



## Presentation to the Standing Committee on the Legislative Assembly Bill 41, *Patients First Act, 2016*

Home Care Ontario commends the government on the introduction of Bill 41, *Patients First Act, 2016* and the overarching goal to create a further improved and integrated home and community care system for Ontarians. Home Care Providers are eager to share innovative practices and welcome the opportunity to work with LHINs and be measured on the outcomes achieved. With the passage of Bill 41, LHINs will have the opportunity to work directly with existing providers within the Home Care and Community Services Act, 1994 and harness the innovation of those providers not yet known to them.

As the 'voice of home care in Ontario™', the Association represents member home care organizations that deliver front-line home care (nursing, therapy and personal support) to Ontarians in their homes and communities across all parts of this large and diverse province. Home Care Providers are accountable for direct clinical care at the frontline, responsible for clinical expertise and evidence-based practice, risk, performance, quality management and the achievement of patient outcomes.

### **Recommendations**

With LHIN Renewal, it is understood that the role and function of the current CCACs will be absorbed by the Local Health Integration Networks. Home Care Ontario offers the following recommendations to improve and strengthen Bill 41 in order to achieve the system improvement goals envisioned by the *Patients First Act, 2016*.

Bill 41 and/or the related regulations should:

1. Expressly commit to the nature of the contractual relationship between LHINs and Home Care Providers.

Specifically:

- A continuation of contracts between the LHINs and Home Care Providers, regardless of corporate tax status, for the delivery of home and community care services, as defined in the *Home Care and Community Services Act, 1994*.
  - The establishment of a standing provincial Contract Review Committee responsible for ensuring best contract practice and agreeable rate structures.
  - The ability for LHINs to enter into contracts with Home Care Providers, regardless of corporate tax status, for services beyond that described in the *Home Care and Community Services Act, 1994*.
2. Clarify that Home Care Providers are successor health information custodians of CCACs and that the role of health information custodian cannot be negated by contract.
  3. Define the scope and parameters of the shared services organization so as to ensure a true change in function vis-à-vis the home care sector. The supportive role must be clearly mandated and the limitations on a public voice expressly described.
  4. Establish a provincial Performance Council responsible for working with LHINs to identify best practice in inter-organizational operations in order to reduce redundancy and unnecessary cost in the health system.

## **Recommendation 1 - Discussion**

### **Service Provider Designation**

Bill 41, *Patients First Act, 2016*, creates the legislative authority for the Government to direct the LHINs to absorb the CCACs and continue to work under existing contracts with Home Care Providers, as identified in the *Home Care and Community Services Act, 1994*. It is understood that the LHINs' role in contracting with these Home Care Providers does not infer the status of 'health service provider' within the LHIN Act, 2006. As a consequence, the role of Home Care Providers is potentially confusing and could result in limited use of these important contributors.

Bill 41 makes it clear that those delivering health care are accountable to the LHIN. In the home care context, the Home Care Provider is accountable for direct clinical care at the frontline and is responsible for clinical expertise and evidence-based practice, risk, performance and quality management and the achievement of patient outcomes.

With the passage of the Bill 41, *Patients First Act, 2016*, LHINs will have the opportunity to work with existing service providers within the *Home Care and Community Services Act, 1994* and to harness the innovation of those providers not yet known to them.

Home Care Providers in Ontario are usually incorporated entities, and can be one of the following: a non-profit organization, a private corporation, a municipal government or an aboriginal organization.<sup>i</sup> Home Care Providers are responsible for providing nursing care, home support services, personal care, physiotherapy, occupational therapy, social work, dietetics, speech language therapy and medical equipment and supplies in the home to individuals of all ages. Home is defined broadly as the location in which the client resides or lives. This may include, but is not limited to, individual residences, shared care buildings, nursing homes, long term care facilities, retirement residences, hospices, assisted living, boarding schools, hospitals, supportive housing, disability housing, jails and shelters.

Home Care Providers have well-honed care delivery procedures and processes. They have invested in research and development, technology, training, education, and clinical practices specific to the home setting. Home Care Providers have established risk management mechanisms and liability protection. As experts in care delivery, Home Care Providers are eager to offer innovative practices and welcome the opportunity to contract with LHINs and be measured on the outcomes they achieve for those they responsibly serve.

### **Recommendation**

1. Bill 41 and/or the related regulations must expressly commit to:
  - A continuation of contracts between the LHINs and Home Care Providers, regardless of corporate tax status, for the delivery of home and community care services, as defined in the *Home and Community Care Act, 1994*.
  - The establishment of a provincial contract review committee responsible for ensuring best contract practice and agreeable rate structures.
  - The ability for LHINs to enter into contracts with Home Care Providers, regardless of corporate tax status, for services beyond that described in the *Home Care and Community Services Act, 1994*.

