

Bill 28: The Health Services Insurance Amendment and Hospitals Amendment Act (Admitting Privileges)

S H E R R Y B R O W N *

On December 5, 2013, during the 3rd session of the 40th Legislature, Bill 28 - *The Health Services Insurance Amendment and Hospitals Amendment Act (Admitting Privileges)* received Royal Assent.¹ Following changes to the regulations associated with these Acts, *The Health Services Insurance Amendment and Hospitals Amendment Act (Admitting Privileges)* was proclaimed and came into force on May 30, 2014.² The amendments recognized the ability for midwives and nurse practitioners to admit patients under their care into public hospitals in Manitoba. This paper will first explore the background of midwives and nurse practitioners to provide some context to Bill 28. Next, the purpose of the Acts is reviewed. The reasons for the amendments are then analyzed followed by a discussion of the consultation process and the impact of Bill 28. Finally the step-by-step legislative process of Bill 28 is examined.

I. BACKGROUND RELATED TO BILL 28

Before addressing the details of Bill 28, it may be helpful to clarify the roles and responsibilities of the professionals directly impacted by

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¹ Bill 28, *The Health Services Insurance Amendment and Hospitals Amendment (Admitting Privileges)*, 2nd Sess, 40th Leg, Manitoba, 2013, cl 3 (assented to 5 December 2013).

² Manitoba Laws, "Acts and Parts of Acts Coming into Force by Proclamation" online: <http://web2.gov.mb.ca/laws/statutes/index_procs.php>.

the implementation of the bill. The two main groups of professionals are midwives and nurse practitioners. Other professionals such as physicians, nurses, pharmacists and other health providers are also impacted by the bill but to a lesser degree and will not be addressed for the purposes of this paper.

In 2000, the Manitoba government enacted laws that recognized midwifery as a regulated health profession.³ Registered midwives practicing in Manitoba are healthcare professionals who received formal education with a specific focus on providing care to childbearing women and their newborns. Since becoming a regulated profession, midwives have delivered care to their clients both in the hospital and in the community. One of the main reasons why women are hospitalized today is still in relation to giving birth.⁴ Midwives provide care from the prenatal period, through the labour and delivery process, and for six weeks postpartum. Midwives are employed by their respective regional health authorities (RHAs) and are salaried employees. Funding for midwives comes from the provincial government.⁵ According to the College of Midwives of Manitoba, there are approximately 38 registered midwives practicing in Manitoba.⁶

In 2005, the Manitoba government enacted regulations that recognized nurse practitioners (sometimes referred to as registered nurses (extended practice)) as a part of the regulated registered nursing profession.⁷ Nurse practitioners are registered nurses educated at the graduate level with an expanded scope of practice that includes the ability to order and receive reports for screening and diagnostic tests, prescribe medications and perform minor surgical and invasive procedures.⁸ The initial plan for nurse practitioners was to work within primary health care practice setting to fill in the gaps in the healthcare system. However, in the brief history of nurse practitioners in

³ College of Midwives of Manitoba, "History of the College", online: College of Midwives of Manitoba <<http://www.midwives.mb.ca/aboutus.html>>.

⁴ Province of Manitoba, News Release, "Legislation would allow nurse practitioners, midwives to admit patients to hospitals" (26 April 2013) online: <<http://news.gov.mb.ca/news/?archive=2013-04-01&item=17268>>.

⁵ Midwives Association of Manitoba, *What is a Midwife*, online: Midwives Association of Manitoba <<http://midwivesofmanitoba.ca/what-is-a-midwife/>>.

⁶ *Supra* note 3.

⁷ *Extended Practice Regulation*, Man Reg 43/2005.

⁸ College of Registered Nurses of Manitoba, *NP Scope of Practice*, online: College of Registered Nurses of Manitoba <<http://www.crnmb.ca/memberinfo-infoformps-sop.php>>.

Manitoba, they have expanded into other areas such as emergency rooms, long term care facilities, and other acute specialty areas. Nurse practitioners are hired as salaried employees by the RHAs. Currently, there are approximately 130 nurse practitioners practicing in Manitoba.

Since midwives and nurse practitioners are not a fee for service provider as compared to physicians, they are more economical in delivering healthcare services. They are not remunerated for each patient they see or each treatment they provide. Both nurse practitioners and midwives are autonomous practitioners who may work in a collaborative practice with other healthcare professionals (i.e. physicians, pharmacists) where appropriate based on the needs of their clients. The role of nurse practitioners and midwives is to deliver care to patients within their scope of practice leaving more complex issues for physicians and other specialists to focus on. It was through this collaborative partnership that the government hoped Manitobans could receive the healthcare they need and reduce the burden on the system.

Primary health care has been a focus for the Government of Manitoba for many years. In 2002, primary health care reform was essential in order to sustain the current health care system and the Government developed a policy framework to begin that reform.⁹ The framework highlighted that primary care formed the foundation for the healthcare system.¹⁰ Strengthening areas of primary care was anticipated to result in positive outcomes for both the healthcare system and healthcare users. The Government suggested that a focus on primary care would result in reduced hospital visits, increased client satisfaction and lower health care costs.¹¹ Since 2002, a number of programs (Quick Care Clinics, Mobile Clinics) have been initiated to address and enhance primary care needs.

