

# MEDICAL SERVICES

## COMMISSION

2007/2008

### **ANNUAL REPORT**



BRITISH  
COLUMBIA

The Best Place on Earth

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## **Mandate**

The mandate of the Medical Services Commission (“MSC”) is to facilitate reasonable access, throughout British Columbia, to quality medical care, health care and diagnostic facility services for residents of British Columbia under the Medical Services Plan (“MSP”).

## **The Commission**

Established under the *Medical Services Act, 1967*, and continued under the current *Medicare Protection Act* (the “Act” or “MPA”), the Medical Services Commission is responsible for managing the provision and payment of medical services through the Medical Services Plan on behalf of the Government of British Columbia. The MSC is accountable to government through the Minister of Health.

## **Organizational Structure**

In early 1994, the Commission was expanded from one member to a nine-member body. It consists of three representatives nominated by the British Columbia Medical Association (“BCMA”), three public members appointed on the joint recommendation of the Minister of Health and the BCMA to represent MSP beneficiaries, and three members from government. This tripartite structure represents a unique partnership among physicians, beneficiaries and government. It ensures that those who have a stake in the provision of medical services in British Columbia are involved.

## **Responsibilities of the Commission**

In addition to ensuring that all British Columbia residents have reasonable access to medical care, the Commission is responsible for managing the Available Amount, a fund which is set annually by government to pay practitioners for medical services for beneficiaries. The MSC is also responsible for investigating reports of extra-billing and hearing appeals brought by beneficiaries, diagnostic facilities and physicians, as required by the Act.

## **Advisory Committees and Overview of Accomplishments**

The Act allows the Commission to delegate some powers and duties. As a result, advisory committees and sub-committees as well as hearing panels have been established to assist the Commission in carrying out its mandate and efficiently managing the Available Amount. Appointments to committees and panels reflect the MSC tripartite representation. The following is a description of the responsibilities and an overview of the 2007/2008 accomplishments of some of the MSC’s advisory committees, hearing panels and other delegated bodies.

## ***1. Guidelines and Protocols Advisory Committee (GPAC)***

The mandate of GPAC is to support the effective utilization of medical services, principally through guidelines and protocols. The overall goal is to maintain or improve the quality of medical care, while making optimal use of medical resources.

In fiscal year 2007/2008, GPAC continued its proactive leadership role in providing relevant and up-to-date clinical practice guidelines to general practitioners and, increasingly, to specialists and practitioners in the hospital sector. The guidelines have focused, too, on engaging individuals and patients as partners in their own care.

As a strategy, GPAC has built upon existing partnerships with professional associations and established new partnerships across the broader medical community, including health authorities. This strategy is consistent with one of the Commission's key priorities of pursuing collaborative opportunities with physicians to promote use of the guidelines and protocols.

From a population/patient perspective, GPAC has targeted improvement in patient outcomes through the timely provision of high-quality, evidence-based guidelines, especially through the increased use of electronic media and tools. GPAC has implemented strategies to measure and evaluate its success in achieving this goal.

GPAC has also achieved its goal of improving utilization of health care services through a series of education and information initiatives, as well as through active promotion of the guidelines at Continuing Medical Education (CME) conferences. A system of guideline renewal and evaluation has ensured that the guidelines reflect the most recent literature and scientific evidence.

The Medical Services Commission approved six new guidelines in 2007/2008.

- The *Cardiovascular Disease – Primary Prevention* guideline describes the prevention of heart disease, stroke, peripheral vascular disease, congestive heart failure and kidney disease in adults with no known cardiovascular disease, and the management of elevated cholesterol.
- The *Cognitive Impairment in the Elderly – Recognition, Diagnosis and Management* guideline summarizes current recommendations for recognition, diagnosis and longitudinal management of cognitive impairment and dementia in the elderly.
- The *Gallstones – Treatment in Adults* guideline provides recommendations for the management of asymptomatic and uncomplicated symptomatic gallstones in adults.
- The *Heart Failure Care* guideline provides strategies for the improved diagnosis and management of adults (19 years and older) with heart failure. It is intended for primary care practitioners, and focuses on approaches needed to provide care to patients with this complex syndrome.

- The *Hypertension – Detection, Diagnosis and Management* guideline focuses on the detection, diagnosis and management of hypertension in non-pregnant adults (age 19 years and older). Hypertension in each category is defined by an elevation of the systolic or diastolic threshold or both.
- The *Mammography – Protocol for the Use of Diagnostic Facilities* guideline applies to mammography services which are provided through diagnostic mammography facilities and billed to the Medical Services Plan.

