

# Medical-legal handbook

for **PHYSICIAN LEADERS**

This guide provides insights into key medical-legal concepts and principles that may assist physician leaders in their work.

SECOND EDITION



SECOND EDITION (MARCH 2017)

THE CANADIAN MEDICAL PROTECTIVE ASSOCIATION  
OTTAWA, CANADA

All reproduction rights are reserved.

*Ce document est aussi publié en français.*

The Canadian Medical Protective Association (CMPA) provides medical-legal protection to physicians licensed to practise medicine in Canada.

As the principal provider of medical liability protection in Canada, the CMPA is committed to protecting the professional integrity of physicians and promoting safe medical care. To fulfill this mandate, the CMPA provides a range of services to members in both English and French including medical liability protection, advice and assistance, risk management and education, and publications.

This handbook is available on the CMPA website at [www.cmpa-acpm.ca](http://www.cmpa-acpm.ca).

#### PHOTO CREDITS

Cover: sturti/gettyimages, Page 2: Fuse/Thinkstock, Page 3: Rawpixel Ltd/iStock/Thinkstock, Page 8: Brauns/iStock/Thinkstock, Page 10: Jupiterimages/Stockbyte/Thinkstock

# Table of contents

<b>INTRODUCTION</b>	<b>1</b>
Resources for physician leaders	1
<b>PHYSICIAN LEADERSHIP SKILLS</b>	<b>2</b>
<b>HEALTHCARE ADVOCACY BY PHYSICIANS</b>	<b>3</b>
<b>NATURAL JUSTICE AND FAIR PROCESS</b>	<b>4</b>
Principles and rights	4
Hospital bylaws	4
Privileges and contracts	4
Complaints	5
Sharing information with Colleges	6
Documentation	6
Regularly scheduled physician performance reviews	7
<b>PROFESSIONALISM AND DISRUPTIVE BEHAVIOUR</b>	<b>8</b>
Approaches to address disruptive behaviour	8
Reporting physicians	9
Resolving conflicts	10
Handling legacy complaints	10
<b>MANAGING PATIENT SAFETY INCIDENTS</b>	<b>11</b>
Just culture of safety	11
Leadership during patient safety incidents	11
How physician leaders can promote quality improvement	12
<b>ADVICE AND ASSISTANCE FROM THE CMPA</b>	<b>13</b>
<b>ADDITIONAL RESOURCES</b>	<b>13</b>
<b>REFERENCES</b>	<b>14</b>

# Introduction

Physicians are often leaders in their interprofessional teams, healthcare institutions, professional organizations, and communities. Whether a physician's leadership role is formal, such as the head of a hospital department, or informal, such as a resident leading a medical education session, this role is associated with important responsibilities and obligations.

This guide provides insights into key medical-legal concepts and principles, as well as good practices that may assist physician leaders in their work in healthcare organizations and with other doctors. It is also intended as a resource on medical-legal issues that may be encountered by physicians when acting in a leadership role, regardless of the context.

The guide does not address administrative issues such as financial and governance matters, resourcing, credentialing, and scheduling that may arise in hospitals and other organizations. Physician leaders should refer to resources in their institutions or from their provincial or territorial medical and/or hospital association, or medical federation, for guidance on such issues.

As the main provider of liability protection for Canadian physicians, the CMPA supports physician leaders in the various medical-legal issues they may encounter in the course of providing medical care to patients. The CMPA also seeks to educate and advise members regarding the medical-legal aspects of physician leadership generally.

## Resources for physician leaders

The CMPA encourages physicians who are in, or seeking, leadership positions to make use of the extensive resources offered by provincial and territorial healthcare associations, medical and hospital associations, and universities. For example, the Canadian Society of Physician Executives, the Canadian Medical Association (Physician Leadership Institute), the Association des Conseils des Médecins et Dentistes et Pharmaciens du Québec, and the Canadian Health Leadership Network each offer information, tools, or support. In addition, the Ontario Hospital Association has published the *Physician Leadership Resource Manual*. Some hospitals and regional health authorities have also developed their own medical leadership programs which further support physician leaders.

