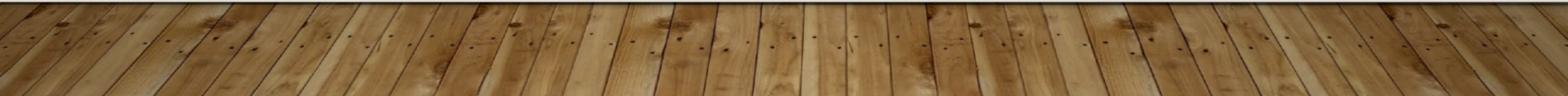


PRESENTATION TO WHISTLEBLOWER LEGISLATION REVIEW COMMITTEE

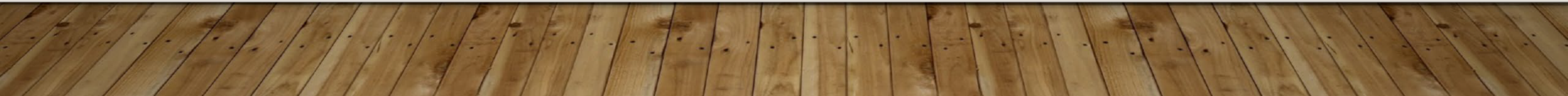
DR. JOHN T. HUANG M.D., FRCSC



Employee Fact Sheet

THE PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER PROTECTION) ACT (PIDA)

What Employees of the Alberta Public Service Need to
Know About Making a Disclosure of Wrongdoing or
Complaint of Reprisal



“ PIDA gives employees of government institutions a clear process for disclosing concerns about wrongdoing in the APS, and provides protection from reprisal. “

“The following are wrongdoings under PIDA:

- ☐ a contravention of a federal or provincial Act or Regulation
- ☐ an act or omission that creates a substantial and specific danger to the life, health or safety of individuals, not including dangers inherent to the employee's job
- ☐ an act of omission that creates a substantial or specific danger to the environment;
- ☐ gross mismanagement of
 - public funds or a public asset
 - the delivery of a public service, or
 - employees, or
- ☐ knowingly directing or counselling someone to commit any wrongdoing described above. “

WHO AM I? MY BACKGROUND

RS-PIDA2020-020

Education:

MD- University of Alberta, 1987

2nd Year Prelicensure, General Practice- University of Alberta, 1989

Ophthalmology Residency- University of Alberta, 1993

Current Practice:

Comprehensive Ophthalmologist, Calgary, AB 1994- present

Member, Division of Ophthalmology, Department of Surgery, University of Calgary

Current Educational and Administrative Duties:

Director, Undergraduate Medical Education, Division of Ophthalmology, Calgary

Chair, Manpower Committee, Division of Ophthalmology, Calgary.

Clinical Associate Professor, Division of Ophthalmology, Dept. of Surgery, University of Calgary

Member, Residency Program Committee, Ophthalmology, University of Calgary

Past President, Board, Eye Physicians and Surgeons Association of Alberta (EPSAA)

Past Volunteer Leadership Roles:

Section Representative, Ophthalmology, Representative Forum (RF), AMA

President, Eye Physicians and Surgeons Association of Alberta (EPSAA)

Representative Forum delegate for Calgary Health Region Staff

Chair, Government Affairs Committee, AMA RF

Member, Physician Action Group, AMA RF

Current roles in Charity Organizations:

Board member of International Vision Organization

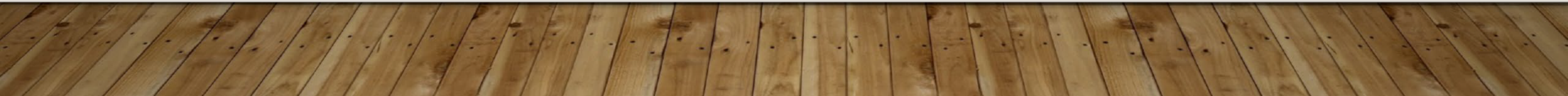
Board member of Calgary Eye Foundation of Calgary