The Government has recently put forth a new initiative entitled “Access to a Family Doctor and Primary Care Team for All Manitobans by 2015”.¹² The purpose behind this initiative was to ensure that all

⁹ Agence de la Santé et des Services Sociaux de Montréal, “Looking Backward to Move Forward: A Synthesis of Primary Health Care Reform Evaluation in Canadian Provinces” (2nd Quarter 2012) online: <http://www.inspq.qc.ca/pdf/publications/1439_RegarderArriereMieuxAvancer_SynthEvalReforSoins1Ligne_VA.pdf>.

¹⁰ *Ibid.*

¹¹ Manitoba Health, Healthy Living and Seniors, “Primary Care is the Foundation of the Health Care System and a Priority for Manitobans” online: <<http://www.gov.mb.ca/health/primarycare/public/index.html>>.

¹² Manitoba Health, Healthy Living and Seniors, “Supports for Primary Care Practice” online: Manitoba Health <<http://www.gov.mb.ca/health/primarycare/>>.

Manitobans have access to a primary health care provider. This has led to the creation of “My Health Teams”.¹³ These health teams consist of interprofessional healthcare providers (physicians, nurse practitioners, dietitians, etc.) who work collaboratively to deliver care to the healthcare user. These health teams are expected to support and enhance the sustainability of the health care system.¹⁴ Although it is not clearly defined how the health teams increase sustainability of the system, it is speculated that these teams will reduce overlap or duplication of services, reduce waiting times for referrals and further support the Government’s goal to reform primary health care. It is also expected that with these teams as the healthcare users’ needs change, there is seamless transition between care providers.¹⁵ It is assumed that the goal of seamless transition also refers to transition between health care settings. By granting admitting privileges to nurse practitioners this may aid in the seamless transition from primary care to acute care (hospitalization) back to primary care upon discharge from the hospital. This model of transition from community to hospital and back to the community with the same care provider has worked successfully with midwives in Manitoba.

In Manitoba, the granting of admitting privileges encompasses more than just admitting a patient into the hospital. Typically, when a healthcare professional is granted admitting privileges it means they can admit, treat, consult and discharge their patients. However, it also means the healthcare provider is the primary person responsible for the patient during their hospital stay. This includes ordering tests, following up on results, making hospital rounds and being available to hospital staff to receive progress updates and provide medical orders for their patients as needed. Often physicians do not want to be available to hospital staff and their patients 24/7 and as such they will develop “on call” groups and share this responsibility with other physicians. Participating in an on call group may not be available for the nurse practitioner because of their scope of practice as compared to a physician to address complex medical cases. Another concern is in regards to nurse practitioners who currently work in a collaborative

providers/index.html>.

¹³ Manitoba Health, Healthy Living and Seniors, “My Health Teams and Team Based Care” online: <<http://www.gov.mb.ca/health/primarycare/public/myhts/index.html>>.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

team with physicians. They may now be compelled to take call as part of the team and adding to their current roles and responsibilities. A jurisdictional summary of nurse practitioners with admitting privileges is provided in Appendix A.

Some of the concerns with admitting privileges that are addressed later in the paper are in regards to remuneration of health services provided to patients. As stated earlier, nurse practitioners and midwives are salaried employees of the RHAs. Nurse practitioners' starting wages range from approximately \$84,000/year and can increase to \$103,500/year after 20 years of service.¹⁶ Midwives wages range from \$73,000 - \$88,500/year.¹⁷ These wages are set and are irrespective of how many clients a midwife or nurse practitioner may see or how many hours per week they may work. Physicians follow a fee for service model set by Manitoba Health. A physician can bill for each visit and each treatment that he or she performs. When a physician admits his own patient to the hospital, he or she can bill Manitoba Health according to the fee schedule.¹⁸ In essence, the more the physician can admit patients, the more money he or she will make. The Winnipeg Regional Health Authority (WRHA) encourages family physicians to seek admitting privileges because physicians can increase their clinical earnings by admitting patients to hospital. Often the fees for service rates are higher for hospital visits than they are for clinical visit.¹⁹ However, the College of Family Physicians suggest that issues with remuneration is one of the major reasons why many family physicians are less inclined to apply for admitting privileges. They cite the money is not worth the amount of work that is required in caring for patients while in hospital.²⁰ For example, the Hospital Tariff states, "Only one (1) visit per day, per patient, will be paid for in-hospital care regardless of the necessity of multiple visits on the same day."²¹ A physician may

¹⁶ MNU and Regional Health Authority & Associations, "Appendix A – Salaries" (31 December 2012) online: <<https://manitobanurses.ca/files/files/2012-dec-rural-south-1885.pdf>>.

¹⁷ Canadian Midwifery Regulators Consortium, "Working Conditions – Manitoba" Canadian Midwifery Regulators Consortium (April 2011) online: <<http://cmrc-ccosf.ca/node/60>>.

¹⁸ Family Medicine Program Office, "Chose More – In-hospital opportunities for family physicians", Winnipeg Regional Health Authority at 5.

¹⁹ *Ibid* at 5.

²⁰ The College of Family Physicians of Canada, "Family Physicians caring for hospital inpatients" (October 2003) at 17.

²¹ Doctors Manitoba, "Hospital Care - Tariff 8520" Billing, (July 2013) online: <<http://www.docsmb.org/advocacy-services/billing/visits-and->

have to be contacted multiple times for one patient and would only be able to bill for the one visit. Nurse practitioners and midwives are expected to take on these additional responsibilities of admitting patients and caring for them without any increase in their salaries. This could be a significant cost savings for the provincial government to be able to have healthcare services provided to patients without Manitoba Health having to directly pay a care provider for each treatment they deliver. However, the time a nurse practitioner will spend doing hospital rounds will likely impact the amount of time he or she has to see patients in the community (where there is a need for health care resources). It is not clear how this amendment will create better access to care for Manitobans.

