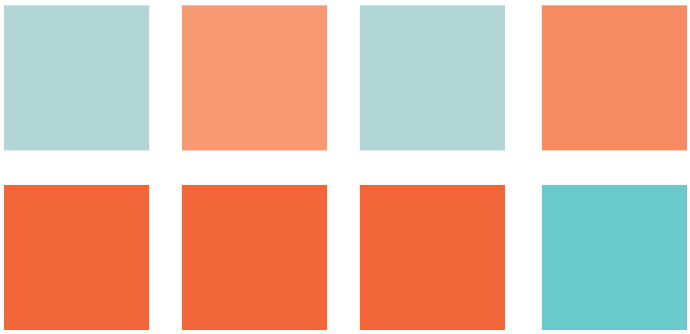
Registered Nurses' Association of Ontario
L'Association des infirmières et infirmiers autorisés de l'Ontario

RNAO SUBMISSION TO:

The Standing Committee on Social Policy

Bill 122: *Broader Public Sector Accountability Act, 2010.*

November 22, 2010



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Summary of Recommendations:

In Bill 122, RNAO calls for:

- An amendment to section 1(1) to delete the exemption of long-term care homes.
- An amendment to sections 5(1) and 6(1), to add 'and provide a report to the Minister of Health and Long-Term Care, which shall be tabled in the legislature and posted publicly on the Ministry of Health and Long-Term Care website.'
- An amendment to sections 5(2) and 6(2) to replace 'directives' with 'regulations'.
- An amendment to section 6(2)(b) to read: "in addition to the board of the local health integration network, to whom the reports shall be submitted; and"
- An amendment to sections 5(2) (c) and 6(2) (c) to read: 'the form, manner, timing and public posting of the reports'.
- An amendment to section 8(1), (2), and (3) to change directives to regulations.
- An amendment to sections 8(3), 14(2) and 15(3) to change "may" to "shall".
- An amendment to add section 14(4) "Every local health integration network shall publicly post the attestations on their website."
- An amendment to add section 14(5) "The Minister of Health and Long-Term Care shall table the attestations from the local health integration networks in the legislature."
- An amendment to add to section 15(5) "Every hospital shall publicly post the attestations on their website."
- An amendment to add to section 15(6) "The Minister of Health and Long-Term Care shall table the attestations from hospitals in the legislature."
- An amendment to the *Ombudsman Act, 1990*, to include hospitals and long-term care homes under the scrutiny of the Ombudsman.
- An amendment to section 24(4)(a.2) by striking out "and" at the end of the clause, and by adding the following clause:

  (a.3) a long-term care home

Broader Public Sector Accountability Act, 2010

INTRODUCTION

The Registered Nurses' Association of Ontario (RNAO) is the professional organization for registered nurses who practise in all roles and sectors across Ontario. RNAO's mission is to speak out for health, health care, and nursing. RNAO appreciates the opportunity to present this submission on Bill 122, the *Broader Public Sector Accountability Act, 2010*, to the Standing Committee on Social Policy.

RNAO welcomes legislation that seeks to improve financial accountability and transparency of hospitals, Local Health Integration Networks (LHINs), and other publicly funded organizations, and respond to recommendations of the Auditor General in his *Special Report on Consultant Use in Selected Health Organizations*.[1] Bill 122 complements the recently enacted Bill 46, the *Excellent Care for All Act, 2010*,[2] (ECFAA) that promotes evidence-based best practices and makes health-care organizations and executives accountable for providing high-quality, patient-centered care. RNAO is a world renowned organization in this area provincially, nationally and internationally, and looks forward to actively participating and contributing to decisions regarding evidence-based best practices.

RNAO also strongly supports the broadening of the *Freedom of Information and Protection of Privacy Act* in Bill 122 to include hospitals, a crucial step towards accountability that the RNAO has long called for.[3;4] Amendments proposed here by the RNAO are consistent with Bill 122. They focus on improving public access to reports under the Act and providing the Ombudsman oversight of hospitals. With these amendments, Bill 122 stands to achieve the Minister's stated objective to raise the standard of accountability and transparency for hospitals, LHINs and other broader public sector organizations.

