Professional Liability and Regulation

Lenczner Slaght has one of the leading professional liability practices in Canada, representing clients in diverse fields across a broad landscape of regulatory, civil and quasi-criminal matters.

We defend professionals before disciplinary and regulatory tribunals and in all levels of the courts across the country. We also prosecute professional disciplinary cases for many regulatory colleges and governing bodies. In addition, we act as general counsel to several of those bodies, providing strategic advice, policy recommendations and counsel on drafting regulatory frameworks with regard to professional registration, fitness to practise, the handling of complaints and discipline.

Our Professional Clients

Lenczner Slaght's clients in the professional liability arena include a number of Ontario's regulated health profession colleges, along with several provincial law societies and various other bodies.

Our professional liability experience covers includes a wide range of disciplines, including:

- accountants/auditors
- architects
- dentists
- engineers
- lawyers
- actuaries
- investment advisors
- massage therapists
- nurses and nurse practitioners
- opticians
- physicians and surgeons
- psychologists

Through our frequent role as general counsel we have gained
unique insight into the current and emerging issues facing Canada's professions. This first-hand knowledge brings unmatched relevance to our strategic perspectives and practical advice.

The Bigger Picture

The working environment is changing dramatically for professionals and their governing bodies across the country. As public scrutiny of self-regulating professions grows more intense, governmental oversight is evolving in step. For many professionals, the regulatory regime in which they practise – and the potential consequences of disciplinary or other proceedings – can have a profound impact on their careers.

The impact of professional liability issues is equally significant for governing bodies, as they strive to balance the autonomy of the professions they serve with demands from government and the public for greater accountability, oversight and discipline.

Within this context, Lenczner Slaght is uniquely positioned to advise key stakeholders in all of Canada's professions. We work every day on the front lines of professional regulation and liability – in the boardroom, in the hearing room and, when necessary, in the courtroom.

RECOGNITION

▶ Best Lawyers (2018)
  Health Care Law

▶ Best Lawyers (2018)
  Health Care Law, Medical Negligence

▶ Benchmark Canada (2012-2015)
  Local Litigation Star - General Commercial, Professional Liability and Regulations, Securities

▶ Benchmark Canada (2012-2017)
  Top 50 Trial Lawyer in Canada and Litigation Star - Arbitration, Class Action, General Commercial, Intellectual Property and Professional Liability

▶ Benchmark Canada (2012-2017)
  Top 50 Trial Lawyer in Canada and Litigation Star - Competition, General Commercial, Insolvency, Professional Liability and Securities

▶ Benchmark Canada (2015-2017)
  Future Star - General Commercial and Professional Liability

▶ Best Lawyers (2006-2018)
  Administrative & Public Law, Appellate Practice, Bet-the-Company Litigation, Class Action Litigation, Corporate & Commercial Litigation, Health Care Law, Legal Malpractice, Medical Negligence, Personal Injury Litigation
Best Lawyers (2006-2018)
Appellate Practice, Bet-the-Company Litigation, Class Action Litigation, Corporate & Commercial Litigation, Director & Officer Liability, Health Care Law, Insolvency & Financial Restructuring, Legal Malpractice, Securities

Best Lawyers (2006-2018)
Bet-the-Company Litigation, Class Action Litigation, Corporate & Commercial Litigation, Director & Officer Liability, International Arbitration, Legal Malpractice, Securities

Best Lawyers (2006-2018)
Alternative Dispute Resolution, Appellate Practice, Bet-the-Company Litigation, Class Action Litigation, Corporate & Commercial Litigation, Director & Officer Liability, Intellectual Property, Legal Malpractice, Personal Injury Litigation, Product Liability, Securities

Best Lawyers (2013-2018)
Corporate & Commercial Litigation, Health Care Law, Medical Negligence

Best Lawyers (2014, 2014)
Appellate Practice, Health Care Law, Medical Negligence

Best Lawyers (2014-2018)
Corporate & Commercial Litigation, Health Care Law, Medical Negligence

Best Lawyers (2014-2018)
Health Care Law, Medical Negligence

Best Lawyers (2014-2018)
Corporate & Commercial Litigation, Health Care Law, Medical Negligence

Best Lawyers (2014-2018)
Corporate & Commercial Litigation, Health Care Law, Medical Negligence

Best Lawyers (2014-2018)
Health Care Law, Medical Negligence

Best Lawyers (2015)
Toronto "Lawyer of the Year" in Health Care Law

Best Lawyers (2016)
Toronto "Lawyer of the Year" in Medical Negligence

Medical Negligence, Professional Liability

Class Actions, Commercial Arbitration, Litigation - Corporate Commercial, Litigation - Directors' & Officers' Liability, Litigation - Securities, Professional Liability

