

In your face: A new wave of militant doctors lashes out

Barbara Sibbald

In brief

DOCTORS IN 4 CANADIAN PROVINCES have chosen to use job action and other militant approaches as leverage to encourage governments to improve health care and funding. *CMAJ* asked physicians why this is happening now.

En bref

LES MÉDECINS DE QUATRE PROVINCES DU CANADA ont eu recours à des moyens de pression afin d'inciter les gouvernements à améliorer les soins de santé et leur financement. Le *JAMC* a voulu en savoir davantage et a interrogé les médecins à ce sujet.

One-day strikes. Lawsuits against governments. Limiting access to service. Job actions that were once considered an aberration, and which raised ethical questions and heated debate across Canada, are rapidly becoming the norm as physicians are swept up by a wave of militant political action. After years of cuts in health care services and spending, it seems, the dam holding back physicians' anger has finally burst.

In the face of adversity, Canada's doctors have traditionally had 3 options: leave the country, take part in traditional lobbying efforts, or get in governments' face. In 1998, they are taking the latter approach.

Militant action is nothing new. In 1962 doctors went on strike in Saskatchewan, and in 1970 there was a walkout by Quebec specialists. In 1986, some Ontario physicians participated in a 23-day strike. What's remarkable this time is the diversity and pervasiveness of the actions taking place in British Columbia, Alberta, Manitoba and Quebec. CMA President Victor Dirnfeld gets a bird's-eye view because he meets regularly with physicians from every province and territory. Why is there more militancy now? Simple, says Dirnfeld: there is growing anger over underfunding. And he expects the trend to continue.

Listen to their complaints, he says. Patients waiting 3 months to see a cardiologist, and another 6 to 9 months for surgery. Increasing morbidity because of the long waits. Fights to get patients into hospital. "There is undue delay for even urgent surgery and cancer treatment," says Dirnfeld.

Doctors are also fed up with bearing the financial brunt of some of these cuts. Though practice-related costs continue to climb, fees have remained static or even decreased. At the same time, demand for care is increasing because of an aging and/or growing population. In many provinces, doctors are expected to work for free once the global budget for physician fees is exceeded. "What other profession is expected to work for nothing?" asks Dr. Bill Anderson, president of the Alberta Medical Association (AMA).

The public seems to be fed up too. According to pollster Angus Reid, 63% of Canadians rated the quality of health care in their provinces as excellent or very good at the start of the decade. Today that figure stands at 37%, and health care has become Canadians' number-one concern.

When this public support is coupled with a receding recession and deficit, it seems an opportune time to head to the bargaining tables to regain some of what physicians and the system lost in the past decade or so. But governments are playing hard ball, and doctors are responding in kind. There have been walkouts in BC, and Alberta doctors have withdrawn certain services. In Manitoba, physicians



Features

Chroniques

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Dr. Jacques Chaoulli: Supreme Court bound?



Canadian Press



Prime Minister Jean Chrétien pulls out a roll of bills after being asked by protesting New Brunswick doctors to donate spare change to the provincial health care system. He put \$10 in the pail.

are actually suing the government for breach of promise, and in Quebec they've staged a couple of strikes and more fundamental reform — a move toward a parallel private system — is being discussed. Ontario is relatively quiet for the moment, because the province recently agreed to increase the limit on physician billings to \$4.2 billion. However, Premier Mike Harris recently complained that the final tab will be as much as \$100 million more than that, and he refuses to pay the extra fees. There are also murmurs of dissent in the Maritimes. Prince Edward Island, Newfoundland and New Brunswick are all negotiating contracts; Nova Scotia signed last year. Although many East Coast doctors are arguably worse off than their colleagues in Western Canada, their provincial associations don't have the budgets or resources to wage the feisty campaigns mounted in Alberta and BC. Only the territories and Saskatchewan have yet to be pulled into the fray. Dirnfeld says Saskatchewan has a net loss of physicians each year and vast underserved areas. Faced with a physician shortage, he says, the government there has no choice but to be "more cooperative."

Elsewhere, says Dirnfeld, there "is unrest, anger, a sense of frustration and marginalization." What, specifically, is making the doctors angry? And what is the rationale for each province's reaction?

