

The BCMA: An open, democratic association?

This question should be up to the BC Medical Association's membership to decide.

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The BCMA's proud tradition as one of the most open, democratic provincial medical associations in Canada, which has been won through the hard-fought efforts of its past leaders, is facing perhaps its greatest challenge. At the 2006 and 2007 AGMs, members expressed their concern that the culture of open debate and transparency was being eroded with the adoption of punitive rules in the Board Code of Conduct that would restrict communication with members.

Members should expect to be fully informed by their Association through their elected representatives, as would be the case in any democratically structured organization in our society. However, today the BCMA Board operates under a corporate-style governance model in which all deliberations are closed to the membership and only the prevailing (or majority) side of Board debates are communicated to the members. Contrary opinions are not shared with the membership, and defeated Board motions are notably absent from the list of Board resolutions on the BCMA web site and Board reports to the membership.

Most physicians, being busy clinicians, trust that the BCMA is handling the day-to-day affairs on their behalf and prefer to leave to others the consideration of complex policy matters that ultimately affect them. This, in my view, needs to change if BC physicians are to guide the path of

their own Association and to ensure that it remains responsive to the needs of its membership.

Transparency is the key to accountability

The BCMA Board's duty is to make decisions on behalf of the membership. But does the majority opinion on the Board reflect the wishes of the majority, without trampling legitimate minorities among the members? The Board is not immune to mistakes. To whom is the Board accountable, and who assesses the Board's performance? Without an open process, how does the Board know if it is acting in accordance with the wishes of the members, or if there is a disconnect with the membership?

In order for the BCMA to be accountable to its members, the BCMA must be transparent, with full disclosure of its decision making on policy matters that have a direct impact on the members and the practice of medicine. Physicians have a right to be fully apprised of the issues and decisions made on their behalf. Only through transparency can the BCMA be truly answerable to its membership.

A philosophical schism

In the BCMA 2006 elections, I was successful in my bid for honorary secretary treasurer with the platform to bring more openness, transparency, and accountability to the members. Many of those who voted may have hoped that electing me to the Execu-

tive would send a strong message to the BCMA that its members want more transparency on how their business should be conducted within their Association. However, there appears to be a philosophical schism on the Board at present that has resulted in political tensions that, in my opinion, have at times negatively affected the important functions of your Board of Directors. This situation is clearly unhealthy for the Association, and demands a clear resolution in order for the BCMA to function effectively.

Should the Association be open to its membership?

Members expect and rely on their elected representatives to not only keep them informed, but also to provide their analysis on the complex issues and to share the opinions of colleagues. Will the BCMA be inclusive of its members by facilitating their awareness of all the views expressed and defended on their behalf at the important Board debates?

How can members provide meaningful feedback on issues or make an informed decision on how to vote at referendum or elections if they are not privy to the full information, including all the pro and con arguments that

Continued on page 62

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Continued from page 60
are debated by the Board?

The real question is, should dues-paying members of the Association be kept inside or outside the tent?

Fiduciary duty of directors—two legal opinions

Following the GPSC defeat at referendum in August 2005, a legal opinion from the BCMA legal counsel Lawson Lundell was presented to the Board in November 2005 that equated the communication of dissenting opinions with members with a breach of fiduciary duty of directors. The Board also adopted the view of its legal counsel that the BCMA is not a representative organization, but a corporation under the BC Society Act.

This BCMA legal opinion formed the basis of a new Code of Conduct subsequently adopted by the Board that contains punitive consequences for directors for communicating dissenting opinions that may be seen to “undermine” or “subvert” Board decisions, including censure, removal from committees, and expulsion.

In June 2006 the Board was informed of the existence of another legal opinion from Davis LLP, a top Vancouver legal firm that confirmed the view of troubled members that it is the fiduciary duty of a director to share all relevant concerns including dissenting opinions with members. After repeated requests for it to be put on the agenda, the Davis opinion was finally discussed at the Board meeting 30 November 2007. However, the Board did not consider how the alternate legal opinion might influence Board policy. After refusing to debate the content or validity of the legal opinion, the Board went on to defeat a motion to put the Davis opinion (along with the Lawson Lundell opinion) on the BCMA web site, members-only area, to inform members of this debate.

The Davis legal opinion, written by a respected constitutional lawyer,

states that the fiduciary duty of loyalty of the BCMA directors is to the membership and not to the Board, and that the responsibility of a director is to communicate all relevant concerns including dissenting viewpoints with the members.

Is the BCMA a democracy?

To many members, the current governance model that requires the Board to act as a monolithic entity that “speaks with one voice” is the antithesis of an open, democratic, association benefiting the diversity of BC physicians.

In a democracy the majority rules but minority opinions are heard, not stifled or censored. It is also important to listen to all opinions because sometimes lone voices can point the right way forward. And sometimes through feedback and reconsideration, minority views can inform, and newly reflect, the majority viewpoint. The “dissenting” director could be representing the majority of the members. Failure to acknowledge the “minority” viewpoint discussed on the Board would disenfranchise a significant portion of those members with those views.

When democratic principles are ignored in the Board Code of Conduct, the membership needs to be aware that their elected representatives may be unable to act in their constituents’ best interests because of its quasi-legal wording with the threat of punitive consequences for directors.

I believe that the strength of the BCMA and our profession depends on an informed and engaged membership best fostered by enhancing, not weakening, its democratic processes.

BCMA’s legacy to the next generation

Will the BCMA be an open, democratic, member-driven organization that serves and is the voice of practising physicians, or a closed society under an elected oligarchy that rules the pro-

fession? My personal belief is that the rich legacy of the democratic organization that has been handed to us, with a history of over 100 years, is not one for us to dismantle or give away, but to preserve and pass on to our next generation of physicians.

What kind of association the BCMA is depends on what physicians want it to be and what they make of it. On the fundamental question of whether the members are entitled to full disclosure regarding decisions made on their behalf by the BCMA, and the right to open, unrestricted, and unfiltered communication between members and their elected representatives on policy matters that affect physicians, I believe it must be up to the BCMA members to decide.

What can members do?

The BCMA member opinion survey presented an opportunity for the general membership to give their input. However, when there is a general lack of awareness of the issues, the results of the survey may not provide an accurate reflection of the views of all the members. The ability to provide meaningful feedback would require, at a minimum, that members are adequately informed on the issues so they can become true participants in the debate that will determine their collective future.

In the BCMA constitution, 10% of the membership may petition for a special meeting as a forum for discussion. The constitution also allows for referendum of its membership to decide upon important matters that have to do with physician compensation or may have an impact on their working conditions and the practice of medicine.

What better way than to use the gift of the democratic process, handed to us through the wisdom of our predecessors, to decide on the future course of the BCMA? **BCMA**