Class Actions, Commercial Arbitration, Litigation - Corporate Commercial, Litigation - Directors' & Officers' Liability, Litigation - Product Liability, Litigation - Public Law, Litigation - Securities, Medical Negligence, Professional Liability

Class Actions, Insolvency & Financial Restructuring, Litigation - Corporate Commercial, Litigation - Directors' & Officers' Liability, Litigation - Securities, Medical Negligence, Professional Liability

Class Actions, Litigation - Corporate Commercial, Litigation - Directors' & Officers' Liability, Litigation - Public Law, Litigation - Securities, Medical Negligence, Professional Liability

Litigation - Corporate Commercial, Litigation - Directors' & Officers' Liability, Litigation - Securities, Professional Liability
SELECT CASES

ES v Joannou – Counsel to a psychiatrist in an appeal raising the novel issue of the jurisdiction of the Consent and Capacity Board to grant remedies under the Charter of Rights and Freedoms. Successfully responded to the appeal.

Piett v Global Learning Group Inc – Counsel to a defendant law firm in a proposed class proceeding in Saskatchewan relating to a tax donation program alleging professional negligence.

Breton v Fairley – Counsel to the successful defendant physician in a medical negligence trial relating to the performance of a laparoscopy and vaginal resection.

Hantzakos v Sternadel – Counsel to the defendant physician in a jury trial regarding the quantum of damages in a medical negligence relating to the management of shoulder dystocia.

Rayner v McManus – Counsel to a physician in a proceeding alleging liability to a non-patient in respect of statements made by the physician to another individual.

College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario v Federation of Ontario Traditional Chinese Medicine Association – Counsel to the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario in an application and subsequent appeal against respondent organizations and individuals for declarations that the respondents breached the Regulated Health Professions Act. Interim injunctions obtained against the respondents.

Trillium Motor World Ltd v General Motors of Canada Ltd – Counsel to defendant, Cassels Brock and Blackwell LLP, in an eight week trial commenced on behalf of a group of General Motors of Canada Limited dealers whose dealerships were terminated by GMCL as a result of the financial crisis and "auto bailout" in the summer of 2009.
Inquest into the Death of Robert Clause – Counsel to a physician in a Coroner’s Inquest relating to a death in the Brantford jail.

Tingling v The College of Psychologists of Ontario – Counsel to the College of Psychologists of Ontario on a successful motion to dismiss an application to the Ontario Human Rights Tribunal relating to the applicant’s registration proceeding at the College.

Zarubiak (Estate) v Luce – Counsel to a family physician in the successful defence at trial of the decision to discharge a patient from hospital, following which the patient sustained a fall.

Anishnawbe Mushkiki Inc v Health Insurance Reciprocal of Canada – Counsel to Grant Thornton LLP in connection with a dispute regarding allegations of professional negligence against an auditor.

DA v RH – Counsel to optometrists in a successful review of a decision of the College of Optometrists of Ontario to issue written cautions, on the basis that the underlying provision of the professional misconduct regulation improperly restricted the members’ Charter rights to freedom of expression and freedom of association.

Falodun v Lemckert – Counsel to the respondent physician in proceedings before the Human Rights Tribunal relating to an allegation of discrimination with respect to services because of disability and reprisal.

Summersgill v O’Mahony – Counsel to the defendant physician in an action for damages arising from the plaintiff’s perforated ulcer.

Williams v Schuringa – Counsel to the defendant physician in a jury trial following the death of a patient from a sudden pulmonary embolism.

Molnar v Antoniuk – Counsel to defendant physicians in a trial involving allegations of negligence in relation the treatment of the plaintiff’s depression and risk for suicide.

Parasiliti v Beatty – Counsel to the successful defendant physicians at trial in a case involving allegations of professional negligence arising from the care, treatment and management of multiple hand fractures.

Mazzucco v Herer – Counsel to the successful defendant physicians in a jury trial of a complex medical malpractice action relating to a stroke following childbirth. Includes important interim ruling relating to deductibility of disability benefit.

Beal v Rebello – Counsel to defendant physicians in a proceeding alleging injury during a brain biopsy. Successfully moved to strike the Statement of Claim for failing to disclose a cause of action.

