

## In an increasingly daunting legal world, the CMPA turns 100

Dr. Christine Tomkins, professional services director with Britain's Medical Defence Union, ended a recent presentation to the cream of Canada's medicolegal community by reading a headline from a British satirical magazine, *Private Eye*. "Patient leaves hospital alive," it said. "Investigation under way."

Tomkins, who was in Ottawa May 18 to help the Canadian Medical Protective Association mark its centennial, pointed to the headline as a not-so-subtle indicator of an increasingly litigious medicolegal climate.

CMPA President Bill Thomas couldn't help but agree. When his organization was founded in 1901, dues were \$2.50 a year, there were 250 members and the organization was run by volunteers. Today annual coverage for some Ontario specialists costs more than \$60 000, there are more than 60 000 members and it takes more than 200 employees, plus outside legal counsel, to meet their needs. In 1999, the association spent almost \$100 million on

awards and settlements and more than \$66 million on legal fees.

Darrell Bricker of the Angus Reid polling firm says these upward trends will probably continue. "A new agenda has emerged in Canada. People are a lot less afraid to question authority than in the past and they question in a much more vigorous way the advice physicians give them."

The number of legal actions involving the CMPA that has proceeded to trial has increased from 73 in 1995 to 134 in 1999. The amount spent on awards has more than doubled in just 7 years, rising from \$42 million in 1993 to \$100 million in 1999 and \$118 million last year; 1 in 25 Canadian physicians was named in a new legal action during 2000.

The Ottawa meeting brought together experts from medical defence organizations in Canada, France, the UK and the US, and all told the same story: the number of new files is rising, as are legal fees and awards to patients. In fact, nothing appears to be shrinking except physicians'

patience with the legal system. "We have overlegalized French society," complained Dr. Jean-Louis Portos of France's *Le Sou Médical*. "This affects all aspects of society, but particularly medicine."

The CMPA's director of research and education says the association already faces challenges on several fronts: Canada's first medical class-action suit was filed in 2000, and telemedicine is creating new concerns about jurisdictional boundaries. However, few issues cause as much concern as the politicization of Canada's medicare system.

"Physicians have become the gatekeepers to limited resources," said Dr. Bill Beilby, and this creates a headache for both physicians and the CMPA.

For physicians, the question is: How do they balance the duty of care with their responsibilities as managers?

For the CMPA, the question then becomes: How many more files will it have to open because patients are upset with the decisions their physician made? — *Patrick Sullivan, CMAJ*

## PULSE

### AIDS in Canada: the 20th anniversary approaches

As the 20th anniversary of the reporting of Canada's first AIDS case approaches, Health Canada data indicate that 48 014 positive HIV tests have been reported to Canada's Centre for Infectious Disease Prevention and Control. The number of positive tests reported peaked at 2983 in 1995 and declined to 2104 in 2000. Adult women account for 13.8% of all positive tests and for 24% of positive HIV tests reported among the adult population. As was the case in all previous years, the 30–39 age group accounted for the largest proportion of positive HIV tests in 2000 (41.1%).

Since the early 1980s, 17 594 cases of AIDS have been reported to the centre; when adjusted for reporting delay, this figure rises to 19 153. The adjusted number of new AIDS cases peaked at 1859 in 1993 and then declined steadily to 584 in 1999; it is estimated to have rebounded slightly to 644 cases in 2000. Last year, 10.1% of those diagnosed with AIDS were adult women, and 1.2% were children. Slightly more than half (50.8%) of cases diagnosed among adults in 2000 were attributable to men having sex with men, 21.7% were related to injection drug use and 1.2% were attributed to tainted blood and blood products. — *Shelley Martin, shelley.martin@cma.ca*