An update was also made to the *Chronic Obstructive Pulmonary Disease (COPD)* guideline in November 2007.

GPAC undertook a number of other major initiatives in 2007/2008, including:

- Guideline Web Enhancement: The new [www.BCGuidelines.ca](http://www.BCGuidelines.ca) website was launched on February 15, 2007 and in 2007/2008, the site received over 1.4 million hits.
- Personal Digital Assistant (PDA): A joint initiative with the Ministry of Health, the BCMA and the UBC Division of Continuing Professional Development is ongoing and continues to provide physicians with PDA-based clinical practice guidelines at the point of care.
- Guideline Promotion Opportunities: A GPAC booth was set up at the St. Paul's Hospital CME Conference for Primary Care Physicians, November 20-23, 2007, and at the BC College of Family Physicians Assembly, December 8-9, 2007. Very positive feedback on the Guidelines website and on the PDA products was received from the many visitors to the GPAC exhibits.
- Guideline Evaluation Plan: In 2007/2008, an evaluation plan was implemented to measure and analyze both the usage and efficacy of the GPAC guidelines, in the areas of physician/public usage, practice change, and patient outcomes.

## ***2. Advisory Committee on Diagnostic Facilities (ACDF)***

The ACDF provides advice, assistance and recommendations to the MSC in the exercise of the Commission's duties, powers and functions under s.33 of the Act. The ACDF reviews applications from existing and proposed diagnostic facilities and makes recommendations to the MSC to approve or deny the requests.

Between April 1, 2007 and March 31, 2008, the ACDF considered 102 applications related to laboratory medicine, specimen collection stations, radiology, ultrasound, pulmonary function, polysomnography and nuclear medicine. Twelve applications were for new facilities and other applications included requests to relocate or amalgamate sites, increase capacity, transfer certificates of approval, expand test menus or remove referral base restrictions. Of the total applications reviewed, 84 requests were approved, 13 were denied and five applications were deferred. The ACDF handled 86.3 percent of all applications within one meeting.

In 2007/2008, the MSC approved revisions to the ACDF's *Guidelines for the Use of Telemetry*. The amended guidelines have eliminated the need for facilities to make

application to the MSC to utilize new technology to send radiology and nuclear medicine images to other MSC-approved facilities for interpretation.

A review of the ACDF framework was undertaken by the Provincial Laboratory Coordinating Office (PLCO) as recommended by the Laboratory System Improvement Committee initiated under the terms of the *Renewed Laboratory Agreement Between the British Columbia Medical Association and the Government of British Columbia*. No recommendations were made to the ACDF by the PLCO with respect to the current ACDF guidelines, regulations and/or processes, but a number of communication-type changes were implemented as a result of the review.

### ***3. Audit and Inspection Committee (AIC)***

The AIC is a four-member panel comprised of three physicians (one appointed by the BCMA, one appointed by the College of Physicians and Surgeons of British Columbia, and one appointed by government) together with one member who represents the public. The Commission has delegated to the AIC its powers and duties under s.36 of the Act to audit and inspect medical practitioners and, as of 2006, clinics. On December 1, 2006, s.10 of the *Medicare Protection Amendment Act 2003* was brought into force. This section expanded the audit and inspection powers of the MSC to include the power to audit clinics as corporate entities, rather than just physicians.

The AIC has responsibility for two types of audits. Patterns of practice audits are done to ensure that services billed to MSP have been delivered and billed accurately. Extra-billing audits focus on whether beneficiaries are being charged for services in contravention of the Act. The AIC decides whether on-site audits are appropriate, and it outlines the nature and extent of the audits. It also reviews the audit results and makes recommendations to the Chair of the Medical Services Commission for further appropriate action.

In 2007/2008, the AIC received 24 new audit referrals and reviewed audit reports from 11 on-site inspections.

- ***Billing Integrity Program (BIP)***

The Billing Integrity Program provides audit services to the Medical Services Plan and the Medical Services Commission. The MSC is authorized to monitor the billing and payment of claims in order to manage expenditures for medical and health care on behalf of MSP beneficiaries. BIP monitors and investigates billing patterns and practices of medical and health care practitioners to detect and deter inappropriate and incorrect billing of MSP claims. In cooperation with the professions, BIP develops and applies monitoring, case finding and audit criteria, and assists the MSC in the recovery of any funds billed inappropriately. It carries out the audit and inspection function on behalf of the Audit and Inspection Committee.

