• REIGNS OF UNREASONABLENESS IN PUBLIC HOSPITALS •

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The administrative structure of Ontario hospitals centralizes power into the hands of a few key players – and physicians who practice in these public facilities are often at the mercy of disproportionate or overbroad decision making.

The lack of procedural safeguards for physicians under the *Public Hospitals Act* is at the root of the problem.[1]

As dictated by s. 35 of the *Act*,[2] the board of every hospital shall establish a Medical Advisory Committee (MAC) "composed of such elected and appointed members of the medical staff."

But, the *Public Hospitals Act* says nothing about the appointment, or election, of a chief of staff. That decision is left to a hospital's bylaw.

In most public hospitals, the bylaw provides that the chief of staff is to be appointed by the board.

Sure, the bylaw might provide that the board shall consider a recommendation of a Selection Committee. But in reality, the power is in the board's hands to appoint the chief of staff.

The chief is appointed by the board and it reports to the board; there is a relationship that runs deep, and the exercise of this power and influence is not accounted for in the legislation. A lack of procedural safeguards can lead to overbroad, disproportionate and unreasonable exercises of power in public hospitals.

The chief of staff is empowered to make decisions and influence decision making that can destroy a physician's career and livelihood, *but the chief is not elected by the physicians who are affected by the chief's decision making.*

If this past year has taught us anything, it is that our society literally cannot survive without physicians. They ought to be provided with appropriate procedural safeguards, in the law, to prevent arbitrary reigns of unreasonableness from destroying their lives.

If a physician is unhappy with a decision made by hospital administration, they can appeal to an independent tribunal called the Health Professions Appeal and Review Board (HPARB). This is a lengthy, stressful and often expensive process.

Physicians who challenge the decisions of hospital administration may be successful in the *long* term, but in their day-to-day life, they may find themselves being bullied and harassed as a result of challenging the decision of the chief or hospital administration. This type of misuse of power stands in the way of physicians accessing justice.

Physicians are an easy target for vengeful hospital administration because physicians must apply for

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reappointment every year, and they are not part of a union. Nurses, by way of contrast, are unionized, which affords them some power and protection. Physicians are independent and are not employees of the hospital. In reality, they have no useful protection if they get on the wrong side of hospital administration.

I would like to think that most hospital administrations across the province strive to make reasonable and correct decisions – and some of them do. But the lack of procedural safeguards, in the *Public Hospitals Act*, for physicians (resulting from a lack of legislated accountability for a chief of staff) can create an unjust culture for the physicians who work in public hospitals.

A proposal would be that we start by acknowledging that chiefs of staff have enormous power. Such power in a public hospital ought to be accounted for in the *Public Hospitals Act* by providing that chiefs of staff be elected by the physicians in the hospital. This may increase a chief's accountability to the physicians whose lives they affect, and increase objectivity and independence between the chief of staff and the board.

Another remedy is to live-stream hospital board hearings.

The lack of procedural safeguards for physicians, and the arbitrary, disproportionate, and overbroad decision-making that they are often subjected to, is a problem. Legislating accountability and increasing transparency of hospital hearings seems like a good place to start.

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1 *Public Hospitals Act*, RSO 1990, c. P.40.

2 *Public Hospitals Act*, RSO 1990, c. P.40, s. 35.

• UPDATE IN THE PSYCHEDELICS SPACE: ENSURING COMPLIANCE WITH HEALTH CANADA FRAMEWORK •

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With the rise in interest in the potential medical and therapeutic benefits of psychedelics, it is important that persons involved in the psychedelics industry understand Health Canada's rules and regulations. Based on our review of public discourse regarding psychedelics, there appear number of common misconceptions about the rules governing the acquisition, sale, distribution, and use of psychedelic compounds such as psilocybin (i.e., the active ingredient found in magic mushrooms) in Canada. For example, many commentators have compared the current psychedelics business and regulatory landscape to the Canadian Cannabis industry, which is a comparison that is flawed for reasons that we explore here. As noted in our previous article, psychedelic substances are treated very