Backlash in BC

BC doctors seem to be leading Canada's 55 000 practising physicians down the path to militancy. They fired the

first shot in this latest round and their solidarity and range of activity is impressive. The battle is taking place on 2 fronts. Sixty-two rural physicians have withdrawn hospital services, while 97% of the province's 6500 nonsalaried doctors participated during the last of 3 reduced-activity days (RADs) in March. Virtually all physicians' offices and clinics were closed, and some hospital services shut down. The BC Medical Association (BCMA) has slated another 4 RADs for June and July. Stay tuned for more, it says.

The BCMA has always been more radical than its counterparts, says Dan MacCarthy, a BC doctor who serves as vice-chair of the CMA's Political Action Committee. For instance, BC supports a "fund us or free us" position on the issue of public health care. It is also urging the CMA to launch a national television

campaign and is the driving force behind a physicians' charter that the CMA is currently preparing.

BCMA President Granger Avery won't speculate on whether doctors there are more militant than elsewhere, but he does say their professional associations are the most unified and active in Canada because they work hard "in the face of an intolerable situation. . . . In Alberta and Ontario you can at least talk to the government. Our government isn't interested in talking and has refused to come to the table. The government has decided for either political or ideological reasons that it wants a fight." Avery says it will get one.

He says there's more to the BC battle than health care cuts, and accuses the government of making decisions in isolation. In BC doctors had to fight to get on regional health boards, and they do not see information on major reforms, such as changes in mental-health legislation, until the 11th hour. "We needed to have a review [of the health care system], but to carry on the belief that doctors are the problem is inappropriate. You can't run a system without doctors at the tables."

Dr. Alan Brookstone of Richmond, BC, says his colleagues are also frustrated by government initiatives such as reference-based pricing. In particular, his temperature rises over midwifery legislation that sees midwives paid \$2250 per delivery, while physicians receive \$700 to \$900 for providing care throughout an entire pregnancy. "We are pawns with no control," he says.

In addition, the doctors want to get paid for what they do. They aren't demanding big increases: in January they



accepted a 0.5% increase over the next 2 years, even though fees have declined by 9% since 1989. However, they want the province to end a 4.4% clawback instituted in 1997. The BCMA says the clawback, when combined with 7% population growth during the past 3 years, means that BC physicians work free of charge for 5 weeks each year — an annual donation of \$75 million. The government blames BC physicians for the shortfall. It says they do 30% too much work, but won't say where cuts should be made.

The cuts to health care aren't worse in BC, says MacCarthy, but "BC doctors are more fed up. We don't want to give away our time."

Avery refused to say how much the BCMA is spending on this battle, but admitted that the "war chest is open." Some \$300 000 was spent advertising the RADs, and every member received a RAD kit complete with poster, scripts to read into answering machines, and more.

Meanwhile, in the country . . .

In rural and northern BC, physicians have responded to their problems by withdrawing hospital services. In all, 62 doctors from 21 communities have, to varying degrees, withdrawn services. Their offices and clinics remain open and they continue to provide emergency care, but otherwise patients must travel, often an hour or more, to see a doctor. Dr. Brian Brodie of Burns Lake, BC, spokesperson for the 23-member Northern Rural Doctors Group (NRDG), says they don't know how long they'll stay out — "likely months."

Brodie says these doctors have 4 main concerns: poor compensation for providing on-call services in hospitals, inadequate CME budgets, poor locum relief and difficulties in recruitment and retention.

After negotiations failed, the 23 northern doctors from 5 communities resigned their hospital privileges Jan. 31. They were joined in March by 39 members of the new Rural Doctors Group, which represents physicians in the eastern part of the province and the Gulf Islands. "There should be value for our services and we should get relief," says Brodie, who has been in Burns Lake for 9 years. The doctors want an on-call stipend of \$500 for a week-night and \$1000 for weekend days so they can afford to take the next day off from their clinics; they also think the moves would attract other doctors to the area. Brodie says it's not a question of more money. "Right now our lifestyle is the pits. I've worked 80-hour weeks on average for years. We just couldn't do it any more." Five NRDG members are considering leaving, and 2 are already packing their bags. Brodie, 39, is moving to Chilliwack, BC. "I came for the lifestyle and I'm leaving because of the pace," he says.

The rural and northern doctors continue to negotiate

Arlen Redekop, *The Province*



Dr. Caroline Wang prepares to close her Richmond, BC, office for the first reduced activity day in March

with the province. By Apr. 30 the government had made 4 proposals and all had been rejected. "Rural doctors are on call 24 hours and are then expected to work the next day, yet truck drivers are fined if they drive more than 12 hours," says Dr. Gordon Hutchinson, spokesperson for the Rural Doctors Group in Hundred Mile House. "That's a dangerous double standard."

