



MINUTES OF THE CMPA ANNUAL MEETING OF MEMBERS 2018

WINNIPEG MANITOBA – AUGUST 22, 2018

The 2018 annual meeting of the Canadian Medical Protective Association (CMPA) was held, starting at 1:15 p.m. on Wednesday, August 22nd, 2018, in the East / Midway Ballroom of the Fairmont Winnipeg, 2 Lombard Place, Winnipeg, Manitoba. The meeting was conducted in English and French and simultaneous interpretation was available for all attendees. The meeting was [recorded as a webcast](#) and will be available through the annual meeting page of the CMPA website. There were an estimated 101 physician-members present.

INTRODUCTION

The President, Dr. Jean-Joseph Condé from Val-d'Or, Québec, acknowledged that the land on which participants gathered was the Treaty 1 traditional territory of Anishinaabeg, Cree, Oji-Cree, Dakota, and Dene Peoples, and on the homeland of the Métis Nation. He welcomed the attendees and introduced the individuals at the head table:

- Dr. Debra E. Boyce from Peterborough, Ontario, 1st Vice-President
- Dr. Hartley S. Stern, Executive Director/Chief Executive Officer (CEO)
- Dr. E. Douglas Bell, Associate Executive Director and Managing Director, Safe Medical Care
- Mr. Domenic Crolla of Gowling WLG, General Counsel

Dr. Condé acknowledged the presence of four past presidents, Drs. Peter K. Fraser, Lawrence E. Groves, William S. Tucker, William D.S. Thomas, and past Executive Director and CEO, Dr. John E. Gray. He then recognized the current and newly elected CMPA Councillors. He also welcomed the Canadian Medical Association (CMA) delegates who were present and thanked them for joining the meeting.

The President indicated any additional business and questions should be raised for discussion during the other business section of the meeting. He reminded the participants that only members were permitted to ask questions, raise issues or vote.

Dr. Condé noted the business portion of the meeting would be followed by an information session on *Healthier Physicians: An Investment in Safe Medical Care*. Stressing the value of feedback, he asked the participants to complete and return, upon conclusion of the information session, the evaluation form provided in the registration package.

CALL TO ORDER

Dr. Stern, Executive Director/CEO, read the notice of the 2018 annual meeting of the Canadian Medical Protective Association and declared the meeting to be duly constituted.

APPOINTMENT OF SCRUTINEERS

Dr. Condé indicated Drs. Mamta Gautam of Ottawa ON, Guillaume Charbonneau of Messines QC, and Leo K. Wong of Langley BC, were prepared to act as scrutineers in the event a vote should be required.

A motion to accept the proposed scrutineers was moved by Dr. Michael T. Cohen, seconded by Dr. Claude Mercier, and carried.

APPROVAL OF THE MINUTES OF THE 2017 ANNUAL MEETING

The minutes of the 2017 annual meeting held in Québec City, Québec had been posted on the CMPA website and copies were made available at the rear of the meeting room.

A motion to approve the minutes of the 2017 annual meeting held in Québec City, Québec was moved by Dr. Alexander C. Barron, seconded by Dr. Michel Lafrenière, and carried.

PRESIDENT'S REPORT

Dr. Condé referred meeting attendees to the CMPA 2017 Annual Report, which was available on the Association's website. He noted a handout of key information was included in the meeting package and he highlighted significant points from the Report.

THE ENVIRONMENT

Dr. Condé indicated the Association is well aware that the medical liability protection needs of physicians are changing. While dealing with new practice arrangements, technologies, and roles for other healthcare professionals, physicians have to navigate both patients' and the healthcare system's increased expectations of medicine, all of which have significant effects on medical practice. Recognizing it is a challenging environment for those in practice and for the CMPA, the approach of the Association is one of continuity and change.

The President reiterated that the CMPA's philosophy of protecting the interests of its members is unwavering, regardless of the changes surrounding the practice of medicine. Physicians can rely on the Association to assist them with medical-legal issues arising from their professional practice and to adapt its services to meet their evolving needs. This commitment continues to be the cornerstone of the CMPA, an organization that works every day to retain the trust of its members.

