The 2016 annual meeting of the Canadian Medical Protective Association (CMPA) was held, starting at 1:30 p.m. on Wednesday, August 24th, 2016, in the Waterfront Ballroom of The Fairmont Waterfront Hotel, 900 Canada Place, Vancouver, British Columbia. The meeting was conducted in English and simultaneous interpretation was available for all attendees. The meeting was recorded for webcasting to the membership, which is available until August 23rd, 2017 through the annual meeting page of the CMPA website. There were an estimated 161 physician-members present.

INTRODUCTION
The President, Dr. Edward Crosby from Ottawa, Ontario, welcomed the attendees and introduced the individuals at the head table:
- Dr. Jean-Joseph Condé from Val-d’Or, Québec, 1st Vice-President and President-Elect
- Dr. Hartley Stern, Executive Director/Chief Executive Officer (CEO)
- Dr. Douglas Bell, Associate Executive Director and Managing Director, Office of the CEO
- Mr. Domenic Crolla of Gowling WLG, General Counsel

Dr. Crosby acknowledged the presence of six past presidents, Drs. André Duranceau, Peter Fraser, Lawrence Groves, Michael Lawrence, William Thomas and William Tucker, and past Executive Director, Dr. John Gray. He then recognized the current and newly elected CMPA Councillors. He also reported Dr. John Gray was the recipient of the 2015 Canadian Medical Association (CMA) Medal of Service, and Dr. Susan Swiggum, retired CMPA Senior Physician Risk Manager, was recently awarded the 2016 CMA May Cohen Award for Women Mentors.

The President indicated any additional business and questions could 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. Crosby noted the business portion of the meeting would be followed by an information session on Opioid Prescribing: Conversations. Collaboration. Solutions. 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 2016 annual meeting of the Canadian Medical Protective Association and declared the meeting to be duly constituted.

APPOINTMENT OF SCRUTINEERS
Dr. Crosby indicated Drs. R. Renwick Mann, Heidi Oetter, and Allon Reddoch 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. Michel Lafrenière, seconded by Dr. Robbert Vroom, and carried.
APPROVAL OF THE MINUTES OF THE 2015 ANNUAL MEETING

The minutes of the 2015 annual meeting held in Halifax, Nova Scotia 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 2015 annual meeting held in Halifax, Nova Scotia was moved by Dr. Robert Sabbah, seconded by Dr. Alexander Barron, and carried.

UPDATE ON MEMBER MOTION FROM 2015 ANNUAL MEETING

Dr. Crosby reported on the member motion regarding end-of-life care adopted during the 2015 annual meeting. He noted, in accordance with the CMPA’s By-law and its member assistance philosophy and principles, the Association will continue to assist physicians facing medical-legal matters arising from the professional practice of medicine, including in the rapidly changing area of medical assistance in dying (MAID). The Association has been highly active this past year, through advocacy and stakeholder engagement, in making recommendations related to the drafting of proposed laws and practice standards, with the objectives of providing clarity and consistency across the country, ensuring protection for physicians acting in good faith, and protecting the interests of its members.

The President noted the Association’s CEO, Dr. Hartley Stern, appeared as a witness and provided recommendations to the Special Joint Committee on Physician Assisted Dying, and to the House of Commons Standing Committee on Justice and Human Rights. Written submissions, which are available on the CMPA’s website, were also provided to the Special Joint Committee and the Senate Standing Committee on Legal and Constitutional Affairs as part of their review of Bill C-14. Many of the CMPA’s recommendations are reflected in the new law, and the CMPA is continuing to work with its general counsel to monitor the changing environment so its physician advisors can effectively support and provide advice to members.

Dr. Crosby encouraged members faced with requests for MAID to contact the Association for advice and assistance. In a changing environment, the CMPA will continue to be guided by its core values and be nimble, adaptive, and responsive. He assured meeting participants the CMPA is well prepared and well positioned to continue to deliver on its enduring commitment to serving the best interests of its members.

PRESIDENT’S REPORT

Dr. Crosby referred meeting attendees to the CMPA 2015 Annual Report, which was available on the Association’s website. He noted a handout of key information was also included in the meeting package, and highlighted significant points from the document.