Physician leaders are encouraged to consult the CMPA's *Medical-legal handbook for physicians in Canada*, which describes the various medical-legal expectations and requirements imposed on physicians by Canadian law. This and other helpful resources are available on the CMPA website.



## Physician leadership skills

The growing demands being placed on physicians heightens the need for effective physician leaders. Successful leaders articulate a vision, make good decisions, and lead by example in how they interact with others including patients, colleagues, and administrators.

Physician leaders should be self-aware and reflective, and recognize the impact their actions have on others. Self-awareness also allows physician leaders to acknowledge their strengths and identify areas for development.

Successful physician leaders need superior communication skills to engage with others, and to understand different perspectives, build trust, and earn respect within their organization. Whatever the role — CEO, chief medical officer, director of professional services in Québec, vice-president medical affairs, medical director, clinical department chair, committee chair — a physician's efforts to lead and influence will have greater impact with good, capable communication.

An important part of being a physician leader is participating in difficult conversations including the behaviour and interpersonal skills of physician colleagues. While doctors may be experienced in clinical conversations, discussions with colleagues and administrators about contentious or controversial matters can be challenging. Physician leaders should continually assess their communication skills and encourage this competency in others.

Successful physician leaders need superior communication skills to engage with others, and to understand different perspectives, build trust, and earn respect within their organization.



## Healthcare advocacy by physicians

Respectful discussions with patients, colleagues, other healthcare professionals, and administrators will generally strengthen collaboration and yield positive results.

Healthcare advocacy is intrinsic to a physician's role, and it is particularly relevant for physician leaders. Advocacy is recognized as a core activity of medicine as witnessed by the Canadian Medical Association's *Code of Ethics*,<sup>1</sup> the Royal College of Physicians and Surgeons of Canada's *CanMEDS Framework*,<sup>2</sup> and the *College of Family Physicians of Canada CanMEDS-Family Medicine*.<sup>3</sup>

Physicians can advocate for individual patients, or at the community or regional level, or at the broader healthcare system level. Healthcare advocacy should be encouraged, however all doctors should consider the appropriateness of the advocacy as well as their role. In some cases, uncertainty about approaches and the appropriate level of advocacy can lead to misunderstandings and conflicts, for example, accusations of overstepping bounds or inappropriate behaviours.

Prior to engaging in any public advocacy activity, physician leaders should consider whether it is necessary to discuss the planned activity with the affected parties such as a patient, other healthcare providers, hospital, or health authority. Patient consent should be obtained when the patient's personal health information will be discussed beyond the circle of care.

Physician leaders should be familiar with, and follow, their organization's policies or guidelines on the role of physicians in advocacy activities. Hospitals generally require that physicians notify the hospital administration before embarking on advocacy activities that could be interpreted as being on behalf of the hospital. When speaking publicly, physicians should be clear when their comments are made in a personal capacity or on behalf of a patient, hospital, or health authority.

The CMPA recognizes the potential for ambiguity in what constitutes appropriate advocacy. Nevertheless, physicians should remain engaged in healthcare decision-making and advocate in a professional manner for the interests of patients and the healthcare system, where appropriate. Respectful discussions with patients, colleagues, other healthcare professionals, and administrators will generally strengthen collaboration and yield positive results.

# Natural justice and fair process

Issues around fair process in the investigation and discipline of physicians feature prominently in the CMPA's cases involving physicians and hospitals or health authorities. This highlights the need for physician leaders to be aware of their organization's bylaws, policies, and procedures regarding the investigation and discipline of doctors. Their position as leaders also means they often play an important role in ensuring bylaws and policies are sound and applied appropriately.

## Principles and rights

All physicians are entitled to procedural fairness<sup>4</sup> when facing an administrative proceeding. The principles of natural justice and fair process require decision-makers to follow appropriate procedures in investigating and adjudicating complaints or issues regarding a physician, as well as in conducting hearings into possible disciplinary actions.

Physicians under investigation or facing discipline by a hospital or health authority should be afforded procedural protections. These are discussed in more detail under the heading "Complaints."

By ensuring that the processes are followed and the protections are respected, physician leaders can more effectively manage medical-legal risks as well as issues and disputes that may arise in their organizations.

