

Time has come to take a further look at no-fault compensation plans (NFCP) for adverse reactions to vaccines and for blood products supplied by Héma-Québec. Also, we wanted to explore whether there was a need for new plans in light of developments in other jurisdictions along comparable issues. We started with the premise that the two main objectives of those plans are equity and social justice. In addition, our study wanted also to look at a growing concern over the safety of patients in healthcare settings where NFCP exist. The proposed concrete actions related to the work are focussing primarily on safety. Accordingly, we have examined the development and subsequent implementation of various approaches, such as: the use of various tools for improving healthcare services, the unfolding of risk management processes, the handling of serious adverse events, the prevention of nosocomial infections, and so on. In many instances, and to the extent that zero-risk is unattainable, after taking every precaution to maximize safety—that is once an optimal level of security has been targetted and reached—should be a compensation plan for the victims of residual errors be contemplated.

First, we began by looking into some aspects of the many studies related to liability. These aspects were chosen because they are underlying several recommendations related to existing NFCP or proposals to create or not new ones.

Discussions were presented on a) the program for compensating victims of adverse reactions following administration of vaccines, (b) the proposed compensation plan covering blood products distributed by Héma-Québec, (c) looking at a more effective approach than creating a NFCP for nosocomial infections and postnatal complications and, finally, (d) proposing to study further the necessity of establishing a NFCP for drugs.

We assessed these complex issues from the perspective of their legal ramifications, but also in light of clinical concepts, contextualized by the “experience” of healthcare establishments. These three perspectives guided most recommendations in the report.

Finally, the reader is asked to bear in mind that this is a rapidly expanding field and that the number of publications addressing the issue is growing exponentially. The author does not claim that this report deals exhaustively with the matter—the intent was rather to emphasize some key elements as they relate to NFCP.

The full study is available (in French only) on CIRANO's Website at:

<http://www.cirano.qc.ca/pdf/publication/2014RP-12.pdf>