



Canada's only national political pro-choice advocacy group

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Position Paper # 3

Clinic Funding – Overview of Political Situation

Although the Supreme Court of Canada struck down restrictions against abortion in 1988, Canadian women and transgender people still confront barriers to access. While the legality of abortion is determined by the federal government, provinces and territories are responsible for administering and funding abortion services, resulting in discrepancies in funding.

Abortion has been deemed to be a medically necessary procedure under the federal *Canada Health Act*. This means it should be available in every province and territory, and paid for by provincial health care, regardless of whether the abortion is performed in a clinic, hospital, or doctor's practice. In 1995, the federal government required provinces to fund private clinics doing medically necessary procedures, designating them as "hospitals" under the Act.

However, the pro-choice movement has had to fight battles in almost every province over the last two decades to obtain funding for private clinics:

- BC, Alberta, and Newfoundland complied with funding requirements for private clinics in the early to mid 1990's (due to the Morgentaler decision and/or the 1995 federal directive to fund private clinics).
- New Brunswick is still a hold out, and Ontario does not fully fund some clinics (see below for more info).
- Nova Scotia and Manitoba experienced funding battles but no longer have private clinics. MB began funding a clinic in 2004, which later closed. The NS clinic funding battle was lost and the clinic closed, and NS maintains its policy of not funding clinic abortions.
- Saskatchewan and the territories never had private clinics. In these areas, abortions are still only available in a limited number of hospital-based clinics, although some doctors and medical clinics are increasingly providing medical abortion.
- Quebec finally started funding private clinics in 2006 after a court challenge. Funding was retroactive for those who paid for abortions between 1999 and 2005.
- Prince Edward Island (PEI) had no services at all until January 2017, which are now funded as part of a new women's health centre at the Summerside hospital, created after the province was threatened with a lawsuit.

The failure of New Brunswick and Ontario to pay or fully pay for the procedure in clinics contravenes the *Canada Health Act*. (To learn more about why abortions performed at private clinics must be funded under the Act, see our Position Paper #2, *Abortion Clinics Must Be Fully Funded under the Canada Health Act*).

Ontario

Some clinics in Ontario are fully funded, while others are not. The previous NDP Bob Rae government only funded the five Toronto clinics that existed around 1990, as well as the Ottawa Morgentaler Clinic. They were funded as “Independent Health Facilities,” a Liberal program that was completed by Rae’s NDP government. Since then, several more abortion clinics have opened, but as they fell outside the IHF program, they weren’t funded. These non-funded clinics include the Bloor West Village Womens Clinic, Brampton Women’s Clinic, Mississauga Women’s Clinic, and Women’s Care Clinic in Toronto. However, patients pay only the costs that are apart from the doctor’s fee, which is paid by OHIP.

But the Ontario clinics **should be fully funded** by the Ontario Ministry of Health. The 1995 clarification to the *Canada Health Act* by Health Canada instructed all provincial/territorial Health Ministers to fully fund any private clinic doing medically required procedures, and that user fees charged directly to the patient were illegal. The Progressive Conservative government under Mike Harris did not abide by these requirements, and Ontario has been violating the *Canada Health Act* ever since.

New Brunswick

The New Brunswick government enforces Regulation 84-20 in the *Medical Services Payment Act*, which prohibits the funding of abortions in “private hospital facilities”. It was passed in 1985 to stop Dr. Henry Morgentaler from starting a clinic in NB. Nevertheless, Dr. Morgentaler opened a clinic in Fredericton in 1994 but had to charge patients for abortion care or pay for it himself.

Twenty years later, the clinic had to close its doors because it became financially unsustainable. After a fundraising campaign, the activist group Reproductive Justice New Brunswick was able to find a doctor who re-opened the clinic in 2014 as a private doctor’s practice that provided abortions and a range of other care, including for the LGBTQ2I+ community.

But the new Clinic 554 was still subject to the province’s refusal to fund abortions, and by October 2019 had become financially unsustainable as well. The building was put up for sale. In March 2020, the federal government deemed the province to be in violation of the *Canada Health Act* by not funding surgical abortions at the clinic, and began to withhold health transfer funds. However, the federal Health Minister decided to temporarily reimburse these funds to the province because of COVID-19.

As of March 2021, Clinic 554 remains open for abortion care only. It is surviving on community support and crowdfunding until a buyer is found. The clinic’s closure has had major impacts on health services for the LGBTQ2S+ community. The province of New Brunswick must repeal its regulation limiting funding abortions to hospitals, and the federal government must continue withholding health transfer payments to NB, but should give the money directly to Clinic 554.