MEDICAL SERVICES COMMISSION

2022/23

ANNUAL REPORT

BRITISH COLUMBIA

Ministry of Health

Medical Services Commission

2022/23 Annual Report

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Medicare Protection Act, [RSBC 1996] CHAPTER 286, Part 1, Section 5 (7).

The Medical Services Commission acknowledges the territories of First Nations throughout British Columbia and is grateful to carry out our work on these lands.

We acknowledge the rights, interests, and concerns of all Indigenous Peoples – First Nations, Métis, and Inuit – respecting and appreciating their distinct cultures, histories, rights, laws, and governments.

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Function

The function of the Medical Services Commission (the Commission) is to facilitate reasonable access throughout British Columbia to quality medical care, health care, and prescribed diagnostic services for residents of B.C., under the Medical Services Plan (MSP) in the manner provided in the *Medicare Protection Act* (MPA).

The Medical Services Commission

Established under the *Medical Services Act, 1967*, the Commission continues under the current MPA. Through the MSP and on behalf of the Government of B.C., the Commission oversees the provision, verification, and payment of medical and health services in an efficient and cost-effective manner.

The Commission must have regard to the principles outlined in the *Canada Health Act*, as well as the principle of sustainability.
Consistent with these principles is the fundamental belief that access to necessary medical care be solely based on need and not on an individual's ability to pay.

The Commission reports to the Minister of Health (see Appendix 2).

Organizational Structure

Under appointment by the Lieutenant Governor in Council, the Commission consists of nine (9) members, see Appendix 1:

- three (3) individuals nominated by the Doctors of BC (DoBC),
- three (3) individuals designated on the joint recommendation of the Minister of Health and the DoBC to represent MSP beneficiaries, and
- three (3) individuals representing the government.

This tri-partite structure represents a unique partnership among physicians, beneficiaries, and government, ensuring the involvement of all who have a stake in the provision of medical services in B.C.

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Responsibilities of the Commission

In addition to ensuring all B.C. residents have reasonable access to medical care and prescribed diagnostic services, the Commission is responsible for monitoring the Available Amount, a fund which is set annually by government to pay practitioners on a fee-for-service basis for medical services provided to MSP beneficiaries.

The Commission is also responsible for:

- establishing payment schedules for practitioners;
- administering the MPA;
- investigating reports of extra billing;
- investigating unjustifiable departure from billing patterns of practice;
- hearing appeals brought by beneficiaries, diagnostic facilities, and physicians as required by the MPA; and
- arbitrating disputes that may arise between the DoBC and the Government of B.C. under the Physician Master Agreement (PMA).

Advisory Committees and Overview of Commission Achievements

The MPA allows the Commission to delegate some powers and duties to special committees, advisory committees, and hearing panels established to assist the Commission in effectively carrying out its function.

The following provides description of the responsibilities and an overview of the 2022/23 accomplishments of the advisory committees, hearing panels, and other delegated bodies of the Commission.

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1. Guidelines and Protocols Advisory Committee

The Guidelines and Protocols Advisory Committee (GPAC) is a joint committee of the DoBC and the Ministry of Health (MOH).

GPAC is mandated to provide recommendations to B.C. practitioners focused on primary care on delivery of high quality, appropriate care to patients while making optimal use of medical resources. These recommendations are published online as concise, evidence-based clinical practice guidelines under the brand name BC Guidelines, at www.BCGuidelines.ca.

Guidelines Approved by the Commission in 2022/23:

Updated Guidelines:

- Cobalamin (Vitamin B_{12}) and Folate
- Direct Acting Oral Anticoagulants (DOACs)
- Follow-Up of Colorectal Cancer and Precancerous Lesions (Polyps)
- Hormone Testing
- Infectious Diarrhea – Guideline for Investigation
- Oral Anticoagulants: Elective Interruption and Emergency Reversal
- Screening for the Purposes of Colorectal Cancer Prevention and Detection
- Suspected Lung Cancer in Primary Care
- Testosterone Testing
- Warfarin Therapy Management

Guidelines Under Development in 2022/23:

New Guidelines:

- Adverse Childhood Experiences and Trauma Informed Practice
- Concussion/Mild Traumatic Brain Injury
- Tobacco Use Disorder
- Venous Thromboembolism

Updated Guidelines:

- Asthma Diagnosis, Education, and Management
- Atrial Fibrillation
- Chronic Obstructive Pulmonary Disease
- Heart Failure
- High Risk Drinking and Alcohol Use Disorder
- Stroke and Transient Ischemic Attack

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Guidelines retired in 2022/23

- None

New Partner Guidelines

GPAC added the following Partner Guidelines in 2022/23:

- Button Battery Ingestion Protocol – BC Emergency Medicine Network
- BC Pediatric Nutrition Guidelines – BC Centre for Disease Control

Promotion and Education

To further the strategic goals of the GPAC, increase the exposure of BC Guidelines, and support evidence-informed high-quality patient-centered care, the following list outlines the promotional activities undertaken by the GPAC during 2022/23.

BC Guidelines Website: BC Guidelines are available for review and download at BCGuidelines.ca. Website traffic is analyzed annually, including ranking of guideline popularity.

