



**NEWFOUNDLAND AND LABRADOR  
MEDICAL ASSOCIATION**

**Physician's Guide  
to  
Billing Noninsured Services**

revised  
**2009**

## GENERAL

### **Definition of Noninsured Services**

Noninsured medical services are not covered by the Newfoundland Medical Care Plan (MCP) and may be charged directly to patients or other insurers at the discretion of the physician. A list of noninsured services is contained in the *MCP Payment Schedule Appendix F*. Physicians should, when possible, inform the patient or the person financially responsible about such charges prior to treatment and should make an appropriate record as required of the noninsured service(s) they provide.

### **Policy Statement on Third Party Requests and Noninsured Services**

1. Physicians have a professional responsibility to expeditiously assist patients in obtaining those benefits to which they are legitimately entitled.
2. Physicians are entitled to remuneration for the time and resources devoted to the provision of medical information to third parties and for providing any noninsured services.
3. Parties requesting medical information, reports or certificates are responsible for appropriate remuneration.
4. Third parties who request medical information about individuals must be clear as to why they require the information. Any disputes regarding the form should go through the NLMA.
5. When providing medical information, physicians should not be expected to judge whether the subject patient is eligible for the benefits provided by the third party.
6. Physicians should not be considered by third parties as a service deliverer when determining absenteeism.
7. In establishing fees for response to third party requests and for noninsured services, physicians are guided by, but not bound by, the *NLMA Guide to Billing Noninsured Services* and *Schedule of Fees*.
8. The NLMA will address inquiries regarding fees charged by physicians for these services and provide information regarding policies on noninsured services. However, it will not become involved in disputes between third parties and physicians.

### **Appropriate billing**

Noninsured services, including third-party requests and any associated services, cannot be billed to MCP.

## Preamble

This Guide provides a brief outline of noninsured services and suggested fees, with particular attention to third-party fees. **Note:** the majority of information provided to physicians in this Guide, unless otherwise specifically stated, does not apply to Workplace, Health & Safety Compensation Commission (WHSCC) claims. A separate agreement and fee structure has been negotiated between the NLMA and WHSCC.

Physicians are often called upon by the Crown to provide their medical expertise. A separate agreement and fee structure has been negotiated between the NLMA and Treasury Board on behalf of the Department of Justice (e.g. autopsy rates, court appearance).

The *NLMA Schedule of Fees* listing for consultations and visits, diagnostic and therapeutic procedures, surgical procedures and laboratory medicine is no longer in effect. For ease of reference, noninsured rates should be calculated using the MCP payment schedule as a template. To reflect noninsured rates, the MCP levels should be increased by 80% (i.e. current MCP rate x 80% = NLMA N.I.)

For billing purposes and distinction between insured and noninsured services, existing MCP fee codes should be used, and prefaced with '**NI**' to indicate a noninsured service

Below are some examples:

- NI 121 - Partial Assessment provided by a general practitioner**
- NI 56000 - Electrocardiogram**
- NI 96220 - Appendectomy**

Specialist consultation rates are exempt from this calculation. The recommended rate for any specialty consultation is \$175.

Questions regarding billing for noninsured services should be directed to the Department of Health Policy & Economics at the NLMA office.

## Hourly rate

The suggested minimum hourly rate of \$280 may be billed as an alternative to itemized fees for services.

## Ethics of direct billing

The Canadian Medical Association (CMA) principles of ethical behaviour encourage physicians to be ".....responsible in setting a value on services."

### **CMA Code of Ethics**

An ethical physician:

*"Will practice in a fashion that is above reproach and will take neither physical, emotional, nor financial advantage of the patient."*

*"When acting on behalf of a third party, will ensure that the patient understands the physician's legal responsibility to the third party before proceeding with the examination."*

*"Will, upon a patient's request, supply the information that is required to enable the patient to receive any benefits to which the patient may be entitled."*

*"Will consider, in determining professional fees, both the nature of the service provided and the ability of the patient to pay, and will be prepared to discuss the fee with the patient."*

## FEES FOR SERVICES

Establish your professional fee with guidance from this Guide. The *NLMA Physician's Guide to Billing Noninsured Services* should be used in conjunction with the MCP payment schedule (for procedural fees). You should refer to the Preamble for billing information.

