

## COMMUNIQUÉ for the Health Industry

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### LEGISLATIVE UPDATE: BILL 110 AND THE DUTY TO REPORT GUNSHOT WOUNDS



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Bill 110, the *Mandatory Gunshot Wounds Reporting Act* received Royal Assent on June 13, 2005. Contrary to some reports, the Act is not yet in force. It will come into force on a date to be named by proclamation of the Lieutenant Governor.

Once the Act becomes law, hospitals and other prescribed health care facilities will be required to report to the police any person who is being treated for gunshot wounds. As previously reported, the first draft of the Act narrowly defined "facilities" to include public hospitals and prescribed health facilities. Amendments to the Bill give the Lieutenant Governor in Council the authority to make regulations that would extend the reporting requirements to include clinics that provide health care services, such as walk-in clinics or a medical doctor's office.

#### **What information?**

The disclosing facility must provide the name of the person, if known and the fact that he or she is being treated for a gun shot wound, along with the name and location of the facility. Disclosure is required to be made orally and as soon as it is reasonably practical to do so without interfering with the person's treatment or disrupting the regular activities of the facility.

#### **Who makes the report?**

While the current provisions of the Act do not specify which individual within a health care facility is responsible for the reporting, the Lieutenant Governor in Council has the authority to make Regulations specifying the timing and manner of disclosure, as well as to prescribe the person responsible for making the disclosure.

#### **How does this impact upon privacy and confidentiality obligations?**

The mandatory reporting obligations override the responsibility of the health facility to keep a patient's personal health information confidential pursuant to the *Personal Health Information Protection Act* and the *Public Hospitals Act*. There is protection from liability for those individuals reporting in good faith. Interestingly, there is no penalty provision for facilities that fail to report in accordance with the legislation.

#### **When will the legislation be in force?**

We will be monitoring this legislation and will advise when it is proclaimed into force. In light of the regulation making authority inherent in this Act, it is likely that this date will coincide with the adoption of regulations providing further clarification of the Bill.

**ABOUT THE AUTHOR:**

Kathryn Frelick is a lawyer practising in our Health Industry Practice Group and supervises the Legal Retainer Program. Kathryn provides advice to clients in areas of privacy, administrative law, regulatory law, and health policy issues. The author would like to thank Melissa Radolli for her assistance in preparing this Legislative Update.

Melissa Radolli graduated from the Faculty of Law at the University of Windsor and is currently completing her articles with Miller Thomson LLP. Melissa has a health sciences background, completing an Honours Kinesiology/Human Kinetics degree prior to pursuing her law career. Throughout her articling term, Melissa has worked extensively with the Health Industry Group.

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