

1998 BILL 21

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Second Session, 24th Legislature, 47 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 21

**ALBERTA HEALTH CARE INSURANCE  
AMENDMENT ACT, 1998**

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THE MINISTER OF HEALTH

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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## BILL 21

1998

### ALBERTA HEALTH CARE INSURANCE AMENDMENT ACT, 1998

(Assented to \_\_\_\_\_, 1998)

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

Amends RSA  
1980 cA-24

**1 The *Alberta Health Care Insurance Act* is amended by  
this Act.**

**2 Sections 5.05 and 5.1 are repealed and the following is  
substituted:**

Payment of  
benefits

**5.05(1)** No physician or dental surgeon may receive the  
payment of benefits from the Minister for insured services  
provided in Alberta to a resident unless the physician or  
dental surgeon was opted into the Plan when the insured  
services were provided.

**(2)** No resident may receive the payment of benefits from  
the Minister for insured services provided in Alberta to the  
resident by a physician or dental surgeon unless the  
physician or dental surgeon who provided the insured  
services was opted into the Plan when the insured services  
were provided.

**(3)** Notwithstanding subsections (1) and (2), the Minister  
may pay benefits for insured services provided in Alberta to  
a resident by a physician or dental surgeon who was opted  
out of the Plan if the insured services were provided in an  
emergency.

Opting in and  
out by dental  
surgeons

**5.1(1)** Subject to this section, every dental surgeon is  
deemed to have opted into the Plan.

**(2)** A dental surgeon may opt out of the Plan by

## Explanatory Notes

1 Amends chapter A-24 of the Revised Statutes of Alberta 1980.

2 Sections 5.05 and 5.1 presently read:

*5.05(1) No physician or dental surgeon may receive the payment of benefits from the Minister for insured services provided in Alberta to a resident unless,*

*(a) in the case of insured services provided by a physician, the physician was enrolled in the Plan when the services were provided;*

*(b) in the case of insured services provided by a dental surgeon, the dental surgeon was opted into the Plan when the services were provided.*

*(2) No resident may receive the payment of benefits from the Minister for insured services provided in Alberta to the resident by a physician or dental surgeon unless*

*(a) the physician who provided the insured services was enrolled in the Plan when the insured services were provided, or*

*(b) the dental surgeon who provided the insured services was opted into the Plan when the insured services were provided.*

*(3) Notwithstanding subsections (1) and (2), the Minister may pay benefits for insured services provided in Alberta to a resident by a*

- (a) notifying the Minister in writing indicating the effective date of the opting out, and
- (b) publishing a notice of the proposed opting out in a newspaper having general circulation in the area in which the dental surgeon practises

at least 30 days prior to the effective date of the opting out.

**(3)** A dental surgeon who has not previously practised in Alberta may opt out of the Plan prior to commencing practice by

- (a) notifying the Minister in writing indicating the date on which the dental surgeon will commence opted-out practice, and
- (b) publishing a notice of the proposed opting out in a newspaper having general circulation in the area in which the dental surgeon intends to practise.

**(4)** A dental surgeon who has opted out of the Plan shall

- (a) post a notice in a part of the dental surgeon's office to which patients have access advising patients of the dental surgeon's opted-out status, and
- (b) ensure that each patient is advised in person of the dental surgeon's opted-out status before any service is provided to the patient.

**(5)** A dental surgeon who has opted out of the Plan may opt into the Plan by notifying the Minister in writing at least 30 days prior to the effective date of the opting in.

Opting in and out by physicians

**5.11(1)** Subject to this section, every physician is deemed to have opted into the Plan.

**(2)** A physician may apply to the Minister to opt out of the Plan.

**(3)** An application must

- (a) be in a form acceptable to and contain the information required by the Minister, and
- (b) be submitted to the Minister at least 90 days before the proposed effective date of opting out.

**(4)** The Minister shall make a decision on an application within 60 days after receipt of the application.

*physician who was not enrolled in the Plan or a dental surgeon who was opted out of the Plan if the insured services were provided in an emergency.*

*5.1(1) Subject to this section, every dental surgeon shall be deemed to have opted into the Plan.*

*(2) A dental surgeon may opt out of the Plan by*

*(a) notifying the Minister in writing indicating the effective date of the opting out, and*

*(b) publishing a notice of the proposed opting out in a newspaper having general circulation in the area in which the dental surgeon practises*

*at least 30 days prior to the effective date of the opting out.*

*(3) A dental surgeon who has not previously practised in Alberta may opt out of the Plan prior to commencing practice, by*

*(a) notifying the Minister in writing indicating the date on which the dental surgeon will commence practice, and*

*(b) publishing a notice of the proposed opting out in a newspaper having general circulation in the area in which the dental surgeon intends to practise.*

*(4) A dental surgeon who has opted out of the Plan may opt into the Plan by notifying the Minister in writing at least 30 days prior to the effective date of the opting in.*

(5) The Minister may refuse an application if the Minister is of the opinion that there is a need for the type of insured services provided by the physician.

