

Alberta Doctors' Digest

Is opting out an opt-tion?

A recent article in the *Montreal Gazette* revealed that the number of physicians in Quebec who no longer practice in the public system and who therefore have the right to bill patients directly has increased by almost 160% since 2008, and by almost 10% in the last year. Some blame the increase on a recent ban on accessory fees (which took effect in January, 2017). Regardless of the cause, it is likely that Quebec's experience is not unique.

In Alberta, as in most provinces, the process is referred to as "opting out." As most readers know, pursuant to the *Canada Health Act*, residents of Canada are entitled to publicly funded health care services where a procedure or process is "medically necessary" or "medically required." While the funding for the services comes from Ottawa, the payment to physicians for providing those services is captured under provincial legislation. In Alberta, that is the *Alberta Health Care Insurance Act*, under which the Alberta Health Care Insurance Plan is administered. However, what many may not realize is that while no physician may receive the payment of benefits under the plan unless he/she is "opted in" to the plan, there is no obligation on physicians in Alberta (or elsewhere in Canada) to provide those services on the public purse.

Every physician practicing medicine in Alberta is deemed to have opted in to the plan. However, a physician may opt out of the plan by notifying the health minister of the effective date of opting out; publishing a notice of the proposed opting out in a newspaper having general circulation; and posting a notice of the proposed opting out in a prominent part of the physicians' office. A physician who has not previously practiced medicine in Alberta may opt out prior to commencement of practice by notifying the minister of the date he/she will commence opted-out practice; and publishing a notice of the proposed opting out practice, again in a newspaper having general circulation.

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Ten or 15 years ago, the notion of opting out of (or not opting into) the plan would have been seen as lunacy. I remember stories from my father (a well-respected cardiologist) about patients who would sometimes pay for services with gifts (like chickens or vegetables) when they had no money. And many patients simply couldn't afford to pay at all. The advent of the plan created a program where physicians were well paid for services provided with no risk of non-payment so long as their bills were submitted to Alberta Health in a timely manner. There were no accounts receivable and there was even a suggestion that many patients, relieved of the burden of paying directly for the services, took advantage of that by seeking more and more frequent medical attention (thus increasing demand).

Today, it may be a different story.

From the patient's perspective, waitlists for procedures are in many cases intolerable. Although there are "concierge" medical clinics that give enhanced access to non-insured services, Alberta Health and the College of Physicians & Surgeons of Alberta are taking a very close look at these to ensure that membership in such a clinic does not entitle the patient to enhanced access to insured services. In light of this, patients with sufficient money to pay directly for medical services may welcome the publication of a notice of opting out.

From the physicians' perspective, once opted out, what does this mean? Well, simply put, it means that the physician can continue to provide medical services to patients in Alberta – he/she just can't bill the public system for those services. The bill goes directly to the patient. And, of course, if the patient receives those services from an opted-out physician, that patient is not entitled to reimbursement from the plan. It also means, however, that the physician likely cannot participate in alternative relationship plans such as ARPs or AARPs (as these are, by definition, funded with money coming from the Physician Services Budget as an alternative to fee-for-service billings).

Unlike Ontario, where an opted-out physician is obliged to bill the patient the same fee as he/she would if operating under a publicly funded plan, Alberta physicians face no such constraints. However, although the CPSA does not publish a Standard of Practice focusing on an opted-out physician's billing rates, it does address charging for uninsured professional services and that Standard of Practice might form the basis of a CPSA review of billings if faced with a complaint. The Standard of Practice requires that amounts charged for uninsured services must reasonably reflect physician professional costs, administrative costs and the patient's ability to pay. In addition, patients must be informed in advance of any fee to be charged, and the doctor may not charge a fee in advance for "being available."

The advent of the Alberta Health Care Insurance Plan created a program where physicians were well paid for services provided with no risk of non-payment so long as their bills were submitted to Alberta Health in a timely manner.

Once opted out of the plan, a physician must wait at least a year before attempting to opt back in, and again must notify the minister at least 30 days prior to the effective date of opting in.

And there is a real question about whether opted-out physicians are entitled to be members of the Alberta Health Services medical staff and be privileged (and thus provide services within publicly funded institutions). In principle, there does not appear to be a reason that should not be the case, but AHS is wrestling with this issue.

As of the date of this article, I am only aware of two physicians in Alberta who have opted out. However, given the current environment and attitudes of both AH and AHS (as reflected in 0% increases in physician rates), and the difficulties and delays patients are facing, it is likely that more physicians will consider this. Many physicians already earn a good income providing a host of uninsured services (including WCB, armed forces and RCMP). Supplementing that with income from an opted-out practice may be an attractive "opt-tion."