II. OVERVIEW OF THE ACTS

Bill 28 proposes to amend two Acts, *The Health Services Insurance Act*²² and *Hospitals Act*.²³ *The Health Services Insurance Act* is a statute that addresses the health services that are insured and provided to Manitobans by the provincial government.²⁴ *The Hospitals Act* is a statute that looks at the overall management and operation of public hospitals.²⁵ Although these statutes establish the laws around the provision of healthcare services in Manitoba, they are general in their provisions. The details of day-to-day operations of hospitals falls under the direction of *The Regional Health Authorities Act*,²⁶ the regulations associated with this act and the bylaws established by the boards of directors for the respective RHAs.

The amendments proposed in Bill 28 are not substantial changes. The amendments proposed are to include “nurse practitioners” and “midwives” in the definition of “in-patient” in both *Acts*. The change recognizes nurse practitioners and midwives as providers of patient care covered by health services insurance while in hospital. The reason for the proposed changes is explored in the next section.

examinations/160-hospital-care-tariff-8520>.

²² *The Health Services Insurances Act*, RSM 1987, CCSM cH35, s. 2(1).

²³ *The Hospitals Act*, RSM 1987, CCSM cH120, s.1.

²⁴ *Supra* note 22.

²⁵ *Supra* note 23.

²⁶ *The Regional Health Authorities Act*, SM 1996, c. 53, CCSM, cR34.

A. Reason for Change

The reason for Bill 28 is not as clear as some might believe. The government espouses that granting admitting privileges to midwives and nurse practitioners will help Manitobans receive better health care. However there is little evidence to support this will be the case as a result of the amendments. The discussion that follows will suggest the changes proposed by Bill 28 are effectually, moot changes.

The ability to grant admitting privileges does not reside within *The Health Services Insurance Act* or *Hospitals Act*. Rather the changes proposed in Bill 28 were to amend the definition of in-patients to recognize that patients may also be cared for by nurse practitioners and midwives and not just physicians or in limited cases, dentists. Prior to establishment of the RHAs, each hospital's board of directors would determine who would be granted admitting privileges for that hospital. Since 1999,²⁷ the ability to grant admitting privileges is now done through the individual RHAs' bylaws, which are established by their respective board of directors.²⁸ For example, The Winnipeg Regional Health Authority (WRHA) Medical Staff By-law states:

4.1.3 All Members with an appointment to the Medical Staff shall be granted privileges that permit the Member to perform specified services within specified Sites within the Health Region.²⁹

The bylaws also define who is considered a medical staff person (i.e. physician, midwife) and outlines the roles and responsibilities granted to a medical staff person. The bylaws pertain to all hospitals that are owned and operated within the RHA.³⁰ The WRHA currently recognizes midwives as one of the medical service providers and as such they can apply for admitting privileges. The RHA boards also define what the privileges entail. The board can specify a limitation on any of the services provided.³¹

Despite the passing of Bill 28, midwives and nurse practitioners will still need to apply to their respective RHA board of directors in order to be granted admitting privileges. Although the government has recognized these groups of individuals as having the ability to admit

²⁷ Winnipeg Regional Health Authority, "Board of Directors Governance Manual" (2011) online: <<http://wrha.mb.ca/about/board/files/GovernanceManual.pdf>>.

²⁸ Winnipeg Regional Health Authority Board, by-law, *No 3 Medical Staff* (30 May 2012), s 2.

²⁹ *Ibid*, s 4.1.3.

³⁰ *Ibid*, s 3.1.

³¹ *Ibid*, s 1.1.

patients, a RHA Board still could deny them admitting privileges in any or all of the hospitals or other affiliated facilities within that region. The full authority to grant admitting privileges continues to remain with the RHA boards.

As stated earlier, the RHAs have recognized midwives as part of the medical staff. Currently in Manitoba, midwives have the ability to admit, provide treatment, consult and discharge their patients. The enactment of the amendment is a formality of what is currently in place and operating with no issues or concerns. This is a fact the political parties failed to recognize when they debated the bill as it progressed through the legislature.

Another example to suggest the amendments are a moot change is the government states that currently nurse practitioners do not have the ability to admit patients into hospitals. This is in fact not true. The Burntwood Regional Health Authority (which amalgamated in 2012 to the Northern Regional Health Authority) changed their medical bylaws to recognize nurse practitioners as part of the medical staff. As such, one nurse practitioner applied to her respective RHA board and was granted admitting privileges to a local hospital in the region.³²

Although the government presents the idea all nurse practitioners were supportive of the changes being proposed this is highly suspect. As stated earlier, nurse practitioners are salaried individuals as compared to physicians who follow a fee for service model. Increasing their responsibilities to include providing care in the hospital and being available on call evenings, nights and weekends without financial compensation may not be welcome by all. In speaking with individuals who work closely with nurse practitioners they state many nurse practitioners expressed they did not want the additional responsibilities that go with having admitting privileges. Although the Nurse Practitioners Association of Manitoba was supportive of the amendments, they do not speak for all nurse practitioners.

Implementing the proposed amendments can have a positive effect on the provincial government's image. Health care is an important topic and many Manitobans are chronically concerned about its future. The government provided a news release on the day Bill 28 received its first reading.³³ In the media release it stated, "currently, only doctors and, in some cases dentists, can admit patients to hospitals in Manitoba."³⁴ This

³² Burntwood Regional Health Authority, *Annual report 2007 – 2008* at 23.

