This paper is one of a series of nine public issue/survey papers designed to help Canadians make informed decisions about the future of Canada’s healthcare system. Each of these research-based papers explores three potential courses of action to address key healthcare challenges. Canada may choose to pursue some, none, or all of these courses of action; in addition, many other options are available but not described here. These research highlights were prepared for the Commission on the Future of Health Care in Canada, by the Canadian Health Services Research Foundation.
Thank you for your interest in shaping the future of Canada’s healthcare system.

This issue/survey paper on The Canada Health Act is one of a series of nine such documents the Commission on the Future of Health Care in Canada has developed in partnership with the Canadian Health Services Research Foundation. They were designed to enable Canadians to be better informed about some of the key challenges confronting their health care system and to express their preferences on proposed solutions. We have worked hard to summarize relevant, factual information and to make it as balanced and accessible as possible.

Each of our nine documents follows an identical format. We begin by briefly summarizing a particular health issue. Next, we identify three possible courses of action to address the issue and their respective pros and cons. Last, we ask you to complete a brief survey relating to the courses of action.

To make it easier to provide us with your responses, the survey questions are included on the final pages of this document. Please detach and forward these pages to us by fax at: (613) 992-3782, or by mail at:

Commission on the Future of Health Care in Canada
81 Metcalfe, Suite 800
Ottawa, Ontario
Canada  K1P 6K7

You can also complete the survey on-line through our interactive website at: www.healthcarecommission.ca.

There are no “right” or “wrong” answers, and the results are intended to be informational only. They are designed to illustrate how each person’s response fits within the context of others who have responded, not to have scientific validity in and of themselves. The survey results are only one of many ways the Commission is studying and analyzing this issue. To order other titles in this series, please write to us at the address above, or call 1-800-793-6161. Other titles include:

• Homecare in Canada
• Pharmacare in Canada
• Access to healthcare in Canada
• Sustainability of Canada’s healthcare system
• Consumer choice in Canada’s healthcare system
• Globalization and Canada’s healthcare system
• Human resources in Canada’s healthcare system
• Medically necessary care: what is it, and who decides?

We are grateful for your contribution to shaping Canada’s healthcare system and hope that this document will be as informative to you, as we know your survey responses will be valuable to us.

Sincerely,

Roy Romanow
When Parliament passed the Canada Health Act in 1984, it was one of the few pieces of legislation ever unanimously approved by federal politicians. In the years since, the Act has grown to be regarded by many as a symbol of what it means to be Canadian. As a former auditor general once said, “To many Canadians, the Canada Health Act provides for a healthcare system that helps to define this country. The Act symbolizes the values that represent Canada; it articulates a social contract that defines healthcare as a basic right.”

The Canada Health Act states that “continued access to quality healthcare without financial or other barriers will be critical to maintaining and improving the health and well-being of Canadians.” To help ensure that access, it sets standards the provincial governments, including the territories, must meet to receive federal funding for healthcare.

The Act says that under their health-insurance plans the provinces must provide equal coverage to all residents, without financial barriers. They must pay for the medical care of their residents, even if they received that care somewhere else in Canada. And provincial health insurance plans must be run publicly and on a non-profit basis. For many years, these standards were assumed to be a sufficient guarantee that Canadians would have equal access to healthcare. Recently, however, questions have been raised as to whether the Act is still sufficient to protect medicare in a changing world.

In particular, people have problems with some of the wording in the Act. For example, it says the provinces must fund “medically necessary” hospital services and “medically required” physician services, without defining which services fall under these definitions. Provinces can decide to cover other forms of care, but they don’t have to meet any national standards. That’s why, for example, drugs are not covered by medicare unless they’re administered in a hospital and some other services, such as immunization, long-term care, or rehabilitation services may not always be paid by provincial governments.