Law Society of Upper Canada v Groia – Counsel to the Law Society of Upper Canada in the prosecution of a lawyer for professional misconduct. A three member panel of the Divisional Court affirmed the decision of an Appeal Panel of the Law Society of Upper Canada that found the lawyer had committed acts of professional misconduct. The Divisional Court also confirmed his penalty of a one month suspension and its $200,000 costs award in favour of the law society.

Moore v Getahun – Counsel on appeal for the defendant physician in a proceeding alleging negligence in the treatment of a fractured wrist. The Court of Appeal’s decision provided important guidance on the role of counsel in the preparation of expert reports and the limits on the production at trial of information from an expert witness’s file.
Elliot Lake Commission of Inquiry – Counsel to a witness physician involved in rescue efforts following the collapse of a mall in Elliot Lake in connection with a public inquiry into the mall collapse.

Boudreau v Farjalla – Counsel to defendant physician in a successful defence in a jury trial involving a medical procedure.

Law Society of Upper Canada v Opara – Counsel to the Law Society of Upper Canada in a successful appeal of a decision concerning unprofessional conduct by a barrister.

Law Society of Upper Canada v DeMerchant – Counsel to the Law Society of Upper Canada in successfully defending a motion for production of prosecution documents on the basis of a claim of abuse of process.

O’Halloran v Trillium Health Centre – Counsel to the physician on successful motion opposing the addition of four physicians to a medical negligence action.

Girard and Gagnon v Windsor Regional Hospital – Counsel to two successful defendant physicians in a medical negligence action relating to treatment of wrist fractures.

College of Massage Therapists of Ontario v Stefanov – Counsel to the College of Massage Therapists of Ontario in a prosecution of a member for professional misconduct under the Regulated Health Professions Act and the subsequent appeal to the Divisional Court.

Charles v Cha – Counsel to a physician in a proceeding before the Ontario Human Rights Tribunal against an allegation that his assistant breached the Human Rights Code.

College of Massage Therapists of Ontario v Heaven – Counsel to the College of Massage Therapists in Discipline Committee hearing concerning allegations of practicing while suspended. Hearing proceeded on agreed statement of facts, with penalty contested. The Discipline Committee revoked the license of the member.

Plummer v College of Massage Therapists of Ontario – Prosecutor for The College of Massage Therapists of Ontario in an appeal of a decision of the Discipline Panel of the College finding a member guilty of conduct unbecoming a massage therapist on the grounds that he had instructed or authorized an employee to issue false receipts indicating that he had performed massages which were instead performed by his non-registered employee.

Graat v Adibfar – Counsel to the successful defendant doctor in a jury trial concerning the plaintiff’s informed consent to a breast augmentation and lift.

Mangal v William Osler Health Centre – Counsel to the successful defendant physicians at trial and on appeal in a wrongful death medical negligence action relating to a post-partum haemorrhage.

Reyhanian v Health Professions Appeal and Review Board – Counsel to the successful respondent doctor on an application for judicial review of a decision of the Health Professions Appeal and Review Board in a professional misconduct matter.

Sazant v College of Physicians and Surgeons of Ontario – Counsel to intervener physicians in a constitutional challenge to a provision of the Regulated Health Professions Act.
► **Bollman v Soenen** – Counsel to the defendant physician in a medical negligence action at trial and on appeal in a matter relating to the treatment of menorrhagia.

► **Volochay v College of Massage Therapists of Ontario** – Counsel to the College of Massage Therapists of Ontario, on a successful appeal of the issue as to whether the application judge was wrong in principle to grant judicial review and quash two decisions of the College's investigatory bodies.

► **Cooper v Valiulis** – Counsel in a successful defence at trial of a bariatric surgeon in a medical negligence action in respect of morbid obesity surgery.

► **Lipson v Cassels Brock & Blackwell LLP** – Counsel to defendant law firm in a class action in connection with a charitable tax program.

► **Armstrong v Tamari** – Counsel in a medical negligence trial before a jury on behalf of a family physician in respect of the management of shoulder dystocia.

► **Thompson v Sehgal** – Counsel to the defendants physicians in a medical negligence proceeding, including on a motion for summary judgment on the basis that the limitation period had expired.

► **Law Society of Upper Canada v Coady** – Counsel for the Law Society in the successful prosecution of a member for professional misconduct. The decision was affirmed on appeal by the Law Society Appeal Panel.

► **Bannon v McDonagh** – Counsel in a medical negligence action against an obstetrician in respect of the performance of a Caesarean section.

► **Goodman v Viljoen** – Counsel to the defendant physician in a compromised infant medical negligence action at trial and on appeal.

