

LEGISLATIVE UPDATE

March 2023

Backgrounder

Bill 60: Your Health Act, 2023

Context

On February 21, 2023, the provincial government introduced [Bill 60, Your Health Act, 2023](#) (Bill 60). The proposed legislation follows the government's recent announcement titled "[Your Health: A Plan for Connected and Convenient Care](#)" which outlines the government's plan to reduce wait times for surgeries and procedures in Ontario and to support health human resources (HHR) across the sector.

If passed, Bill 60 will repeal the *Independent Health Facilities Act* and replace it with the *Integrated Community Health Services Centres Act, 2023*, establishing a new legislative framework that expands the type of surgeries/procedures being done through community surgical and diagnostic centres.

Bill 60 also creates legislative authority for future regulations to enable Canadian health care workers registered in other provinces and territories to immediately start working in Ontario without having to first register with one of Ontario's health regulatory colleges. Bill 60 will also expand scope of practice for pharmacists.

Lastly, Bill 60 will amend the *Freedom of Information and Protection of Privacy Act* to enhance privacy obligations for external data indicators and facilitate a safe interaction of de-identified health administrative data across the sector.

For further information on Bill 60, please refer to the government's news release [here](#).

Schedule 1: *Integrated Community Health Services Centres Act, 2023*

Schedule 1 under Bill 60 enacts the *Integrated Community Health Services Centres Act, 2023* (ICHSCA). The proposed legislation sets out the process for applying for licences, the considerations in issuing licences and the process for the renewal, relocation or transfer of licences. It establishes the rules that apply with respect to payments and financial accountability and sets out offences under the legislation.

ICHSCA will also change the name and definition of 'Independent Health Facility' to 'Integrated Community Health Services Centre' (ICHSC), with an aim to better reflect the purpose and role of these centres.

The OHA has prepared a detailed addendum (attached) outlining the substantive legal changes under ICHSCA.

In summary, ICHSCA will set out the following legislative framework:

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Directors

ICHSCA will enable the appointment of more than one ICHSC Director, with an aim to enable appropriate oversight of ICHSCs and flexibility for better integrated system planning. This is a change from the current IHFA framework where a Director is a Ministry appointed employee. The IHFA does not provide for the appointment of more than one Director.

Applications

The legislation aims to reduce red tape and financial burdens for ICHSC licensees, including by removing administrative fees and streamlining the call for applications process. The legislation outlines the application requirements for a centre seeking a licence, and the criteria that a Director must consider when issuing a licence. The application criteria also includes HHR capacity related requirements, noted below.

HHR Capacity

The legislation will include the requirement to submit a detailed staffing model as part of a centre's application, that must include evidence of its sustainability and the specific model for staffing anaesthesia delivery, given specific concerns about the global availability of these professionals. The centre will also be required to provide a description of how it consulted with health system partners, including public hospitals, in the development of its application, including any endorsements, which will be considered before any licence is granted. These requirements are aimed to protect the stability of doctors, nurses and other health-care workers at public hospitals and other health-care settings

Integration Requirements

As part of the application process, ICHSCA, if passed, will require centres to provide a description of current linkages with health system partners and how the centre will maintain and improve those linkages to promote optimal patient care pathway, as part of their application for licensure. Centres will be required to outline how the new community surgical and diagnostic centre will promote connected and convenient care, including its capacity to improve patient wait times and improve patient experiences, as well as its plans to integrate with the health system.

Payments

ICHSCA will permit the Minister to pay for facility costs or other operating costs of integrated community health services centres. It establishes a prohibition on charging a facility cost without a licence and provides that facility costs may only be charged to, and accepted from, the Minister or a prescribed person.

It creates prohibitions on charging or accepting payments for providing a preference in obtaining access to an insured service at an integrated community health services centre. It also prohibits refusing to provide insured services to a person who chooses not to pay for any product, device or service offered at the integrated community health services centre.

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ICHSCA also sets out situations in which payments may be refused or where the Minister may require reimbursement of payments, such as when the service was not in fact rendered and provides for appeals from those payment decisions.

Inspections

The new legislation will enable the province to designate one or more expert organizations as inspecting bodies of the centres. The provincial government has indicated that it is working with frontline partners to determine what organizations are best positioned to serve as inspecting bodies and is exploring several options, including continuing the role of regulatory colleges.

