

PEI court strikes down zero-tolerance law for MD relationships

The Supreme Court of Prince Edward Island says the province's "zero-tolerance" legislation dictating the rules for physicians' relationships with former patients is unconstitutional. Dr. Richard Wedge, president of the PEI Medical Society, says the decision took physicians by surprise. Before PEI became the second province, after Ontario, to implement this type of legislation, physician organizations there consulted widely with victims' rights groups, patient advocates and others. Wedge says that when the legislation was passed in 1998, the mood was clearly in favour of zero tolerance, which in PEI prohibits a doctor from acting "in any sort of sexual way toward a patient" and from ever having sex with former patients considered to be in a vulnerable group. The penalty for violating this section of the PEI Medical Act is automatic licence suspension for 5 years.

However, the court says the legislation is too rigid and indiscriminate. "The legislation lacks balance and is incapable of giving proper justice to different fact situations," Chief Justice Kenneth MacDonald wrote in his decision. "Neither the public nor the affected parties benefit from this unbending type of legislation."

At issue was the relationship between a PEI physician and a former patient that began more than 7 years after the doctor-patient relationship had ended. Those intervening years played a significant role in the judge's decision, says Wedge. He stressed that doctors on the island "still can't date a patient [who has] left your practice a few days earlier."

The PEI ruling may leave Ontario's zero-tolerance rule in a precarious position. Prior to the PEI decision, the Ontario Medical Association had argued against zero tolerance in legal proceedings. Although the PEI ruling is not considered a direct precedent, other provinces will likely review it carefully if they consider similar legislation. Meanwhile, the PEI government and the College of Physicians and Surgeons of Prince Edward Island now have 2 choices: they can rewrite Section 38 of the Medical Act to reflect the court decision, or they can launch an appeal. That decision is expected shortly. — *Donalee Moulton, Halifax*

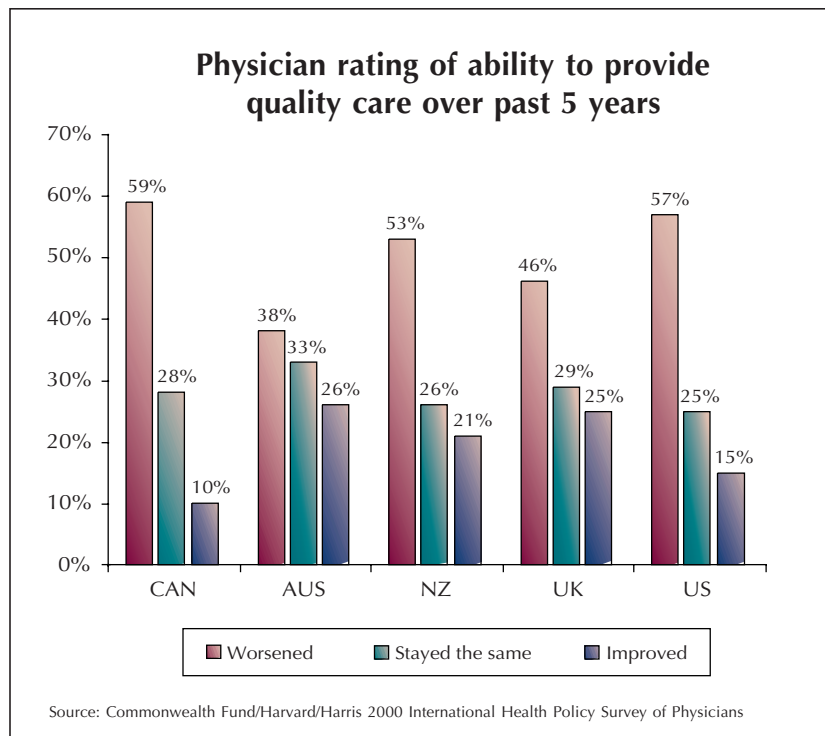
PULSE

Health system worries know no borders

A survey conducted in 5 countries reveals that physicians around the globe are worried about the quality of care they can provide. More than half of physician respondents in Canada, New Zealand and the US, 48% in the United Kingdom and 38% in Australia said their ability to provide quality care has declined in the past 5 years, and most were not optimistic about what the future holds.

Almost two-thirds of Canadian physicians (62%) and over half of those in New Zealand (52%) and the US (53%) were worried that the quality of care will continue to decline. Three-quarters of Canadian physicians believe that in the future patients will be waiting longer than they should for medical treatment. Less than half of the US physicians (41%) shared this concern.

Most physicians polled in the 5 countries rated nursing staff levels as poor or fair. UK physicians were most likely (84%) to give low ratings to nursing staff levels. Physicians from every country except the US were also concerned about the supply of specialists.



Canadian physicians (63%) expressed more concern over inadequate medical and diagnostic equipment than their international colleagues. American doctors (8%) were the least worried. Almost half of respondents from Canada and the UK rated their emergency room facilities fair or poor, compared with 27% of US physicians.

Despite their concerns, physicians in all 5 countries were more satisfied with their health care systems than the people who use them. Canadians, Australians and New Zealanders generally were 4 to 5 times more likely (1998 poll) than physicians (2000 poll) to call for a complete reconstruction of the system. Between 46% and 58% of physicians in those countries agreed that there are some positive aspects about their health care systems, but said fundamental change is needed. — *Lynda Buske, lynda.buske@cma.ca*