WHAT I CAN AND CANNOT DO IN MY PRESENTATION

- I am not a legislative specialist or legal counsel and cannot offer any advice on how to change legislation.
- I can offer my experience and observations on how to improve the transparency and honesty in the medical expenditures in the expenses of the Government of Alberta.
- Approximately 11,000 physicians **account for a \$5.4 billion budget that represents about 10% of the entire Alberta government's expenditures.**
- The majority of physicians work hard and are honest.
- Unfortunately, there are a number to whom a modified whistleblower system could be applied.

THE CURRENT WHISTLEBLOWER MECHANISM IN ALBERTA HEALTH SERVICES IS NOT USER FRIENDLY

- What follows is the series of pages anyone who wants to file a concern as a whistleblower must do.
- They must look up the Alberta Health Services Website.
- Once they get to the final panel there is a one sentence reference on how to express a concern.
- There is no description of process or how to file a concern or how the concern will be processed or how the confidentiality of the whistleblower will be protected or what if anything will be done if wrongdoing is found.
- This **MUST CHANGE** if there is a desire for engagement.



Schedule of Medical Benefits

Schedule of Medical Benefits (SOMB) is the fee schedule and list of medical benefits insured under the Alberta Health Care Insurance Plan.

Effective March 31, 2020

Medical Benefits

- [Medical Benefits Price List](#)
- [Medical Benefits Procedure List](#)
- [Medical Governing Rules](#)

Codes and definitions

- [Explanatory Codes](#)
- [Fee Modifier Definitions](#)

Anaesthetic rates

- [Dental Services – Price List](#)
- [Dental Services – Procedure List](#)
- [Podiatric Surgery – Price List](#)
- [Podiatric Surgery – Procedure List](#)
- [Podiatry Services – Price List](#)
- [Podiatry Services – Procedure List](#)

SOMB archive

- [Schedule of Medical Benefits effective October 1, 2019](#)
- [Schedule of Medical Benefits effective November 1, 2018, amended January 21, 2019](#)
- [Schedule of Medical Benefits effective November 1, 2018](#)
- [Schedule of Medical Benefits effective April 1, 2017](#)
- [Schedule of Medical Benefits effective January 1, 2017](#)
- [Schedule of Medical Benefits effective October 1, 2016](#)
- [Schedule of Medical Benefits effective April 1, 2016](#)

Allied health schedules of benefits

Four allied health providers – oral and maxillofacial surgery, optometry, podiatry and podiatric surgery – have insured services covered under the Alberta Health Care Insurance Plan.

- [Schedule of Podiatry Benefits](#)
- [Schedule of Podiatric Surgery Benefits](#)
- [Schedule of Optometric Benefits](#)
- [Schedule of Oral and Maxillofacial Surgery Benefits](#)

Fee resources

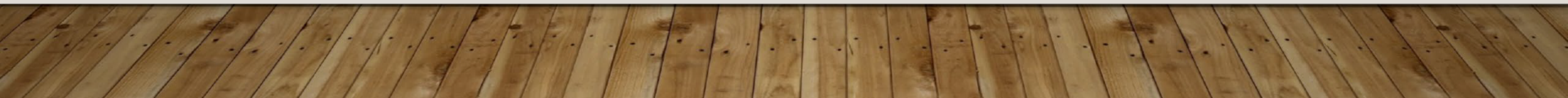
- [Allied Health Practitioner's Resource Guide](#)
- [Annual Care Plan template](#) (PDF, 284 KB)
- [Diagnostic Code Supplement \(ICD-9\)](#)
- [Facility Listing – numbers and functional centre codes, claim submission requirements](#)
- [Pharmacy Services Compensation Plan](#)
- [Physician's Resource Guide](#)

Rural Remote Northern Program

The Rural Remote Northern Program (RRNP) compensates physicians who practice in under-serviced areas in Alberta.

