

Ontario Health Coalition

Notes on Amendments to LHINs legislation

There were over 140 amendments proposed by the three political parties. Only a very few opposition amendments were passed including:

- 1) limiting the items for which the LHINs can meet in secret and specifying a procedure to vote on the record to meet "in camera"
 - 2) adding "high quality" and "in local health systems and across the province" to the Purpose - section 1
 - 3) adding a requirement to report on Aboriginal health issues
- A review of the amendments passed and rejected follows.

Some significant amendments **rejected** by the government

1) that human resources planning, addressing of regional disparities, and reimbursement for costs of travel be included in the preamble (NDP amendment) - REJECTED

2) clearer definition of "public interest" to include protection of existing publicly funded services, prohibition of two-tier and fees, access to a continuum of care, protection of workers' rights (NDP amendment) or to include timely access, continuity, coordination, patient mobility, stable workforce, etc. (PC amendment) -REJECTED

3) clearer requirement that decisions for restructuring be consistent with the preamble (PC amendment) - REJECTED

4) amend the definition of "integration" to include improving continuity of care, increasing collaboration, increasing information (PC amendment) - REJECTED

5) clear protection of aboriginal and treaty rights, and obligation of national government to First Nations peoples (NDP amendment) - REJECTED

6) Toronto LHIN consist of City of Toronto (PC amendment) - REJECTED

7) requirement that cabinet make regulations prescribing conflict of interest policies and rules for LHINs (NDP amendment) - REJECTED

8) amend purpose of LHINs to include optimise health status, improve local access, ensure timely access, increase quality and improve outcomes (PC amendment) - REJECTED

9) ban the use of competitive bidding, managed competition or similar process for any purpose under this Act (NDP amendment) - REJECTED

10) provide for elected (NDP amendment) or more diverse boards

What this means

Many amendments that would increase LHIN and Ministry accountability to the public were voted down by the government members on the committee.

Amendments that would specifically reject privatization, prohibit competitive bidding and stop contracting out and privatization were voted down by government members. (In one notable exception, government MPP Kim Craiton from Niagara Falls voted for the NDP amendment banning competitive bidding).

Notable rejected amendments included:

- ban on competitive bidding
- prohibition of two tier and fees, ban on moving services to sectors where patients can be required to pay without exceptions
- rejection of contracting-out hospital support services
- ban on transferring services to for-profits
- requirement to follow the progressive language of the preamble
- recognition that regional disparities and travel costs be addressed
- proposals that public interest be clearly defined
- proposals that restructuring decisions be bound by meeting population need, improving local access to care, protecting already-existing services, stopping privatization and improving the continuum of care.

The strengthening of progressive language in the preamble, though welcome, has no teeth. Opposition amendment to enforce the preamble for LHIN activities was voted down by the government. The lip service to promoting non-profit health care delivery is contradicted by Section 28 of the Bill and by the fact that the Bill applies mainly to the non-profit sector of the health system while excluding almost all of the for-profits. This means that the for-profits are protected from the LHINs' program of restructuring (mergers and closures).

(PC amendment) - REJECTED

11) provide a consultation process and public disclosure of the Minister's strategic plan (NDP amendment) - REJECTED

12) requirements for a more robust, publicly accountable integrated health services plan (NDP & PC amendments) - REJECTED

13) requirements for "community engagement" to include reasonable notice, sharing of information, reasonable time for community engagement, inclusiveness and accessibility, clear communication and adequate feedback (PC amendment) or include workers' advisory committees, diversity re. economic class (NDP amendment) - REJECTED

14) Minister shall provide document explaining the basis for determining the funding level for each LHIN that shall be publicly available, amendment improving public accountability and principles to underlie funding level decisions (PC amendments) make funding details available to public (NDP amendment) - REJECTED

15) a variety of amendments relating to long term care facilities, planning, and funding (PC amendments) - REJECTED