PART I – INTERPRETATION

Long-term care homes are exempted from the Bill's definition of 'publicly funded organization' in section 1(1). With the government's Aging At Home strategy and efforts to find more appropriate care in the community, for many patients in hospital beds who currently are classified as Alternate Level of Care (ALC), there is little justification for

distinguishing between acute and long-term care for the purposes of coming under scrutiny of the Act. RNAO urges the standing committee, in the strongest possible terms, to remove long-term care homes from the Bill's list of exempted publicly funded organizations, to ensure accountability for cost-effective, high-quality care and to protect the rights of long-term care home residents.

RECOMMENDATION:

- Amend Bill 122 to delete the exemption of long-term care homes in s.1 (1).

PART II – LOBBYISTS AND CONSULTANTS

REPORTING RE: USE OF CONSULTANTS

Local Health Integration Networks

LHINs were created to assist patients and families to navigate through a complex health system, moving between health service providers. Health care services in Ontario were fragmented and many health care providers delivered care in isolation. While not directly responsible for providing services, a LHIN is responsible for planning, integrating and funding health care services. As a public sector organization, LHINs need to be accountable for the funds that are spent, and provide accurate and accountable reports to the ministry and the public. The current wording of Bill 122 is ambiguous and simply indicates that the LHINs will report. However the Bill falls short of ensuring fiscal accountability with reports accessible to the public, and is lacking details about what these LHIN reports should contain. The second recommendation in the Auditor General's report states:

> "To ensure that LHINs consistently comply with the requirements of Management Board of Cabinet's Procurement Directive as it pertains to the engagement and use of consultants, the Ministry of Health and Long-term Care should consider requiring each LHIN to provide its board of directors and the Ministry with a comprehensive annual report on its procurement and use of consultants similar to the reports required by ministries. To help demonstrate compliance with the Directive, this report should include information on the nature and timing of the assignments,

the ceiling amounts of the contracts, the extent of follow-on contracts, the total amount paid and how the consultants were procured. [5]

While Bill 122 includes the requirement of reporting, there a gap in the details indicating to whom the LHIN should report and precisely how the reports are to be made transparently accessible to the public. RNAO recommends, in the strongest possible terms, that the reports which LHINs prepare be sent to the Minister of Health and Long-Term Care, tabled in the legislature, and posted publicly on the Ministry of Health and Long-Term Care website. While the Bill currently allows for the Minister of Health and Long-Term Care to issue directives respecting the LHIN reports, RNAO believes that public interest would also be much better served by the Minister instead issuing regulations with respect to reporting. Unlike directives, regulations are more transparent in being subject to public consultation, and being made public when passed.

Hospitals

Like many Ontarians, RNAO was disturbed to learn in the Auditor General's report[6] of hospitals having deficiencies with respect to their planning, acquisition, approval, payment and/or contract management of consultants. Many operational and capital-related consulting-services were single-sourced, and allowed to grow from small assignments to ongoing projects totalling several million dollars. With increasing pressure being put on hospitals to balance their budgets and decision makers considering cuts to staffing, programs, services, and bed closures[7] it is unacceptable for scarce public funds to be used to engage expensive consultants to lobby the government funder.

The RNAO has consistently raised concerns about some consulting firms who are earning large fees, while recommending a sharp U-turn to the past by promoting RN replacement and re-implementing the failed model of functional nursing, (also known as team nursing or the collaborative practice model). These models, though called different names, are all about fragmenting and down-skilling patient care, cutting expenditures in the short run and, as the literature clearly points out, represent a giant step backward for high quality nursing care and positive patient outcomes.[8,9]

At a time when hospitals are cash strapped, senior executives must use evidence to make decisions. The use of evidence is especially significant with the recent passing of

the *Excellent Care for All Act, 2010,* which promotes evidence-based best practices, and makes all health-care organizations and executives accountable for providing high-quality patient-centred care.

Evidence on nursing models of care delivery conclusively show that fragmentation of care leads to errors, deficient clinical and health outcomes, and poor health system experiences for patients and staff. Evidence also shows that using RNs results in improved clinical and financial outcomes in the short, medium and long terms. Indeed, the amount of direct patient care RNs provide is directly linked to mortality and morbidity rates.[10,11,12] Higher levels of care from RNs results in fewer deaths and complications such as pressure ulcers, pneumonia and other pulmonary events, post-operative infections, urinary tract infections, upper gastrointestinal bleeds and cardiac arrests. A higher proportion of RNs is also linked to shorter patient length of stay and improvements in failure to rescue, as well as superior organizational effectiveness and budgetary outcomes. However, following the advice of private consultants rather than credible peer-reviewed scientific evidence, RNs are being sacrificed to balance budgets at the peril of patient outcomes and system effectiveness. RNAO again urges the standing committee, in the most strong terms, to ensure transparency and accountability for cost-effective, high-quality health care, by mandating the public distribution and posting of reports submitted by hospitals to LHINs, and by LHINs to the Ministry, as well as extending hospitals to the scrutiny afforded by the proposed amendments to the *Freedom of Information Act*.