► **Law Society of Upper Canada v Ross** – Counsel for the Law Society in an appeal from a Discipline Committee decision.

► **R v Beitel** – Counsel to a physician in a successful Charter application to exclude evidence seized in contravention of the accused's right to be free from unreasonable search and seizure. The application involved the application of constitutional principles to the search of internet service providers and psychiatric offices.

► **Gentra Canada Investments Inc v Lipson** – Counsel to successful plaintiff/respondent on an appeal from complex motion for summary judgment. Appeal raised issues of law involving the assignment of two mortgages and a cause of action in solicitors' negligence.

► **Ortolan v Hotel-Dieu Grace Hospital** – Counsel to appellant physician on a successful appeal to Court of Appeal from a trial judgment awarding damages to plaintiffs for medical negligence arising from a surgical procedure.

► **Perrault v Encon Insurance Managers Inc** – Counsel to insured physician on an application to interpret an exclusion clause in an insuring agreement. Court determined that the bodily injury exclusion was not applicable in the context of the Red Cross tainted blood supply prosecution. Application allowed and indemnification for costs of the successful defence to criminal charges granted to the physician.

► **Benard v Mundle** – Counsel to the successful defendant obstetrician in the trial of an action involving a post partum hemorrhage.
CSC v SKB – Counsel in a proceeding confirming a decision of the Inquiries, Complaints and Reports Committee issuing a written caution for these physicians to make reasonable efforts to ensure compliance with the Advertising Regulations.

Barbiero v Pollack – Counsel to a physician in a class action relating to the use of an injectable treatment.

Cordick v Bologna – Counsel at trial in a successful defence of a gynecologist alleged to have negligently performed the removal an ovary.

Marchand v Jackiewicz – Counsel to three defendant physicians who allegedly failed to postpone the plaintiff's elective surgery that resulted in the plaintiff developing an invasive group A streptococcal infection leading to organ failure, toxic-shock like syndrome and a coma. Successfully defended the claim at trial.

Inquest into the Death of Wayne Howard – Counsel to three physicians at the Coroner's Inquest into the death of an inmate while in custody at the Central North Correctional Centre.

Robinson v Rochester Financial Limited – Counsel to the defendant law firm in a class action for solicitor's negligence involving a tax shelter based on charitable donations using in part borrowed money for tax deductions.

Read Lexpert's Significant Matters summary.

Gore v College of Physicians and Surgeons of Ontario – Counsel for the physician in an application for judicial review of the powers of the College of Physicians and Surgeons of Ontario to observe physicians performing medical functions and to compel an interview.

College of Opticians of Ontario v City Optical – Obtained injunction against optical store dispensing eyeglasses in violation of the requirements under the Regulated Health Professions Act and the Opticianry Act.

Bourque v St Joseph Health Centre – Counsel for the successful defendant physicians in the trial of a medical malpractice matter relating to injuries alleged suffered during surgery.

Timpano v Hurst – Counsel to successful defendant general surgeon on a dismissal of an appeal and at the trial of a medical negligence action involving a patient who suffered post-surgical complications and died.

Sinopoli v Walling – Counsel to successful defendant physician in a hearing before the Human Rights Tribunal alleging discrimination on the grounds of disability.

Tobin v Garside – Counsel to successful defendant psychiatrist at trial in a medical negligence action involving an alleged improper discharge from hospital of a patient suffering from schizophrenia.

McKee v Health Professions Appeal and Review Board – Counsel to a physician on a successful judicial review application to quash the decision of the Health Professions Appeal and Review Board.

Windsor Regional Hospital v Bordoff – Counsel to the physicians in a trial of a cross-claim between the hospital and the physicians regarding the care of a psychiatric patient.
College of Physicians and Surgeons of Ontario v Beitel – Counsel in the defence of a physician before a panel of the Discipline Committee of the College of Physicians and Surgeons of Ontario. Successful appeal to the Divisional Court of a finding of misconduct by the Discipline Committee.

Gratzi v Estate of Clark – Counsel for the defendant estate in a medical malpractice case. Action dismissed without costs on consent after four days of trial.

Revell v Heartwell – Counsel in a trial and appeal in defence of a plastic surgeon alleged to have negligently performed reconstructive surgery.

Kelly v Ontario – Counsel for a physician in disciplinary proceedings. Included an application for various relief on constitutional grounds and a constitutional challenge to a provision of the Regulated Health Professions Act.

Inquest into the Death of Jeffrey James – Counsel to several physicians in a high profile Coroner's Inquest relating to a psychiatric patient at the Centre for Addiction and Mental Health.

