

Unassigned Responsibility in Private Insurance Benefit Design

*Clarifying Governance at the Intersection of Overlapping Regulated Health
Professional Scopes*

Prepared for policy, regulatory, and insurance governance consideration

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This policy brief is derived from a longer discussion paper (Appendix A) examining governance gaps at the intersection of professional regulation and private insurance benefit design.

ISSUE AT A GLANCE

Private insurance benefit design plays a significant role in shaping access to psychotherapeutic services in Canada, particularly where public coverage is limited or unavailable. At the same time, multiple regulated health professions—including nursing and psychotherapy—are lawfully authorized to deliver psychotherapeutic services within their respective scopes of practice.

While overlapping scopes of practice are a recognized and intentional feature of professional regulation, no governing body is explicitly responsible for interpreting how such overlap should be reflected within private insurance benefit eligibility. As a result, decisions with clinical, workforce, and access implications are made within private benefit design processes without a shared interpretive framework.

This policy brief identifies this condition as one of unassigned responsibility rather than regulatory failure, and outlines why clarification at the policy or standards level may support greater coherence across systems while preserving existing mandates.

WHY THIS IS A GOVERNANCE ISSUE: JURISDICTIONAL ALLOCATION

Authority relevant to psychotherapeutic service delivery and coverage is distributed across distinct systems:

- Public insurance governance establishes eligibility, funding, and payment for publicly insured services, but does not regulate private or extended health benefits.
- Professional regulation authorizes health professionals to practise within defined

scopes and establishes standards of competence and accountability, but does not govern private insurance benefit design.

- Private insurance governance operates within financial and contractual frameworks, retaining discretion over benefit eligibility and plan design, but without delegated authority to adjudicate overlapping professional scopes.

Each system operates within its defined mandate. However, no statute, regulator, or governance body is explicitly tasked with reconciling overlapping regulated scopes in the context of private insurance benefit design.

NATURE OF THE GAP

The issue is not one of legal prohibition, regulatory non-compliance, or scope ambiguity. Regulated professionals remain lawfully authorized to practise, and insurers operate within their contractual and financial mandates.

Rather, the gap is structural and interpretive. In the absence of shared guidance, benefit eligibility decisions involving clinically similar services may be determined by professional designation rather than competence or scope authorization, leading to variability across plans and uncertainty for practitioners and plan members.

SYSTEM-LEVEL IMPLICATIONS

Where unassigned responsibility persists:

- Access to care may vary across employers and plans for clinically similar services
- Workforce utilization may be constrained despite public investment in regulated professional capacity
- Practitioners and plan members may experience uncertainty and unpredictability

- Private coverage practices may become misaligned with public regulatory objectives

These outcomes do not arise from bad faith or enforcement gaps, but from system design that has not yet addressed emerging intersections between professional regulation and private insurance governance.

COMPARABLE GOVERNANCE APPROACHES

In other areas of health and regulatory policy, overlapping authority and cross-system impact are commonly addressed through clarification rather than enforcement, including:

- Competence-based authorization frameworks that focus on what professionals are authorized and competent to do, rather than title alone
- Interpretive or non-binding guidance documents that articulate how existing frameworks are intended to be understood in intersecting contexts
- Coordination mechanisms where decisions in one system materially affect outcomes in another, without reallocating statutory authority

These approaches preserve institutional roles while providing shared reference points that support consistency and predictability.

OPTIONS FOR POLICY OR STANDARDS CLARIFICATION

The following options are illustrative and non-exclusive. They are intended to support informed discussion rather than propose statutory change or mandate realignment.

- Interpretive guidance clarifying how overlapping regulated scopes may be considered within private insurance benefit eligibility
- Cross-sector reference frameworks that articulate shared principles without binding effect
- Clarification at the standards level within existing regulatory or policy instruments to support coherence across systems

None of these options require changes to professional scopes of practice, controlled-act frameworks, insurer discretion, or legislative authority.

CLOSING REMARKS

Framing this issue as one of unassigned responsibility allows it to be examined without attributing fault or challenging existing mandates. Clarification at the policy or standards level may support greater alignment across systems, improve predictability, and strengthen the connection between public regulatory objectives and private insurance benefit design—while preserving the integrity of each governing framework.