The government has also shared that before hips and knees and orthopedics are expanded to community surgical and diagnostic centres (anticipated in 2024), these expert organizations will work with Ontario Health and the Ministry of Health to establish, maintain and publish quality and safety standards and establish schedules for regular inspections of the centres.

Quality Assurance

ICHSCA will require centres applying for a licence to provide details of its quality assurance and continuous quality improvement programming, including policies for infection prevention and control which will be set out in regulation.

The Ministry has indicated that regulations under ICHSCA will expand existing quality oversight frameworks through the implementation of a new ICHSC Quality Assurance program.

Patient Complaints

ICHSCA if passed, will mandate that every community surgical and diagnostic centre must have a process for receiving and responding to patient complaints. The legislation also amends the *Excellent Care for All Act, 2010 (ECFAA)* and includes community surgical and diagnostic centres under the oversight of Ontario's patient ombudsman. They are now included under the definition of "health sector organization" under the ECFAA but is not included under the definition of "health care organization." The latter imposes other quality of care requirements such as annual quality improvement plans and will not be applied to ICHSCs at this time.

Physician Privileges

ICHSCA will create a requirement that an application for a licence must include information regarding the hospital privileges of physicians who will provide services at the centre, if applicable. At this time, the legislation does not provide any further detail on this requirement but may be elaborated on in future regulation.

Transition

When ICHSCA comes into force, licences granted under the IHFA will continue to be in force and will be governed by the new act and will be subject to the same limitations and conditions that applied to the licence under the IHFA.

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Other Legislative Impacts of ICHSCA

This legislation also proposes to repeal *the Oversight of Health Facilities and Devices Act, 2017* (OFHDA), which was intended to establish a regulatory scheme for community health facilities and energy applying and detecting medical devices. OFHDA was passed in 2017 but has not been proclaimed into force.

Oversight and quality assurance of private hospitals will continue to be regulated through the *Private Hospitals Act*. For corporations that are granted a license to provide community-based surgical services, the quality of those services will be overseen using the same quality assurance framework and regulations that will apply to all ICHSCs.

Schedule 2: Regulated Professions Amendments

Bill 60, if passed, creates a legislative pathway that will allow the province to enable the recently announced “As of Right” rules through further regulation. These changes are meant to help health-care workers overcome bureaucratic delays that may have made it difficult to practice in Ontario.

Under Schedule 2, Bill 60 amends 12 other acts, including the *Commitment to the Future of Medicare Act, 2004*, the *Fixing Long-Term Care Act, 2021*, the *Health Insurance Act*, and the *Public Hospitals Act*. The definition of “physician” is broadened and the Bill enables prescribed persons to be included in the definition of certain other regulated health professionals. The amendments are aimed at enabling these Rules for the following professions: (1) physicians, (2) nursing (RNs, RPNs, RNs in extended class), (3) medical laboratory technicians and (4) respiratory therapists.

The amendments will also expand pharmacists’ scope of practice to include the assessment of conditions for the purpose of providing medication therapies. This amendment will allow pharmacists to conduct a fulsome assessment of a patient’s health condition when prescribing for certain minor ailments.

The OHA has prepared an addendum outlining the legal changes under Schedule 2, in more detail (attached).

Schedule 3: Freedom of Information and Protection of Privacy Act (FIPPA)

The proposed amendments to FIPPA extend the application of the Act to extra-ministerial data integration units that are not institutions under the Act, or part of such institutions. In the latter cases, the Act applies with specified modifications. The amendments will also impose a requirement on senior officials of these units to publish specified information on an annual basis. The legislative amendments to FIPPA will be followed with regulatory changes. The Ministry indicated that authority will be granted to the Ontario Institute for Clinical Evaluative Sciences, to be able to link aggregate and de-identified data. These changes are designed to improve the health care system by integrating data while enhancing privacy protection, transparency and accountability for organizations that collect and use data.

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Timeline and Next Steps

Most of the requirements under the new framework will come into force on a day to be named by proclamation. Bill 60 is currently at second reading in the Legislature and will require at least a third reading before it can receive Royal Assent and be proclaimed into force.

The OHA will continue to monitor the legislative progress of Bill 60 and will provide updates when available. In the meantime, please direct any questions to *Lindsay Carbonero*, Senior Legal Advisor at lcarbonero@oha.com or at 416-205-1305 or *Alice Betancourt*, Director, Legal and Policy at abetancourt@oha.com.