



Ontario Community  
Support Association

## **OCSA Analysis and Statement on Bill 175**

**June 7, 2020**

### **Statement on Bill 175 Proceeding to Committee During COVID-19**

The province had actively engaged the Ontario Community Support Association (OCSA) on the development of a new legislative framework for the home and community care sector, which led to the introduction of Bill 175 and the associated proposed regulation summary on February 25, 2020. OCSA had been supportive of the approach for developing Bill 175 and the province's plan to modernize the sector. However, COVID-19 has halted sector consultations on Bill 175 and the proposed regulations.

In the past number of months, the sector has been solely focused on responding to the COVID-19 pandemic by supporting and delivering services that enable frail seniors and adult with physical disabilities safely isolate and stay healthy during COVID-19. This is why OCSA believes that there is no need to hastily move the bill through the legislative process until further engagement with the sector. At present, OCSA strongly believes that the timing is not right to move forward with this legislation.

COVID-19 has had a great impact on the health sector and has fundamentally changed how services are delivered across the entire health sector. The passing of Bill 175 should be delayed until the COVID-19 pandemic has passed, which would enable the sector to better understand and incorporate key learnings from the pandemic response.

OCSA is calling on government to consult the sector about the lessons learned from COVID-19 in order to ensure a successful transformation of the home and community care sector for clients, providers and front-line staff. Our support of this legislation and associated regulations is contingent on open and transparent collaboration between government, the home and community care sector and other stakeholders. The recent pandemic is a great opportunity for us to learn, adapt and create resilient and sustainable systems for the future. We must make the most of this opportunity.

## **Summary of OCSA's Analysis of Bill 175 and the Proposed Regulatory Framework for the Modernization of the Home and Community Care Sector**

At present, the *Home Care and Community Services Act, 1994* (HCCSA) and associated regulations govern the home and community care sector. Much of the clinical and service delivery requirements in home and community care are set out in legislation and regulation as opposed to regulation and policy as is the case in other health sectors.

Bill 175 proposes to repeal the HCCSA and establish the *Connecting Care Act, 2019* (CCA), associated regulations and policy as the oversight framework to govern the sector. This proposal would shift the clinical and service delivery requirements from legislation to regulation and policy.

**Overall, OCSA supports adopting a more patient focused regulatory system for the sector. Bill 175 moves away from rigid legislation that directs clinical services – such as service maximums and the need for client assessments –towards services that are more current and reflective of client need.**

The province must continue to collaborate with the sector on the development of the proposed regulations and policies. **Our support is contingent on the province actively collaborating with the sector and adopting an open and transparent engagement process as we move forward.**

We would also like to highlight that the proposed regulations outline a new regulatory framework to maintain the current model of community support service delivery by not-for-profit organizations and the delivery of home care services by both not-for-profit and for-profit organizations, as well as provides a clearer definition of community support services and home care services. **OCSA strongly supports this inclusion and our support of the transformation is contingent on the strength of this provision.**

## **Summary of Recommendations**

### **Bill 175**

1. Require Ontario Health Board meetings to be open to the public.
2. Carry over the exemption from the *Public Vehicles Act* for transportation services funded by the Ministry of Health.

### **Proposed Regulations**

1. Enshrine the principle that client fees should not be a barrier to accessing care in regulation.
2. Develop a provincial framework for care coordination in order to ensure quality and consistency.
3. Leverage existing care coordination resources to enhance front-line care and focus care coordination on those who need it most.
4. Develop a clear and consistent policy framework to ensure an equitable and client focused approach to address the removal of service maximums.
5. Offer support and resources for organizations, especially small organizations, that would be impacted by their designation as Health Information Custodians.
6. Prescribe through regulation qualification standards and requirements for being a home and community care health service provider.
7. Establish procurement guidelines for contracting services which include a preference for not-for-profit providers with a history of high-quality service.
8. Do not proceed with the addition of public hospitals as a location of service for home and community care until comprehensive engagement with both the home and community care sector and the hospital sector is completed.
9. Consult extensively with the sector before moving forward on the development of new regulations for residential congregate care settings.

## **Analysis and Recommendations of Bill 175 and the Proposed Regulatory Framework for the Modernization of the Home and Community Care Sector**

### **Public Accountability**

- There must be open and public accountability in the administration and spending of public dollars. When *The People's Health Care Act* was introduced, OCSA recommended that the Act be amended to mandate open and public meetings for the board of governors of Ontario Health. We are now recommending this again.