Provinces have tended to be flexible in their definition of medically necessary care, but there’s a concern that some patients — those in homecare, for example, or who are getting drug therapy that doesn’t require hospitalization — may not benefit from the Canada Health Act. This paper looks at the Act, and the debate over how it might be changed. In particular, it focuses on three possible courses of action on the Canada Health Act that Canadians might consider:

I. Modernizing the Canada Health Act. It has been nearly 20 years since the Act was passed by Parliament. Most of the basic concepts in the Act are even older, borrowed from previous medicare legislation passed in 1957 and 1966. Canadian society has changed, as has healthcare. Is the Act still applicable? Does it need to be rewritten to reflect society today?

II. Resolving disputes between the federal and provincial governments. Sometimes the federal and provincial governments disagree over how the requirements of the Canada Health Act should be interpreted. Do we need a process to keep these disputes from interfering with the delivery of healthcare in Canada?

III. Broadening the Canada Health Act. The Act requires that provincial health care programs cover medically necessary services provided by doctors and in hospitals. Should medicare be expanded to cover services and products provided in the community, such as long-term care and prescription drugs?
Modernizing the Act

In a speech to the Empire Club in Toronto in late 1998, Dr. William Orovan, then president of the Ontario Medical Association, said Canada’s healthcare system had changed dramatically in the 1980s and 1990s. Technology had made medical care more sophisticated and an aging population had changing needs. Anxiety about the state of the healthcare system was growing.

“We suffer from a crisis of confidence among the very people who need the system. A system governed by an outmoded Canada Health Act,” he said. But what exactly does the Canada Health Act say? And what is it about the Act that is so out of date?

The Act sets the criteria that provincial health-insurance plans must meet when they provide coverage to their residents, if they want to receive their full share of federal funding. The Act says there are five principles that provincial governments must follow:

1. **Public Administration**: Healthcare insurance plans must be operated on a non-profit basis by a public authority.

2. **Comprehensiveness**: The plans must cover all services provided by doctors and in hospitals, if they’re medically necessary.

3. **Universality**: All of the residents of a province must be entitled to the benefits of the plan.

4. **Portability**: A province must continue to cover its residents when they are travelling elsewhere in Canada.

5. **Accessibility**: Provinces must provide reasonable access to insured health services on uniform terms and conditions, without financial and other barriers.

The Canada Health Act provides for a system where a patient’s ability to pay extra will not get him or her care faster — ideas that come from federal legislation dating as far back as the 1950s. However, the 1984 Act was introduced primarily to address concern about direct fees which hospitals and doctors were charging to patients in the 1970s and early 1980s. The federal government believed these fees were keeping some patients from getting the care they needed. The Act therefore introduced specific conditions banning extra billing and user fees for insured services, and a way to penalize the provinces if they allow these charges.

Many Canadians think that the Canada Health Act stops private companies from delivering healthcare. In fact, most of the healthcare provided in Canada is delivered privately. Few hospitals are owned by government and doctors operate their own practices; they are not government employees. Many labs and specialty clinics — from X-rays to physiotherapy — are privately run.

**Course of Action: Canada should modernize the Canada Health Act**

The Canada Health Act is almost 20 years old, and reflects the Canadian healthcare system and the values of Canadians at the time it was drafted. The federal government should open up the Canada Health Act for debate, and allow amendments that reflect the fact that healthcare and the values of Canadians have changed.
ARGUMENTS FOR

The Canada Health Act depends too much on doctors. The Act’s emphasis on services provided by doctors discourages the provincial insurance plans from using other types of providers to provide care, such as nurse practitioners and pharmacists.

The Act emphasizes hospitals too much. The Act addresses care that is provided in hospitals, which made sense at the time it was drafted. However, technology has allowed more and more health services to be provided without hospitalization. Modern surgical techniques, for example, mean many patients don’t even need to stay overnight and there are more alternatives to surgery today.

The Canada Health Act limits innovation in financing. While the Act allows provincial governments to innovate in the way they organize and deliver medical care, it is much more restrictive in how care is paid for. The healthcare system must be publicly financed. New sources of money (such as direct payments, or private insurance) would mean more funds overall for healthcare.

