

# QP Briefing: June 19, 2017

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## Q P B R I E F I N G

June 19, 2017

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*1). Wynne gets new 'executive advisor' in premier's office*

**By: Geoff Zochodne**

There has been a rearranging of chairs in Premier Kathleen Wynne's office, QP Briefing has learned.

As of May 23, Mary Rowe, who had been Wynne's deputy principal secretary, is working in the new role of "executive advisor to the premier."

"In her first six months in the Premier's Office, Mary has benefited from a thorough exposure to the range of Issues the government is addressing," said a May 11 memo from Andrew Bevan, Wynne's chief of staff and principal secretary. "In her new role, Mary will provide strategic advice to the Premier on a broad range of issues, including Ontario-U.S. relations."

Rowe became the premier's deputy principal secretary last October, after Karim Bardeesy departed Wynne's staff to spend more time with his family. The shift to executive adviser comes as the Liberal government is bracing itself for NAFTA renegotiations and further trade headwinds from south of the border.

Before going into government, Rowe had been a senior urban fellow at Evergreen Canada, a charity aimed at making cities more environmentally friendly. According to her LinkedIn page, she also spent time at the New York City-based Project for Public Spaces, the Municipal Art Society of New York and the New Orleans Institute for Resilience and Innovation.

“Having spent a number of years as a community leader south of the border, Mary is well positioned to provide insight and guidance as our government navigates this complex and constantly evolving relationship,” said Bevan’s memo, which was obtained by QP Briefing.

Wynne still has former TD Bank president Ed Clark as her business adviser. A February order in council extended Clark’s term to the end of March 2018.

Rowe, meanwhile, has been succeeded as deputy principal secretary by Mike Jancik, who had been Treasury Board President Liz Sandals’ chief of staff.

Bevan said Jancik had been “an instrumental figure in helping our government achieve a balanced budget.” Jancik had also been a director of policy in the premier’s office and at the Ministry of Education, as well as a special adviser on Syrian refugee resettlement, the memo notes.

According to the public-sector directory, Jancik’s chief-of-staff job has been filled by Jason Pichelli, who was a policy director for Sandals.

“As a government, we are entering an exciting phase of our mandate,” Bevan said. “We have achieved a balanced budget and are moving forward with important initiatives like our Fair Hydro Plan, our Fair Housing Plan and OHIP+ (free prescription medications for Ontarians under the age of 25).”

“There is so much more that we are set to accomplish in the coming months and we are building the right team to get us there.”

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*2). Doctors vote for binding arbitration, opening door to possi*

By: Christopher Reynolds

Ontario doctors voted decisively to back a binding arbitration deal with the province last weekend, paving the way to kick-start negotiations after recent turmoil at the Ontario Medical Association (OMA) and more than three years of wrangling and acrimony between the two sides.

On Saturday, OMA members voted 65 per cent to 35 per cent in favour of a binding arbitration framework agreement. Binding interest arbitration — where a neutral third party makes a ruling should the parties reach a deadlock — would now kick in should the OMA and the provincial Health Ministry fail to come to terms on a subsequent fee deal.

That opens the door for the specifics of a potential contract, including the total amount of money allotted for physician services or potential fee caps, to emerge.

“After three years of unprecedented fee cuts and unilateral government action this agreement now provides for a fair, independent process and prevents the government from taking unilateral actions,” said OMA president Dr. Shawn Whatley, now on the job six weeks.

“Now Ontario’s doctors can finally look to establishing a new, fair and respectful relationship with the government,” Whatley said in a release Saturday.

The government struck a slightly more upbeat tone. “This is an important step toward reaching a new physician services agreement and we look forward to the start of substantive negotiations in the near future,” Premier Kathleen Wynne said in a statement Saturday.

“Rebuilding a strong and productive relationship with Ontario’s physicians is essential to increasing access to care, reducing wait times and improving the patient experience.”

But rebuilding isn't necessary without deterioration. Just four months ago, the body's board of directors called the government "intransigent in its approach to health care and disrespectful of physicians and the role we need to play in health-care reform."

Negotiations foundered in August 2016 after OMA members rejected a fee deal largely over two sticking points: fee cuts and a lack of binding arbitration for future agreements. The contract would have boosted the annual budget to pay doctors to \$12.8 billion by 2020, put a ceiling on items such as excessive urine testing at methadone clinics and capped fee-for-service billings more than \$1 million a year.

A group called the Concerned Ontario Doctors had called the contract a "complete surrender." Other complaints included the \$100 million slashed from fees for medical procedures that can now be done faster given advances in techniques and equipment.

Since last summer, the association, which represents 42,000 doctors, residents and medical students, has also been rocked by internal strife, culminating in the resignation of its executive in February.

Meanwhile the government had refused to discuss binding arbitration because it didn't want to relinquish control of the \$11.5-billion annual physician services budget to an arbitrator. There were also concerns losing that control would mean that funding decisions are divorced from the need to improve efficiency and take modern technology into account.

