

CMA Submission

Federal Tax Proposal Risks Negative Consequences for Health Care Delivery

Submission to the House of Commons Standing Committee on Finance

Bill C-29, *Budget Implementation Act, 2016, No. 2*

November 18, 2016

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Introduction

The Canadian Medical Association (CMA) provides this submission to the House of Commons Standing Committee on Finance for consideration as part of its review of Bill C-29, *Budget Implementation Act, 2016, No. 2*.

The CMA is the national voice of Canadian physicians. On behalf of its more than 83,000 members and the Canadian public, the CMA's mission is helping physicians care for patients. In fulfillment of this mission, the CMA's role is focused on national, pan-Canadian health advocacy and policy priorities.

As detailed in this brief, the CMA is gravely concerned that by capturing group medical structures in the application of Section 44 of Bill C-29, the federal government will inadvertently negatively affect medical research, medical training and education as well as access to care.

To ensure that the unintended consequences of this federal tax policy change do not occur, the CMA is strongly recommending that the federal government exempt group medical and health care delivery from the proposed changes to s.125 of the *Income Tax Act* regarding multiplication of access to the small business deduction in Section 44 of Bill C-29.

Relevance of the Canadian Controlled Private Corporation Framework to Medical Practice

Canada's physicians are highly skilled professionals, providing an important public service and making a significant contribution to our country's knowledge economy. Due to the design of Canada's health care system, a large majority of physicians – more than 90% – are self-employed professionals and effectively small business owners.

As self-employed small business owners, physicians typically do not have access to pensions or health benefits, although they are responsible for these benefits for their employees. Access to the Canadian-Controlled Private Corporation (CCPC) framework and the Small Business Deduction (SBD) are integral to managing a medical practice in Canada. It is imperative to recognize that physicians cannot pass on any increased costs, such as changes to CCPC framework and access to the SBD, onto patients, as other businesses would do with clients.

In light of the unique business perspectives of medical practice, the CMA strongly welcomed the Finance Committee's recommendation to maintain the existing small business framework and the subsequent federal recognition in the 2016 budget of the value that health care professionals deliver to communities across Canada as small business operators. Contrary to this recognition, the 2016 budget also introduced a proposal to alter eligibility to the small business deduction that will impact physicians incorporated in group medical structures.

What's at risk: Contribution of group medical structures to health care delivery

The CMA estimates that approximately 10,000 to 15,000 physicians will be affected by this federal taxation proposal. If implemented, this federal taxation measure will negatively affect group medical structures in communities across Canada. By capturing group medical structures, this proposal also introduces an inequity amongst incorporated physicians, and incentivizes solo practice, which counters provincial and territorial health delivery priorities.

Group medical structures are prevalent within academic health science centres and amongst certain specialties, notably oncology, anaesthesiology, radiology, and cardiology. Specialist care has become increasingly sub-specialized. For many specialties, it is now standard practice for this care to be provided by teams composed of numerous specialists, sub-specialists and allied health care providers. Team-based care is essential for educating and training medical students and residents in teaching hospitals, and for conducting medical research.

Put simply, group medical structures have not been formed for taxation or commercial purposes. Rather, group medical structures were formed to deliver provincial and territorial health priorities, primarily in the academic health setting, such as teaching, medical research as well as optimizing the delivery of patient care. Over many years, and even decades, provincial and territorial governments have been supporting and encouraging the delivery of care through team-based models.

To be clear, group medical structures were formed to meet health sector priorities; they were not formed for business purposes. It is equally important to recognize that group medical structures differ in purpose and function from similar corporate or partnership structures seen in other professions. Unlike most other professionals, physicians do not form these structures for the purpose of enhancing their ability to earn profit.

It is critical that the federal government acknowledge that altering eligibility to the small business deduction will have more significant taxation implication than simply the 4.5% difference in the small business versus general rate at the federal level. It would be disingenuous to argue that removing full access to the small business deduction for incorporated physicians in group medical structures will be a minor taxation increase. As demonstrated below in Table 1, the effect of this federal taxation change will vary by province.