Canadian values may have changed. The Canada Health Act is a reflection of traditional values — specifically our belief that everyone should be treated fairly and equally. But Canadians have other values too — such as personal autonomy and freedom of choice. We would not want our access to a new car or home determined by how much we needed them, compared to our neighbours. Why should healthcare be any different?

The importance of waiting time should be acknowledged. One of the principles of the Canada Health Act is accessibility, but it does not address the issue of long waits for care. Some argue that a long wait may be as bad as a denial of care and say the Act should recognize this.

ARGUMENTS AGAINST

The Act does not prevent the kind of innovation Canadians want. There have been many innovations in Canadian healthcare recently — from new techniques that take care outside the hospital to centres that provide “one-stop shopping” for a range of health and social services, to centrally managed waiting lists. Front-line innovation that improves the care Canadians receive does not require changing the Act.

The Act does not stop private or for-profit delivery of care. The Canada Health Act sets terms the provinces must meet to receive federal funds, including that provincial health insurance plans must be publicly run, but it says nothing about private delivery of care. If provincial governments want the private sector to deliver care, the Act does not stand in their way.

The Act allows for consumer choice. Canadians can choose the physician they want, or the type of treatment they wish to pursue, within a range of treatments approved for public funding.

Canadians support the Act. Numerous polls suggest that Canadians have concerns with the healthcare system, but many of those same polls show strong support for the principles of the Canada Health Act. Canadians, in fact, want governments to do a better job of living up to the Act’s principles.

SURVEY QUESTIONS

Please refer to page 11 for the survey questions for this section.
The Canada Health Act is legislation by the federal government that places requirements on the provincial governments. Under the Act, the federal government must monitor whether the provinces are preventing extra billing and user fees, and adhering to the five principles. And it has the power to penalize the provinces if they are not doing so.

Prior to the Canada Health Act, the only way the federal government could penalize a province permitting extra billing or user fees was to withhold all federal funding for healthcare. The Act allowed the federal government to tailor its penalties by reducing payments to provinces by the same amount extra billing and user fees took from patients. It worked: all provinces eliminated extra billing by 1987.

In addition, the federal government can take action if it believes a province is violating any of the five principles of the Act. After notification, discussion and a report, if the government is sure the province is not complying with the Act, it can reduce healthcare funding to the provinces by any amount it deems appropriate, or withhold it entirely.

Even though the federal government has never implemented these stronger financial penalties, it has threatened to do so from time to time. In particular, the federal government has had high-profile disputes with the Province of Alberta over its plans to increase the role of private clinics (which the province maintains are not counter to the Canada Health Act). As a result of these highly publicized disputes, many Canadians think interpretation of the Canada Health Act is mainly a matter of political squabbling.

The federal and provincial governments are discussing the creation of an independent panel that could investigate possible contraventions of the Canada Health Act. However, current plans suggest the panel’s decisions would not be binding and the federal government would likely retain the right to unilaterally withhold funds from the provinces.

**Course of Action: Federal/provincial disputes over the interpretation of the Canada Health Act should be resolved through an arm’s length mechanism that is both objective and binding.**

The federal government could create an independent body to monitor provincial compliance with the Canada Health Act. Such a commission could report directly to Parliament and have the power to make binding decisions on interpretations of the Act. A variety of experts, including medical experts, economists and health-services researchers, could serve as advisers.

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**Arguments for**

**The Act needs stronger enforcement.** Although the government makes strong statements from time to time, it has generally taken a less confrontational approach to the enforcement of the Act, leading to concerns that medicare is not being protected.

**The war of words is eroding public confidence in medicare.** The lack of a workable dispute resolution process has caused the prolonged squabbles between levels of government. This has increased the perception that the system is in chaos and ultimately undermines public trust.

