

Review of the Impact of Newly Introduced Amendments to Medicare Protection Amendment Act (2008)

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On April 8, 2008, the BC Government introduced legislation to amend the Medicare Protection Amendment Act (MPAA). These changes are designed to strengthen the health system by making it both accountable and sustainable. In keeping with the parameters of the Canada Health Act (CHA), the interpretation of the five principles of the CHA are now defined in the legislation and a sixth principle, sustainability, is added (previously, there was only a mention of these principles in the preamble to the legislation). While healthcare is federally governed and to a small degree federally funded, the responsibility for the delivery of health services falls upon the provinces.

Under the CHA principle of *public administration*, the provincial government has amended legislation to refer to the provincial health plan as being publicly funded, but also operated on an *accountable* basis. While this is an honorable principle, it is unclear what that will translate to in terms of regulation and policy. Health Authority boards are not elected (they are appointed by government), and Health Authority management is frequently criticized for a lack of accountability in decisions and outcomes.

The newest guiding principle, *sustainability*, will undoubtedly provide the government with some leeway in terms of future regulation. This principle explicitly states that:

the plan is administered in a manner that is sustainable over the long term, providing for the health needs of the residents of British Columbia and assuring that annual health expenditures are within taxpayers' ability to pay without compromising the ability of the government to meet the health needs and other needs of current and future generations.

This may allow the government to subsequently introduce regulation that creates constraints on the provision of health services through cost containment strategies. It has been suggested by a former Minister in government, that the healthcare budget will consume 100% of all provincial government spending by 2017, up from its current 44% of government spending (2007). The provincial government clearly has a duty and responsibility to provide other services including education, social services, and certain infrastructure.

There is an inherent contradiction in this new legislation, however. It continues its commitment to 100% publicly funded services, but also to ensuring that annual health expenditures are in line with the governments overall spending commitments. Having spent the previous seven years creating efficiencies in the system, it is not entirely clear how the government intends to meet both of these principles. Broadly speaking, these strategies may include reducing service levels or eliminating certain

services (as was done with the elimination of physiotherapy, chiropractic and massage services several years ago), creating a prioritization system for access to certain services, or continuing to look for other means of centralizing services to reduce costs or generate additional revenues.

Some of the new language bears review by private clinics and diagnostic imaging facilities for its subtleties. Under the principle of *comprehensiveness* (that is, that all medically required health services are provided by enrolled practitioners), diagnostic imaging facilities have been added. Along with that, new language has been added to include:

any benefits that are performed by practitioners in a health facility that has entered into an agreement with one or more regional health boards designated under the Health Authorities Act or with the Provincial Health Services Authority, in accordance with the agreement.

These are, perhaps, the first steps that the government is taking to regulate its working relationships with private clinics. While entrenching these relationships in legislation is a positive move, it also opens the door to future legislation and regulation of these clinics. As intimated in the Throne Speech of February 12, 2008, changes are forthcoming in terms of both quality and safety regulation within clinics.

The new legislation fails to define “medically required,” which has long created a challenge in the interpretation of the CHA. Perhaps this will be later defined in regulation and policy, thereby bringing greater clarity to what is, and more importantly, is not, an insured procedure.

It is important to note that this legislation is only at first reading in the Legislature, and may be subject to change. It is unlikely to be challenged by the opposition, however, and will likely be acclaimed quickly. A copy of the definitions of the six principles, as taken from the proposed bill on April 8, 2008, is contained below.

In all, it appears that the government will be taking an incremental approach to healthcare reform in this province. As such, the sweeping healthcare reforms which may have at one time been expected to open the door to private healthcare, are not likely to occur. How the government intends to continue a 100% publicly funded health system, yet make it sustainable for future generations, is not entirely clear as yet. The implications of this are that providers will need to keep a watchful eye on both legislative and policy change in the coming months.

About Cogentis Health Group

Cogentis is a health services management and consulting group working with both public and private sector to advance the provision of health services. In addition to an extensive network of specialist providers throughout the province, Cogentis also offers financial recovery services for hospitals and health authorities, and consulting services to private healthcare initiatives.

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Copy of Guiding Principles changes to Legislation, as introduced in Bill 21 on April 8, 2008.

Guiding principles

5.1 In performing its responsibilities and exercising its powers under section 5 (1) and in performing its responsibilities under section 5 (2), in addition to taking into account any broad policy issues and other matters the commission considers relevant, the commission must have regard to the following principles, as set out in sections 5.2 to 5.7:

- (a) the principles established under the *Canada Health Act* (Canada) as the criteria for a province to qualify for a full cash contribution for a fiscal year, those principles being public administration, comprehensiveness, universality, portability and accessibility;
- (b) the principle of sustainability.

Public administration

5.2 The plan is publicly funded and operated on an accountable basis.

Comprehensiveness

5.3 The plan includes as benefits

- (a) all medically required services provided by enrolled medical practitioners,
- (b) all required services provided by enrolled health care practitioners and prescribed as benefits under section 51,
- (c) benefits that are performed in approved diagnostic facilities, and
- (d) any benefits that are performed by practitioners in a health facility that has entered into an agreement with one or more regional health boards designated under the *Health Authorities Act* or with the Provincial Health Services Authority, in accordance with the agreement.

Universality

5 . 4 The plan applies to 100% of beneficiaries on uniform terms and conditions.

Portability

5 . 5 The plan applies to the following individuals:

(a) beneficiaries who are temporarily absent from British Columbia or moving to another province;

(b) eligible individuals who are moving to British Columbia;

(c) eligible individuals visiting British Columbia from another province that has entered into a reciprocal agreement with British Columbia for medical and health care services, in accordance with that agreement.

Accessibility

5 . 6 The plan provides benefits on uniform terms and conditions on a basis that does not impede or preclude reasonable access to benefits by beneficiaries.

Sustainability

5 . 7 The plan is administered in a manner that is sustainable over the long term, providing for the health needs of the residents of British Columbia and assuring that annual health expenditures are within taxpayers' ability to pay without compromising the ability of the government to meet the health needs and other needs of current and future generations.