

## Media Release

FOR IMMEDIATE RELEASE

### NEW LAWS CRUSH DOCTORS' RIGHTS

**(July 7, 2009, Toronto, Ontario)** – One week ago in a bulletin to all Ontario doctors, Dr. Douglas Mark, President of the Coalition of Family Physicians of Ontario (COFP), alerted them to the fact that one of the most significant pieces of legislation which governs physician practice in Ontario – the Regulated Health Professionals Act (RHPA) – has undergone major revision over the past two years (via Bills 141, 171 and 179). Alarming, many of those changes – which came into effect on July 1, 2009 – give the College of Physicians and Surgeons of Ontario (CPSO) unprecedented investigative powers, meaning that physicians now have fewer rights than common criminals. Earlier today, the Coalition of Family Physicians sent out another bulletin calling on all Ontario doctors to support their call for the Ontario Medical Association (OMA) to stand up for doctors' basic rights as Ontario citizens and lobby the Ontario Government to reverse the recent changes to the RHPA.

"We believe that increasing regulations that fly in the face of our basic rights as citizens is not the way to attract or retain physicians in Ontario," Dr. Mark said. "We've all seen the consequences of the disgraced and disbanded Medical Review Committee. We can't allow a similar thing to happen again to doctors and their families."

The OMA has expressed lukewarm "concerns" about RHPA changes, and has not presented a course of action to be taken other than to participate in the process of legislative change. Because of this, the COFP Board has sought the advice of one of the top health law firms in Ontario with respect to the impact of new provisions of the RHPA and its Procedural Code.

"We understand that concerns about public safety are what is driving the actions of the Ministry of Health and Long-Term Care and the CPSO," Dr. Mark said. "Obviously, protecting members of the public from medical incompetence and errors is vital. However, the fundamental rights of health professionals must not be overlooked in the process."

Dr. Mark went on to cite the following examples, which clearly illustrate how criminals will now have more rights than doctors under the new laws:

1. Criminals have the right to remain silent, whereas health professionals are now required to "cooperate fully" with investigators, who are allowed to observe doctors doing procedures and to interview them, even with a view to gathering evidence to use against them.
2. Health professionals can be suspended or have their licence restricted (albeit on a temporary basis) without a hearing and in some circumstances without notice to the doctor. Criminals cannot be legally fired from their jobs because a police investigation is being conducted.
3. Past suspensions and discipline committee decisions – as well as current referrals to discipline and even findings of negligence or malpractice – are available to anyone who visits a College website or searches the doctor's name on the internet. Not even convicted criminals have their history so readily accessible!
4. Professionals and facility operators have obligations to report on their colleagues in a wider variety of circumstances – including when they have reasonable grounds to believe that another professional is "incompetent" or "incapacitated". No one is mandated to report to the police if they believe someone is a criminal! Further, it is unclear how the terms "incompetent" or "incapacitated" are defined leaving them wide open to broad interpretation.

## COALITION OF FAMILY PHYSICIANS OF ONTARIO

5. Health professionals who are the subject of complaints could be required by the new Inquiries, Complaints and Reports Committee to participate in remediation or other courses, without any finding of professional misconduct having been made. That is like the court forcing a suspected drunk driver to attend rehab before any findings of guilt have been made against them!

“Our legal system is meant to protect the rights of the individual,” Dr. Mark said. “The state must not be allowed to trample on the rights of its citizens. Similarly, physician regulatory bodies must not be allowed to run roughshod over the rights of physicians as citizens under the pretense of patient safety when the real reasons may be more politically driven than we are being led to believe.”

The Coalition of Family Physicians of Ontario, representing front-line providers of health care, is a grassroots organization dedicated to the provision of top quality health care to the people of Ontario. We strive to protect the rights, freedoms and independence of family physicians of Ontario and to continually improve the health-care system. To learn more, please visit the Coalition’s Web site at [www.cofp.com](http://www.cofp.com).

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