³³ *Supra* note 4.

³⁴ *Ibid.*

was an opportunity for the government to demonstrate they are taking active steps to ensure access to health care for people who need it. Both the Winnipeg Free Press³⁵ and the Brandon Sun³⁶ were quick to pick up these stories and both used the quote noted above. The public in response to the online story made a number of comments that midwives have been able to admit for many years now. Some online responses to the article by readers suggest the news release was simply a ploy by the government to make it look like they are making effective changes when in fact it is simply the status quo.³⁷

There has been no empirical evidence presented to support the benefits of nurse practitioners being granted admitting privileges. There is also little to no information from nursing associations or nursing advocacy groups supporting the need for this change. This is unusual as nursing is one of the largest providers of health care and when a need exists nurses gather together to voice their concerns, lobby government and provide evidence of the need for change. The lack of supportive and scholarly literature on the potential impact reinforces the concern regarding the purpose of implementing the amendments.

III. CONSULTATION OF BILL 28

There is limited information regarding the consultation process that occurred before Bill 28 was brought before the legislature. There are no discussion papers or documentation of formal consultation with key stakeholders. There is no evidence to demonstrate an understanding of the full impact the bill could have on the healthcare system or the economy.

During the standing committee debate, there was some discussion regarding consultation done by the Health Minister, then Theresa Oswald with the Midwives Association of Manitoba.³⁸ The Association

³⁵ "Province to give midwives, nurse practitioners hospital-admission privileges", *Winnipeg Free Press* (26 April 2013) online: <<http://www.winnipegfreepress.com/breakingnews/New-law-gives-midwives-nurse-practitioners-hospital-admission-privileges-204911611.html>>.

³⁶ "Province to give midwives, nurse practitioners hospital-admission privileges", *Brandon Sun* (26 April 2013) online: <<http://www.brandonsun.com/breaking-news/new-law-gives-midwives-nurse-practitioners-hospital-admission-privileges-204911611.html>>.

³⁷ *Supra* note 35.

³⁸ Manitoba, Legislative Assembly, *Standing Committee on Social and Economic Development*, 40th Leg, 2nd Sess, Vol LXV No 11 (29 October 2013) at 780 (Gerald Reimer).

was requesting an amendment to one of the clauses in Bill 28 to which Ms. Oswald was agreeable to changing.³⁹

The government also makes mention during the third reading of the bill that stakeholders were consulted before bringing the bill forward. The stakeholders included the regulatory colleges, the RHAs, as well as practitioners.⁴⁰ However, these seem to be part of an informal consultation process rather than a thorough review of the impact of the amendments as there is no documented evidence of the consultation process and feedback gathered.

Missing from the consultation process was the public. In this instance, the public refers to the individuals who are most likely to use the health care system or the healthcare users. There is no evidence input on how by the healthcare users on how they felt having a nurse practitioner admit them to hospital instead of a physician. Many Manitobans are unfamiliar with the role of the nurse practitioner in the provision of health care.⁴¹ Notwithstanding that nurse practitioners are quite capable and competent to provide care in many circumstances, sometimes the public feels they are receiving substandard care because they are seeing a nurse practitioner rather than a physician. Education of the public regarding the role of nurse practitioners continues to be a necessity. Including the healthcare users as part of the stakeholder consultation would help to identify some of the challenges or barriers to implementing this amendment in the health care system. Consultation could have provided an opportunity to increase awareness of the role of nurse practitioners as a holistic health care provider that could provide care in the hospital as well as the community.

Another group that appears to be left out of the consultation process was physicians. Considering the government is under the guise that nurse practitioners cannot care for the patients after they admit them, this could impact the workload of physicians in having to monitor additional patients. Although this is not the case, there is no evidence to support the government had this knowledge. Physicians have not necessarily been as keen to share the responsibilities of admitting and discharging patients with nurse practitioners when these changes went

³⁹ The proposed change is discussed in detail under the Standing Committee section of this paper.

⁴⁰ Manitoba, Legislative Assembly, *Debates and Proceedings*, 40th Leg, 3rd Sess, Vol 16 (4 December 2013) at 636 (Erin Selby).

⁴¹ Larry Kusch, "Manitoba's quick health-care fix", *Winnipeg Free Press* (21 September 2013) online: <<http://www.winnipegfreepress.com/local/manitobas-quick-health-care-fix-224681262.html>>.

through in British Columbia (BC) and Ontario.⁴² As nurse practitioners and midwives may work in a collaborative relationship with physicians, input into some of the challenges and benefits to the proposed changes would have been important.

The government could have looked at the impact this bill would have on the healthcare system as other provinces have already made this change. As stated earlier, BC and Ontario have given admitting privileges to nurse practitioners and would be able to provide supportive data such as:

- How many nurse practitioners sought admitting privileges;
- How many nurse practitioners were denied admitting privileges;
- Changes in admissions rates to hospitals;
- Changes in consultation to specialists rates during hospital admissions; and,
- Changes in length of hospital stay rates.

Considering these are areas where the government is often critiqued for their approach to health care, any anticipated positive changes to these concerns should be noted. This data would provide some evidence of the government doing their due diligence before implementing changes and understanding the potential impact.

IV. IMPACT OF BILL 28

The government speaks of continuity of care as being the primary reason for the amendment.⁴³ However, governments are often more interested in economic impact of changes particularly those associated with health care. Yet, there has been no stated anticipated effect related to the economic impact.

