



POSITION PAPER

APOLOGY LEGISLATION

SUMMARY OF THE ISSUE

Compassion is at the core of Canada's healthcare system. It is also at the core of Apology Legislation enacted in some provinces—and tabled in others. The act of saying "I'm sorry" is basic to human interaction. Yet, historically, contrition on the part of healthcare workers often leads to accusations of liability and litigation. Apology Legislation seeks to reverse this, by creating a buffer that re-directs accusations and possible litigation toward negotiation and fair settlement of claims.

In general, the legislation provides that an apology made by or on behalf of a person in relation to any civil matter does not constitute an admission of fault or liability by the person, does not affect available insurance coverage and is not admissible in a judicial civil proceeding. Specifically with respect to healthcare, for example, the legislation makes it easier for a doctor or other healthcare practitioner to apologize sincerely to a patient in the aftermath of an unfortunate medical incident. It is not designed to affect the due process of law, as an apology is only one piece of evidence in a civil legal case, in which other evidence can and must be presented.

Why is this type of legislation important to Government? Because it can enhance the patient-healthcare relationship; has the potential to reduce healthcare costs related to litigation and may defuse dramatic medical incidents that display a potential for extensive media coverage. Apology Legislation clearly positions Government as acting in the public interest to find ways to redress wrongs outside the court system and underlines its role in protecting the social compact.

HIROC'S ROLE & INITIATIVES

Promoting healthcare safety is at the core of HIROC's vision. In any healthcare system, many of the medical incidents that compromise patient safety are destined for litigation. HIROC is called on to intervene in many of these to negotiate claims settlements that are fair to all parties. This frequently results in settlement costs that are substantially less than financial awards resulting from litigation.

Reduced costs incurred by individual healthcare institutions translate into cost savings for the healthcare system as a whole. Apology legislation will contribute to a climate of calm intervention and mutual benefit that is conducive to fair settlement of claims.

HIROC is also the largest healthcare liability insurer in Canada. While insurance is our business, our vision is the safest healthcare system. We work to realize this vision by sponsoring educational programs and events and by partnering with other organizations, institutions and governments. Structured as a reciprocal, our risk management practices are based on risk dispersion amongst our large group of member/subscribers and growth and protection of capital for claims settlement.

POSITION STATEMENT & CALL TO ACTION

HIROC supports enactment and implementation of Apology Legislation by governments across Canada. HIROC plans to work in partnership with Government to ensure the spirit of the legislation is incorporated into the processes and procedures currently in place to encourage mutually beneficial settlement of claims. We also will use our 20 plus years of experience in the field and our extensive data collection and analysis capabilities to track the legislation's short- and long-term impact on claims settlements and cost reduction in healthcare.