



The Canada Health Act Annual Report



What we will cover in the presentation:

Provide an overview of the Canada Health Act Annual Report

Describe how Health Canada administers the Act

Outline current CHA policy work which aims to protect the core basket of Medicare services

Questions & Answers



Health
Canada

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Canada

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2022
2023

CANADA HEALTH ACT

ANNUAL REPORT

Tabling the Annual Report

- Each February, Health Canada releases an Annual Report on the extent to which provincial and territorial (PT) health care insurance plans have met the requirements of *Canada Health Act* (CHA).
- The report is prepared in collaboration with our provincial and territorial colleagues.
- The 2022-23 Canada Health Act Annual Report was tabled on February 15, 2024, and can be accessed [here](#).

Overview of the Annual Report

- The Report is comprised of:

<u>Two Federal Chapters</u>	<u>PT Chapter</u>	<u>Various Annexes</u>
<ul style="list-style-type: none">- CH 1: An overview of the CHA- CH 2: A description of administration of and compliance with the Act	<ul style="list-style-type: none">- CH 3: PT narratives and statistical submissions	<ul style="list-style-type: none">- CHA regulations- Policy interpretation letters- PT extra-billing and user charges reports- PT Reimbursement Action Plans

- Much of the report consists of PTs describing their public health care insurance systems, and how these systems meet the Act's requirements, or in most cases, go beyond them, including:
 - All PTs offer coverage for additional services that do not fall under the CHA (e.g., dental care, physiotherapy), often to targeted populations;
 - Many PTs waive the three-month waiting period for coverage permitted by the CHA, or have eliminated waiting periods entirely (Ontario);
 - PTs often extend health care coverage to a variety of non-residents that fall outside of the requirements of the CHA, such as temporary workers and international students; and,
 - Many PTs have further limited private payment for medically necessary care by prohibiting duplicative private insurance, or by prohibiting physicians from practicing outside of the public plan.

CANADA HEALTH ACT

Chapter 1



- The federal sections of the report provide an overview of the CHA, its requirements, and its history.
- In summary, the Act is a prime example of the federal spending power being used to set national standards in an area of PT jurisdiction.
- It is important to note that the CHA is voluntary, PTs participate at their own discretion. This is why the Act's principles are intentionally broad and avoid encroaching on PT jurisdiction for the delivery of health care services.

Canada Health Act “Mythbusters”

- The CHA is steeped in myth. The Annual Report makes an effort to “bust” some of the most common of these myths. For example:

MYTH: All health care in Canada must be publicly delivered.

FACT: The *Canada Health Act* doesn't forbid the provision of health services by private companies, as long as residents are not charged for insured health services. In fact, many aspects of health care in Canada are delivered privately. Family physicians mostly bill the provincial or territorial health care insurance plan as private contractors. Hospitals are often incorporated private foundations, and many aspects of hospital care (e.g., lab services, housekeeping, and linens) are carried out privately. Lastly, in many provinces and territories, private facilities are contracted to provide services under the health care insurance plan.

MYTH: I can use my health insurance card to find a shorter waitlist in another province or territory.

FACT: Your health insurance card does not entitle you to seek out shorter waitlists in other provinces or territories. Although you are covered for insured health services during temporary absences from your home province or territory, prior approval may be required before coverage can be used for non-emergency services in another province or territory.

Canada Health Act “Mythbusters”


MYTH: My specific medical condition is covered under the *Canada Health Act*.

FACT: The *Canada Health Act* is quite a short piece of legislation and lays out standards at a very high level. Specific medical conditions are not named under the Act; rather, it requires provincial and territorial health care insurance plans to cover medically necessary hospital and physician services. Given their role in health care delivery, the decision over which services to cover is made by the province or territory, in consultation with the medical profession.

MYTH: I don't need travel insurance within Canada because I'm covered under Medicare.

FACT: This is a very common misconception, and one that could be quite costly under certain circumstances. Medicare ensures that if you leave your province or territory for a few hours, days or weeks, you will still have coverage for emergency medical services. The same is true during moves to other provinces or territories. However, the hospital and physician services covered under the *Canada Health Act* are not the only services you might need while outside your usual province or territory. Some services that are not covered by the Act (e.g., prescription drug coverage or ambulance services) are highly subsidized for residents, but not for visitors, which is why you should ensure you have adequate coverage whenever you travel or move within the country.