In regards to liability insurance, the change to Bill 28 would not change liability coverage nurse practitioners and midwives carry in Manitoba. According to the College of Midwives of Manitoba, the majority of midwives are employed through the various RHAs and

⁴² Keven Drew, "More powers given to nurse practitioners", *The Globe and Mail* (11 October 2012) online: <http://www.theglobeandmail.com/news/british-columbia/more-powers-given-to-nurse-practitioners/article4607995/>; Antonella Artuso, "Ontario nurse practitioners gain more power", *Toronto Sun* (8 April 2011) online: <http://www.torontosun.com/news/torontoandgta/2011/04/08/17927836.html>.

⁴³ Manitoba, Legislative Assembly, *Debates and Proceedings*, 40th Leg, 2nd Sess, Vol 31 (26 April 2013) at 787 (Theresa Oswald).

attain their liability protection through their employer.⁴⁴ Nurse practitioners in Manitoba have liability coverage as part of their registration fees with the College of Registered Nurses of Manitoba and is independent of any employer liability coverage. The liability coverage is with the Canadian Nurses Protective Society and covers the nurse practitioner in any practice setting where the nurse practitioner has the authority to practice. It is not clear if there will be any additional legal or related liability issues for the hospitals and any comment at this time would only be speculation.

For midwives, it is safe to say there will be no noticeable impact to the health care system. They will continue to admit, treat and discharge their patients as they have been doing for the past 13 years. As for nurse practitioners, the impact is less understood. Other jurisdictions have granted nurse practitioners admitting privileges but there is no information available regarding the economic or system impact. One might argue that having more practitioners who can admit to hospitals will only add more stress to the healthcare system. While others may argue continuity of care may reduce hospital stays and readmissions, which will relieve the stress on the overly burdened system. However, the fact remains the full impact of Bill 28 is unknown and we will have to wait to see the effects of these amendments.

V. BILL 28: MOVEMENT THROUGH THE LEGISLATIVE PROCESS

Bill 28 followed the typical path through the legislative process after being tabled for its first reading on April 23, 2013. Over the course of approximately seven months, the bill was introduced for a second reading, went to the standing committee and finally returned to the floor for its third and final reading. Throughout the course of this process, the public and political parties had the opportunity to speak to this bill.

As there appears to be limited consultation done prior to the proposed amendments, there seems to be a number of concerns that have not been addressed prior to putting the bill on the floor for decision. During the examination of the progress of the bill through the Legislature, some of the arguments regarding the shortcomings of the bill are highlighted.

⁴⁴ College of Midwives of Manitoba, "Registering as a Midwife in Manitoba", online: College of Midwives of Manitoba <<http://www.midwives.mb.ca/register.html>>.

It is notable that all political party representatives recognized the hard work of healthcare professionals. There was no debate regarding the contributions that both nurse practitioners and midwives have added to the provision of healthcare in Manitoba. All parties remarked that both groups were adequately qualified to meet the changes the amendments made to their scope of practice. Notwithstanding the importance of the role of midwives in the healthcare system, the discussions were largely focused on nurse practitioners. It could be hypothesized the reason for this is because for midwives the amendment to Bill 28 was simply just a formality for what had been occurring since the inception of registered midwives in Manitoba. Whereas, admitting privileges for nurse practitioners is a new consideration and the impact is less understood.

A. First Reading

As stated earlier, Bill 28 *The Health Services Insurance Amendment and Hospitals Amendment Act* (Admitting Privileges) was given its first reading on April 26, 2013 during the 2nd session of the 40th Legislature.⁴⁵ The NDP government's Minister of Health (at that time), Theresa Oswald introduced the bill. Ms. Oswald indicated the purpose of the bill was to "streamline the admissions process, save time for patients and make the health-care system more efficient."⁴⁶ The motion was adopted and proceeded to the second reading.

B. Second Reading

On August 7, 2013, Bill 28 was presented for a second reading. At the second reading, there was no NDP government representation in speaking to the bill. However, Cameron Friesen, Manitoba's Official Opposition Health Critic from the Progressive Conservative party took the occasion to express his concerns for Bill 28. At the outset, Mr. Friesen took the opportunity to recognize the tremendous contributions by both nurse practitioners and midwives in the provision of care to Manitobans. It appeared he wanted to make it clear that any criticisms he had were not in regards to the hard working health care providers but to the environment in which they work.

During this particular reading, the majority of Mr. Friesen's voiced concerns were not specific to the amendments proposed by Bill 28. Rather it was an opportunity to comment on various deficiencies in the

⁴⁵ *Supra* at 43.

⁴⁶ *Ibid.*

healthcare system that continues to plague the NDP government. He pointed out that doctors from Manitoba have left for other provinces leaving Manitoba with a physician shortage. He mentioned the continued increase in wait times for patients to be admitted to hospital when arriving by ambulance. This results in holding up the ambulances' availability to attend to other emergencies in the community. He also commented on the increased wait times from the time of diagnosis of an illness to the commencement of treatment. Mr. Friesen finally addressed the topic of Bill 28. It is at this time he incorrectly noted the number of nurse practitioners registered in Manitoba. He stated there were approximately 80 nurse practitioners in Manitoba.⁴⁷ In fact, at that time there were approximately 118 nurse practitioners registered.⁴⁸ This is the beginning of many inaccuracies in facts that accompany the discussion of Bill 28.