The fees listed in this Guide are suggested minimum fees and may be adjusted accordingly.

Your fees should appropriately reflect:

- the service provided
- your time
- your expertise
- your practice needs
- the patient's ability to pay

A physician has the option of billing the hourly rate for medical procedures by determining the time required to provide the medical service or choose to use the procedural fee codes.

## TRANSFER OF RECORDS

### **Transfer of medical records between physicians**

A base fee of \$25 is applicable and photocopying charges apply for files in excess of 10 pages at 25¢/page. This fee does not cover summary of the patient's chart that can be billed using the hourly rate.

It is suggested that you inform your patient of the impending fee that may be charged.

## **SUGGESTIONS FOR BILLING**

(See separate section for Medical/Legal billing)

### **Efficiency from billing to collecting**

- Establish an office policy and procedure for direct billing (use this Guide for direction).
- Determine who is exempt from direct billing such as senior citizens or low-income patients.
- Develop flexible procedures to adapt to the unexpected.
- Keep staff informed about direct billing policies.
- Maintain up-do-date accounts with good bookkeeping.
- Develop and maintain collection procedures - collect payment at point of service as often as possible.

Follow up by phone with patients and agencies who do not pay for your services. If collection action is necessary, your options include hiring a reputable collection agency (most effective if done within 120 days) or by taking small claims action by filing a summons at provincial court.

Consider accepting credit card payment for your services. Contact your bank for start-up and operating information.

Staff training programs on account billing and follow-up are available by contacting the Program Director, MD Management Limited, at 1-800-565-1771.

### **Inform your patients**

When booking an appointment, the receptionist or office manager should inform the patient if the service is noninsured. Display the noninsured services poster provided by the NLMA to remind patients that they will be billed for noninsured services.

### **Always discuss and agree upon a fee BEFORE providing the service**

Physicians may request, but should not demand, payment in advance for professional services. In purely elective situations, a physician may refuse service in the absence of advance commitment for payment.

Develop a patient information sheet using the NLMA's suggested guidelines and adapt it to your practice. Your staff may update services and fees as needed. Patients appreciate having a record about the following information:

- office hours and contact information
- brief description that not all services are insured by MCP and therefore patients will be billed directly for noninsured services
- services and fees for which patients will be billed
- procedures for third-party claim forms
- reminder that their physician will discuss fees with patients before providing a noninsured service and the method of payment

## COLLECTING ACCOUNTS

While a payment plan encourages payment from your patients, you must have an organized system to successfully collect.

Accounts should normally be billed on a 30/60/90 day cycle. If payments are not being made, letters and telephone calls by staff should be used to prompt patients into paying.

The staff person making the telephone call should ask if the payment was made. If not, a verbal commitment to pay should be obtained. The staff member should restate the commitment by telling the patient you would be expecting payment by the date promised.

Because it is easy to forget what was said during a busy day, written records of the calls should be kept.

Staff training programs for account billing and follow-up are available by contacting the **Practice Solutions Hotline at 1-800-361-9151**.

## Sample collection letters

### First reminder

*Dear (Patient name):*

*Your payment of '\$x' has not been received by our office. If there is an error in your statement, please call me so that we can correct it. If not, please send your cheque today so we can keep your account up to date.*

*Yours truly,*

*(Signature of staff member responsible for billing)*

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### Second reminder

*Dear (Patient name):*

*Payment for your bill of '\$x' is now ( ) weeks past due. If there is some problem, call me today so we can discuss it. If not, please send your cheque so we can keep your account current and avoid collection action.*

*Yours truly,*

*(Signature of staff member responsible for billing)*

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### Final reminder

*Dear (Patient name):*

*This is our third attempt to help you settle your past-due account of '\$x'.*

*Please call this office within 10 days so that we can agree on a plan to settle your account. If not, we will have to turn it over to a collection agency.*

*Yours truly,*

*(Signature of physician)*

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A copy of the patient's account statement should be included with each letter. While specifying dates of past correspondence in the final letter is optional, you should keep file copies of all letters and telephone logs. This provides you with an accurate record of past efforts and will be helpful to a collection agency should you need to use one.

