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Editorial

Redefining Abortion Access in Canada – New Brunswick as a Case Study

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Martha Paynter[1] and Wendy V. Norman[2]

The 2022 Dobbs v. Jackson decision in the United States, which overturned Roe v. Wade and federal constitutional protections for abortion access, has generated deep concern in Canada about potential threats to access here. Globally, in the past thirty years, sixty countries have improved legal grounds for access to abortion, while only four, including the US, have increased restrictions (Centre for Reproductive Rights, n.d.). Access in Canada has vastly improved in the past decade, due to implementation of medication abortion and expansion of reproductive health scope for non-physician health professionals.

The way Canadians are accessing abortion care is changing across the country, and our public discourse has not kept up. For example, over more than two decades Canada has read national headlines repeatedly targeting New Brunswick (NB) policies as restricting abortion access, via the closure of "New Brunswick's Only Private Abortion Provider" (Alam, 2024; CBC News, 2014; CBC News, 2019). As a result, our public, health professionals, and politicians share in misconceptions about the state of abortion access in the province. Far less press coverage has been dedicated to news about NB's recent leading efforts to improve abortion access. Without awareness of these changes, patients may assume they cannot access service, and health professionals may lack knowledge about how to appropriately refer and provide care. Understanding the current state of abortion access in NB is overdue and imperative to optimizing outcomes for abortion seekers. Nurses play a critical role in educating patients and destigmatizing abortion care, key efforts to further improve access at this time.

NB was the first province in Canada to criminalize abortion in 1810 and has long maintained a reputation for exceptionally poor access. Canada criminalized abortion in 1892, and partial decriminalization only came along in 1969 with the passing of the Omnibus Bill which allowed for a procedure when a three-physician Therapeutic Abortion Committee deemed an abortion was required for maternal or fetal health. Having observed Dr. Henry Morgentaler open abortion clinics in Montreal in 1969 and in Toronto and Winnipeg in 1983, NB Premier Richard Hatfield passed Bill 92 in 1985 to prohibit abortion clinics in the province (Moulton, 2003). Violators would have their licence to practice revoked. Flouting the law, Dr. Morgentaler opened his Fredericton clinic in 1994; he fought for his license and Bill 92 was deemed unconstitutional. Undeterred, NB responded with a new strategy: refusing to publicly fund abortions provided in free-standing clinics, through "Regulation 84–20 Section 2.a.1" of the Medical Services Payment Act (New Brunswick, 2017).. The 1988 R. v. Morgentaler Supreme Court decision completely decriminalized abortion in Canada. Therefore, abortion became no different legally than any other health care service, such as prescriptions for penicillin or referrals for arthroplasty: no special permissions or non-clinical mechanisms could exist to interfere with care. As such, the Morgentaler decision also caused the abolition of Therapeutic Abortion Committees. Yet NB continued to require two physicians to approve each abortion performed in hospital.

In 1995, federal Health Minister Diane Marleau clarified the Canada Health Act, passed in 1984, included privately-owned, freestanding clinics, when the services provided therein would otherwise be insured if, for instance, they were provided in hospital. Beginning in 2020, the federal government began deducting $60,000- 140,000 in Canada Health Transfer Funding from NB every year for its refusal to fund procedural abortions in free-standing clinics (Health Canada, 2024). The private clinic in Fredericton changed hands after Morgentaler's death in 2013 and was renamed Clinic 554. It closed permanently in winter 2024. In November 2024, in her first act as NB's first female Premier, Susan Holt revoked regulation 84-20. As of this writing, the three hospital clinics remain the only sites for procedural abortion (Poitras, 2024).

Other critical changes began in 2015. Newly elected Premier Brian Gallant announced publicly funded procedural abortion availability in three hospital-based family planning clinics: Chaleur, Georges Dumont, and Moncton City. Referral or physician approval became no longer mandatory; patients call directly to book an appointment. The interprovincial reciprocal billing agreement also came into place in 2015, meaning NB agreed to pay for insured procedural

[1]Faculty of Nursing, University of New Brunswick, Fredericton, Canada
[2]Faculty of Medicine, University of British Columbia, Vancouver, Canada

Corresponding Author:
Martha Paynter, Faculty of Nursing, University of New Brunswick, Fredericton, Canada.
Email: martha.paynter@unb.ca

