

June 10, 2019



**Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act, 2015* [Our File #: PRE/35/2019]**

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On May 8, 2019 the Premier's Office received your request for access to the following records/information:

*"Information note titled "HCS - MCP Funding for Transition-Related Surgery."*

I am pleased to inform you that a decision has been made by the Chief of Staff of the Premier's Office to provide access to some of the information requested. Access to the remaining information has been refused in accordance with the following exceptions to disclosure, as specified in the *Access to Information and Protection of Privacy Act* (the *Act*):

*27. (1) In this section, "cabinet record" means*

*(i) that portion of a record which contains information about the contents of a record within a class of information referred to in paragraphs (a) to (h).*

*(2) The head of a public body shall refuse to disclose to an applicant*

*(a) a cabinet record.*

*29. (1) The head of a public body may refuse to disclose to an applicant information that would reveal*

*(a) advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister;*

Please note, pages 7-8 have been removed in their entirety in accordance with subsection 29(1)(a).

You may appeal this decision by asking the Information and Privacy Commissioner to review this response, as set out in section 42 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the response and why you are

submitting the appeal. The appeal may be addressed to the Information and Privacy Commissioner as follows:

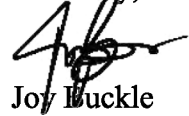
Office of the Information and Privacy Commissioner  
2 Canada Drive  
P. O. Box 13004, Stn. A  
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309  
Toll-Free: 1-877-729-6309  
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act*.

This response will be published as outlined on the Completed Access to Information Requests website (<http://atipp-search.gov.nl.ca/>). If you have any further questions, please feel free to contact me by telephone at (709)729-3570 or by e-mail at [joybuckle@gov.nl.ca](mailto:joybuckle@gov.nl.ca).

Sincerely,



Joy Buckle  
ATIPP Coordinator  
Enclosure

### **Access or correction complaint**

**42.(1)** A person who makes a request under this *Act* for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, Act or failure to Act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the Act or failure to Act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

### **Direct appeal to Trial Division by an applicant**

**52.** (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, Act or failure to Act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the Act or failure to Act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, Act or failure to Act of the head of the public body that relates to the request for access to a record or for correction of personal information.

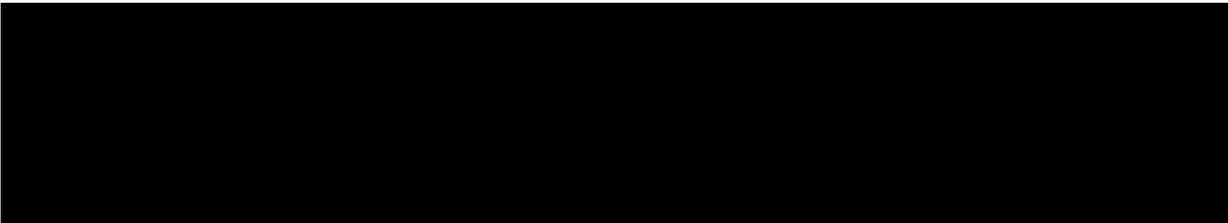
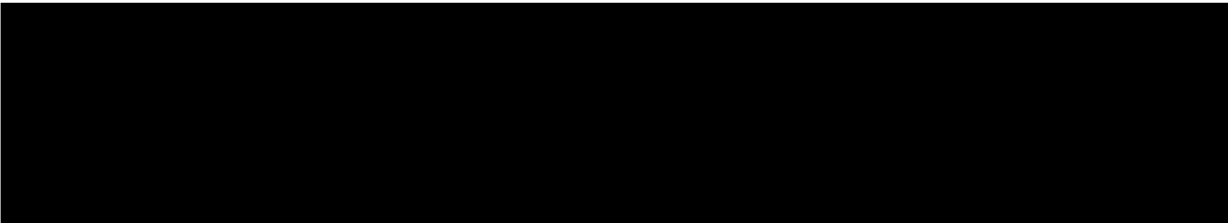
(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).

