

The new statutory scheme will soon be implemented. Are you prepared?

# Effective Legal Risk Management for Long-Term Care Homes

In one information-packed day, get practical advice on the key legal risks and challenges facing long-term care homes in 2010, together with an assessment of the likely impact of the impending new statutory scheme. Topics include:

- Expert panel discussion on the impact of the new statutory regime: key issues with compliance and enforcement for long-term care homes
- Transferring a patient from hospital to a long-term care home: what are the legal rules?
- The latest on consent, capacity and substitute decision making
- Plans of care and residents' rights
- Minimizing the use of restraints, detention and locked units
- Preventing abuse in the facility
- Preparing effectively for Ontario's new workplace violence legislation: what this means for long-term care homes

## Plus! Optional Post-Conference Workshops

**A. Coroners Investigations and Inquests: Understanding Your Legal Rights and Obligations**

**B. Ministry of Labour Workplace Inspections: Compliance, Inspection and Enforcement**

## Chair

Joshua Liswood, Miller Thomson LLP



## DATE & TIME

Monday, April 12, 2010  
8:30 a.m. - 4:30 p.m. EDT/EST

## OPTIONAL WORKSHOPS

Tuesday, April 13, 2010  
9:00 a.m. - 12:00 p.m. &  
1:00 p.m. - 4:00 p.m.

## LOCATION

Osgoode Professional  
Development Centre  
1 Dundas St. W., 26th Floor  
Toronto, ON

Conference  
Webcast  
Available

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# Effective Legal Risk Management for Long-Term Care Homes

**Owners, operators and employees in long-term care homes are under the microscope more than ever before...**

*“Every administrator, director of care and Board member should participate in this timely and worthwhile conference. Please offer this again”*

**Karen Bajinski, St. Lawrence Lodge, Brockville Ontario (2009)**

**W**ith the new statutory regime imminent, the focus on long-term care homes will be greater than ever. Those who operate, manage or work in long-term care homes, as well as the residents of those homes, and their rights’ advisors, must get to grips with the new provincial standards and compliance issues that will govern long-term care homes.

When it comes to sources of liability, the list seems endless: the perennial problems posed by the rules governing transferring a patient from a hospital to a long-term care facility; consent and capacity issues; slip and falls; and negligence and patient abuse remain. In addition, there are a host of new concerns, including the impact of dealing with workplace violence and harassment under Bill 168, and the challenges posed in addressing quality and risk in a long-term care setting.

In one information-packed day, this *Osgoode Professional Development* program was designed to provide you with critical information on the very latest legal issues facing long-term care homes in 2010. An expert faculty of lawyers from both the private sector and government, together with patient rights’ advocates, risk managers and long-term care home chief executives, will give you the practical skills and knowledge that you’ll need to competently and confidently handle day-to-day and extraordinary legal issues. Topics covered include:

- Consent to treatment: when can consent be withdrawn?
- Implementing effective awareness, education and training programs to prevent abuse in long-term care homes
- Defining and dealing with “workplace harassment” and “workplace violence”
- Addressing quality and risk in a long-term care facility
- Compliance issues: sanctions and enforcement
- Panel discussion: the new statutory regime and its likely impact on long-term care homes

**Register now by visiting [www.osgoodepd.ca](http://www.osgoodepd.ca), calling 416.597.9724 or 1.888.923.3394, emailing [opd-registration@osgoode.yorku.ca](mailto:opd-registration@osgoode.yorku.ca) or faxing 416.597.9736.**