**The available approach is too arbitrary.** Currently, the federal government can pick and choose its battles, leading to inconsistency in enforcement. For example, in 1995 the government moved quickly to penalize the Alberta government for allowing “facility fees” to be charged to patients at an eye surgery centre. However, it has not taken action against Quebec for its long-standing refusal to reimburse other provinces the full cost of treating Quebec patients, which some consider a clear violation of the portability principle of the Act.
Objective information may be lacking. It’s the federal government’s job to make calls on whether a province has violated the Act, but it rarely has the capacity to gather evidence and must often rely on the (allegedly) violating province to provide most of the information needed to make the decision.

Consider the Constitution. The Canadian Constitution and the British North America Act clearly give primary responsibility for health policy and programs to provincial governments. Regardless of the financial role of the federal government in healthcare, a dispute-resolution process should recognize that health is largely a provincial issue.

The federal government has abdicated its role. Over the years, the federal government has cut back its cash contributions to healthcare, leaving the provinces covering a greater share of spending. The federal government has lost the right to act unilaterally to “protect” healthcare if it is not willing to finance it properly.

Arguments Against

The Canada Health Act is federal legislation, so the federal government should interpret it. The Act already requires the government to consult with the provinces before it takes action on alleged breaches of the Act. If the federal government wants a process that is seen to be more impartial, it could add more consultation to the current approach.

The federal government is still a major player in healthcare. Some have argued that the federal government has less legitimacy to enforce the Canada Health Act because its share of healthcare funding has dropped over the years. However, when you consider the other ways the federal government provides funds to the provinces, such as tax transfers, the federal government can still be considered to be paying about 30 percent of provincial healthcare spending. The feds should keep the ability to determine what happens with this money.

National leadership is needed. There are times when action needs to be taken in the interest of all Canadians. Decisions made in one province can have effects across boundaries — as in the case of environmental legislation, where the courts have determined the federal government has the right and responsibility for enforcement, although land management and resources are provincial responsibilities. Healthcare may be the same, and the federal government should keep the ability to make decisions in the interest of all Canadians, when it needs to.

The Canada Health Act is about Canadian values, not provincial preferences. The Act is more than a set of regulations. It articulates what we believe as Canadians and encompasses our notions of fairness and equality. The federal government is the caretaker of this country’s values, and must ensure the health, welfare and public interest of all its citizens. Indeed, the federal government has signed international treaties pledging to protect the health of its citizens, and it needs to be able to ensure it lives up to its commitments.

Survey Questions

Please refer to page 11 for the survey questions for this section.
The Canada Health Act defines insured services in terms of where they are provided, and who is providing them. In particular, the Act requires the provinces to meet the principles of the Act when paying for “medically required” services provided by doctors and “medically necessary” services provided in hospitals. However, it does not identify which services should fall under these definitions and as a result, this is the subject of much debate, which is explored fully in another paper in this series.

While the definitions may be vague, the Canada Health Act is explicit in one sense — the only services that the provinces must pay for, and provide in accordance with the principles and conditions of the Act, are those services that are provided in hospitals or by a doctor. The Act does not specifically require provinces to provide equal access without financial barriers for things like long-term care, homecare, rehabilitation or prescription drugs.

Every province does provide some funding for services that fall outside the Act, but coverage varies across the country. That means, depending on where they live, some people may have to pay out-of-pocket for services that are funded for other Canadians.

In all, governments pay for about 70 per cent of total healthcare spending in Canada, while the other 30 percent comes from private sources, mostly employee benefits plans and individuals paying out-of-pocket.

Course of Action: The Canada Health Act should be broadened so that it includes other important, “medically necessary” services, not simply those provided by doctors and by hospitals.

The federal government could amend the Canada Health Act and require the provinces to provide equal access to a broader range of services. Then the provinces would have to pay for a greater range of the services people need, not just the services people need that are provided by doctors and in hospitals. Long-term care, homecare and pharmacare would be natural choices for inclusion, but other services could be added as well, such as rehabilitation and counselling services.