### **Equity of Access and Client Fees**

- The regulatory summary proposes to maintain the current client fee structure for certain community support services. Over the past decade, due to a lack of base budget increases, client fees have increased at a faster pace than inflation. For some programs, the client fee is becoming a barrier to access.
- Even though OCSA is supportive of the continuation of this model, the province must commit to adequately funding home and community care and enshrining the principle that client fees should not be a barrier to accessing care in regulation.

### **Care Coordination**

- Currently the HCCSA framework is very prescriptive about the practice of care coordination. We support changes to loosening this prescriptive approach and creating more flexibility of care coordination. The primary goal of care coordination should be to make it easier for patients to access care rather than focus on care qualification and patient eligibility
- System level care coordination including service navigation and case management should be available for clients with complex care needs. Service providers should be enabled to coordinate care for clients with less complex needs, in order for us to be able to fully utilize system level care coordination for clients with the highest acuity.
- In various areas of the province, the community support services sector has built significant navigational resources which should be utilized by the system more efficiently.

- Provincial standards for care coordination should be developed in order to ensure quality and consistency of services.

### **Service Maximums**

- The removal of service maximums will help keep people in their home and community safely. This will allow service providers to ensure that people aren't prematurely institutionalized due to a legislative cap on service.
- In the proposed regulations summary, it states that "the ministry could provide guidance on care planning and service allocation in policy to promote equity of access across the province". In order to ensure service levels are equitable across the province, there must be a consistent and client focused assessment tool used by all providers and OHTs across the province.
- The province must develop a policy framework to ensure all providers follow an equitable and client focused approach.

### ***Personal Health Information Protection Act, 2004 (PHIPA) Amendment***

- Bill 175 would amend PHIPA to deem home and community care service providers or Ontario Health Teams (OHTs) that provide home and community care services under the CCA as health information custodians. These changes would allow appropriate information sharing within Ontario Health Teams and is a critical condition to the success of integrated care delivery models.
- OCSA is supportive of this change, however government must offer the appropriate supports and resources for organizations, especially small organizations, that would be impacted by the new designation.

### ***Public Vehicles Act Exemption***

- In the HCCSA, there is a specific exemption of transportation services funded by the Ministry of Health from the *Public Vehicles Act*, which regulates taxi and bus services. This exemption no longer applies in Bill 175 as it currently stands. OCSA recommends the inclusion of this exemption in the new legislation.

- Without this exemption, these services would be subject to the same licencing requirements as taxis, buses and other services governed by the legislation. Leaving the exemption out of Bill 175 would create unreasonable administrative burdens for providers, who often have volunteers offering the services by driving their own vehicles.

### **Ability for all approved Health Service Providers to receive funding and contract for Home and Community Care**

- The proposed legislation would allow for all not-for-profit health service providers under the CCA to receive funding and contract for home and community care services. OCSA is concerned that this framework could disrupt long-standing relationships between service providers and clients, lead to other providers recreating new and more expensive models of care rather than leveraging existing home and community care providers.
- OCSA strongly recommends that the Ministry prescribe through regulation requirements and qualification standards for service providers as a condition to receive funding to provide home and community care services.
- To the extent that health service providers receiving funding have discretion to procure home and community care services, the Ministry must establish procurement guidelines which include a preference for not-for-profit providers with a history of service.

### **Public Hospitals as a Location of Service for Home and Community Care**

- The proposed regulation includes public hospitals as a possible location for home and community care service delivery. While this encourages continuity of care, especially for people receiving attendant care services, there are a number of issues associated with such change that may carry significant legal risks.
- The provision of home and community care services in hospitals could result in care duplication. Additionally, labour challenges such as work segregation, and oversight pose challenges to providing care in this setting.
- Having third-party providers in hospitals would raise additional exposure to litigation risk, occupier's liability, infection control, workplace safety and insurance issues, and other risks which would need to be addressed by the contractual parties.

- OCSA strongly recommends that the province does not proceed with this regulation until it engages in consultations with both the home and community care and hospital sectors.

### **New residential congregate care settings**

- The proposed regulation proposes to “provide a legal framework for the funding and oversight of non-licensed residential congregate care models.”
- OCSA is concerned about the lack of detail of this provision, especially around applicability and scope of these new regulatory powers. We recommend the government consults extensively with the sector before moving forward on this initiative.

### **If you have further questions or comments, please contact:**

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### **About OCSA**

The Ontario Community Support Association (OCSA) represents over 220 not-for-profit organizations that provide home care and community support services to over one million Ontarians. Our members help seniors and people with disabilities live independently in their own homes and communities for as long as possible. These proactive and cost-effective services improve quality of life and prevent unnecessary hospitalizations, emergency room visits and premature institutionalization. They are the key to a sustainable health care system for Ontario.

For more information, visit [www.ocsa.on.ca](http://www.ocsa.on.ca)