Alberta

Frustrated by Canada's lowest per capita funding for health care, Alberta's 4500 physicians have lashed out in a range of ways. To limit the impact on patients, the AMA encouraged members to select the type of action that works in their community. The result? Nine physicians in Westlock closed their offices Apr. 15. Red Deer surgeons stopped performing elective procedures in the middle of the night — their previous avenue for maintaining reasonable waiting lists. In Fort McMurray, physicians are taking turns closing their offices. Other doctors have stopped their volunteer duties with regional health authorities, and some have threatened to charge for every uninsured service or to bill patients directly, flooding Alberta Health with extra paperwork.

And to keep patients on side, they've explained it all in letters to patients and a series of bright, 4-page flyers distributed to a million households. The third flyer predicted a physician shortage if conditions don't improve.

"The federal government waves the Canada Health Act around as a great thing but doesn't fund it," complains AMA President Bill Anderson. "Every province is underfunded . . . and the doctors here are the most frustrated. There's been massive restructuring. In some cases doctors spend more time trying to access services for patients than



they spend treating them. They work harder and earn less." By mid-April, with negotiations at a standstill, Anderson predicted that between 75 and 80% of AMA members were ready to walk out.

The AMA says doctors' fees have fallen 30% behind inflation. In 1993 gross fees were cut 5%, then capped. Since then there has been no increase for inflation or a growing population. Doctors also aren't compensated for new duties, such as coordinating early discharges. The AMA wants the 5% cut restored and more funding to alleviate chronic bed shortages and crowded emergency rooms.

The province did increase funding to regional health authorities by 6.7% in 1998, but the AMA says this "still falls short of what is realistically needed." In May doctors voted on an offer giving them an 8% increase over 3 years. Vote results weren't known at press time.

And it still remains to be seen whether an exodus of physicians is under way. There are already vacancies in 10 specialties, not to mention a shortage of rural family physicians.

Not all MDs support job action, Medical Reform Group says

Not all physicians favour the militant actions being taken by physicians across Canada and some actively oppose attempts to introduce private medicine in Canada. At the moment, the Medical Reform Group of Ontario (MRG) is to medicine's left wing what the British Columbia Medical Association is to its right.

"When proponents of a two-tier system speak out we're there to counter them," says Hamilton physician Gordon Guyatt, an MRG spokesperson. Not surprisingly, the group doesn't support job actions either. "The main mobilizations are largely around reimbursement and some working conditions," complains Guyatt.

The MRG's 200 members actively lobby to support their beliefs. For Guyatt's part, he believes there is more physician job action now because of worldwide changes in the way medicine is being delivered. He says the new stresses include pressure to reduce public funding, an aging population and the availability of more expensive services. He says these stresses combine to squeeze physicians and service delivery alike.

The MRG, which was founded in 1978, would like to become a national organization. However, it has been unable to attract the required critical mass of new members.

Manitoba

Alberta and BC took the "the more traditional approach" of job action to create leverage, but Manitoba doctors are taking their complaints to court. "We wanted to apply pressure in a broad way without using the public," said Dr. Ian White, past president of the Manitoba Medical Association (MMA). "Our big ally is our patients. We need their support but it's hard to get it when you take away care."

So the MMA, which represents 2000 physicians, filed suit against Manitoba Health to recover \$7 million in fees and \$27 million in special damages for what it claims are "broken promises" and "less than honest" behaviour on the province's part. The statement claims that under a 5-year contract, which expired Mar. 31, the province violated key provisions to cut insured services and use the money for fee increases.

For 4 years, the MMA worked with the Manitoba Medical Services Council, a joint management team with members from government, the public and the medical profession, to generate cost-saving measures. These totalled between \$5 and \$6 million annually, and were approved in principle by the health minister; there was a written undertaking to use the savings for global fee increases. Then a new minister took over, and nothing has happened for a year.

"The basis of our lawsuit is that the government acted in bad faith," says White, whose term ended Apr. 25. "They had no intention of honouring our contract. They [the cost-saving measures] were perceived as limiting health care. It's alright to limit [funding] on the backs of those providing care, but not on services."

An examination for discovery is scheduled for May or June, and the MMA wants it to be open to the public. "We've had incredible support from other health care professionals and the media and public, and physician morale has improved," says White. "The association is seen to be holding the government accountable. We're not seen as being self-serving and we're not affecting patient care."