ARGUMENTS FOR

It makes more sense. In the current situation, proven treatments such as insulin and physiotherapy are considered medically necessary when they are provided in hospitals and therefore funded; but are not medically necessary when they are provided in the community. Some other medical services for which there is little evidence are funded just because doctors provide them. Government should pay for appropriate care that people need, regardless of where they get it or who provides it.

The times have changed, and so has the care. When the Canada Health Act was drafted most care came from doctors, frequently in hospital. It should be changed to reflect the system today. Between 1987 and 1997, the percentage of healthcare spending going to doctors and hospitals declined from 56 percent to 48 percent, while spending on drugs and other types of institutions increased.

Changes in healthcare are causing “passive privatization” of the system. Improved treatments mean patients spend less time in hospital and everything from intravenous medication to oxygen can be given at home. When care is pushed out of the hospital, the provincial government is no longer obligated to fund it, so more of the cost is likely to be paid by patients.
The current system can increase hospital care, which is often more expensive. Currently, patients may have to pay for services in the community that are provided without charge in the hospital — such as having teeth pulled. Because hospitals are “free” there’s an incentive to use them.

Better integration and efficiency are needed. The current system is highly fragmented. In some cases, hospitals must choose between keeping a patient who doesn’t need hospital care, or discharging them with no assurance they will get appropriate community services. If the Act covered a greater range of healthcare services, patients could more easily get care that suits their needs.

Public administration is more efficient. Broadening the Canada Health Act would bring more services into the public system, where they can be provided more efficiently. Research has found that between 20 and 24 percent of all healthcare spending in the U.S. goes to administration, but in Canada, administration is only eight to 11 percent of spending.

Arguments against

The Canada Health Act is a floor, not a ceiling. The Canada Health Act is a set of minimum requirements that the provinces must meet to receive federal funding. The Act does not prevent any province from expanding coverage to include services other than medicare — the only barriers to this expansion are political will and the willingness to pay.

Expanding the medicare model may not be sustainable. The cost of expanding the Canada Health Act to include prescription drugs alone has been pegged at more than $4 billion, and would be far greater if services such as homecare were also included. There is probably not a strong public desire to increase healthcare costs at this time, when we are preoccupied with controlling them.

There are other ways to help people get the care they need. Many people believe we cannot afford to include everything in medicare, but could still greatly reduce expenses to the individual through tax credits or other subsidies. This is already done in many countries, especially for pharmacare programs, where cost sharing is the norm.

Provinces should be able to decide what services to pay for. Constitutionally, the provinces are responsible for healthcare. Provinces and should have the freedom to decide which services they want to provide for their residents.

Pandora’s Box should be kept closed. There are risks in opening up the Canada Health Act. If we open up debate on what services should be included in the Canada Health Act, interest group pressure may lead to many unanticipated changes to the Act, which Canadians do not necessarily support.

Survey questions

Please refer to page 12 for the survey questions for this section.
Acknowledgements

This document was produced by the Canadian Health Services Research Foundation, in partnership with the Commission on the Future of Health Care in Canada. The topics and courses of action reflect key issues raised frequently in the Commission’s consultations to date, for which the Foundation was able to find relevant research evidence to help inform the debate.

This document has been reviewed by the following experts for accuracy and fairness, but final responsibility lies with the Canadian Health Services Research Foundation:

Timothy Caulfield  
Research Director, Health Law Institute  
Associate Professor, Faculty of Law, Faculty of Medicine and Dentistry, University of Alberta

Antonia Maioni  
Director, McGill Institute for the Study of Canada

Stephen Bornstein

William G. Tholl  
Secretary General & CEO  
Canadian Medical Association

A complete bibliography of the research used to prepare these documents can be found at www.healthcarecommission.ca.