## Hospital bylaws

Hospital bylaws establish a framework under which physicians and other healthcare providers provide clinical care. At a minimum, physician leaders should be familiar with their organization's bylaws (including any proposed modifications), and be prepared to implement procedures set out in the bylaws.

## Privileges and contracts

It is important for physician leaders to understand the rights that must be afforded to physicians, depending on a physician's professional relationship with a hospital or health authority.

Most physician leaders likely have experience with the privileges-based model that recognizes the independence of doctors. Physician leaders should be acquainted with the legislation and regulations in their province or territory pertaining to renewing, restricting, and terminating privileges, as well as the associated procedures normally set out in hospital bylaws. These procedures generally identify the responsibility of the "medical advisory committee" (*conseil des médecins, dentistes et pharmaciens* in Québec) to review applications and recommend appointment and reappointment of physician staff. The physician reappointment process may include information collected by physician leaders.

The privileges-based model includes processes aimed at ensuring physicians are entitled to certain procedural and substantive rights regarding changes to their privileges. For example, doctors generally have a right not to have their privileges fundamentally changed without due process as afforded under hospital bylaws and as confirmed by the courts.

All physicians are entitled to procedural fairness when facing an administrative proceeding.

The CMPA generally assists members when their hospital privileges are being threatened or revoked, by helping ensure the member receives the appropriate procedural fairness.

As physician-hospital relationships evolve, physician privileges are being replaced in some instances by employment or contractual agreements between physicians and hospitals. The procedural safeguards guaranteed in hospital bylaws regarding privileges might not necessarily extend to physicians in other practice arrangements, including those under contract with a hospital. Some contracts do, however, contain provisions concerning dispute resolution.

## Complaints

Hospital complaints involving physicians are typically related to three issues: the care that was provided; communication and conduct with patients, the healthcare team, or the administration; and difficulties contacting the physician. A physician may be the subject of a complaint launched by patients, families, hospital administration, or other healthcare providers. Often a complaint is launched as a consequence of a series of missteps on the part of one or more individuals that leave the patient with a negative perception of the hospital and the quality of healthcare generally.

Physician leaders should be familiar with their organization's protocols for receiving and handling complaints, as described in the institution's or health authority's bylaws. These processes can vary significantly, depending on the jurisdiction and the institution itself. Complaints about a physician from hospital staff may be subject to employment legislation and could be accompanied by a union grievance.

A complaint against a doctor can lead to the hospital imposing sanctions such as restricting, suspending, or terminating the physician's privileges. Physician leaders should strive to ensure processes as stipulated in hospital bylaws are followed and physicians are afforded with specific rights, including:

- notice of a complaint and full disclosure of relevant documents
- the ability to respond to a complaint
- a hearing on the matter
- the opportunity to obtain advice and representation from legal counsel
- the ability to present evidence, and examine and cross-examine witnesses
- an impartial adjudicator
- a decision within a reasonable time period
- reasonable resolutions, including proportionate sanctions
- written reasons for any decision
- the right of appeal

Physician leaders should be familiar with their organization's protocols for receiving and handling complaints, as described in the institution's or health authority's bylaws.



Whether the matter is dismissed or leads to administrative proceedings, the hospital is not entitled to resolve a complaint involving a physician without the physician's knowledge.

When a patient complaint leads to disciplinary action or changes to a physician's privileges, the hospital administration (though not the physician leader) is responsible for communicating with the patient about the investigation findings and actions taken. Physician leaders may support the doctor in question by recommending professional development resources in areas such as communication, handovers of care, dealing with conflict, and managing stress.

Possible sanctions resulting from complaints may also be outlined in contracts, where applicable.

Hospitals are increasingly relying on alternative dispute resolution (ADR) processes to address complaints. The CMPA supports these processes, provided the parties consent to them and they are carried out without prejudice. ("Without prejudice" means information presented or discussed during the ADR process cannot be used outside of the process without the express permission of the parties.) Physician leaders must help to ensure the information disclosed during ADR will be kept confidential.

