OMA Updated Submission

Bill 175 - *Connecting People to Home and Community Care Act*, 2020 and Proposed Regulations under the Act

June 5, 2020

Introduction:

The Ontario Medical Association (OMA) welcomes the opportunity to comment and share its perspective on the amendments proposed in the *Connecting People to Home and Community Care Act*, 2020 (Bill 175) and the proposed regulations under the Act to the Standing Committee on the Legislative Assembly. On April 13, 2020 the OMA made a submission to the Ontario Regulatory Registry on the Bill and the regulatory proposal. In light of lessons being learned from the COVID-19 pandemic, the original submission has been updated.

The importance of a strong and well-funded home and community care system, particularly for seniors and other vulnerable populations, has never been greater as has been revealed during this pandemic. A strong and robust home and community care system will help individuals stay at home longer. It is noteworthy that Canada has among the lowest per capita funding for home and community care as compared to other OECD countries, and has among the highest rates of COVID-19 outbreaks in residential care settings[1].

The OMA believes that seniors deserve better and their care, and overall health and well-being, should not be less valued based on where and how they access services. The move to modernize the home care legislative framework should give us pause and provide an opportunity to re-examine how to support people to live longer in their own homes. We need to consider what care and services are needed the most, who decides what they are, and how funding is directed to better meet those needs. We need to look at the person receiving services more holistically and from a social determinants of health perspective that includes medical care, but also other services and supports which can keep people living healthy lives in their own home for longer. This approach should underpin the Bill and its regulatory proposals.

Bill 175:

We understand that the intent of the bill is to modernize home and community care services and to enable the introduction of integrated and innovative models of care. This is important because the current delivery model for care under the *Home Care and Community Services Act*, 1994 has not kept pace with changes associated with an aging population, the care needs and expectations of patients, opportunities to provide care at home, provider needs, and evolving technology[2]. The OMA believes there is a need to address long-outstanding issues associated with inefficiencies in the current home care delivery model and provide opportunities to better address patient needs, as well as improve integration with primary and hospital-based care.

The modernization presents an opportunity to examine critical areas that affect the delivery of home and community care for physicians and their patients, especially in light of an ongoing pandemic that may well continue for years in the future. These areas include:

- Enhancing the ability of doctors to easily access home and community care for their patients;
- Improving communication between physicians and community care;

For further information, Dara Laxer at dara.laxer@oma.org or 416.340.2925

- Improving the ability to efficiently change care needs based on changing clinical situations;
- Reducing the need for assessment, and improve consistency in assessments; and
- Increasing the rapid delivery of services.

In reviewing the bill, we note that many details and parameters associated with home care delivery will be left to regulation and policy, for example, where care coordinators should be situated. Although the Ministry has posted a draft summary of the regulatory proposal, the degree of specifics provided is minimal and therefore it is difficult to assess if these elements will be addressed until more detailed information is available.

Submission:

OMA's submission is divided into two parts:

1) Comments and recommendations on legislative changes proposed in Bill 175; and

2) Comments on the summary of proposed regulations posted on Ontario Regulatory Registry Posting. The draft regulations are anticipated to be approved following the passage of the *Connecting People to Home and Community Care Act,* 2020.

The OMA is focusing its comments and recommendations to those areas of Bill 175, including the proposed regulations, that are most pertinent to physicians' practices and to the health and well-being of those receiving home and community care services, especially in light of the current and potential future pandemics.

PART 1 – Bill 175

As noted previously, the OMA supports the need to modernize home care by amending relevant legislation (e.g., the *Connecting Care Act*, 2019) while repealing others (i.e., *Homes and Community Services Act*, 1994). The overall approach of placing the parameters for the delivery of home care in regulations provides for greater flexibility and ability to adapt and keep pace with changing needs of patients and caregivers. Comments on the regulations are provided in Section 2.

Connecting Care Act, 2019 – Schedule 1

1. Replacement of terminology - Section 1 – Interpretation

The term "integrated care delivery systems" is replaced with the term "Ontario Health Teams" to streamline terminology. The terms "integrate" and "integration" will remain.

