

1998 BILL 231

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Second Session, 24th Legislature, 47 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 231**

## **MEDICARE PROTECTION ACT**

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MS. BARRETT

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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# BILL 231

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## MEDICARE PROTECTION ACT

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

Preamble

WHEREAS Canada's system of publicly funded, high quality and accessible health care is one of this country's proudest achievements; and

WHEREAS Alberta's health care providers are finding it increasingly difficult to consistently guarantee high quality care as a result of staffing reductions and lack of investment in capital improvements in public health care facilities and in the community; and

WHEREAS the public health care system should be fairly compensated by opted out physicians for the use of its facilities, equipment and personnel; and

WHEREAS the foundation of publicly funded health care is being weakened by pressures to allow a greater role for private, for-profit and investor-owned businesses;

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

Relationship to other Acts

**1** If a provision of this Act is inconsistent or in conflict with a provision of another enactment, the provision of this Act prevails.

Definitions

**2** In this Act,

- (a) "Alberta Health Care Insurance Plan" means the plan referred to in section 3 of the *Alberta Health Care Insurance Act*;

- (b) “authority” means a regional health authority, a community health council or a subsidiary health corporation established under the *Regional Health Authorities Act*;
- (c) “Committee” means the Medicare Protection Advisory Committee established under section 6;
- (d) “diagnostic and treatment facility” means a health care facility providing medical or health care services on an outpatient or day surgery basis;
- (e) “hospital” means a hospital as defined in the *Hospitals Act*;
- (f) “insured services” means insured services as defined in the *Alberta Health Care Insurance Act*;
- (g) “medically necessary health care services” means health care services that are deemed by the Minister upon the advice of the Committee to be essential to the health and well-being of Albertans and includes insured services;
- (h) “Minister” means the Minister of Health;
- (i) “nursing home” means a nursing home as defined in the *Nursing Homes Act*.

Crown is bound

**3** This Act binds the Crown.

## PART 1

### HEALTH CARE GUARANTEES

Right to health care

**4** All Albertans have the right to receive without charge medically necessary health care services that are comprehensive, universal, portable, accessible and publicly administered.

Equal, universal access

**5** The right to equal and universal access to medically necessary health care services shall be ensured by the following guarantees:

- (a) every person living in Alberta has the right to medically necessary health care services;
- (b) every person has the right to receive medically necessary health care services at no charge;

- (c) aside from specialized services that may only reasonably be provided in large urban centres, every person in each region of Alberta has the right to equitable access to comparable health services;
- (d) every person has the right to receive medically necessary health care services on an equal and timely basis without discrimination by reason of economic status, social status, race, gender or any other characteristic;
- (e) each person has the right to make decisions concerning access to services and health professionals.

## PART 2

### MEDICARE PROTECTION ADVISORY COMMITTEE

Medicare  
Protection  
Advisory  
Committee

- 6(1)** There is hereby established an advisory committee to be known as the Medicare Protection Advisory Committee.
- (2)** The Committee shall consult widely with Albertans and its deliberations shall be open to the public.
- (3)** The Committee shall provide advice to the Minister on the following matters:
- (a) the medical and health care services which should be considered insured services because they are essential to the health and well-being of Albertans;
  - (b) whether adequate levels of funding are being provided for facilities, equipment and operations to ensure the appropriate provision of health and medical services without undue waits, delays or reductions in service;
  - (c) appropriate staff-patient ratios in all of Alberta's hospitals, extended care facilities and nursing homes;
  - (d) equitable funding for regional health authorities and province-wide programs based on a calculation of need, including consideration of population, demographics, health needs and social determinants of health;
  - (e) alternative payment mechanisms for health care professionals other than fee for service that can be demonstrated to improve the quality and efficiency of health care delivery;

- (f) the feasibility of expanding medically necessary health care services to include prescription drug costs, home care, nursing home care, continuing care, preventative medicine and other essential services;
- (g) terms and conditions respecting the enrolment of physicians in the Alberta Health Care Insurance Plan;
- (h) terms and conditions governing physicians opting out of the Alberta Health Care Insurance Plan.

