

## CAN A PHYSICIAN REFUSE TO WORK DURING COVID-19?

By Michael B. Fraleigh, Jared B. Schwartz, and Diana F. Saturno

As media sources detail a supply shortage among COVID-19 first responders, physicians are questioning where the line is drawn between their right to refuse unsafe work and their duty to provide care.

### What are a Physician's Obligations During a Public Health Emergency?

Pursuant to the College of Physicians and Surgeons of *Ontario's Public Health Emergencies Policy*, physicians **must** be available to provide physician services during a public health emergency. Physician services include direct medical care and indirect activities that support the response effort.

### What is an 'Indirect Activity'?

An indirect activity includes providing leadership and guidance about interpreting information that is provided by health and emergency management officials. It can also include communicating information to patients and members of their community about the nature and severity of the public health emergency. As well, indirect activities include administrative roles.

### Can a Physician Limit Their Contributions During a Public Health Emergency?

If there is a reason related to the physician's own health or their family members that may place a limit on their ability to provide direct medical care, they must engage in indirect activities.

### What If a Physician is not Provided with Appropriate Personal Protective Equipment ("PPE")?

Pursuant to the Ontario *Occupational Health and Safety Act* and its Regulations, employers must ensure that equipment, materials, and protective devices are provided to their workers. However, healthcare workers in hospitals have a limited right to refuse unsafe work. Considering this, the Canadian Medical Protective Association has commented, in light of COVID-19, that physicians **may** be permitted to refuse to practice, in **exceptional circumstances**, if they reasonably believe that the work environment creates a legitimate unacceptable hazard that is **not inherent to their ordinary work**.

However, these work refusals are fact dependent and need to be assessed on



[Michael B. Fraleigh](#)  
Partner

t: 416.864.7616  
[mfraleigh@foglers.com](mailto:mfraleigh@foglers.com)



[Jared B. Schwartz](#)  
Partner

t: 416.864.7623  
[jschwartz@foglers.com](mailto:jschwartz@foglers.com)



[Diana F. Saturno](#)  
Associate

t: 416.864.7624  
[dsaturno@foglers.com](mailto:dsaturno@foglers.com)

---

a case by case basis. An improper work refusal may result in a complaint to the College of Physicians and Surgeons of Ontario or affect the morale of their team.

*Fogler, Rubinoff LLP's Health Law Group is on top of these developments and is here to assist you on an urgent basis. If you have questions about your practice, please contact a member of the Health Law Group.*

*Michael B. Fraleigh is the head of the Health Law Group and can be reached at [mfraleigh@foglers.com](mailto:mfraleigh@foglers.com)*

*Jared B. Schwartz is a partner in the Health Law Group and can be reached at [jschwartz@foglers.com](mailto:jschwartz@foglers.com)*

*Diana F. Saturno is an associate in the Health Law Group and can be reached at [dsaturno@foglers.com](mailto:dsaturno@foglers.com)*