPSO report, and be copied on the report. **There may be circumstances where the administrator may wish to invite the physician's comments on the draft report before it is finalized.** In the event that a voluntary restriction is being considered, being afforded this opportunity may have a positive influence on the physician's decision.

**There is statutory immunity under the Public Hospitals Act for certain individuals** (including a member of a committee of the medical staff) in respect of good faith reports to the CPSO.

**The Public Hospitals Act is only one source of a hospital's reporting obligations. There are also new parallel reporting obligations in the Regulated Health Professions Act for facilities and employers in respect of a member of any regulated health profession.**

For more advice about reporting duties relating to physician competency or capacity, **please contact:**

**Par**

[Kate Crawford, Daniel Girlando](#)

**Services**

[Droit de la santé, Ressources humaines et relations de travail, Soins de santé et sciences de la vie](#)

## BLG | Vos avocats au Canada

Borden Ladner Gervais S.E.N.C.R.L., S.R.L. (BLG) est le plus grand cabinet d'avocats canadien véritablement multiservices. À ce titre, il offre des conseils juridiques pratiques à des clients d'ici et d'ailleurs dans plus de domaines et de secteurs que tout autre cabinet canadien. Comptant plus de 725 avocats, agents de propriété intellectuelle et autres professionnels, BLG répond aux besoins juridiques d'entreprises et d'institutions au pays comme à l'étranger pour ce qui touche les fusions et acquisitions, les marchés financiers, les différends et le financement ou encore l'enregistrement de brevets et de marques de commerce.

[blg.com](http://blg.com)

### Bureaux BLG

#### Calgary

Centennial Place, East Tower  
520 3rd Avenue S.W.  
Calgary, AB, Canada  
T2P 0R3

T 403.232.9500  
F 403.266.1395

#### Ottawa

World Exchange Plaza  
100 Queen Street  
Ottawa, ON, Canada  
K1P 1J9

T 613.237.5160  
F 613.230.8842

#### Vancouver

1200 Waterfront Centre  
200 Burrard Street  
Vancouver, BC, Canada  
V7X 1T2

T 604.687.5744  
F 604.687.1415

#### Montréal

1000, rue De La Gauchetière Ouest  
Suite 900  
Montréal, QC, Canada  
H3B 5H4

T 514.954.2555  
F 514.879.9015

#### Toronto

Bay Adelaide Centre, East Tower  
22 Adelaide Street West  
Toronto, ON, Canada  
M5H 4E3

T 416.367.6000  
F 416.367.6749

Les présents renseignements sont de nature générale et ne sauraient constituer un avis juridique, ni un énoncé complet de la législation pertinente, ni un avis sur un quelconque sujet. Personne ne devrait agir ou s'abstenir d'agir sur la foi de ceux-ci sans procéder à un examen approfondi du droit après avoir soupesé les faits d'une situation précise. Nous vous recommandons de consulter votre conseiller juridique si vous avez des questions ou des préoccupations particulières. BLG ne garantit aucunement que la teneur de cette publication est exacte, à jour ou complète. Aucune partie de cette publication ne peut être reproduite sans l'autorisation écrite de Borden Ladner Gervais S.E.N.C.R.L., S.R.L. Si BLG vous a envoyé cette publication et que vous ne souhaitez plus la recevoir, vous pouvez demander à faire supprimer vos coordonnées de nos listes d'envoi en communiquant avec nous par courriel à [desabonnement@blg.com](mailto:desabonnement@blg.com) ou en modifiant vos préférences d'abonnement dans [blg.com/fr/about-us/subscribe](http://blg.com/fr/about-us/subscribe). Si vous pensez avoir reçu le présent message par erreur, veuillez nous écrire à [communications@blg.com](mailto:communications@blg.com). Pour consulter la politique de confidentialité de BLG relativement aux publications, rendez-vous sur [blg.com/fr/ProtectionDesRenseignementsPersonnels](http://blg.com/fr/ProtectionDesRenseignementsPersonnels).

© 2025 Borden Ladner Gervais S.E.N.C.R.L., S.R.L. Borden Ladner Gervais est une société à responsabilité limitée de l'Ontario.