

JOINT SUBMISSION

OF



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TO

THE STANDING COMMITTEE ON SOCIAL POLICY

ON

BILL 36: LOCAL HEALTH SYSTEM INTEGRATION ACT, 2005

February 7, 2006

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Introduction

By way of introduction, together, our organizations and our respective branches, members and satellite offices provide services and supports across Ontario for thousands of individuals and families living with mental illness and addiction in community and institutional settings. Our three organizations, the Canadian Mental Health Association, Ontario (CMHA Ontario), the Centre for Addiction and Mental Health (CAMH), and the Ontario Federation of Community Mental Health and Addictions Programs (the Federation) have worked in partnership to support the Transformation Agenda since its early days.

We support the government's goal of taking health care in Ontario to the next stage, that is, to a system focused beyond acute care to a system focused on keeping people well. Our organizations have long advocated that only a system that reflects the hospital-community continuum and that integrates physical and mental health will meet the needs of people with mental illness and addictions.

We support the government's Transformation Agenda for the same reasons we have supported health care reform initiatives in the past. These policy directions are good for the overall health of Ontarians and critical for those who suffer from a mental illness or addiction. People with mental health issues and addictions need services that break down the traditional silos present in the system today and they need mental health and addiction services that are an integral part of the overall health care system.

It is estimated that 1 in 5 Canadians will experience a mental health problem during their lifetime¹; and one in ten Canadians have reported dependence on alcohol or illicit drugs, or one of the five mental disorders covered in the survey, in a one-year period.² Despite increasing emphasis on community-based care, many of these people are not able to access needed services and supports, there are increasing numbers of people with addictions and mental illness living lives of poverty and isolation in the "community" or living in prisons, and many services continue to be delivered within an institutional framework, fostering dependency rather than recovery. Mental health and addictions services are critical to Ontario's health care system.

Our organizations have come together to offer our perspectives on Bill 36: *The Local Health System Integration Act, 2005*. While we support many of the underlying principles of the draft legislation, we have a number of concerns with respect to the potential impact for our sector and for our clients and patients.

¹ Health Canada. A Report on Mental Illnesses in Canada. 2002.

² Statistics Canada. Canadian Community Health Survey. 2003.

We believe:

- There must be strong stewardship from Government to define a clear vision for health in this province in consultation with Ontarians; and clearly articulated provincial goals and objectives for both health and the health system
- A transformed Ontario health care system should uphold the principles of the *Canada Health Act*: accessibility, portability, universality, public administration, and comprehensiveness
- A community's health needs and priorities are best developed by the community, the local health system and the people they serve – “local knows best”. This community engagement must be credible and meaningful.
- It is essential that Local Health Integration Networks (LHINs) demonstrate their accountability by actively engaging the public, consumers, health service providers and other stakeholders in health care decisions for that community
- There must be well articulated expectations, roles and responsibilities for all stakeholders in the system
- Clear deliverables and performance criteria must be established and this information publicly communicated to ensure transparency
- Health should be broadly perceived and effective inter-governmental mechanisms are necessary to address the broad determinants of health
- Addiction and mental health must be integral to a transformed system.

Our Response to Bill 36

Preamble

The Preamble in overview refers to a community's health needs. The World Health Organization has declared: *Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.*³ We concur with this definition and believe it is essential to include in the Preamble a definition of health vis a vis the obligations of the LHINs to address community health needs. A recent review by Ontario health system researchers found that as decisions about funding are devolved from a central governing structure to

³Preamble to the Constitution of the World Health Organization as adopted by the International Health Conference, New York, 19-22 June, 1946. Available www.who.int/about/definition/en/

regional decision-making bodies, there was greater likelihood of mental health and addictions funding being lost due to a predominant focus on physical health needs.⁴ The importance of mental health and addiction services must be explicitly recognized in the legislation, as these services are essential for the health of Ontarians.

Suggested Amendment:

The preamble should define health as inclusive of both physical and mental well-being.

Public Interest: Preamble (f) and 26(1)

As integration decisions will be made in the “public interest”, it is critical that the legislation include a definition of “public interest”. This definition should *incorporate the principles of the Canada Health Act*. We also recommend that the Ministry of Health and Long-Term Care’s articulated principles for health care reform, as stated in their Bulletin No. 1, October 6, 2004, announcing the creation of Local Health Integration Networks, should be included in the definition of public interest. These additional principles are:

- *Equitable access*
- *Health services responsive to local needs*
- *Preserving patient choice*

Health Service Providers: Interpretation 2(2)

The interpretation regarding the term “health service provider” requires clarity with respect to the services intended to be included in the description found at clause 2(2)(10), which reads: “a not for profit entity that provides community mental health and addiction services”. We are unclear as to whether consumer/survivor organizations and other peer support and self-help initiatives are included. In addition, providers such as supportive housing organizations do not appear to be included. Both are important providers of services in the mental health and addictions system; and need to be involved in order to achieve the goal of an integrated local health system.

