

Bill 138, Schedule 15
Summary of Amendments
Before and After – Impact on Physicians

ORIGINAL BILL	AMENDED
<p>Direct Recovery by OHIP Without a formal hearing, the government would have the ability to recover amounts paid to a physician if OHIP determined amounts were owing.</p>	<p>Schedule 15 now requires a decision of the Review Panel under the Health Services Appeal and Review Board (HSARB) making a finding against a physician before billings can be recovered.</p>
<p>Onus on Proof on Physicians Physicians must prove they have not billed improperly instead of the government proving its claim.</p>	<p>The explicit reference to onus has been removed from the Schedule.</p>
<p>No Ability to Stay Penalty Physicians who sought to appeal decisions of HSARB would have to pay all financial penalties pending appeal, instead of staying or delaying the penalty until the matter was properly concluded.</p>	<p>This has been removed from the Schedule.</p>
<p>Review by Non-Peers Anyone could be an inspector and attend physicians' offices to collect and inspect records.</p>	<p>The Schedule has clarified the government's intention to ensure peer-review – only physicians can attend physician offices and review records.</p>
<p>Composition of Review Board Billing matters will be heard by a panel of one physician and two non-physicians.</p>	<p>The composition of the Review Panel will consist of 3 members, made up of 1 physician (to provide clinical expertise) and at least 1 lawyer (to provide expertise in procedural fairness).</p>
<p>Extrapolation/Statistical Inference The government would be able to use statistical inference to determine reimbursement amounts over a specific period of time before the matter is heard.</p>	<p>The government cannot unilaterally approve the use of statistical inference through direct recovery. Rather, the Review Panel has the ability to use statistical methods to recover improper billings, but only where it makes a finding against a physician, and only where it is satisfied that it is appropriate to do so.</p>
<p>Limitation Period The government could seek recovery over any 2-year period. This would only be applied from the proclamation date going forward (i.e. the government cannot apply this new legislation to billings submitted before these amendments come into force).</p>	<p>The Schedule has been amended to state physicians can only be found to reimburse the government for a 2-year period that does not go past 5 years from the date the government requested a review. The go-forward window remains.</p>
<p>Disclosure of Personal Information Personal information about a physician who is audited could be published.</p>	<p>The Schedule has clarified the government's intention not to publish information related to a reimbursement hearing or the fact that it believes a physician has improperly billed.</p>

<p>Billing Privileges The government would have the ability to impose <i>any</i> condition on physicians seeking to obtain a billing number.</p>	<p>The concept of “billing privileges” has been removed. Billing numbers will be issued once a physician has completed the application process, which may include billing education jointly developed with the OMA and to be set out in regulations. The intent is to require new physicians (including physicians who are new to Ontario) to participate in billing education before completing the application form.</p>
<p>Unilateral Amendments to APPs – the government could pass a regulation to amend any APP for any reason.</p>	<p>The Schedule has clarified the government’s intention to only amend APPs to require reporting of remuneration information under the agreement to support disclosure of amounts paid by the government to physicians.</p>