The RRNP has 2 financial components:

- flat fee payment – paid to physicians who practice and reside in an eligible community
- variable fee premium – paid to physicians who provide services in an eligible community, whether or not they reside in an eligible community



RRNP documents

- [RRNP Flat Fee cover letter](#) October 2009 (PDF, 36 KB)
- [RRNP Flat Fee Application Form](#) (PDF, 81 KB)
- [RRNP Eligible Community Rate Table](#)

The RRNP helps in the recruitment and retention of physicians to under serviced areas/communities in Alberta. RRNP has been part of the clinical stabilization initiative since September 2007.

Billing concerns

For billing concerns, contact the Alberta Health Care Insurance Plan office:

Email: health.ahcipmail@gov.ab.ca

Suspected billing abuse

To report suspected billing abuse, contact the Ministry of Health's compliance and monitoring branch:

Email: mibranch@gov.ab.ca

THERE ARE TWO TYPES OF POTENTIAL MISCONDUCT

- **A) fraudulent billings-** this relies on someone with direct knowledge of wrongdoing and reporting that wrongdoing- see previous panels on user unfriendly system at **Alberta Health Website**.
- **B) Looking at data on billing trends and investigate suspicious trends and collating the PRACIDS associated with the suspicious trends and then investigation of the suspicious increases in billing. (PRACIDS are unique billing numbers assigned to specific health care practitioners).**
- **This is actually done as a consequence of prior agreements between the Alberta Medical Association (AMA)and the Government of Alberta (GOA)**
- **The problem is that even once it is conclusively shown there is probable improper conduct, the only action are “educational circulars” are sent out and no other actions are taken.**

WHAT NEEDS TO CHANGE

- An investigation by Alberta Health must be expanded beyond educational circulars and direct investigation of the PRACIDS linked to suspect activity.
- If Alberta Health finds wrongdoing then meaningful financial sanctions via the Whistleblower legislation should be implemented.
- Reporting to the College of Physicians and Surgeons of Alberta should be automatic if wrongdoing is confirmed.
- Perhaps Whistleblower legislation be changed to treat improper billings that are over \$5,000 as matters appropriate to refer to the Ministry of Justice as possible infractions under Section 380(1) of the Criminal Code of Canada?

ARE THERE REAL LIFE EXAMPLES OF THE PROCESS OF IDENTIFYING SUSPICIOUS TRENDS AND THEN NO MEANINGFUL ACTIONS OCCURRING?

- Yes
- **What follows are three examples of suspicious trends identified by Alberta Health and then reported to the Alberta Medical Association (AMA) PEER REVIEW COMMITTEE (PRC).**
- **The AMA then asked for review of each case by the specialty involved (Ophthalmology) of which I was then Section Representative. A group of specialists then reviewed the matter and reported back to the AMA that the trends did not seem reasonable based on current practice standards or needs of the population.**
- **The view of the specialty was given to the AMA and then the only outcome was an educational circular sent out (but not always). No further feedback occurred as to whether the education worked and whether Alberta Health did anything further.**
- **This is unacceptable. Legislative changes can help to bring accountability, transparency and if needed meaningful sanctions where appropriate and required.**

SOMB (SCHEDULE OF MEDICAL BENEFITS) BILLING CODE 25.1A- REMOVAL OF CORNEAL FOREIGN BODY (CASE EXAMPLE 1)

- Suspect activity was flagged because 2 physicians in the same clinic were billing at greater than 300x the rate of their colleagues. Alberta Health knew which PRACIDS were associated with the extreme billing numbers but did not disclose.
- Further investigation revealed that the procedure was often being done post surgery during the inclusivity period (when a visit cannot be billed). PRC (Peer Review Committee of the AMA) suspects it is for suture removal or BCL (bandage contact lens) removal (inappropriate usage of the billing code).
- We (Ophthalmology) were unable to give an alternate explanation as to why this variability exists between physicians.

