

Spousal definitions go to the courts

The federal government will appeal a July 12 ruling by the Ontario Divisional Court that the traditional definition of marriage involving one man and one woman violates the equality provisions of the Canadian Charter of Rights and Freedoms.

According to the federal Department of Justice, the Ontario decision conflicts with earlier decisions by the Ontario Divisional Court and the British Columbia Supreme Court upholding the traditional marriage definition.

If the July 12 Ontario Division Court ruling is upheld, Canada will join Holland as one of only two countries that recognize same-sex marriages. For plan sponsors, this will mean that same-sex spouses will be entitled to the same spousal and survivor benefits provided to those in traditional marriage relationships.

In 2000, the federal government legislated equal treatment to same-sex couples living in common-law relationships.

In an unrelated development, the Federal Court of Appeal has found that the Canada Pension Plan (CPP) discriminated against a common-law spouse when it ruled that a common-law spouse must have lived with a CPP contributor at the time of the contributor's death before he/she could receive CPP survivor benefits.

Under current legislation, a legally married spouse can be entitled to CPP death benefits for up to a year following marital separation, provided the contributor did not begin a new conjugal relationship in that time or dissolve the marriage through divorce.

In this case, the Federal Court ruled the definition of *spouse* to be of *no force or effect* and that no distinction be made

between common-law and married spouses.

The Court gave parliament a year to address the issue.

New US governance rules can apply to Canadian companies

The fallout from the Enron, WorldCom and other financial governance scandals came to Canada and other countries outside the United States August 11 with the passage of the Sarbanes-Oxley Act, the new US law designed to impose tough, new governance rules on companies conducting business in the United States.

The law, which applies to both US-based and foreign companies listed on American stock exchanges, requires chief executive and chief financial officers to personally certify that their annual report filings are accurate and complete. It also prohibits public companies from giving loans to executives and directors. The new law goes on to require firms to establish audit committees to be composed entirely of independent directors and to disclose their corporate code of conduct for senior financial officers.

Approximately 180 companies are listed on both Canadian and American stock exchanges.

More than \$2 billion US of pension assets have been lost by the states of New York, North Carolina and California alone through the collapse of WorldCom and Enron. That tally is expected to mount as other government and private pension plans, trust funds, mutual funds, private companies and individuals write-off their losses and as other organizations report financial or auditing irregularities.



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New public oversight for Canadian auditors and chartered accountants

In response to the growing crisis of confidence in public accounting and audit practices, the Office of the Superintendent of Financial Institutions (OSFI), the Chartered Accountants of Canada and the Canadian Securities Administrators have established the new Canadian Public Accountability Board (CPAB).

The new organization will oversee the auditing practices of public accounting firms across Canada. As well, major firms conducting public company audits will now be subject to annual reviews and more intensive examination of their control practices and procedures.

CPAB will be comprised of 11 individuals, seven from outside the chartered accountant profession. It will hold its first meeting this October. It is expected that CPAB will require public accounting firms to undergo annual inspections by the national regulator, adopt more stringent standards of auditing, limit the types of consulting CA firms may provide to audit clients and to implement a number of other procedures to enhance audit inspections and improve auditors' compliance to quality control standards.

Can a government plan be forced to provide drug coverage?

Insurers, plan sponsors and government health care plan administrators will be watching the US courts as a coalition of consumer groups attempt to sue the United States government to force it to cover QLT Inc.'s blindness drug Visudyne® through its Medicaid Program.

The American Council for the Blind, the Gray Panthers and the American Association of People with Disabilities along with other individuals have filed a lawsuit against the US Department of Health and Human Services and Centres for Medicare and Medicaid Services for their refusal to cover Visudyne® for the treatment of *occult lesions*, the leakage of blood vessels in the back of the eye in patients with age-related macular degeneration (AMD).

On August 28, CBC Radio reported that similar suits are being considered by Canadian groups.

The drug has been approved by health regulators in Europe, Australia and New Zealand for treatment of *classic*, or more easily diagnosed, symptoms of AMD.

QLT is currently conducting clinical trials for the treatment of the harder-to-detect occult lesions and hopes to file for US regulatory approval in 2005. Under US law, QLT cannot appeal a refusal by US health regulators to approve coverage of its product.



Changes to Quebec drug plan

Effective July 1, 2002, the premium and the contribution rates for those covered by the Quebec Basic Prescription Drug Plan will increase from \$385 to \$422 per year. The maximum monthly contribution increases from \$62.49 to \$68.50.

The monthly deductible increases from \$8.33 to \$9.13 while co-insurance increases from 25 per cent to 27.4 per cent.