APPENDIX A – POLICY PAPER

Unassigned Responsibility in Private Insurance Benefit Design When Overlapping Regulated Health Professional Scopes Intersect

A Policy Clarification Paper Examining Regulatory Alignment at the Intersection of Professional Scope and Private Benefit Design

Prepared for policy, regulatory, and insurance governance consideration

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SECTION 1: PURPOSE AND USE OF THIS DOCUMENT

This document is intended as a policy discussion guide to support informed dialogue across policy, regulatory, and private insurance governance systems where professional scopes of practice intersect with private benefit design.

It examines a point of unassigned responsibility that arises when multiple regulated health professions are lawfully authorized to deliver psychotherapeutic services within their respective scopes of practice, but no explicit framework exists to guide how such overlap is interpreted or operationalized within private insurance eligibility and reimbursement decisions.

The document does not advance claims, allege non-compliance, or propose statutory or regulatory change. It does not assess the conduct of specific insurers, employers, or regulators, nor does it rely on individual disputes or case examples. Instead, it provides a neutral analytical foundation to clarify jurisdictional boundaries, identify system-level implications of regulatory silence, and support constructive exploration of potential pathways for alignment.

This discussion guide is designed to be read sequentially or by section, depending on context. Sections may be used independently to support focused conversations on jurisdictional authority, system impacts, governance precedents, or policy options, while maintaining coherence as part of a single analytical framework.

SECTION 2: EXECUTIVE SUMMARY

Private insurance benefit design plays a significant role in shaping access to psychotherapeutic services in Canada, particularly in areas where public coverage is limited or unavailable. At the same time, multiple regulated health professions—including nursing and psychotherapy—are lawfully authorized to deliver psychotherapeutic services within their respective scopes of practice, subject to applicable controlled-act provisions, supervision arrangements, and profession-specific standards. Overlapping scopes in this area are a recognized feature of contemporary health professional regulation.

This discussion guide identifies a point of regulatory silence at the intersection of professional regulation and private insurance governance. Public insurance legislation governs insured services under provincial health plans and does not extend to private benefit design. Professional regulators establish scope of practice, standards of competence, and accountability mechanisms for their registrants, but do not govern private insurance eligibility or reimbursement decisions. Financial and insurance regulators oversee insurer solvency, governance, and market conduct, but do not address clinical scope recognition or the interpretation of overlapping regulated scopes. As a result, responsibility for reconciling overlapping regulated professional scopes within private insurance benefit design is not expressly assigned within the current governance architecture.

The absence of an assigned interpretive framework has system-level implications. Decisions affecting access to psychotherapeutic services, workforce utilization, and alignment with public regulatory objectives are made

through internal benefit design processes without shared reference points. This can contribute to variability across plans and employers, uncertainty for plan members and practitioners, and misalignment between public investment in regulated professional capacity and private coverage practices. These outcomes arise not from non-compliance or bad faith, but from structural gaps in system design.

This paper does not argue that private insurers are required to recognize specific professions, nor does it propose changes to statutory mandates or professional scopes of practice. Instead, it frames the issue as one of unassigned responsibility, where no single actor is clearly tasked with addressing how overlapping regulated scopes should be considered within private benefit design. In the absence of clarification, discretion is exercised without a shared governance lens, increasing the likelihood of inconsistency and fragmentation. Clarification at the policy or standards level could support greater coherence across systems while preserving existing mandates and discretion. Providing a shared interpretive reference point would assist insurers, regulators, employers, and practitioners in understanding jurisdictional boundaries, aligning expectations, and navigating overlap without expanding scope, altering controlled-act frameworks, or constraining benefit design authority. The sections that follow examine the jurisdictional landscape, identify the nature and implications of the gap, review comparable governance precedents, and outline potential pathways for clarification intended to support informed, constructive discussion.

SECTION 3: JURISDICTIONAL LANDSCAPE

This section outlines the current allocation of authority across public insurance, professional regulation, and private insurance governance as it relates to psychotherapeutic service delivery and benefit design. Its purpose is to clarify where responsibility is formally assigned and where it is not, based on existing legislative and regulatory frameworks.

3.1 Public Insurance Governance

Public insurance governance is established through provincial health insurance legislation and associated regulations. These frameworks govern the administration of publicly insured health services, including eligibility, funding, billing, and payment under provincial health plans.

Public insurance statutes apply exclusively to publicly funded services and do not regulate extended health benefits, private reimbursement arrangements, or eligibility criteria within private insurance plans. They do not assign authority for determining how regulated health professions are recognized within private benefit design, nor do they address how overlapping professional scopes should be interpreted outside the publicly insured system.