Workentin v Hospital for Sick Children – Counsel to successful defendant pediatric surgeon at trial in a medical negligence action involving an alleged misdiagnosis of a bowel disease.

Dufour v Kim – Counsel for the successful defendant in a medical negligence jury trial.

Diaczuk v Holloway – Counsel to the defendant physician in a medical malpractice case relating to an injury sustained during the delivery of a baby. Successful in defending the action at trial.

Meady v Greyhound Canada Transportation Corp – Counsel for a physician in an action relating to a bus crash that had occurred as a result of conduct of a patient. Successful in opposing a motion to add the physician to the action, and in precedent-setting appeal regarding the interpretation of the Limitations Act, 2002 and the doctrine of special circumstances.

Skufca Estate v Varga – Counsel to a geriatrician on summary judgment motion in a medical negligence action.

Vescio v Garfield – Counsel to successful defendant pediatrician at trial in a medical negligence action involving an alleged missed diagnosis of hyperbilirubinemia.

GM v Alter – Counsel for defendant physicians in an action relating to the in utero infection of a baby with HIV. Contested hearing and appeal concerning the scope and interpretation of a settlement offer, and whether it should be presumed to include a right to structure the lump sum payment.

Franklin v College of Physicians and Surgeons of Ontario – Counsel to a physician in a judicial review application concerning the jurisdiction of the Discipline Committee of the College of Physicians and Surgeons of Ontario to order payment of costs in certain circumstances.

Adair Estate v Hamilton Health Sciences Corp – Counsel to the defendant physicians in a medical negligence claim alleging a failure to diagnose a bowel obstruction in a timely fashion.

Kurek v Brown – Counsel for the defendant physician in a civil action. Successful motion and appeal, dismissing a third party claim on the grounds that it was statute barred.
Katzman v Royal College of Dental Surgeons of Ontario – Counsel on a successful motion by the defendant to determine questions of law and strike out portions of the plaintiff's claim on the basis of absolute privilege and the Regulated Health Professions Act.

Houlihan v Caskey – Counsel in a medical negligence trial successfully defending a physician against the allegation that he negligently prescribed Viagra to his patient.

Tantawy v Casa Verde – Counsel for a physician on a motion to prevent the addition of a physician to a medical negligence action beyond the relevant limitation period. Successful on the motion and on appeal.

Bovindgon v Hergott – Counsel for the defendant physician in a lengthy jury trial and an appeal in a wrongful life case.

Rupert v Toth – Counsel to defendant physician at trial in a medical negligence action involving a failure to follow-up and a subsequent diagnosis of brain tumour.

Giroux Estate v Trillium Health Centre – Counsel to a physician in a medical negligence action, which included an appeal dealing the doctrine of fraudulent concealment and the limitation period applicable to claims by estates.

Blanchard v Sherstan – Counsel for the successful defendant in a medical malpractice case.

CB v Sawadsy – Counsel to a physician alleged to have failed to advise patient of her right to counsel under the Mental Health Act and the Charter of Rights and Freedoms when detaining the patient for psychiatric assessment. Successful at trial and on appeal.

O'Toole v Sumner – Counsel on a successful motion for summary judgment in a medical malpractice case.

Filkus v York Central Hospital – Counsel to successful defendant orthopaedic surgeon at trial in a medical negligence action involving an alleged delay in diagnosis of a spinal tumour following knee replacement surgery.

Farah (Litigation guardian of) v Errett – Counsel to successful defendant vascular surgeon at trial in a medical negligence action involving the repair of a ruptured popliteal artery in association with the repair of an open, dislocated right knee.

Reid v Livingstone – Counsel to defendant physicians in a medical malpractice action relating to management of pain during labour and delivery. Successful motion for summary judgment.

Hercules v Sunnybrook and Women’s College Health Sciences Centre – Counsel to two physicians on a successful motion and appeal for summary judgment in a medical negligence action.

Nyilas v Lamb – Successful defence at trial of medical malpractice claim against physician concerning punctured lung.

Pagliaroli v BMO Investorline Inc – Counsel to BMO Investorline, successfully defending at trial a claim involving allegations of negligence in connection with a stock trade.

Madonia v Stevens – Counsel to defendant cardiologist in a medical malpractice trial in respect of the interpretation of an electrocardiogram and treatment of atrial fibrillation.
Cruz v Robins – Successful defence of an obstetrician in a negligence action and subsequent appeal involving the diagnosis of gestational diabetes and the medical management of shoulder dystocia.