In 2007/2008, the Billing Integrity Program completed 17 on-site audits. It negotiated settlements for five cases and four cases were closed, with no recoveries pursued. A total

of \$333,674.78 was recovered by BIP this year (including recoveries negotiated in previous years).

- ***Special Committees of the Medical Services Commission***

Special Committees have been created by Order in Council, pursuant to s.4 of the Act, to audit claims from health care practitioners to the Health Care Practitioners' Special Committee for Audit. Special Committees have also been established for chiropractic, dentistry, massage therapy, naturopathy, optometry, physical therapy, podiatry and most recently, acupuncture and midwifery. The Special Committees have been given all of the powers and duties necessary to carry out audits of health care practitioners under s.36 of the Act.

#### ***4. Patterns of Practice Committee (POPC)***

The POPC is a committee of the BCMA that acts in an advisory capacity to the Medical Services Commission. The POPC prepares and distributes an annual statistical personal profile summary (mini-profile) to fee-for-service physicians, provides educational information to physicians on the audit process and their patterns of practice, listens to physicians who wish to raise their concerns about the audit process, is informed of, and provides feedback on, the audit practices employed by the Billing Integrity Program and jointly, with the College of Physicians and Surgeons of British Columbia, nominates medical inspectors and audit hearing panel members.

#### ***5. Reference Committee***

In March 2008, the Medical Services Commission designated the Reference Committee as one of its formal advisory committees. The Reference Committee provides advice to the MSC on the adjudication of billing and payment disputes between physicians and the Medical Services Plan. Membership on the Reference Committee is limited to representatives of the BCMA.

#### ***6. Joint Standing Committee on Rural Issues (JSC)***

The JSC oversees approximately \$69 million annually in rural incentive programs to sustain patient care and continuity of access in communities falling under the *Rural Practice Subsidiary Agreement*. The goal of the JSC is to enhance the availability and stability of physician services in rural and remote areas of British Columbia by addressing some of the unique, demanding, and difficult circumstances encountered by rural physicians and to enhance the quality of the practice of rural medicine. Some of the funding for the work of the JSC comes from the Available Amount managed by the Medical Services Commission.

In 2007/2008, the JSC conducted a review of the rural programs it governs. The purpose of the review was to assess the effectiveness of the rural programs in achieving appropriate levels of physician services in applicable communities. Over the next year the JSC will plan the implementation of the 90 recommendations resulting from the review.



## Other Delegated Bodies

- *Medical Services Plan (MSP)*

The Commission delegates day-to-day functions such as the processing and payment of claims, to the Medical Services Plan.

In November 2004, the Medical Services Commission supported MAXIMUS BC's signing of an agreement with the Ministry of Health to manage MSP and PharmaCare administrative services on behalf of the Government of British Columbia. Medical Services Plan and PharmaCare operations were transferred to MAXIMUS BC effective April 1, 2005. The new program name is Health Insurance BC ("HIBC"). The Commission receives regular updates regarding HIBC's service level requirements and program performance.

For more information, visit HIBC's website at <http://www.health.gov.bc.ca/insurance>.

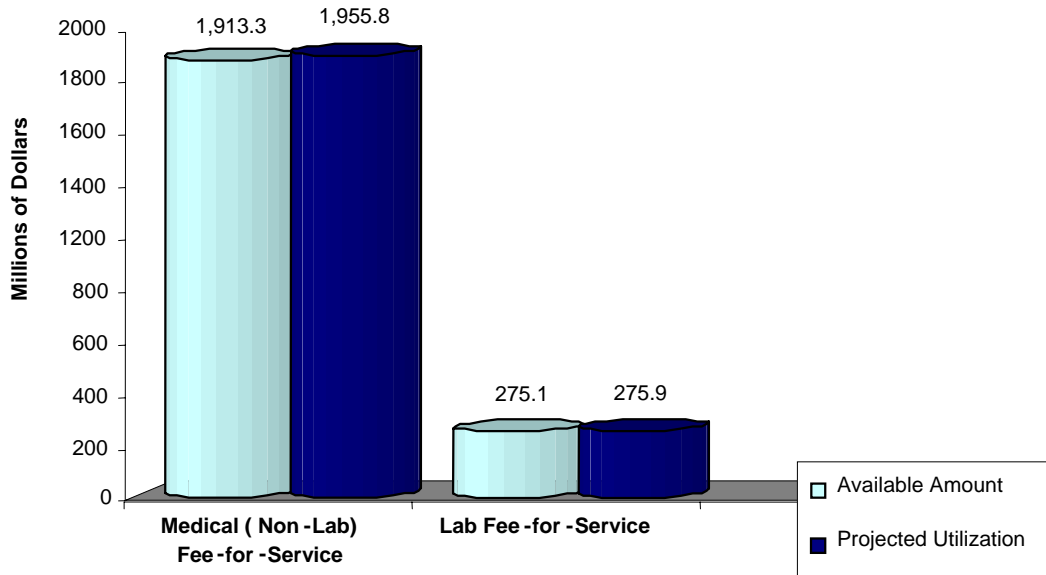
The government assists approximately 1.2 million people with payment of their MSP premiums. Regular premium assistance offers subsidies ranging from 20 percent to 100 percent based on net income for the preceding year less allowable deductions. Temporary premium assistance offers a 100 percent subsidy for a short term based on current unexpected financial hardship. In 2007, following a review by the Ministry of Health and the Ministry of Small Business and Revenue, s.14 of the *Medical and Health Care Services Regulation* was changed to allow for greater retroactivity when offering premium assistance. A Minute of the Commission provides guidelines and consistency in the administration of retroactive premium assistance. As a result, beneficiaries can now apply for regular premium assistance they would have been entitled to in previous years, if they had applied at that time. Previously, regular premium assistance could not be provided any further back than January 1 of the preceding year.

