

# Alberta Doctors' Digest

## Doctors and the economy

On the day this article was prepared, the Alberta Medical Association filed a statement of claim naming the Government of Alberta as a defendant, claiming a breach of physicians' Charter right to freedom of association arising from the minister of health's unilateral termination of the AMA Agreement.

Canada and, indeed, the world is changing so rapidly that it is impossible to think about writing a column that will be timely tomorrow, let alone in two months. By the time this edition of *Alberta Doctors' Digest* is circulated, the COVID-19 crisis could be under control, or could have escalated beyond all expectation. Relations with government could have resolved or may also have escalated beyond all expectation.

And so, reflecting on the words of writer and philosopher George Santayana, "...those who do not learn history are doomed to repeat it," some time travelling might be relevant.<sup>1</sup>

In Alberta in 1986, a fight between the provincial and federal governments was being waged over the contentious topic of physician extra-billing. At the time, that practice (charging patients additional money beyond what the provincial health care plan provided) was common across Canada, but more prevalent in Alberta with close to 50% of physicians routinely doing it. Many of the province's physicians were actually accused of exceeding the College of Physicians & Surgeons of Alberta guidelines for extra-billing. Ironically, federal taxation statistics in 1986 reported that Alberta's doctors had the highest average income amongst all provinces.

The fight was over the federal government's intention to enforce the new *Canada Health Act* which discouraged extra-billing by penalizing provinces that allowed the practice through the withholding of federal transfer payments. Coincidentally, at the same time that this movement was afoot, there was a drop in oil prices that devastated the national economy and particularly threatened Alberta, resulting in a budget forecast for 1986-87 of a deficit of \$2.5 billion. Does any of this sound familiar?

The provincial government's projection at the start of 1987 was that if extra-billing was not banned, and the legislation was enforced, Alberta would lose nearly \$36 million in transfer payments.

Although up to that point in time, the provincial government had fiercely defended physicians' right to extra bill, discussions with the AMA and the province (then spearheaded by Health Minister, Marvin Moore) ensued. These resulted in an agreement with physicians whereby extra-billing was to be banned, certain fee increases were put in place, and for the first time a provision was inserted for binding arbitration in the event of a dispute arising from fee negotiations. This also resulted in the amendments to the *Alberta Health Care Insurance Act* allowing for opting out of the plan to allow physicians to charge fees directly to the patient so long as it was understood that the patient could not seek reimbursement from the government.

Finally, the agreement marked the first time that the AMA was recognized as the “sole and exclusive” representative of physicians in the Province of Alberta for the purposes of negotiations with government relating to physician compensation.

Within two years of this agreement being put in place, however, the government (again led by Health Minister, Marvin Moore) quietly entered into a side-deal with a group of cardiovascular surgeons to provide those physicians with additional funding for certain services. Needless to say, this did not sit well with the newly recognized AMA who resorted to the courts to seek a declaration that the minister’s actions were contrary to the agreement and seeking a reversal of that side-deal. In the immortal words of the Buffalo Springfield, “(T)he battle lines were being drawn.”

The issue between the AMA and the department of health was ultimately resolved, and the legal action withdrawn. But, until this year, it marked the only time that the AMA has been forced to pursue legal action against the government to enforce its right to represent physicians in the Province of Alberta.

Fast forward to 2020. Oil prices are down, the economy is in crisis, Alberta is looking to record a record deficit and the minister of health is fighting with physicians – although this time all physicians are united under the AMA. And another lawsuit has been filed.

Maybe by the time this column is published, the issues between the AMA, Alberta physicians and the government will be resolved ... or at least be heading down a path to resolution. In the meantime, it is interesting to reflect on what happened in the past and hopefully learn from those experiences.

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Author's Note [1]: In preparing this article, I am indebted to Malcolm G. Taylor, and his book *Insuring National Health Care: The Canadian Experience*, UNC Press Books, June 1, 2013

Editor’s note: The views, perspectives and opinions in this article are solely the author’s and do not necessarily represent those of the AMA.