



***Submission concerning the
Government of Alberta
proposal to establish an
Alberta Health Act***

*Canadian Union of Public Employees - Alberta Division
July 2010*

Thank you for the opportunity to make this submission concerning the Report of the Minister's Advisory Committee on Health "*A Foundation for Alberta's Health System*" and the plan to introduce an Alberta Health Act.

In October 2009 CUPE made a submission to the Minister's Advisory Committee on Health that included recommendations in a number of key areas. In the pages that follow, we will address the four question areas identified in your invitation to make this submission as they relate to recommendations and issues raised in our October submission and to current public debate about health care issues.

CUPE represents over 30,000 members in Alberta working in a wide range of broader public sector occupations, as well as non-profit, community based and private employers in community services including health care, long term care and residential services for seniors. The future of health care is a priority concern for all of our members, their families and our communities.

Our comments below on the consultation questions must be prefaced by several urgent concerns we have with the directions currently proposed, the current consultation process and the future of health care in this province.

Introductory Comments

CUPE made a presentation and submission to the Minister's Advisory Committee on Health in October 2009. Our presentation focused on the need to:

- strengthen and expand public health care in Alberta building on the requirements of the Canada Health Act.
- maintain and expand restrictions on private insurance,
- reverse the privatization of infrastructure and service delivery
- and ensure that the costs of public health care are not downloaded to individuals and families.

In addition, it is CUPE's position that this is the time to improve care standards and expand the protections of the Canada Health Act to long term care – an urgent priority for Albertans.

The "Foundation Report" fails to provide any specific recommendations or legislative direction to support addressing the issues we have identified above. In fact, we are very concerned that the recommendations as presented and the plan to introduce an Alberta Health Act may open the door to erosion of existing protections under current legislation, risks and costs of expanded privatization of health services and serious concerns about the process for future health policy decision making.

The following summary of CUPE recommendations to the Minister's Advisory Committee on Health (October 2009) will be used as our reference point for responding to the questions identified for this consultation submission.

Recommendation 1 - Provincial decisions concerning what services are listed and delisted must be based on evidence, using a process that is transparent and accountable. Committees responsible for reviewing proposed changes to listed services should include health care providers, government health officials, advocates of patients and the public interest. Committee membership and decision-making must be governed by strict conflict of financial interest rules. There should be a mechanism for complaints and appeals. The activities and reports of such committees should be public and readily accessible.

Recommendation 2 - In order to preserve the principles established in the Canada Health Act it is essential to maintain and expand current restrictions on private health insurance.

Recommendation 3 - Public health care infrastructure investment supported by provincial and federal governments is essential to secure accessible, affordable health services and requires the stop and reversal of the privatization of health care infrastructure.

Recommendation 4 - Access to comprehensive health services for all Albertans requires that barriers including increased costs which are a consequence of privatization, user fees and facility fees must be prohibited.

Recommendation 5 - Commitment by the Alberta Government to fund the public health services required to meet the needs of Albertans for universal, accessible, comprehensive, portable and publicly administered health services – with no user fees or extra billing - is a requirement for the implementation of legislative changes to comply with the criteria and conditions of the Canada Health Act.

Recommendation 6 The protections of medicare should be extended to residential long term care, with increased federal funding and legislated federal standards, including Canada Health Act criteria (public administration, universality, comprehensiveness, accessibility, and portability) and conditions (no user fees or extra billing). In Alberta, this would require the recognition of long term care services as part of the health services required to fully and equitably meet the health and residential care needs of seniors and people with disabilities requiring residential health care services.

Recommendation 7 - Long term care facilities should be expanded and publicly funded and operated on a not for profit basis in order to provide the health services required to all Albertans who need them. The transfer of long term care to assisted living must stop as it impedes access to required services, transfers costs and care to individuals and families, leads to inequitable access to services and promotes private profit at the expense of essential health care services. CUPE joins with other concerned citizens and organizations to call on the government to convene open public consultation about the future of long term care in Alberta.

Recommendation 8 - Provincially legislated quality of care standards and minimum staffing levels are essential for long term care facilities in order to secure care and quality of life for residents and the health and safety of staff.

Recommendation 9 - Residential long-term care, home and community care services must be expanded to meet the needs of Canadian seniors, as part of a comprehensive and integrated system.