Additional information regarding regular premium assistance and temporary premium assistance is available on the MSP website at <http://www.health.gov.bc.ca/msp/infoben/premium.html>.

The Medical Services Plan pays over 13,100 medical and health care practitioners over \$2.1 billion dollars relating to over 74 million services, rendered on a fee-for-service basis. Medical practitioners can also be paid for services using alternative payment methods including salaries, sessional contracts and service contracts. The *MSC Financial Statement* (the "Blue Book") contains an alphabetical listing of payments made by the MSC to practitioners, groups, clinics, hospitals and diagnostic facilities for each fiscal year.

Copies of the *MSC Financial Statement* are available on the website: [http://www.health.gov.bc.ca/msp/financial\\_statement.html](http://www.health.gov.bc.ca/msp/financial_statement.html).

**2007/2008 Available Amount and Projected Utilization\***



\* Actual expenditures will be reported when MSP finalizes payments for 2007/2008.

- **Coverage Wait Period Review Committee**

The *Medicare Protection Act* requires individuals to live for at least three months in British Columbia to be eligible for MSP coverage. However, there are exceptional cases based on individual circumstances where the MSC waives this requirement and enrolls new residents before the coverage wait period has expired. The MSC has delegated the power to investigate and decide cases to the Coverage Wait Period Review Committee.

The Committee reviewed 71 requests between April 1, 2007 and March 31, 2008, and granted 17 approvals, including an application to waive the wait period for a person who was diagnosed with cancer days before permanently returning to British Columbia. The Committee concluded that the person’s plans to return were well underway before the diagnosis and that the return was not for the purpose of obtaining medical treatment. Another application was approved for a person who unexpectedly suffered a hemorrhage during their wait period and was hospitalized in critical condition.

The Committee denied several applications from new residents expecting babies during their wait periods, as the onus is on families to have medical insurance in place before arrival in British Columbia, or to budget for costs of birth.

In December 2007, the government announced that the wait period for MSP coverage would be waived for spouses or children of Canadian Forces members moving to British Columbia from overseas. The majority of Canadian military families moving to British Columbia from overseas assignments are already fully covered by their federal group medical insurance plan during the waiting period. Waiving the wait period for MSP coverage, however, alleviates any need for families to pay up front for medical care and wait for reimbursement by their insurance provider. In February 2008, this provision was

extended to include spouses or children of Canadian Forces members who also move to British Columbia from elsewhere in Canada. The terms of reference for the Coverage Wait Period Review Committee were amended accordingly and approved by the MSC.

## **MSC Hearing Panels**

Commission members, or delegates of the Commission, may conduct hearings related to the exercise of the MSC's statutory decision-making powers.

Some hearings are required by the Act, and some have been implemented by the Commission to afford individuals affected by its decisions the opportunity to be heard in person. Hearings are governed by the duty to act fairly. Decisions of the MSC hearing panels may be judicially reviewed by the Supreme Court of British Columbia.

### ***1. Beneficiary Hearings***

Residency hearings and panel reviews of claims for elective (non-emergency) out-of-country medical care funding are the two types of beneficiary hearings currently conducted by the Medical Services Commission.

