

January 27, 2009

***Via Facsimile & Courier***

Mr Fred Horne  
Chair, Standing Committee on Health  
Legislative Assembly of Alberta  
#721 Legislature Annex  
9718 107 Street  
Edmonton AB T5K 1E4

Dear Mr Horne:

**Re: *Bill 52 - Health Information Amendment Act***

The Canadian Medical Protective Association ("CMPA") writes to seek the opportunity to make submissions on Bill 52, the *Health Information Amendment Act*. It is our understanding that the Standing Committee on Health ("Committee") has thus far invited a number of stakeholders to make oral presentations to the Committee on this bill. Given the far reaching consequences that Bill 52 may have for physicians and patients in Alberta, the CMPA encourages the Committee to also engage in a broader public consultation process.

As an introduction, the CMPA is the principal provider of medico-legal assistance to Canadian physicians. More than 8,300 physicians who practise in Alberta are CMPA members. In addition to the provision of legal representation for its members, the CMPA offers a broader advisory service to its members on a wide range of general medico-legal issues and plays a significant and expanding risk management, quality assurance, research and educational role.

We highlight below some of our concerns with Bill 52 and why the CMPA seeks the opportunity to provide more detailed submissions with respect to this bill.

**Doctor-Patient Confidentiality and Electronic Health Records**

As a not-for-profit mutual defence organization operated for physicians by physicians, the CMPA recognizes the importance of protecting personal health information from unauthorized collection, use and disclosure. The CMPA also recognizes the myriad of privacy issues associated with storing patient health information in electronic form. The CMPA appreciates the need for a framework that governs that is responsible for management of the data contained in an electronic health record. However, the CMPA is concerned that Bill 52 attempts to create a legislative framework that has the potential to compromise patients' expectations of privacy.

The CMPA shares many of the concerns identified by the Information and Privacy Commissioner in his public statements at the time Bill 52 was introduced. CMPA member physicians have long understood the fundamental importance of doctor-patient confidentiality. The CMPA is particularly concerned that Bill 52 stipulates that prescribed health information can be accessible to authorized custodians without the consent of the individual who is the subject of the information. To the extent that patient consent is not required for information to be shared more broadly than at present, the principle of doctor-patient confidentiality has the potential to be infringed. Further, Bill 52 provides that the extent to which information must be supplied to health information repositories is subject to regulations to be created at

a later date. The CMPA would welcome the opportunity to make more detailed submissions regarding the maintenance of doctor-patient confidentiality in the context of Alberta's electronic health record and health information repositories.

### **Protection for Health Service Provider Information**

The actions of health care providers and information pertaining to them will be visible through the electronic record (*e.g.* patient volume, prescription practices, infection rates). At present, *HIA* governs the use and disclosure of personal information of health service providers. Bill 52 proposes to change that protection. The CMPA is concerned that Alberta should not change the protections that currently exist in the *HIA*, without further consideration of the unique public policy objectives for protecting health service provider information. The CMPA would welcome the opportunity to make further representations in this regard.

### **Conclusions**

While we have articulated some of our concerns with Bill 52, we would welcome the opportunity to make more detailed submissions as a part of a public consultation process. We thank you for considering our request.

Should the Committee wish to discuss our request to make submissions, please do not hesitate to contact me.

Respectfully submitted,

John E. Gray, MD, CCFP, FCFP  
Executive Director/Chief Executive Officer

C. Ms Erin Norton  
Clerk, Standing Committee on Health, Legislative Assembly of Alberta

Dr William Tucker, CMPA President  
Dr David Shragge, CMPA Councillor  
Dr Susan Chafe, CMPA Councillor  
Dr Fredrykka Rinaldi, CMPA Councillor