16) amendment to prevent LHINs ability to move services out of hospitals to sectors where patients are required to pay for the services *with no exceptions* (NDP amendment) - REJECTED

17) require human resources plans and no transfers of service from non-profits to for-profits (NDP amendment) - REJECTED

18) delete section 28 (giving the minister powers to order non-profits closed, merged, dissolved etc.) (NDP & PC amendments) - REJECTED

19) delete section 33 (giving cabinet the power to order the contracting out of all non-clinical (undefined) services in hospitals) (NDP amendment) - REJECTED

The significant amendments **passed** include

1) Canada Health Act, support for non-profit delivery added to preamble.

2) Notice of meetings – government accepted NDP amendment to give specific list of when meetings are in camera as per municipalities' and schoolboards' legislation.

3) Consultation modified to include Aboriginal and First Nations health council and French language health services advisory council that will directly report to the Minister. The Minister will

The new specified list limiting "in camera" meetings was one of our concerns and the amendment makes an improvement.

Consultation section includes requests from Aboriginal, First Nation and French language groups to continue their direct relationship with the Minister. However, he will make all appointments to advisory committees. There are no other concrete improvements in the consultation section.

Several amendments appear to be made to clarify that physicians are not covered by this legislation.

The public will have access to integration decisions and orders and will be given 30 days to make written submissions that must be considered by the LHIN. No appeals. We requested public ability to make submissions and appeals. Longer time periods proposed by the opposition were rejected. The ability to access the documents, make appeals, and a requirement to pro-actively engage the public in decisions with regard to our local health systems are not here. An opposition amendment to improve the process was rejected. An opposition amendment to require a public consultation process for the Minister's Strategic Plan was rejected. This minimal improvement is far from what is needed for democratic input and community access to the process.

Section 28 amendments appear to withdraw the offensive language that clearly specified that the Minister intended only to order the closures and amalgamations of non-profits. However, the government has re-worded this section to specify that the Minister may not order the closures and amalgamations of the vast majority of the for-profits covered by the Act – the nursing homes – thereby ensuring that the ordered closures and amalgamations apply only to non-profits. Note: the other for-profits were largely left out of the legislation.

There were amendments to include mention of a human resources plan. Please contact your health professional or union

appoint the members of these bodies. The Minister shall also seek advice of province-wide planning organizations that are mandated by the government of Ontario.

4) Consultation modified to include the word "diverse"; community is defined as patients, people, health providers and employees; consultation *may* include community meetings or focus groups or advisory councils (or may not). LHIN *shall* engage Aboriginal, First Nation and French language health planning entities.

5) Limit set on pre-existing funding agreements that can be superceded by LHIN service accountability agreements to exclude physicians and health professionals. Regulations made under this Act shall also not cover these groups.

6) "Integration" (transfers of service/restructuring) orders limited to specify that at least one of the parties must be a defined health service provider covered by the legislation.

7) Parties subject to an integration order must develop a human resources plan.

8) Appeals process withdrawn and replaced with 30 days prior to an integration decision, local providers and public shall be notified of proposed decision, have 30 days to make written submission, then decision is final.

12) Include reference to Charter of Rights and Freedoms re. definition of unjustifiably re. requirements for religious organizations to provide services.

13) Section 28 to apply to for- and non-profits but then the stand alone for-profits excluded from any orders under Section 28 and all the for-profits excluded from order to dissolve or wind up operation. Boards of management and municipalities also excluded from these orders. Therefore, after all amendments only non-profits covered by Section 28.

14) Any third party (not a defined service provider) that is required to cease performing a service shall develop a human resources plan.

15) Cabinet's ability to order the contracting-out of all non-clinical services shall terminate April 1, 2007. Cabinet may revoke these orders. Notice requirements for regulations shall not apply to these orders.

16) Public information will be made available on a website.

17) Three years after Royal Assent, this legislation will be reviewed and amended as per the next government.

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