

Update on Access to Abortion Services in New Brunswick

RJNB - January 14 2015

1. Background

The Morgentaler Clinic in Fredericton operated for 20 years and performed more than half of the approximately 1,000 abortions done annually in New Brunswick. It closed in July 2014—not for lack of demand, but because of provincial regulations restricting Medicare coverage to abortions deemed to be medically necessary and performed in a hospital by an obstetrician or gynecologist. The Morgentaler estate was no longer able to provide the financial support to sustain the clinic, so with access reduced by 60% during July–December, many NB residents have had to travel to clinics in Maine or Québec and pay out of pocket. Others continued to join long wait lists to access abortions at the only two hospitals in NB that offer the service; still others may have resorted to unsafe abortion practices on their own.

2. What changes has the Government of New Brunswick made regarding access to abortion services?

The government has amended, but not repealed, *Regulation 84-20, Schedule (a.1) of the Medical Services Payment Act*.

As of January 1, 2015, in order to have an abortion covered by Medicare, individuals no longer need to have:

- 2 doctors certify that the procedure is medically necessary; and
- a specialist in the field of obstetrics or gynecology perform the abortion procedure.

However, a final restriction under Schedule 2 (a.1) remains in place: to be considered an “entitled service” under Medicare, the abortion must be done in hospital. This remains a serious barrier to access.

3. Why is it a barrier to require that publicly-funded abortion services be provided only in hospital?

HOSPITAL ABORTION SERVICES ARE NOT ENOUGH. Since the Morgentaler Clinic closed last July, abortion has been offered only at two hospitals: Bathurst Chaleur Regional and the Dr. Georges-L.-Dumont University Hospital Centre in Moncton. These hospitals typically have long wait times, severely limiting access to a procedure which is most safely done in the first trimester of pregnancy. Further, travel from many parts of the province, especially in winter, is difficult, and poses the biggest barrier for the most vulnerable New Brunswickers who can ill afford time away from work or their family. Transportation is a significant barrier for many rural residents. Yet the government announced this week that it does not expect to expand abortion services until April and, when it does, New Brunswickers cannot expect it to be offered regionally. For example, the CBC reported on January 8 that “No additional hospitals in the southeast and northern district are planned,” even though residents of Edmundston would have to travel for 3.5 hours to Bathurst or 4.5 hours to Moncton for two separate appointments in order to access an abortion. This is unacceptable.

Nationally, only the Maritime provinces restrict Medicare coverage to abortions done in hospital. Further, provinces that currently have abortion clinics fully fund them. Quebec alone has 46 such clinics. To bring New Brunswick into line with the Canada Health Act and “best practices” elsewhere in Canada, and to facilitate access in all regions of the province, this restriction needs to be eliminated immediately.

The regulation restricting abortion services to hospitals contravenes several cornerstones of healthcare coverage in Canada. The *Canada Health Act* was created to ensure Canadian residents receive “reasonable access to health services without financial or other barriers.” The regulation violates the Act and it infringes on women’s *Charter* rights, s. 7 (security of the person) and s. 15 (equality); it defies a Health Canada directive of 1995. It also contravenes Supreme Court decisions (1988, 1993), which supported Dr. Henry Morgentaler’s challenges to restrictive laws and regulations. (A further legal challenge launched against the NB government in 2002, long stalled by the province, was abandoned in 2014 after his death.)

The Government of New Brunswick must ensure that all residents of New Brunswick have access (including the ability to self-refer) to publicly funded abortion services in medically and regionally appropriate settings (e.g. community health clinics, sexual health clinics, family doctors’ offices, and/or hospitals - if the individual’s health status requires that the abortion be performed in a hospital setting).

Schedule 2 (a.1) of Reg. 84-20 must be immediately repealed because it excludes from Medicare coverage “abortion, unless the abortion is performed in a hospital facility approved by the jurisdiction in which the hospital facility is located.”

4. How do we know that the citizens of New Brunswick support access to abortion care?

ACTIVISM - In spring 2014, a petition to improve abortion access led by students at St. Thomas University gathered more than 13,000 signatures and was presented to the Legislature. Countless letters of protest by groups and individuals were sent to the government, newspapers, and websites. Hundreds gathered for abortion access at the legislature at a rally organized by the Fredericton Youth Feminists, and a grassroots group called Reproductive Justice New Brunswick (RJNB) formed to demand the repeal of restrictive provincial abortion regulations and the provision of improved access to a full range of publicly-funded reproductive healthcare services across the province. With the clinic up for sale, RJNB also launched an online crowd-funding initiative, which quickly raised over \$125,000 from generous donations from across the country, to help restore abortion access at least in the Fredericton area.

ELECTION - Lack of appropriate abortion access became a key issue in the provincial election of September 2014. All opposition parties called for change, alongside human rights experts, academics, the Fredericton Youth Feminists, le Regroupement féministe du N-B, RJNB, the Voices of NB Women, and the Abortion Rights Coalition of Canada. However, contrary to the expectations of many New Brunswickers, the legal barriers have not yet been removed.

WE HAVE THE LAW: WE NEED THE ACCESS - The legal changes made so far have left the barriers to access intact. The government must move to provide access by funding abortion services in medically and regionally appropriate settings.

5. Why is resistance to public funding for out-of-hospital abortion procedures misplaced?

Requiring abortions to be performed only in hospitals is contrary to evidence-based best health care practices. It makes sense to fund abortion services provided in medically and regionally appropriate community-based settings. Such services are preferred by patients because they are better able to provide timely service, confidentiality, follow up care, and counselling and are significantly less expensive than abortions performed in hospitals.

All provinces that currently have abortion clinics publicly fund them, just like they fund the services provided by family doctors' offices.

Funding abortions in community settings increases access to these procedures for members of high risk populations, such as individuals living in rural areas or those without personal access to a car, International students, newcomers, First Nations people, people living in abusive relationships, adolescents, military personnel, health care workers and people who either do not have a family doctor, or whose family doctor is anti-choice.

The government's current policy of denying public funding for abortions performed outside of hospitals means that NB taxpayers pay more for each procedure than is necessary.

Where abortion access is more readily available, there are lower incidences of abortion. Conversely, the Guttmacher Institute reports that worldwide “highly restrictive abortion laws are not associated with lower abortion rates.”
<http://www.guttmacher.org/pubs/fb_IAW.html>.

Immediate Action Needed!

- **The Government should immediately repeal Schedule 2 (a.1) of Regulation 84-20 under the Medical Services Payment Act and take steps to offer Medicare funded abortion services in community settings throughout the province.** New Brunswick already has a network of sexual health clinics and community health centres. Many of these facilities would be appropriate settings for provision of abortion services if their staffing was increased and provided with appropriate training.
- Please join in calling for Premier Gallant, New Brunswick's first openly “pro-choice” Premier and the province's Minister responsible for Women's Equality to act swiftly. Phone (506) 453-2144 or email <premier@gnb.ca>.

This update was prepared by Reproductive Justice New Brunswick and represents RJNB's views as of Jan. 14, 2015.

Further updates will be issued as needed.

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