The OMA supports the change from integrated care delivery system (ICDS) to Ontario Health Team as it removes ambiguous terminology and provides greater clarity regarding the application of the Act. It also clarifies the accountabilities of OHTs and the powers of Ontario Health and the Minister in relation to OHTs.

Recommendation:

The OMA supports the replacement of 'integrated care delivery system' terminology with 'Ontario Health Teams'.

2. Implications for Health Service Providers (HSPs) - Sections 26 – 27 – *Additional investigation powers and removal of notice* and Part V.1 – *Enforcement and Penalties* (New section)

Under the *Connecting Care Act,* 2019, Ontario Health has the authority to appoint one or more investigators to investigate health service providers (HSPs) and OHTs (proposed terminology replacing ICDS) who receive funding from Ontario Health under certain circumstances. For example, Ontario Health has broad powers and can appoint an investigator to investigate and report on the quality and management of an HSP or OHT, quality of care by a HSP or OHT, and on any other matter relating to a HSP or OHT. In addition, the new Enforcement and Penalties section enables enforcement and penalties to extend to HSPs.

While physicians are not currently designated as HSPs, they can be designated as such by the Minister through current regulation-making authority. The OMA formerly expressed concerns in its Bill 74 submission[a] to government, which established the *Connecting Care Act* and the related Ministerial authority. HSPs are subject to significant controls and compliance requirements related to practice, including directives issued by the Minister and Ontario Health. With these proposed changes even greater enforcement controls and penalties can be applied to HSPs. The OMA reiterates its position that physicians should be exempt from being named HSPs. The potential to force integration and ministerial powers through designation may lead to physician resistance and reluctance to participate in the transformation process and impact ability to achieve the Quadruple Aim[3]. Further it could have implications for current funding agreements. In addition it could potentially violate the Representation Rights Agreement, including the Binding Arbitration Framework.

Recommendation:

Amend Section 1(2) of the *Connecting Care Act*, 2019 (Section 1 – Bill 175) to exempt physicians and medical profession corporations from the definition of Health Service Provider.

3. Equitable access to care based on need and choice

As a measure of success for many of the legislative changes being contemplated, Ontario's doctors would like the government to consider how access to home care can be improved. In many areas of the province, the needs of patients are not appropriately aligned with the publicly-funded services available to them in their communities. The government should ensure that there

[a] OMA's submission on Bill 74 – *People's Health Care Act* (April 2019)

is equitable access to services throughout regions and that the services are appropriately aligned with patients' needs. In a number of instances, this will mean a need for greater amounts of care.

Further, in light of the COVID-19 pandemic and the significant impact on seniors and other vulnerable populations, this is an opportunity to be innovative and to consider the person holistically to support the individual in staying at home longer. This requires allowing caregivers and recipients of home care services to choose and direct care as appropriate.

Recommendation:

Consider the effective alignment of patient need and choice with the availability of publicly-funded home-care resources as a measure of success for the changes being contemplated. In addition use social determinants of health and the provision of choice to meet the broad needs of those receiving services (e.g., care, social supports, transportation) to enable them to live healthy lives in their own homes as long as desired and possible.

PART 2 – Regulation Proposal[4] under *Connecting Care Act* pending passage of Bill 175

It should be noted that substantive regulations are not yet posted, and therefore it is impractical to evaluate specifics at this time. Given the lack of detail, the OMA is providing comments based solely on its review of the proposed regulation summary. More details in regulation and policy are needed to address many of the questions raised below.

1. *Eligibility for Services*

The ministry is proposing to maintain the eligibility criteria for services as outlined in Ontario Regulation 386/99, including School Health Professional Services. This would include any update to eligibility made as the result of the public posting in 2019 related to providing access to home care services for people from another province or territory who were insured under a public health insurance plan and who require end-of-life care.

