

# Modernizing the Canada Health Act

Colleen M. Flood



UNIVERSITÉ D'OTTAWA  
CENTRE DE  
**Droit, politique  
et éthique de la santé**

UNIVERSITY OF OTTAWA  
CENTRE FOR  
**Health Law,  
Policy and Ethics**



THE BUCK PAUSES, BUT  
DOES NOT ACTUALLY  
STOP HERE.

© VLEW

# The Irrationality of What We Fund

CBCnews | Health

Home World Canada Politics Business **Health** Arts & Entertainment Technology & Science Trending Video

Health Rate My Hospital

## Diabetes death risk rises for low-income Ontarians under 65

Up to 5,000 deaths, 2,700 heart attacks or strokes could have been avoided, ICES study says

CBC News Posted: Aug 13, 2012 4:05 PM ET | Last Updated: Aug 13, 2012 6:19 PM ET



The cost of more effective drug regimens for diabetes has risen considerably over the past decade, says a new Ontario study released Monday by the Institute for Clinical Evaluative Sciences (ICES). (Sajjad Hussain/AFP/Getty Images)

### Stay Connected with CBC News



### Top News Headlines



■ Jean Lapierre, former federal cabinet minister, among 7 killed in plane crash

- 'None of my children saw 10 years,' says mother of children killed by drunk driver  158
- Cuban capitalism an oxymoron no more  413
- How Jian Ghomeshi's acquittal will affect his trial in June
- CBC Forum: Do you agree with the sentence given to Marco Muzzo?

# The Irrationality of What We Do Now

Choices are (arguably) a function of:

1. Calcifying laws including the CHA which has become a ceiling rather than a floor for universality
2. Accidents of history and long-held accommodations between governments and the medical profession; and
3. The result of turf protection and lobbying by different stakeholders and interest groups.

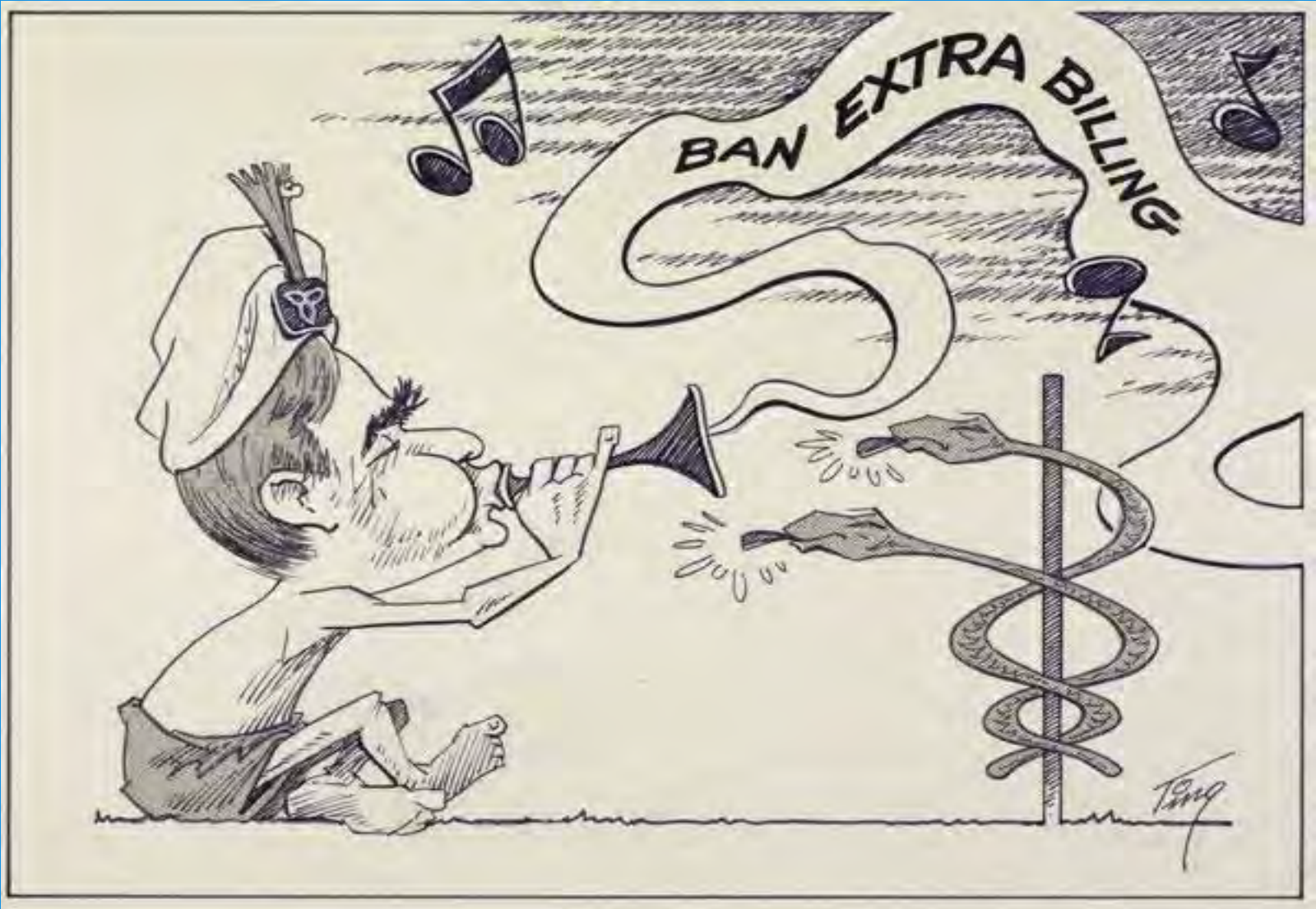
Choices should be a function of fair process that weighs amongst other things:

