

June 20, 2022

Dear Registrar,

Re: CMPA Extent of Assistance for Abortions Provided to Non-Residents

The CMPA recognizes the significance of the recent U.S. Supreme Court decision overturning the *Roe v. Wade* decision that established rights to an abortion. Several American states have taken or will soon take steps to restrict abortion access. It is therefore possible that U.S. patients may wish to come to Canada to receive abortions. We've heard from physicians and others who are interested in the medico-legal implications of physicians in Canada providing abortion services to patients who are not residents of Canada. We are reaching out to share the CMPA's approach to assisting members in these circumstances.

Nature of CMPA Assistance

Physician members are typically eligible for CMPA assistance in the event of medico-legal difficulties arising **in Canada** as a result of professional work done **in Canada**. The CMPA is not, however, structured to assist with medico-legal problems and legal actions that arise **outside of Canada**.

Matters brought in Canada

Consistent with the CMPA's [Principles of Assistance for Treating Non-Residents of Canada](#), the Association **will** generally extend assistance to a member who provides abortion care to a non-resident patient and is subject to a matter brought **in Canada** (*i.e.* through the courts, licensing bodies, or other administrative tribunals of a Canadian province or territory) arising from care provided to the non-resident patient in Canada.

Where a physician is providing care to a non-resident patient, the CMPA expects the physician to make reasonable efforts in the circumstances to ensure the CMPA's [Governing Law and Jurisdiction Agreement](#) is completed before treatment is provided. The Agreement assists in ensuring that legal actions against the physician will be brought in Canada, where CMPA assistance is generally available.

Matters brought outside of Canada

In accordance with its *Principles of Assistance for Treating Non-Residents of Canada*, where a matter is brought **outside of Canada** (*i.e.* through the courts, licensing bodies, or other administrative bodies of another jurisdiction such as the U.S.) against a member in relation to



care provided to a non-resident patient in Canada, the CMPA will generally **decline** to extend assistance.

In some circumstances, the CMPA may exercise its discretion to assist a member with a legal action brought outside of Canada. Such an instance may occur if the care is considered emergent or urgent such as treating a non-resident visitor to Canada who unexpectedly develops medical problems. In these cases, the CMPA may provide discretionary assistance to attempt to have the legal matter transferred to Canada to be heard by a Canadian court or tribunal.

The CMPA will not generally consider extending assistance for legal proceedings commenced outside Canada when a member has, directly or indirectly, solicited, actively undertaken, or offered to undertake the treatment of a non-resident patient. For example, if a member solicits or encourages the creation of a doctor-patient relationship with patients from another country, the member will not generally be eligible for CMPA assistance if sued outside Canada.

The CMPA is aware that some American states are contemplating legislation that would potentially allow for criminal charges and civil legal actions to be brought against health care providers who provide abortions to residents out of the state (even where the care is delivered outside of the state). In light of the CMPA's principles of assistance and the potential to become engaged in legal proceedings in the U.S., CMPA members providing abortion services to non-residents of Canada are encouraged to seek out alternate liability protection for medico-legal matters arising in the U.S. from the delivery of abortions in Canada.

We trust this information is helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa Calder".

Lisa Calder, MD, MSc, FRCPC
Chief Executive Officer

cc. Dr. M. Cohen