



**RNAO Response to Proposal
17-HLTC034:**

Amending Regulation 552 under the
Health Insurance Act: Community
Laboratory Services

September 12, 2017



RNAO Response to Proposed Changes in Regulation of Community Laboratory Services

The Registered Nurses' Association of Ontario (RNAO) is the professional association representing registered nurses (RNs), nurse practitioners (NPs) and nursing students in all settings and roles across Ontario. It is the strong, credible voice leading the nursing profession to influence and promote healthy public policy.

Community laboratory services play an important role in the health care system and as of 2015 represented close to \$650 million – or 47 per cent of the provincial lab budget (hospitals provided about 47 per cent with the remaining amount supplied by physicians, public health labs and genetics labs).¹ RNAO has a strong interest in the effective functioning, cost effectiveness and access to all sectors of the health system, including community laboratory services, and is pleased to offer this submission on proposed amendments to the regulation of these services.

The Regulatory Proposal

The Ontario government is proposing amendments to Regulation 552 under the Health Insurance Act (HIS) and to the Schedule of Benefits for Laboratory Services (SOB-LS) under the same regulation.² The proposed amendments are said to include:

- updating the definition of the schedule of laboratory benefits in section 1
- amending sections 22(1) to 22(10), and 22.1 to 22.11, which spell out insured services and how they are paid
- introducing provisions that would allow designated hospitals to take increasing volumes of community laboratory services
- revising the SOB-LS to update fee codes

The proposal offers no specifics in its proposals, although the summary does note that there has not been a comprehensive update in the schedule of benefits for 17 years, and it says that its proposals aim to get better value for money through aligning fees with current technologies.

RNAO welcomes steps to reduce community laboratory fees and to allow hospitals to take on increasing volumes of community laboratory services for the following reasons:

Cost: In 2015, an expert panel formed by the Ontario Ministry of Health submitted a report³ on laboratory services. The report provides recommendations on possible improvements of laboratory services in terms of updating of their funding, delivery and management.⁴ It cites a report by Deloitte which estimated potential savings ranging from \$60 million (negotiated contracts) to \$100 million (RFP),⁵ -- about 9 to 15 per cent. The expert panel calls for a reorganization of the community lab system to better manage competition and to remove barriers to use of new testing technologies. It also calls for improved management of lab service demand. Work by researcher Ross Sutherland concludes that Canada could annually save “a minimum of \$250 million per year by moving all publicly funded medical laboratory work into an integrated public non-profit medical laboratory system.”⁶ That would translate into a 25 per cent saving.

Going the public route offers the advantage of making use of excess capacity in the public system, as the Ontario Hospital Association (OHA) pointed out: “there is massive reserve capacity in the hospital laboratories...a fully staffed evening shift could absorb the private laboratories’ workload without difficulty.”⁷ Sutherland further cites evidence of excess capacity in private labs. The presence of excess capacity in both the public and private sectors is an indication of wasted resources and unnecessary costs.

Two large labs, LifeLabs and Gamma-Dynacare Laboratories, enjoy an overwhelming and fixed share of the Ontario community laboratory market. The Expert Panel indicates that share is 95 per cent.⁸ It is no surprise, that has led to is high prices and high profits.⁹ Ontario is reported to have the highest per capita community lab costs in Canada.¹⁰

Accountability: RNAO shares concerns that have been raised about accountability in the community laboratory sector. The major service providers are for-profit. The profit motive heightens the incentive to not disclose information that is of public interest, such as cost and quality. Protections accorded to “confidential business information” provide tools to mask such information.¹¹ Furthermore, current Ontario legislation is an obstacle; the Auditor General expressed frustration over his inability to examine the OMA’s quality management program for lab services due to restrictions under the *Quality of Care Information Protection Act*.¹² More broadly, Ontario’s *Freedom of Information and Protection of Privacy Act, 1990* prevents disclosure of confidential information provided to government if the disclosure could harm the company.¹³

Quality of Service and Access: A coalition of smaller private labs (Ontario Coalition for Lab Reform) cited preliminary evidence that one in seven GTA official labs provided service that was substandard with respect to wait times, crowding and disability access. 1.6% of all clients left without doing their tests due to excessive wait times.¹⁴ That coalition is concerned with the limited number of collection centres, which results in clients travelling further. It attributes the small number of centres to the lack of competition. It will be important to ensure that a future system maintains or ensures reasonable access for clients. Any changes must include measures to address possible impacts on access. For example, if hospitals assume more community lab services, they would have to do it in a way that does not increase the average client’s travel costs or wait times.