In 2022/23, the BC Guidelines website received nearly 430,000 visits from more than 340,000 unique users. This represented a significant increase (39%) in total website visits compared to the previous year. Historically, most users accessed BCGuidelines.ca from the B.C. Lower Mainland geographic region, but there has recently been a significant increase of users from the B.C. Interior and B.C. Northern Regions.

BC Guidelines eBulletin: The e-newsletter promotes new BC Guidelines publications and external review opportunities. New clinical practice tips from recently published guidelines are embedded in the e-newsletter as “key updates”.

In 2022/23, 3 e-newsletter editions were published, reaching approximately 900 subscribers. Subscribers represent a community of primary care practitioners, regional health authority representatives, academics, and other health system partners. The GPAC promotes the e - newsletter at conferences and other events to increase awareness.

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Medical/Research Conferences and Promotional Presentations:

Conference participation enables GPAC to connect with a broader range of primary care practitioners while increasing awareness of BC Guidelines.

BC Guidelines participated in 12 promotional events during 2022/23:

- BC Center for Substance Use (BCCSU) Conference
- BC Quality Forum
- BC Rural Health Conference
- Canadian Society for Internal Medicine (CSIM) Annual Conference
- Let's Talk Practical Cancer Care
- Nurse and Nurse Practitioners of BC (NNPBC) Annual Conference
- presentation to Provincial Health Services Authority Nurse Practitioners (NP)
- presentation to University of BC (UBC) Medical Students hosted at the University of Victoria
- St. Paul's Continuing Medical Education (CME) Conference for Primary Care Physicians
- UBC Continuing Professional Development (CPD) Annual Family Practice Review
- UBC Centre for Health Services and Policy Annual Health Policy Conference
- WorkSafe BC Conference

Key 2022/23 GPAC Accomplishments

- The GPAC onboarded its first Patient Partner representative for a pilot project, with evaluation to be conducted on incorporating patient voices in the work of the GPAC.
- The GPAC strengthened its relationship with the DoBC Patterns of Practice Committee (POPC), through exploration of a quality improvement project related to the Cobalamin (Vitamin B_{12}) testing practices.
- In collaboration with UBC CPD and the BC Injury Research and Prevention Unit, module development was initiated to disseminate the *Fall Prevention: Risk Assessment and Management for Community-Dwelling Older Adults* guideline to family physicians in B.C, supporting implementation of the work in clinical practice.
- Engaged the First Nations Health Authority (FNHA) and the UBC CPD Indigenous Patient-Led Group to provide input on the development of the *Adverse Childhood Experiences and Trauma-Informed Practice* educational supplement.

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2. Advisory Committee on Diagnostic Facilities

The Advisory Committee on Diagnostic Facilities (ACDF) provides advice, assistance, and recommendations to the Commission in the exercise of the Commission's duties, powers, and functions under s.33 of the MPA.

The ACDF reviews applications from existing and proposed diagnostic facilities seeking approval to perform and bill the MSP for specific services. Based on Commission-approved policy, the ACDF may approve applications or recommend the Commission deny the request.

Between April 1, 2022, and March 31, 2023, the ACDF considered 96 applications related to electromyography, polysomnography (Level 1, overnight, attended), pulmonary function, radiology, and ultrasound.

Additionally, the ACDF Secretariat processed 167 home sleep apnea testing (HSAT) facility applications, approved as a group by the Commission.

Of the total applications reviewed by the ACDF, 74 requests were approved and 17 were recommended to the Commission for denial. The Commission upheld the denial recommendation of all 17 applications.

Additionally, the Commission held 5 applications in abeyance, while specifying a time period for existing facilities which provide the same service in the catchment area as the applicant facility to achieve reasonable utilization of approved capacity. When those time periods expire, the applications held in abeyance will be assessed.

Project Highlights for 2022-23

Extended Healthcare Provider Compensation for OSA Therapeutics

The MOH informed the Commission that some extended health providers required patients to provide an updated OSA diagnosis prior to being reimbursed for the purchase of a new PAP device. The MOH outlined that clinical best practices indicate a previously diagnosed patient should not be re-tested.

In June 2022, the Commission wrote to all known extended health insurance providers operating in B.C., reminding the providers that as OSA is a chronic condition, any requirement to retest previously diagnosed patients for the purpose of providing replacement device coverage was contrary to clinical best practices. Additionally, the Commission noted that retesting or referrals related to retesting are not insured MSP benefits.

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Diagnostic Sleep Medicine Review

Beginning in February 2019, the MOH, on behalf of the ACDF and the Commission, conducted an in-depth review of how diagnostic sleep testing is delivered in B.C.