CUPE's response to the consultation questions

1. *What are your organization's views on the appropriateness of the overarching principles proposed or the Alberta Health Act (pp. 10-15 of the MACH report). Are there additional principles you would propose?*

Principles from the Foundation Report:

*Put people and their families at the centre of their health care.
Be committed to quality and safety.
Ensure equitable access to timely and appropriate care.
Enable decision-making using the best available evidence.
Be focused on wellness and public health.
Foster a culture of trust and respect.*

Comments:

- The very general nature of the principles outlined limits the possibility of assessing their “appropriateness”. The first question we have concerns what these broad principles could mean in legislation and regulations – and for health care in the future and the planning required to meet the needs of our aging population.
- The following statements from the *Foundation Report* provide clues to interpreting the overarching principles. The *Foundation Report* includes the following directions:
 - “Albertans, health administrators and providers embracing the possibility that exists in new ways of doing things when the old ways are no longer working” (Pg.4)
 - “Support greater flexibility in funding and delivering health services by helping the system move more readily from a provider and facility focus (hospitals and nursing homes) to a stronger patient focus”.(Pg. 19)
 - “Accommodate the changing role of hospitals, primary care clinics, ambulatory and urgent care centres and assist in creating new emerging delivery models”. (Pg. 19)
- In the ongoing debates about the future of health care in Alberta - “new ways of doing things”, “greater flexibility” and “new emerging delivery models” most often equate to expanded privatization of health services. The emergence of private clinics, the erosion of long term care services in favour of “assisted living” care delivered in private for-profit residential facilities are two clear examples of health policy directions supporting privatization of health service in Alberta. Clear and specific statements about what these directions mean for Albertans is essential.
- Our concerns with privatization are reinforced by the recently released Parkland Institute report *The New Alberta Health Act: Risks and Opportunities – Report 1 Risks of the Alberta Health Act*.¹ This report includes an analysis of the *Foundation Report* as well as the submissions to the Minister’s Advisory Committee on Health from Alberta Health Services and the Calgary Chamber of Commerce. Parkland’s Report concludes “It is clear that expanding for-profit involvement in Alberta's health care system is a driving force behind this initiative” and further “that academic studies clearly find that for-profit health care delivers inferior health care services at higher costs”.(Pg.25)

1 *The New Alberta Health Act: Risks and Opportunities – Report 1 Risks of the Alberta Health Act*. Diana Gibson and Colleen Fuller. Parkland Institute. June 2010.

- The privatization experiment with private clinics in Alberta was recently the subject of a news commentary² which highlights the comparison of Edmonton and Calgary, the relationship between public health care cutbacks and privatization and the risks and costs of reliance on a private surgery clinic (Health Resources Centre in Calgary). This experience is just one example of the problems with private clinics. *Eroding Public Medicare: Lessons and Consequences of For-Profit Health Care Across Canada*, a full analysis of the private clinic experience -including the Health Resources Group in Calgary was prepared by the Ontario Health Coalition (2008)³ and includes the following:

The study finds that the spread of private clinics has caused extensive violations of medicare rights, and heightened inequalities in access to health care among Canadians.

Major findings include:

- *130 for-profit surgical, MRI and corporate physician clinics across Canada.*
 - *For-profit clinics exist in all provinces but Prince Edward Island;*
 - *Extra-billing, user fees and queue-jumping have contributed to medicare rights violations. Researchers found 89 suspected violations of the Canada Health Act*
 - *For-profit clinics are siphoning doctors, nurses and other health care workers away from the public system*
 - *Some physicians are enticing patients to their private practice with the promise of shorter waits*
 - *Prices are out-of-reach for the vast majority: MRIs are sold for \$600 - \$1,200, knee surgery for upwards of \$20,000*
 - *For-profit clinics “cream skim” patients with easy-to-treat conditions, leaving higher-cost patients to the public system*
 - *Most provinces have turned a blind eye to for-profit clinics, while the federal government has failed to penalize them for violations under the Canada Health Act.*
- CUPE’s own fact sheet on private clinics documents evidence of queue jumping, quality problems, worsened labour shortages, higher costs, and other negative consequences of private for-profit clinics. (<http://cupe.ca/updir/Private-For-Profit-Health-Care-Clinics.pdf>)
 - CUPE's recommendations to the Minister's Advisory Committee on Health focus on the urgent need to expand medicare protections to long term care and to end the privatization and downloading of health care costs to seniors and their families. Our recommendations are based on the experiences of CUPE members working in services for seniors in Alberta and on extensive research. In October 2009 CUPE released the extensive research report and analysis of *Residential Long- Term Care in Canada – Our Vision for Better Seniors Care.*⁴ This Report was provided to the members of the Minister's Advisory Committee on Health.
 - There is little evidence that the recommendations we have presented on long term care have been taken into account in the *Foundation Report* or would be addressed in the principles outlined – despite the fact that health care and support for seniors services remains one of the most urgent priorities for Albertans. In fact the recent announcement of new spaces for seniors suggests that private facilities with assisted living options will be the direction for future growth – an option that we reject for all of the reasons documented in our October submission and in research on health care requirements for seniors now and in the future.