Table 1: Taxation impacts by province, if the federal taxation proposal is implemented

Province	Small Business Rate	General Corporate Rate	Difference
B.C.	13.0%	26.0%	13.0%
Alberta	13.5%	27.0%	13.5%
Saskatchewan	12.5%	27.0%	14.5%
Manitoba	10.5%	27.0%	16.5%
Ontario	15.0%	26.5%	11.5%
Quebec	18.5%	26.9%	8.4%
New Brunswick	14.5%	27.0%	12.5%
Nova Scotia	13.5%	31.0%	17.5%
P.E.I.	15.0%	31.0%	16.0%
Newfoundland	13.5%	29.0%	15.5%

Source: KPMG, December 31, 2015

In Nova Scotia, for example, approximately 60% of specialist physicians practice in group medical structures. If the federal government applies this taxation proposal to group medical structures, these physicians will face an immediate 17.5% increase in taxation. In doing so, the federal government will establish a strong incentive for these physicians to move away from team-based practice to solo practice. If this comes to pass, the federal government may be responsible for triggering a reorganization of medical practice in Nova Scotia.

Finance Canada Grossly Underestimating the Net Impact

The CMA is aware that Finance Canada has developed theoretical scenarios that demonstrate a minimal impact to incorporated physicians within group medical structures. Working closely with our subsidiary, MD Financial Management, the CMA submitted real financial scenarios from real financial information provided to the CMA from incorporated physicians in group medical structures. These real examples demonstrate that there will be a significant impact to incorporated physicians in group medical structures, if this federal tax proposal will apply to them.

The theoretical scenarios developed by Finance Canada conclude the net financial impact to an incorporated physician in a group medical structure would be in the magnitude of hundreds of dollars. In stark contrast to the theoretical scenarios developed by Finance Canada, the CMA submitted financial scenarios of two incorporated physicians in group medical structures. The financial calculations undertaken by the CMA is based on the real financial information of these two physicians. The examples revealed yearly net reduction of funds of \$32,510 and \$18,065 for each of these physicians respectively.

Projecting forward, for the first physician, this would represent a negative impact of \$402,330 based on a 20-year timeframe and 4.8% rate of return¹. Extending the same assumptions to all incorporated members of that physician's group medical structure, the long-term impact for the group would be \$39.4 million.²

For the second physician, projecting forward, this would represent a negative impact of \$223,565, based on a 20-year timeframe and 4.8% rate of return³. Extending the same assumptions to all incorporated members of that physician's group medical structure, the long-term impact for the group would be \$13.4 million.⁴

Unprecedented Level of Concern Expressed by Physicians

Following the publication of the 2016 federal budget, the CMA received a significant volume of correspondence from its membership expressing deep concern with the proposal to alter access to the small business deduction for group medical structures. The level of correspondence from our membership is quite simply unprecedented in our almost 150 year history.

As part of the CMA's due diligence as the national professional organization representing physicians, we informed our membership of Finance Canada's consultation process on the draft legislative measures. In response, the CMA was copied on submissions by over 1,300 physicians to Finance Canada's pre-legislative consultation.

In follow up, the CMA surveyed these physicians to better understand the impacts of the budget proposal. Here's what we heard:

- Most respondents (61%) indicated that their group structure would dissolve;
- Most respondents (54%) said they would stop practicing in their group structure and that other partners would leave (76%);
- A large majority (78%) indicated that the tax proposal would lead to reduced investments in medical research by their group;

¹ Source: MD Financial Management

² Please note that these projections have not been adjusted for the inherent tax liability on the growth.

³ Source: MD Financial Management

⁴ Please note that these projections have not been adjusted for the inherent tax liability on the growth.

- Almost 70% indicated that the tax proposal would limit their ability to provide medical training spots; and,
- Another 70% indicated that the tax proposal will mean reduced specialty care by their group.

The full summary of the survey is provided as an appendix to this brief.