25.1 A INQUIRY RESULTS

- NONE
- No “educational advisory” issues by AMA
- No known action by Alberta Health
- No update on if the billing trends continued (especially for the two PRACIDS involved).

SOMB BILLING CODE 03.09B – TELEOPHTHALMOLOGY (CASE EXAMPLE 2)

03.09B Teleophthalmology consultation for examination, evaluation and interpretation of stereoscopic digital retinal imaging using store and forward technology73.80

NOTE: Benefit includes written recommendation to the primary care physician for follow up and management.

03.09B- TELEOPHTHALMOLOGY- AMA CLARIFICATION

- 03.09B Teleophthalmology consultation for examination, evaluation and interpretation of stereoscopic digital retinal imaging using store and forward technology

NOTE: Benefit includes written recommendation to the primary care physician for follow up and management.

03.09B was to provide service to patients in remote areas with limited physician access as well as the disenfranchised patients in urban centers.

Written recommendations must be forwarded to the primary care physician for follow up thus implying that the referral must come for a primary care physician.

This was never intended for use with optometrist referral, only a physician referral.

CONCERN EXPRESSED BY ALBERTA HEALTH TO AMA ABOUT 228% INCREASE IN BILLINGS IN THREE YEARS

HSC - Tele Codes, Specialty = OPHT							
	Number of Claims						
HSC	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18*
03.01U	733	1032	1191	1153	1470	1578	1130
03.01LK	278	348	377	544	642	626	525
03.01LL	37	51	42	56	64	88	48
03.01O				16	80	976	711
03.01R							508
03.01S							1
03.09B	3839	3636	3647	3356	4663	6093	7517
Visit with TELES	191	154	146	146	290	2	1
*Preliminary data for 201718 AH Claims as of Jun 8/18							
	Amount Paid						
HSC	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18*
03.01U	\$ 54,374	\$ 76,554	\$ 88,348	\$ 87,155	\$ 113,117	\$ 122,058	\$ 87,406
03.01LK	\$ 30,524	\$ 38,210	\$ 41,395	\$ 60,868	\$ 73,124	\$ 71,677	\$ 60,113
03.01LL	\$ 4,794	\$ 6,609	\$ 5,442	\$ 7,394	\$ 8,603	\$ 11,891	\$ 6,486
03.01O	\$ -	\$ -	\$ -	\$ 1,187	\$ 6,041	\$ 74,440	\$ 54,228
03.01R	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 16,474
03.01S	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 16
03.09B	\$ 277,483	\$ 262,810	\$ 263,605	\$ 242,572	\$ 341,005	\$ 448,262	\$ 553,026
Visit with TELES	\$ 17,159	\$ 14,659	\$ 13,720	\$ 13,720	\$ 23,625	\$ 203	\$ 62
*Preliminary data for 201718 AH Claims as of Jun 8/18							

AMA ASKED OPHTHALMOLOGY TO INVESTIGATE

- We did not know which PRACIDS were responsible for the greatest increases in the usage of this billing code.
- But we could identify which regions billed the most and which groups (optometrists or ophthalmologists) were responsible.

03.09B BY PHYSICIAN, CITY AND REFERRING PRACTITIONER
TELEOPHTHALMOLOGY CONSULTATION FOR EXAMINATION, EVALUATION AND
INTERPRETATION OF STEREOSCOPIC DIGITAL RETINAL IMAGING USING STORE
AND FORWARD TECHNOLOGY
DATE OF SERVICE: AUGUST 1, 2017 TO JULY 31, 2018
NUMBER OF VISITS BY REFERRING PRACTITIONER