Mr. Friesen commented that perhaps doctors should receive a stipend when nurse practitioners are seeing patients since doctors will not be remunerated as part of the fee for service provisions.⁴⁹ In essence, he was suggesting that doctors should receive compensation for not seeing a patient. Yet just prior to this suggestion, he is demanding the NDP government do all it can to reduce the extraordinarily high health care costs. In fact, if nurse practitioners began admitting and treating patients in hospital rather than physicians, this would likely result in a reduction of health care costs because they are salaried employees.

Mr. Friesen brought up a critical point during the debate in regards to what equates to admitting privileges. It is a critical point because he continues to focus on this throughout the bill's progression through the Legislature and at no time does the government refute or correct him on this point. Mr. Friesen has taken the amendment at its most literal sense, in that if the amendment were passed, it would allow nurse practitioners to admit patients to the hospital. He states there are no allowances made for the provision of care to patients while in hospital or the ability to discharge patients and assumes this is put upon physicians to pick these pieces up adding to their workload.⁵⁰ He asks the government for clarification on these points but none is forthcoming

⁴⁷ Manitoba, Legislative Assembly, *Debates and Proceedings*, 40th Leg, 2nd Sess, Vol 87 (7 August 2013) at 4073 (Cameron Friesen).

⁴⁸ College of Registered Nurses of Manitoba, *Annual Report 2012* at 28.

⁴⁹ *Supra* note 47.

⁵⁰ *Supra* note 47 at 4077 (Cameron Friesen).

at any point in the discussions of Bill 28. As stated earlier, admitting privileges includes the ability to admit, treat, consult and discharge patients unless the RHA Board stipulates otherwise. Creating a system where healthcare providers can admit but cannot treat or discharge does not lend itself to common sense. By creating this as a focal point for debate, Mr. Friesen reduces his credibility for presenting genuine concerns about Bill 28.

Next, Jon Gerrard from the Liberal party took the floor to share his thoughts on the bill. Dr. Gerrard spent the majority of his time recounting his experiences as a practicing physician and the role of the healthcare team in general when caring for patients. He did concur with Mr. Friesen regarding the concerns about the details of such an amendment including who would provide care while the patient is hospitalized and how would this all work.⁵¹ Given that Dr. Gerrard's was once a medical practitioner, he should have been familiar with this long-standing process of admitting privileges and what this entails (admission, treatment, discharge) and could have shared this knowledge with others.

Finally, Myrna Driedger from the Progressive Conservative party spoke to the bill. As a former nurse, Mrs. Driedger had some personal understanding of the issue in delivering timely and safe, competent care to Manitobans. She stated, "I don't think there is anyone profession out there that certainly can do it all.... And I think everybody just needs to get along and find the best way to move forward in providing that care for patients".⁵² It is evident that her support for this bill may not be in keeping strictly within party lines. However, she recognized the importance of a collaborative approach to delivering health care to Manitobans. Following Mrs. Driedger's comments, the motion to adopt Bill 28 was passed and the bill progressed to the committee stage.

C. Standing Committee

On October 29, 2013, the Standing Committee on Social and Economic Development met to consider a number of bills including Bill 28. It is important to note when the Standing Committee convened, Erin Selby had become the Minister of Health replacing Theresa Oswald who first introduced the bill. There was only one presenter who appeared before the Standing Committee to speak to Bill 28. The presenter was Ms. GERALYN REIMER, a public member who was in

⁵¹ *Supra* note 47 at 4078 (Jon Gerrard).

⁵² *Supra* note 47 at 4080 (Myrna Driedger).

attendance on behalf of the Manitoba Association of Midwives. Ms. Reimer's purpose in attending the meeting was to request a minor change to Bill 28 in regards to the actual placement of the word "midwives" in *The Health Services Insurance Act* and *Hospitals Act*.⁵³ The original amendment stated the following:

2. The definition "in-patient" in subsection 2(1) is amended by
 - (a) adding "or a registered nurse (extended practice)," after "practitioner"; and
 - (b) adding "or a midwife" after "dentist".⁵⁴

The presenter stated the role of the midwife in admitting and caring for their patients is similar to that of a physician or a nurse practitioner rather than the role of a dentist. As such, the word "midwife" should be struck from clause 2(b) and added into clause 2(a). Ms. Reimer stated Theresa Oswald (former Minister of Health) had spoken with the Manitoba Association of Midwives and had been agreeable to the changes.⁵⁵ Erin Selby concurred with the suggested amendment being proposed by Ms. Reimer.⁵⁶

Jon Gerrard posed some questions to the presenter. However, the questions he posed were quite specific to the collaborative relationship with physicians and what occurs when cases become complex.⁵⁷ Ms. Reimer explained that for the past 13 years midwives have been a regulated health profession and have established collaborative partnerships with physicians. When complexities arise outside the scope of practice of a midwife, they are able to transition care to an obstetrician or other specialized physician seamlessly. The addition of "midwives" to the *Acts* is simply a formality for what has been in place for many years.

Cameron Friesen also took the opportunity to question the presenter. He stated he wanted to gain some understanding about the process of midwives being able to admit clients to the hospital. He again raises the issue of not being able to treat and/or discharge patients.⁵⁸ Ms. Reimer explained the term "admitting privileges" includes the ability to discharge clients when they are ready to go home. It is concerning that the persons responsible for putting forth and voting on this amendment are not well versed in what it means to have admitting

⁵³ *Supra* note 38 at 780 (Geraldyn Reimer).

⁵⁴ *Supra* note 1.

⁵⁵ *Supra* note 38 at 780 (Geraldyn Reimer).

⁵⁶ *Supra* note 38 at 781 (Erin Selby).

⁵⁷ *Supra* note 38 at 781 (Jon Gerrard).