(6) If the Minister approves the application, the physician shall

- (a) publish a notice of the proposed opting out at least 30 days prior to the effective date of the opting out in a newspaper having general circulation in the area in which the physician practises,
- (b) post a notice in a part of the physician's office to which patients have access advising patients of the physician's opted-out status, and
- (c) ensure that each patient is advised in person of the physician's opted-out status before any service is provided to the patient.

(7) A physician who has been opted out of the Plan for a continuous period of at least one year may opt into the Plan by notifying the Minister in writing at least 30 days prior to the effective date of the opting in.

(8) A physician who has been opted out of the Plan for a continuous period of less than one year may apply to the Minister to opt into the Plan.

(9) An application under subsection (8) must be in a form acceptable to and contain the information required by the Minister.

(10) The Minister may allow the application if the Minister is of the opinion that there is a need for the type of insured services provided by the physician.

(11) In making a decision on an application under subsection (2) or (8) the Minister shall take into consideration the factors, if any, that are set out in the regulations.

### **3 Section 5.2 is amended**

- (a) **in subsection (1) by striking out** "No physician who is enrolled in the Plan and no dental surgeon who is opted into the Plan" **and substituting** "No physician or dental surgeon who is opted into the Plan";

**3** Section 5.2 presently reads in part:

*5.2(1) No physician who is enrolled in the Plan and no dental surgeon who is opted into the Plan who provides insured services to a person shall charge or collect from any person an amount in addition to the benefits payable by the Minister for those insured services.*

**(b) by repealing subsection (2)(c) and substituting the following:**

- (c) in the case of a 3rd or subsequent contravention, order that, after a date specified in the order, the physician or dental surgeon is deemed to have opted out of the Plan for the period specified in the order.

**4 Section 5.3 is amended by striking out** “If a physician who is not enrolled in the Plan or a dental surgeon who is opted out of the Plan” **and substituting** “If a physician or dental surgeon who is opted out of the Plan”.

**5 The following is added after section 5.3:**

Other  
prohibited fees

**5.31(1)** No person shall charge or collect from any person

- (a) an amount for any goods or services that are provided as a condition to receiving an insured service provided by a physician or dental surgeon who is opted into the Plan, or
- (b) an amount the payment of which is a condition to receiving an insured service provided by a physician or dental surgeon who is opted into the Plan

where the amount is in addition to the benefits payable by the Minister for the insured service.

**(2)** Subsection (1) does not prohibit the charging or collecting of an amount paid for non-insured health or pharmaceutical goods or services where the charging or collecting of that amount is not otherwise prohibited under this Act or the *Hospitals Act* and a physician or dental surgeon reasonably determines that it is necessary to provide the non-insured health or pharmaceutical goods or services before the insured service is provided.



(2) *If a physician or dental surgeon contravenes subsection (1), the Minister may,*

- (a) *in the case of a first or subsequent contravention, send a written warning to the physician or dental surgeon,*
- (b) *in the case of a 2nd or subsequent contravention, refer the contravention to the College or The Alberta Dental Association, as the case may be, and*
- (c) *in the case of a 3rd or subsequent contravention, order that, after a date specified in the order,*
  - (i) *in the case of a physician, the physician is deemed not to be enrolled in the Plan for the period specified in the order, and*
  - (ii) *in the case of a dental surgeon, the dental surgeon is deemed to have opted out of the Plan for the period specified in the order.*

**4** Section 5.3 presently reads:

*5.3 If a physician who is not enrolled in the Plan or a dental surgeon who is opted out of the Plan provides insured services in Alberta in an emergency to a resident in respect of whom benefits may be paid and the physician, dental surgeon or resident is paid benefits with respect to those insured services, the physician or dental surgeon shall not charge or collect from any person an amount in addition to those benefits.*

**5** New provisions regarding facility fees and related benefit payments.

(3) If a person receives an amount in contravention of subsection (1) the Minister may recover that amount in a civil action in debt as though that amount were a debt owing from the person to the Crown in right of Alberta.

(4) Where the Minister recovers any amount under subsection (3) the Minister shall reimburse the person who was charged the amount.

Prohibition on receiving benefits

**5.32(1)** A physician or dental surgeon who is opted into the Plan and provides insured services to a person in circumstances where the physician or dental surgeon knows or ought reasonably to know that the person is being charged an amount in contravention of section 5.31 shall not receive the payment of benefits from the Minister for those insured services.