#### ***a) Residency Hearings***

A person must meet the definition of resident in s.5 of the Act to be eligible for provincial health care benefits. As per s.7 of the Act, the MSC may cancel the MSP enrollment of individuals whom it determines are not residents. Section 11 of the Act requires that prior to making an order cancelling a beneficiary's enrollment, the MSC must notify the beneficiary that he or she has a right to a hearing. Individuals whose MSP coverage is cancelled have the right to appeal to the Commission. One of the MSC's public representatives conducts the residency hearings.

In 2007/2008, three residency hearings were held.

#### ***b) Out-of-Country Hearings***

The Medical Services Plan will reimburse medically necessary services performed outside of Canada when the required services are not available in Canada. Appropriate British Columbia specialists recommending these services must obtain prior approval on behalf of their patients for subsequent medical claims to be considered for payment. The decision to approve MSP payment for out-of-country medical services is based on published criteria available in the *Medical Services Commission Out-of-Province and Out-of-Country Medical Care Guidelines for Funding Approval* (the "Guidelines").

More information regarding out-of-country services is available on the MSP website at <http://www.health.gov.bc.ca/msp/infoben/leavingbc.html>.

An MSC appeal process is in place for beneficiaries who are denied funding for elective (non-emergency) out-of-country medical care. The Act does not impose a duty on the

Commission to hear and decide requests to review MSP's decisions regarding claims for out-of-country medical care, but rather, it is the Commission's choice to offer beneficiaries the option of review hearings.

From April 1, 2007 to March 31, 2008, MSP received 1,455 requests for out-of-country elective treatment. Funding was authorized for 1,289 requests and 166 cases were denied. Of the denied out-of-country cases, one was appealed to the MSC but did not proceed to a hearing.

## ***2. Diagnostic Facility Hearings***

Under s.33 of the Act, the MSC may add new conditions or amend existing ones to an approval of a diagnostic facility. This may be done either on application by the facility owner, or on the Commission's own initiative. Before taking action, the Commission is required to provide the owner of the facility an opportunity to be heard [s.33(4)]. A hearing before the MSC is usually requested for one of the following two reasons:

- The ACDF has recommended to the Commission that an application to amend or add conditions to an existing approval be denied; or
- The ACDF has recommended to the Commission that an approval be suspended, amended or cancelled because the facility owner is alleged to have contravened the Act, the regulations, or a condition on the approval.

The MSC streamlined its hearing panel procedures during 2007/2008 to allow ACDF hearings to be conducted before either a single-person or three-person panel. This change has resulted in a more expedient hearing process for clients. In the reporting period an MSC panel reviewed one appeal. Three additional appeals are currently in progress.

## ***3. Hearings Related to Practitioners***

Audit hearings and de-enrollment of practitioners for "cause" are the two types of MSC statutory hearings related to practitioners.

### ***a) Audit Hearings***

Under s.37 of the Act, the Commission may make orders requiring medical practitioners or owners of diagnostic facilities to make payments to the MSC in circumstances where it determines, after a hearing, an amount due to (a) an unjustified departure from the patterns of practice or billing of physicians in this category; (b) a claim for payment for a benefit that was not rendered; or (c) a misrepresentation about the nature or extent of benefits rendered. These hearings are the most formal of all the administrative hearings currently done by the MSC. Practitioners are usually represented by legal counsel and the hearings may last one to two weeks.

Since the introduction of the Alternative Dispute Resolution (ADR) process in 2000, fewer billing matters proceed to formal hearings. The ADR process employs both unassisted and assisted (with a mediator) negotiation to encourage practitioners and the

MSC to reach a negotiated settlement of s.37 disputes.

No audit hearings were held by the MSC in 2007/2008.

***b) De-enrollment of Practitioners for “Cause”***

In the reporting period, no de-enrollment hearings were held by the MSC.

## **Other 2007/2008 MSC Highlights and Issues**

The Medical Services Commission held eight regular business meetings between April 1, 2007 and March 31, 2008. In November 2007, members attended a full day orientation session.

- ***Physician Master Agreement and Subsidiary Agreements***

In 2007 negotiations between the Government of British Columbia and the BCMA resulted in a comprehensive *Physician Master Agreement* (including five subsidiary agreements) that is in effect until 2012. The Commission is a signatory to the *Physician Master Agreement* that provides a consolidated agreement structure and new administrative committees (e.g., the Physician Services Committee) with health authority representation. As per one requirement in the *Physician Master Agreement*, the Chair of the Medical Services Commission will consult with the Physician Services Committee at regular intervals regarding the management of the Available Amount.

Copies of the negotiated agreements are available on the website:  
<http://www.health.gov.bc.ca/msp/legislation/bcmaagree.html>.