As a result, public insurance governance does not provide guidance or direction regarding private insurance coverage decisions for psychotherapeutic services delivered by regulated professionals.

3.2 Professional Regulation

Professional regulation of health professions is governed through profession-specific statutes and umbrella regulatory frameworks. These

establish scopes of practice, standards of competence, ethical obligations, and accountability mechanisms for regulated professionals in the interest of public protection.

Within this regulatory model, overlapping scopes of practice are a recognized and intentional feature. Authorization to practise is grounded in demonstrated competence, adherence to standards, and regulatory accountability rather than exclusive professional title. Regulators define what their registrants are authorized to do within scope, subject to applicable controlled-act provisions, supervision requirements, and profession-specific standards.

Professional regulators do not govern private insurance benefit design. They do not determine eligibility for private coverage, reimbursement rules, or recognition within extended health plans. While professional regulation establishes lawful authority to practise, it does not extend to how that authority is reflected or operationalized within private insurance systems.

3.3 Private Insurance Governance

Private insurance governance is established primarily through federal and provincial insurance and financial services legislation. This framework focuses on insurer solvency, financial stability, corporate governance, and market conduct. Private insurers operate through contractual arrangements with employers and plan sponsors and retain discretion in designing benefit plans and defining eligibility criteria.

Private insurance governance does not extend to clinical scope determination or inter-professional regulation. Insurers are not delegated authority to adjudicate overlapping professional scopes, nor are they provided with policy or regulatory guidance on how regulated health professions should be recognized when scopes intersect. Decisions regarding benefit

eligibility are therefore made within a financial and contractual governance framework rather than a health professional regulatory one.

3.4 Summary of Jurisdictional Allocation

Taken together, these governance frameworks demonstrate that authority over professional scope, public insurance coverage, and private benefit design is distributed across distinct systems with limited points of coordination. Each system operates within its defined mandate, yet no statute, regulator, or governance body is explicitly tasked with reconciling overlapping regulated professional scopes in the context of private insurance benefit design.

This absence of assigned responsibility does not reflect regulatory failure or non-compliance. Rather, it reflects a structural gap in system design, where decisions with clinical, workforce, and access implications fall outside the explicit remit of any single governing authority. The sections that follow examine the implications of this gap and explore potential pathways for clarification.

SECTION 4: UNASSIGNED RESPONSIBILITY IN PRIVATE INSURANCE BENEFIT DESIGN

This section examines the nature of the unassigned responsibility identified in the preceding jurisdictional analysis. It focuses on how the absence of an explicit interpretive framework affects system operation when overlapping regulated professional scopes intersect with private insurance benefit design.

4.1 Description of the Identified Gap

The identified gap arises at the point where

professional regulation authorizes multiple health professions to deliver psychotherapeutic services, while private insurance governance retains discretion over benefit eligibility without guidance on how such overlapping authorization should be interpreted. Public insurance frameworks do not apply, professional regulators do not govern private benefit design, and insurance regulators do not address clinical scope recognition.

As a result, no governing body is explicitly responsible for reconciling professional scope overlap within private insurance benefit structures. Decisions with clinical and system implications are therefore made in the absence of a shared interpretive reference point.

4.2 Nature of the Gap

The gap is not one of legal prohibition, regulatory non-compliance, or scope ambiguity. Regulated professionals remain lawfully authorized to practise within their scopes, and insurers operate within their contractual and financial mandates.

Rather, the gap is structural and interpretive. It reflects the absence of guidance on how overlapping regulated scopes should be understood in the context of private benefit eligibility, particularly where services are clinically similar but professional titles differ. In the absence of such guidance, discretion is exercised without alignment across systems.

4.3 Consequences of Regulatory Silence

Regulatory silence at this intersection can lead to variability in benefit recognition across plans and employers, uncertainty for plan members and practitioners, and inconsistent alignment with public regulatory objectives. These outcomes are not necessarily intentional; they arise from system design rather than from

individual decision-making.

Where benefit eligibility decisions are made without a shared framework, similar services may be treated differently depending on professional designation, plan structure, or internal interpretation. This can affect access to care, workforce utilization, and the predictability of coverage without engaging any formal mechanism for coordination or review.