You may wish to send your final reminder via registered mail to ensure the patient receives it.





## GUIDELINES FOR MEDICAL-LEGAL REPORTS

### **Introduction**

The Newfoundland and Labrador Medical Association and the Law Society of Newfoundland developed the guidelines contained in this section of the Noninsured Guide. The guidelines include a fee structure for medical-legal services by physicians, information for lawyers and physicians concerning requests for and preparation of medical-legal reports, and times for preparation of reports and payment for services. A glossary of terms is included at the end of this section.

The guidelines are recommendations only and are not imposed upon members of the NLMA or the Law Society. It is recommended that lawyers and physicians determine at the outset of their relationship whether they agree to be governed by the guidelines and, if not, what terms will instead govern the relationship. It is not considered ethical to request payment before a service is provided.

In the unlikely event of disagreements arising under these guidelines, the guidelines provide for a hearing by a Dispute Resolution Committee. Information about the committee and its mandate is included at the end of this section.

### **Fees**

The following fees apply to all medical-legal services performed by physicians for members of the Law Society and are subject to revision by the Law Society and the NLMA. Agreement on any change in fees will be communicated to both professions. The fees are based on an hourly noninsured rate of \$280.

#### **Report by letter**

minimum charge of \$70.00 for up to 15 minutes

#### **Court appearance**

minimum billable time - 2 hours

Minimum 2-hour fee for cancellation without 24 hours notice when scheduling during office hours, designated clinic and/or operating time. A cancellation fee may only be charged if there has been a sacrifice of office hours, designated hospital clinic time or operating room schedule.

### **Appropriateness of Fees**

The time spent should be taken into account when establishing a fee for medical-legal report.

The physician must, on request, provide a rationale for the fee charged.

A physician should not charge for a follow-up request to a medical-legal report where the information was requested in the first instance.

### **Prompt Payment of Fees**

The lawyer should pay the physician's fee within 30 days of receiving the report unless the lawyer indicates, in writing, when the report is requested, that he/she is not prepared to meet this obligation. Where satisfactory arrangements for payment of fees are not in place, the physician is not obligated to prepare the report.

It is not appropriate for a lawyer to deny responsibility for payment of the physician's fee or to make payment contingent on the litigation. The lawyer should make necessary arrangements with the client/patient for payment of the physician's fee.

It is not appropriate for a physician to demand a fee in advance, except in exceptional circumstances.

It is not appropriate for a physician to charge a fee for a copy of file material over and above a reasonable charge to photocopy the material.

### **Scheduling**

When scheduling discoveries, a lawyer should make every effort to accommodate the physician's office hours, hospital clinics and operating room schedules. It is recognized that the legal profession has no control over court schedules that may conflict with a physician's office or hospital schedule.

A physician who attends an interview, discovery or trial at the request of a lawyer or by Court Order is entitled to expect payment of any fees within 30 days of the attendance.

The amount of time spent should be taken into account when establishing a fee for an attendance.

It is not appropriate for a physician to demand a fee in advance except in exceptional circumstances.

The lawyer must inform the physician as soon as possible concerning attendances, adjournments and cancellations and should inquire as to any cancellation fees.

The physician must, on request, disclose the method of calculating a cancellation fee, if one is charged.

The lawyer should meet with a physician to prepare evidence for discovery or trial on behalf of the patient.

### **Direction and Disclosure**

The lawyer should provide the physician with clear and direct written instructions on the matters to be addressed by the physician in the medical-legal report. The letter of request from the lawyer should follow the guidelines set out in Schedule 'A'.

The lawyer should fully inform the physician of all available medical information concerning the injuries sustained by the client/patient.

The physician should ensure the medical-legal report answers all the questions posed by the lawyer and can be easily understood by a non-physician.

