



# **Submissions of ARCH Disability Law Centre to the Standing Committee on the Legislative Assembly**

## ***Bill 175, Connecting People to Home and Community Care Act, 2020***

**June 15, 2020, 3:00pm**

**Presenters: Hina Ghaus, Gabriel Reznick, Dianne Wintermute**

**55 University Avenue, 15th Floor, Toronto, ON, M5J 2H7**

**Phone: 416-482-8255 or 1-866-482-2724**

**TTY: 416-482-1254 or 1-866-482-2728**

**[www.archdisabilitylaw.ca](http://www.archdisabilitylaw.ca)**



**@ARCHDisabilityLawCentre**



**@ARCHDisability**

My name is Hina Ghaus and I am here with my colleagues Gabriel Reznick and Dianne Wintermute from ARCH Disability Law Centre. ARCH is an Ontario-based specialty legal clinic that is dedicated to defending and advancing the equality rights of persons with disabilities. We are pleased to have the opportunity to present our recommendations on Bill 175 today.

## **1. Key Aspects of Home Care and Community Services Legislation Moving to Regulations**

Bill 175, if passed, will repeal the *Home Care and Community Services Act* (HCCSA) and its regulations. In its place, Bill 175 will shift some fundamental elements of HCCSA into regulations under existing laws. This shift is problematic and concerning for at least two reasons:

- i. Regulations are intended to be a vehicle used to fill in details of a statute. They are not meant to address entire and *fundamental* aspects of that statute which is what Bill 175 would do.
- ii. The content of regulations can be altered without the oversight of the Legislature. Given what is at stake, this can significantly contribute to a lack of oversight and transparency.

**Recommendation 1** – That fundamental aspects of Bill 175 be addressed comprehensively in legislation itself rather than be left to regulation. These aspects include but are not limited to:

- the scope of services,<sup>1</sup>
- consumer eligibility for services,<sup>2</sup>
- eligibility of service providers,<sup>3</sup>

---

<sup>1</sup> Currently found in *Home Care and Community Services Act, 1994*, SO 1994, c 26, s. 2(3)-(7) [HCCSA].

<sup>2</sup> HCCSA, s. 22(1)(b).

<sup>3</sup> HCCSA, s. 5.

- content and assignment of care coordination functions,
- the consumer Bill of Rights,<sup>4</sup>
- consumer complaints,<sup>5</sup>
- procedures for addressing consumer complaints,<sup>6</sup> and
- appeals to the Health Services Appeal and Review Board.<sup>7</sup>

### Care Coordination Functions

If Bill 175 is passed, detailed expectations of care coordination functions are left to be outlined in *policy*. Care coordination functions are central to the delivery of services and at the heart of many barriers and difficulties that consumers experience in this sector. For example, developing and updating a consumer's service plan and managing issues in service delivery.

Moving such essential parts of services to policy is alarming because having a large volume of agency-specific policies creates the risk of inconsistency and unpredictability.

**Recommendation 2** – Details on expectations in care coordination must be identified under legislation and/or regulation but not left to policy.

Care coordination functions are also going to be the responsibility of health service providers with discretion to assign care coordination functions to contracted providers or partner organizations. Ambiguity around what kind of oversight these contracted agencies will have, if any, is distressing to consumers about the standards and conditions in these places.

**Recommendation 3** – All health service providers that are responsible for care coordination

---

<sup>4</sup> HCCSA, s. 3(1).

<sup>5</sup> HCCSA, s. 39(1).

<sup>6</sup> HCCSA, ss. 39(2)-(4).

<sup>7</sup> HCCSA, ss. 40-48.

functions have strict reporting requirements where they must report to the Ministry and/or the Ontario Health Agency on prescribed areas.

### Consumer Bill of Rights

The Bill of Rights, which is currently found in s. 3(1) of HCCSA, is proposed to be moved into regulation as well. The Bill of Rights is an essential element of the current legislation and of utmost importance to consumers. This is evidenced by the fact that the current legislation explicitly states that it shall be interpreted to advance the objectives of the Bill of Rights (s. 3(2)).

**Recommendation 4** – Ensure that the Bill of Rights is enshrined in the legislation rather than regulation.

## **2. Key Aspects of *Home and Community Care Act, 1994* are Omitted**

With the repeal of HCCSA, a number of key provisions and safeguards that were in this Act have been omitted from Bill 175 and its amended legislation. Effectively, these omissions will result in less than adequate oversight of agencies and organizations that provide home and community services.

### Consumer Preferences

Bill 175 is silent on the importance of consumer preferences based on ethnicity, language, and cultural factors.<sup>8</sup> For services to be effective for persons with permanent mobility disabilities, it is critical that these services be provided in accordance with an individual's preferences. This is especially so given the very personal nature of services provided.

---

<sup>8</sup> Such a statement is found in the purpose section of HCCSA at s. 1(d). ARCH's written submissions will expand on further purposes outlined in HCCSA that also should be in the *Connecting Care Act*.

**Recommendation 5** – Amend the *Connecting Care Act* to include a provision which specifies that individuals’ preferences are protected, as stated in section 1(d) of HCCSA.

#### Prevention of Abuse

We understand that the majority of professionals who provide services in the home and community setting do so in a caring, appropriate, and compassionate way. But we also know that, from time to time, services may be less than professional, and on occasion, consumers are subject to abuse. And unfortunately, there is a long and well-documented history of individuals with disabilities being subject to abuse. As such, ARCH has grave concerns that section 26 in HCCSA - which speaks to the prevention, recognition, and dealing with abuse - is nowhere to be found in Bill 175 or its attached regulations.

**Recommendation 6** – A provision on prevention of abuse and neglect policies be incorporated into the *Connecting Care Act*.

#### Services Provided with Competency, Honesty, and Integrity

The tragic circumstances that this province has just witnessed in the long-term care sector during the COVID-19 crisis reminds us of just how critical it is that organizations entrusted with the delivery of personal services need to be properly equipped and competent to deliver those services. At the heart of this issue is the need for proper oversight and protection. HCCSA at section 5(1)(ii) speaks to the issue of oversight by mandating service providers to exercise competence, honesty, integrity, and concern for the health, safety, and well-being of the person receiving the service. These critical elements are completely absent from Bill 175 and the *Connecting Care Act*, and ARCH submits that this omission must be corrected.

**Recommendation 7** – Amend the *Connecting Care Act* to include a provision that health service providers must provide services with competence, honesty, integrity, and concern for the health, safety, and well-being of the person receiving the service.

Throughout these submissions, ARCH has flagged some issues in home and community services that must be addressed when reviewing Bill 175. Please note that our detailed legal analysis in written submissions is forthcoming with additional recommendations. ARCH believes in the importance of consulting with persons with lived experience who will be most directly impacted by the proposed changes. We thank you for the opportunity to provide our submissions on this important Bill.