4.4 Framing the Issue Going Forward

Framing this issue as one of unassigned responsibility allows it to be examined without attributing fault or challenging existing mandates. It recognizes that each governance system operates appropriately within its defined role, while acknowledging that their intersection creates questions that are not currently addressed.

Understanding the gap in this way creates space for constructive discussion focused on clarification, coordination, and system coherence rather than compliance or enforcement. The following sections explore the broader system implications of this gap and examine comparable governance approaches that may inform potential pathways forward.

SECTION 5: COMPARABLE GOVERNANCE PRECEDENTS

This section examines comparable governance approaches used in other areas of health and regulatory policy where overlapping scopes, distributed authority, or cross-system impacts exist. These examples are illustrative, not determinative, and are included to demonstrate how complex intersections are commonly addressed without expanding mandates or reallocating statutory authority.

5.1 Overlapping Scope as a Feature of Health Professional Regulation

Across regulated health systems, overlapping scopes of practice are a recognized and intentional feature of professional regulation. Multiple professions may be authorized to provide similar or related services, with differentiation achieved through standards, competence requirements, supervision frameworks, and accountability mechanisms rather than exclusive scope ownership.

In these contexts, overlap is managed through clarification and coordination rather than exclusion. The existence of overlap does not, in itself, require adjudication between professions, but does require shared understanding across systems that rely on professional authorization as an input to decision-making.

5.2 Illustrative Precedent: Competence-Based Authorization

In many regulatory environments, authorization to perform services is framed around competence and standards rather than professional title alone. Where this approach is adopted, governance frameworks emphasize what professionals are authorized and competent to do, rather than relying solely on categorical distinctions.

This model illustrates how systems accommodate overlapping scopes by anchoring decisions in regulatory authorization and accountability, while allowing downstream actors to operate within their own mandates.

5.3 Illustrative Precedent: Clarification Through Guidance

In areas where statutory or regulatory frameworks do not explicitly address emerging intersections, clarification is often achieved

through non-binding guidance, interpretive statements, or cross-sector reference documents. These tools do not create new obligations or alter authority, but provide shared interpretive context.

Such guidance supports consistency and predictability across systems by articulating how existing frameworks are intended to be understood when applied in novel or intersecting contexts.

5.4 Illustrative Precedent: Coordination Where Decisions Affect Access

In governance areas where decisions made within one system materially affect access outcomes in another, coordination mechanisms are often used to support alignment. These mechanisms may include consultation processes, shared reference standards, or agreed principles that inform discretionary decision-making.

These approaches recognize that while authority remains distributed, coordination can reduce unintended consequences arising from siloed decision-making.

5.5 Relevance to Private Insurance Benefit Design

These illustrative precedents demonstrate that unassigned responsibility at system intersections is not uncommon and is often addressed through clarification rather than enforcement. They suggest that alignment can be improved without redefining scope, limiting discretion, or reallocating authority.

Applied to private insurance benefit design, similar approaches could support more consistent interpretation of overlapping regulated scopes while respecting the distinct

mandates of insurers, regulators, and professional bodies.

5.6 Developmental Implications for Governance

Taken together, these examples point to a developmental opportunity rather than a compliance issue. Where systems evolve independently, intersections may emerge that require new forms of coordination or clarification to maintain coherence.

Recognizing and addressing such intersections through proportionate, non-binding mechanisms can strengthen system function over time while preserving institutional roles and responsibilities. The following section outlines potential pathways for such clarification, framed as options for discussion rather than recommendations.

SECTION 6: OPTIONS FOR POLICY OR STANDARDS CLARIFICATION

This section outlines potential pathways through which the unassigned responsibility identified in earlier sections could be addressed. The options presented are illustrative and non-exclusive. They are intended to support informed discussion rather than to propose specific actions, statutory changes, or mandate realignment.

6.1 Purpose and Framing of Options

The options below are framed to respect existing legislative and regulatory boundaries. Each option focuses on clarification rather than enforcement, and on coordination rather than control. None require changes to professional scopes of practice, controlled-act frameworks, insurer discretion, or statutory authority.

6.2 Option A: Cross-Sector Interpretive Guidance

One pathway would involve the development of non-binding interpretive guidance that articulates how overlapping regulated scopes may be understood when considered within private insurance benefit design. Such guidance could be developed collaboratively or referenced across systems, without creating new obligations.

This option would provide a shared reference point to support consistent interpretation while preserving decision-making discretion.