**Information Note**  
**Department of Health and Community Services**

**Title:** MCP Funding for Transition-Related Surgery

**Background and Current Status:**

- On February 20, 2019, HCS has approved a new schedule of insured gender transition-related surgeries shown in Appendix A. This note provides the analysis and evidence behind that decision, and is extracted from decision note BN-2019-00461.
- A number of MCP beneficiaries have received an assessment for procedures, such as phalloplasty, which have traditionally not been covered by MCP but which are now accepted as medically necessary by other Canadian jurisdictions and leading international health advocacy groups. The HCS decision will now provide publicly funded access to some of these procedures.
- The surgeries recommended in Appendix A include the existing list of insured surgeries plus three new procedures: phalloplasty, metoidioplasty, and breast augmentation (only if there is breast aplasia after continuous months of hormone therapy). HCS considers the mastectomy procedure (historically an insured service for the treatment of gender dysphoria when recommended by CAMH) to include chest masculinization.
- The terms sex-reassignment surgery, gender affirming surgery, and transition-related surgery all refer to the same surgical procedures. These surgeries change primary and/or secondary sex characteristics to affirm a person's gender identity in order to alleviate gender dysphoria and are often the last and the most considered step in the treatment process for gender dysphoria. For the purpose of this note, the term transition-related surgery (TRS) is used. These procedures are rapidly evolving, loosely defined and subject to interpretation. New and evolving TRS may blur the line between medically necessary services and cosmesis and/or experimental therapies and as such their insurability by MCP may vary over time.

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[27\(1\)\(i\), 27\(2\)\(a\), 29\(1\)\(a\)](#)

**Analysis:**

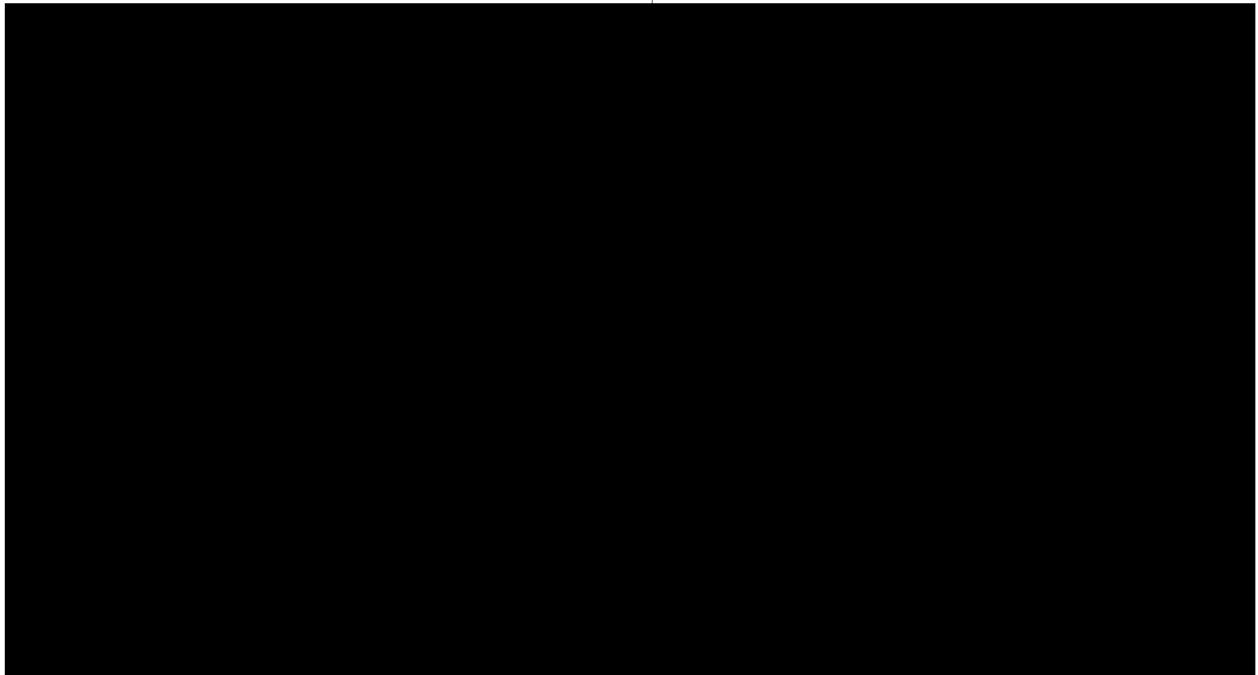
- The Minister has authority to define to what extent and under what circumstances health services are to be paid for by MCP. These decisions are made frequently due to advances in medical science and changes to standards of care.
- The list of insured TRS was outdated. It became clear through a review of patient requests, stakeholder engagement and World Professional Association for Transgender Health (WPATH) guidelines that the current list of insured TRS required revision.
- All procedures listed in Appendix A are reconstructive genital or chest/breast surgeries which are considered medically necessary with unquestionable therapeutic results for the treatment of gender dysphoria. Appendix B provides a brief analysis of the potential demand and cost