2 *Destruction of aging hospitals premature; Lack of capacity after the fact forced Calgary to turn to private clinics.* Don Braid. Edmonton Journal May 9, 2010. Pg. A4

3 *Eroding Public Medicare: Lessons and Consequences of For-Profit Health Care Across Canada.* Ontario Health Coalition. October 2008. <http://cupe.ca/health-care/private-clinic-study>

4 <http://cupe.ca/privatization-watch-february-2010/our-vision-research-pape>

Summary of findings from *Residential Long- Term Care in Canada – Our Vision for Better Seniors Care (CUPE 2009)*

The research shows:

- there are enormous variations across provinces in the availability of services, level of public funding, eligibility criteria, and out-of-pocket costs borne by residents
- residential long-term care in Canada is a two-tiered system
- the long term care system faces increased pressure, with an aging population, yet most provinces have narrowed access
- quality of care is jeopardized by chronically low staffing and poor working and living conditions
- for-profits have, on average, lower staffing and worse conditions

To solve the inequities, lack of access and uneven standards of care, CUPE recommends that governments and employers:

- Extend medicare to residential long-term care, with increased federal funding tied to legislated standards, including Canada Health Act criteria (public administration, universality, comprehensiveness, accessibility, and portability) and conditions (no user fees or extra billing). Quebec should have the right to opt out without penalty.
- Expand residential long-term care, home and community care services to meet the needs of Canadian seniors, as part of a comprehensive and integrated system.
- Establish non-profit ownership and operation of long-term care facilities by phasing out public funding to for-profit providers and ending contracting out.
- Establish provincially-legislated quality of care standards for residential long-term care facilities, including minimum staffing levels.
- Increase staffing (direct care and support staff) in residential long-term care facilities.
- Provide safe and healthy work environments that support high quality care.
- Support education and professional development of residential long-term care workers.

(<http://cupe.ca/privatization-watch-february-2010/our-vision-research-paper>)

- The issues with health care identified in *Our Vision for Better Seniors Care Report* correspond directly to those raised by Parkland's analysis⁵ of the research on for-profit delivery including – erosion of quality and safety, increased costs of health services and inferior quality of jobs.

Returning to the discussion question, the overarching principles identified could have merit – if commitment to “quality and safety” meant legislated care standards and if “equitable access to timely and appropriate care” meant residential long-term care, home and community care services would be available to meet the needs of Alberta seniors, as part of a comprehensive and integrated system. Most important, if services were publicly funded, administered and delivered this would ensure the most cost effective, best quality care and working environments as a basis for supporting the overarching principles identified in the *Foundation Report*.

In an environment of expanding privatization, the principles included in the Foundation Report are vulnerable to the compromises required – in legislation and in health policy - to entice and retain private investors.

5 *The New Alberta Health Act: Risks and Opportunities – Report 1 Risks of the Alberta Health Act.* Diana Gibson and Colleen Fuller. Parkland Institute. June 2010. Pg.14-16.

2. *What are your organization's views about rights, responsibilities and other components that should be included in the Alberta patient charter (pp. 24-25 of the MACH report)?*

In January, CUPE hosted a public presentation on Long Term Care issues in Calgary including a presentation by Dr. Pat Armstrong on her research as well as the CUPE research report on long term care. Over 100 community members attended this presentation. Among their questions and concerns were many issues related to what health services are available for seniors and family members needing continuing care. What was clear is that informed and concerned members of the public were having trouble finding and accessing the services they needed.

These concerns of community members speak directly to the question of patient rights, and most urgently to the issues patients and families face as family members, often seniors with complex health problems, are moved from acute care settings into care settings in the community. The necessity to provide clear and detailed information about health services available to the public must be addressed. We will deal with this issue in the points that follow.

More generally, the question of a patient charter as outlined in the *Foundation Report* raises serious risks and concerns. Health services and particularly long term care services available are in flux, ill defined, often have long waiting lists and are subject to a complex mix of public and private delivery. Access to health services is determined by complex and changing provincial schedules and subsidies and often results in additional costs to individuals in order to meet basic health and care needs.