THE ENVIRONMENT

Dr. Crosby spoke to the medical liability protection and education services provided to the CMPA’s 93,000 members. More than one million physicians and other healthcare professionals visited the Association’s website in 2015; this is evidence they deem the CMPA a reliable source of advice to reduce medical liability risk in their practices. The evolving nature of healthcare delivery, including greater numbers of clinics and more physicians working in teams, is impacting physicians’ medical liability protection needs, as are issues related to the business of medicine, such as health information management, privacy and information security, and employment contracts.

Given the importance of an effective and efficient medical liability system, and with physicians, institutions and governments under tremendous financial pressure, the Association is continuing to engage with stakeholders to undertake initiatives to contain medical liability protection costs. Recognizing its responsibility to protect and assist physicians, the CMPA continues to adapt and respond to member needs and expectations, while retaining its commitment to service excellence.

2015 ACCOMPLISHMENTS

Dr. Crosby noted more members are relying on the CMPA for medical liability protection services, and cited the following examples:

- The volume of newly opened medical-legal cases increased 8% in 2015, reflecting significant growth in College, hospital, and advice cases. A large proportion of these cases are now managed by physician advisors who provide immediate one-on-one advice.
Nearly 19,000 physicians and other healthcare professionals attended one of the Association’s practice improvement presentations, conferences, or symposia. Thousands more accessed its risk management publications, eLearning activities and articles on the CMPA website.

The Association advanced efforts to support physician leaders in dealing effectively and fairly with physicians whose behaviours undermine the culture of patient safety. It has begun developing customized programs to help members involved in a disproportionate share of medical-legal matters meet their professional obligations to their patients and colleagues.

Working with the Society of Obstetricians and Gynaecologists of Canada (SOGC) and others, the CMPA has developed targeted interventions that will improve safety in obstetrics at the unit level. This multi-year initiative will see the Association building focused education for other clinical areas.

Actively engaging with stakeholders, the CMPA brought its perspective to medical and healthcare organizations, governments, medical regulatory authorities and others, with over 200 policy and other submissions aimed at improving the environment in which the members practice.

2015 REPORT OF THE AUDIT COMMITTEE

Dr. Jeanne McNeill, Chair of the Audit Committee, reported KPMG audited the CMPA 2015 financial statements and, in an unmodified opinion, attested they appropriately present the results of operations in 2015 and the financial position of the Association as at December 31, 2015. The 2015 financial statements were available to the members in attendance and on the Association’s website.

2015 FINANCIAL REPORT

Mr. Stephen Bryan, Chief Financial Officer, referred meeting attendees to the summary of the 2015 Consolidated Financial Statements, which is presented in the CMPA 2015 Annual Report, available on the Association’s website.

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 is to maintain a fully funded position in which every 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 2015, approximately 93,000 physicians looked to the CMPA for professional liability protection. Estimated payments for the ultimate cost of providing protection for occurrences arising in the 2015 membership year are expected to be made over the next 35 years or more. The total expected cost for each occurrence year is to 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 of $77.4 million to the 2015 fees in British Columbia, Alberta and Ontario, producing an estimate of the fees the CMPA expected to collect of $580.5 million. The Association’s 2015 financial statements reported 2015 membership revenue significantly higher than this $580.5 million estimate due to accounting rules that require the CMPA to show, as an account receivable as of December 31, 2015, the Ministry of Health and Long-Term Care (MOHLTC)’s commitment to pay, directly to the Association, a $99.5 million catch up component. The Ministry paid this $99.5 million deferred amount in late June of 2016, thereby closing off the deferral agreement.

INVESTMENT RETURNS

Mr. Bryan stated the CMPA’s actively managed investments performed strongly in the 2015 year and, at 7.8%, the portfolio outperformed the actuarially assumed return, contributing to an improved overall financial position. With its benchmark having returned 6.4%, the additional 1.4% earned by the Association’s investment team produced $50 million in additional income.

PROTECTION COSTS

Turning to the 2015 protection costs, Mr. Bryan reported, at $195 million, the compensation paid to patients on behalf of members is lower than both the 2014 payment level and the linear trend line, and is roughly in line with the 2013 expenditures. In breaking down the $195 million paid in 2015 by the occurrence year, he noted the year-over-year variance. The CFO highlighted trends in the expenditures and identified the cost differential in payments between regions, which is reflected in CMPA membership fees.