If possible, the medical-legal report should be typewritten.

A medical-legal report by the physician can follow the guidelines in Schedule 'B'.

### **Confidentiality**

The lawyer should provide the physician with adequate written consent from the patient, spouse, parent, guardian or next of kin.

### **Obligation to Provide a Prompt Report**

A report requested by a patient or authorized agent in respect of any examination or treatment performed by the physician, should be provided by the physician within 30 days of receiving the request. If this is not possible, the physician should, within that period of time, advise the requesting party of the reasons why the report cannot be completed in that time.

### **Schedule 'A'**

**A letter of request by a lawyer for a medical-legal report should include the following:**

1. Identification of client/patient and nature of matter, e.g. car accident, work injury.
2. Authorization sufficient to cover the report requested.
3. Brief relevant history of events surrounding treatment.
4. Nature of request - if not treating, attach all relevant prior medical reports.
5. Request that the response be according to an attached outline and/or that the physician respond to a list of specific questions.
6. Request for a CV.
7. Undertaking to pay fees for report within 30 days of receipt or advise of alternate payment proposal (failure to agree otherwise will obligate the lawyer to pay within 30 days).

### **Schedule 'B'**

**Outline for a medical-legal report by the physician:**

1. Your qualifications or copy of CV (if not previously submitted with an earlier report dealing with this patient).
2. The patient's name (preferably as stated in the pleadings).
3. Date, place and reason for the examination.
4. Other reports and material reviewed.
5. History as related by the patient:
  - a) The patient's version of what he/she believes caused the condition (i.e. mechanics of the injury - how it was caused, not who was at fault).
  - b) A complete list of the injuries or conditions complained of by the patient (whether these seem significant and relevant or not and whether the patient has recovered or not). If consulted as a specialist, confine yourself, if you think appropriate, to matter relevant to the topics to be reported on.
6. Whether or not the patient's items of complaint are supported by, or corroborated by, your findings (physical findings and investigations).

7. Diagnosis:
  - a) A description of diagnostic procedures undertaken by you or by others with respect to each symptom or condition.
  - b) Your conclusions.
8. Causal connection with the accident - consider and give your professional opinion on the precipitating factor or 'cause' of the patient's condition. The court must know if the injury or condition for which damages are claimed was probably caused, aggravated, or accelerated by the accidents or events complained of.
9. Treatment:
  - a) The treatment you recommended for symptom 'A', for symptom 'B', etc.
  - b) Whether or not your recommended treatment has been followed. If not, why not, and the probable result of not having followed the recommended treatment.
10. Degree of disability:
  - a) The extent of impairment of function at the time of your examination. Disability may be defined as an alteration of an individual's capacity to meet personal, social or occupational demands, or statutory or regulatory requirements because of impairment. Permanent disability occurs when the degree of capacity becomes static or well stabilized and is not likely to increase despite continued use of medical or rehabilitative measures. Disability may be caused by medical impairment or non-medical factors (*American Medical Association Guides, 4th edition*).
  - b) The pain, suffering, inconvenience and discomfort which you would expect (i) the patient has suffered and (ii) will, or will not, probably suffer in the future.
  - c) In certain cases it is possible to allocate a percentage disability according to guidelines provided by the American Medical Association or Workplace, Health, Safety and Compensation Commission (WHSCC). However, in many circumstances, it is difficult or impossible to allocate a percentage of disability.
11. Prognosis: (may require additional assessment, e.g. work skills, education, etc.)
  - a) Your opinion as to the probability of future recovery.
  - b) Your opinion as to the probable nature of permanent impairment.
  - c) The probable time within which maximum recovery can be expected.
  - d) Having regard to the individual and his/her personal activities, the extent to which these activities should or will be curtailed.

**Note:** Avoid throughout your report vague expressions such as 'it is possible that'. However, terms like 'medically probable' and 'medically possible' can be used (see glossary for definitions of these and other terms). Use technical terms throughout for precision and then follow these with a description in lay language.