2017 ACCOMPLISHMENTS

To highlight this theme of continuity and change, Dr. Condé noted that in 2017, the CMPA experienced over 70,000 contacts with members on medical-legal issues, and another 400,000 on a range of other matters. He cited the following examples:

- The Association opened almost 5,300 new College matters, 1,700 cases involving hospital privileges and complaints, and 850 cases that involved civil litigation. It provided advice on almost 22,000 medical legal matters.
- The CMPA launched the Member Support Program to provide tailored advice and assistance to the small percentage of physicians who find themselves in a situation where their medical-legal experience threatens

their ability to continue to practice. This recently instituted program is already improving safety, easing members' stress and reducing risk in their practice, while returning their confidence and satisfaction in being a physician.

- To support safe medical care, the Association now delivers targeted advice and education to physicians throughout the continuum of their practices. Following the successful pilot of its resident symposia series in 2017, this program will be delivered to six medical schools in 2018, ten in 2019 and to all 17 medical schools in 2020, making it so every resident will have been exposed to training that equips them for a future of safe medical care.
- In an effort to improve the safety of care, both on the frontline and at the system level, the CMPA is working with a range of clinical and non-clinical organizations to reduce harm.
- The Association recognizes the responsibility inherent in being an essential element of the healthcare system includes managing its resources in a prudent manner that reflects its long term commitment to its members.

2017 MEMBER MOTION

Dr. Condé updated meeting participants on the member motion received during the 2017 CMPA Annual Meeting in Québec City, which was advisory:

BE IT RESOLVED THAT The CMPA will consider term limits for members of Council and will consider a strategy to amend By-law #52 accordingly by the date of the 2020 Annual Meeting.

Dr. Condé recalled, during last year's meeting, Dr. Carl Nohr, the mover of the motion, spoke to a principle of governance which suggests there is value in having a balance between retention of experience and refreshment in governance, often expressed within organizations by placing term limits on directors serving in a governing body. Term limits may either occur in the form of duration or number of renewals, and in most organizations, both are used. While the CMPA currently limits the duration of a Councillor's term to three years, it places no limit on renewal.



The President noted the advisory motion provides the Association sufficient time to consider the potential role of term limits in governance renewal for the CMPA and to make appropriate recommendations to membership. He committed to reporting back to the membership in 2019 in Toronto on the work completed by that date.

2017 REPORT OF THE AUDIT COMMITTEE

Dr. J. David R. Naysmith, Chair of the Audit Committee, reported that KPMG audited the CMPA 2017 financial statements and, in an unmodified opinion, attested the statements appropriately present the results of operations in 2017 and the financial position of the Association as at December 31st, 2017. The 2017 financial statements were available to the members in attendance and on the Association's website.

2017 FINANCIAL REPORT

Mr. Stephen Bryan, Chief Financial Officer (CFO), referred meeting attendees to the summary of the 2017 Consolidated Financial Statements in the *CMPA 2017 Annual Report*, available on the Association's website. He indicated the full financial statements were available in the meeting room.

The CFO noted the CMPA is a not-for-profit organization and does not seek to generate a profit or pay dividends to shareholders. Its goal, over the longer term, is to maintain a fully funded position in which at least one dollar of assets is held towards an expected discounted liability. The Association provides occurrence-based protection that extends from the date care was provided, irrespective of when a claim is made. Given a claim may be initiated many years after the care was delivered, the CMPA must estimate the expected costs of a single year, recognizing these costs may not be fully known or paid for 35 years or more.

MEMBERSHIP REVENUES

Mr. Bryan noted, in 2017, approximately 97,000 physicians looked to the CMPA for their medical liability protection. Estimated payments for the ultimate cost of providing protection for occurrences arising in the 2017 membership year are expected to be made over the next 35 years or more. The total expected cost for each occurrence year should generally be paid by the members of the Association in that year.

In summarizing the membership fee calculations, the CFO reported the estimated liabilities of two fee regions exceeded estimated net assets, and this required the Association to apply a fee debit to the 2017 fees in the British Columbia and Alberta and Ontario fee regions.

Conversely, the Québec and the Saskatchewan, Manitoba, Atlantic provinces and territories regions were in a positive position, enabling the CMPA to reduce the fees otherwise collectible in those regions. The net result was a fee debit of \$114 million, producing an estimate of the fees the CMPA expected to collect of \$690 million. He demonstrated the relationship, over the preceding five years, between the expected occurrence year costs and the membership revenue, with the difference being the adjustments to reflect the financial position.