This work led to several outcomes and recommendations to improve the service delivery environment for the provision of diagnostic sleep testing including:

- Development of a standard HSAT requisition and a new guideline for the assessment and management of Obstructive Sleep Apnea (OSA).
- Implementation of a comprehensive wait-time reporting system for all approved polysomnography facilities.
- Development of a database for polysomnography wait-times to generate geographically relevant data for assessing polysomnography applications.
- Development of policy allowing stand-alone HSAT facilities to bill MSP, with the caveat that facilities cannot bill for full testing if the facility benefits from the sale of, or referral of patients for, therapeutic equipment for the treatment of a sleep disorder breathing diagnosis, such as a Positive Airway Pressure (PAP) machine.
- Creation and distribution of a PAP Buyer's Guide to support both practitioners and patients.
- Ongoing efforts to assist the College of Physicians and Surgeons of British Columbia (CPSBC) with communicating and monitoring HSAT accreditation standards.

The ACDF is nominated for a 2023 B.C. Premier's Award under the category of Innovation for their work in Diagnostic Sleep Testing. This recognition is the result of B.C. being the first jurisdiction in Canada to allow HSAT facilities to bill a provincial health care plan and that the work seeks to quantify capacity required per 100,000 population (350-400 tests annually per 100,000 population) for Level I polysomnography tests, including identifying the number of beds needed to deliver this capacity.

Policy Change for Approval for Pulmonary Function and Electromyography

The ACDF recommended to the Commission that all applications for Pulmonary Function Category IIA, IIB and IVA and Electromyography services in both privately owned and publicly owned facilities be delegated jointly and severally to the ACDF Chair, or the full Committee, for assessment/approval. This authority, for privately owned facility applications, was previously held by the ACDF Chair.

In October 2022, the Commission approved the ACDF's recommendation.

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Moratorium on Applications for Diagnostic Ultrasound Facilities - Extended

The Commission approved an MOH recommendation to extend the moratorium on ultrasound facility applications until December 1, 2023. This was, in part, due to the expectation that no significant improvement on the current ultrasound sonographer shortages would be realized until the student cohort from expanded and new post-secondary training programs graduate in 2023.
The moratorium includes applications for new, relocation, or expansion of diagnostic outpatient ultrasound facilities, with the exception of those fee items currently restricted to public hospitals, (i.e.: Electroencephalography and Cardiac Doppler Studies).

Moratorium on Applications for Home Sleep Apnea Testing Facilities - Continued

On January 1, 2022, the Commission established a temporary moratorium on applications for stand-alone HSAT facilities across the province. The moratorium was intended to allow time to generate sufficient MSP billing data to aid the ACDF and its support staff to better understand the impact of allowing HSAT facilities to bill MSP for the professional fees related to this diagnostic test.

The moratorium on applications for stand-alone HSAT facilities is scheduled to remain in effect until December 31, 2026.

Moratorium on Applications for Polysomnography Facilities - Lifted

On July 27, 2022, the Commission approved a MOH recommendation to lift the temporary moratorium on applications for outpatient polysomnography applications, established in February 2019. Additionally, the Commission supported MOH recommendations concerning wait time benchmarks, target capacity/service levels, and facility utilization, to be used by the ACDF in the assessment of future polysomnography applications.

On September 30, 2022, the moratorium on applications for new, expanded or relocated polysomnography facilities was lifted. Following this, the ACDF received 29 applications for 169 beds across 7 Health Services Delivery Areas. These applications were considered at the December 14, 2022, and the March 8, 2023, meetings of the ACDF.

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Diagnostic Facility Hearings

Under s.33 of the MPA, the Commission may add new conditions or amend existing ones to an approval of a diagnostic facility in the province. This may be done either on application by the facility owner, or on the Commission's own initiative. Before taking action, and as per the MPA s.33(4), the Commission is required to provide the owner of a facility an opportunity to be heard.

A hearing before the Commission is usually requested for one of the following two reasons:

- The ACDF has recommended to the Commission that an application to amend or add new 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 MPA, the regulations, or a condition of the approval.

Diagnostic facility hearings are conducted before either a single-person or three-person Commission panel, depending on the type of appeal.

No diagnostic facility appeals were filed in 2022/23.

3. Audit Committees

Audit and Inspection Committee

The Audit and Inspection Committee (AIC) is a four-member panel comprised of three physicians (one nominated by the DoBC, one nominated by the CPSBC and one appointed by the Commission) together with one member who represents the public.

The AIC has responsibility for overseeing two types of audits. Audits for patterns of practice are done to ensure that services billed to the MSP have been delivered and billed accurately. Audits for extra billing focus on whether beneficiaries are being charged for services in contravention of the MPA.

The AIC decides whether on-site audits are appropriate and outlines the nature and extent of the audits. The AIC also reviews the audit results and makes recommendations to the Commission for further appropriate action.

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Special Committees of the Medical Services Commission

The Commission's authority to audit claims from health care practitioners is assigned to Special Committees for each of the following professions: acupuncture, chiropractic, dentistry, massage therapy, midwifery, naturopathy, optometry, physical therapy, and podiatry. The Special Committees have been given all the powers and duties necessary to carry out audits.

The Commission's authority to make orders regarding practitioners under s.15 and s.37 of the MPA is assigned to the Health Care Practitioners Special Committee for Audit Hearings (HCPSCAH).

