

**Advocating for Safe Patient Care Brief to the  
Standing Committee on Health  
Study on Alternatives To Deal With Medical Errors**

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## **Alternatives To Deal With Medical Errors in a Democratic Society**

Studies at the University of Regina indicate there is a deepening sense of 'Institutional Betrayal' that is prevalent across our country. Much of the basis for this betrayal is in the Canadian Medical Protective Association's (CMPA) use of adversarial, divisive, scorched earth tactics in tort law that is entrenched in our health care service today. The CMPA was established in 1902 then incorporated by a special Act of Parliament. The *Act of Incorporation for The Canadian Medical Protective Association* was passed by the House of Commons on February 27, 1913, and assented to on May 16, 1913. Since 1913 no other country has a Medical Protective Association.

There are several steps that can be taken to reduce the trauma of medical errors, greatly improve safe patient care, reduce wait times and restore trust in health care practitioners. Because we live in a democratic society, we are guaranteed the right to choose.

These choices for patients and families include: reestablishing private liability insurance which would level the playing field for tort law by defunding the CMPA pseudo-liability coverage, arbitration, mediation, or no fault health care compensation. Secondly, by initiating a mandatory, open, transparent, provincial reporting system for medical errors that will enable us to learn from our mistakes. And finally, revising the entrance requirements into our educational programs for all medical practitioners with an emphasis on empathy and compassion since, in the age of the computer, information is at our finger tips, all of which will ensure professional accountability and responsibility.

These initiatives would eliminate the lengthy CMPA blame and shame of debasing legal proceedings that can last from 5 to 8 years and leaves patients, families and competent health care practitioners traumatized a second time, emotionally drained, families suffering financially and ties up the courts indefinitely. As the literature points out, only 2% of patients who are financially able and can find a lawyer who will take their case will win in this present court system that is extremely stressful for most of us. This will enable the Colleges of Physicians and Canadian Medical Associations to exercise their mandate to ensure competency in their profession.

Starting in 1974, seven progressive countries (New Zealand, Norway, Denmark, Sweden, Finland, Scotland and Iceland) have initiated no fault compensation that financially assists patients who have been harmed physically and mentally to deal with medical errors in care. Indications are that patients are being compensated in a timely manner and costs are lower. But as Canadians we mostly want closure which the CMPA is determined not to allow.

The joint effort of the prominent players who use the lengthy tort system to defend medical accidents and do win, is unique to Canada, but the resulting harm is not the Canadian way. Based on the premise that 'to error is human', redirecting our tax dollars, dollars that every province contributes annually to subsidize the nonprofit CMPA, who at present have assets of over \$5.4 B and uses top tier lawyers across Canada to defend their members/doctors accused of medical errors in the court room.

In 2018, \$520 M tax dollars was transferred via a rebate program to the CMPA. This amount increases annually. In effect, individuals who have been injured through medical errors are paying for their doctor's defence. This rebate program could be used to fund no fault compensation directing our tax dollars back to the taxpayer. This would better ensure appropriate and adequate compensation for the patients who are not financially able to afford legal help in a timely manner.

There has been a lot of research, many studies and many ministries, as well as associations and groups that have called for change, but to no avail because of the strong push back from the prominent players who use the tort system in our health care. This matter is nonpartisan and because we live in a democracy we should have the choice as to how we want to move forward after harm has been done to a patient. There is value for alternative ways to compensate patients and families who experience medical errors, namely a democratic system that uses tax payer dollars for tax payer needs.

The Canadian Institute of Health Information has determined that 30,000 Canadians die every year due to medical errors. It is time that steps be taken to rectify this matter. The multiple band aids that have not fixed the problem need to be replaced by major changes that benefit the taxpayers who support our health care service. This would be in keeping with this current governments assertion that transparency is in keeping with their goals. And in so doing, it would restore the public trust that has been lost in our health care.

The request I made to the FOI in 2017 regarding the number of deaths due to medical errors stated there were 154 nationally while the University Health Network has listed 28,000 and 30,000 deaths nationally in 2014, indicating a lack of reporting and a closed system.

It is evident that both mandatory reporting, a fair choice of compensation strategies could help alleviate the hierarchical, entitlement culture that exists in our health care. This would result in an open, transparent environment that would foster empathy, compassion and most important, accountability.

In summary the following websites demonstrate the need for no fault health care compensation for medical errors and mandatory reporting:

**June 2019**

<https://petitions.ourcommons.ca/en/Petition/Details?Petition=e-2101>

### **February 2021**

<https://petitions.ourcommons.ca/en/Petition/Details?Petition=e-2890>

### **March 2021**

W5: The uphill battle of taking on doctors who make medical errors

[www.youtube.com/watch?v=9Z35oDSnZ7g](http://www.youtube.com/watch?v=9Z35oDSnZ7g)

### **September 2021**

"The public record re this case

<https://nationalpost.com/health/judge-blasts-pain-doctor-who-failed-to-change-injection-practices-after-string-of-spinal-infections>

includes: the public health investigation, the College discipline proceedings (it made no sense to fight this case, it contradicts the CMPA's public statements that they compensate patients when errors have occurred - none of the class members have yet to receive a dime, it was apparent years ago that errors had occurred) This is the poster-child case for CMPA scorched earth tactics. He had 4 lawyers at trial and law clerks. The cost to the taxpayer of defending this physician will likely exceed \$2 million in legal fees alone." attending lawyer.

### **October 2021**

Canadian Medical Practitioner's Actions (CMPA) Awards

<https://cmpaawards.com>

Canada needs to do more to ensure that patients experience safe care in our health care services in all communities. The *Act of Incorporation for The Canadian Medical Protective Association* needs to be amended enabling oversight, transparency and eliminating the adversarial component that now exists in our health care service. There is a need for the political will to step forward.