INVESTMENT RETURNS

Mr. Bryan provided a graphical depiction of the assumed return rate over the past ten years, and of the return generated by the benchmark portfolio. He noted the value added by the CMPA investment team over the past decade has been approximately \$210 million. The Association's assessment and that of its external actuarial peer reviewer and external auditor is that a 5.5% long term return assumption remains appropriate.

PROTECTION COSTS

While the CFO noted the stability in legal costs for civil legal actions, he identified an increase in the costs of providing support to members involved with College, hospital and other matters. He stated the Association, working with Colleges and hospitals and leveraging the experience and expertise of its physician advisors, is committed to containing the growth of these costs while ensuring a fair and appropriate process for its members. These and other efforts resulted in holding overall legal expenditures lower than those of 2013.

PROVISION FOR UNPAID CLAIMS

Mr. Bryan explained, at the end of 2016, the CMPA's estimate of the liability from unpaid claims resulting from medical care provided by members, in the years leading up to and including 2016, was \$3.578 billion. Having taken into account both payments made in 2016 and the estimated costs of providing protection for care delivered in 2017, and then re-assessing the valuation of those claims to apply the most current trends, the provision for unpaid claims, as at December 31st, 2017, was \$3.682 billion.

OVERALL FINANCIAL POSITION

Mr. Bryan reported, at the end of 2017, the CMPA's total assets stood at 115% of the total estimated liabilities, resulting in a positive net asset position of \$641 million, a marked improvement from the end 2014 position of a \$360 million deficit.



The CFO stated the Association takes a measured approach to returning to full funding and recognizes that, in light of the year-over-year volatility and the estimated costs being paid out over a lengthy period of time, a long term view that does not overreact to temporary deficits or surpluses is required.

2019 AGGREGATE FEE REQUIREMENTS

Dr. Stern, Executive Director/CEO, commenced a presentation of the 2019 aggregate fee requirement by explaining a CMAA member can look to the Association for medical-legal assistance regarding an occurrence that took place while he/she was a member, regardless of when the medical-legal issue arose. As a consequence of this occurrence-based protection and of the Association's commitment to maintain a fully funded position, membership fees levied in a given year are intended to cover the ultimate cost of all assistance provided to members arising from care in that year. As fees are set in advance of the occurrence year and many years before the ultimate costs of an occurrence year are known, the Association makes use of actuarial models to determine the best estimate of what these costs might be.

The Executive Director/CEO indicated, recognizing there are different medical liability protection cost structures across the country and with a view to an equitable allocation of costs, the CMAA employs four fee regions. There is no subsidization or cross-assignment of costs between regions.

Summarizing the projected slides depicting current year costs and fees, Dr. Stern proceeded with a review of the 2019 aggregate fee requirement for each of the four regions.

2019 AGGREGATE FEE REQUIREMENT FOR THE BRITISH COLUMBIA AND ALBERTA REGION

The forecast cost of providing protection in British Columbia and Alberta in 2019 is slightly greater than in 2018. Given the region has returned to a positive financial position, the CMAA no longer needs fee debits and, as a result, the 2019 aggregate fee will be, on a per member basis, approximately 12.9% lower than 2018.

2019 AGGREGATE FEE REQUIREMENT FOR THE ONTARIO REGION

The cost of providing medical liability protection in 2019, which is greater in Ontario than in any other region, is forecast to be 4.3% higher than in 2018. Given the region is in an improved financial position and the fee debit is less than that of the preceding year, the 2019 aggregate fee will be, on a per member basis, approximately 4.9% less than 2018 and 16% less than that of 2017.

2019 AGGREGATE FEE REQUIREMENT FOR THE QUÉBEC REGION

For a number of years, the costs of providing medical liability protection in Québec have not experienced the same level of year-over-year variance and have grown at a lower rate than in other parts of the country. This has enhanced fee predictability. Lower payments and better than forecast investment returns have contributed to a positive funding position in Québec, enabling the CMAA to reduce its fees through the use of fee credits. As a result, the 2019 aggregate fee will be, on a per member basis, approximately 14.1% less than in 2018 and 33% less than in 2017. The measured reduction of the surplus has been discussed with the *Fédération des médecins omnipraticiens du Québec* (FMOQ), the *Fédération des médecins spécialistes du Québec* (FMSQ) and the *ministère de la Santé et des Services sociaux* (MSSS). The CMAA is grateful for their support for this approach.