## Chair

**Joshua Liswood, Miller Thomson LLP**

## Faculty

**Bill Dillane, President**  
Responsive Health Management Inc.

**Joanne Dykeman, Vice President Clinical Services**  
and Program Development, Revera Inc.

**Mary Jane Dykeman**  
Dykeman Dewhirst O’Brien LLP

**Karin Fairchild, Business Lead**  
Compliance Transformation Project  
Ministry of Health & Long-Term Care

**Joe Ferraro, Counsel, Ministry of Labour (Ontario)**

**Kathryn M. Frelick, Miller Thomson LLP**

**Dr. William J. Lucas, Regional Supervising Coroner**  
for Central Region, Brampton Office

**Jane E. Meadus, Staff Lawyer, Institutional Advocate**  
Advocacy Centre for the Elderly

**Pat Morden, Chief Executive Coach**  
Shalom Village (Hamilton)

**Jane Sager, Team Lead (Acting)**  
Long-Term Care Homes Act Regulation Project  
Ministry of Health & Long-Term Care

**Paula Schipper, Director, Legal Affairs**  
Baycrest Centre for Geriatric Care

**Tom Schneider, Counsel, Ministry of Labour (Ontario)**

**Karen Slater, Senior Manager, Compliance &**  
Enforcement, Ministry of Health & Long-Term Care

**Shane Smith, Miller Thomson LLP**

# Agenda

Monday, April 12, 2010

## 8:00 Registration and Continental Breakfast

## 8:30 Welcome and Introduction from the Chair

## 8:35 Provincial Standards and Compliance Issues: Life Under the New Regime

**Joshua Liswood, Miller Thomson LLP**

**Karen Slater, Senior Manager  
Compliance & Enforcement, Ministry of  
Health & Long-Term Care**

**Karin Fairchild, Business Lead, Compliance  
Transformation Project, Ministry of Health  
& Long-Term Care**

- Overview of the *Long-Term Care Homes Act* – the key features
- The latest information on the redesign of the inspection process for long-term care homes in Ontario
- How does the inspection process align with the new *Long-Term Care Homes Act* and the accompanying regulations?
- What does this new regime mean for homes and residents in Ontario
- Duties of directors and officers of long-term care homes – board and officer liability

## 10:00 Consent, Capacity and Substitute Decision Making

**Kathryn M. Frelick, Miller Thomson LLP**

- Transferring from hospital to a long-term care facility: problems and pitfalls
- Consent to treatment: when can consent be withdrawn?
- Mental capacity: who determines if a patient in a long-term care facility is mentally incapable of making a decision regarding their property or their personal care?
- Can a person who is about to be admitted to a long-term care facility be required by the facility to execute a Power of Attorney as a condition for admission?
- Powers of Attorney for personal care
- Prior expressed wishes of the patient: what weight do they carry?
- Substitute decision makers, what's the ranking order?
- What factors are taken into account to determine a patient's best interests?

## 10:45 Refreshment Break

## 11:00 Living in a Long-Term Care Facility and Residents' Rights

**Jane E. Meadus, Staff Lawyer, Institutional Advocate, Advocacy Centre for the Elderly**

**Pat Morden, Chief Executive Coach, Shalom Village (Hamilton)**

In this session, Jane E. Meadus and Pat Morden will bring their considerable experience and expertise to bear and will explore the issue of residents' rights in a long-term care setting.

## 12:00 Minimizing of Restraining: Use of Restraints, Detention and Locked Units

**Paula Schipper, Director, Legal Affairs, Baycrest Centre for Geriatric Care**

- Relevant legislation governing the use of restraints in long-term care facilities
- Restraints and informed consent
- Liability of the facility for false imprisonment, assault and battery and/or negligence
- Challenging the use of restraints using the *Charter of Rights and Freedoms*

## 12:30 Luncheon

## 1:15 Preventing Abuse in Long Term Care Settings

**Mary Jane Dykeman, Dykeman Dewhirst O'Brien LLP**

- The scope of the problem of abuse
- Civil actions/liability issues
- Impact on residents and employees of long-term care homes
- Management and employee responsibilities
- Effective risk management – implementing effective awareness, education and training programs

## 2:00 Addressing Quality and Risk in the Long-Term Care Facility

**Bill Dillane, President, Responsive Health Management Inc.**

In his capacity as President of Responsive Health Management Inc., Mr. Dillane oversees the operations of three long-term care homes in Toronto. He has focused entirely on health care management for over 30 years and he is the past President, Board of Directors of the Ontario Long Term Care Association (OLTCA). In this session, Mr. Dillane focuses on the key issues in addressing risk and quality in long-term care facilities.