## **Recommendation 2 - Discussion**

### **Health Information Custodian**

Bill 41 repeals the CCAC designation as a health information custodian (HIC) under the *Personal Health Information Protection Act, 2004* (PHIPA). Home Care Providers (service providers within the *Home Care and Community Services Act, 1994*) are designated as health information custodians (HICs) under PHIPA. However, the CCAC contractual agreements with Home Care Providers expressly state that the CCAC is the HIC and that contracted providers are agents of the CCAC for the purpose of, and within the meaning of, PHIPA.<sup>ii</sup> This has the effect of limiting direct clinician access to patient information. Home Care Providers must have full access to relevant patient information that will support care delivery and reduce the duplication and risk of error.<sup>1</sup>

Bill 41 is also silent with respect to the records of personal health information currently in the custody of CCACs. Section 42 of PHIPA<sup>iii</sup> does provide provisions with respect to the transfer of personal health information to a successor of a custodian. However, the absence of a provision to amend PHIPA under Bill 41 to designate a successor health information custodian will create confusion regarding the disposition of personal health information presently in the care of the CCACs.

Currently, and appropriately, there is no provision in Bill 41 that would amend PHIPA by adding LHINs as HICs.<sup>2</sup> But the absence of provision to amend PHIPA to designate a health information custodian as the CCAC successor creates uncertainty at this time.

### **Recommendation**

2. Home Care Ontario recommends that Bill 41 clarify that Home Care Providers are successor health information custodians of CCACs and that the role of health information custodian cannot be negated by contract.

## **Recommendation 3 – Discussion**

### **Shared Services Organization**

The opportunity for administrative efficiencies through the establishment of a ‘shared services organization’ is a welcome aspect of Bill 41. Bill 41 permits the establishment of a corporation without share capital and with the objects of the corporation to include the provision of shared services to LHINs, health service providers or other entities with primary functions to deliver health services. The absence of specifics regarding the services to be provided creates the risk of scope creep through the transition, especially where staff and structure remain essentially the same.

The shared services organization entity must be accountable for protecting, improving and standardizing business processes to support consistent home care administration, and thereby reduce costs, across the province. A framework of principles must be established so that differentiation can be intentionally applied where, and if, appropriate. It needs to be clear that the organization provides supportive services, such as payroll, technology, data analysis and that the communications related to the role and function of the shared service organization should be through the MOHLTC and/or the LHINs.

### **Recommendation**

3. Home Care Ontario recommends that Bill 41 clearly define the scope and parameters of the shared services organization so as to ensure a true change in function vis-à-vis the home care sector. The supportive role must be clearly mandated and the limitations on a public voice expressly described.

<sup>1</sup> An issue inherent in the current model where the CCAC serves as the conduit for any patient information.

<sup>2</sup> The LHIN mandate is to “engage their communities, proactively plan an effective service system, facilitate integration and system transformation, and manage the overall funding of the health system within their devolved authority.”

#### **Recommendation 4- Discussion**

##### **Performance Council**

The shared services organization should be answerable to a provincial Performance Council with the mandate to identify best practice in inter-organizational operations. The council would seek to understand operational practices, such as intake, assessment, service delivery, human resources and use of technology, in order to remove system barriers, reduce redundancy and unnecessary cost in the health system. The provincial Performance Council would have the authority and influence to challenge assumptions about current practice and inspire change.

The shared services organization should report to a provincial working group with authority and influence to challenge assumptions and inspire change. This could help to change attitudes which will typically gravitate to historical ways of operating.

##### *Recommendation*

4. Establish a provincial Performance Council responsible for working with LHINs to identify best practice in inter-organizational operations in order to reduce redundancy and unnecessary cost in the health system.

##### **Conclusion**

The importance of patients and families underpins home care service delivery. Home Care Providers are very familiar with the delicate balance of respecting individual rights in the home with the provider care agenda. Bill 41 provides a framework to reverse prescriptive care. With LHINs as planners and enablers and Home Care Providers as responsible for care outcomes, it is possible to see how patients truly can be “first” in deliberations and service.

##### **About Home Care Ontario**

Home Care Ontario, *the voice of home care in Ontario™*, is a member-based organization with a mandate to promote growth and development of the home care sector through advocacy, knowledge transfer, and member service. Home Care Ontario members include those engaged in and/or supportive of home-based health care. In Ontario, Home Care Providers are responsible for delivering nursing care, home support services, personal care, physiotherapy, occupational therapy, social work, dietetics, speech language therapy and medical equipment and supplies in the home to individuals of all ages. An estimated 58 million hours of publicly and privately purchased home care service is provided annually across the province.

For more information, contact:

Susan D. VanderBent, CEO

Email: [sue.vanderbent@homecareontario.ca](mailto:sue.vanderbent@homecareontario.ca)

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##### **ENDNOTE**

<sup>i</sup> MOHLTC. Retrieved on October 12, 2013 from website [http://www.health.gov.on.ca/en/public/programs/ltc/5\\_glossary.aspx](http://www.health.gov.on.ca/en/public/programs/ltc/5_glossary.aspx)

<sup>ii</sup> OACCAC. General Conditions – 2014 Consolidated Services Version – Template Final Version - September, 2014

Section 5, 5.1.1 (2), (3). Retrieved on Oct 6, 2016 from <http://healthcareathome.ca/serviceproviders/en/Procurement/Contract-Templates/Client-Services>

<sup>iii</sup> Section 42 discusses disclosure and transfer to a successor. Retrieved on Oct 30, 2016 from <https://www.ontario.ca/laws/statute/04p03#BK57>