⁵⁸ *Supra* note at 781 (Cameron Friesen).

privileges and need to look to public members to explain it. If one wanted to argue with Mr. Friesen, they could point out there is nothing in the Acts to suggest that physicians can discharge patients either. It seems that he has simply made the assumption that physicians can do this.

Some hours later after the public representative had left Erin Selby had the opportunity to provide an opening statement to the Committee on Bill 28. It was during this speech a realistic resolution of the bill was revealed. She stated, "[e]ssentially these changes will enshrine the existing practice of having RHA's define privileging as opposed to defining the conditions in regulation".⁵⁹ In essence, the amendment will protect the RHAs to continue to have the authority to grant admitting privileges and the right to limit practices for those with admitting privileges. It is interesting to note this is the only time such a statement is made.

Cameron Friesen was also given the opportunity for an opening statement. He continued to linger on the issue of remuneration of nurse practitioners and their inability to see patients while they are admitted to the hospital. He states, "In fact, there would be no circumstance in which a nurse practitioner could, in the performance of their role, see a patient in a hospital after having admitted them."⁶⁰ It was at this time the Ms. Selby then incorrectly informed Mr. Friesen nurse practitioners are paid a fee for service by the regional health authorities.⁶¹ As stated earlier, this is not the remuneration model nurse practitioners or midwives follow. It appears both political representatives are ill informed about the facts related to the proposed amendments.

At the point of voting, Mr. Friesen proposed the following sub-amendment:

- 2 The definition "in-patient" in subsection 2(1) is replaced by the following: "in-patient" means a person who is admitted to, and assigned to a bed in, a hospital before being discharged, on the order of the following:
- (a) a medical practitioner;
 - (b) a registered nurse (extended practice);
 - (c) subject to the conditions prescribed in the regulations, a licensed dentist or a midwife.⁶²

Mr. Friesen argued that midwives have a very narrow scope within to admit patients to the hospital, similar to that of dentists. He added

⁵⁹ *Supra* note 38 at 800 (Erin Selby).

⁶⁰ *Supra* note 38 at 801 (Cameron Friesen).

⁶¹ *Ibid.*

⁶² *Supra* note 38 at 801-802 (Cameron Friesen).

that physicians and nurse practitioners have a larger scope of practice than dentists and midwives. By adding this additional wording to the clause, the health critic for the official opposition is in essence nullifying the midwives ability to admit patients to the hospital by adding regulatory restrictions. Ms. Selby clearly stated they would not support this amendment as it goes directly against the request from the midwives.⁶³ The sub-amendment was subsequently voted down. The amendment to include “midwives” with “physicians and nurses practitioners” (as per Ms. Reimer’s request) was passed and Bill 28 went on for a third reading.

D. Third Reading

On December 4, 2014, the Government House Leader Andrew Swan moved that Bill 28, *The Health Services Insurance Amendment and Hospitals Amendment Act* as amended by the *Standing Committee on Social and Economic Development* be read for the third time and passed.⁶⁴

Minister of Health, Erin Selby spoke to Bill 28 for its third and final reading. She highlighted the purpose of the bill is to “streamline the hospital admissions process, save time for patients and make the health care system more efficient by efficient by granting nurse practitioners and midwives hospital admitting privileges”.⁶⁵ She did not take the opportunity to explain the concept of admitting privileges and what this entails despite this being a concern noted throughout the various stages of debate on the bill.

Mr. Friesen stated that the Progressive Conservative party was fully supportive of nurse practitioners and midwives having admitting privileges.⁶⁶ He stated their concerns were the government had not spent the time to work out the details of how this needs to be done effectively to ensure savings in health spending. Once again he points out the nurse practitioner has no ability to see his or her patient in the hospital once they have been admitted.⁶⁷ This has been a constant criticism of these amendments since the bill was introduced; yet, the government never clarified or corrected the opposition on this point. It is well known that when midwives admit patients to the hospital, they provide care to the client throughout the birthing process. In fact, they

⁶³ *Supra* note 38 at 802 (Erin Selby).

⁶⁴ *Supra* note 40 at 635 (Andrew Swan).

⁶⁵ *Ibid* at 635 (Erin Selby).

⁶⁶ *Supra* note 40 at 637 (Cameron Friesen).

⁶⁷ *Ibid*.

are the primary care provider while in the hospital and in the community. It is unfortunate the government didn't refer to the midwife model to quash the opposition's argument on this point.

An area for debate that Mr. Friesen could have addressed was in regards to the nurse practitioners' educational preparation to admit and treat patients within the hospital setting. In general, the focus of nurse practitioner education is in primary care and delivering health services in the community. A valid argument could be made whether nurse practitioners have received sufficient education that would allow them to admit and treat patients in the hospital setting. As commented on earlier, nurse practitioners were introduced in Manitoba to meet a need in the provision of health services in the community setting. However, suggesting that nurse practitioners do not have sufficient knowledge to adapt to this additional role could result in serious negative reaction from the health care community.

Jon Gerrard also spoke to the bill to say that he was supportive of the legislation.⁶⁸ The bill was then voted on and was unanimously passed.

E. Outcome

On December 5, 2013, Bill 28 *The Health Services Insurance Amendment and Hospitals Amendment Act (Admitting Privileges)* received Royal Assent with the Act coming into force on a day to be fixed by proclamation. Work is currently being done on the *Hospitals Services Insurance and Administration Regulations* in order to implement Bill 28.