6.3 Option B: Recognition of Regulator-Issued Standards

Another approach would involve greater visibility and recognition of existing professional standards that already articulate competence, accountability, and scope parameters for psychotherapeutic practice. Where such standards exist, they may inform understanding of lawful authorization without dictating benefit eligibility.

This option emphasizes alignment with existing regulatory outputs rather than the creation of new instruments.

6.4 Option C: Inter-Regulatory Consultation Mechanisms

A further option would be the establishment of informal consultation or information-sharing mechanisms among relevant regulatory and governance bodies. These mechanisms could support mutual understanding of how decisions in one system affect outcomes in another, particularly where access and workforce utilization are impacted.

Such mechanisms need not be formalized or ongoing to be effective.

6.5 Option D: Voluntary Alignment Frameworks

Voluntary alignment frameworks could provide high-level principles or considerations to inform discretionary decision-making within private insurance benefit design. These frameworks would not prescribe outcomes, but could support transparency and consistency where overlapping scopes are present.

Participation in such frameworks would remain optional and adaptable.

6.6 System Development Considerations

Each of the options outlined above reflects a different degree of coordination and formality. Selection among them would depend on context, capacity, and appetite for collaboration across systems. Importantly, the existence of multiple options underscores that clarification can occur incrementally and proportionately.

The purpose of presenting these options is to enable discussion about how unassigned responsibility might be addressed, rather than to argue that it must be addressed in any particular way.

SECTION 7: DISCUSSION CONSIDERATIONS

This section sets out considerations to support structured dialogue using this document. The questions below are intended to help participants explore the issues raised without presupposing conclusions or preferred outcomes.

7.1 Clarifying the Nature of the Issue

- How do participants understand the distinction between professional authorization to practise and private insurance benefit eligibility?
- Where, if anywhere, is responsibility currently assumed to exist for reconciling overlapping regulated scopes within private benefit design?
- Does framing the issue as one of unassigned responsibility accurately reflect the current governance landscape?

7.2 Jurisdictional Boundaries and Roles

- Which aspects of this issue fall clearly within existing mandates, and which fall outside them?
- How do participants interpret the limits of public insurance governance, professional regulation, and private insurance oversight in this context?
- Where do jurisdictional boundaries create uncertainty rather than clarity?

7.3 System-Level Implications

- What are the observable or potential impacts of regulatory silence on access, workforce utilization, and predictability of coverage?
- How do these impacts align or misalign with broader public policy objectives related to mental health service delivery?
- Are there unintended consequences that warrant closer examination?

7.4 Precedents and Analogous Approaches

- Which illustrative governance precedents resonate most strongly with participants' experience?

- What features of those precedents appear transferable to the private insurance context, and which do not?
- How have similar intersections been managed without expanding mandates or reallocating authority?

7.5 Considerations for Clarification

- Which types of clarification—if any—would be most helpful in supporting consistency and transparency?
- What level of formality would be appropriate given the nature of the issue?
- How might clarification efforts preserve discretion while improving alignment?

7.6 Conditions for Constructive Dialogue

- What information, safeguards, or framing are necessary to support productive cross-system conversation?
- How can discussion remain focused on system coherence rather than individual cases or actors?
- What indicators would suggest that further exploration is warranted?

7.7 Closing Observation

The questions above are intended to support reflective, informed discussion across policy, regulatory, and insurance governance contexts. They are offered to facilitate shared understanding of a complex intersection rather than to advance specific positions or outcomes.

AUTHORSHIP

This document was prepared to support policy-level discussion regarding the governance intersection between regulated professional scopes of practice and private insurance benefit design. It reflects an analysis of existing legislative, regulatory, and governance frameworks and is intended to facilitate informed, constructive dialogue across systems. The document was authored by Dr. Joan Samuels-Dennis, RN, PhD, RP, in her capacity as Founder and President of The Becoming Institute.

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The Becoming Institute is a Canadian educational and professional development organization focused on trauma-informed practice, psychotherapeutic nursing education, and interdisciplinary systems integration. The Institute develops standards-aligned educational programs, policy analysis, and professional resources intended to support ethical practice, regulatory clarity, and public interest outcomes.

This document does not represent the position of any regulator, insurer, employer, or government body. It is offered as an independent discussion guide to support shared understanding and thoughtful exploration of a complex governance intersection.

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