Billing Integrity Program

The Billing Integrity Program (BIP) provides audit services to the MSP and the Commission. The Commission is authorized to monitor the billing and payment of claims in order to manage medical and health care expenditures 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 Commission in the recovery of any funds billed inappropriately. It carries out the audit and inspection function on behalf of the AIC.

Billing Integrity Program (BIP)	
Approved Projects (all)	23
Onsites Conducted	12
Audit Reports Completed and Approved	10
Referred for Recovery	7
Settled	11
De-enrollments	3
Estimated Overbilling	$ 4,154,846
Settled for Recovery	$ 6,020,000
Settlements Collected	$ 6,765,847
** 2023/23 fiscal year stats at June 20, 2023	

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Service Verification Audits

Each year, survey letters are sent to patients to confirm they received practitioner services which have been billed to the MSP on their behalf. A minimum of 1,200 practitioners (100 per month) are chosen annually (at random) and letters are sent to approximately 50 of their patients who have received MSP billed services in the preceding 4 months.

A "select" service verification audit (SVA) may be initiated due to findings from a random service verification audit, follow-up of a previous audit, complaints received from the public/other doctors/referrals by licensing bodies and professional associations, or by atypical practitioner billing profiles.

Letters may be sent to some of the selected practitioner's patients to confirm they received the specific services that have been billed to MSP on their behalf.

Letters were not sent out from April 2020 to July 2020 due to the COVID-19 pandemic. Letters resumed in August 2020 and starting in December 2020, the number of randomly selected practitioners was increased from the standard 100 per month to 120 per month in an attempt to make up the deficit. In November 2020, the Enhanced Audit Confirmation Letters (EACL) program was launched to allow for online responses.

Service Verification Audits (SVA)	
Number of service verification audits of practitioners	1,103
Number of letters sent to patients to verify services	55,453
Response rate from patients	45.6%
**Note: Numbers as of May 9, 2023. SVA projects remain open for 3 months.*	

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4. Patterns of Practice Committee

The Patterns of Practice Committee (POPC) acts in an advisory capacity to the Commission. On behalf of the Commission, the POPC reviews, informs and educates physicians in regard to their pattern of practice and billings. The POPC has several main functions, which include:

- Education: to encourage appropriate patterns of practice and billing which can include general education sessions,
- discussions with Sections regarding findings from recent audits and educational letters
- producing the annual Mini Profile for all Fee for Service Physicians,
- providing a forum for physicians who wish to raise concerns about the audit process (Post Audit),
- nominating Medical Inspectors to the AIC and nominating Physician Hearing Panel members to the Commission,
- communicating with the Commission and other committees regarding policy issues and issues related to the MSC Payment Schedule,
- additional tasks as identified by the MOH, the Commission and/or The Physician Master Agreement (PMA).

During 2022/23, the POPC met 3 times.

5. Reference Committee

The Reference Committee acts in an advisory capacity to the Commission in circumstances where a physician disputes the adjudication of a billing claim. The Reference Committee does, on occasion, perform a similar billing adjudicative services for patients billed directly by a physician, or when physicians provide services to third parties, such as insurance companies. Membership on the Reference Committee is limited to representatives of the DoBC.

In 2022/2023, MSP received 8 new cases from the DoBC; 7 of which remained outstanding at the close of fiscal year and are scheduled for referral to the Reference Committee in 2023/2024.

During 2022/2023, the Reference Committee closed 3 cases.

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6. Requisition Committee

The Requisition Committee, established in 1997, is a joint committee of the DoBC and the MOH. This committee remains on hold, pending further review.

7. Other Delegated Bodies

Coverage Wait Period Review Committee

New and returning residents are required to complete a wait period before provincial publicly funded health benefits begin. However, there are exceptional cases based on individual circumstances where the Commission may waive this requirement and enroll new residents before the coverage wait period has expired. The Commission has delegated the power to investigate and decide these cases to the Coverage Wait Period Review Committee (the Waiver Committee). The Terms of Reference for the Waiver Committee are established in Minute of the Commission 15-074.

The MOH received 438 waiver inquiries from April 1, 2022, to March 31, 2023, with 110 complete waiver request applications reviewed by the Waiver Committee, including 3 appeals.

A total of 19 waivers met the Waiver Committee's criteria for approval as established in the Terms of Reference.

From April 1, 2022 to March 31, 2023, the Waiver Committee denied 91 waiver requests:

- 36 denials were related to pregnancy and prenatal care during the wait period.
- 50 denials were related to conditions that were not diagnosed in the wait period and/or were not a financial hardship.
- 5 waivers could not be approved because the individuals were covered under other insurance (e.g.: private insurance, interprovincial insurance, ICBC).

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Medical Services Plan

The Commission delegates day-to-day functions such as the processing and payment of MSP claims to Health Insurance BC (HIBC).

In August 2022, Pacific Blue Cross, doing business as PBC Solutions (PBCS) was awarded the contract to provide HIBC Services on behalf of the MOH. The MOH has been working closely with PBCS and the incumbent service provider Maximus BC, to ensure a smooth transition of HIBC Services, resources, and technology.

The Commission receives regular updates regarding HIBC's service level requirements and program performance. Policy direction and leadership authority remains within the responsibility of the MOH – and under the Commission in relation to the MSP.

