



The President's Letter

Dr. Noel W. Grisdale



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February 4, 2009

Dear Member:

This morning, Alberta Medical Association (AMA) President-Elect Dr. Christopher J. (Chip) Doig is appearing before the Standing Committee on Health, an all-party committee of the Alberta Legislative Assembly. The AMA was invited to attend this meeting to make a presentation and – in my unavoidable absence – will be ably represented by Dr. Doig along with Executive Director Michael A. Gormley and other senior AMA staff.

The purpose of our presentation is to raise the AMA's intense concern with respect to Bill 52, the *Health Information Amendment Act, 2008*. This bill was tabled in the fall sitting of the legislature and sent to the standing committee for review. It is expected to be reintroduced with a new bill number – and expedited – in the spring session beginning later this month.

We have many issues with this legislation, but the key concern is that, if passed in its current form, the bill gives the minister of health the ability to compel physicians to provide patient information to the provincial electronic health record (EHR). For the first time, information from within our offices would be included, i.e., some or potentially all of what we store in our electronic medical records. Penalties for non-compliance range from \$200,000 to \$500,000.

If Bill 52 goes ahead in its current form, the AMA sees two very probable, negative outcomes:

1. If our patients don't believe we can protect their privacy and that we may be forced to share the information that they confide in us, they will stop telling us everything we need to know to make the right diagnosis and provide the right care.
2. If we as physicians are afraid that we will be forced to share that information, we may turn our backs on technology and return to paper records, or begin keeping hidden records or not recording everything we hear.

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In either case, patient care would suffer.

The submission we have prepared to present to government today makes it very clear that the AMA does not oppose electronic information sharing, if it is done appropriately!

Bill 52, however, completely fails to find a balance between allowing the right amount of health information to flow in the right way at the right time – and protecting the patient's fundamental right to privacy and the confidentiality of the doctor-patient relationship.

Bill 52 is bad policy and bad legislation. Instead of planning for consultation and balanced decision making involving physicians and other health professionals (as well as the public), Bill 52 says the minister can unilaterally decide what information shall be available on the EHR, who can view it and for what purposes.

Additionally, other amendments would mean that when patient information passes through the EHR – either the EHR we have today or any other systems that may eventually be added or linked to it – that information is “used” and not “disclosed.” The difference between “use” and “disclosure” is that “use” carries no requirement for government to consider the expressed wishes of the patient, to mask information or make audit logs available so patients can learn who has viewed their information and why.

At the November 28 news conference to announce reaching the 2008-11 financial agreement that members have now ratified, I spoke about Bill 52. I said that “if government wants to move ahead with a provincial electronic health record, the storage and use of patient health information may well be the signature health care issue in Alberta over the next few months.” It appears that prediction is proving only too true.

Government does NOT need Bill 52 for the EHR to grow and advance – and the result of Bill 52 may be the opposite of what it hoped to achieve in the first place.

I will write again soon to tell you of the response Dr. Doig and our delegation receive at the standing committee today – and let you know about next steps for the AMA. We have been told that public input about Bill 52 will be sought, beginning mid-February.

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In the meantime, you can find the AMA submission on the website, go to [www.albertadoctors.org/Bill 52/AMASubmission](http://www.albertadoctors.org/Bill%2052/AMASubmission). Your comments and suggestions are welcome as we respond to this all-important issue in the pursuit of Patients First[®].

Yours truly,

Noel W. Grisdale, MD, CCFP
President

P.S. On January 28, Past President Dr. Brendan J. Bunting represented the AMA at a Bill 52 panel discussion at the University of Alberta, hosted by the Health Law Institute. Panelists included: Dr. Trevor W. Theman, Registrar, College of Physicians and Surgeons of Alberta; Frank J. Work, QC, Alberta Information and Privacy Commissioner; and Wendy L. Armstrong, Consumers' Association of Canada. Dr. Bunting's speaking notes are posted with the AMA submission on the website.