(2) Section 5.2(2) applies where a physician or dental surgeon contravenes subsection (1).

**6 Section 5.4 is repealed and the following is substituted:**

Minister's right to recover amounts

**5.4(1)** If a physician or dental surgeon

- (a) in contravention of section 5.2 or 5.3, receives an amount in addition to the benefits payable by the Minister, or
- (b) receives the payment of benefits in contravention of section 5.32,

the Minister may recover the additional amount and the benefits in a case referred to in clause (a), or the benefits in a case referred to in clause (b), by one or more of the following means:

- (c) by withholding those amounts from any benefits payable to the physician or dental surgeon;
- (d) by civil action as though those amounts were a debt owing to the Crown in right of Alberta;
- (e) pursuant to any agreement between the Minister and the physician or dental surgeon that provides for the repayment of those amounts.

(2) The Minister shall reimburse a person in respect of whom benefits may be paid for any amounts recovered under subsection (1) that were paid by the person and have not been previously reimbursed.

**6** Section 5.4 presently reads:

*5.4(1) If a physician or dental surgeon, in contravention of section 5.2 or 5.3, receives an amount in addition to the benefits payable by the Minister, the Minister may recover that additional amount and the amount of the benefits by one or more of the following means:*

- (a) withholding those amounts from any benefits payable to the physician or dental surgeon;*
- (b) civil action as though those amounts were a debt owing to the Crown in right of Alberta;*
- (c) pursuant to an agreement between the Minister and the physician or dental surgeon that provides for the repayment of those amounts.*

*(2) The Minister shall reimburse a resident in respect of whom benefits may be paid or his personal representatives for any amounts recovered under subsection (1) that were paid by the resident and with respect to which the resident did not receive benefits.*

**7 The following is added after section 5.4:**

Offence

**5.41** A person who contravenes section 5.2, 5.3, 5.31 or 5.32 is guilty of an offence and liable to a fine of not more than

- (a) \$1000 for the first offence, and
- (b) \$2000 for the 2nd and each subsequent offence.

**8 Section 5.5(1) is amended by striking out** “a physician who is not enrolled in the Plan and a dental surgeon who is opted out of the Plan” **and substituting** “a physician or dental surgeon who is opted out of the Plan”.

**9 Sections 5.6 to 5.9 are repealed.**

**10 Section 6 is amended**

- (a) in clause (h.1) by adding “or 5.11(7)” after “section 5.1”;
- (b) by repealing clause (h.2) and substituting the following:
  - (h.2) respecting the factors to be taken into consideration by the Minister in dealing with applications under section 5.11(2) and (8);
- (c) by repealing clauses (h.3) to (h.7).

**7** Offences respecting unlawful fees.

**8** Section 5.5(1) presently reads:

*5.5(1) Prior to providing insured services in Alberta to a resident in respect of whom benefits may be paid, a physician who is not enrolled in the Plan and a dental surgeon who is opted out of the Plan shall advise the resident of that fact and that the resident is not entitled to be reimbursed from the Plan for the cost of any insured services provided by the physician or dental surgeon.*

**9** Repeal of enrolment provisions for physicians.

**10** Section 6 presently reads in part:

*6 The Lieutenant Governor in Council may make regulations*

- (h.1) governing notifications under section 5.1;*
- (h.2) respecting the application procedures and requirements for physicians to be enrolled in the Plan;*
- (h.3) respecting the determination of need for the purposes of physicians' eligibility for enrolment in the Plan;*
- (h.4) establishing additional eligibility criteria for the enrolment of physicians in the Plan;*
- (h.5) respecting the terms and conditions that may be imposed on a physician's enrolment in the Plan;*
- (h.6) respecting the suspension and cancellation of a physician's enrolment in the Plan;*
- (h.7) respecting the procedures and requirements for physicians who wish to have their enrolment in the Plan terminated;*

**11 Section 13(2)(b) is repealed and the following is substituted:**

- (b) to any committee established to advise the Minister in respect of matters under section 8.

**12** A physician who immediately before the coming into force of this section was enrolled in the Alberta Health Care Insurance Plan is deemed to be opted into the Plan.

**13 This Act comes into force on Proclamation.**

**11** Section 13(2) presently reads:

*(2) The Minister or a person employed in the administration of this Act and authorized by the Minister may disclose or communicate information pertaining to the date on which health services were provided, a description of those services, any diagnosis given by a person who provided the services, the name and address of the person who provided the services, the benefits paid for those services and the person to whom they were paid, the name and address of the person to whom the services were provided and any other information pertaining to the nature of the health services provided*

*(b) to the Medical Practice Audit Committee established by the College.*

**12** Transitional.

**13** Coming into force.