

Is the *Canada Health Act* Untouchable?



INTRODUCTION

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ABSTRACT

This special issue marks the 40th anniversary of the Canada Health Act (1985). Though it remains an iconic symbol of national pride, it may not be untouchable. The papers in this issue critically examine the strengths and limitations of the Canada Health Act in the context of persistent health system challenges and gaps in coverage. They also provide constructive recommendations for a path forward for a reimagined legislative framework to better achieve the agreed-upon goals of reasonable and equitable access to a comprehensive basket of health services in Canada.

Introduction

The dire state of our health systems in Canada compels us to consider the full range of possible reforms. This includes the usual suspects of tinkering with delivery models and scopes of practice and incentivizing change through tweaks to funding formulas. It also includes calling into question the most iconic and enduring symbol of healthcare in Canada – the 1984 *Canada Health Act* (1985).

The 40th anniversary of this succinct piece of legislation should have been a cause for celebration. We would acknowledge its major accomplishment of creating a national quilt out of the provincial/territorial patchwork of health systems. We would also celebrate the low prevalence of catastrophic health expenditures, among the lowest in the world, due to the emphasis in the *Canada Health Act* (1985) on removing financial barriers to the costliest parts of the health system.

However, given the state of this patchwork, with systemic failures across the board, this anniversary presented us with an opportunity to seriously consider the limits of the Act, and the role of the federal government more broadly, in addressing these failures. The focus of this issue is on the “reimagining of the *Canada Health Act*,” and where the next 40 years may take us.

In the lead up to the enactment of the *Canada Health Act* (1985), the path to universal health coverage in Canada was unremarkable by international standards. It is noteworthy that the province of Saskatchewan was the first mover, under the leadership of the “pragmatic idealist,” Premier Tommy Douglas (Marchildon 2024: 6), and that a nationwide program would not have been possible without the generous co-financing by the federal government. Also, the Canadian model of universal coverage is uniquely

parsimonious in its narrow basket of services relative to other high-income countries. This contrasts with the ambitious goal of access to care on “uniform terms and conditions,” seeking to prevent faster access for those able to pay (the topic of a forthcoming issue in this journal in 2025 – stay tuned!). These are just two of the idiosyncrasies of the *Canada Health Act* that are discussed and debated in this issue, yet it is the principles of accessibility and comprehensiveness that the lead paper focuses on.

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In the lead essay of this issue, Flood and Thomas (2025) draw on decades of research in health law and policy to detail the ways in which the *Canada Health Act* (1985) has failed to ensure that provincial and territorial health systems achieve the accessibility and comprehensiveness goals. They argue that this failure is one of fractured accountability: the *Canada Health Act* holds no power in ensuring that provinces and territories provide accessible care to a comprehensive basket of services that meets the needs of their populations. Importantly, the authors emphasize the need for a transparent and evidence-based process for determining the basket of insured services, in stark contrast to the current approach of behind-closed-doors negotiations between ministries of health and the medical profession about any changes to the fee schedules and, hence, what is considered a medically necessary service. A revised *Canada Health Act*, as proposed by the authors, would include requirements for provincial and territorial

governments to maintain a process for determining the basket and another one for setting access targets. The federal government would need to withhold funds for violations of these requirements. Necessarily, an active and informed public, as was seen, albeit briefly, during the pandemic, could help hold provincial and territorial governments accountable for achieving these goals.

This issue's lead paper (Flood and Thomas 2025) and the insightful commentaries by the

leading experts and thinkers (Dyck 2025; MacIntosh 2025; Maioni 2025; Pearce et al. 2025; Philpott and Sinclair 2025; Quesnel-Vallée and Arpin 2025; Quiñonez 2025; Tholl and Marchildon 2025) in health policy and health systems reform in the country are a must-read for everyone, especially those interested in challenging the status quo with more than just the usual incremental mending of our fraying patchwork of health systems across Canada.

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