

SENT VIA EMAIL

Friday, September 30, 2016

Northern Physicians c/o Dr. Michael Kirlew
Sioux Lookout First Nations Health Authority
61 Queen Street, PO Box 1300
Sioux Lookout, ON P8T 1B8
(807) 738-2784

Dear The Honourable Jane Philpott,

Re: First Nations Medication approval and NIHB

We are writing this letter to express our profound disappointment with the current method by which medication is approved by the Non-Insured Health Benefits program (NIHB). The current process fetters access to medication as it is unduly lengthy and creates unnecessary delay in obtaining patient approval for a medication. The result is avoidable suffering for First Nations and Inuit people. In addition, NIHB requirements for detailed patient information prior to approval infringes First Nation and Inuit patient privacy. The following details these concerns:

The NIHB approval process for medications is significantly different from that of the Ontario Drug Benefit Program (ODBP). In order for a patient to get medication through the ODBP, only a three number code at the top of the prescription is required. This allows patients to receive their medication the same day. The current process through NIHB forms requires additional detailed patient information in order to approve exactly the same medication. Both the time for a physician to complete this extra paperwork and the time required to process the form is what creates a delay to receiving care.

In addition to the inferior access to medicines provided through the NIHB program, the requirements for additional information threatens the privacy of NIHB benefit recipients as follows.

NIHB clients are regulated by the Federal *Privacy Act*, as opposed to the provincial *Personal Health Information Protection Act*. The PHIPA specifically applies "health information custodians", including health care practitioners, health service providers, community care access corporations, hospital operators, and long-term care coordinators. The *Privacy Act* is an act of general application, and applies to a long list of government institutions. Other differences between the two acts include the fact that PHIPA specifically defines personal health information, while the *Privacy Act* only defines personal information. Further, the PHIPA provides far greater detail on the subjects of consent and capacity than the *Privacy Act*.

The federal act does not specifically address health care and thus does not guarantee the same level of patient privacy protection as PHIPA or other similar provincial legislation. It does not clearly protect the health or medical privacy of First Nations, Inuit and Metis clients and they suffer inferior protection of these privacy interests in comparison to the rest of the population.

The fact that First Nations and Inuit populations are not afforded medical privacy is evident in the fact that the provision of private health information is an NIHB requirement in order to access medication, and not a requirement for other residents of Ontario. This means that the protections for Indigenous Peoples in Ontario are inferior to those of others.

Moreover, we have significant concerns arising from the fact that patient capacity is not a specific requirement under the *Privacy Act*. Health Canada has the capacity to request specific information from a patient physician without any requirement for patient consent. This is accompanied by a penalty; in the event that information is not provided, medical coverage and access to care is denied.

The current system provides care that is demonstrably inferior to that provided to non-Indigenous populations by the Ontario provincial health care system. It is inefficient and collects sensitive patient information without securing their consent. It is slow, and creates undue delay. And it is inconsistent with the 2015 Auditor General's Report on access to health for individuals in remote communities which asserts that "First Nations individuals living in remote communities have comparable access to clinical and client care services as other provincial residents living in similar geographic locations." Health Canada is obligated to support First Nations communities in receiving equitable health services and benefits that are responsive to their needs and which will improve their health status.

The current system does not achieve this, and the medication information system is one aspect of its failure. The current method of drug approval needs to change immediately as it puts patient lives and health at risk.

Physicians of Sioux Lookout Region

Dr. Michael Kirlew
Dr. David Folk
Dr. Jenny Wu
Dr. Wanda Klippenstein
Dr. Benjamin Goldstein
Dr. Theresa Heese
Dr. Jonathan Fiddler
Dr. Claudette Chase
Dr. Lindsay Hancock
Dr. Steve Coupland
Dr. Robert Carlson
Dr. Marilyn Koval
Dr. Larry Wilms
Dr. Anne Robinson
Dr. Megan Bollinger
Dr. Christopher Giles
Dr. Devon Tilbrook
Dr. Aaron Rothstein
Dr. Catherine Wong
Dr. Rebekah Neckoway
Dr. Michael Ouellette
Dr. Lisa Letkemann

cc. Grand Chief Alvin Fiddler, Nishnawbe Aski Nation
Regional Chief Isadore Day, Chiefs of Ontario
National Chief Perry Bellegarde, Assembly of First Nations
Sioux Lookout Area Chiefs
James Morris, Executive Director, Sioux Lookout First Nations Health Authority
Clifford Bull, Chair, Sioux Lookout Area Chiefs Committee of Health
Keith Conn, Acting Assistant Deputy Minister, Health Canada