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 on-staff 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 2014 and 2015 overall legal expenditures below those of 2013.

**PROVISION FOR UNPAID CLAIMS**

Mr. Bryan explained, at the end of 2014, 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 2014, was $3.468 billion. Having taken into account both payments made in 2014 and the estimated costs of providing protection for care delivered in 2015, and then re-assessing the valuation of those claims to apply the most current trends, the provision for unpaid claims, as at December 31st, 2015, was $3.584 billion.

**OVERALL FINANCIAL POSITION**

Mr. Bryan reported, at the end of 2015, the CMPA’s total assets stood at 98% of the total estimated liabilities, resulting in a negative net asset position of $94 million, a marked improvement from the end 2014 position of a $360 million deficit.

The CFO stated the Association will take 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.

**2017 AGGREGATE FEE REQUIREMENTS**

Dr. Hartley Stern, Executive Director/CEO, commenced a presentation of the 2017 aggregate fee requirement by explaining a CMPA 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 long 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, and updates these actuarial models to reflect the most current information available.

The Executive Director/CEO indicated, prior to 2016, the Association used three fee regions, with all provinces and territories other than Ontario and Québec being in a single region. This will be the second year the CMPA employs four fee regions. Based on projected cost trends, this model will provide a more equitable allocation of costs. There is no subsidization or cross-assignment of costs between regions.

Summarizing slides depicting current year costs and fees, Dr. Stern proceeded with a review of the 2017 aggregate fee requirement for each of the four regions.

**2017 AGGREGATE FEE REQUIREMENT FOR THE BRITISH COLUMBIA AND ALBERTA REGION**

The forecast cost of providing protection in British Columbia and Alberta in 2017 is slightly more than in 2016. Given the region’s negative financial position, the CMPA has continued with its five year approach to returning to full funding, which results in a fee debit being added to the aggregate fee, the outcome of which is an aggregate fee that, on a per member basis, is approximately 7.1% higher than 2016.

**2017 AGGREGATE FEE REQUIREMENT FOR THE ONTARIO REGION**

After several years of significant annual increases, the cost of providing medical liability protection in 2017, which is greater in Ontario than in any other region, is forecast to be the same as that in 2016. In keeping with the five year return to full funding, a fee debit is being added to the aggregate fee, the outcome of which is an aggregate fee that, on a per member basis, is approximately 1.4% higher than 2016. Given the reimbursement program negotiated by the Ontario Medical Association (OMA) and the MOHLTC, it is understood members’ out of pocket costs in Ontario will increase by the historical rate of consumer price index (CPI) inflation, approximately 2%.

**2017 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, enhancing fee predictability. While there has been an increase in the forecast protection costs in Québec, lower payments and better than forecast investment returns have produced a positive funding position in Québec, enabling the CMPA to reduce its fees through the use of fee credits. The end result is that the 2017 aggregate fee is, on a per member basis, approximately 13% lower than in 2016. 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 CMPA is grateful for their support for this approach.
2017 AGGREGATE FEE REQUIREMENT FOR THE SASKATCHEWAN, MANITOBA, ATLANTIC PROVINCES AND TERRITORIES REGION

Over the past year, this region has seen a significant increase in the estimated costs of medical liability protection, largely resulting from higher levels of compensation to patients. Its smaller number of members, compared with the other three regions, adds volatility to the forecast protection costs and provides another instance where a longer term perspective and a prudent allocation of fee credits or debits are required to smooth the overall membership fee trend. For the 2017 fees, a fee credit has been assigned to produce an overall per member increase of 12% over 2016.

2017 TYPE OF WORK (TOW) FEES

The Executive Director/CEO reported, once the aggregate fee by region is confirmed, the CMPA allocates fees on a relative risk basis, within each region, with higher risk types of practice paying more than lower risk practices. It was reported the 2017 fee schedule will be posted on the Association’s website on August 24th, 2016 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 CMPA website in late October and members will be provided with an email notification at that time.

