

Alberta Union of Povincial Employees

HEALTH POLICY REPORT

TO THE HEALTH MINISTER'S ADVISORY COMMITTEE ON HEALTH

JUNE 11, 2010

The Alberta Union of Provincial Employees is the province's largest union, representing approximately 72,000 members in the public sector, including 37,000 health care workers. AUPE has, we hope, much to contribute to the current consultation process. As front line health care workers, our members have direct knowledge of the ways in which the current legislative framework impinges on health care delivery. As a union, we are familiar with the labour relations consequences of health care legislation. Finally, as an organization with a long record of social advocacy, we are deeply committed to the preservation of publicly funded, publicly administered, and publicly provided health care services that are accessible to all Albertans.

Brief to the Minister's Advisory Committee on Health Care

INTRODUCTION

The Minister's Advisory Committee on Health was established to "update current health legislation in a manner that will facilitate current and future health system initiatives". The focus of the Committee, then, is the legal framework for health care in Alberta, rather than health care policy or the structure of health services. While this is a relatively narrow mandate, it is an important one for two reasons:

- As the Report of the Committee points out (page 6), Alberta currently has "30 separate pieces of legislation and 100 regulations to guide the health system". This arguably creates complexities, and obstacles for any attempt to introduce change into the health care system.
- Health care legislation specifies what can and cannot be done by various actors in the health care system. In this sense, the legal framework codifies practices established and political decisions taken in the past. This means that while changes to the legal framework may create efficiencies and facilitate new initiatives in health care, ill-considered changes could also have a negative impact on the health care system, the rights of Albertans, and the rights of health care workers.

In any process of legislative change, the "devil is in the details", and plethora of Acts and regulations that fall within the Committee's mandate means that there are a lot of details to consider.

Understandably enough, the Committee's recommendations do not address these details, focusing rather on the broad principles that should underlie any new Alberta Health Act. AUPE's comments will necessarily confine themselves to the same level of generality.

It follows, though, that as the Government of Alberta moves toward the implementation of the proposed new health legislation, further consultations are imperative. It will only be possible to offer genuine constructive input and criticism once specific legislative provisions are open for discussion. Given the central importance of health care for government and the Alberta public, the cost of not "getting it right" is very high, and the best way to ensure a positive outcome is to involve the public and stakeholders in a careful consideration of the proposed legislation.

THE CANADA HEALTH ACT

The Report of the Committee affirms support for the principles of The Canada Health Act, and AUPE welcomes this affirmation. Our position remains unchanged: we believe that publicly funded, publicly administered and publicly delivered health care services remain the most efficient and fair way to ensure the health and wellbeing of Albertans. If this point needed reinforcing, the recent bankruptcies of a private surgical clinic in Calgary and a nursing home operator of facilities in Red Deer and Calgary serves as a reminder of some of the risks of privatized health care.

In Alberta, however, the experience of the last fifteen years has demonstrated that formal endorsement of The Canada Health Act doesn't preclude support for proposals that can serve to undermine Medicare. In our view, debates about whether or not specific health care policies comply with a strict legal interpretation of the Act are pointless – it's the spirit of the Act and its commitment to universal public health care that are important. That is the standard by which AUPE will evaluate any health care legislation proposed in the future.

RECOMMENDATIONS OF THE COMMITTEE

RECOMMENDATION 1: ARTICULATE A SET OF PRINCIPLES THAT MUST BE SUSTAINED AND MAINTAINED THROUGHOUT ALBERTA'S HEALTH SYSTEM.

AUPE's Comment: The principles outlined in the Report are, in and of themselves, admirable, but their interpretation and application in any proposed legislation that will require careful examination. For example: "person-and-family-centred care" is an objective that few Albertans would object to. If, however, the reality of changes to our health care system involves downloading financial and other costs onto families, we believe these changes would be unacceptable to most Albertans.

In a similar vein, the Report speaks (page 11) of "...ensuring that people can participate in and make informed decisions about their care, including choosing the most appropriate provider" (emphasis added). Here again, the participation of patients in their own treatment is, in and of itself, a desirable goal. In the past, however, the rhetoric of "patient choice" has been used to justify the privatization of health services. Similar language appears on page 19 ("creating new emerging delivery models), page 29 ("...enabling people to access services in a variety of ways and through a variety of health providers"). AUPE remains convinced that the privatization of health care services does not add meaningful new choices for patients, but that it does undermine the public health care system to which all Albertans are entitled.