- ***MSC Payment Schedule***

The *MSC Payment Schedule* is the list of fees approved by the Medical Services Commission payable to physicians for insured medical services provided to beneficiaries enrolled with MSP. Additions, deletions, fee changes or other modifications to the *MSC Payment Schedule* are implemented in the form of signed Minutes of the Commission.

In 2007/2008, 83 Minutes of the Commission were approved, resulting in 208 new fee items and 151 fee item changes.

A copy of the *MSC Payment Schedule* is available on the website:  
<http://www.health.gov.bc.ca/msp/infoprac/physbilling/payschedule/index.html>.

- ***Periodic Health Examinations***

The Commission reviewed the role of periodic health examinations in the context of prevention and in April 2007, endorsed a report – *The Periodic Health Exam and Implementation of Preventive Care* – written for the MSC by Dr. Vicki Foerster, Dr. John

Feightner and Dr. Lorne Verhulst. Future policy work regarding this issue may be undertaken.

- ***Information Sharing Agreement Between the MSC and the Ministry of Small Business and Revenue***

In November 2007, the Commission approved amendments to the *Information Sharing Agreement Between the MSC and the Ministry of Small Business and Revenue* that has been in effect since 2002. The revised *Agreement* outlines in more detail how information is used by the Ministry of Health and the Ministry of Small Business and Revenue and also reflects recent changes in freedom of information legislation.

- ***Strategic Planning***

The Commission identified its strategic objectives and priority actions for 2007/2008. A primary focus for the MSC was the development of a comprehensive integrated strategy regarding extra-billing to ensure full compliance and effective administration of the *Medicare Protection Act*. Continuing objectives included improving the uptake of guidelines and protocols by physicians and measuring the outcomes, and supporting prevention initiatives where appropriate. The Commission also engaged in dialogue with the Ministry of Health and the BCMA regarding expenditure analysis, growth trends and management of the Available Amount and continued to receive regular reports and review annual work plans from its advisory committees.

The MSC orientation session assisted Commission members in understanding the extent and limits of their roles and responsibilities and addressed such topics as powers, duties, operations and conflicts of interest.

- ***Presentations to the MSC***

Throughout 2007/2008, the Commission received updates regarding several issues, including physician resource planning, General Practice Services Committee (GPSC) initiatives, wait times, transgender surgery and treatment in British Columbia and pharmaceutical initiatives. In May 2007, the Deputy Minister of Health provided the Commission with an overview of the Ministry's strategic priorities and directions.

- ***MSC-Related Legal Cases***

As part of its oversight of the Medical Services Plan, the Commission monitors legal issues that arise as a result of MSP or Ministry of Health-related decisions and is sometimes actively involved in litigation as a named party. In 2007/2008, the following cases were considered and/or participated in by the Commission.

#### *Extra-Billing/Private Clinic Issues*

The purpose of the *Medicare Protection Act* is to preserve a publicly managed and fiscally sustainable health care system for British Columbia in which access to necessary medical care is based on need and not on an individual's ability to pay. Extra-billing

occurs when an MSP beneficiary receives a medically necessary benefit from an enrolled physician and is charged for it or for services in relation to that benefit by a person or entity (e.g., a clinic). Extra-billing violates the *Medicare Protection Act*. Section 17 of the Act prohibits a person from charging a beneficiary for a benefit or for materials, consultations, procedures, the use of an office, clinic or other place or for any other matters that relate to the rendering of a benefit.

Sections 10 and 11 of the *Medicare Protection Amendment Act 2003* were brought into force through regulation on December 1, 2006. These sections contained an expansion of the audit and inspection powers in s.36 of the MPA and included a new s.45.1 giving injunctive powers to the Medical Services Commission regarding contravention of certain stated provisions including the prohibition against extra-billing.

The Commission made the pursuit of extra-billing cases its primary strategic goal for 2007/2008, and has developed processes for dealing with cases that come to its attention when concerns or complaints of extra-billing arise.

In 2007/2008, the Commission investigated 17 cases of suspected extra-billing in private clinics and/or by practitioners. Of the total, seven cases remain ongoing. Eight of the 17 cases were investigated by the MSC and subsequently closed, with no further action required. One case that had been previously closed was re-opened for further investigation, before being closed again. One extra-billing audit of a private medical clinic was completed in 2007.

The confidentiality provisions in the *Medicare Protection Act* currently prevent the Commission from releasing details regarding its extra-billing investigations.

#### *Amendment to s.49 of the Medicare Protection Act*

In April 2008, government passed an amendment to s.49 of the *Medicare Protection Act*, which has not yet been brought into force. When the associated regulation is approved, the amended s.49 will provide greater discretion to publicly disclose prescribed information concerning complaints and investigations.