Chapter 2 – Administering and Upholding the CHA

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- Chapter 2 of the Annual Report describes how the federal government defends and protects the CHA and administers the Act in an even-handed manner.
 - In addition to engaging directly with PT colleagues, Health Canada monitors PT health care systems for issues of non-compliance through a variety of public sources.
 - Ultimately, Health Canada relies on the cooperation of PTs as it has **no investigatory powers under the Act**.
 - Upholding the CHA is often collaborative, with Health Canada and PTs working together to ensure Canadians have access to the care they need, free from barriers, including:
 - The development and unanimous PT approval of annual reciprocal billing rates to help implement the CHA's portability criterion; and
 - Facilitating engagement between jurisdictions to resolve issues related to eligibility and portability for health care insurance.

What happens when a CHA issue arises?

1. Health Canada asks PTs to investigate.
2. PT reports its findings to Health Canada.
3. Findings are discussed.
4. Officials work together to ensure the jurisdiction returns to compliance with the CHA.

Most issues are resolved at the officials' level.

WHAT IS A PATIENT CHARGE?



IF AN ENROLLED MEDICAL PRACTITIONER OR DENTIST...



CHARGES AN INSURED RESIDENT...



FOR AN INSURED HEALTH SERVICE...



AN AMOUNT IN ADDITION TO THE AMOUNT PAID BY THE PROVINCIAL OR TERRITORIAL HEALTH CARE INSURANCE PLAN THAT...**IS EXTRA-BILLING.**

OTHER CHARGES (E.G., FOR SUPPLIES) RELATED TO THE PROVISION OF INSURED HEALTH SERVICES...**ARE USER CHARGES.**

Chapter 2 – Addressing Patient Charges

- While Health Canada strives to resolve compliance issues via collaboration with PTs, enforcement through mandatory deductions in respect of patient charges is sometimes necessary. Chapter 2, of the Annual Report outlines these deductions up to March 2023.
- In March 2023, the first deductions under the **Diagnostic Services Policy**, totalling over \$76 million, were taken against the CHT payments of several provinces.
- Additionally, in March 2024, over **\$79 million** in deductions were levied. In many cases, these were the result of patient charges at private clinics that sell preferred access to medically necessary services:
 - Patient charges for diagnostic services in NS, NB, QC, SK, AB, and BC;
 - Patient charges for surgical abortion services in NB and ON;
 - Patient charges for surgical services in BC; and,
 - Patient charges for cataract services in NL.

Chapter 2 – CHA Compliance Issues



- Chapter 2 of the Annual Report outlines a number of additional ongoing compliance issues under the CHA, on which Health Canada has engaged PTs.
- These issues include:
 - Membership fees at private primary care clinics across Canada;
 - Fees charges to patient seeking medically necessary abortion care in Ontario and New Brunswick; and,
 - Private pay surgical clinics in British Columbia.
- Additionally, Health Canada has been focused on engaging with PTs that permit patient charges for medically necessary diagnostic services, including MRI and CT scans, along with ultrasounds.
 - Since deductions were first levied, engagement and collaboration with PTs has resulted in several provinces taking steps to reduce patient charges and improve access to services in the public system, with one province (Manitoba) having already fully eliminated patient charges for diagnostic services.

The Goal of the CHA


- Ultimately, levying deductions is not Health Canada's goal. Rather, it is to ensure that Canadians have access to medically necessary care, free from patient charges.



This is why, since 2018, based on provincial actions to eliminate patient charges, provinces have also been reimbursed over **\$175 million** in deductions under the CHA's Reimbursement Policy.

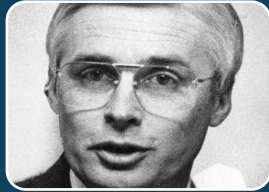
- These actions include bringing private clinics into the public system, prohibiting patient charges by these clinics, and enforcing these prohibitions to ensure patients are not facing financial barriers to accessing care.
- Reimbursement Action Plans detailing these actions are added to Annex D of the Annual Report.