It is also not clear why Homes for Special Care are not included in the definition. Homes for Special Care are private licensees, as are Nursing Homes, which are included in the definition (indeed many HSCs were at one time also nursing homes and still operate on the same premises as some nursing homes).

⁴ Macfarlane D, Durbin J. Mental Health and Addiction Services in Regionalized Health Governance Structures: A Review. Centre for Addiction and Mental Health. March 2005.

In addition, while the Ministry has explained that each health service provider will have a primary relationship with one LHIN, the legislation does not rule out that organizations providing services in more than one LHIN region will have service accountability agreements and funding relationships with multiple LHINs. From our perspective, either the legislation needs to clarify that health service providers will only have a service accountability agreement and a funding relationship with only one LHIN – or we will need some assurance that the LHINs will collaborate and cooperate in dealing with cross-border issues of planning and funding and integration.

Provincial Strategic Plan: Section 14

The Minister shall develop a provincial strategic plan that articulates strategic directions for the overall health system and LHIN's integrated health service plans shall be consistent with the provincial plan. Ideally, the provincial strategic plan would be available before LHIN integrated service plans are developed, as it will be difficult for LHIN plans to follow the provincial directions otherwise. However, if the sequencing of the implementation cannot be reconsidered, then we urge that the LHINs and the province develop their first plans together using similar sources of information. Start-up investigation by the LHINs, providing information on the current state within each LHIN, should be provided to the Minister to inform the development of a responsive provincial strategic plan.

Moreover, as the provincial strategic plan will set the direction for LHIN planning, funding and management of the health system, it is imperative that the process for developing the provincial strategic plan incorporate a population-based approach.

The Honourable Roy Romanow has referred to mental health as the “orphan child of the health system” based on his investigations while leading the Commission on the Future of Health Care in Canada. Some jurisdictions have protected mental health and addictions funding through ring-fencing, wherein there is a stipulation by the central government as to what percentage of a regional budget shall be allocated to expenditures for mental health and addiction services based on population (i.e., a population needs-based approach.)⁵ Identifying this expectation for developing the provincial strategic plan and the integrated health service plans of the LHINs will ensure that decisions utilize best evidence and supports the principles of availability, comprehensiveness and equity.

The provincial and local plans must include provisions on mental health and addiction services to ensure that they are included at all times. Given the

⁵ Eyles J. Birch S. (1993). A population needs-based approach to health-care resource allocation and planning in Ontario: a link between policy goals and practice? *Canadian Journal of Public Health*. 84(2): 112-7.

research evidence that mental health and addictions, in particular, is a vulnerable service sector, we suggest that there be a specific requirement in the legislation.

Suggested Amendment:

We recommend adding a clause in Sections 14 and 15:

Health services include both physical and mental health and addictions services and both must be included by the provincial government and the LHINs in their plans for achieving an integrated health system.

In accordance with our recommendation that the principles for the Act include the principle of comprehensiveness, *we recommend that*

Section 15(2) include a statement directing the LHINs to ensure the promotion of mental health of the population within its area, and the provision of high quality services for those with mental illness and addictions.

Community Engagement: Section 16

Community engagement for local health system planning, an essential LHIN function, is given less than adequate focus in the proposed legislation. This section of the Act must be strengthened by identifying formal mechanisms and standards for community engagement by the LHINs. We are concerned that without the identification of minimum requirements of “community engagement”, such engagement may differ to an unacceptable degree from LHIN to LHIN region.

Consumers

Consumers are at the centre of a recovery-oriented mental health and addictions system. This is consistent with the Ontario Government’s vision for a patient-oriented health system. Consumers are important participants in local health system planning.

Australia has developed a Mental Health Statement of Rights and Responsibilities that declares mental health consumers and families have the right to represent their interests and contribute to the development of mental health policy and care. According to the Australian National Consumer and Carer Forum (NCCF),

this directive has ensured that consumers of mental health services and families are empowered to participate in national mental health policy and planning.⁶ The proposed legislation for LHINs should identify in more definitive language the obligation of LHINs to create appropriate mechanisms to engage consumers. It will also be important to ensure there is meaningful engagement of vulnerable or marginalized consumers and dutifully ensure that barriers to participation are removed.

Mechanisms for Community Engagement

The legislation sets out the expectation that each LHINs will establish and receive advice from a Regulated Professional Advisory Committee. While we agree that LHINs will need to have input from regulated health professionals, we are concerned that this is the only formal mechanism for community engagement stated in the legislation.

Proposed Amendment

Section 16(2) should either be deleted or amended to state that LHINs must establish formal community engagement mechanisms that involve the following groups:

- *consumers/clients/patients/residents of services*
- *family members*
- *community service providers, including peer support initiatives*
- *health professionals, including Regulated Health Practitioners and Social Workers*

If the Committee does not make these changes, then section 16 should be expanded to at least include professionals who are not regulated health professionals such as: vocational service workers and addiction therapists. In addition, we are very concerned that regulated professions such as social workers and social service workers, who are regulated under the Ontario College of Social Workers and Social Service Workers, accountable to the Ministry of Community and Social Service Workers are not included under the current composition of the Regulated Professional Advisory Committee.