To further illustrate the risks of this proposal to health care, below are excerpts from some of the communiques received by the CMA from its membership:

- “Our Partnership was formed in the 1970s...The mission of the Partnership is to achieve excellence in patient care, education and research activities....there would be a serious adverse effect on retention and recruitment if members do not have access to the full small business deduction...The changes will likely result in pressure to dissolve the partnership and revert to the era of departments services by independent contractors with competing individual financial interests.”
Submitted to the CMA April 15, 2016 from a member of the Anesthesia Associates of the Ottawa Hospital General Campus
- “The University of Ottawa Heart Institute is an academic health care institution dedicated to patient care, research and medical education...To support what we call our “academic mission,” cardiologists at the institute have formed an academic partnership...If these [taxation] changes go forward they will crippled the ability of groups such as ours to continue to function and will have a dramatic negative impact on medical education, innovative health care research, and the provision of high-quality patient care to our sickest patients.”
Submitted to the CMA April 19, 2016 from a member of the Associates in Cardiology
- “We are a general partnership consisting of 93 partners all of whom are academic anesthesiologists with appointments to the Faculty of the University of Toronto and with clinical appointments at the University Health Network, Sinai Health System or Women’s College Hospital...In contrast to traditional business partnerships, we glean no business advantage whatsoever from being in a partnership...the proposed legislation in Budget 2016 seems unfair in that it will add another financial hardship to our partners – in our view, this is a regressive tax on research, teaching and innovation.”
Submitted to the CMA April 14, 2016 from members of the UHN-MSH Anesthesia Associates

Recommendation

The CMA recommends that the federal government exempt group medical and health care delivery from the proposed changes to s.125 of the *Income Tax Act* regarding multiplication of access to the small business deduction, as proposed in Section 44 of Bill C-29, *Budget Implementation Act, 2016, No. 2*.

Below is a proposed legislative amendment to ensure group medical structures are exempted from Section 44 of Bill C-29, *Budget Implementation Act, 2016, No. 2*:

Section 125 of the Act is amended by adding the following after proposed subsection 125(9):

125(10) Interpretation of designated member – [group medical partnership] – For purposes of this section, in determining whether a Canadian-controlled private corporation controlled directly or indirectly in any manner whatever by one or more physicians or a person that does not deal at arm’s length with a physician is a designated member of a particular partnership in a taxation year, the term “particular partnership” shall not include any partnership that is a group medical partnership.

125(11) Interpretation of specified corporate income – [group medical corporation] – For purposes of this section, in determining the specified corporate income for a taxation year of a corporation controlled directly or indirectly in any manner whatever by one or more physicians or a person that does not deal at arm's length with a physician, the term "private corporation" shall not include a group medical corporation.

Subsection 125(7) of the Act is amended by adding the following in alphabetical order:

"group medical partnership" means a partnership that:

- (a) is controlled, directly or indirectly in any manner whatever, by one or more physicians or a person that does not deal at arm's length with a physician; and
- (b) earns all or substantially all of its income for the year from an active business of providing services or property to, or in relation to, a medical practice;

"group medical corporation" means a corporation that:

- (a) is controlled, directly or indirectly in any manner whatever, by one or more physicians or a person that does not deal at arm's length with a physician; and
- (b) earns all or substantially all of its income for the year from an active business of providing services or property to, or in relation to, a medical practice.

"medical practice" means any practice and authorized acts of a physician as defined in provincial or territorial legislation or regulations and any activities in relation to, or incidental to, such practice and authorized acts;

"physician" means a health care practitioner duly licensed with a provincial or territorial medical regulatory authority and actively engaged in practice;

