Extra-billing and queue-jumping are prohibited under the Commitment to the Future of Medicare Act, 2004 (CFMA)

The CFMA, particularly Part II, confirms Ontario’s commitment to the principles set out in the Canada Health Act. That is, Canadians should be able to access medically necessary health care based only on need and not on ability to pay. Specifically, it supports the prohibition of two-tier medicine, extra-billing and user fees for receipt of, or access to, insured health care services.

What are my obligations under the CFMA?
You should be aware that you cannot charge an insured person for the provision of, or access to, insured health care services. Violations of the CFMA are investigated by the ministry and anyone who contravenes the CFMA may be charged with an offence, and if convicted, subject to a fine. Physicians also have a mandatory obligation to report any incidences of suspected queue-jumping that they discover during the course of their professional duties.

What is extra-billing?
Extra-billing is any charge or benefit received by any person or entity for an insured service, in addition to the amount that is paid by the Ontario Health Insurance Plan (OHIP) which is prohibited under the CFMA. This means that you cannot charge a patient any amount for an insured service.

What about uninsured services?
While there is no specific or inclusive list of uninsured services, the Health Insurance Act (HIA), Regulation 552, Section 24, sets out what is not insured by OHIP. Simply put, if a service is listed in the Schedule of Benefits for Physician Services, it is insured and no charge can be made to the patient for the provision of that service. A common example of an uninsured service is a non-medically necessary service rendered in response to the request by a third party (like an insurance company, employer, university, etc.).

Many physicians or clinics offer their patients the option to pay a ‘block fee’ which covers a specified list of uninsured services over a specified period of time. Patients must not be forced to pay a block fee. In other words,
a patient must be permitted the option of paying on a per-use basis for uninsured services. Refusing access to a patient who does not pay a block fee is a violation of the CFMA.

For information and guidelines on charging for block fees, please see the College of Physicians and Surgeons (CPSO) website at www.cpso.on.ca. The CPSO’s policy on block fees is found in the ‘Policy’ section. A patient information sheet is also available on the site that you may find helpful in explaining these fees to your patients if you decide to charge a block fee.

**What is queue-jumping?**

Queue-jumping is requiring or accepting an amount or other benefit, in exchange for the provision of access to an insured service. Such payments and benefits for preferential access are in violation of the CFMA. An example that facilitates queue-jumping is requiring a patient to pay a fee to become a member of a clinic, or offering a patient an earlier appointment date for a test in return for payment (e.g. a donation).

Complaints of extra-billing or queue-jumping

The ministry investigates all complaints of extra-billing and queue-jumping.

The CFMA sets out the process under which the ministry can investigate a complaint. During an investigation, physicians must provide any information requested by the General Manager of OHIP (GM). The GM or the minister may suspend OHIP payments if a physician fails to provide such information.

When an investigation has found that a physician is in violation of the CFMA, he or she will be asked to reimburse the patient. If the physician refuses to reimburse the patient, the ministry will reimburse the patient and recover the money from the physician. In these cases, the physician is also subject to an administrative fee of $150 for each unauthorized payment received.

**What are the penalties under the CFMA?**

Individuals or corporations who contravene the CFMA can be subject to prosecution.

An individual who contravenes a provision of the CFMA, other than the requirement for mandatory reporting of queue-jumping, is guilty of an offence and liable to a fine not exceeding $10,000, if convicted. An individual who contravenes the CFMA requirement for mandatory reporting of queue-jumping is guilty of an offence and liable to a fine not exceeding $1,000, if convicted. A corporation that contravenes a provision of the CFMA, other than the requirement for mandatory reporting of queue-jumping, is guilty of an offence and liable to a fine not exceeding $25,000, if convicted. In addition, the court may order an individual or corporation so convicted to pay compensation or make restitution to any person who suffered a loss as a result of the offence.

**How can I ensure that I am in compliance with the CFMA?**

Review your obligations under the CFMA by reading it online at: www.search.e-laws.gov.on.ca/en/isysquery/00310de1-ee2b-4ef0-91f7-fc0ab0ddcf0a/3/doc/?search=browseStatutes&context=#hit1.

There are also topic specific INFOBulletins available on the ministry website that cover this topic. If you still have questions, you may call the ministry’s CFMA Program toll free at 1 888-662-6613 or send an email to CFMA.Program@ontario.ca.

This bulletin is a general summary provided for information purposes only. Physicians are directed to review the *Health Insurance Act*, Regulation 552, the Schedules under that regulation and the CMFA for the complete text of the provisions. You can access this information on-line at: www.e-laws.gov.on.ca/index.html. In the event of a conflict or inconsistency between this bulletin and the applicable legislation and/or regulation, the legislation and/or regulations prevail.