

Hon. George Smitherman  
Minister of Health and Long-Term Care  
80 Grosvenor St, 10<sup>th</sup> Flr, Hepburn Block  
Toronto ON M7A 2C4

January 27, 2006

Dear Minister,

Please find enclosed a legal opinion on the for-profit Copeman clinics. We hope your government will take the steps to curb the growth of boutique medicine and private for-profit clinics. The major findings of Sack Glodblatt Mitchell in the attached memorandum include:

- 1) The *offer* to accept payment for conferring preferential access, the act of paying or providing preferred access for those who pay, or failure to report such activities contravenes s.17(1) of the Commitment to the Future of Medicare Act and is subject to a fine that the Ministry can levy.
- 2) The provision of intake, medical history, medical records are insured services are covered by OHIP and cannot be subject to fees under the Commitment to the Future of Medicare Act.
- 3) Clinics that provide preferred access to insured services as a result of paying fees are in violation of the CHA that states that the health care insurance plan of a province "must provide for insured health services on uniform terms and conditions and on a basis that does not impede or preclude, either directly or indirectly whether by charges made to insured persons or otherwise, reasonable access to those services by insured persons..." The province is expected to enforce the CHA and can have its transfer payments from the federal government reduced for violations.
- 4) No clinics can turn away patients that refuse to pay block fees under Section 18 of the Commitment to the Future of Medicare Act.

The Ontario Health Coalition also notes that the provincial government has the power to regulate Block Fees under the Commitment to Medicare Act. Physicians can already bill for uninsured services individually as they are used. The most obvious way to prevent the growth of two-tier clinics is to ban block fees. However, the government could also regulate them to limit the amount of money physicians can charge in block fees, to ensure patients have full information about their ability to refuse to pay block fees, to clarify that unused block fees must be returned to patients, among other possibilities. Extra billing and user charges in relation to the delivery of insured health services are forbidden under the Canada Health Act. We note that physicians who charge block fees for uninsured services but do not return the unused portion of the block fee at the end of the year are extra-billing and are in contravention of the CHA.

We are concerned about the recent attempts to commodify health services and undermine the achievements of universal, comprehensive public Medicare, and we look forward to your actions to curb the growth of two-tiering and for-profit physician clinics.

Regards,

Natalie Mehra, Ontario Health Coalition.