

November 9, 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 Early Words which provides the Preschool Speech and Language Program in Hamilton as well as the Central South Infant Hearing Program and Central South Blind Low Vision Program.

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.**

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 we support these overall objectives, we would like to address two elements of Bill 41 that have serious consequences for individual community-governed nonprofits and the nonprofit sector as a whole:

- 1. Bill 41 must not permit the introduction of LHIN-funded community support services by profit-seeking providers.**
- 2.

Community Care Access Centres (CCACs) currently provide care coordination and case management for community support services (including contracting with nonprofit and for-profit



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service providers) while the Local Health Integration Networks (LHINs) are responsible for planning, integrating, and funding health care within their area. Giving LHINs the 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 paves the way to increased delivery of community support services by profit-seeking providers.

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 to prevent LHINs from contracting with for-profit providers.

2. Bill 41 must carefully circumscribe the powers of a LHIN-appointed “supervisor” so it doesn’t conflict with the corporate law or governance of independent nonprofits.

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 conflicts 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 safeguard and due process, is in stark contrast to the provisions in other provincial legislation. This includes the *Services and Supports to Promote Inclusion of Persons with Developmental Disabilities Act 2008*, and the *Long-term Care Homes Act, 2007*. These pieces of legislation also oversee services to people in vulnerable situations but still have safeguards for funder overreach. 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. For example, neighbourhood centres/settlement houses 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 with which 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 bring valuable local knowledge and service delivery expertise to the service partnership, which can often result in better services. Service providers recognize that the funder has discretion over whether to contract with an organization for a service and can specify the services to be provided and the cost. They understand regular reporting is needed to assure that services are meeting standards and participants are not at risk, with additional reviews and investigations sometimes needed. However, community services providers 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

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.



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We encourage the Standing Committee to recognize the critical role played by Ontario's nonprofit sector and ensure that legislation governing nonprofits provides an enabling environment for us to serve our communities.

Sincerely,

Ruth Doherty

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c.c. The Honourable Eric Hoskins, Minister of Health and Long-Term Care via
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