## Sharing information with Colleges

Legislation and regulations in most Canadian jurisdictions require hospitals to advise the medical regulatory authority (College) when physicians are suspended or their authority to admit, attend, or treat patients has been terminated or altered because of incompetence, negligence, or misconduct. The legislation also typically requires the College to be notified when doctors resign during an investigation into alleged incompetence, negligence, or misconduct.

The CMPA advises that physician information should be disclosed to the College only where it is required by law, or where the physician consents to the disclosure, or where disclosure is necessary to safeguard patient safety.

## Documentation

Physician leaders should document their decisions and actions that reflect fulfillment of their institution's bylaws and processes. This includes decisions and actions in the areas of administration, coordination of professional services, quality assurance, complaints, and physician professional development.

It is generally not appropriate to document concerns about a physician's conduct in a patient's medical record. Such information should instead be filed in the physician's professional file.

## Regularly scheduled physician performance reviews

The requirement for physicians to undergo performance reviews and peer reviews<sup>5</sup> is common for maintaining hospital privileges and improving physicians' practices. Peer reviews can, for example, take the form of "360 reviews" which entail a self-assessment and feedback from physician colleagues, other healthcare staff, and administrators. Physician leaders also have an important role to play in physician performance and peer reviews.

Physician leaders should be knowledgeable about the performance review processes in their institution, and should help ensure the reviews and information related to them are handled appropriately. When physician development plans are called for, the institution should help support the agreed-upon commitments.

To help diffuse concerns that some physicians have about the potential use of information gathered through the review process, leaders may want to communicate the benefits of such reviews, such as improvements to quality of care and the workplace environment. Physician leaders will also want to protect confidentiality by ensuring peer review materials are not shared outside the peer review process, unless required by legislation.

Physicians' regularly scheduled performance reviews are not intended to deal with accountability or discipline issues, or privileging matters: such matters should be dealt with through a separate process. In cases where physician performance is found to be, or is suspected to be a cause of patient harm, a separate accountability review should be conducted to focus on the individual provider's role in the matter.

Physician leaders should be knowledgeable about the performance review processes in their institution...



# Professionalism and disruptive behaviour

While only a very small number of physicians exhibit recurrent disruptive behaviour, such behaviour can have a serious impact on patients and families, other physicians and healthcare providers, and the workplace.

The CMPA shares the perspective advanced by most healthcare stakeholders that disruptive behaviour by physicians should be addressed by the healthcare institution where the conduct occurs. Healthcare institutions are well positioned to attend to these matters, given their knowledge of any given situation, their workplace, and the individuals involved.

Physician leaders play an essential role in addressing physician disruptive behaviour in their institutions. Leaders can foster a culture of respect and address disruptive behaviour by setting clear expectations, modeling first-rate professional behaviour, and emphasizing positive values and behaviours throughout the organization. Since disruptive behaviour may begin early in a physician's career, opportunities exist to tackle this behaviour before it takes hold. To this end, physician leaders should set and communicate expectations for professional behaviour among residents and faculty as well, and establish and communicate clear and tiered consequences of non-compliance.

Physician leaders, along with other physicians and healthcare providers, should be educated about the impact of disruptive behaviour. Specific training on teamwork, communication skills, and conflict resolution may be beneficial. Physician leaders should play a role in monitoring physician behaviour, which may include conducting reviews or regular staff surveys, team member evaluations, and direct observation and follow-up.

## Approaches to address disruptive behaviour

Physician leaders should champion a fair, safe, consistent, and effective process for dealing with physician disruptive behaviour in their organization.

When occurrences of disruptive behaviour become known, physician leaders must take appropriate steps to resolve it. The objectives should be to manage the issue, assist the physician to improve his or her behaviour, decrease the risk of medical-legal consequences, improve the workplace, and reduce the potential negative impact on the medical profession generally. Physician leaders encountering cases of disruptive behaviour should use a tiered

Physician leaders should champion a fair, safe, consistent, and effective process for dealing with physician disruptive behaviour in their organization.

approach with a goal to educate and to improve behaviour and, where appropriate, to keep the physician in practice through remedial, rather than punitive, actions.