In 2022/2023, MSP paid approximately 21,425 medical and health care providers $3.67 billion relating to more than 107.7 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 *Medical Services Commission Financial Statement* (the "Blue Book") contains an alphabetical listing of payments made by the Commission to practitioners, groups, clinics, hospitals, and diagnostic facilities for each fiscal year.

Copies of the Blue Book are available online at:
www.gov.bc.ca/msp/publications.

Medical Services Commission Payment Schedule

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

In 2022/2023, 85 MOCs related to the MSC Payment Schedule were approved, resulting in 40 new fee items, including 2 new temporary fees created in response to the COVID-19 pandemic. This and other COVID-19 related fee items and fee item amendments will remain in effect until the effective date noted or until the end of the pandemic, as determined by the Public Health Officer.

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Medical Services Commission

Longitudinal Family Physician Payment Schedule

On February 1, 2023, the Longitudinal Family Physician (LFP) Payment Model was implemented in B.C. Developed by the MOH, in consultation with BC Family Doctors and DoBC, the LFP Payment Model is an alternative to fee-for-service to support physicians in family practice who provide longitudinal family medicine care. As a blended model of practice, the LFP Payment Model compensates family physicians for their time, patient interactions, as well as the number of and complexity of care for patients on their panel.

To be eligible for the LFP Payment Model, physicians must:

- have a panel of at least 250 patients,
- work at least 1 day a week,
- provide both virtual and in-person care,
- contribute to the rent, lease, or other operating costs of their LFP Clinic, and
- ensure that non-panel services (services performed on patients that are not included in the physician's panel) are no more than 30% of the total of LFP services provided.

Locums providing care on behalf of eligible LFP enrolled family physicians can also bill under the LFP model. To qualify for the LFP Payment Model, locums must:

- submit a registration each calendar year,
- commit to provide locum services on behalf of one or more host physicians,
- provide virtual and in-person care, and
- ensure that non-panel services (services performed on patients that are not included in the host physician's panel) are no more than 30% of the total LFP locum services provided.

Locums are not eligible for a panel payment as they do not have their own, distinct panel patients.

The MSC LFP Payment Schedule establishes the following for physicians under the LFP payment model:

- eligibility criteria for LFP enrollment
- required services to patients
- enrolment and withdrawal processes
- terms of payment, and
- the 3 payment streams
    - time codes, physician-patient interaction codes, and the panel payment

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There are 3 'time codes' associated with the LFP (direct, indirect and clinical administration) and 8 physician-patient interaction codes which cover most clinic and home-based family practice services. An interim process for calculating the panel payment is currently in place.

Additions, deletions, fee changes, or other modifications to the LFP Payment Model are implemented in the form of Minutes of the Commission signed by the Chair of the Commission.

In 2022/2023, 3 MOCs related to the LFP Payment Model were approved. The first created the MSC LFP Payment Schedule. Subsequent MOCs were issued which:

- made changes to the physician and locum physician Eligibility Criteria and Required Services
- added 11 locum time and physician-patient interaction codes, and
- improved the clarity and consistency of the MSC LFP Payment Schedule.

Physician Master Agreement and Subsidiary Agreements

The PMA covers the relationship and economic arrangements between the Government of B.C. and the DoBC. The Commission is a signatory to the PMA and its subsidiary agreements.

As a result of negotiations between the Government of BC and the DoBC that occurred between January 11, 2022, and October 25, 2022, approval was given to the PMA on October 25, 2022, by the MOH and the DoBC Board, with ratification of the PMA on December 5, 2022, by 94% of DoBC members.

The three-year term of the PMA will run from April 1, 2022, to March 31, 2025, with the next round of negotiations beginning in June 2024. Copies of the negotiated agreements are available online at: Health/MSP/DoBC negotiated-agreements

The Physician Services Committee (PSC) is the senior body that oversees the relationship between the government and the DoBC, and the implementation and administration of the PMA and subsidiary agreements.

The Chair of the Commission attends PSC meetings as a non-voting member.

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BC Services Card

The BC Services Card (BCSC) program is a partnership involving the MOH, Ministry of Citizens' Services (Citizens' Services) and the Insurance Corporation of BC (ICBC).

As of May 2023, 97% of MSP beneficiaries had been issued a BCSC.

The BCSC partnership participates as a member of various cross-government working groups. These groups focus on the priority activities required to update government systems and services.

Throughout 2022/23, the major focuses of activity included the Gender Strategy Project; the ongoing saturation project work to increase card uptake; and participating in the cross-government work on recording Indigenous names.

The Gender Strategy Project is a partnership between Citizens' Services, ICBC, and MOH. The project is reviewing the gender/sex information that BCSC partners collect and use, disclose, and display, as part of the application process for Government of British Columbia issued identification cards (BCDL, BCSC, BCID).

The saturation project consisted of reaching out to existing MSP enrolled individuals who have not completed identity proofing to obtain a BCSC, including review of individual cases.

Medical Services Commission Hearing Panels

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

Some hearings are required by the MPA, 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 Commission panels may be judicially reviewed or appealed (depending on the type of decision) by the Supreme Court of B.C.