The changes do not apply to seniors receiving the maximum Guaranteed

Income Supplement (GIS) or to employment assistance recipients who do not have severe employment constraints.

Employment assistance recipients who have severe employment constraints, children and students under age 25 whose parents are covered by the public plan will continue to receive prescription drugs free of charge.

Coughlin VP elected head of IF Canada

Brian Bockstael, Coughlin & Associates Ltd. vice-president for eastern Canada, was elected Chair of the International Foundation of Employee Benefit Plans' (IF) Canadian chapter at the organization's annual meeting in August.

The election of Mr. Bockstael to the leadership of the Canadian branch of this international organization reflects his long experience and dedication to the employee benefits industry.

Mr. Bockstael began his career as a group benefits representative with Crown Life in 1974. He joined Coughlin & Associates Ltd. in 1977 as a benefits consultant in its Winnipeg office. In 1979, he transferred to its Ottawa head office as consultant responsible for servicing a number of key customer

groups. He was appointed vice-president in 1989.

For over 20 years, Mr. Bockstael has participated on a regular basis at IF conferences. He has served on a variety of IF committees including its Canadian Education Committee and the Canadian Government/Industry Relations Committee. He is also a voting member of the IF's international board and a regular speaker at the IF's annual Canadian conference and other employee benefits and human resources gatherings.

The International Foundation is an international association dedicated to educating benefits plans trustees, plan sponsors and plan administrators on developments in the employee benefits, pensions and compensation fields.



Coughlin's Vice-President for Eastern Canada and IF Canada Chair, Brian Bockstael.

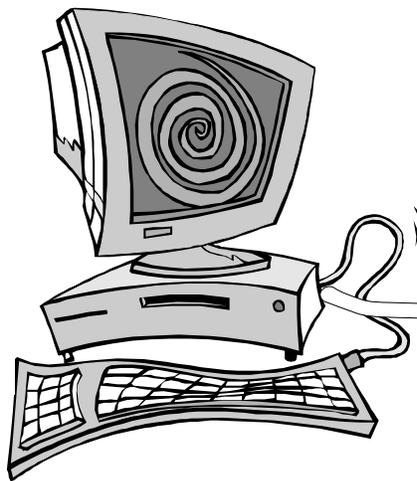
Quebec to legislate doctors, emergency services

The province of Quebec has announced plans to introduce legislation that will change the status of its doctors from independent professionals to contract employees. The proposed legislation would give the province the authority to require doctors to sign contracts with local hospitals or regional health boards in order to define doctors' work priorities and obligations and ensure that emergency and essential hospital services are open and available at all times.

If passed, the new law would apply to all doctors in Quebec, including those working in private clinics and those not assigned to hospitals. This is the first time a province has attempted to legislate where physicians should practice and the conditions under which they will work. As a result, health care professionals, insurers and legislators across the country are expected to closely watch developments in that province.

The proposed legislation is in response to a growing shortage of emergency facilities in the province. A dozen of Quebec's 94 emergency rooms have been forced to close in 2002 alone due to shortages of key medical personnel.

The battle between the province and its doctors is expected to intensify in the autumn as the legislation is introduced in the Quebec National Assembly.



Click to find your nearest participating PPN pharmacy

Coughlin Preferred Provider Network (PPN) subscribers can now locate their nearest participating pharmacy simply by accessing the Coughlin & Associates Ltd. web page.

To find the address of the participating pharmacy nearest you, just follow these easy instructions:

- access the Coughlin & Associates Ltd. home page at www.coughlin.ca;
- then, click on **PPN** on the bottom left side of the page;

- after that, just click on the illustration of the Coughlin PPN card; and lastly,
- simply key-in your postal code in the space provided and click the *Submit* button.

More than 85 pharmacies in the Ottawa and eastern Ontario region are members of the Coughlin & Associates Ltd. PPN.

- The government of Manitoba has announced that, retroactive to July 1, 2002, it will cover chiropractic treatment for those under the age of 19 to a maximum of \$8 per visit for up to 12 visits per year. That rate will increase to \$9 per visit effective April 1, 2003.

The former rate was \$11.56 per visit.

- A reminder to Quebec residents that provincial legislation requires those who have access to drug plans through their employment must enrol themselves, their spouse and their children in that plan. Those who do not have access to a group drug plan must register with the Régie de l'assurance maladie du Québec (RAMQ) provincial drug insurance plan.