Health Minister Eric Hoskins has acknowledged any new contract would include a deeper pot of cash to pay physicians.

"There are certain pressures on the health-care system that are reflected in the experience of front-line physicians, (such as) increased population and changing demographics," he said last month.

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### *3). Privacy commissioner demands revamped health-care laws*

By: Christopher Reynolds

Ontario's information and privacy commissioner is trying to drag provincial health care into the digital age.

On Monday, Brian Beamish called on the province to overhaul "outdated and inadequate" laws around access and privacy in a bid to defog the government operating room for clearer public scrutiny, as well as shore up privacy protections for citizens.

"We now live in the era of big data, where information technology holds the promise of creating a more efficient and responsive public service," Beamish said in a statement Monday.

He also warned about balancing the temptations of big data with privacy rights. "It is possible to use big data in a privacy-protective manner, but it will require fundamental changes to privacy legislation, involving government, citizens and regulators," he said.

In an annual report released Monday, Beamish demanded the government put into effect a framework for sharing electronic health records provincewide.

The bulk of Bill 119, passed in May 2016, mandates just that — but it has yet to be proclaimed. Portions of the legislation — those requiring privacy breaches be reported to the commissioner and doubling the fines that can be imposed for peeking at patient records — have been in effect for a year. But moves toward a governance apparatus for a shared electronic health network remain mired in the past, Beamish said.

"I think Ontario has traditionally lagged behind other provinces in adopting an electronic health record ... I hope it hasn't been privacy that's delayed it, because there are ways to protect the privacy of information that's put into an electronic health record," he told QP Briefing in an interview Monday.

It's been eight years since then-Ontario auditor general Jim McCarter chewed out the government for blowing \$1 billion on the provincial eHealth agency, and more than a quarter-century since many laws around access and privacy were revamped for an age of unprecedented power in information technology. Current auditor general Bonnie Lysyk reported last year that approximately \$8 billion had been spent thus far on electronic health records, but the job still wasn't done.

Meanwhile, rules around medical assistance in dying — already under fire from doctors who conscientiously object to the process — caught more flak as Beamish called for rules granting more transparency to health centres, such as hospices, that offer for physician-assisted suicide procedures. He “strongly urge(d)” institutions to disclose whether or not they provide euthanasia — information currently not even available via freedom of information requests — despite the government ignoring his recommendation for disclosure in Bill 84, passed last month.

“If someone is in a situation in their life where they are considering this, it would be very helpful for them to know where to go for help,” Beamish said.

He also applauded the government's prosecution of health-care voyeurs — and the fines of up to \$100,000 for individuals and \$500,000 for organizations for their health-care record privacy breaches — but said it needs to publicize successful prosecutions to deter info interlopers.

The province has convicted four snoopers since Bill 119 passed last year.

Abandoned health records have been an issue since at least 2009, when the information and privacy commissioner's office pushed for consultations on what to do with patient files after a doctor stops practising. “The biggest problem is that people may lose access to their health files,” Beamish said.

The other danger is the records will be left “unsecured,” jeopardizing patient privacy. “They may be left in a vacant doctor's office,” he said. “We've seen instances where they're kept in someone's basement or garage. That's not good.”

Beamish encouraged the Ministry of Health and Long-Term Care to hash out with regulatory colleges how to reform policies on abandoning personal health files and define that act as “an offence.”

Other recommendations by the commissioner included:

- Authorizing a framework for big-data projects and information sharing for policy and research purposes across ministries and departments — still “treated as silos” under outdated access and privacy laws.
- Allowing the commissioner access to documents currently exempted under solicitor-client privilege.
- Spot auditing by all Ontario institutions of their freedom-of-information offices.

Key stats, 2016:

Ministry with the most freedom-of-information requests not yet complete – Ministry of the Environment and Climate Change, with nearly 1,000 out of 8,000

Total provincial information requests — 23,613

Appeals opened — 736

Privacy complaints — 277

Commissioner's budget, 2016-17 — \$15.5 million (same as 2015-16)

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*4). From parking lot to park: Government unveils phase one of*

By: Sabrina Nanji

A chunk of Ontario Place is now open to the public for the first time in five years.

On Monday, Premier Kathleen Wynne cut the ribbon, literally, on the nearly \$30-million, three-hectare Trillium Park and 1.3-kilometre William G. Davis Trail on Toronto's waterfront. The parking-lot-turned-urban-park is phase one of the Liberal government's plan to revive the lands, which have been shuttered since 2012.

"There's a lot of nostalgia here," the premier said from underneath a newly constructed Douglas fir pavilion, noting Ontario Place first opened the same year she graduated high school. But the revamped waterfront park, for which admission is free, differs significantly from the amusement park a teenaged Wynne might recall. (The iconic waterslide will not be making a comeback anytime soon, for instance.)