2019 AGGREGATE FEE REQUIREMENT FOR THE SASKATCHEWAN, MANITOBA, ATLANTIC PROVINCES AND THE TERRITORIES REGION

Following a number of years of increasing costs, the region's 2019 estimated cost of medical liability protection has remained generally stable, declining slightly on a per member basis. Given the region is in a positive funding position, for the 2019 fees, a fee credit has been assigned to produce an overall per member decrease of 2.1% over 2018.

2019 TYPE OF WORK (TOW) FEES

The Executive Director/CEO reported the CMAA allocates type of work fees, on a relative risk basis, within each region, with higher risk types of practice paying more than lower risk practices. The 2019 fee schedule will be posted on the Association's website and copies were available at the back of the room. Members' individual fee invoices will be available online through the secure member portal on the CMAA website in early November and members will be provided with an email notification at that time.



2018 ELECTION RESULTS

Dr. Stern reported elections were held in four areas. Of the eleven positions scheduled for election to the CMPA Council, the results are as follows:

Area 1 — British Columbia and Yukon

(1 position in Division A¹ and 1 position in Division B¹)

- **Dr. Michael Curry**, in emergency medicine, was acclaimed.
- **Dr. J. David R. Naysmith**, in plastic surgery, was re-elected.

Area 3 — Saskatchewan, Northwest Territories and Nunavut

(1 position in Division A or B)

- **Dr. Susan L. Hayton**, in family practice, was acclaimed.

Area 4 — Manitoba

(1 position in Division A or B)

- **Dr. Darcy Johnson**, in family practice, was re-elected.

Area 5 — Ontario

(1 position in Division A and 3 positions in Division B)

- **Dr. Robert Cooper**, in family practice, was acclaimed.
- **Dr. Alexander C. Barron**, in pediatrics, was re-elected.
- **Dr. Gerard P. Craigen**, in psychiatry, was re-elected.
- **Dr. Gordon A. Crawford**, in orthopaedic surgery, was re-elected.

Area 6 — Québec

(3 positions in Division B)

- **Dr. Jean-Hugues Brossard**, in endocrinology, was re-elected and will serve as the CMPA's 2nd Vice-President.
- **Dr. Yvonne Molgat**, in ophthalmology, was elected.
- **Dr. Patrick Trudeau**, in general surgery, was elected.

¹ In May 2016, Council approved minor terminology changes to its Division A and B descriptors, as outlined below:

- Division A - Certification from the College of Family Physicians of Canada (CFPC), or the *Collège des médecins du Québec (CMQ)* (Specialists in Family Medicine), or physicians without CFPC or Royal College of Physicians and Surgeons of Canada (RCPSC) certification (formerly "Generalists")
- Division B - Specialist certification from RCPSC or CMQ, not including Specialists in Family Medicine (formerly "Specialists")

Dr. Stern extended thanks to both the successful and unsuccessful candidates in the 2018 election for their dedication and commitment to participating in the governance of the Association. Speaking to Council renewal, he acknowledged the retirements of Dr. Robert Sabbah after twelve years, of Dr. Robbert Vroom after three years, as well as the May 2018 resignation of Dr. Susan Hayton after six years, and thanked them for their commitment to the Association and to its members during their tenure as CMPA Councillors.

OTHER BUSINESS AND QUESTIONS

Dr. Condé welcomed members to pose questions or share comments with the meeting.

Dr. Jennifer M. Blake, an obstetrician and gynecologist from Ottawa, Ontario, recalled a Canadian Medical Association (CMA) Committee on Ethics survey had identified a 20 point drop with respect to the confidence reported by Canadians in their physicians. Given the association between a general lack of confidence and an increased risk of litigation, Dr. Blake questioned how the CMPA will respond to the issue. The Executive Director/CEO indicated the CMPA recognizes physicians are under significant duress from various sources, including changing expectations of patients. Through both its programs and those of Saegis, the Association is seeking to support members and to improve the practice conditions in institutions where members practise. The Association made over 100 policy submissions in 2017 to various governments regarding many matters that can affect physician well-being. Dr. Condé added that, notwithstanding

the more challenging environment, the number of legal actions has been relatively stable for the last ten years in Canada.

