

Lawyers trying to stop malpractice merry-go-round

During a Canadian Medical Protective Association (CMPA) conference in 1998, a small group of lawyers representing patients and physicians agreed that something had to change in medical malpractice litigation — costs were skyrocketing and proceedings seemed endless.

The result was the Holland Access to Justice in Medical Malpractice Group, a loose association of about 10 lawyers that has since tackled issues such as the sharing of expert witnesses, the cost of future care and the impact of limitation periods that vary across the country. In effect, the group has put the entire culture of malpractice litigation under the microscope.

It is named after Ontario Supreme Court Judge Richard Holland, who spoke about mediation and damage issues during the 1998 conference and then offered his home as a neutral meeting place for lawyers wanting change. Holland, who died in March, was well known for popularizing pre-trial settlements and was a leading advocate of alternative dispute resolution.

Margaret Ross, the CMPA's general counsel, and Scott Ritchie, a litigator from London, Ont., are de facto leaders of the group. Its creation is somewhat surprising, given the adversarial relationship that typically exists between lawyers on the 2 sides, but it has already made headway on the use of expert witnesses.

Usually, both sides hire their own experts, who then duel over the cost of future care, life expectancy and the other issues common to malpractice cases. However, this increases both costs and the time a case requires.

The group is developing a panel of experts in areas from orthopedics to economics who will be able to work with both parties. The nonpartisan experts will be paid jointly; in 2000, the CMPA spent \$9.2 million on expert witnesses.

Ritchie says cases often drag on needlessly. "Let's say the real issue is liability, but the time spent arguing damages can take just as long as for liability. If the real issue is liability, let's hive off the damages into mediation or arbitration."

Perhaps the enduring legacy of the Holland group will simply be the dialogue it has encouraged. "In our adversarial system, patients have the right to advance their claims and physicians have a right to their defence," says Ross, whose association spent \$69.6 million on legal fees in 2000. "There will be cases where we have genuine fights. But along the way, we can talk and manage our cases in a reasonable way — we can learn to agree on certain facts and documents."

Canada is far from alone in facing problems. In the UK, where 23 000 medical-malpractice cases were out-

standing in March 2000, the government is planning a major overhaul of the system.

It is considering replacing lump-sum settlements with annual payments, and ministers are working toward a system in which more complaints will be settled through mediation.

Back in Canada, the Holland Group's message — more cooperation, less conflict — is slowly getting out, and despite Holland's death the group that bears his name continues its work. More information is available at www.advoc.on.ca/what/Nov_2001.pdf. — Susan Lightstone, Ottawa

ON THE NET

Ottawa's virtual cardiac prevention clinic

Bridging the gap between new evidence and practice is an ongoing struggle for physicians.

To help them stay on top of things, a team from the Ottawa Cardiovascular Centre (www.ottawacvcentre.com) has created an electronic resource to provide clinicians with accessible, up-to-date distillations of the latest cardiovascular research, along with patient information and evidence-implementation tools.

Dr. Joel Niznick, deputy chief of cardiology at the Riverside Site of the Ottawa Hospital and a managing partner at the Ottawa Cardiovascular Centre, is principal author of the Cardiovascular Toolbox (www.cvtoolbox.com).

He says there is no shortage of data and guidelines for reducing cardiovascular mortality. "Unfortunately, the evidence shows that we are far from accomplishing optimal therapy. There is a huge gap between what we know and what we do. I'm trying to bridge this gap using these online tools."

He developed the Toolbox from his own collection of working documents and resources, which he and his colleagues have been using in their practices.

The site, which is supported by unrestricted education grants from several pharmaceutical companies, provides access to a wide variety of tools and information aimed at physicians and patients. The content ranges from diabetes-management resources to a section on cholesterol and a CV-risk checklist that forms the core of what Niznick calls a "virtual cardiac prevention clinic."

"For a long time we've been focused on having experts produce appropriate and applicable guidelines, but that's not enough. We need to make them accessible, and that's what we're trying to do with this site." — Michael O'Reilly,