2016 ELECTION RESULTS

Dr. Stern reported elections were held in Area 5 (Ontario), and in Area 7 (New Brunswick). Of the eight positions scheduled for election to the CMPA Council, the results are as follows:

Area 1 — British Columbia and Yukon
(1 position in Division A1)

- Dr. Paul Farnan, in occupational and addiction medicine, was acclaimed.

Area 2 — Alberta
(1 position in Division B2)

- Dr. Susan Chafe, in radiation oncology, was acclaimed.

Area 5 — Ontario
(1 position in Division A and 2 positions in Division B)

- Dr. Elliot Halparin, in family/general practice, was re-elected.
- Dr. Michael Sullivan, in anesthesiology, was acclaimed.
- Dr. Christopher Wallace, in neurosurgery, was acclaimed.

Area 6 — Québec
(1 position in Division A)

- Dr. Jean-Joseph Condé, in family/general practice, was acclaimed and will be assuming the position of President immediately following this meeting.

Area 7 — New Brunswick
(1 position in Division A or B)

- Dr. Jennifer Gillis-Doyle, in palliative medicine, was elected.

Area 10 — Newfoundland and Labrador
(1 position in Division A or B)

- Dr. Michael Cohen, in family/general practice, was acclaimed and will be assuming the position of 2nd Vice-President immediately following this meeting.

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 indicated Council is responsible for governing the Association and fostering its long-term success via the oversight of the organization’s business and the provision of guidance and direction to management. He extended thanks to both the successful and unsuccessful candidates in the 2016 election for their willingness to dedicate their time to continuing to maintain the values of the Association.
OTHER BUSINESS AND QUESTIONS

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

Dr. Laurence D. Colman, a Toronto family physician, recalled past CMPA annual meeting presentations had projected anticipated costs over time, and these included a blip at approximately 18-20 years due largely to obstetrical claims. Mr. Bryan acknowledged the CMPA continues to experience this long-tail blip, which is spread out over some years.

Dr. Vishal Varshney of Calgary, currently a 4th year anesthesiology resident at the University of British Columbia (UBC), stated solid education at an early training level could prevent behaviours that arguably lead to future claims, and thus, could save the CMPA substantial dollars. He indicated many medical students and residents would be interested in embarking on research projects pertaining to ethics and consent in medical education and practice, and asked whether the CMPA would consider funding a means of investigation into these issues.

Dr. Crosby noted the Good Practices Guide on the CMPA website is directed towards medical students and supports faculty. He reported the Association is looking to implement planned professionalism education for trainees and had offered research grants for initiatives dedicated to enhancing the safety of care for a number of years. He stated the CMPA is currently evaluating how to optimize the effectiveness of its efforts in this area. The Association is also developing, with medical school input, an initiative to engage medical students and early career physicians in activities around professionalism, improving behaviour, and safety.

Dr. Carole Williams, former CMPA Councillor and family physician from Duncan, British Columbia, wondered what has contributed to the 93% increase in requests for assistance in College complaints since 1996. The President replied, in response to a CMPA request, every medical regulatory authority now advises its members to contact the Association upon facing medical-legal difficulty. As a result, the CMPA believes the increase in requests for assistance in College complaints stems from the greater tendency of members to call rather than handling difficult situations themselves.

Dr. Kimberly Williams, President of Resident Doctors of Canada (RDoC) and post-graduate year trainee from Calgary, Alberta, asked whether the Association considers the difference in base salary, tuition, etc., during its fee calculation process. The President responded the fees of the CMPA reflect the cost of providing medical liability protection and there is no subsidization between regions. He also noted the Association appreciates certain groups of residents do not benefit from provincial government reimbursement of their CMPA fees and has discussed this issue with the provincial and territorial medical associations who negotiate the various reimbursement programs.

Dr. Raj Bhui, an early career family physician from Surrey, British Columbia, spoke to the motivation for an interdisciplinary system to deliver healthcare in Canada. He wondered whether the CMPA has been investigating this change, and whether it believed it would impact the cost of defense. Dr. Crosby reported the CMPA has examined how to best protect physicians as they increasingly move into more integrated models. The Association remains of the view a physician should not be held liable for the actions of those over whom he/she has no control.