estimate for the three new approved procedures as well as the mastectomy with chest masculinization procedure.

- Many TRS are not currently done in Canadian public health care systems. No TRS are routinely done in Newfoundland and Labrador. Top surgeries (chest/breast surgeries) are becoming more readily available in Canadian public systems. However, even when available in a public facility in another province, these out-of-province procedures are often inaccessible to residents of Newfoundland and Labrador.
- HCS has recently identified a surgeon in New Brunswick who is willing to provide TRS mastectomy/chest masculinization surgery for NL patients. Women's College Hospital in Toronto has begun to offer select bottom procedures (genital surgeries) but has indicated that due to long wait periods, surgeries are currently only available to residents of Ontario.
- TRS performed at the privately run GRS Montreal facility have been approved for coverage under MCP when not available at a Canadian public facility, and when recommended by CAMH with the prior approval of MCP.
- The Medical Transportation Assistance Program provides financial assistance for eligible travel costs to access these insured services.
- Ideally, in the future local surgeons will provide top surgeries, eliminating the need for the majority of patients to leave the province.

29(1)(a)

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- There is no way to determine how many patients have not sought treatment for gender dysphoria requiring one of the newly approved surgeries because of the current out-of-pocket cost for the treatment and/or the CAMH requirement. The number of additional patients coming forward for treatment when covered by MCP and the cost of treatment for these patients may be significant.

- The costs, in many cases, will likely be incurred over several years due to a number of factors including: system capacity (in both NL and across Canada) which will likely create a bottleneck for those who are ready for surgery; individual patient readiness; the complexity of the surgeries which in the case of phalloplasty requires several surgeries over one to two years; and, for those yet to seek treatment, the fact that transition-related surgery is generally the last step in a lengthy treatment process.

29(1)(a)

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**Prepared/Approved by:** B. Gibb/C. Crowther/P. Greene/M. Harvey/K. Stone  
**Reviewed by:** J. Griffin/C. Blundon, Cabinet Secretariat  
**Ministerial Approval:** Received from Hon. John Haggie, MD

March 1, 2019

**Appendix A**  
**Schedule of Insured Transition Related Surgeries (TRS)**

The following reconstructive TRS procedures are recognized as medically necessary services and eligible for MCP funding when recommended by the appropriate surgical readiness assessment body and/or process:

**Top Surgeries** (requires the assessment of one WPATH trained practitioner)

Previous Coverage: Mastectomy with Chest Masculinization (see Appendix B)

Newly Approved Coverage – previous coverage plus the following:

Breast augmentation (only if there is breast aplasia after eighteen continuous months of hormone therapy) (see Appendix B)

**Bottom Surgeries** (requires the assessment of two WPATH trained practitioners)

Previous Coverage:

- Hysterectomy
- Bilateral salpingo-oophorectomy
- Vaginectomy
- Scrotoplasty
- Penectomy
- Orchidectomy
- Vaginoplasty
- Clitoroplasty
- Labioplasty

Newly approved Coverage - previous coverage plus the following:

- Phalloplasty (see Appendix B)
- Metoidioplasty (see Appendix B)

Experimental surgeries and surgeries for purely cosmetic purposes are non-insured services.