OMA's position on Dan's Law – Bill 73[5] supported the proposed amendments to the *Home Care and Community Services Act*, 1994 to meet the needs of individuals who were returning from another province who were publicly insured and require end-of-life care. Bill 175 will repeal the *Act*. The OMA commends the government for ensuring this important amendment is captured in regulation as it ensures people like Dan get the health care coverage when and where they need it most.

2. Care Coordination Functions

The ministry is proposing to require home and community care Health Service Providers as defined under the *Connecting Care Act*, 2019, which would include LHINs[b], to ensure the performance of care coordination functions.

These Health Services Providers would be responsible for care coordination – whether they are part of an Ontario Health Team or not – and would have the flexibility to assign care coordination functions to contracted providers or, through mutual agreement, to partner organizations with the goal of improving system navigation, reducing transitions for clients, and eliminating duplication in assessment and care planning.

The OMA in collaboration with OCFP and SGFP recently prepared advice (included in Appendix 1) to the Ministry about how Ontario's family doctors value the role of our province's care coordinators. For example, Ontario's family doctors see care coordinators as something more than just brokers of care services. Care coordinators assist patients in their navigation of the current system and, together with physicians, are often tireless advocates for their patients' needs. How we maximize the potential of Ontario's care coordinators is ultimately determined by their envisioned role and function to meet the needs of patients and families in getting the most effective care. This will need to be carefully considered as clearly a "one size fits all" approach will not be effective. We note that co-design with physicians, patients and families will be an essential aspect of a renewed role.

Specifically, our advice to the Ministry included a recommendation to strengthen the linkages between care coordinators and family doctors. This can be accomplished in several ways. For example, virtual linkages can be established where information can be easily exchanged electronically. Some practices may desire to have a care coordinator located on-site on a part-time or full-time basis. However, the latter should be done voluntarily and with attention to space availability and resourcing.

The regulatory proposal leaves many questions currently unaddressed, for example:

1. What will the role of the existing 4000+ LHIN care coordinators be if care coordination is delegated to contracted providers or partner organizations?

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[b] *LHINs as Health Service Providers* – Proposed amendments to the Connecting Care Act, 2019 would enable LHINs to be deemed Health Service Providers under that Act on an interim basis. The ministry is proposing regulations to give this effect. This would be required when the Home Care and Community Services Act, 1994 is repealed and the LHINs are funded by the ministry. Regulations would ensure that certain provisions of the Connecting Care Act, 2019 and proposed regulations under that Act pertaining to the delivery of home and community care services would apply to all Ontario Health-funded home and community care providers would apply to LHINs as well. This is critical to ensuring that home and community care patients receive equitable care, regardless of who provides it.

2. Will the 'new' home and community care support services organization employ care coordinators?
3. What is the transition plan for phasing out LHINs and integrating home care into OHTs? How can we avoid some of the shortcomings of the past in the new home and community care support services organization?
4. What linkages are being contemplated between the home and community care support services and primary care?
5. How will the care coordinator role evolve amidst the changes being contemplated?

Given this, the OMA is seeking clarity regarding impact of the regulatory proposal on current care coordination functions and future rollout.

Conclusion:

This is a very turbulent time and our society and our health care system are facing multiple challenges in light of this pandemic. Modernization of the home care framework in Ontario provides an opportunity to consider new ways of delivering home care services and community supports to those people who receive those services, and in particular seniors and other vulnerable populations.

The OMA appreciates the opportunity to comment on Bill 175 and the proposed regulations and we look forward to further dialogue on this matter and related issues. We also look forward to further discussion in relation to the regulations as more specific details are made available and policies are being drafted.

