

## MD benefits at centre of lawsuit against BCMA

Written by Ann Graham Walker on March 24, 2011 for [The Medical Post](#)

Suit claims non-member administrative fees are as much as 50% of value of individual benefits

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VANCOUVER | A class-action lawsuit has been launched against the British Columbia Medical Association (BCMA), alleging the group has acted improperly vis-a-vis doctors who aren't its members.

It alleges the association charges non-members what the suit characterizes as punitive, arbitrary and excessive administrative fees for provincial-government benefits to which all doctors are entitled regardless of association membership status.

Speaking on behalf of the suit's main plaintiff, Vancouver anesthesiologist Dr. Renate Matthias, lawyer Murray Tevlin said in an interview the BCMA has abused its position as a public trust for years.

With the legal action, he explained, "it's basically a social policy pleading I am making: The funds the province puts into physician benefits are supposed to be used to attract and retain doctors, not to enrich the BCMA."

The suit was filed in early March.

About 1,000 doctors in the province are not BCMA members.

In documents filed with the B.C. Supreme Court and provided to the *Medical Post*, Tevlin cited examples of administrative fees said to have been levied on his client. The fees appear to be as high as 50% of the monetary value of individual benefits.

The lawsuit's core charge is that the benefits already include government money to cover the costs of payment to doctors, and so the association is acting illegally with its additional fees.

### 'Shouldn't be any fees'

"What caused the lawsuit is that the administrative fees are arbitrary and excessive," said Tevlin, "but the more I look into it the more I tend to think there shouldn't be any administrative fees charged to non-members."

BCMA president Dr. Ian Gillespie, when contacted by the *Medical Post* for comment, said in an e-mail: "One of the BCMA's key tenets is to provide excellence in member services. We negotiate collective agreements that provide benefits to both members and non-members (and) there is no reason why members . . . should subsidize the benefits of non-members."

He then added, "It takes a lot of resources to negotiate collective agreements that provide benefits to members and non-members."

## Permanent injunction

The lawsuit also seeks a full accounting, including for:

- all money paid to the association for the physician benefits;
- the costs to the association to administer them;
- all administration fees charged to non-members for each benefit, on an annual basis and for the past 10 years;
- and either restitution for all administration fees charged to non-members or the portion deemed to be excessive.

Also sought is a permanent injunction prohibiting the BCMA from charging non-members excessive administration fees, as well as damages, plus interest, and legal costs.

Asked why a physician might not simply join the association to avoid the individual fees, Tevlin said physicians have various reasons, ranging from disagreeing with the way the association represents their professional interests to acting on principle. He noted under the Canadian Charter of Rights and Freedoms physicians have a right to not join an association.

According to BCMA information, it can charge individual fees to non-members but the total can't exceed its annual membership fee. It charges membership fees on a scale, depending on a physicians' employment status and workload. In 2010, a busy full-time professional would pay \$1,862, including "conjoint" CMA membership.

Tevlin said that since word of the lawsuit began to spread, doctors are "phoning and saying 'good for you,' and 'I've always thought this was wrong.' "

B.C. has a package of benefits for doctors that includes an RRSP-matching plan, pregnancy and parental leave, and a disability benefit as well as the more standard perks such as reimbursement for continuing medical education costs and Canadian Medical Protective Association dues.

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Tags: benefits, lawsuit, membership fees, Murray Tevlin, non members