College of Massage Therapists of Ontario v Semenuk – Counsel to the College of Massage Therapists of Ontario in a Discipline Committee hearing and a subsequent appeal brought by the member in the Divisional Court.

College of Massage Therapists of Ontario v Boucher – Counsel to the College of Massage Therapists of Ontario in a discipline proceeding related to an examination security breach.

College of Massage Therapists of Ontario v CA – Counsel to the College in a successful prosecution of a member in respect of two incidents of sexual abuse of patients, as well as falsifying clinical notes and records and providing false and misleading information in the course of an investigation.

The College of Psychologists of Ontario v Glatt – Counsel to the applicant professional regulator on an application to enjoin the respondent from unauthorized practice and the performance of controlled acts, namely the communication of diagnoses, while not authorized by a health profession Act.

College of Massage Therapists of Ontario v Kamoulakos – Prosecutor for The College of Massage Therapists in Discipline Committee hearing concerning allegations of, among other things, practicing while suspended and providing misleading information to the College during its investigation. The Discipline Committee revoked the license of the member.

Inquest into the Death of Baby M – Counsel to a physician at a Coroner’s Inquest into the death of a baby following a delivery complicated by shoulder dystocia. Cause of death was severe cerebral anoxia which was found to be accidental.

Inquest into the Death of Lisa Shore – Counsel to a physician at a Coroner’s Inquest into the death of Lisa Shore caused by probable complex drug interaction leading to cardiac and respiratory arrest ruled as homicide. First inquest finding of homicide in Ontario.

Law Society of Upper Canada v Neinstein – Counsel to the Law Society of Upper Canada in connection with appeals to the Divisional Court and Court of Appeal for Ontario on a professional discipline matter.

Beagle v Gyomorey – Counsel to the successful respondent in an appeal involving the interpretation and application of the Mental Health Act and challenges to psychiatric findings of incapacity.

Smith v Lattuca – Counsel to the defendant physicians in a medical negligence proceedings. Successfully opposed a motion by the plaintiff to extend the deadline to set the action down for trial after the deadline had passed, resulting in dismissal of the action.

Broker v SCOPE Clinic – Counsel to a physician and clinic against an allegation of discrimination with respect to services because of disability.

Inquest into the Death of Brendan Hickey – Counsel to the Sydney Harbour Foreshore Authority (SHFA) in respect of the Inquest into the death of Brendan Hickey during the 2014 VIVID Sydney Festival. (Prior to joining Lenczner Slaght)
Wrzesinski v Lukaszewicz – Counsel to the defendant, Dr Lukaszewicz, in a medical negligence claim involving allegations of a negligently administered flu vaccination resulting in acute disseminated encephalomyelitis. *(Prior to joining Lenczner Slaght)*

**SELECT PUBLICATIONS AND PRESENTATIONS**

- **The Advocates’ Society’s Health Law Litigation Program** – Risa is a faculty member at the Advocates’ Society’s Health Law Litigation program. She is providing her expertise at the “Hot Topics in Medical Malpractice Litigation” panel.


- **Barbara Wand Annual Symposium** – Peter Osborne will present during the 2015 Barbara Wand Symposium in Professional Ethics, Standards and Conduct scheduled for October 23rd, 2015 hosted by the College of Psychologists of Ontario. His session will cover PHIPA and Regulated Professions.

- **CBA 2015 National Health Law Summit** – Tom Curry participated in a panel discussion at the May 21, 2015 CBA National Health Law Summit on *A New Era for Experts*.

- **The Osgoode Certificate in Professional Regulation and Discipline in the Ontario Health Care Sector** – Nina Bombier will be a speaker at this Osgoode Professional Development program on the “Discipline Hearing”.

- **The Osgoode Certificate in Professional Regulation and Discipline in the Ontario Health Care Sector** – Jaan Lilles will be a speaker at this Osgoode Professional Development program on Pre-Hearing Procedures & Fitness to Practice Proceedings.

- **The Osgoode Certificate in Clinical Risk, Negligence and Claims Management in Health Care** – Mark Veneziano will be speaking on Understanding and Dealing with the Litigation Process on February 13, 2015.


- **20th Annual Regulatory Compliance for Financial Institutions** – Shara Roy and Jaclyn Greenberg were speakers at the the Canadian Institute’s 20th anniversary edition of Regulatory Compliance for Financial Institutions. Shara and Jaclyn spoke on the topic of litigation implications in compliance.
When medical records go missing – Legal regimes and remedies in Ontario differ depending on the source of the information

Nina Bombier and Paul-Erik Veel co-authored the article *When medical records go missing* which appeared in the July 11, 2014 issue of the Lawyers Weekly.