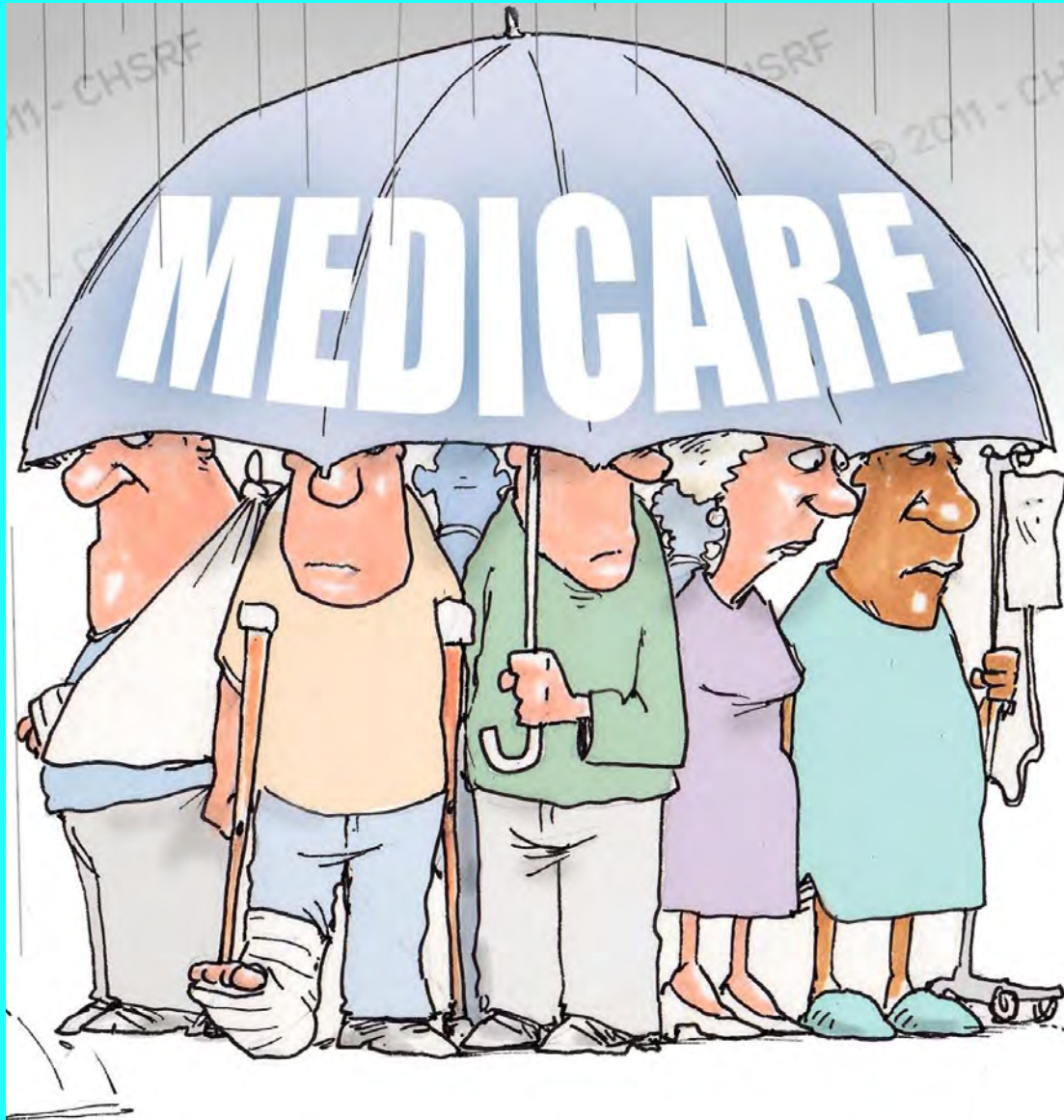
1. Values including respect for minority rights as required by the Canadian Charter of Rights and Freedoms;
2. Available resources; and
3. Information regarding relative costs and health benefits