Incorporation Survey, October 2016

Synopsis

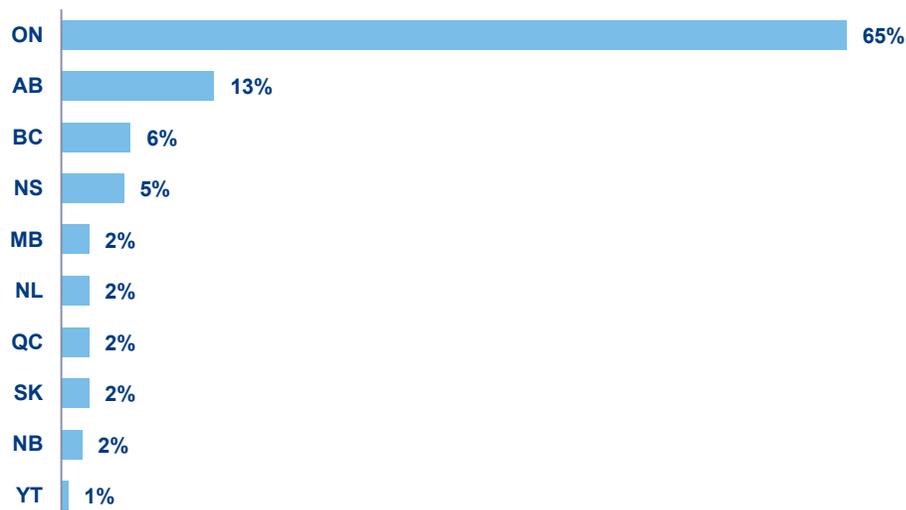
The federal government is advancing a tax proposal that will alter access to the small business deduction. If implemented, this proposal will affect incorporated physicians practicing in partnership group medical structures. The Canadian Medical Association (CMA) is actively advocating for the federal government to exempt group medical structures from the application of this tax proposal.

To support the effectiveness of its advocacy efforts, the CMA conducted an online survey seeking input from members who had voiced their concerns about this issue directly with the Department of Finance and who had copied the CMA on their submissions.

Sample: physician type, province, and work setting

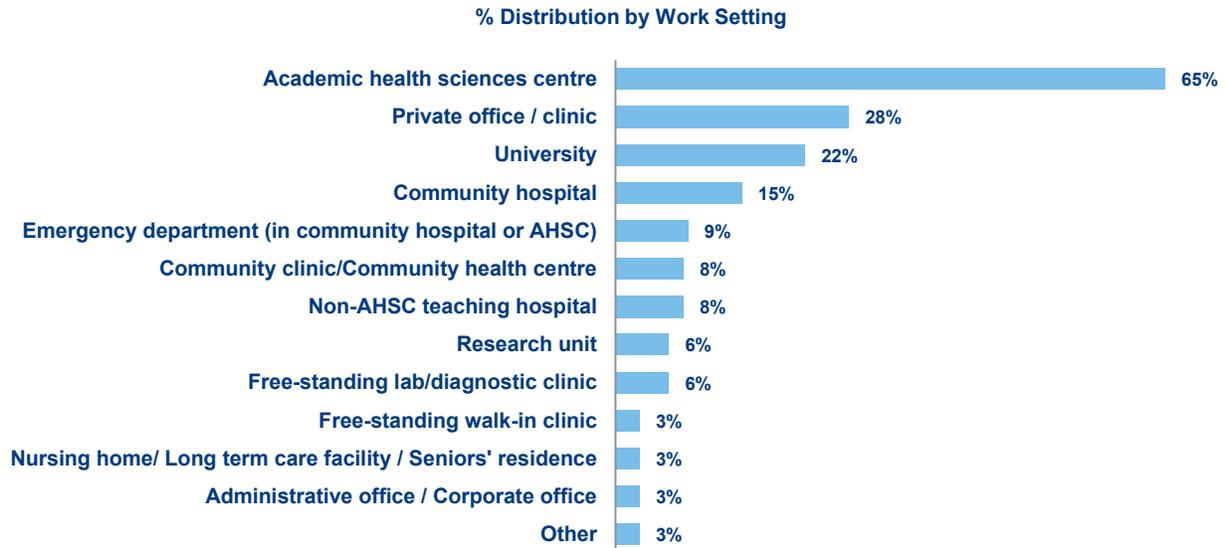
The survey was sent to 1089 CMA members, of which 174 responded (15.9% response rate). All sample respondents were incorporated and practiced in a group medical structure; 26% were family physicians (N=45) and 74% were specialists (N=129). Most respondents indicated practicing primarily in Ontario (65%) and Alberta (13%).