**Kernicterus: Medical and Legal Aspects** – Tom Curry presented on the topic *Kernicterus: Medical and Legal Aspects* at the 3rd Biennial Conference on Brain Injury in Children, sponsored by Sick Kids held in Toronto on July 9-11, 2013.


**The Perils of Debating Science in the Courtroom** – Ian Binnie,C.C., Q.C. presented on the topic as the distinguished guest speaker at the annual meeting and dinner of the Medico-Legal Society of Toronto on May 22, 2013.

**Obstetric Ultrasound: Setting the Standard for 2013** – Tom Curry presented on the topic at a conference hosted by the University of Toronto and Mount Sinai Hospital.

**Understanding and Dealing with the Litigation Process** – Mark Veneziano presented on the topic using a case study on obstetrics at the Osgoode Professional Development Certificate in Clinical Risk, Negligence and Claims Management in Health Care.


**Volochay v College of Massage Therapists of Ontario** – Ian MacLeod presented to research lawyers on a case he argued with Peter Osborne at the Ontario Court of Appeal regarding judicial review of administrative decision-makers.

**Social Media: Communicating with your Patients** – Risa M. Kirshblum presented at the 10th Annual Refresher in Primary Maternity Care on *Social Media: Communicating with your Patients* held at Victoria College, University of Toronto.


**The Evolving Role of Experts in Legal Action** – Tom Curry presented on the topic at the National Health Law Summit held at the Canadian Bar Association.


**Time to Deliver: “Is there anything magical about the 30 (or 8, 15, 12 or 6) minute rule?”** – Tom Curry presented on the topic at the 8th Annual Obstetrical Malpractice: A Survival Guide for 2012.


Coloring Between the Lines - Weaving Together the Investigation and the Prosecution. – Peter J. Osborne co-presented a program at CLEAR's 2009 Annual Conference in Denver, Colorado.

Update and Review of the Personal Health Information Protection Act – Peter J. Osborne provided an update to members of the College of Psychologists of Ontario at the 2009 Barbara Wand Seminar in Professional Ethics, Standards and Conduct.

Osgoode Professional Development CLE: 3rd Annual Managing Internal and Regulatory Investigations – Glenn Smith addressed what general counsel, compliance officers and related professionals need to know about the preservation and collection of electronic evidence.


Managing the Risk of Liability Posed by Suicidal or Violent Patients: Developing a Suicide Prevention Program – Eli S. Lederman speaks at the Canadian Institute's 9th Annual Conference.

The Problems with Wrongful Life, and various damages implications: There should be no cause of action owed to a future fetus by a physician providing medical treatment to a mother – Anne Posno presented her paper at the 4th Annual Update on Personal Injury Law and Practice for Osgoode Professional Development.

BLOG POSTS

Who’s to Blame? Apportioning Liability in Civil Jury Trials – When one person negligently causes an accident, the law is clear about their responsibility. But when negligence acts on the part of a number of different parties combine to create a single accident, how should responsibility for that accident be apportioned between them? This was recently addressed by the Ontario Court of Appeal in its recent decision in Parent v Janandee Management Inc.
Fixing the Mistake: Limitation Periods in Professional Negligence Cases – Over a decade after Ontario’s Limitations Act, 2002 came into force, courts are still grappling with when a cause of action is discoverable and a limitation period starts to run. An increasingly litigated question relates to whether a limitation period runs while efforts are ongoing to fix the error that gave rise to the plaintiff’s claim. The Court of Appeal for Ontario recently addressed this issue in Presidential MSH Corp v Marr, Foster & Co LLP.

The UK Supreme Court Revisits "But for" Causation in Economic Negligence Cases – “If my grandmother had wheels, she’d be a wagon” –Yiddish proverb

Contracting Out: Court finds contract applies over Limitations Act – A recent decision of the Ontario Divisional Court upheld a contractually agreed-upon limitation period and enforced it against a third party, even in circumstances where it appeared to be at odds with the statutory provisions of the Limitations Act, 2002.