Isolated, non-egregious behavioral incidents are best handled with an informal “coffee cup conversation” between the physician in question and his or her supervisor. Recurrent disruptive behaviour might require intervention by the physician leader, and could include communicating clear expectations for change and documenting the intervention in the physician’s file. Physician leaders should seek to understand the contributing causes of disruptive behaviour. Assessing physicians who have demonstrated disruptive behaviour may uncover personal issues being experienced by the physician and which may require counselling or other assistance. Supporting strategies, such as continuing education on medical professionalism, are likely to yield beneficial changes if these are offered promptly.

If the disruptive behaviour persists, the leader may determine that escalation to the next level of intervention is warranted and should document the reason. Physicians unable to change and improve their behaviour could then face disciplinary intervention.<sup>6</sup>

At the institution level, an assessment of the workplace where disruptive behaviour occurs should be conducted. Workplace assessments may uncover contributing factors or triggers such as human, financial, or informational resource issues, excessive workload, lack of engagement in decision-making, and competing interests. Efforts to address these types of issues will help all employees in the organization.

Physician leaders need the necessary foresight and tools to help eliminate disruptive behaviour from the healthcare environment. Senior physician leaders should cultivate a culture of respect and safety that includes providing regular feedback to physician staff. While collegiality and mutual respect cannot be imposed, leaders can send a strong message about the importance of medical professionalism. Physician leaders will want to support each another, and stress the importance of clear expectations and standards.<sup>7</sup> The CMPA’s discussion paper on physician disruptive behaviour includes recommendations to help guide leaders in this area.

## Reporting physicians

Physician leaders should be familiar with the legislation and College policies dealing with reporting of physicians in their province or territory. Most statutes or policies require that there be reasonable grounds for reporting, however the triggering criteria can vary considerably between jurisdictions. Physicians may have a legal duty or ethical responsibility to report a physician colleague to a healthcare institution, public health agency, or College when there are reasonable grounds to suspect that patients might be at risk due to a physician’s mental or physical health, or where privilege suspensions or other practice restrictions are imposed. Failure to report may heighten the risk of a legal action or complaint if that failure can be linked to a patient safety incident<sup>8</sup> that resulted from an unreported doctor’s incapacity, health status, or behaviour.

In most cases, it is preferable for the physician leader to inform the other doctor why the report needs to be made, and thereby avoid surprises. Demonstrating support and empathy toward the colleague also helps to ease tension. The report should be made in a timely manner, or immediately if patient safety is a concern or if the physician’s health is compromised.

While collegiality and mutual respect cannot be imposed, leaders can send a strong message about the importance of medical professionalism.



## Resolving conflicts

Conflict among physicians or between physicians and others can strain teamwork and impact the delivery of care. When physician leaders become aware of colleagues in conflict, they should attempt to address the issue and recommend helpful resources.

Physician leaders should continue to develop their collaboration skills, and practise techniques for conflict prevention and dispute management. They should also encourage appropriate training for others. Demonstrating and encouraging mutual respect is the best way to cultivate a positive workplace with minimal conflicts, whether among staff or with patients. The professionalism demonstrated by physician leaders should set an example for other healthcare providers.

## Handling legacy complaints

The principles of natural justice and fair process are equally important when a physician assumes a new leadership role. For this reason, physician leaders who are new in their positions and who inherit historical complaint files need to consider a measured approach.

There should generally be some continuity and consistency in the way such files are handled by the leadership of the facility. Consider, for example, whether it would be fair for a new physician leader who learns of a complaint regarding a doctor's behaviour to write a strongly worded letter to the doctor without first determining what steps have already been taken by the previous administration. In most cases, a preferred approach in these circumstances is to gather existing information about the incident or complaint, determine what action has already been taken and whether the matter still needs to be pursued, then plan next steps and proceed fairly.

Consider, as well, where a new physician leader learns about historical concerns regarding a physician who has allegedly been disruptive for many years. Where the previous administration chose not to take any action against the doctor in response to such issues, would it be fair for the new physician leader to criticize or penalize the doctor for past behaviour in the face of no new complaint?