Appointment  
of Committee  
members

**7(1)** The Lieutenant Governor in Council shall appoint not fewer than 9 and not more than 15 members to the Committee.

**(2)** Prior to making appointments under subsection (1), vacant positions shall be publicly advertised and nominations sought.

**(3)** Members of the Committee shall be appointed with due regard to their knowledge of the health care system, diversity of experience, and professional expertise.

**(4)** Nominations for the Committee shall be solicited from diverse organizations and individuals representing health care professions, health advocacy organizations, seniors, low income Albertans and the general public.

**(5)** The Minister may provide for payment of reasonable expenses and allowances to Committee members.

### **PART 3**

#### **HEALTH CARE FACILITIES AND OPERATIONS**

Facilities for  
medically  
necessary  
health care  
services

**8** Medically necessary health care services, other than those that can be safely performed in a registered medical or health professional's office, must be operated and controlled by a regional health authority or other provincial agency that is created, continued or established under an Act.

Overnight  
patient stays

**9** Medically necessary health care services that require overnight patient stays must be performed in a hospital controlled by a regional health authority or a provincial agency.

Non-profit facilities	<b>10</b> A regional health authority or provincial agency must operate all hospitals and health care facilities within its jurisdiction on a not for profit basis.
Diagnostic and treatment facilities	<p><b>11(1)</b> An owner of a diagnostic and treatment facility who on July 1, 1998 had approval under the <i>Medical Profession Act</i> to provide medically necessary health care services is deemed to have approval to continue operating the facility under this Act.</p> <p><b>(2)</b> No further approvals will be given to new diagnostic and treatment facilities owned on a for-profit basis and proposing to offer medically necessary health care services after July 1, 1998.</p>
Nursing homes	<p><b>12(1)</b> An owner of a nursing home operated on a for-profit basis who on July 1, 1998 had approval under the <i>Nursing Homes Act</i> to receive public funds or provide medically necessary health care services is deemed to have approval to continue operating the facility under this Act.</p> <p><b>(2)</b> No further approvals will be given to nursing homes owned on a for-profit basis and proposing to receive public funds or offer medically necessary health care services after July 1, 1998.</p>
Reimbursement for use of facilities	<b>13</b> Physicians and dental surgeons who have opted out of the Alberta Health Care Insurance Plan shall reimburse the relevant authority for use of publicly funded health care facilities in accordance with the amounts specified in the regulations.
Regulations	<b>14</b> The Minister may make regulations respecting the amount that physicians and dental surgeons must pay to reimburse authorities pursuant to section 13.

## PART 4

### OFFENCES AND PENALTIES

Offences	<p><b>15</b> It is an offence under this Act to</p> <ul style="list-style-type: none"> <li>(a) charge user fees, facility fees or directly bill patients for medically necessary health care services, or</li> <li>(b) provide private insurance coverage for medically necessary health care services.</li> </ul>
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Penalties

- 16** A person who is guilty of an offence under this Act is liable
- (a) for a first offence, to a fine of not more than \$50 000 and in default of payment to imprisonment for a term of not more than 30 days,
  - (b) for a 2nd offence, to a fine of not more than \$100 000 and in default of payment to imprisonment for a term of not more than 60 days, and
  - (c) for a 3rd or subsequent offence, to imprisonment for a term of not more than 6 months without the option of a fine.

## PART 5

### CONSEQUENTIAL AMENDMENTS AND COMING INTO FORCE

Amends RSA  
1980, cM-12

**17** The *Medical Profession Act* is amended in section **93(1)** by adding “, diagnostic and treatment facilities providing medically necessary health care services under the *Medicare Protection Act*” **after** “municipal governments”.

Coming into  
force

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