Dr. Gregory O. Athaide, an obstetrician from Whitby, Ontario, referred to the increase in compensation to patients and noted some of this is likely due to inflationary factors. He noted he would like to share with his healthcare team what can be done to prevent or constrain legal actions and complaints. The President responded the increases in compensation to patients are generally the result of greater severity not frequency. While the number of legal actions has remained stable over the past few years, the dollars awarded to patients are escalating and the inflation of medical liability is increasing, not only in Canada, but in the United States (US) and the United Kingdom (UK).



Dr. Stern reiterated the cost of damages is increasing at a much more rapid rate than inflation. The CMPA was pleased to be able to provide its information and perspective to a recent Government of Ontario-initiated review of the civil justice system in the medical liability domain. While the report, as completed by Mr. Justice Stephen Goudge, has been tabled and the CMPA is active in encouraging governments of all provinces and territories to consider its recommendations that would eliminate transactional and unnecessary costs without affecting compensation to patients. In its work with partners to collaboratively improve the safety of care, the CMPA is committed to driving down both the instance and cost of preventable harm.

Dr. William D. S. Thomas, a retired obstetrician from Vancouver, British Columbia and Past President of the CMPA, spoke to the CMPA annual meeting being linked for many years to that of the Canadian Medical Association (CMA). Given the CMA's consideration of changes to the conduct of its annual meeting, Dr. Thomas urged the CMPA Council to continue holding its annual meeting in various venues across the country, thereby enabling physicians to participate and appreciate this great organization.

The President thanked Dr. Thomas for his kind words and indicated the Association is, in light of potential adjustments to the CMA's annual meeting, considering its own next steps.

Dr. Diane Francoeur, an obstetrician from Mont-Royal, Québec and President of the *Fédération des médecins spécialistes du Québec* (FMSQ), requested future CMPA annual meeting presentations provide provincial data with respect to the psychological impact that lawsuits and complaints are having on physicians, particularly given the link to suicide in Québec. She noted the actions of regulatory authorities are impacting manpower and the delivery of medical services in remote areas where the teams are small. While Saegis offers programs to improve physician behavior for better relationships with patients, tools are required for those physicians struggling with psychological difficulties in the face of medical-legal matters. Dr. Condé reported a CMPA working group is currently focusing on the stress experienced by physicians faced with a complaint or legal action, an issue which is of great concern to the Association. He committed to communicating the CMPA's intended actions in this domain, once more information is available.

EXECUTIVE DIRECTOR/CEO REMARKS

Dr. Stern noted that, in response to the evolution of both the environment and the system in which physicians practise, the Association is anticipating the different ways in which members will require its assistance. He outlined a number of examples in this regard, as follows:

- Through its Business Applications Strategy, the CMPA is reviewing and updating all systems by which it interfaces with its members, and revising its data collection and analysis plans to assist with the identification and development of the programs required by members.
- The CMPA's Safe Medical Care Team has developed a curriculum to engage every resident in the country over the next few years, better preparing early career physicians for the complex environment of the medical workforce. The curriculum offers information on responses to hostile situations, best communications practices, how to manage unfriendly environments, and other key topics.
- The Association's Member Support Program aims to support members whose medical legal experience

indicates they are in greater need of assistance.

The Association is offering programs and coaching to members who need it.

- The Association achieved a 10.8% return on the Association's investments in 2017, supporting a reduction in the aggregate fees in future years.
- The CMPA's subsidiary, Saegis, delivers professional development for physicians and healthcare professionals, safety programs for institutions and practice management solutions for physicians and team-based practices. It offers high quality specialized solutions designed to contribute to a safe and sustainable healthcare system.

The CMPA is eager to work with governments, regulatory authorities and medical associations to improve safety and create a positive practice environment for physicians. Dr. Stern is confident the work of the CMPA will contribute to a better Canadian healthcare system, with better outcomes for patients.



ANNOUNCEMENTS

Dr. Condé announced the conclusion of the meeting also marks the end of his mandate as President. He stated it had been a pleasure serving the Association and its members over the past two years, and welcomed Dr. Debra Boyce, from Peterborough, Ontario, to her role as the new President. He reminded meeting participants to return, following a short break, to the information session on *Healthier Physicians: An Investment in Safe Medical Care*.

ADJOURNMENT

At 2:25 p.m., there being no further business to discuss, a motion to adjourn the meeting was moved by Dr. Mercier, seconded by Dr. Jorgensen, and carried.

President

Date

Executive Director/CEO