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Beneficiary Hearings

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

Eligibility (Residency) Hearings

A person must meet the definition of a B.C. resident, as outlined in s.1 of the MPA, to be eligible for provincial health care benefits. As per s.7.4 of the MPA, the Commission may cancel the MSP enrolment of individuals whom it determines are not residents of B.C. Individuals whose MSP coverage is cancelled have the right to appeal to the Commission.

Section 7.4 of the MPA requires that prior to making an order cancelling the MSP enrolment of a beneficiary, the Commission must notify the beneficiary of their right to a hearing. The Commission delegates the decision-making responsibility for residency hearings to select representatives. These individuals are appointed by the Commission Chair through a Minute of the Commission.

The Eligibility, Compliance and Enforcement Unit (ECEU) of the MOH investigated 324 residency cases between April 1, 2022 and March 31, 2023, verifying BC residency for 78 of these cases. There were 246 non-resident accounts identified, resulting in MSP account cancellations totaling $334,484.92 in hospital, MSP, and PharmaCare recoveries.

For the same time period noted above, the Commission received 17 new requests for eligibility (residency) hearings. There were 2 in-person hearings and 8 written hearings conducted, including those cases carried forward from previous fiscal years. There were 13 hearing requests withdrawn by the account holder or abandoned by the Commission. Of the 8 residency decisions rendered by the Commission, 7 resident eligibility claims were upheld. Residency hearings for 10 incoming requests were pending at the end of the 2022/23 fiscal year.

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Out-of-Country Hearings

Provincial coverage may be requested for medical treatment outside Canada, when medically necessary treatment services are not available for a B.C. resident anywhere in Canada. To obtain provincial coverage for out-of-country medical treatment, the appropriate attending specialist in B.C. must send an application and the appropriate medical documentation to apply on behalf of the patient.

The Beneficiary and Diagnostic Services Branch (BDSB) of the MOH reviews applications on behalf of the Commission. The Commission publishes the *Medical Services Commission Out-of-Province and Out-of-Country Medical Care Guidelines* (the Guidelines) (January 19, 2011) to outline the provincial coverage for funding approval.

The Commission has established a review hearing process, wherein a review can be requested when coverage has not been approved by BDSB for medical treatment outside Canada. The MPA does not impose a duty on the Commission to hear and decide requests to review, but rather, it is the determination of the Commission to offer the option for review hearings.

Although the number of applications reviewed by BDSB decreased significantly from previous years during the COVID-19 pandemic, the number of applications under review by BDSB have begun to increase since June 2021.

From April 1, 2022, to March 31, 2023, BDSB received a total of 126 applications for out-of-country, elective medical treatment. Of those, BDSB approved provincial coverage for 47 applications and denied provincial coverage for 24. The remaining 55 cases were considered abandoned or incomplete by the BDSB, as per the Guidelines, Appendix 2, Section D.

In 2022/23, there were two hearings held by the Commission to review provincial coverage for out-of-province medical treatment.

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Hearings Related to Medical Practitioners

Audit hearings are held before the Commission for medical practitioners in relation to the MPA s.37, matters of repayment and/or s.15, de-enrolment from the MSP for "cause".

Audit Hearings for Repayment of Money and De-enrolment

Under s.37 of the MPA, the Commission may make orders requiring medical practitioners or owners of diagnostic facilities to make payments to the Commission. These orders are made following a hearing, in circumstances where the Commission determines an amount due to (a) an unjustified departure from the patterns of practice or billing of physicians in a 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.

Under s.15, the Commission may also determine that a practitioner should be de-enrolled from the MSP after providing them an opportunity to be heard. These are formal administrative hearings by the Commission. Practitioners are usually represented by legal counsel and the hearings may last one to three weeks.

Since the introduction of the Alternative Dispute Resolution (ADR) process in 2000, fewer audits proceed to formal hearings. The ADR process employs negotiation, both unassisted and assisted through a mediator, to encourage medical practitioners and the Commission to reach a negotiated settlement of s.37 and s.15 matters.

In 2022/23, there were zero (0) audit hearings relating to a medical practitioner.

De-enrolment of Medical Practitioners for "Cause"

In 2022/23, one (1) medical practitioner was de-enrolled from the MSP for "cause".

Hearings Related to Health Care Practitioners

Audit hearings are held before the HCPSCAH for health care practitioners in relation to either s.37 repayment matters and/or s.15 de-enrolment from the MSP for "cause".

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Audit Hearings for Repayment of Money and De-Enrolment

The HCPSCAH exercises hearing powers over health care practitioners under the MPA, as specified by the Lieutenant Governor in Council, under s.4 of the MPA.

Under s.37 of the MPA, the HCPSCAH may make orders requiring health care practitioners to make payments to the Commission in circumstances where it determines, following a hearing, an amount due to: (a) an unjustified departure from the patterns of practice or billing of practitioner in a 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.

Under s.15 of the MPA, after providing a practitioner an opportunity to be heard, the HCPSCAH may also determine that a practitioner should be de- enrolled from the MSP. These are formal administrative hearings by the HCPSCAH. Practitioners are usually represented by legal counsel and the hearings may last one to two weeks.