% Distribution by Province of Practice



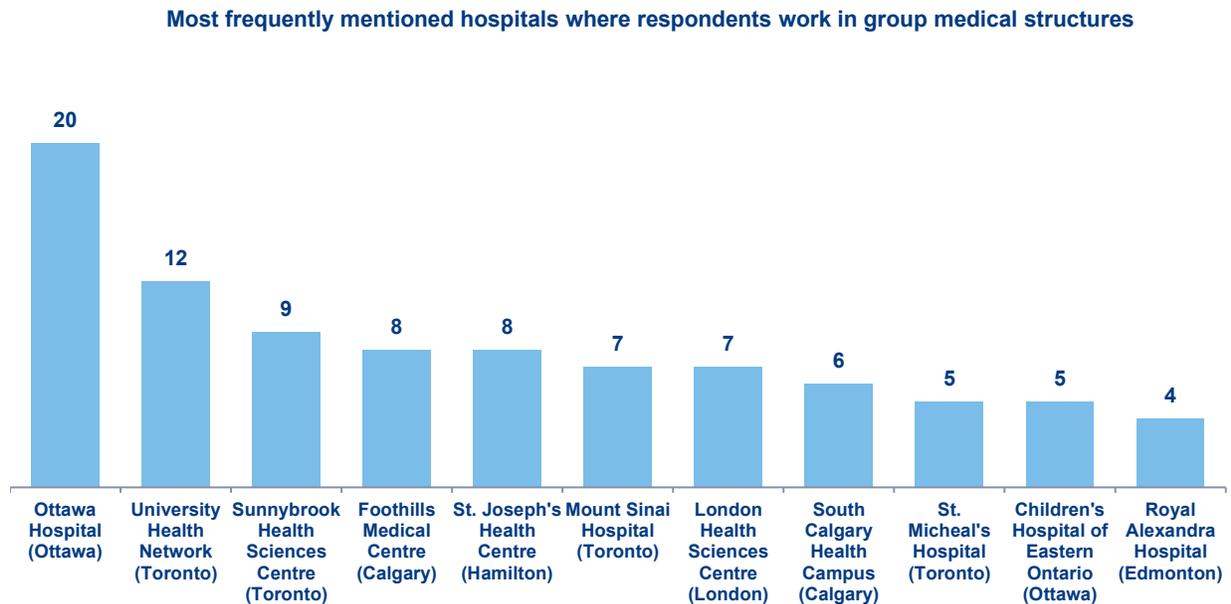
With respect to practice settings, the majority reported working in an academic health sciences centre (65%), followed by a private office/clinic (28%), university (22%), community hospital (15%), emergency department (9%), community clinic/community

health centre (8%), non-AHSC teaching hospital (8%), research unit (6%), and free-standing lab/diagnostic clinic (6%).



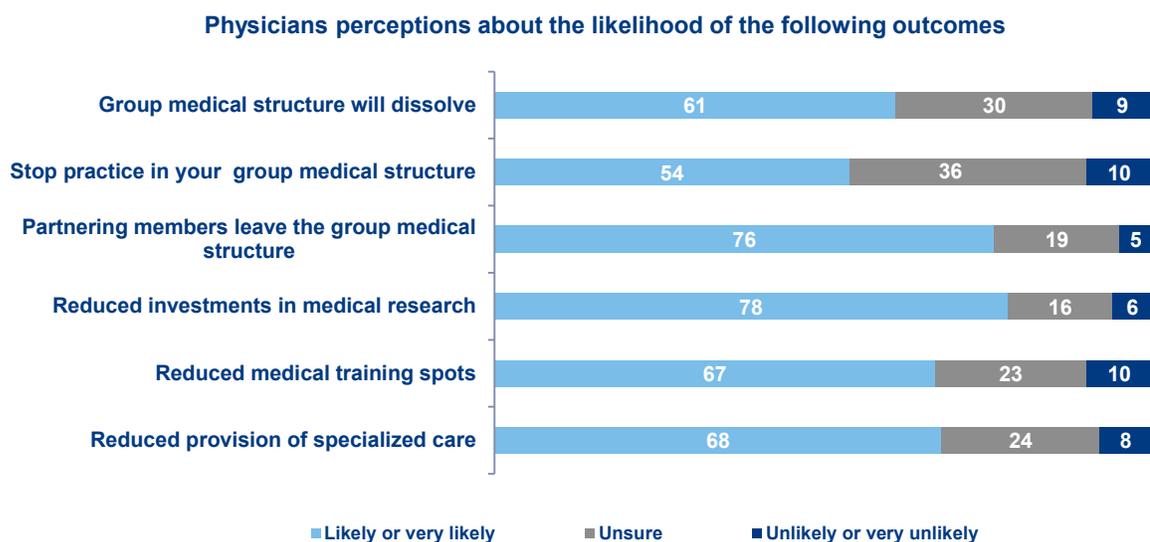
*Totals may exceed 100% as respondents were allowed to select more than one response

In total, respondents worked in 79 hospitals spread around 36 cities.



