

July 12, 2024

Via email: [consultations@cpsso.on.ca](mailto:consultations@cpsso.on.ca)

Dr. Nancy Whitmore  
Registrar  
College of Physicians and Surgeons of Ontario  
80 College Street  
Toronto, ON M5G 2E2

Dear Dr. Whitmore:

**Re: Reporting Requirements – Consultations**

The Canadian Medical Protective Association (“CMPA”) appreciates the opportunity to participate in consultations concerning the draft policy, companion and advice documents on *Reporting Requirements*.

As you know, the CMPA delivers efficient, high-quality physician-to-physician advice and assistance in medico-legal matters, including the provision of appropriate compensation to patients injured by negligent medical care. Our evidence-based products and services enhance the safety of medical care, reducing unnecessary harm and costs. As Canada’s largest physician organization and with the support of our over 111,000 physician members, the CMPA collaborates, advocates and effects positive change on important healthcare and medico-legal issues.

The CMPA’s comments focus on the companion draft document, *Legal Reporting Requirements*. While we appreciate the College’s efforts to provide information to members in plain language, we would suggest some amendments to ensure key details in the relevant legislation are reproduced in the new *Legal Reporting Requirements* document to avoid misleading physicians.

The following are examples of sections in the draft *Legal Reporting Requirement* document where it would be helpful to ensure better consistency with the relevant legislation:

- **“Reasonable grounds to believe”** – To be consistent with the relevant legislation, we recommend referring to “reasonable grounds to believe” in certain sections of the draft companion document.
  - In those sections, the text of the draft document has been shortened to “physicians who believe that...” rather than “physicians who have reasonable grounds to believe,” which is the language used in the relevant legislation and which imposes a higher legal threshold for reporting. Indeed, “reasonable grounds to believe” has been determined by the courts to encompass the standard of probability.<sup>1</sup> Examples of some of this wording in the draft document include:
    - Physicians “who believe” that another regulated health professional may have sexually abused a patient must file a report [...], while section 85.1 of the *Health Professions Procedural Code* (“HPPC”) refers to “reasonable grounds” to believe.
    - Physicians “who believe” that a patient working as a flight crew member, air traffic controller or in another aviation job [...] must report [...], while section 6.2 of the *Aeronautics Act* refers to “reasonable grounds” to believe.
    - Physicians “who believe” that a patient with a certificate issued under the *Canada Shipping Act* may have a medical condition [...] must report [...], while section 90(1) of the *Canada Shipping Act* refers to “reasonable grounds” to believe.
    - Physicians “who believe” that a patient working in a job related to railway safety may have a medical condition that might pose a danger to safe railway operations must report [...], while section 35(2) of the *Railway Safety Act* refers to “reasonable grounds” to believe.

<sup>1</sup> *Baron v. Canada*, 1993 CanLII 154 (SCC), [1993] 1 RCS 416, p. 447.