Without a new complaint, an immediate sanction based on previously unaddressed complaints would not be considered fair process. With no effort to resolve previous complaints, the doctor has not been given the chance to improve their behaviour. If there has been no new complaint but the new leader is aware of multiple previous complaints, it may be quite appropriate for the physician leader to advise the doctor of the concern citing the previous history. Depending on the circumstances, it may be suitable to advise the physician their behaviour is not acceptable, and that a recurrence of the behaviour could result in disciplinary action. With a history of unaddressed multiple complaints, the physician should be given a chance to correct their behaviour.

If a new complaint is filed, the facility's established procedures for responding to such complaints should be followed.

Demonstrating and encouraging mutual respect is the best way to cultivate a positive workplace with minimal conflicts, whether among staff or with patients.

# Managing patient safety incidents

A shared commitment to learn from patient safety incidents and to make improvements is a cornerstone of a just culture of safety.

## Just culture of safety

Physician leaders play a central role in building and nurturing a just culture of safety in their organizations. In a just culture of patient safety, physician leaders and staff are committed to providing the safest possible care to patients and to protecting the interests of both patients and providers. Such a culture recognizes that, while mistakes happen and clinical outcomes are not always ideal, all healthcare providers must work together to minimize risks.

Physician leaders must help to ensure that policies and procedures aimed at safe care are in place and adhered to, and should encourage care providers to critically assess everyday situations for potential risk. They may also recognize and attempt to address hierarchal structures that could inhibit individuals from performing safely.

## Leadership during patient safety incidents

A shared commitment to learn from patient safety incidents and to make improvements is a cornerstone of a just culture of safety. Participation of physician leaders as well as staff physicians is necessary for both quality improvement (QI) reviews (focusing on system issues to identify the causes of incidents) and accountability reviews (focusing on the conduct or performance of individual healthcare providers).

Physician leaders should champion their hospital's processes for properly structured reviews and help to ensure the processes appropriately separate the accountability from the QI streams. The structure and procedure for review committees is typically prescribed in hospital bylaws and policies, and should be structured according to applicable provincial or territorial legislation.

In all jurisdictions, legislation protects QI materials and information from being disclosed in legal actions (and in some jurisdictions, the legislation further protects the information from disclosure in College proceedings). This means that information obtained about a physician during a QI review should not be used against the physician in the course of an accountability review (e.g. investigation, discipline, or privilege hearing). Information about an identified physician must be obtained from sources other than the QI review.

Physician leaders should strive to avoid potential conflicts of interest when they are involved in annual performance reviews or accountability and disciplinary matters, and in QI reviews of providers who report to them.

## How physician leaders can promote quality improvement

Quality improvement for healthcare organizations means analyzing harm from healthcare delivery, and making recommended improvements in patient care and clinical practices at a system level.

Physician leaders are crucial to nurturing a quality culture and to achieving QI goals. This extends to helping empower other healthcare providers to deliver high-quality, safe care in the hospital or health authority, setting goals and expectations for QI, enabling staff to seek solutions and implement changes, as well as taking an active role in QI work. Specifically, physician leaders may want to consider the following actions:

- Identify and leverage QI champions.
- Advocate for the necessary QI infrastructure, including information technology.
- Promote the collection and dissemination of aggregate data relevant to physicians and QI (e.g. immunization rates, annual screenings, patient satisfaction).
- Include QI responsibilities, where relevant, in physician job descriptions.
- Include QI indicators (instructively and supportively) in physician performance evaluations.
- Advocate for remuneration or other rewards for physicians involved in QI activities.
- Promote the benefits of QI and its uptake.

# Advice and assistance from the CMPA

The CMPA monitors changes in the law and in the medical practice environment, as well as evolving leadership models. The CMPA is available to discuss and offer general advice on medical-legal issues and physician-related matters with physician leaders, though without discussing specific cases involving other members.

Physician leaders should ensure they have the appropriate liability protection for their specific role in their institution, including liability protection that may be provided by the hospital or regional health authority.