- Effective April 9, 2002, the government of the Yukon changed its fees for highway ambulances used by non-residents to \$250 plus \$1.25 per kilometre travelled. Medical evacuation fees by an advanced life support crew to areas not accessible by aircraft increased to \$200 per hour and \$2.25 per kilometre travelled. Air ambulance rates were set at \$200 per hour plus aircraft operation costs.

- The province of Manitoba will begin a review of its Pensions Benefit Act beginning this fall. The government plans to consult with financial institutions, seniors groups and other organizations on the possible loosening of withdrawal limits on life income funds (LIFs) and locked-in retirement income funds (LRIFs).

- The minimum income level for Quebec Health Services Fund (HSF) contributions has been raised to \$11,500 from \$11,000. Under provincial law, those who receive an income outside of their employment income are required to contribute one per cent of those earnings to a maximum of \$150 to the HSF. Those whose non-employment earnings are less than the \$11,500 minimum are not required to make an HSF contribution. Income security benefits, old age pension and Commission de la santé et de la sécurité du travail payments are excluded.

- The Ontario government has announced plans to provide up to 20 more magnetic resonance imaging (MRI) machines and five new computed tomography (CT) scanners through independent health facilities. The new facilities may operate on a for-profit basis and may not necessarily be associated with any hospital or other public health care facility. Most benefit programs do not cover the costs such services beyond the maximum provided by the government health care plan.

- On June 14, Quebec changed Section 47 of its Charter of Human Rights and Freedoms to include both married and civil union spouses, eliminating any distinction between the two spousal relationships. According to Section 47, both spousal groups have the same rights, obligations and responsibilities.

- Canadians can expect to wait more than 16 weeks for hospital treatment following referral by their family doctor. According to a Fraser Institute study of 880,000 patients, the average waiting period for hospital treatment in Canada was 16.2 weeks. Ontario had the shortest waiting period with 13.9 weeks, followed by Newfoundland (14.6 weeks) and Prince Edward Island (15.0 weeks.) At 28.9 weeks, Saskatchewan had the longest waiting time in the country. New Brunswick and British Columbia followed with 25.8 and 18.9 weeks respectively.

In terms of treatments, medical oncology had the shortest waiting time at five weeks. Ophthalmology had the longest delays: 27.9 weeks.

- The number of hospital admissions per 100,000 of population dropped from 13,600 in 1990 to 9,370 in 2000, according to the Canadian Institute of Health Information. The number of hospital bed days also dropped from over 47 million in 1990 to just under 21 million in 2000. Advances in medical technology, drugs, patient education and treatment are credited for these improvements.

- The California Supreme Court has ruled that older employees can be denied benefits that are normally provided to younger employees. In hearing a case involving a 56-year-old worker whose employer refused to pay for a master's degree even when it paid for the graduate education of younger workers, the Court noted that plan sponsors can consider age when providing employee benefits. However, it added, older workers cannot be discriminated against when it comes to hiring, termination or promotion.

- Despite its largely private health care system, the United States spends more per person on health care than countries with government-run health care programs. According to data released by UCLA Anderson, the US spent \$4,000 per person on health care in 1998, compared to \$2,363 by Canada, \$2,860 by Switzerland and \$1,763 by Japan. Despite the extra money spent on health care, US mortality rates still trailed the other countries. The average life expectancy in the US is 77 years compared to over 80 in three other countries surveyed.

Alberta, BC seek input on financial service reform

The governments of Alberta and British Columbia are seeking public comment on their insurance and financial services legislation.

In Alberta, the question of whether employment benefits, such as drug, hospital, vision, and other extended health care programs should be considered *insurance*, and therefore require underwriting by group insurers, or simply *compensation*, forms a key part of the reform of its Employee Benefit Plans and Insurance Act. If these benefits are ultimately considered insurance, plan sponsors may want to consider establishing separate entities, such as insurance or health and welfare trusts, in order to comply with the exemptions provided to employer or employee associations under Section 15 of the Insurance Act.

More information on the Alberta proposals can be found at:

www.finance.gov.ab.ca/publications/insurance/employee_benefit_plans_consultation.html.

The government of British Columbia is taking a wider approach and is asking for input on the objectives, principles, and regulatory framework that govern that province's financial service regulations. The province hopes to open discussion on a variety of issues including solvency requirements for financial institutions, licensing for insurance brokers and agents, marketing approaches used by financial institutions and their representatives, consumer protection requirements, corporate governance and related issues.

Input received will ultimately be used to overhaul the province's Financial Institutions Act.

More information can be found on the BC Ministry of Finance web site at: www.fin.gov.bc.ca/PT/fcsp/consult.shtml.