Maintaining the Basket of Insured Services

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- The Government of Canada is working with provinces and territories to ensure that its significant ten-year investment of close to \$200 billion in health care funding to provinces and territories is used in ways that respect the principles of the CHA.
 - While the CHA provides the foundation for Canada's public health care insurance system, the federal government is also building on that foundation by expanding access to services that fall outside of the Act's basket of insured services, including:
 - Increased transfers to PTs to support investments in mental health and addictions services;
 - The creation of the **Canadian Dental Care Plan**;
 - Introducing the **Pharmacare Act** to lay the foundations for the creation of a national Pharmacare program; and
 - Developing a **Safe Long Term Care Act** to support national standards to support safe, reliable, and high-quality care.
 - At the same time, Health Canada is focused on implementing and administering policies that **preserve the basket of insured services under the CHA.**

Interpretation Letters under the CHA

- When evolutions in the health care system have led to patient charges, federal Health Ministers have issued clarifications of the CHA's intent and application through **interpretation letters** to their PT counterparts.
 - PTs have recognized the federal Minister of Health's authority to interpret the Act, even when they have disagreed with the federal position on issues.
 - In the Cambie case, the court acknowledged the key role of CHA interpretation letters play in Health Canada's administration of the Act.



The Epp Letter - 1985

- Provided details on how the Act would be administered.



The Marleau Letter - 1995

- Clarified that patient charges for insured services at private clinics are subject to mandatory penalties under the Act.



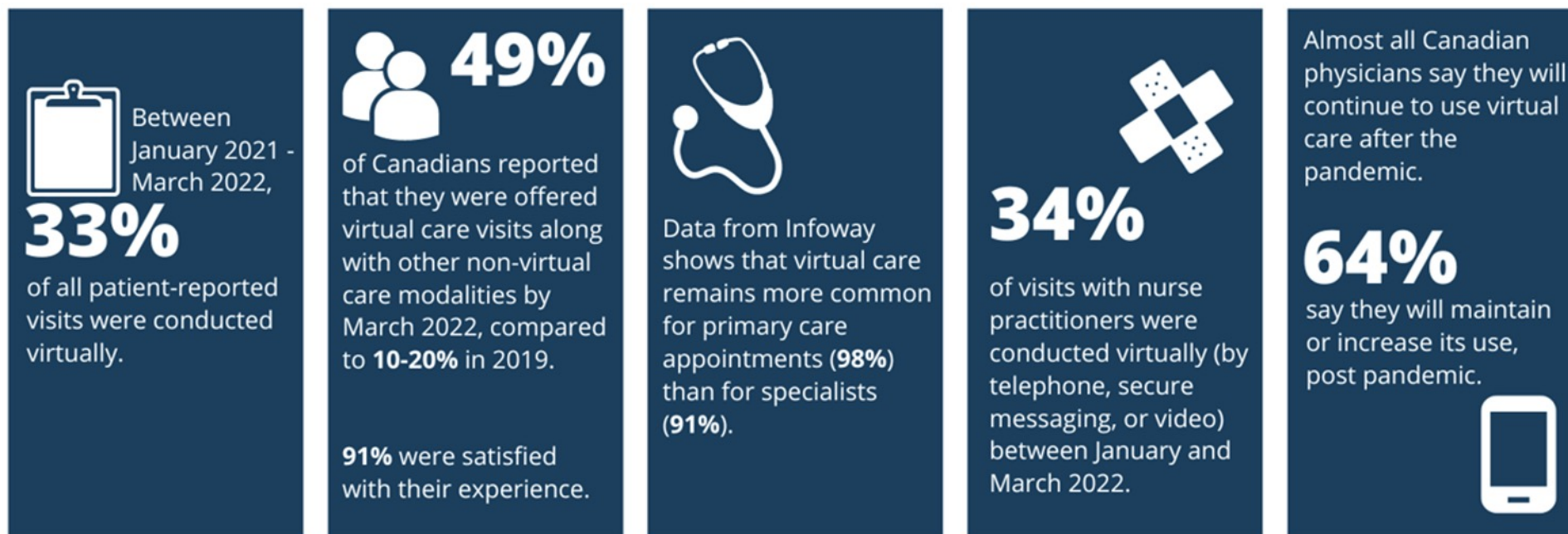
The Petitpas Taylor Letter - 2018

- Introduced three new CHA initiatives: the Diagnostic Services Policy, the Reimbursement Policy, and strengthened reporting requirements under the Act.