Dr. Alexandra Greenhill, a family physician from Vancouver, British Columbia, commended the CMPA for its excellent work and for the availability of both services and documentation in a high quality French. Having noted fewer claims and disputes are reported each year in Québec, she asked whether this trend could be examined and replicated elsewhere in the country so as to impact costs. The President responded that the frequency of legal claims was generally similar across all four regions regions. What delineates Québec from Ontario and, to a lesser extent, British Columbia and Alberta, is the lower magnitude of the awards and settlement. Recognizing the different jurisprudence in Québec and seeking to learn from its experience, the CMPA has sought to identify approaches that could be used to reduce costs elsewhere. Unfortunately, it is anticipated the CMPA costs in the province may increase damage trends in that jurisdiction and reflect what is seen in other provinces.

Dr. Albert P. Ng, a family physician from Windsor, Ontario, commented on his belief that many costs are frivolous and resulting from vexatious complaints. The Executive Director/CEO reported the CMPA has worked with the MOHLTC, the OMA, and the College of Physicians and Surgeons of Ontario (CPSO) to encourage a review to expedite College complaints and reduce associated costs. A report by Mr. Justice Stephen Goudge was produced in support of a Ministry-mandated review to streamline the physician complaints process in Ontario. Dr. Crosby added the CMPA makes every effort to constrain the costs under its control. Operational costs per member have not moved in approximately 10 years, the average hourly cost per lawyer has remained stable, and governance costs have decreased in the past few years as a result of a governance structure
review and related initiatives. One area of concern, and one over which the CMPA has very little control, is damages. Dr. Lloyd T. Clarke, a family physician from Cardston, Alberta, recalled personal experience in seeking advice from CMPA physician advisors over the years. He commended their exceptional work and requested a standing ovation. The President acknowledged it is his most common experience to have a member provide an expression of gratitude for the care they receive from the Association’s offices. Having asked them to stand and be recognized, he introduced the Managing Director of the Physician Services Group, the Director and physician advisors from the Physician Consulting Services Department and members of provincial counsel who were present during the meeting.

EXECUTIVE DIRECTOR/CEO REMARKS

Dr. Stern declared, since 1901, the CMPA has provided the medical liability protection that enables physicians to practice confidently and make decisions that result in better patient care. The world has changed significantly over that time, with the pace of change greatly accelerating in recent years. He recalled having been asked, during a Canadian Medical Association (CMA) session regarding professionalism, how physicians maintain their ability to be excellent in the way they provide care to their patients in this changing environment. He appreciated the growing gap between physicians’ desire to help and be empathetic, and the financial constraints experienced by governments and regional health authorities. He acknowledged, in addition to the stresses associated with this lack of resources, the media focus on the actions of a very few physicians, which has a devastating effect on morale.

The Executive Director/CEO believed the answer is regaining trust, and the CMPA knows from experience that physicians are able to take comfort upon calling for assistance when faced with a difficult situation. Its aim is to provide medical-legal advice, support, and education, and to help those struggling with behaviors that undermine the culture of safety. Recognizing physicians are constrained by the environments in which they practise, the Association is committed to working with regulators, health administrators, health authorities, and others, to reduce the frequency of patient safety incidents and to find ways to educate physicians to adapt to this changing environment. Physicians must all work with their colleagues in a way that gains trust so as to maintain professionalism and find solutions to the increasing challenges facing healthcare.

Dr. Stern advised, with an aim of helping physicians to be excellent in their profession, the CMPA will work with provincial and territorial medical associations, governments, and regulatory authorities. The Executive Director/CEO expressed his confidence regarding the CMPA’s future direction, knowing its work over the next several years will continue to benefit both Canadian physicians and the healthcare system as a whole. By helping members, the CMPA is empowering better healthcare.

In closing, Dr. Stern announced members will be asked to participate in the Association’s biennial survey in the coming months. He urged physicians to complete this survey as the input is incredibly valuable to the CMPA’s ability to stand beside members as their needs evolve and change.

ANNOUNCEMENTS

The President reminded meeting participants to return, following a short break, to the information session on Opioid Prescribing: Conversations. Collaboration. Solutions.

ADJOURNMENT

At 2:51 p.m., there being no further business to discuss, a motion to adjourn the meeting was moved by Dr. Claude Mercier, seconded by Dr. Robert Sabbah, and carried.

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President

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Date

Executive Director/CEO