Comments:

- The CUPE research report, *Our Vision for Better Seniors Care* addresses “Legislation to protect Seniors”⁶. This section specifically sets out recommendations for legislation that would address many of the concerns raised by community members and by CUPE members working in LTC. These recommendations included the following:
 - Federal funding and regulation of medicare should be extended to LTC conditional on compliance with legislated standards and incorporating the criteria of the Canada Health Act.
 - To meet new federal standards for residential LTC, provincial and territorial governments would need to fully insure medically necessary services and carefully regulate accommodation charges.
 - Decisions about what gets listed and delisted from public residential LTC plans should be based on evidence, using a process that is transparent, accountable, and involves all key stakeholders: government health officials, administrators, workers, and advocates of residents. There should be an effective mechanism for complaints and appeals, and activities and reports of decision-making committees should be public and readily accessible.
 - Provincially-legislated quality of care standards for residential long-term care facilities should be established including minimum staffing levels.
 - The federal and provincial governments should jointly undertake an evidence-based study, supervised by a multi-stakeholder group, to evaluate current assessment tools and determine the staffing level and mix required to meet the needs of residents. The research should consider all LTC staffing needs: direct care and support staff. It should look at “quality of life” as well as “quality of care” indicators.

⁶ <http://cupe.ca/privatization-watch-february-2010/our-vision-research-paper> (Pg. 63-66)

- Both the federal and provincial regulatory regimes must include robust accountability and enforcement mechanisms, including public reporting on staffing by facility, unannounced inspections, whistleblower protection, and swift and progressive penalties for violations of standards.
- The inspection and reporting system should include:
 - Random, unannounced inspections, at least once a year for each facility
 - Inspection teams that include front-line workers from different departments, chosen by their union, as well as representatives of the residents and families, chosen by their respective councils;
 - Solicitation of input from staff and from family and resident councils through a confidential process, as part of inspections;
 - Inspection teams with clear investigative and enforcement powers to ensure swift and effective interventions, including the power to issue mandatory compliance orders and impose progressive sanctions for non-compliance
 - Right of appeal (for representatives of the union and the resident and family councils) to a neutral adjudicator where the inspection does not lead to adequate remedial orders, including these representatives being parties to any appeals from the facility owner;
 - Annual reporting of inspection results at the facility and on the Internet, including the nature of violations, remedial orders, sanctions, and remedies undertaken; and
 - Regular inspection of staffing levels to ensure compliance with the legislated staff-to-resident ratio.
- The oversight system must provide for independent scrutiny from Ombudsmen and Auditors General, and it must empower residents, families and staff at all stages of the process.
- The CUPE report also includes detailed recommendations concerning effective provincial complaints procedure, the formation of residents councils, whistle blower protection, and resources for Auditor General and Ombudsman to support accountability and independent oversight.
- Governments should be obliged to report publicly on residential long-term care programs, in a timely fashion and using a standardized format that includes at minimum: number of beds by type, revenue by source, expenditures, waiting lists, staffing levels and mix, ownership (non-profit, for-profit), and health human resources planning data.
- CUPE shares the concerns identified by Parkland Institute on the subject of the patient rights and responsibilities including the following: *“There are three key areas where risks arise with the patient bill of rights: the inclusion of rights to timely access to care; the inclusion of responsibilities, and the lack of an enforcement mechanism.” (Pg.20).*
- The debate about the best way to secure timely access to health care, the risk of eroding universality of public health care through a shift to “patient responsibility” and the absence of “whistle blower protections” or enforcement mechanisms are clearly stated in the Parkland analysis and supports their recommendation:

The patient charter should not proceed as proposed in the survey. Alberta should not proceed with a patient bill of rights. If that bill proceeds, the responsibilities section should be removed in its entirety, timeliness guarantees should be limited strictly to the public system and include caveats relating to the limits of that system and an effective stand alone enforcement mechanism for resolving complaints should be created. The bill should include effective and substantive protection of whistleblowers in the health system. (Pg.22)

3. *Please provide your views as desired on the other components of the Alberta Health Act proposed by the MACH (pp 16 – 23 of MACH report). These include embedding principles into the Act, identifying key roles, responsibilities and accountabilities in the health system; clear and consistent definitions to apply to all health legislation; consolidating core health acts that deal with publicly funded health services, and establishing an arms-length entity to support evidence-based decision-making.*

Comments:

