

# 2015 NATIONAL HEALTH LAW SUMMIT



MAY 21-22, 2015 | RIMROCK RESORT HOTEL | BANFF, AB

## WEDNESDAY, MAY 20, 2015

### 6:30 – 9:30 Welcome Reception

Join us for a drink and appetizers at the Divas Lounge in the Rimrock Hotel!

## THURSDAY, MAY 21, 2015

### 8:30 – 9:00 Registration & Breakfast

### 9:00 – 9:05 Conference Co-Chairs Opening Remarks

L. Martina Munden, *Partner, Patterson Law (Truro, NS)*

Michael Waite, *Partner, Stones Carbert Waite LLP (Calgary, AB)*

### 9:05 – 10:35 **Angst and Uncertainty in Health Care Decision-Making: the Challenges of Legal and Medical Practice Post-Rasouli**

Critical care decision-making in the aftermath of the *Rasouli* decision has never been more challenging. Gain practical insights from our experienced, interdisciplinary panelists who will examine how to balance the tensions between law and medicine. Using realistic scenarios, our distinguished experts will debate the challenges faced by patients (and their families), health providers and lawyers when disputes regarding critical care decisions arise. Learn how to navigate these emotionally charged cases professionally and compassionately. Explore the difficult ethical questions for lawyers and/or health care providers such as:

- What are your obligations representing families of patients when the “best interests” of the patient are in dispute?
- What to do when representing or treating patients who have diminished or questionable capacity?
- How do you uphold your ethical obligations representing families or health care providers where prior advanced directives may not be in line with the medical best interests of the patient?
- What are your professional obligations where symptom management in end of life cases may hasten death?

Moderators: Tracey Bailey, *General Counsel, Health Law, Alberta Justice/Alberta Health, Government of Alberta*  
Michael Waite, *Partner, Stones Carbert Waite LLP (Calgary, AB)*

Panelists: Dr. Christopher Doig, *University of Calgary*  
Dr. Brian Cuthbertson, *Sunnybrook Health Sciences Centre*

**10:35 – 10:50 Refreshment Break**

**10:50 – 12:15 A New Era for Experts?**

It is the critical component of your medical negligence case. But, in the wake of recent and controversial changes in the courts' expectations of counsel and experts when introducing expert evidence, consideration must be given to whether your expert witness is sufficiently objective. At what point does a treating physician cease to be a fact witness and become an expert? Learn the strategies for getting the most out of expert medical evidence and ask our panel about:

- Professional obligations with respect to the objectivity of experts, including *Moore v. Getahun*;
- Procedural changes designed to increase the efficiency and effectiveness of expert evidence – pre-trial hot tubbing of experts and testifying as a panel;
- Understanding the court's role as gatekeeper against "junk science"; and
- Unique issues arising in the context of independent medical examinations.

Moderator: Robert Sheahan, *Partner, Gowlings (Ottawa, ON)*

Panelist: The Honourable N.C. Wittmann, *Chief Justice of the Alberta Court of Queen's Bench*  
Tom Curry, *Partner, Lenczner Slaght (Toronto, ON)*  
Susanne Raab, *Partner, Pacific Medical Law (Vancouver, BC)*

**12:15 - 13:15 Luncheon and Guest Speaker: Daniel Boivin, Gowlings**

**What's Next for Assisted Dying Following the Supreme Court Decision in Carter and the passage of Bill 52 in Quebec?**

**13:15– 15:00 Where Obstetrics and the Law Meet: Standard of Care & Causation**

Obstetrical malpractice cases are the apex where law and medicine collide. This inter-disciplinary panel will provide the medical and legal guidance you need for the complex issues in complicated deliveries, and you'll gain practical knowledge about standards of care and causation.

- Is there a right way to deliver a shoulder dystocia?
- Risk management and ultrasound in obstetrics
- Can cooling a neonate reduce the effects of hypoxic ischemic injury?
- What do you need to know about neonatal stroke?

- Causation – the latest trend

Moderator: Kimberly J. Jakeman, *Partner, Harper Grey LLP (Vancouver, BC)*

Panelists: Dr. Brian Hauck, *Obstetrician & Gynecologist (Calgary, AB)*  
Dr. Sharon Caughey, MD FRCSC, *Medical Officer, CMPA (Ottawa, ON)*  
Dr. Ernest Phillipos, *Associate Clinical Prof/NICU Pediatrics, University of Alberta (Edmonton, AB)*  
Dr. Adam Kirton, *Associate Professor, Paediatrics and Clinical Neurosciences; Attending Paediatric Neurologist, Alberta Children's Hospital; Director, Calgary Paediatric Stroke Program (Calgary, AB)*  
Guy Brown, *Partner, Harper Grey LLP (Vancouver, BC)*