## Additional resources

For more information, physician leaders may wish to consult additional CMPA publications and resources, available at [www.cmpa-acpm.ca](http://www.cmpa-acpm.ca):

*CMPA Good Practices Guide*

*Medical-legal handbook for physicians in Canada*

*The role of physician leaders in addressing physician disruptive behaviour in healthcare institutions*

“Changing physician-hospital relationships: Managing the medical-legal implications of change”

“Hospital complaints: Understanding the process and reducing anxiety”

“Natural justice – an obligation for ‘fair play’”

“Physician leadership in safer medical care”

“Reporting and responding to adverse events: A medical liability perspective”

“Reporting another physician”

“Respect and understanding – How professionalism affects teamwork”

“The physician voice: When advocacy leads to change”



# References

1. Canadian Medical Association, "CMA Code of Ethics," 2004. Accessed January, 16, 2015 from: <https://www.cma.ca/En/Pages/code-of-ethics.aspx>
2. The Royal College of Physicians and Surgeons of Canada, *The CanMEDS Framework, 2005*. Accessed January 16, 2015 from: <http://www.royalcollege.ca/portal/page/portal/rc/canmeds/framework>
3. The College of Family Physicians of Canada, CanMEDS – Family Medicine, 2009. Accessed January 27, 2015 from: <http://www.cfpc.ca/uploadedFiles/Education/CanMeds%20FM%20Eng.pdf>
4. For the purposes of this document, procedural fairness refers to the legal concept that administrative proceedings should be conducted in a manner that is fair to the parties involved. While the extent of fairness varies with the nature of the proceedings, **at minimum**, affected parties should be given a fair opportunity to participate in the proceedings. This includes providing parties with notice of the proceedings and the ability to respond to any prejudicial argument or evidence.
5. For the purposes of this document, peer review refers to a retrospective review by peers, or subject matters experts, of an individual or groups of individuals looking at specific indicators of quality of care.
6. Hickson, Gerald B., Pichert, James W., "One step in promoting patient safety: Addressing disruptive behavior," *Physician Insurer* (2010) Fourth quarter, p.40-43.
7. Sanchez, Luis T., "Disruptive behaviors among physicians," *Journal of the American Medical Association* (2014) Published online August 21, 2014
8. The World Health Organization provides terminology to facilitate the sharing and learning of patient safety information globally. The Canadian Patient Safety Institute (CPSI) has adopted some of these terms. To support clarity and consistency in patient safety discussions, the CMPA now uses these CPSI terms:
  - *Patient safety incident*: An event or circumstance which could have resulted, or did result, in unnecessary harm to a patient.
  - *Harmful incident*: A patient safety incident that resulted in harm to the patient. Replaces the term "adverse event".
  - *No harm incident*: A patient safety incident which reached a patient but no discernible harm resulted.
  - *Near miss*: A patient safety incident that did not reach the patient. Replaces "close call."

In Québec, the applicable legislation defines the terms "accident" and "incident". Neither of these terms corresponds exactly to the WHO terminology. An "accident" in Quebec means "an action or situation where a risk event occurs which has or could have consequences for the state of health or welfare of the user, a personnel member, a professional involved or a third person". The term "incident", on the other hand, is defined as "an action or situation that does not have consequences for the state of health or welfare of a user, a personnel member, a professional involved or a third person, but the outcome of which is unusual and could have had consequences under different circumstances". The term "accident" in Québec legislation would align with the WHO term "harmful incident" whereas the term "incident" would include the WHO terms "no harm incident" and "near miss."

## The CMPA supports physician leaders

The CMPA assists physicians in reducing the risk of harm from healthcare delivery at every stage of their career. It's our commitment to you.

Physician leaders have additional, important obligations and responsibilities to the organizations they serve. Recognizing that leaders play a challenging role in shaping the healthcare environment and in promoting safe medical care, the CMPA develops resources to support these goals.

The CMPA's Medical-legal handbook for physician leaders provides unique insight into medical-legal concepts and principles, outlines good practices, and provides practical advice that physician leaders can use for the benefit of their organizations, their staff, and ultimately their patients.

When leaders acquire the knowledge and skills needed to instill a workplace culture where safety is a top priority, they not only reduce medical-legal risk, they empower their organizations to deliver quality care. That is effective leadership.