

MEMO

To: Association of Family Health Teams of Ontario
From: Hill + Knowlton Strategies (H+K)
Date: February 4, 2019
Subject: Health System Efficiency Act

Background

On January 31st, 2019, the Ontario government's Premier's Council on Improving Healthcare and Ending Hallway Medicine released its anticipated first report examining Ontario's health system, pinpointing challenges and suggesting areas for improvement. A second report was promised for Spring 2019, after a period of public consultation, with specific recommendations for structural changes.

Hours later—the timing likely not a coincidence—the Opposition NDP leaked a copy it had obtained of draft legislation, the *Health System Efficiency Act*, which would, if passed, effect many of the changes implied in the Council's initial report. Although at a draft stage, the leaked Bill sheds light on the government's thinking with respect to health care.

Overview

This legislation would, if introduced and passed in its current form, enable the Minister to dissolve Ontario's Local Health Integration Networks (LHINs) as well as a number of government agencies, including Cancer Care Ontario, eHealth Ontario, and HealthForceOntario, and combine their functions into a single "Super Agency". This agency would have responsibility for the organization and funding of care across the province, with similar powers to those currently held by LHINs. Health Service Providers (HSPs) would have funding and accountability relationships with the Super Agency rather than with LHINs.

This would not be a straightforward transfer of powers and responsibilities. Notably, the new agency would not have the same authority to force service integrations that LHINs currently have. On the other hand, the Bill does enable government to make primary care physicians accountable to the new Agency, a measure (contemplated with respect to LHINs) that has faced strong resistance by physicians in the past. The Agency would also take on a new function providing supply chain and procurement services to HSPs, and the Minister could force HSPs like hospitals and long-term care homes to use this new agency for those functions.

A level below the Super Agency, the legislation allows for the creation of "Integrated Care Delivery Systems" (ICDSes). These entities would be mainly described in regulation – their precise nature and purpose isn't clear in this draft. They would be an entity or group of entities that provide at least two different types of health services in an integrated manner, and some of the assets, employees and obligations of LHINs could transfer to them. Given this, we anticipate they would help organize and deliver integrated local care.

The Bill would accrue significant new powers to the Minister, including authority currently held by LHINs to force service integrations, while stripping away some of the obligations to consult with communities that exist in current law. It would also give the Minister broad authority to

delegate nearly any of her powers to the new Super Agency, while giving Cabinet the ability to dismantle the Agency entirely. This would empower the government to change the Agency's mandate over time, giving it considerable flexibility in shaping its powers and role.

The Bill would repeal and replace the *Local Health Systems Integration Act*, as well as sections of the *Excellent Care for All Act* dealing with Health Quality Ontario and the Patient Ombudsman (the Ombudsman would continue with more or less the same rules and responsibilities, but lodged within the new Super Agency and governed under the new legislation). It also repeal the *Cancer Act*, which governs Cancer Care Ontario, and the recently-passed *Lung Health Act*. The legislative framework for Health Shared Services Ontario would be stripped away. And Cabinet would gain the ability to exempt any hospital or group of hospitals from the *Public Hospitals Act*.

Super Agency

The following agencies would fold into the new Super Agency:

- + Cancer Care Ontario
- + eHealth Ontario
- + HealthForceOntario Marketing and Recruitment Agency
- + Ontario Health Quality Council (better known as Health Quality Ontario)
- + Trillium Gift of Life Network
- + Portions of Ontario's LHINs

Additional agencies could be transferred through regulation if the Bill is passed.

What's next

It is important to remember that this is very early draft legislation. Drawing up legislation is a complex and laborious process, often begun months in advance. This means that the Bill is far from final. We expect that the work of the Premier's Council, including its promised public consultations, will continue to feed into the drafting process; so will the Minister's own ongoing discussions with health system players, as well as the day-to-day interaction between her staff, civil servants, other elected officials and the wide array of health stakeholders in Ontario.

We anticipate the Bill will be expanded; for example, notes left in the draft by its authors point to potentially significant changes to the *Home Care and Community Services Act*. Other questions remain outstanding. Sections of the Bill outlining how labour legislation will apply to employees transferring to the new Super Agency, ICDSes or other entities remain unfinished. Parts of legislation that will be repealed remain unaddressed, including the functions currently performed by agencies like Cancer Care Ontario and Health Shared Services Ontario.

Given the obviously early stage of the draft we have examined, it may be late spring before the Bill is tabled. Even then, we anticipate many questions will remain unanswered: what will be in regulation, timelines for implementation and what actions will follow the Bill's potential passage into law. H+K will continue to monitor closely.