RECOMMENDATIONS:

- Amend Sections 5(1) and 6(1) to add ‘and provide a report to the Minister of Health and Long-Term Care, which shall be tabled in the legislature and posted publicly on the Ministry of Health and Long-Term Care website.’
- Amend Sections 5(2) and 6(2) to replace ‘directives’ with ‘regulations’.
- Amend Section 6(2)(b) to read: “in addition to the board of the local health integration network, to whom the reports shall be submitted; and”
- Amend Sections 5(2) (c) and 6(2)(c) to read: ‘the form, manner, timing and public posting of the reports’.

PART III – PUBLIC REPORTING OF EXPENSE CLAIM INFORMATION and

PART IV – COMPLIANCE REPORTS

As stated previously, the amendments RNAO seeks to Bill 122 are consistent with the government's stated objectives to raise the standard of accountability and transparency for hospitals, LHINs and other broader public sector organizations. RNAO recommends amendments to Part III and IV of the Bill, requiring LHINs and hospitals to post information about expense claims and attestations regarding the report compliance, completion and accuracy on their public websites.

RNAO also recommends converting some directives to regulations, in order to ensure transparency with proposed regulations being subject to full public consultations.

RECOMMENDATIONS:

- Amend Section 8(1), (2), and (3) to change directives to regulations.
- Amend Section 8(3), 14(2) and 15(3) to change "may" to "shall".
- Add Section 14(4) "Every local health integration network shall publicly post the attestations on their website."
- Add Section 14(5) "The Minister of Health and Long-Term Care shall table the attestations from the local health integration networks in the legislature."
- Add Section 15(5) "Every hospital shall publicly post the attestations on their website."
- Add Section 15(6) "The Minister of Health and Long-Term Care shall table the attestations from hospitals in the legislature."

PART VIII – AMENDMENT TO *FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT*.

In order to improve accountability and ensure transparency in the health-care system, the public must have full access to information on the expenditure of public money. This includes making hospitals subject to public scrutiny under the *Freedom of Information and Protection of Privacy Act*,[13] ensuring public oversight of hospital consultancy contracts, and granting the Ombudsman the right to investigate public complaints

against hospitals and other health organizations. Currently, Ontario is the only province where the Ombudsman does not have jurisdiction over hospitals and long-term care homes despite receiving many serious complaints from those facilities.[14] A high quality health-care system must be accessible, equitable, integrated, patient centred and population health focussed as well as transparent.

The Ombudsman's authority, as established by the *Ombudsman Act* is to oversee the delivery of public services. This authority has not been modernized in over 30 years[15]. Ontario has fallen behind in oversight of organizations which provide critical public services, commonly referred to as the "MUSH" sector - Municipalities (except for the ability to investigate complaints about closed meetings in some cases), Universities, School boards, Hospitals, Long-term Care homes, police, and children's aid societies. The Ombudsman of Ontario's authority with respect to this sector is the most limited in Canada. RNAO recommends extending the *Ombudsman Act, 1990* [16] to include hospitals and long-term care homes.

In addition, RNAO fully supports the Bill 122 amendments to *Freedom of Information and Protection of Privacy Act* to require all hospitals to be subject to scrutiny under the Act. RNAO also recommends the addition of Long Term Care homes to the definition of "institution".

RECOMMENDATIONS:

- Amend the *Ombudsman Act, 1990*, to include hospitals and long-term care homes under the scrutiny of the Ombudsman.
- Amend Section 24 (4) (a.2) by striking out "and" at the end of the clause, and by adding the following clause:

  (a.3) a long-term care home, and

The RNAO thanks the Standing Committee on Social Policy for the opportunity to have input into this most important legislation.

REFERENCES

1 McCarter, J. (2010). *Special Report on Consultant use in selected health Organizations*. Office of the Auditor General of Ontario: Toronto.

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