#### *Waitlist Insurance*

In March 2008, the Commission began the process of determining whether the sale of waitlist insurance (i.e., medical access insurance) in British Columbia violates s.45 of the *Medicare Protection Act*. The waitlist insurance issue remains under active review by the Commission.

#### *British Columbia Nurses' Union (BCNU) Litigation*

In 2006, the BCNU filed a petition for judicial review in the Supreme Court of British Columbia, adding the MSC as a respondent and seeking specific relief against the Commission. The petition arose from allegations that government (both the Commission and the Attorney General) was not enforcing the extra-billing prohibitions in the *Medicare Protection Act* to the BCNU's satisfaction.

The Chair of the MSC (among others) provided affidavit evidence in support of the Province's position in response to this petition. A hearing was held in late 2007 and on March 18, 2008, Mr. Justice Kelleher released his Reasons for Judgment in which he found that the BCNU did not have legal standing to pursue the petition. The BCNU filed a Notice of Appeal from the decision to the British Columbia Court of Appeal.

*British Columbia Government and Service Employees' Union (BCGSEU) Litigation*

In this case, the BCGSEU sought to have the Master Services Agreement relating to the administration of the Medical Services Plan and PharmaCare quashed on the basis that it does not meet the public administration requirement of the *Canada Health Act* which is alleged to be incorporated into the *Medicare Protection Act*.

At the Supreme Court of British Columbia level, the Court dismissed the Union's challenge on the basis that the relief sought was not available by way of judicial review. The judge went on, however, to consider the substance of the Union's allegations and rejected them. The BCGSEU then appealed the decision to the British Columbia Court of Appeal.

The Court of Appeal heard the matter on June 6, 2006, and released its decision unanimously dismissing the BCGSEU's appeal of the lower court's decision on July 16, 2007.

*Human Rights Challenge re PSA Testing*

On December 12, 2006, the Human Rights Tribunal held a hearing into the complaint of a man who alleged that the Province's funding of Pap testing and mammography as screening tests for cervical cancer and breast cancer, while not funding prostate-specific antigen (PSA) testing as a screening test for prostate cancer, constitutes discrimination on the basis of sex.

Government experts testified at the hearing that PSA testing is controversial and that there is no scientifically reliable evidence that its use leads to any better outcomes for those with prostate cancer. In a decision released on January 17, 2008, the Tribunal dismissed the complainant's case.