Since the introduction of the ADR process, fewer audits proceed to formal hearings. The ADR process employs hearings, both unassisted and assisted through a mediator, to attempt to reach negotiated settlements related to s.37 and s.15.

There were zero (0) audit hearings related to health care practitioners in 2022/23.

De-enrolment of Health Care Practitioners for “Cause”

There were two (2) health care practitioners de-enrolled from the MSP for “cause” during 2022/23.

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Further Commission Highlights and Issues for 2022/23:

The Commission held 10 regular meetings from the period of March 31, 2022 to April 1, 2023.

1. Strategic Planning

The Commission reviewed and re-established its objectives at a strategic planning session held in March 2022 for the 2022/23 fiscal year. The overarching objectives for the Commission are:

- facilitating reasonable access to quality medical care;
- managing and monitoring the Available Amount;
- administering the MPA; and
- hearing appeals initiated by beneficiaries, diagnostic facilities, or physicians.

Looking to 2022/23, the Commission determined to pursue five strategic priorities in response to the core strategic issues:

- respond to episodic primary-care providers
- address growth of bundled medical services
- prepare for growth of AI in medicine
- apply AI to monitor billings, and
- monitor the court decision regarding the Cambie Surgeries Corporation

These priorities are undertaken with the understanding there may be new priorities contingent on the changing healthcare landscape.

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2. Presentations to the Commission

In 2022/23, the following topics were presented to the Commission:

- Updates to MSP coverage for beneficiaries arriving in B.C. under the Canada-Ukraine Authorization for Emergency Travel (CUAET) program.
- An overview of the Lifetime Prevention Schedule of B.C., a program which establishes priorities for clinical prevention delivered in Primary Care.
- An overview of ongoing Human Resources initiatives in health care in B.C.
- A review of work carried out by the BC Health Technology team.
- A review of the Review and Compliance Program, established within the Beneficiary and Diagnostic Services Branch to support the BC Services Card policy, and whose concern is to manage high-level criteria and processes for eligibility for MSP enrolled beneficiaries in B.C.
- An update by the Deputy Minister of Health, Stephen Brown, on the status of MOH initiatives and upcoming priorities.
- Communications regarding work on the policy of Extra Billing reimbursement, linked to the operationalization of Bill 92.
- An overview of the work and roles and responsibilities of the British Columbia College of Nurses and Midwives.
- A review of the Physician Master Agreement, ratified on December 5, 2022.
- An overview of the business model of Harrison Healthcare by principals of the organization.
- A review of the *Health Professions and Occupations Act*, which received Royal Ascent in November 2022 under Bill 36.

3. Commission-Related Legal Cases

The Commission monitors legal issues that arise in relation to the MSP, as part of its oversight of the MSP. From time to time, it is also actively involved in litigation as a named party.

Extra Billing/Private Clinic Issues

The purpose of the MPA is to preserve a publicly managed and fiscally sustainable health care system for B.C. in which access to necessary medical care is based on need and not on the ability of an individual to pay for services. As such, the MPA prohibits “extra billing”, which is a charging to an MSP beneficiary for or in relation to an insured medical service.

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Extra Billing Investigations

The Commission has established processes for dealing with cases that come to its attention when concerns or complaints of extra billing arise.

In 2022/23, the Commission completed three (3) audits of private clinics to determine compliance with the extra billing provisions of the MPA.

Extra Billing Litigation

Cambie Surgeries Litigation

In January 2009, Cambie Surgeries Corporation and others commenced litigation in the B.C. Supreme Court that challenged the validity of the extra billing provisions in the MPA, and the provision in the MPA that prohibits private insurance contract for insured services.

On September 10, 2020, the B.C. Supreme Court dismissed the claim in Cambie Surgeries Corporation v. British Columbia (Attorney General), 2020 BCSC 1310.

On July 15, 2022, a three Justice panel of the BC Court of Appeal dismissed the appeal by Cambie Surgeries Corporation of the BC Supreme Court decision. Cambie Surgeries Corporation sought leave to appeal from the Supreme Court of Canada.

On April 6, 2023, the Supreme Court of Canada dismissed the Cambie Surgeries Corporation litigation. As such, the impugned provisions of the MPA were upheld.

TELUS Health

On December 1, 2022, the Commission filed a petition in BC Supreme Court to seek an injunction against TELUS Health, alleging that it was charging for the TELUS Health LifePlus program contrary to the MPA. As of March 31, 2023, the litigation remained ongoing.

Harrison Healthcare

On February 1, 2023, the Commission filed a petition in BC Supreme Court to seek an injunction against Harrison Healthcare Inc. and Harrison Healthcare (BC) Inc., alleging that it was charging for services contrary to the MPA. As of March 31, 2023, the litigation remained ongoing.

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Appendices

Appendix 1: Medical Services Commission Members as of March 31, 2023

Representatives and alternate members of the Commission are appointed by Order of the Lieutenant Governor in Council (OIC).

Information regarding Commission appointments is available on the B.C. government Central Agencies website:
Crown Agencies and Board Resourcing and Office.