- In the context of CUPE's recommendations to the Minister's Advisory Committee on Health (Pg. 3 of this submission), there is no compelling reason to support “consolidating core health acts that deal with publicly funded health services”, and there are many reasons to be concerned including those identified in the Parkland Institute Report⁷:
 - *There are huge differences across the acts and the standardization may lead to the lowest common denominator. It also may be used to get rid of wording that limits for-profit involvement, protects the public sector, or dictates higher quality standards such as nursing ratios. (Pg. 17)*
 - *The Alberta Health Act as proposed should not proceed as it does not solve problems related to the delivery of health care and will likely exacerbate them by significantly expanding the role of for-profit providers. The Alberta Health Services Board should be collapsed into Alberta Health and Wellness and all health care directly overseen directly by the ministry with full accountability and transparency. Regulation of for-profit providers should not be reduced but increased with full accountability and transparency for outcomes and costs. (Pg. 16)*
- The government's proposal to merge Acts does not address or ensure that current Alberta legislation prohibiting private insurance for necessary health services, as well as restricting doctors from working in both public and private health services – important protections against the development of a two-tier health care system - will be retained. CUPE’s October submission provided the following comments on private insurance:

Alberta and four other provinces currently prohibit private insurance for necessary hospital and physician services....Maintaining and expanding restrictions on private health insurance is key to avoiding the pitfalls of two tier health care, as well as trade agreement concerns arising from any increased role for private insurance and pressure from the large private insurance lobby in the United States.

In our responses to questions 1 and 2 in this submission, we have included detailed comments about changes addressing issues including accountability, evidence based decision making (mentioned in this question) as well as securing public health care – including public administration and delivery of health services. None of these changes requires the consolidation of health care Acts – and the creation of a new Alberta Health Act may well put existing protections at serious risk.

...there is nothing to be gained with the new legislation as proposed to date that could not be done under the current legislation and much that could be lost. The initiative should not proceed as proposed.

The legislation should only be changed if the real objective is to strengthen the public health system and better integrate the community sector within it, and to put a limit on any further for-profit delivery.

(The New Alberta Health Act: Risks and Opportunities – Report 1 Risks of the Alberta Health Act. Diana Gibson and Colleen Fuller. Parkland Institute. June 2010 Pg.8)

⁷ *The New Alberta Health Act: Risks and Opportunities – Report 1 Risks of the Alberta Health Act. Diana Gibson and Colleen Fuller. Parkland Institute. June 2010*

4. *Going forward, how should the public, health professionals and other stakeholders be consulted in the development and review of future legislation, regulation and policy (p. 26 of the report)? Please suggest specific processes or mechanisms you feel would be appropriate for ongoing consultation.*

Comments:

- CUPE has actively participated in Alberta government consultations – on health care, education, pensions and a wide range of other issues. Opportunities for effective consultation with organizations and individuals on government legislation and policy is a critical part of government accountability and decision making.
- Government consultations must be framed by clear proposals concerning the changes to legislation, regulations and policy directions under consideration with details, information and research guiding the proposal and the implications of making these changes for Albertans. We have presented our concerns about the limitations of current consultation in our comments (in response to question 1) about the very broad principles we have been asked to respond to. Effective consultation requires much more specific information about proposals for change.
- Our Recommendation 7 (Page 2 of this submission) addresses the specific need for a consultation on the future of long term care. We have considerable information and research to contribute to that discussion.
- Full background information must be provided for public consultations to be informed and effective. For example, a very recent report on seniors housing published by CMHC shows an above average vacancy level for “standard” seniors accommodation, the high costs of accommodation and related services. At the same time this reports states that “non-standard accommodation has a lower vacancy rate”. Further “non-market” (e.g. subsidized) spaces are “typically fully occupied”.⁸ This is the kind of evidence based research that is important to consider in developing proposals to address the issue of seniors’ residential care and services from a policy level and essential information to include in public consultations.
- Albertans use every opportunity to play an active role in the development of health policy. Recent examples include the NDP Health Consultation Report⁹, Demographic Planning Commission Report¹⁰, and the CUPE post card campaign where 2,600 people signed cards calling on the government to honour commitments to long term care spaces.

CUPE Alberta will continue to actively participate in all opportunities to contribute to improving health care and services for seniors in Alberta. We respectfully request that you consider the very serious concerns we have identified with the proposal for the creation of an Alberta Health Act as it is currently presented.

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⁸ *Seniors Housing Report*. CMHC. June 23, 2010. <http://www.cmhc-schl.gc.ca/en/corp/nero/nere/2010/2010-06-23-0815.cfm>

⁹ *Alberta's Health Care: What People Want*. Alberta NDP

¹⁰ *Demographic Planning Commission – Alberta Seniors and Community Supports – Findings Report*. December 2008. This report includes the finding of the Demographic Planning Commission based on consultation with 100 stakeholders and internet survey responses from over 10,000 Albertans. References to this Report are included in CUPE’s October submission.