



November 14, 2016

The Honourable Monte McNaughton, Chair
Standing Committee on the Legislative Assembly
Ontario Legislature
c/o Trevor Day, Clerk of the Committee
By email: tday@ola.org

Re: Bill 41, *Patients First Act, 2016*

To the Chair and Members of the Committee:

I am writing to you on behalf of the Ontario Nonprofit Network (ONN), the provincial network for the 55,000 nonprofit organizations across the province of Ontario. ONN brings the diverse voices of the sector to government, funders and the private sector to create and influence systemic change.

The Ministry of Health and Long-Term Care's October 6, 2016, press release states that Bill 41 aims to "increase access to care with better coordination and continuity." While ONN supports these overall objectives, we would like to address two elements of Bill 41 that have serious consequences for individual community-governed nonprofits and the sector as a whole.

Key recommendations

- 1. Ensure that not-for-profit service provision of community support services is supported and protected from private for-profit delivery through the LHIN/CCAC amalgamation process.**
- 2. Respect community-governed health care partners by ensuring appropriate safeguards against abuse of LHIN's "supervisory" powers.**

1. Bill 41 must not permit the introduction of LHIN-funded community support services by profit-seeking providers.

Community Care Access Centres (CCACs) currently provide care coordination and case management for community support services (including contracting with nonprofit and for-profit service providers) while the Local Health Integration Networks (LHINs) are responsible for planning, integrating, and funding health care within their area. Giving LHINs authority to contract with community support service providers opens the door to LHINs having contractual

relationships with profit-seeking providers, which they have not had in the past. This provision of Bill 41 opens the door to increased for-profit delivery of community support services.

Ontarians value the quality and accountability that comes with not-for-profit health care services. Single-payer publicly-funded health services are a central part of the Canadian identity. We strongly urge the Committee to amend Bill 41 so as to prevent LHINs from contracting with for-profit providers.

2. Bill 41 must carefully circumscribe the powers of a LHIN-appointed “supervisor” so as not to conflict with the corporate law and corporate governance of independent nonprofit organizations.

Bill 41, as currently drafted, permits the LHIN to appoint a supervisor to take over an organization. This power is unrestricted (no clear criteria), unilateral (no right of appeal and no Minister or Cabinet approval required), and indefinite (no time limit or review process for ending supervisor powers). While hospitals and long-term care homes are exempt from these supervisory provisions, community health care providers are not.

Bill 41 is in conflict with the legal requirement for incorporated nonprofits to have a functioning and accountable board of directors—duly elected community volunteers who can be removed before their term expires only by the will of the organization’s members.

This takeover power and the lack of safeguards and due process is in stark contrast to the provisions in other provincial legislation including the *Services and Supports to Promote Inclusion of Persons with Developmental Disabilities Act 2008* and the *Long-term Care Homes Act, 2007*. The Long-Term Care Homes Act, 2007 provides the most comprehensive set of appeals and review processes. The independent service delivery organizations under these pieces of legislation also oversee services to people in vulnerable situations but have still been afforded safeguards against funder over-reach. Bill 41 provides no rationale for why these basic principles of fairness and due process are absent for community health service providers.

The implications of being taken over by a LHIN-appointed supervisor are even more significant for multi-funded community-based organizations that receive only a portion of their funding from the LHIN. Consider that neighbourhood centres/settlement houses, for instance, may receive funding from the Ministry of Community and Social Services, the Ministry of Children and Youth Services, a local municipality, the federal department of Immigration, Refugees, and Citizenship, and other ministries and agencies. How would these other funders react to a LHIN unilaterally taking over an organization to whom they had a contract or transfer payment agreement? Would the supervisor then become responsible for reporting to these funders? For a third party to take control over the assets and non-health programs of an independent community-governed nonprofit is legally questionable and unnecessarily intrusive.

Community services providers recognize that the funder of services has discretion over whether to contract with an organization for a service and can specify the services to be provided and the cost. They also know, however, that they bring valuable local knowledge and service delivery expertise to the service partnership which can often result in better services. Service providers also recognize that the funder needs to be assured that services are meeting standards and participants are not at risk. In addition to regular reporting, additional reviews and investigations are sometimes needed. Community organizations expect, nonetheless, to be treated fairly and with respect. They expect notice of the complaint/concerns, opportunities to correct statements of fact in reports, the ability to provide their perspective on the issues at hand and timely appeal processes beyond the LHIN.

Summary of recommendations

To summarize, we strongly urge you to:

- 1. Ensure that not-for-profit service provision of community support services is supported and protected from private for-profit delivery through the LHIN/CCAC amalgamation process.**
- 2. Respect community health care partners by ensuring appropriate safeguards against abuse of LHIN's "supervisory" powers.**
 - a. Section 21.2 of Bill 41 must define more specifically, through guidelines or regulations, the conditions under which it would be in "the public interest" for a LHIN to appoint a supervisor of a health service provider.
 - b. Section 21.2 must include the requirement for Ministerial and Cabinet approval before the LHIN may appoint a supervisor.
 - c. Section 21.2 must include a mechanism for a community-governed nonprofit ("health service provider") to request a review or to appeal the appointment of a supervisor.
 - d. Section 21.2 must define more specifically, through guidelines or regulations, the conditions under which, and the extent to which, a supervisor may be empowered by the LHIN to direct or govern the health services of a service provider that has multiple funding sources. For instance, Bill 41 must specify that the LHIN-appointed supervisor is empowered to direct only those resources and programs that are LHIN-funded.

Members of the nonprofit sector, whether or not they are contracted by government to provide services, should be accorded the respect they deserve as independent organizations. They cannot be viewed as agencies of government that may be taken over without due process or recognition of the broader roles that they play in their communities. Nonprofits have the community governance that grounds us, the networks that allow us to partner in the service of

broader community goals, and the drive to innovate in response to our communities' changing needs. We encourage the Standing Committee to recognize the critical role played by our sector and ensure that legislation governing nonprofits provides an enabling environment for us to serve our communities.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cathy Taylor', written in a cursive style.

Cathy Taylor
Executive Director

c.c. The Honourable Eric Hoskins, Minister of Health and Long-Term Care
The Honourable Laura Albanese, Minister of Citizenship and Immigration
The Honourable Marie-France Lalonde, Minister of Government and Consumer Services

The Ontario Nonprofit Network's (ONN) vision is to support thriving communities and a dynamic province through a strong and resilient nonprofit sector. We are the provincial network for the 55,000 nonprofit organizations across the province of Ontario. ONN brings the diverse voices of the sector to government, funders and the private sector to create and influence systemic change. ONN activates its volunteer base and the network to develop and analyze policy, and work on strategic issues through its working groups, engagement of nonprofits and charities and government.