Survey Instructions

Please detach the following page and forward to us by fax at:  
(613) 992-3782

Or by mail at:  
Commission on the Future of Health Care in Canada  
81 Metcalfe, Suite 800  
Ottawa, Ontario  
Canada  K1P 6K7

For information:  
Call toll free at 1-800-793-6161  
www.healthcarecommission.ca

Thank you
## Survey Questions

Please indicate your opinion on each of the following questions by checking the appropriate response.

### Modernizing the Act

1. Modernizing the Canada Health Act will improve healthcare in Canada.
   - Strongly Agree
   - Agree
   - Neutral
   - Disagree
   - Strongly Disagree

2. The five principles of the Act — universality, comprehensiveness, accessibility, portability, public administration — no longer reflect the values of Canadians.
   - Strongly Agree
   - Agree
   - Neutral
   - Disagree
   - Strongly Disagree

3. Which set of values provides a better foundation for the Canada Health Act today…personal autonomy and freedom of choice OR fairness and equality?
   - Strongly Agree for personal autonomy and freedom of choice
   - Agree for personal autonomy and freedom of choice
   - Neutral
   - Disagree for fairness and equality
   - Strongly Disagree for fairness and equality

4. Our access to healthcare, like other consumer goods, should not be based on need but on want and willingness to pay.
   - Strongly Agree
   - Agree
   - Neutral
   - Disagree
   - Strongly Disagree

5. The Canada Health Act stops Canada from making needed changes to the healthcare system.
   - Strongly Agree
   - Agree
   - Neutral
   - Disagree
   - Strongly Disagree

### Federal/Provincial Disputes

1. Healthcare in Canada would improve if federal/provincial disputes over the interpretation of the Canada Health Act were resolved through an arm’s-length mechanism that is both objective and binding.
   - Strongly Agree
   - Agree
   - Neutral
   - Disagree
   - Strongly Disagree

2. The federal government should unilaterally implement stronger penalties to provinces that violate the Canada Health Act.
   - Strongly Agree
   - Agree
   - Neutral
   - Disagree
   - Strongly Disagree

3. The federal government should interpret the Canada Health Act in partnership with the provinces.
   - Strongly Agree
   - Agree
   - Neutral
   - Disagree
   - Strongly Disagree

4. Health is a provincial responsibility, and the federal government should not place conditions on how the provinces spend federal transfers.
   - Strongly Agree
   - Agree
   - Neutral
   - Disagree
   - Strongly Disagree

Continued ...
BROADENING THE ACT

1. Healthcare in Canada would improve if the Canada Health Act was broadened to include other “medically necessary” services, not just those provided by doctors and hospitals. □ □ □ □ □

2. Government should increase healthcare spending to cover all medically necessary services. □ □ □ □ □

3. Healthcare services such as drugs, physiotherapy or homecare are just as medically necessary as doctors and hospitals, and should be part of medicare. □ □ □ □ □

4. We should not expand medicare until its current costs are better controlled. □ □ □ □ □

5. Provinces are responsible for health and they, not the federal government, should be able to choose which services they pay for as medically necessary. □ □ □ □ □

ANALYSIS INFORMATION

Please complete the following information for analysis purposes. Thank you.

Gender: □ Male □ Female
Age: □ under 18 □ 19-29 □ 30-49 □ 50-65 □ over 65
Province or Territory in which you reside: 

Continued...
Your annual household income from all sources before taxes is: (Optional)
Choose one:
- Less than $20000
- $20000 to $39999
- $40000 to $59000
- $60000 to $79000
- $80000 to $99000
- More than $100K

The highest level of schooling you have completed is: (Optional)
Choose one:
- Elementary School or less
- Secondary School
- Community College/CEGEP/Trade School
- Prof./Trade Certification
- Bachelor Degree
- Graduate Degree

Are you a healthcare professional? (Optional)
- Yes  -  No

Approximately how many times in the last year have you personally used the healthcare system? (eg. seen a doctor or specialist, spent time in the hospital, received care in a hospital emergency room, etc.) (Optional)
Choose one:
- 0-3
- 4-6
- 7-9
- More than 10