## Agenda

### 2:45 Preparing Effectively for Ontario's New Workplace Violence Legislation: Bill 168 and Its Likely Impact for Long-Term Care Homes

Shane Smith, Miller Thomson LLP

- The key elements of Bill 168
- What are the legal duties of employers, officers, supervisors and directors to manage workplace violence?
- Defining "workplace harassment" and "workplace violence"
- Preparing a workplace violence assessment
- Dealing with refusals to work relating to violence and harassment
- Tips and tools for developing comprehensive policies for dealing with workplace violence and harassment

### 3:30 Refreshment Break

### 3:45 Panel Discussion The New Statutory Regime and Its Likely Impact on Long-Term Care Homes: Food for Thought for Owners, Operators, Employees and Residents

**Moderator**

Joshua Liswood, Miller Thomson LLP

**Panellists**

Joanne Dykeman, Vice President Clinical Services and Program Development, Revera Inc.

Pat Morden, Chief Executive Coach, Shalom Village (Hamilton)

Jane E. Meadus, Staff Lawyer, Institutional Advocate, Advocacy Centre for the Elderly

Jane Sager, Team Leader (Acting), Long-Term Care Homes Act Regulation Project, Ministry of Health & Long-Term Care

### 4:30 Closing Address; Program Concludes

***"The program was excellent & rich in content!"***

**Pam Hamilton, Providence Care Mental Health Services (2009)**

## Workshop A

### ***Coroners Investigations and Inquests: Understanding Your Legal Rights and Obligations***

**Tuesday, April 13, 2010 9:00 a.m. - 12:00 p.m.**

**Dr. William J. Lucas, Regional Supervising Coroner for Central Region, Brampton Office**

**Tom Schneider, Counsel, Ministry of Labour (Ontario)**

When does a coroner investigate a death? What is the role of the coroner during an investigation? What should you do when questioned during an investigation? Is it necessary to respond to requests for information? How is an inquest conducted? What are your rights and responsibilities as a witness? Who has standing at the inquest? What impact will the coroner's findings have on any subsequent criminal or civil proceedings? What is the effect of a jury's verdict and recommendations?

All these questions are important for long-term care facilities whose staff and representatives may find themselves involved in a coroner's investigation and inquest following the death of a resident.

By attending this optional half-day workshop, you will learn about the key legal issues as they apply to your facility. Tom Schneider, an experienced lawyer will help guide you through the legal maze. Plus don't miss the coroner's perspective of the process, given by Dr. William J. Lucas.

- Purpose of inquests
- The *Coroners Act*
- Who notifies the coroner about a death?
- When does the coroner investigate a death?
- What does the investigation entail: the five questions
- Responding to the coroner's requests for information
- What are the coroner's powers in investigating a death?
- When is an inquest called? Who may request an inquest?
- Mandatory inquests
- Discretionary inquests
- Who can participate in an inquest?
- Effectively advising staff who are called as witnesses to a coroner's inquest
- How is an inquest conducted - the inquest process explained
- Witness summons
- The role of the jury
- The jury's verdict and recommendations
- Dealing with the media

Dr. Lucas is currently the Regional Supervising Coroner for Central Region where he oversees approximately 2100 death investigations annually, carried out by 28 investigating coroners. Dr. Lucas was appointed as an investigating coroner in 1991, and became a full-time Regional Supervisor in 1996.

## Agenda

His postings have included Niagara Region, City of Toronto, Metro West (including Peel Region) and now Central Region. Dr. Lucas has at various times acted as Associate Deputy Chief Coroner for the Province, and has presided over 46 inquests that have reviewed a wide variety of circumstances including work-related and construction fatalities, deaths while in police custody, and medical care/treatment issues. He regularly consults with police and convenes case conferences on complex and suspicious death investigations, including homicides.

**Tom Schneider**, of the Ministry of the Attorney General of Ontario, currently practises in the areas of criminal law and administrative law at both the trial and appellate levels. Upon entry to McGill Law School in 1985, Mr. Schneider was awarded the James McGill Award for academic excellence. He graduated with honours in 1989, with both LLB and BCL degrees. While in Montreal, he served as a law clerk for a judge of the Superior Court of Quebec, was called to the Quebec Bar and worked for a time at McCarthy Tétrault. After arriving in Toronto in 1991, Mr. Schneider acted as Duty Counsel at Old City Hall in Toronto and, in 1993, became an Assistant Crown Attorney with the Ministry of the Attorney General of Ontario. Between 2000 and 2003, Mr. Schneider served as Counsel to the Chief Coroner of Ontario. Mr. Schneider graduated from Osgoode Hall Law School in 2008 with an LL.M. in Criminal Law.