### **Dispute Resolution Committee**

The Law Society of Newfoundland and the Newfoundland and Labrador Medical Association have formed a Dispute Resolution Committee consisting of three members who shall be appointed for an initial period of three years. Issues presented to the committee will require mutual consent and the opinion of the committee is non-binding.

The committee shall consist of:

- a nominee of the Law Society of Newfoundland;
- a nominee of the Newfoundland and Labrador Medical Association; and,
- an independent chair mutually agreed upon by the two nominees of the professions.

The committee will consider disputes in relation to issues such as:

- alleged non-reporting or inadequate reporting by a physician respecting a request for a medical-legal report;
- assessment of individual accounts for a medical-legal report provided by a physician;
- assessment of individual accounts for attendance by a physician in court or at discovery;
- alleged failure to make timely payment of an account submitted by a physician to a lawyer for a medical-legal report or for attendance in court or at a discovery; and,
- alleged lack of professional courtesy involving interaction between a physician and a lawyer.

The affected lawyer or physician will be asked to provide written consent for the Dispute Resolution Committee to proceed with its review and agree to provide any related and relevant correspondence or reports. The affected parties will be informed in writing of the committee's decision immediately following a review of the circumstances of the dispute. The committee may undertake its investigation through written submissions by the parties but will provide an opportunity for affected parties to be heard, should they wish to make oral submission regarding the dispute.

## Suggested letter style to confirm arrangements with a lawyer in advance

*Date*

*Dear:*

*Re: Patient 'x'*

*As discussed on (date), your request for a (e.g. report) for (patient's name) has been received in our office on (date), I anticipate that completion of your request will be by (date). My fee for this will be '\$x'. Other associated costs that may be incurred are listed below:*

<i>Court time per hour</i>	<i> '\$x'</i>
<i>Waiting and/or travel time</i>	<i> '\$x'</i>
<i>Photocopying (per page)</i>	<i> '\$x'</i>

*My payment schedule for the above services is as follows:*

- payment for the above services will be expected within 30 days of receipt of the completed request (unless unusual circumstances are identified and agreed upon in advance)*
- in the event that payment is not received on time, an additional x% will be added each month for overdue accounts.*

*Please acknowledge your acceptance of the stated fees and payment schedule by signing a copy of this request and returning it by mail or fax.*

*Yours truly,*

*Dr. ( )*



## Glossary

**Aggravation** - a stimulus capable of worsening the 'status quo' of a susceptible entity or condition. The concept of aggravation must be considered as either temporary (self-limited aggravation) or permanent (substantive aggravation).

**Cause** - an agent, circumstance or event, which is capable of producing a new effect or aggravating an ongoing (pre-existing) effect.

**Court order** - a written direction from a judge.

**Discovery** - disclosure by a party to an action, at the other party's instance, of facts or documents relevant to a lawsuit. Where a physician attends at a discovery, he/she will respond under oath to questions posed by the opposing lawyer in the lawsuit. Evidence given will be recorded and a transcription may be prepared for use at trial.

**Effect** - a diagnosis, status, function, condition or impairment, which can result from, or be aggravated by a cause.

**Litigation** - the process of carrying on lawsuits or a specific lawsuit.

**Medically possible** - the notion that it is less likely than not that something is true from a medical standpoint. In other words, the particular effect could be due to a particular cause, but it is not more than 50% possible.

**Medically probable** - a notation that is more probable than not that something is true, from a medical standpoint. In other words, that a particular effect could be due to a particular cause is greater than 50% probable.

**Pleadings** - a document containing the written allegations of fact that each party is required to communicate to the opponent before trial, so that each will know what contentions must be met by the evidence.

### **Questions**

Any questions regarding billing for noninsured services should be directed to the Department of Health Policy & Economics at the NLMA office: (709) 726-7424, ext. 313 or toll-free 1-800-563-2003 or by fax (709) 726-7456.

### **Copies**

Copies of the NLMA Physician's Guide to Billing Noninsured Services may be obtained by contacting the Membership Department at the NLMA office (709) 726-7424 or toll-free 1-800-563-2003 or fax your request (709) 726-7525.





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