## Appendices

### *Appendix 1: Members of the Medical Services Commission (MSC) as of March 31, 2008*

#### Government of British Columbia Representatives:

- Tom Vincent (Chair)
- Bob Nakagawa (Deputy Chair)
- Dr. Robert Halpenny

#### British Columbia Medical Association (BCMA) Representatives:

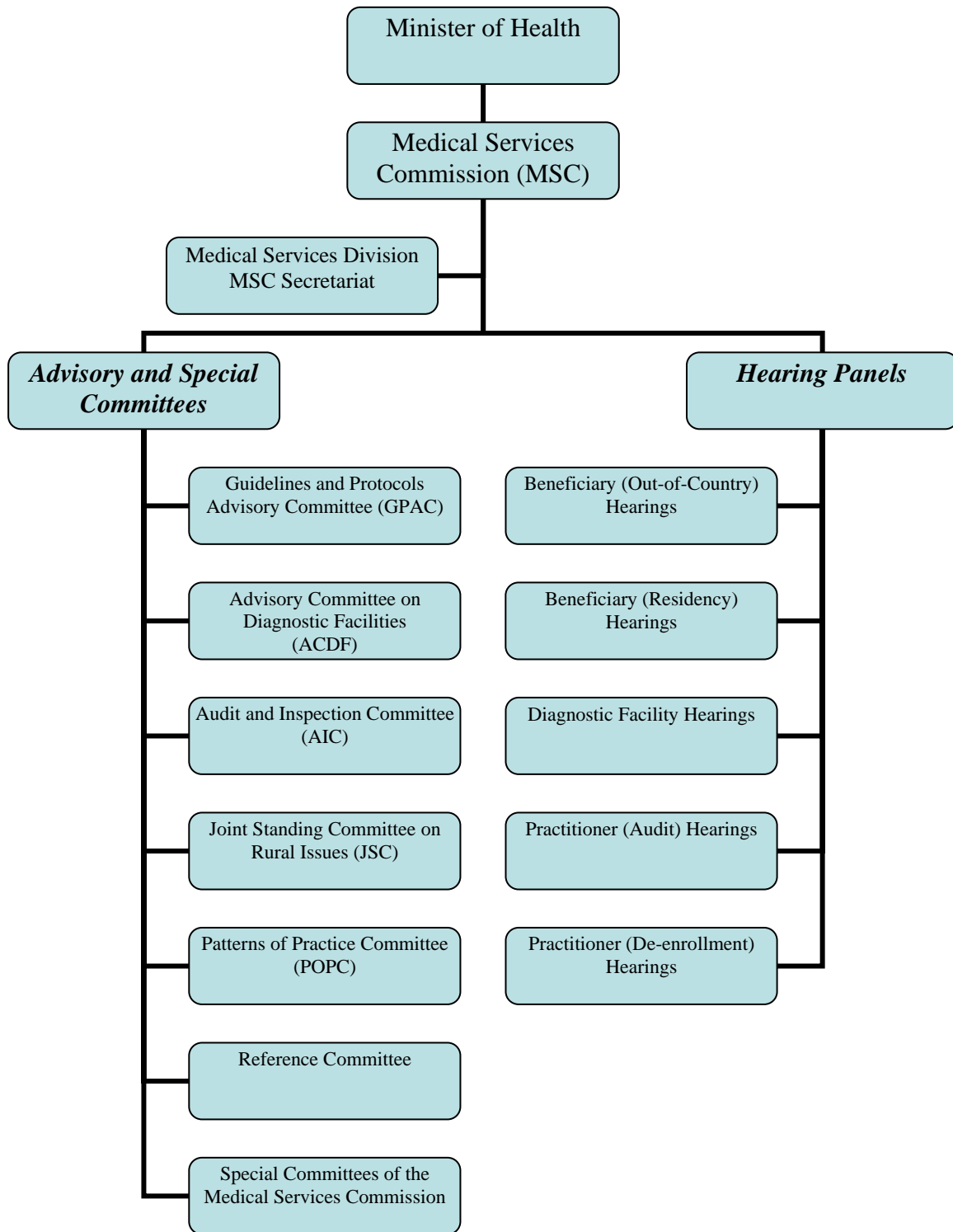
- Dr. Marshall Dahl
- Dr. Douglas McTaggart
- Darrell Thomson

#### Public Representatives:

- Robert Cronin
- Isobel Mackenzie \*
- Isidor Wolfe

\* New appointment – June 2007

**Appendix 2: MSC Organizational Chart**



**Appendix 3: Guidelines and Protocols Approved by the MSC in 2007/2008**

<b>Title</b>	<b>Type (New/Revised)</b>	<b>Date of MSC Approval</b>
<i>Cognitive Impairment in the Elderly – Recognition, Diagnosis and Management</i>	New	May 30/07
<i>Gallstones – Treatment in Adults</i>	Revised	May 30/07
<i>Mammography – Protocol for the Use of Diagnostic Facilities</i>	Revised	May 30/07
<i>Hypertension – Detection, Diagnosis and Management</i>	New	November 14/07
<i>Heart Failure Care</i>	New	November 14/07
<i>Chronic Obstructive Pulmonary Disease (COPD)</i>	Revised	November 14/07
<i>Cardiovascular Disease – Primary Prevention</i>	New	January 30/07

**Available at** <http://www.BCGuidelines.ca>

***Appendix 4: List of Useful Websites and Addresses***

- Medical Services Commission (MSC) (Legislation and Governance; Advisory Committees; Negotiated Agreements with the BCMA; *Medicare Protection Act* and Regulations): <http://www.health.gov.bc.ca/msp/legislation/msc.html>
- Medical Services Plan (MSP): <http://www.health.gov.bc.ca/msp/index.html>
- *MSC Financial Statement* (the “Blue Book”):  
[http://www.health.gov.bc.ca/msp/financial\\_statement.html](http://www.health.gov.bc.ca/msp/financial_statement.html)
- *MSC Payment Schedule*:  
<http://www.health.gov.bc.ca/msp/infoprac/physbilling/payschedule/index.html>
- Guidelines and Protocols Advisory Committee (GPAC):  
<http://www.BCGuidelines.ca>
- British Columbia Medical Association (BCMA): <http://www.bcma.org>
- Health Insurance BC (HIBC): <http://www.health.gov.bc.ca/insurance>

***Medical Services Commission Mailing Address:***

3-1, 1515 Blanshard Street  
Victoria, BC  
V8W 3C8

Telephone: 250-952-3073  
Fax: 250-952-3131