### Workshop B

#### ***Ministry of Labour Workplace Inspections: Compliance, Inspection and Enforcement***

**Tuesday, April 13, 2010 1:00 p.m. - 4:00 p.m.**

#### **Joe Ferraro, Counsel, Ministry of Labour (Ontario)**

Ontario recently created a new permanently funded team of specialists to help improve workplace safety of health care workers in the province. Health care workplaces face many hazards that are unique to this sector. This session will highlight what you need to know to help enforce compliance with health and safety legislation, and to effectively respond to the challenges out there.

- Overview of occupational health and safety system in Ontario
- The *OHSA* and its regulations: an overview
- How are long-term care homes selected for a Ministry of Labour (MOL) inspection?
- MOL's Health Care Unit
- Inspection powers
- What are the common hazards that MOL inspectors look for?
- What are the most common infractions?

- Compliance options: what actions can the MOL take if a long-term care home is in breach of health and safety regulations?
- Developing the right workplace culture – the importance of an across the board commitment to health and safety
- Tips and tools to prepare properly and effectively for an inspection

**Joe Ferraro** graduated from Osgoode Hall Law School in 2001 and was called to the bar in 2002. He articulated with the Ministry of Labour Legal Services Branch and has been counsel with the branch since his call. His practice includes prosecutions and appellate work for offences under the *Occupational Health and Safety Act* and representing the Ministry of Labour on appeals of administrative orders at the Ontario Labour Relations Board. He provides advice to the Ministry on policy and legislative projects. His practice includes a special focus on occupational health and safety in the health care sector often working closely with the Ministry of Health and Long-Term Care.

## Who Should Attend

- **Managers, Administrators and Operators in Long-Term Care Homes**
- **Directors of Patient Care**
- **Nurse Educators**
- **Nurses**
- **Physicians**
- **Risk Managers**
- **Personal Support Workers**
- **Social Workers**
- **Government Regulators**
- **Government Lawyers**
- **In-house Counsel**
- **Patient Care Advocates**
- **Health Law Practitioners**

# Registration

Do you have the knowledge and skills you need to reduce risk?

Register me for:  Long-Term Care Homes  Conference  Workshop A  Workshop B  
I will attend:  On site  Via webcast - single viewer (conference only)  
 I am unable to attend. Please send me information about ordering program materials.

Name: \_\_\_\_\_ Position: \_\_\_\_\_  
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## Fee Per Delegate

Conference only: \$475 plus 5% GST for a total of \$498.75; Conference plus one workshop: \$675 plus 5% GST for a total of \$708.75; Conference plus two workshops: \$875 plus 5% GST for a total of \$918.75; Workshop only: \$300 plus 5% GST for a total of \$315. Fees include attendance, program materials, continental breakfast, lunch (conference only), and break refreshments. Please inquire about financial assistance. Group discounts are available for both on site and webcast participants. Visit [www.osgoodepd.ca](http://www.osgoodepd.ca) for details. OPD Searchable e-Binder now available! Contact us for more information.

## CLE Credits

Approved in accordance with the requirements of the LSUC (pending), Barreaux du Québec, BC CPD and the NY CLE Board (for transitional and non-transitional lawyers). Note: NY CLE Credits are not available for webcast participants. BC CPD webcast participants must contact us for further information.

## Payment Options

- Cheque enclosed (payable to York University – GST# R119306736)
- Bill my credit card:  VISA  Mastercard

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## Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

## Dates & Times

Monday, April 12, 2010 – 8:30 a.m. - 4:30 p.m. EDT/EST  
Optional Workshops: Tuesday, April 13, 2010  
Workshops A: 9:00 a.m. - 12:00 p.m.; Workshop B: 1:00 p.m. - 4:00 p.m.  
Please arrive a half hour early at the conference for sign-in and material pick-up.  
Dress is business casual.

## Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute a full refund (less \$50 administration fee) is available if a cancellation request is received in writing 14 days prior to the program date. No other refund is available.

## Location

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Downtown Toronto Conference Centre  
1 Dundas Street W., 26th Floor  
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