⁶ Mental Health Council of Australia, "Consumer and Carer Participation Policy Template," 2001, available at www.aasw.asn.au/adobe/publications/mental/MH_cacp.pdf.

Integration: Part V

We very much agree with and support the clauses of the Preamble to the Act that emphasize that “a community’s health needs and priorities are best developed by the community, health care providers and the people they serve”, and that LHINs are established to “...enable local communities to make decisions about their local health systems”. We also believe it is important for “communities, health service providers, LHINs and government to work together ... to make it easier for people to access health care.”

In this context, we wish to address issues pertaining to integration within the Act. We believe there is an overemphasis on integration as a strategy to achieve the stated purpose of the Act: better access to health services, coordinated health care, and efficient and effective management of the health system. The focus on integration as described in the legislation emphasizes consolidation, mergers and amalgamations. These should be contemplated only as strategies of last resort. Local consumers and families, together with health service providers, should be strongly encouraged by LHINs to undertake initiatives to achieve integration without the necessity of LHIN involvement.

Local health system planning can facilitate cooperation, coordination and collaboration that will genuinely enhance delivery of services within the health system. The identification of priorities, setting of targets and definition of benchmarks can guide health service providers and LHINs to engage in meaningful ways to enhance service delivery.

Section 27

Section 27, in conjunction with the broad definition of “integration” in the Act, leads to the situation that any initiative undertaken by health service providers “to co-ordinate services and interactions between different persons and entities” or “to partner with another person or entity providing services or in operating” or “to start or cease providing services” requires that notice be given to the LHIN and that action not proceed until 60 days have passed.

In situations where cooperation, coordination or collaboration involves no transfer of programs or budgets, the need for review and approval by the LHIN will inhibit organizations from implementing integration activities on their own, which seems contrary to the intention of the Act.

We recommend that section 27(3) be amended to exempt integration initiatives that do not involve transfers of programs or budgets from the application of this requirement.

Section 28

Under section 28, on advice from a LHIN, the Minister of Health and Long-Term Care can order certain health service providers (that receive funding from the LHIN and are not-for-profit entities) to cease operations. This power is extraordinary given that most health service providers do not rely solely on public funding. We object to the power of government to order an organization to close. And we object to the inequity this creates between for-profit and not-for-profit organizations.

We recommend that the power of the Minister to order an organization to close be deleted.

Criteria and Processes for Integration Decisions

The legislation should more clearly identify criteria upon which integration decisions must be based and against which their success will be measured. Utilizing the broad determinants of health, integration decisions must be based on (and measured against) the best possible outcomes for people

Given the seriousness of the potential impact for specific organizations and for the entire system, the legislation must include some additional elements of due process and procedural fairness with respect to the LHINs' integration decisions and Minister of Health and Long-Term Care's integration orders such as notice of the intended decision to affected providers and consumers, an opportunity to respond prior to the issuance of a final decision, a requirement for the LHIN to take into account submissions by the health service provider, and issuance of a decision.

For-profit vs. Not-for-Profit providers – different treatment

The specification in section 28 that integration orders do not apply to for-profit HSPs is reassuring in the sense that non-profit providers cannot have their services or operations transferred to for-profit providers.

However, many for-profit providers receive substantial public funds to provide health services. There is grave concern among the voluntary non-profit sector that this provision allows those for-profit providers to thrive and expand their services on the basis of public funds but remain independent of planning and accountability that applies to the rest of the health care sector for the overall system.

The Act should be amended to include the services of private for-profit providers of health care services in LHIN system plans, and to allow the LHINs and the Minister to make integration orders with respect to those aspects of for-profit providers' services that are supported by public funds, on the same basis as non-profit providers.

Lack of Compensation for losses resulting from integration decisions (s. 31)

We assume that this section seeks to balance the property rights of not-for-profit corporations with the public interest in retaining the value of property that was obtained with government funds for public health system purposes.

However, it will be difficult for many organizations to separate value of property obtained with government funds from that obtained with funds raised from private individuals or organizations for the specific services and programs of that organization

In some cases, private gifts and bequests are made with specific conditions that the funds be used only for certain purposes or by a certain organization.

Role of CCACs

Community Care Access Centres are an important partner in meeting the health care needs of Ontarians. While the Centre for Addiction and Mental Health Board of Trustees has not taken a position on this, the Ontario Federation of Community Mental Health and Addiction Programs & the Canadian Mental Health Association, Ontario believe that CCACs should be confined to their current role and that system navigation for the mental health and addictions system should be determined by that system.

Contact Persons

If you have any questions with respect to this submission, or if you require further information about our response, please contact:

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