RNAO Recommendations

1. Take all necessary measures to secure more reasonable prices for community laboratory services
2. Proceed with allowing designated hospitals to perform increasing shares of community laboratory services, and pay them those services
3. Ensure that any restructuring is done in a way that maintains or enhances access to lab services
4. Allow nurse practitioners to have blood collected in their offices without being regulated under the Specimen Collection Act
5. Establish a provincial process to formally evaluate new laboratory tests, recommend or not recommend such tests, and retire obsolete testing procedures within a regularly updated Schedule of Benefits (Laboratory Services Expert Panel Review Recommendation 6)
6. Require public reporting of laboratory performance and recommendation results (Laboratory Services Expert Panel Review Recommendation 7)

7. Develop and deploy a Province-wide appropriateness/utilization program with supporting tools (Laboratory Services Expert Panel Review Recommendation 8)
8. Introduce independent and regular patient satisfaction surveys for laboratory services, with sufficient breadth and depth to inform regional service adjustments (Laboratory Services Expert Panel Review Recommendation 14)

¹ Laboratory Services Expert Panel. (2015). *Laboratory Services Expert Panel Review*. November 12. http://www.health.gov.on.ca/en/common/ministry/publications/reports/lab_services/labservices.pdf.

² Ontario. (2017). *Proposed Amendments to Regulation (Reg.) 552 (General) under the health Insurance Act (HIA) and the Schedule of Benefits for laboratory Services (SOB-LS) under Regulation 552 of the HIA*.

³ Laboratory Services Expert Panel, op. cit.

⁴ Ibid, p. 5.

⁵ Deloitte. (2012). *Lab Services Review*. We have not been able to access this report, and it has been identified as non-public: OPSEU diablogue. (2014). *Ontario keeps its secrets as hospital labs may face more privatization*. <https://diablogue.org/2014/09/25/ontario-keeps-its-secrets-as-hospital-labs-may-face-more-privatization/#more-4649>.

⁶ Sutherland, R. (2012). The effect of for-profit laboratories on the accountability, integration, and cost of Canadian health care services. *Open Medicine, Vol. 6, No. 4*

⁷ Sutherland, ibid, quoting Ontario Hospital Association. (1994). *Response to Laboratory Services Review External Advisory Subcommittee Social Contract Study Summary Report*.

⁸ Laboratory Services Expert Panel, op. cit.

⁹ Ontario Coalition for Lab Reform. (2013). *Bad Labs in Ontario – Waiting Too Long*. PowerPoint presentation.

¹⁰ Ontario Coalition for Lab Reform. (2013). *Fact Sheet: Bad Labs in Ontario – Waiting Too Long*, citing an unnamed BC government study.

¹¹ Ibid.

¹² Office of the Auditor General of Ontario. (2005). *Annual Report*. P. 167.

¹³ Ontario. (2014). *Freedom of Information and Protection of Privacy Act*. 18. (1) A head may refuse to disclose a record that contains, (c) information where the disclosure could reasonably be expected to prejudice the economic interests of an institution [definition includes service provider] or the competitive position of an institution;

¹⁴ Ontario Coalition for Lab Reform. (2013). *Fact Sheet: Bad Labs in Ontario – Waiting Too Long*, citing Ontario Association of Medical Laboratories. (2012). *Report on the Study of Provincial Access to Community Laboratory Phlebotomy Services in Ontario*, June.