Government of B.C. Representatives:

- Dr. Robert Halpenny (Chair)
- Dr. Heather Davidson (Deputy Chair)
- Mr. Colin Kinsley
    - Ms. Stephanie Power — 1st Alternate
    - Dr. Ian Rongve — 2nd Alternate
    - Ms. Marie Ty — 3rd Alternate

DoBC Representatives:

- Dr. Sam Bugis
- Dr. Alan Ruddiman
- Dr. Nancy Humber
    - Dr. Ramneek Dosanjh — 1st Alternate
    - Dr. Karimuddin — 2nd Alternate
    - Mr. Anthony Knight — 3rd Alternate

Public (Beneficiary) Representatives:

- Ms. Ellen Godfrey
- Dr. Jillianne Code
- Vacant

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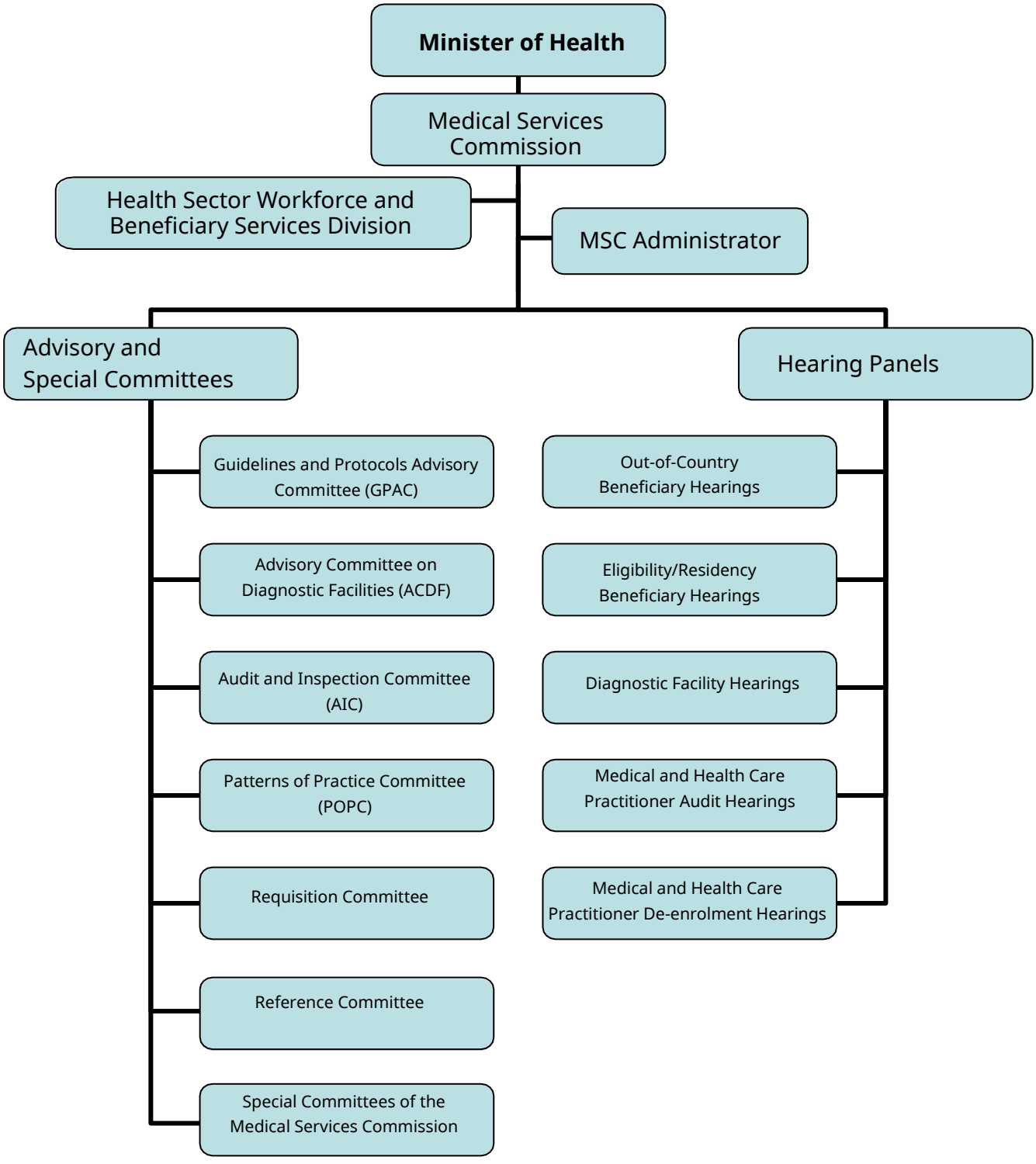
Appendix 2: Medical Services Commission Organization Chart



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Appendix 3: Medical Services Commission Contact Information

1515 Blanshard Street
PO BOX 9649 STN PROV GOVT
Victoria BC V8W 9P4

Email: MSC@gov.bc.ca

Further information regarding the Commission can be found online at: www.gov.bc.ca/medicalservicescommission.

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