Total Edmonton

696-med

5,427-optom

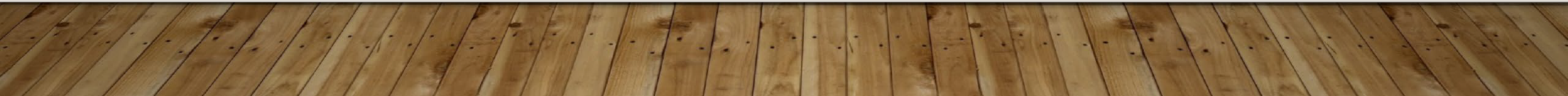
6,137-total

Total Calgary

142-med

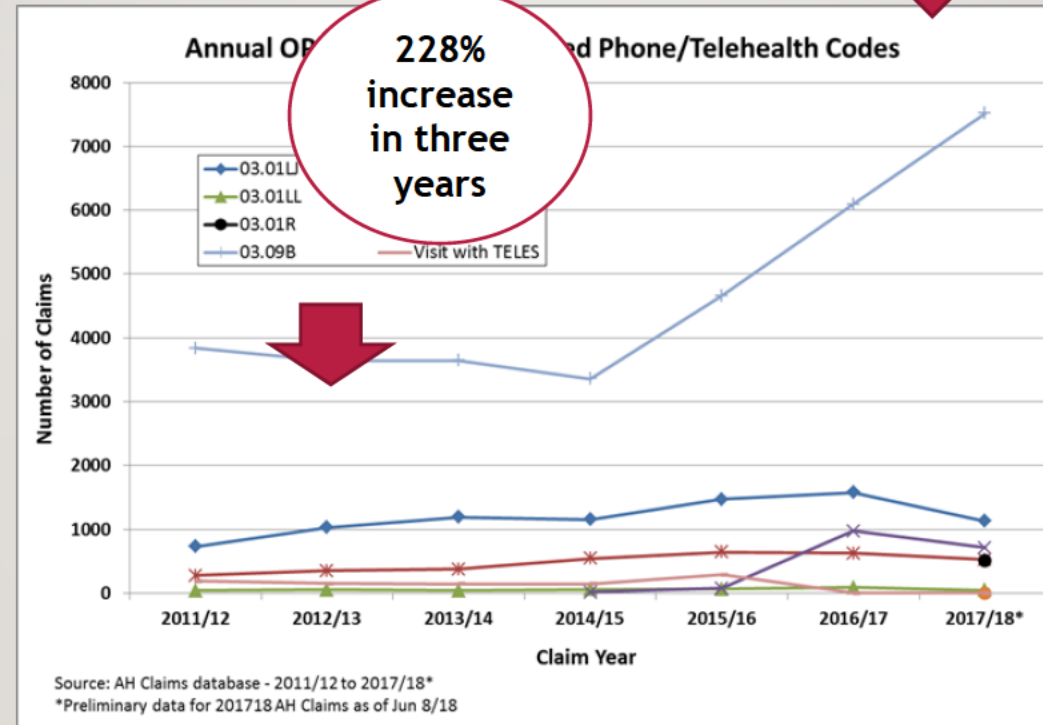
1,825-optom

1,967-total



EXPONENTIAL INCREASE IN UTILIZATION OF CODE 03.09B

03.09B

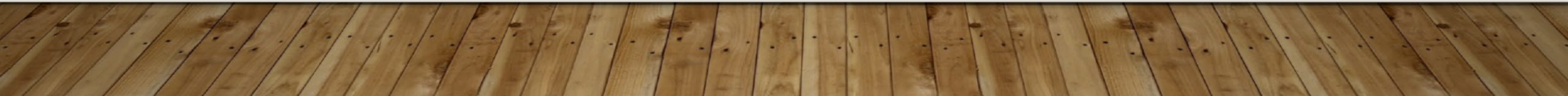


AT AMA REQUEST, OPHTHALMOLOGY REVIEWED THE INTENT OF THE CODE AND DETERMINES THE INCREASE IN UTILIZATION COULD NOT BE EXPLAINED ON PROPER USAGE OF THE CODE.