He says their "very unusual approach" was 5 years in the making, and it didn't hurt that John Laplume, the association's executive director, is a lawyer. It's likely the first time a provincial medical association has sued its employer.

Quebec

In Quebec, cuts to health care have been 5 times greater than for any other government department. The closure of 6 Montreal-area hospitals has created more work — without adequate resources — for the remaining institutions, and the shortage of anesthetists is now so bad that one Montreal hospital had to close 5 operating rooms.

Not surprisingly, physicians have responded. In Mon-



treal, 65 surgeons at Sacré-Cœur Hospital went on a 2-day strike to protest the hospital's decision to cancel elective surgery repeatedly to accommodate emergency patients. In Gatineau, near Ottawa, about 100 doctors went on strike because their hospital's orthopedic department is being transferred to another institution.

"Members say cracks are appearing everywhere and doctors feel let down," says Dr. Henry Haddad, president of the Quebec Medical Association (QMA). "They feel no one is listening in or outside the profession." In response, the association set up a toll-free hot line that physicians can call anonymously and relate their problems. Ethical issues and questions concerning quality of care and access are the major topics in Quebec, says Haddad, whose own patient load has increased by 30% in the last year.

Dr. Edwin Coffey, a QMA past president, agrees that physicians are fed up but says seeking fee increases is not the way to go. "My impression is that organized medicine is so involved in negotiating fees that fundamental reforms are neglected. BC and Alberta are fighting over fee schedules rather than reforming the system, and the public [may see] this as money grubbing."

Coffey's version of reform involves creation of a parallel system in which public and private components operate side by side (see below). There appears to be support for reform. In a December 1997 Southam poll, 67% of Quebecers agreed that a private parallel health system should be permitted.

"The system is broken," concludes Coffey. "We have to act now." ?

Physician vows to take parallel-system issue to Supreme Court

Dr. Jacques Chaoulli plans to ride his vision of a parallel private health care system right to the Supreme Court of Canada. The Paris-trained, Montreal-based physician believes that Canadian laws prohibiting the operation of a private system violate the Canadian Charter of Rights and Freedoms. To begin, he's arguing his case in Quebec court. In April he published a book on patient rights and his proposed system.

Dr. Edwin Coffey, past president of the Quebec Medical Association (QMA), wrote the foreword for the French-language book, *Pour une question des vies ou des morts (A question of life and death)*. "If the court case succeeds, it will be a real landmark," said Coffey. "It sounds radical but it comes down to whether you believe in collective or individual freedom as the primary goal."

Chaoulli's David-versus-Goliath battle began in 1994 with a plea for 24-hour emergency house calls. For the next 2 years he lobbied every level of government, right up to the premier, as well as the QMA and other groups. "I shook all the cages in vain," says Chaoulli. "I was being punished for making emergency house calls and I felt this was an insult." His response? Launch a hunger strike.

In its fourth week, public supporters, patients and the media convinced him to stop the strike but continue the fight. On Sept. 7, 1996, he went off strike and off the public health care system, only to discover that his patients were prohibited from getting private insurance to cover his services.

"I felt this was a big injustice," said Chaoulli. He spent a year-and-a-half researching other countries' health care systems and the legal aspects of freedom of choice. In the end, he decided to take his case to Que-

bec's Superior Court and, he hopes, eventually to Canada's Supreme Court.

He has 2 goals. First, he wants Quebecers to have the right to buy private medical services from nonparticipating doctors. This includes giving them the right to purchase private insurance and to receive care in hospitals. However, he doesn't want to create a private system for the rich and upper middle class.

Thus, his second goal is to create a national, parallel private system. He proposes that doctors be obliged to work a certain number of hours per week in the public system, and then have the option of working privately for another set period. "This would create a parallel private health care system, taking up 10% to 15% of the market," says Chaoulli.

He says this type of system already exists in Germany, France and elsewhere, and these countries don't have waiting lists or crowded emergency rooms. "I'm not knocking down medicare, but it's a question of freedom for the patient and physicians to have an alternative."

He's in the midst of trying to achieve his first goal of having the courts invalidate legislation concerning private insurance and hospital insurance. The province's attempt to have the case rejected was unsuccessful during a preliminary hearing in January, and at press time Chaoulli was preparing for a May court date. Federal representatives have been invited to appear. Quebec's minister of health and representatives from the College of Physicians of Quebec will receive subpoenas.

"For sure I will win this court case," says Chaoulli, who is representing himself. "I want to change and improve the Canadian health care system for the good of everyone."