# How we got here....



# Problem of Extra-Billing Emerges...





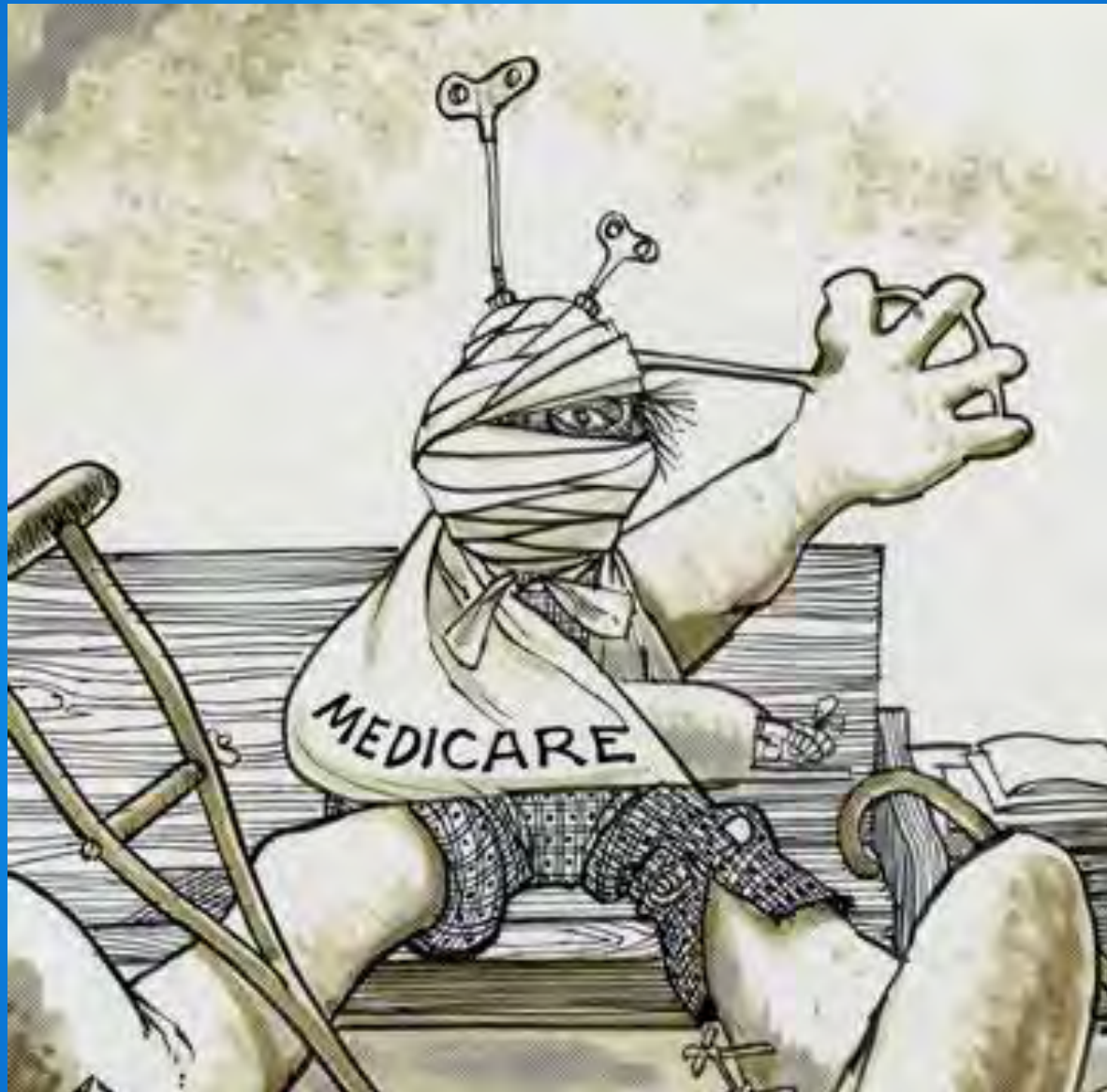
DOLISHAN  
dolighan.com

# The Canada Health Act Becomes a Floor Rather Than A Ceiling for Universality

- Justice Emmett Hall writes in the 1964 *Royal Commission on Health Services Report* that, “prescribed drugs should be introduced as a benefit,” as “an early objective of the Canadian Parliament.”
- 2016-1964 = 52 years



**fair**<sup>1</sup> ► **adjective** **1** the courts were extremely equitable, honest, upright, honest, impartial, unbiased, unprejudiced, neutral, even-handed: lawfully



# Canada Health Act for 2050: A Fair Process

Reform must be respectful of differing provincial needs and resources but will require provinces to establish:

- (1) an arm's length body tasked with prioritizing services;
- (2) there should be opportunities for individuals to make the case for funding particular treatments;
- (3) reasons should be provided (and thus the basis for choices to fund or not fund will be transparent);
- (4) and there should be the possibility of appeal.

# Canada Health Act for 2015: A Fair Array

The CHA should mandate provinces have a fair process to select a basket of insured services that are universal for their respective population from a broad range of possibilities including physician services, hospital services, mental health services, pharmaceuticals, dental care, home and community care.

# Sustainability Worries: A Fair Array

The CHA should be changed to acknowledge that **not all services** of any value will be funded but that citizens should expect that a broad range of important services will be publicly-funded and that these determinations will be made on the basis of a fair and open process.

# Canada Health Act for 2050: Arms-Length Monitoring & Enforcement

The CHA should bind the **Federal government to put in place an arms-length process to monitor** what services are publicly funded across different provinces and to make this information available to Canadians on a central website/social media, so that differences between provinces can be monitored over time.

# Sustainability Worries

Public funding of a more rational set of services will allow better integration and save on public expenditures for more expensive kinds of care

Single public payer will be better able to negotiate prices for a broader range of care – provided they are able to say no to things that don't work

A new governance framework will better empower governments in negotiations with physicians, for example – prices/tariffs will need to come down in order for some services to stay in the publicly-funded basket.



**BIG PHARMA**

**PHARMAC**  
Pharmaceutical Management Agency





NEW WAY

HEALTHCARE