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[1] https://www.cdhowe.org/sites/default/files/attachments/communiques/mixed/CWGR_2020_0602.pdf
[2] https://news.ontario.ca/mohltc/en/2020/02/new-plan-to-modernize-home-and-community-care-in-ontario.html
[3] Ministry of Health. Ontario Health Teams: Guidance for Health Care Providers and Organizations [Internet] 2019 [cited 2019 August 30] Available from: http://health.gov.on.ca/en/pro/programs/connectedcare/oht/docs/guidance_doc_en.pdf
[4] https://www.ontariocanada.com/registry/view.do?postingId=31727&language=en
[5] https://www.ola.org/en/legislative-business/house-documents/parliament-42/session-1/2019-02-25/hansard#para663

Appendix:

September 23, 2019

Honourable Christine Elliott
Deputy Premier and Minister of Health
777 Bay Street, 5th Floor
Toronto, ON M7A 2J3

Dear Minister Elliott,

Ontario's doctors see tremendous opportunity at this juncture of the government's vision of greater integration across the health-care system to leverage the vital role of Ontario's 4,000+ care coordinators (funded through Local Health Integration Networks) and maximize their potential in Ontario Health Teams (OHT). We know that at a mature state, OHTs are anticipated to offer patients round the clock access to care coordination and system navigation services. We recognize this reality is still several years away and welcome the opportunity to work with you and our partners in community care to co-design how Ontario's vision can be strengthened as you begin to transition these providers from the LHINs and develop their role in a renewed health-care system.

Ontario's family doctors value the role of our province's care coordinators. In recent focused discussions, it is clear Ontario's family doctors see care coordinators as something more than just brokers of care services. They often assist patients in their navigation of the current system and together with physicians, are often tireless advocates for their patients' needs.

For optimal results and to strengthen integration where most care happens, care coordination in primary care within OHTs ideally should encompass both coordination ("improving transitions") as well as patient navigation ("better connections") to support continuity in primary care and follow up of patients' holistic and complex needs. This could include access to physiotherapy, rehabilitation, mental health and addictions, specialist referrals, agencies, other needs related to the social determinants of health (i.e. income and housing supports). Ultimately, the ability to provide more seamless and integrated care within primary care impacts the success of OHTs and would be a key line of defense against hallway medicine.

How we maximize the potential of Ontario's care coordinators ultimately comes down to their envisioned role and function to meet the needs of patients and families in getting the most

effective care. This will need to be carefully considered as clearly a “one size fits all” approach will not be effective. Co-design with physicians, patients and families will be an essential aspect of a renewed role.

From our perspective, what will be critical moving forward is the ability to facilitate communication and information exchange between care coordinators, family physicians and other care providers. What is important to us includes the following:

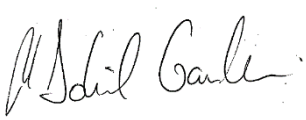
- Accessibility of care coordinators throughout the week, including setting up a system to address information exchange after hours;
- Providing electronic exchanges of information whenever possible;
- Providing clear and succinct updates with relevant patient information on a regular basis; and
- Minimizing paperwork, forms and other red tape that gets in the way of patients and families getting timely access to needed services and supports.

At minimum, care coordinators should be made available virtually to the care team. A key enabler of this is having IT infrastructures that can connect and facilitate the exchange of information between care coordinators and all of the relevant care providers involved in the patient’s health-care journey.

Additionally, given that primary care is the most recognized hub of care coordination (family doctors and primary care teams provide the bulk of care coordination), it may also make sense to locate care coordinators within primary care settings whenever possible. Doing so provides an element of medical oversight; promotes continuity of care; supports communication among the health-care team and makes care coordinators accessible to patients and providers in their communities. However, re-location to primary care should be accomplished on a voluntary basis and with the support of primary care leadership involved. Attention to the availability of space (or lack thereof) and appropriate reimbursement for overhead (e.g. rent for occupied space) will be required. It should be noted family doctors do not envision themselves employing care coordinators. However, this may be the purview of the lead organization within an OHT.

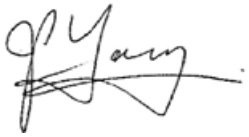
We trust you find these preliminary thoughts useful and would welcome the opportunity to work with you further to help shape this future.

Regards,



Dr. Sohail Gandhi
President
Ontario Medical Association

Dr. Allan Studniberg
Chair
General Family Practice



Dr. Jennifer Young
President
Ontario College of Family Physicians

For further information, contact Dara Laxer at dara.laxer@oma.org or 416.340.2925