RECOMMENDATION 2: LEGISLATE AN ALBERTA HEALTH ACT FOR THE FUTURE.

AUPE's Comment: The items listed under this heading are generally useful and positive. The proposal to "Establish an arm's-length entity to support evidence-based decision-making throughout the health system" is, on the face of it, a sound one. AUPE would simply observe that the arm's-length nature of this entity should not be allowed to dilute the accountability of decision-makers.

RECOMMENDATION 3: ENSURE ONGOING CITIZEN ENGAGEMENT IN THE DEVELOPMENT OF LEGISLATION, REGULATION AND POLICY.

AUPE's Comment: The involvement of citizens in the development of the legislative framework for health care is both desirable and necessary. Such involvement should not be limited to the participation of a handful of individuals appointed by government. Rather, the development process should allow for the widest possible public consultation.

As noted above, the Report of the Committee contains recommendations that are general and abstract in nature. While that is understandable, we believe that it is absolutely essential that the public and stakeholders have an opportunity to respond once more detailed and concrete proposals have been brought forward.

RECOMMENDATION 4: DEVELOP CLEAR DIRECTIONS TO GUIDE LEGISLATIVE, REGULATORY, POLICY AND PROGRAM DELIVERY CHANGES ACROSS THE HEALTH SYSTEM.

AUPE's Comment: It is obviously desirable that changes to the health care system be internally consistent, but the "Proposed Guide for Aligning Decision-Making" found on page 29 of the Committee's Report raises again some of the questions posed earlier in our response. The first bulleted point in this Guide says that the proposed legislation should "Be people-centred, enabling people to access services in a variety of ways and through a variety of health providers" (emphasis added). AUPE has commented above on the ways in which previous governments have used the rhetoric of "choice" to support moves to privatize health services. We don't assume that this forms part of the Committee's intent, but previous experience has made us wary of such open-ended formulations.

A later point in the Guide calls for "...services that reduce the likelihood of community-based patients returning to acute care". While treatment provided in the community, and in the home, is a useful and desirable option, the viability of this option will depend crucially on the adequacy of the resources provided to support community-based care. It is all too easy for patients receiving services in their homes and communities to become isolated and/or invisible. When that happens,

inadequate resourcing of these services can lead to either unacceptably low standards of care, or onerous burdens on the friends and families of these patients. AUPE believes that neither of these outcomes will be acceptable to Albertans.

Finally, some specific aspects of the new legislation will be of concrete interest to AUPE and our members. To give just one example, the list of health care facilities designated as Approved Hospitals has significant labour relations consequences, but in the existing legislation the criteria for inclusion are unclear. Any new, consolidated health care legislation would presumably discuss this list, or some equivalent, and the process by which it is compiled. AUPE would certainly be interested in participating in this discussion.

CONCLUSION

AUPE remains fully committed to the recommendations we advanced in our earlier submission to the Committee:

- Treat health care as a fundamental right.
- Respect and abide by the Canada Health Act as it is currently interpreted.
- Deliver long-term health care services within the public system.
- Abandon the expansion of private sector delivery of publicly funded health care services.
- Maintain Alberta's competitive business advantage by strengthening publicly funded and delivered health care services.
- Maintain peaceful and orderly labour relations by avoiding privatization of publicly delivered health services.

The Report of the Committee quite properly stresses the need for “trust and respect” in the process of health care legislative reform (page 26), and recognizes that this requires “engagement and transparency”. It follows that the various participants have to come to the process without any hidden agendas. It is unfortunate that previous governments have, in our view, pursued a policy of “privatization by stealth”, and that this policy has created a climate of cynicism when it comes to changes to the health care system.

AUPE calls on the Committee and the current Government of Alberta to embark on the creation of a new Alberta Health Act with a commitment to honour not just the letter, but also the spirit of the The Canada Health Act. In other words: the new legislation should not be designed to create opportunities for further privatization of health services in this province. On the contrary, the new Act should be formulated so as to facilitate the return of long-term care to the public system (as we have proposed above), and protect our public system from further privatization.