THE ONLY TOOL AVAILABLE FOR AMA WAS TO SEND OUT AN “EDUCATIONAL ADVISORY.”

NO OTHER ACTIONS OCCURRED.

IT IS UNKNOWN IF ANY CHANGES IN THE UPWARDS BILLING TRENDS OCCURRED OR ANY PRACID WAS HELD ACCOUNTABLE.



29.91. RETROBULBAR INJECTION OF THERAPEUTIC AGENT (CASE EXAMPLE 3)

- This code had seen a huge increase in usage without an obvious change in clinical practice parameters and was flagged by Alberta Health and AMA. It is typically billed with surgical procedures.

— 2012 54 billings

- 2015 299
- 2016 278
- 2017 2,225
- April 1 to Jan 30/18 2,544 billings (payment dates are only to Feb 8, 2018- time limit of survey)

ALBERTA HEALTH ASKED AMA PEER REVIEW COMMITTEE (PRC) TO INVESTIGATE WHO ASKED OPHTHALMOLOGY TO INVESTIGATE

- **The PRC suspected that this is being used for the delivery of anaesthetics with ophthalmic surgical procedures, which would contravene the General Rule 6.4 (anaesthetic benefits for local infiltration are included in the benefit of the procedure).**
- **Ophthalmology cannot explain the increase in usage as being clinically reasonable.**

UPON ADVICE FROM OPHTHALMOLOGY, AMA SENT OUT AN EDUCATIONAL ADVISORY INDICATING THERE ARE STRICT CONDITIONS FOR USING THIS CODE

- **PRC Advisory Assessment:**
- **It is assumed from the data as well as a collection of other information that the 29.91 is being used for the anesthetic portion of the 28.74B. If this is the case, the following rules apply:**
- **SAME PHYSICIAN, SEVERAL FUNCTIONS**
- **6.14.1**
- **In relation to either a single surgical procedure or a series of procedures under the same anesthetic, only the surgical or the anesthetic benefit, whichever is the greater, may be claimed (Comment- important to note that the reason it was suspect is that Alberta Health indicated both the anaesthetic fee and the surgical fee was being claimed by the surgeon (s)).**

EFFECT OF THE INVESTIGATION AND ADVISORY?

UNKNOWN

NO FEEDBACK GIVEN

NO UPDATE GIVEN ON EFFECTIVENESS OF ADVISORY OR WHETHER BILLING
TRENDS CHANGED

NO FEEDBACK IF THE PRACID(S) INVOLVED WERE HELD ACCOUNTABLE

WHAT IS THE CONCLUSION?

- ALBERTA HEALTH ALREADY CAN IDENTIFY SUSPICIOUS TRENDS IN USAGE OF SPECIFIC BILLING CODES.
- THIS IS A REALITY NOT RESTRICTED TO ONE SPECIALITY.
- ALBERTA HEALTH AND PROBABLY AMA KNOW WHICH PRACIDS ARE ASSOCIATED WITH THE INCREASES.
- THE EFFECT OF CURRENT SYSTEM IS LIKELY INEFFECTUAL EVEN WHERE INAPPROPRIATE USAGE OF CODES IS IDENTIFIED AND EDUCATIONAL CIRCULARS ARE SENT OUT.

RECOMMENDATIONS

- IT IS NOT NECESSARY TO REINVENT THE WHEEL.
- THE DATA IS AVAILABLE.
- Alberta health can identify suspicious or inexplicable trends in billing and relate to specific PRACIDS. The inappropriate and/or inexplicable increase in usage of that billing code can be confirmed by specialists in that area of medicine in Alberta.
- The current methods of dealing with these issues have no real consequence.
- Government can create meaningful outcomes by integrating reporting and analysis with fulsome investigation and meaningful consequences (mentioned earlier).

THANK YOU!

-
- I am available to provide further input as needed.