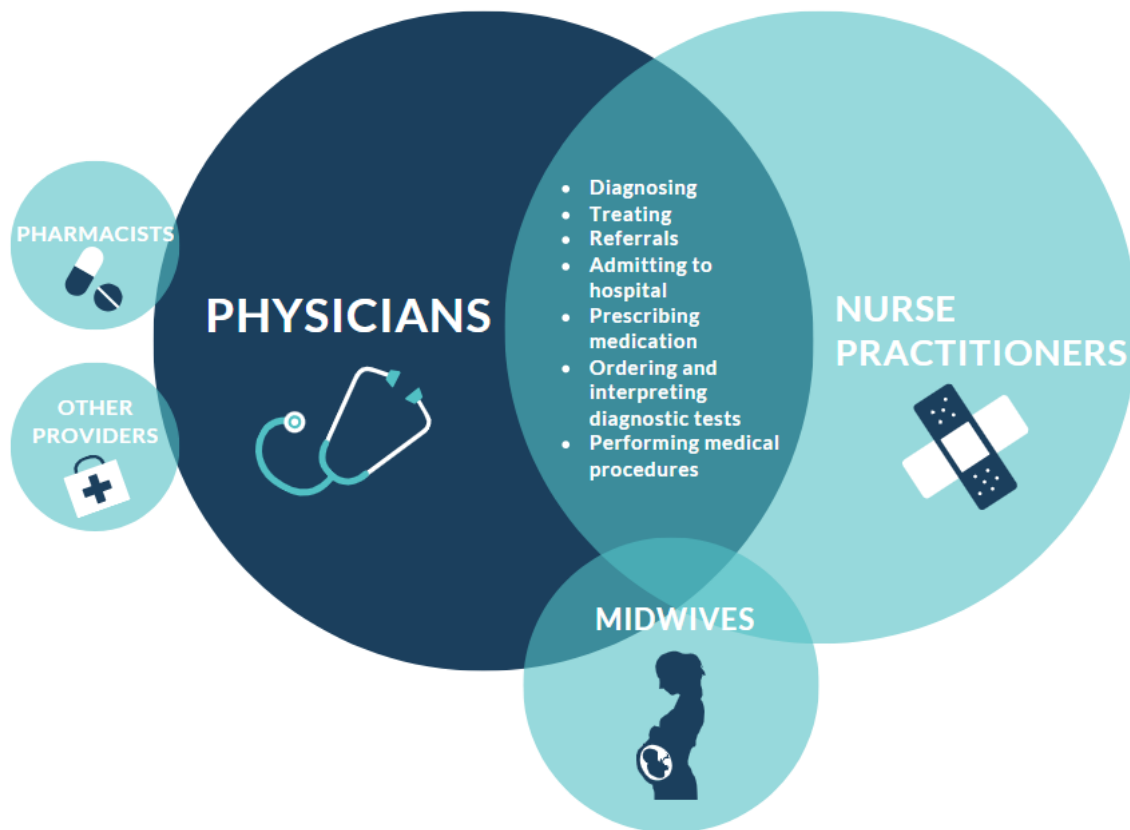
Recent Evolutions in the Health Care System – Virtual Care

Most recently, advances in technology have changed **how** care is delivered (e.g., virtually). This has the potential to improve access to both primary and specialist care dramatically; however, these advances are resulting in charges to patients for services that would be considered insured if provided in-person by a physician.

Virtual care has significantly increased



Recent Evolutions in the Health Care System – Physician-Equivalent Services



- PTs are changing **who** can provide services that historically could only be provided by physicians (e.g., diagnosing, treating, referring, prescribing, requisitioning) by expanding the scopes of practice of regulated health care professionals (e.g., nurse practitioners, pharmacists).

Maintaining the Basket of Insured Services

- While both these developments can increase access to care, they are also resulting in charges to patients for medically necessary services.
- In March 2023, the former Minister of Health, Jean Yves Duclos sent [a letter](#) to PTs announcing his intention to issue a new interpretation letter to address these charges:

I am very concerned with the recent increase in reports of patient charges for medically necessary services, which must be examined and addressed. The complexities of modern family health, virtual and surgical care, including its provision across jurisdictions, and expanding scopes of practice of health workers, should not be used to permit these charges.

It is my intention to clarify in a separate Canada Health Act interpretation letter that, no matter where in the country Canadians live or how they receive medically necessary care, they must be able to access these services without having to pay out of pocket.

- More recently, Minister Holland confirmed his intent to issue a CHA interpretation policy regarding physician-equivalent services and virtual care noting this letter will “clarify the application of the *Canada Health Act* on the modernization and improvements in health care, including virtual care, telemedicine, and the expansion of the scopes of practice of health workers, such as nurse practitioners.”
- Health Canada continues to engage with provinces and territories on this.

Questions?

