Pharmacare Act does not prescribe universal, public pharmacare

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The *Pharmacare Act*, Bill C-64, was passed by Canada's House of Commons on June 3, 2024, and currently awaits final approval by the Senate.[1] The legislation promises to provide immediate coverage of contraceptives and diabetes medications, but it does not ensure universal, public coverage of those medications. As written, Bill C-64 will merely fill the gaps in Canada's existing patchwork of more than 100 public drug plans and thousands of private ones, cementing into law a model of national pharmacare that was rejected in 2019 by the government's Advisory Council on the Implementation of National Pharmacare, as well as by 4 previous national inquiries.[2,3] A fill-the-gaps pharmacare system will not give Canada the institutional capacity needed to fairly and efficiently provide universal access to appropriately prescribed, affordably priced, and equitably financed medicines in a global context of powerful players and growing challenges regarding the reasonableness and transparency of pharmaceutical pricing.

The preamble to Bill C-64 rehearses the recommendations of the 2019 Advisory Council, but the substance of the Bill does not commit government to them. The Council recommended that, just like medicare, national pharmacare should be a universal, public program; they concluded, "Medicare doesn't just fill the gaps and neither should pharmacare."[2] Bill C-64 refers to "universal, single-payer, first-dollar coverage" but, unlike the *Canada Health Act*, it does not define what that means in terms of program design. The bill states that the *Canada Health Act* and the principles of "accessibility," "affordability," "appropriate use," and "universal coverage" should animate the implementation of national pharmacare, but it does not say that a public program is the way to get there, or whether a fill-the-gaps approach would suffice. As written, the bill leaves that decision to the discretion of the federal health minister in bilateral negotiations with provinces and territories, and would permit different program structures across the country.

A fill-the-gaps pharmacare system has several deficiencies. Critically, it perpetuates Canada's fragmented approach to pharmaceutical purchasing, which results in higher drug prices than in countries with universal, public pharmacare systems.[2] According to the Parliamentary Budget Officer, 43% of the cost of the fill-the-gaps pharmacare plan that Bill C-64 would create as written will be financed through private insurance plans.[4] Involving tens of thousands of independently negotiated and financed private insurance plans in national pharmacare also increases administration costs and program complexity. Prescription drugs account for nearly half (45%) of all private insurance plan spending on health care in Canada.[5] An average of 13% of private health insurance premiums goes to administration, including an average profit margin of 3%.[6] In contrast, the average cost of administering public drug plans in Canada — including the costs of running programs, managing formularies, negotiating prices, and processing claims — is about 1.5% of drug plan spending.[7] A further deficiency is that the premiums needed to finance private insurance plans represent a greater share of income for lower-income households than higher-income ones.[8] Thus, premiums increase income inequities, whereas a universal, public pharmacare program would, like medicare, reduce the gap between highest- and lowest-income groups in Canada.[9] Finally, while both public and private payers negotiate confidential rebates from pharmaceutical companies, for-profit insurers must

Key points

- The *Pharmacare Act*, Bill C-64, was passed by Canada's House of Commons in June 2024 and currently awaits final approval by the Senate; if passed, it would establish a system that merely fills the gaps in Canada's existing systems of payment for drugs, in which 43% of costs are financed through private insurance plans.
- The incumbent government's 2019 Advisory Council on the Implementation of National Pharmacare, as well as 4 previous national inquiries, advised against a fill-the-gaps pharmacare system, which would result in unnecessary administrative complexity, higher drug prices and total costs, and inequitable financial burdens on households.
- The Bill refers to the creation of the Canadian Drug Agency but falls short of establishing the agency by law and does not set out its powers, functions, and governance structures, which would leave the agency vulnerable to interference, potentially toothless, and easily dismissable.
- Bill C-64 needs amendments to align it with repeated recommendations for universal, public pharmacare to ensure a program that is cost-effective and robust and offers equitable access to drugs across Canada's jurisdictions.

consider shareholder returns in their negotiations. This injects profit motives into what should be evidence-based decisions in the interests of patient and population health.[10]

Bill C-64 refers to the Canadian Drug Agency (CDA), which the government's Advisory Council had recommended be set up as an arm's-length agency that would create and maintain the formulary of medicines to be covered by national pharmacare, including negotiating pricing and supply contracts with manufacturers of covered medicines.[2] The Bill requires the federal Minister of Health to seek advice from the agency on several matters concerning drug coverage, prescribing appropriateness, and "bulk purchasing" (another term not defined). However, Bill C-64 does not establish the CDA by law, nor set out the agency's powers, functions, and governance structures, which represents a missed opportunity to depoliticize the implementation and management of national pharmacare. Without this, if and when Bill C-64 is enacted by Parliament, the scope of authority and very existence of the CDA could be easily changed or terminated by a government, without reforming the Bill. As recent experience in Canada has shown, even a body established by law — such as the Patented Medicine Prices Review Board — is not immune from interference from government and stakeholders.[11] It is therefore imperative to ensure that the scope of the CDA's authority is clearly established in law, the procedures for communicating and consulting with governments and stakeholders are defined, and security of tenure is granted to the CDA's leadership in order to ensure the new agency is both publicly accountable and protected from undue outside interference.

Bill C-64 can and should be amended to align with the 2019 recommendations of the government's Advisory Council and previous national commissions. The Bill should create clear national standards regarding universal, public coverage for drugs, and it should more clearly define the powers, functions, and governance of the CDA to ensure the agency has the legal authority and robust governance structures.

Amending Bill C-64 need not delay universal coverage of contraceptives and diabetes medications, however. With or without a *Pharmacare Act*, the federal government could procure these medications through national supply contracts and allow provincial governments to distribute them, at no cost, to their residents. The federal procurement and distribution of COVID-19 vaccines and treatments provides a recent example of how such a system could work. In contrast to the fill-the-gaps approach to covering these medicines, this universal, public approach would save provincial governments $1.3 billion over the first 5 years and reduce total program costs by $1.1 billion over that period, through bulk purchasing and administrative efficiencies.[4] Those savings, which can be used to fund other health care priorities in the provinces, would likely encourage rapid program adoption across the country.

National pharmacare that would function like and integrate with Canada's existing medicare system has been advised and desired for decades. Although the preamble of Bill C-64 promises this, as written it will not deliver such a system and should therefore be amended. Unamended, Bill C-64 will create a fill-the-gaps system involving unnecessary complexity, fragmented purchasing power, inequitable financing, and potentially conflicted coverage decision-making.

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