#### **15:00 – 15:15 REFRESHMENT BREAK**

#### **15:15 – 17:00 Damages: Practical Guidance and Macro-Economic Analysis in Medical Malpractice Awards**

Damages in medical malpractice cases are a uniquely complex mixture of legal, medical and economic principals in our publicly-funded health care system. This practical session is all about the art and science of damage claims with a very human context. Our experts will take you through the “big picture” macro-economic analysis and the “nuts and bolts” of the issues including:

- management fees and structured settlements;
- cost of care calculations;
- loss of earnings;
- family compensation claims;
- the new frontier of breach of privacy claims.

Join in a vibrant discussion as we look at various fact scenarios and have our panelists discuss all sides of the damages claims in each case.

Moderators: Andrew Brine, *Associate, Harper Grey LLP (Vancouver, BC)*

Panelists: Brian Devlin, QC, *Partner, O'Brien, Devlin and Macleod (Calgary, AB)*  
Jonathan P. Rossall, QC, *Partner, McLennan Ross LLP (Edmonton, AB)*  
Mark Gosling, *Columbia Pacific Consulting (Vancouver, BC)*  
Dr. Jordan Brooks, *Life Expectancy Project (San Francisco, CA)*  
Lance S.G. Finch, QC (Hon.), *Guild Yule LLP (Vancouver, BC)*

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#### **THURSDAY NIGHT NETWORKING RECEPTION & DINNER**

*\*PRE-REGISTRATION REQUIRED*

The Bison Restaurant & Terrace | 6:30 – 9:00 p.m.

211 Bear Street, Banff, AB  
<http://www.thebison.ca/>

**FRIDAY, MAY 22, 2015**

**8:00 – 8:30 REGISTRATION & BREAKFAST**

**8:30 – 10:00 Lessons Learned: Case Studies on Healthcare System Reforms**

It's the "perfect storm" in the Canadian healthcare system. How do governments manage rising healthcare costs and an aging demographic in a publicly funded system? Our panel will explore the research on health care system reform and tackle the difficult choices to be made in providing healthcare to all. Two provinces have already made some hard choices. This is your opportunity to hear from the experts on the approaches taken to restructure the health care delivery systems in Nova Scotia and Alberta. Join in the debate about the future of healthcare in Canada and benefit from the "lessons learned" in other provinces as the panel addresses the tough questions about healthcare system reforms including:

- What are the intended benefits of restructuring?
- What are the indicators of success?
- Were there unexpected impediments to achieving reform?
- How to avoid the pitfalls in healthcare delivery in both the transition to and post-reform?
- When do you know whether the sought after benefits are being realized?
- And much more!

Moderators: L. Martina Munden, *Partner, Patterson Law (Truro, NS)*  
Michael Waite, *Partner, Stones Carbert Waite LLP (Calgary, AB)*

Panelists: Dr. Peter W. Vaughan, *Deputy Minister of Nova Scotia Department of Health and Wellness (Halifax, NS)*  
Dr. Chris Eagle, *former Chief Executive Officer and President of Alberta Health Services, (Calgary, AB)*

**10:00 – 10:15 BREAK**

**10:15 – 11:45 Public Health Care & Private Health Matters – Protecting Patient Privacy in the Digital Era**

How safe is your personal health information? Patient privacy is sacrosanct. But what if you're wearing information about your health? Or your paper files are abandoned, improperly secured or destroyed? Say you're a mayor of a large metropolitan city and someone snoops through your hospital records? This panel is a timely discussion about your private health data in an era of rapid technological threats to privacy. Our experts will bring you up-to-date on the latest advances about:

- Wearable and mobile health devices and user-generated health data – who owns it?;
- Developments in electronic health care records – the Canada Health Infoway ;
- Non-consented disclosure of personal health information for secondary purposes – the new tort of "intrusion upon seclusion";
- Personal Health Information Legislative update;

- And more!

Moderators: J. Danie Roy, *Associate, Actus Law, (Moncton, NB)*  
L. Martina Munden, *Partner, Patterson Law (Truro, NS)*

Panelists: Brian Hamilton, *Director Compliance and Special Investigations, Office of the Information and Privacy Commissioner Office of Alberta (Edmonton, AB)*  
David Fraser, *Partner, McInnes Cooper (Halifax, NS)*

**11:45 – 12:00 Closing Remarks**

L. Martina Munden, *Partner, Patterson Law (Truro, NS)*  
Michael Waite, *Partner, Stones Carbert Waite LLP (Calgary, AB)*

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