Likelihood of outcomes resulting from the federal tax proposal

When asked about the possible consequences of the proposed changes, the largest share of respondents (78%) felt a reduction in investments in medical research was likely or very likely. Almost as many (76%) also felt that partnering members would likely leave the group medical structure.



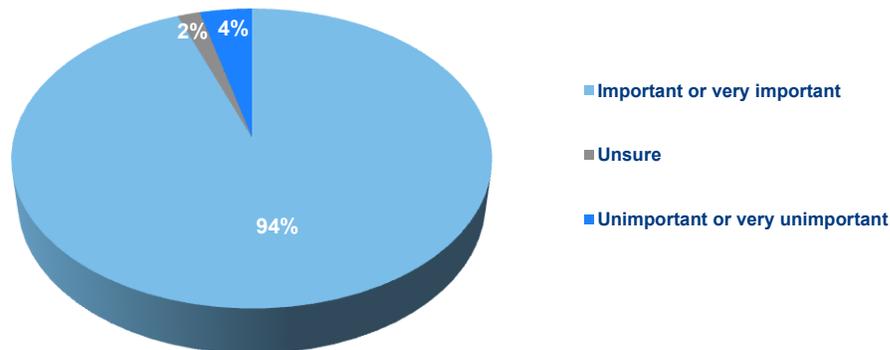
- Most respondents (61%) indicated that their group medical structure would be likely or very likely to dissolve if the federal tax proposal to change access to the small business deduction was implemented. Less than one-third (30%) felt unsure while only a few (9%) reported it as unlikely or very unlikely.
- More than half of respondents (54%) indicated that they would be likely or very likely to stop practicing in their group medical structure if the tax proposal was implemented. More than one-third (36%) were unsure while only a few (10%) reported it as unlikely or very unlikely.
- More than three-quarters of respondents (76%) indicated that other partnering members would be likely or very likely to leave their group medical structure if the tax proposal was implemented. About 20% remained unsure while only 5% reported it as unlikely or very unlikely.
- Almost 8 in 10 respondents (78%) indicated that implementing the tax proposal would be likely or very likely to reduce investments in medical research for their group medical structure. 16% remained unsure while 6% reported it as unlikely or very unlikely.

- Approximately two-thirds of respondents (67%) indicated that implementing the tax proposal would be likely or very likely to reduce the ability of the group medical structure to provide medical training spots. About a quarter (23%) remained unsure and 1 in 10 reported it as unlikely or very unlikely.
- Almost 7 in 10 respondents (68%) indicated that implementing the tax proposal would be likely or very likely to reduce provision of specialized care by their group medical structure. Almost a quarter (24%) remained unsure while 8% reported it as unlikely or very unlikely.

Importance of exempting group medical structures from the tax proposal

More than 9 in 10 respondents (94%) felt that it is important or very important for the federal government to exempt group medical structures from the tax proposal to avoid negatively affecting health care delivery in their province. The remaining respondents were unsure (2%) or considered it unimportant or very unimportant (4%).

Importance of Exempting Group Medical Structures from the Tax Proposal



Other Impacts – Write-in Question

Before submitting the survey, respondents were given the chance to provide additional comments about other potential impacts that the proposed changes might produce. Most responses touched upon a few and inter-related themes, including:

- 1. Impact on education and research will be detrimental and will eventually affect patient care:**
 - “Without the group medical structure, we cannot adequately support teaching education and research activities. Physicians in academic health sciences centres will be forced to use their time to see patients, in order to bill fee-for-service to make a living. Very little time will be left over to

spend doing the research that is critical to advancing medical science, to supporting our university, and our nation's prominent place in the world of medicine”