Proclamation of Bill 28 will not automatically provide nurse practitioners the right to admit patients to hospitals. The RHAs will still need to amend their medical by-laws to include nurse practitioners in the definition of medical staff (many RHAs already recognize midwives in their medical by-laws). After the by-laws are amended, nurse practitioners may then begin applying for admitting privileges. The Boards of the RHAs will continue to determine who will receive admitting privileges for their region.

VI. CONCLUSION

As suggested throughout this paper, the drive and need for Bill 28 is not evident and leaves one to speculate on the true purpose behind the bill. Healthcare is always a burning topic in political debates and a

⁶⁸ *Supra* note 40 at 638 (Jon Gerrard).

particular area of interest for the public during elections. Some might say that elections are won on the promises of lowering taxes and health care reform. A number of articles recently in the *Winnipeg Free Press* emphasize this point. One of the articles in particular highlighted the continued issues in the healthcare system with little to no improvements seen despite the provincial government's promises.⁶⁹

The amendments to the Acts may be stemmed more from a potential political gain rather than a real public need. Considering the lack of consultation and a full understanding of the impact of admitting privileges, it would support that Bill 28 is more of a strategic political tactic. During election campaigns the government can refer back to these changes to demonstrate the provincial government's commitment to meeting the health needs for all Manitobans.

The criticisms noted in this paper are not to suggest that midwives or nurse practitioners should not have admitting privileges. Both of these healthcare professional groups serve an important role in ensuring access to care for Manitobans. The criticisms are in relation to the lack of formal consultation, thorough review of the impact of amendments and the lack of knowledge to fully understand the effect of the amendments. The government states they are granting admitting privileges to these groups to increase access to care. However, midwives have had this ability from the very beginning of their ability to practice in Manitoba. As for nurse practitioners, they could have advocated for the granting of admitting privileges directly to the RHA board of directors and through the RHA bylaws, which are easier to change than statutes or regulations. At the end of the day with Bill 28 now passed and soon to be proclaimed, we are still left wondering what has really changed.

⁶⁹ Larry Kusch, "The doctor dilemma", *Winnipeg Free Press* (1 March 2014) online: *Winnipeg Free Press* <<http://www.winnipegfreepress.com/local/the-doctor-dilemma-247991771.html>>.

VII. APPENDIX A – COMPARISON OF ADMITTING PRIVILEGES FOR NURSE PRACTITIONERS (NPs) ACROSS CANADA

Province	Admitting Privileges Granted to NPs	When Granted	When Implemented	Legislation
BC	Yes	2011	Not implemented yet as health facilities are still determining how to best accommodate this change	The <i>Hospital Act</i> Regulation outlines the responsibilities of the governing body and medical staff, and requires that medical staff bylaws set out procedures to determine the responsibility for a patient's care. It also contains provisions relating to patient admission and discharge, and it states how long a hospital must retain various types of records.
AB	No			It is suggested that changes in legislation are anticipated but no information can be found at this time
SK	No			In accordance with The <i>Regional Health Services Act</i> every regional health authority and affiliate shall adopt

				bylaws governing practitioner staff.
ONT	Yes	2011	2012	Regulation 965 under the <i>Public Hospitals Act</i> specifies that the hospital's Medical Advisory Committee (MAC) can make recommendations to the hospital board regarding appointing and granting privileges to NPs who are not hospital employees.
Yukon	Yes	2012	The medical advisory boards are reluctant to allow NPs to admit and to date admitting privileges have not been implemented.	The <i>Registered Nurse Profession Regulation</i> states: Practice in hospital or facility subject to rules of the hospital or facility 2. A nurse practitioner may admit or discharge patients or other individuals to or from a hospital, institution, facility or program if (a) the operator of the hospital, institution, facility or program has granted admission and discharge privileges or authority to the nurse practitioner,

				and (b) the admission or discharge is made in accordance with the rules, policies and procedures of the operator of the hospital, institution, facility or program.
NT/NU	Yes	2009	NPs have not applied for admitting privileges and currently there are no policies in place to support NPs having admitting privileges.	Hospital and Health Care Facility Standards Regulations (Sept. 2009). Section 25(1). The regulations provide the Hospital's Board the ability to grant admitting/discharge privileges to NPs
NS	No			Currently, NPs cannot admit or discharge patients from hospital. According to the <i>Hospitals Act</i> , only a qualified medical practitioner (defined as a physician), a legally qualified dental practitioner, or a certified midwife have admission privileges for persons in need of hospital services. The Act is silent about discharge

				<p>privileges.</p> <p>Under the <i>Health Authorities Act</i>, each district health authority (DHA) is authorized to enact by-laws to deal with detailed matters concerning the running of hospital facilities, including who has discharge authority. These district by-laws do not identify NPs as health professionals who have this authority.</p>
PEI	Yes	2011	2011	Granted under Health PEI Medical Staff Bylaws
NFLD	Yes	2006	NPs cannot admit unless a physician signs off on client record. <i>As NPs cannot autonomously admit or discharge patients this change in legislation is not implemented.</i>	<i>The Act Respecting the Delivery of Health and Community Services and the Establishment of Regional Health Authorities</i> (2006) gives the authority to the Regional Health Authorities (RHAs) to make bylaws regarding medical privileges
NB	No			
QUE	No			
US	Varied by State			Based on data from the most recent NP survey of the

				American Academy of Nurse Practitioners (AANP), approximately 43 percent of the NPs in the United States have hospital privileges, and just over half of these have admitting privileges, meaning that they can admit patients from an office or outpatient setting to a hospital.
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