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COMMUNIQUÉ for the Health Industry

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REMINDER: ONTARIO'S NEW FAMILY DAY HOLIDAY IS APPROACHING

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After being re-elected last fall, Ontario's Liberal government quickly introduced into law a new statutory holiday as had been promised during the election campaign. This holiday falls on the third Monday in February and is called "Family Day". The first Family Day holiday will occur on February 18, 2008.

Like Ontario's other statutory holidays (i.e. Canada Day, Labour Day, Christmas Day, etc.) Family Day is a public holiday for employees in Ontario. It is to be treated by employers in the same way as other public holidays. For most employees, this means a day off with pay.

However, be aware that not all employees in Ontario are entitled to the Family Day holiday. Employers that are federally regulated are not covered by Ontario's *Employment Standards Act, 2000*, and thus they are not required to recognize this new holiday. Federally regulated employers, such as banks and airlines, are governed by federal legislation with respect to public holidays.

In addition, where an employer already provides at least ten (10) paid holidays per year, then it may not be required to recognize the new Family Day for its employees. This is because the *Employment Standards Act, 2000* contains a provision that allows an employer's existing practices to prevail over the legislation where the employer already provides a greater right or benefit than that granted by the Act. Given that the Act only provides for nine (9) paid holidays per year, employers providing more paid holidays may be able to assert that they provide their employees a greater right or benefit and, therefore, do not have to recognize the new Family Day holiday.

Should you have any questions about Family Day or whether your organization needs to recognize the new holiday, please contact your Miller Thomson lawyer.

EDITOR'S NOTE:

The Health Industry Practice Group welcomes **Shane Smith** back to the firm as our dedicated labour and employment partner. Shane is returning to Miller Thomson after serving as labour counsel for two major multi-site regional hospitals in Ontario.

Our National Health Industry Practice Group is dedicated to providing comprehensive and integrated legal services to health industry clients. For more information about our group, visit our website at www.millerthomson.com or contact one of our regional contacts:

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