- “Support is given to the academic health sciences centres by the provincial government in order to facilitate research and education. The federal government's changes will penalize physicians who already dedicate much of their time to providing the stepping stones to advance medicine forward. These physicians generally make less income than physicians working in private practice. They are willing to take this monetary hit because they love what they do. However we all need to support our families and put food on the table. With the government's changes, this may not be possible in the current system, and these group medical structures will need to be dissolved and the physicians working will have much less time to dedicate to research and education.”
- “Less education, research activity to focus on fee-for-service procedures to compensate for higher taxes.”
- Our ability to provide teaching for medical education and research, which are currently not remunerated, would be curtailed. There would be no incentive but rather a significant disincentive to provide these activities because we would be financially penalized compared to physicians in the same specialty that are not in group medical structures.”
- “As the main teaching practice structure, we will lose full time faculty who provide the backbone to the program. They currently earn much below the average for Family Physicians in the province and our ability to support education and research will be compromised.”

2. Discourages practice in academic centres:

- “Working in an academic center as a general pediatrician means that we already make substantially less money than our community colleagues. There is very little incentive to remain in academic practice if we not only earn less, but are then not entitled to the same tax savings. I would leave academic practice and I suspect many of my colleagues would as well. I think we could see the end of the current group medical structure, as it would no longer support a financially viable model for academic practice.”

- “Creates a further divide between working in an academic centre and in the community. It will continue to be more advantageous to work in a smaller community - more money, less cost of living, less administrative and academic hassles, less research funding. Why bother working at an academic centre with such disadvantages.”
- “This policy seems to target academic physicians in groups disproportionately. These physicians currently support research and education by reallocating our own funds generated from clinical care. It is puzzling as to why the Federal Government is waging this war on the academic physician workforce.”

3. Physician retention and recruitment will be challenging:

- “I will retire sooner than otherwise.”
- “At the present time it is very difficult to recruit family doctors who are interested in teaching, research and administration of academic family medicine. This tax change will make it increasingly more difficult to recruit such individuals.”
- “I’m concerned that the proposed changes erase any benefits from a corporation structure and leave me with a loss. Work is so stressful and demanding that if I find myself in a disadvantaged situation financially as well, this would be another factor encouraging me either to retire or move outside of Canada. If I’m going to be faced with losses and more stress, why not instead focus on my quality of life instead?”
- “It would severely restrict our ability to recruit research and specialty physicians. We would not be able to compete with community centres and would see a dramatic decline in our ability to provide for teaching and research activities now funded through the group structure.”
- “I am a dual citizen and would seriously entertain moving to the USA.”
- “It will basically force me to go to a free standing walk in clinic.”
- “It would be less likely to recruit the best quality of medical staff to academic practice as there will be a significant financial disincentive, especially compared to what that same individual could earn on their own

in a community practice. This is on top of the fact that academic practitioners tend to earn less to start with.”

4. Discourages team-based collaborative care:

- “The bill sets up an unfair system where it is more attractive to be a solo MD rather than to collaborate and be part of a team.”
- “This creates an every person for themselves philosophy.”
- “The provision of our group services is required to ensure best patient care. It is wrong to penalize this model of comprehensive care.”

5. Practice will close and services will be limited in certain areas:

- “Any reduction in research, administration, academic activity, and members would affect patient care at our facility and therefore be a threat to patient safety. e.g., if multiple physicians leave, then we won't have enough physicians to cover the emergency department appropriately, wait times will increase, and serious patient safety concerns will arise.”
- “Reduces productivity of the doctors concerned and hence quality of service provided. Access will also be affected!”
- This would be unattractive for some, and they may leave (or others may not join.) If partners leave, the overhead will go up and we would likely close. Because our overhead is already borderline unacceptable. Shared between fewer docs would make it economically impossible. And this could easily happen if docs leave.
- “Reduced physician coverage if members opt out of group medical structure, which would have an impact on greater access and the quality of care.”
- “Our ability to have a large interdisciplinary team to assist in serving our patients could not continue to exist. Our ability to continue to provide 24/7 on-call and after hours clinics would decrease due to a change in the structure leading to less practitioners.”