It boasts nearly 1,200 red oak, red pine and sugar maple trees, approximately 28,000 shrubs and flowers, a 1,700-tonne Muskoka granite bluff created by stacking slabs of rock and boulder dug up from a quarry in Huntsville, and a moccasin identifier etched into the gateway of the park and trail as a symbolic nod to the Mississaugas of the New Credit First Nation.

"I'm struck by the juxtaposition ... because here we are in this natural beauty and then we have human-made beauty just outside of this space," Wynne said, gesturing to the Toronto skyline behind her. "It's beautiful in its own right."

Sabrina Nanji @sabinananji

Premier Wynne literally cuts the ribbon with the larger pair of scissors  
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The park and trail — named for former premier Bill Davis, who christened Ontario Place when it first opened in 1971 — is just part of the government's lofty makeover plans for the 30-hectare parcel of land.

Tourism Culture and Sport Minister Eleanor McMahon later told reporters the landmark Cinesphere will be functional once the new film projector comes in and work is ongoing to rejuvenate the inter-connected pods. The park and trail itself was also completed later than expected, delays the minister chalked up to poor weather conditions and the 2015 Pan Am Games.

McMahon could not provide a timeline for when the entire redevelopment would be completed, nor would she divulge which private-sector companies she's in talks with to potentially partner with to help complete the entire revival project.

"Stay tuned," the minister said.

What's for sure, McMahon said, is that the new space will not house condos, something the premier ruled out in 2014.

The New Democrats sounded the privatization alarm bells last fall when MPP Cheri DiNovo unearthed a clause tucked away in the government's omnibus regulatory reduction legislation, Bill 27, that enables private sale or lease of the public lands.

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*5). Three ministries called out for 'procedural' fudging of FOI*

By: Sabrina Nanji

Three more ministries are being called out for fudging timelines for access to information requests in the information and privacy commissioner's latest annual report, released Monday.

Commissioner Brian Beamish found the practice of manipulating data for freedom of information (FOI) requests is not unique to the Ministry of the Environment and Climate Change (MOECC) — which had juked nearly 20 per cent of requests to boost their own compliance statistics — but also exists at the Ministries of the Attorney General (MAG), Labour (MOL), and Community Safety and Correctional Services (MCSCS), albeit for different

reasons.

**“It was procedural instead of malicious,” Beamish told QP Briefing. At MOECC, it “turned out to be an intentional effort to manipulate the statistics to make them look better.”**

**“There were issues (at the other three), but they were more procedural, training-type issues, people not knowing the system properly, in terms of entering stats,” he said. “Although their stats were not as accurate as they should be, it was not a Ministry of the Environment-type situation. We’re satisfied they were not the same issue.”**

**His finding is based on Treasury Board’s internal audit of the top five most-popular ministries for receiving FOI requests: MAG, MCSCS, MOL, as well as the Ministry of Community and Social Services and the Ministry of Natural Resources and Forestry. Combined with MOECC, they handle 89 per cent of all FOI requests submitted to provincial ministries.**

**They were probed at Beamish’s prompting last year because of an earlier audit at MOECC that found staff were “intentionally falsifying dates” and “without justification” to make it seem as though they were complying with legal deadlines. Under provincial law, ministries must complete FOI requests within 30 days, and delays, if any, must be warranted. The audit confirmed 18 per cent of requests processed by MOECC’s FOI office between 2010 and 2015 were manipulated.**

**Beamish wanted to find out if the practice was widespread and ensure staff were following the law for completing reports.**

**As it turned out, the practice is not uncommon — with the key difference being intent.**

**“Among other things, the audit found evidence that in three ministries, some dates were modified in tracking systems. The respective ministries confirmed that, unlike at MOECC, the audit revealed no evidence that staff systematically adjusted dates to deliberately manipulate compliance statistics,” Beamish’s report reads.**

**Beamish was assured last year’s compliance stats for the three ministries in question were accurate, but the audit “revealed some instances in which ministry practices need to be strengthened to ensure full compliance with FIPPA (Freedom of Information and Privacy Protection Act).”**

**He said there should be a “centralized” government understanding of the FOI process, rather than “each ministry doing its own thing,” which would lessen someone’s ability to fudge the numbers. His report also recommends all provincial institutions, including municipal entities governed by MFIPPA, the sister legislation to FIPPA, routinely review how they handle FOI requests.**

**For its part, the government is working to beef up its practice through better training and updated guidelines. Beamish had also asked all ministries to conduct a self-assessment. There will be follow-up audits at the three offending offices.**

**When he alerted the Speaker to his concerns last winter, Beamish warned falsifying data “can erode the trust and confidence of Ontarians who should be able to rely on the accuracy of these statistics.”**

**Months later, the commissioner says he’s confident the government has learned its lesson, calling the MOECC matter a “cautionary tale.”**

**“Staff who are in the FOI process realize that this type of behaviour is totally unacceptable,” he said. “I think if you were a Ministry of the Environment FOI staff, it would not be a wise idea to manipulate stats in future. Their stats will be under a great deal of scrutiny going forward.”**

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