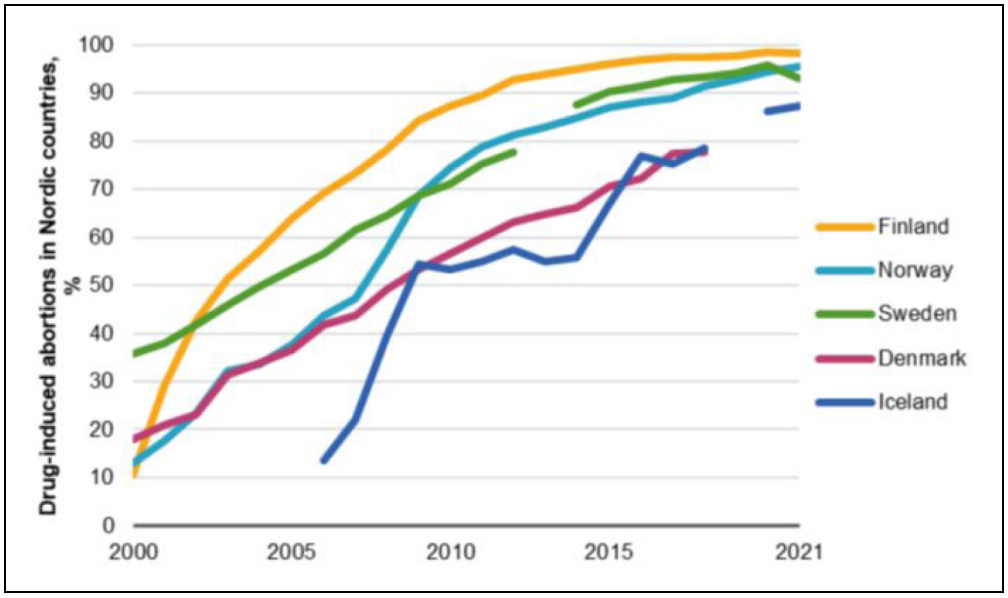

Figure 1. Drug-Induced Abortions in Nordic Countries 2000–2021, %.

abortion services obtained elsewhere if, for example, a patient was studying or working in another province.

In 2017 mifepristone became available in Canada for medication abortion, which was a revolutionary change with important implications for abortion access. NB was the first province to announce and to implement public funding for medication abortion prescriptions. Federal deregulation of mifepristone meant primary care providers including nurse practitioners could provide medication abortion. Expansions in scope of practice of non-physician health professionals like this one are a key lever to improve access. NB was one of the first provinces in Canada to support NPs to take up the practice.

Health Canada's 2019 removal of the ultrasound requirement for medication abortion supported virtual patient care, which swiftly became imperative during COVID-19. Further, pandemic-related protections restricted interprovincial travel and prompted expansion of NB's gestation duration limit of 16 weeks gestation; Moncton City Hospital now offers care up to 18 weeks.

Since 2015, availability of abortion in NB has ballooned. By 2023, over two-thirds of all abortion in the province was procured through medication including from a wide distribution of nurse practitioner primary care and rural access points (Poitras, 2023). Canada appears to be following trends in Switzerland, Nordic countries and Scotland where over 90% of all abortion care is now delivered using medication (Official Statistics of Finland, 2024) The way we define access to abortion is changing (Figure 1).

NB is no longer the abortion desert it once was. Abortion access is arguably better in NB than in many provinces. There are now a large number of primary care early abortion providers throughout NB including prescribers at sexual health centres, community clinics, and individual nurse practitioners and family doctors. The Action Canada for Sexual Health and Rights 2024 Abortion Access Tracker lists NB, Saskatchewan and Manitoba as each having four purpose-specific abortion facilities (Action Canada for Sexual Health and Rights, 2024). In NB, there is one site per 18 thousand square km and one per 175 thousand people. By comparison, in MB and SK, there is one site per 163 thousand square km and roughly one per 338 thousand people. Further, this "facility-only" analysis does not consider the additional medication abortion access through individual primary care nurse practitioner and family physician providers that is fully supported by NB.

Good news does not travel fast. Instead of publicizing these remarkable shifts, the public discourse has focused on NB services at a single privately-owned clinic. The public and more importantly, health care professionals including public health and primary care nurses lack knowledge about medication abortion as well as accessibility of prescriptions. Poor understanding of these important shifts results in unnecessary obstruction and delays in accessing care, with consequences for patient safety, satisfaction, and out of pocket costs.

While there is still room for improvement, NB has successfully combined policy approaches to improve abortion access, particularly facilitating primary care access points for early safer abortion care closer to home. Abortion access in Canada is increasingly available via telemedicine and in primary care, and should no longer be solely, nor even primarily, defined by the distance to a purpose-specific abortion clinic or hospital service. Furthermore, nurses and NPs play an important role in educating abortion-seekers and normalizing abortion as part of primary care.

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ORCID iDs

Martha Paynter https://orcid.org/0000-0002-4194-8776
Wendy V. Norman https://orcid.org/0000-0003-4340-7882

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Author Biographies

Martha Paynter is an Assistant Professor in Nursing. Her area of research is reproductive health services and the criminal-legal system.

Wendy V. Norman is a Professor in Family Medicine. Her area of research is abortion and contraception.