**The following procedures *are not* insured services:**

- Egg preservation
- Hair transplantation
- Vocal cord surgery
- Voice training
- Liposuction
- Erectile devices other than penile implants
- Rhinoplasty
- Laryngeal shave
- Facial hair electrolysis
- Epilation
- Sperm preservation
- Lip augmentation
- Lip reduction
- Jaw shortening
- Liposuction
- Pectoral implants



### Details of Select Transition-Related Surgeries

- i. **Breast Augmentation** (the surgical development of breasts in Male to Female TRS patients)
  - It is recommended that this procedure be eligible for MCP funding only when there is breast aplasia (no breast development) after 18 continuous months of hormone therapy.
  - The requirement for breast aplasia (no development of the breast after 18 months of hormone treatment) will limit the number of TRS patients eligible for this surgery.
  - AB, BC, MB, ON and QE provide funding for this procedure when clinical criteria are met.
  
- ii. **Phalloplasty** (the surgical procedure leading to the production of male genitals in Female to Male TRS patients)
  - Phalloplasty is the most common form of genital surgery for trans and non-binary people as well as one of the most expensive due to the complexity of the procedure which requires up to four separate surgeries, including the basic procedure, connection of urethra and insertion of testicular and penile implants.
  - WPATH recommends patients live in the role for 12 months prior to surgery.
  - Currently, only the private GRS Montreal clinic offers this procedure in Canada for Newfoundland and Labrador patients. Women's College Hospital in Toronto has recently started providing some surgeries associated with this service. However, due to high wait times, the service is only available to Ontario residents.
  - Surgeries are completed in a stepwise fashion over one to two years.
  - BC, AB, ON, QE, YK, NB and NS provide public funding for this procedure.
  
- iii. **Metoidioplasty** (the surgical procedure used to obtain a more masculine appearance of the genitals is an alternative procedure to phalloplasty in Female to Male TRS patients)
  - The surgery works with existing hormonally induced clitoral tissue as an alternative, less invasive surgery than phalloplasty.
  - Metoidioplasty requires hormone therapy for up to 2 years prior to surgery.
  - Currently, only the private GRS Montreal clinic offers this procedure for Newfoundland and Labrador patients.
  - This surgery is considerably less expensive than phalloplasty (approximately \$26,000 per patient) plus MTAP costs.
  - NB, NS, MB, AB, ON, QE cover this procedure.
  
- iv. **Mastectomy with Chest Masculinization**, (surgical procedure in which the breast tissues and mammary glands are removed in Female to Male TRS patients along with chest reconstruction)
  - This procedure does not include liposuction or the insertion of implants as these services are regarded as cosmetic and/or services not covered by MCP. Liposuction and implants are not typically covered by any other Canadian jurisdiction.
  - Mastectomy for the treatment of gender dysphoria is an approved service covered by MCP. Mastectomy surgery for the treatment of gender dysphoria includes “chest

masculinization” and is the surgery most sought after by Newfoundland and Labrador patients suffering from gender dysphoria.

- While it has not always been the case, MCP now recognizes chest masculinization as an integral part of the mastectomy procedure for the treatment of gender dysphoria based on shifting national and international standards and treatment for gender dysphoria.
- A public facility in NB has recently agreed to accept Newfoundland and Labrador patients for TRS mastectomies. As this procedure is available in Canada at a publicly funded facility MCP will not cover the procedure when provided by the private GRS Montreal clinic. There may be other opportunities in Ontario and British Columbia for Newfoundland and Labrador patients seeking this service. Patients will only need to travel to NB for the surgery as the surgeon is willing to provide initial consultation via teleconference at no cost to the Province or patient.
- Three approval letters have been sent to family physician and trans care provider Dr. Sinnott authorizing payment for the TRS mastectomy. Patients have an option to pay an additional fee out of pocket for liposuction, which costs approximately \$2,000. Liposuction is not recognized as an insured service in Newfoundland and Labrador. Nor is it insured in most Canadian jurisdictions.
- BC, SK, AB, ON, QE, YK, NB and NS provide similar funding for this procedure. Virtually all jurisdictions, including Newfoundland and Labrador, have provided some funding for FTM mastectomy.
- Liposuction and implants can be done in conjunction with this surgery. It is not recommended that either liposuction or implants be funded by MCP.