Don’t Make Clients Dig for the Truth: The Importance of Candor for Professional Service Firms – All professionals deal with difficult clients from time to time. Difficult clients are often characterized by an aversion to receiving negative opinions and a refusal to heed the counsel of the professionals they have retained. A natural temptation when dealing with such clients might be to stop giving negative opinions to them and to instead focus on simply completing the tasks which the client has instructed. However, as the recent decision in Western Troy Capital Resources Inc v Genivar Inc demonstrates, in order for professional firms to avoid potential liability, they must ensure that they state their negative opinions clearly to their clients, especially in circumstances where a professional believes that the work which they are being retained to complete is futile.

The Admission of Expert Evidence: The Role of Impartiality – It is commonly accepted that the evidence of expert witnesses must be impartial and that they owe a duty to the court to give fair, objective and non-partisan opinion evidence.

Court of Appeal clarifies law on absolute privilege – In Salasel v. Cuthbertson (2015 ONCA 115), the Court of Appeal provided welcome clarification on the doctrine of absolute privilege, in a decision that revisited the case of Hassan Rasouli.

Defence gives way to procedural fairness in PEI decision – Administrative lawyers and regulators should take note: in Swart v. College of Physicians and Surgeons of Prince Edward Island the Prince Edward Island Court of Appeal provided express guidance in the prosecution of complaints against doctors.

Court of Appeal Rules PHIPA Does Not Oust Common Law Tort of Breach of Privacy – On an appeal from a Rule 21 motion, the Court of Appeal ruled that the Personal Health Information Protection Act, S.O. 2004, c. 3, Sch. A (PHIPA) does not create an exhaustive code precluding a civil action for intrusion upon seclusion.

Implied Waiver of Solicitor-Client Privilege is Narrow – The Ontario Superior Court of Justice has reinforced the principle that a persons privileged communications with his or her lawyer should be strictly protected, except in narrow circumstances.
SELECT NEWS ARTICLES

- **Lenczner Slaght Ranked Among the Best** – Almost half of the leading litigation firm's lawyers are recognized in the *Best Lawyers in Canada*.

- **Lenczner Slaght Shines in 2017 Lexpert Rankings** – Lenczner Slaght's litigators continue to be recognized by their peers as leading practitioners in their fields according to the 2017 Canadian Legal Lexpert Directory.

- **Jonathan Chen Joins Lenczner Slaght** – Canada's leading litigation firm continues to attract top talent.

- **Three Lenczner Slaght cases featured in Lexpert's Top 10 Business Decisions of 2015** – Canada's leading litigation practice acted as counsel on the top case in Lexpert's annual ranking.

- **Lenczner Slaght Lawyers Repeatedly Ranked Among the Best** – Half of the firm's lawyers are ranked as leading practitioners and three named "Lawyer of the Year" in the latest Best Lawyers Directory.

- **20 Lenczner Slaght Lawyers Recognized in 2015 Lexpert Directory** – Recognized by Canadian Legal Lexpert® Directory as leading practitioners.

- **Divisional Court Dismisses Groia Appeal** – Tom Curry, Jaan Lilles and Andrew Porter acted as counsel for the Law Society of Upper Canada.

- **Colleagues defend Bre-X lawyer in Law Society fight** – Tom Curry and Jaan Lilles were quoted in the Toronto Star on January 9, 2015.

- **Premier practice comprised of Toronto’s premier litigators** – Legal 500 Canada recommends Lenczner Slaght in Dispute Resolution, Intellectual Property, Labour and Employment Law.

- **Negligence proof onus on plaintiffs, court reaffirms** – Nina Bombier was quoted in the October 10, 2014 issue of the Lawyers Weekly on the decision in Mangal et al. v. William Osler Health Centre et al.

- **Lenczner Slaght Welcomes Four New Associates** – Canada's leading litigation practice grows to 53 lawyers.

- **23 Lenczner Slaght Lawyers Ranked Among the Best** – Nearly half of the firm's 49 lawyers are ranked as leading practitioners and two named "Lawyer of the Year" in the latest Best Lawyers Directory.

- **Lenczner Slaght Increases Rankings in 2014 Lexpert Directory** – Canada's leading litigation practice continues to add new names to the list.

- **Lenczner Slaght Welcomes Two New Partners** – Canada's leading litigation practice grows to 20 partners with newest additions.

- **Lenczner Slaght in Top Tier and 11 Lawyers Ranked as Stars** – Canada's leading litigation practice also wins two national impact cases.

- **Lenczner Slaght Lawyers Win Top Peer Ratings** – Recognized by Canadian Legal Lexpert Directory as leading practitioners.

- **Overbearing lawyer criticized in discipline case** – William C. McDowell and Ryan Stewart Breedon obtained a rare stay of a discipline prosecution by the Association of Professional Engineers of Ontario.