OMA Ontario Medical Association

Your Health Act, 2023

OMA analysis

OMA Economics, Policy and Research Department, March 2023

Contents

Purpose

Ontario's Minister of Health introduced Bill 60: *Your Health Act 2023 on Feb. 21, 2023.* The OMA prepared the following analysis to support members with an overview of key relevant provisions. Please note that this analysis is for informational purposes only and is not intended as legal advice.

The OMA will be participating in public consultations on the bill and will be providing member-informed recommendation to the ministry, including a formal submission. If you have any questions, please reach out to info@oma.org.

Overview

Bill 60 contains several proposed changes, including:

- ***Integrated Community Health Services Centres Act, 2023*:** The key feature of the proposed legislation relates to the creation of new surgical and diagnostic centres under the *Integrated Community Health Services Centres Act, 2023.* This would eventually replace the *Independent Health Facilities Act, 1990*.

- ***Proposed legislative amendments to enable interjurisdictional mobility for select registered health professionals:*** These proposed amendments relate to enabling interjurisdictional mobility for physicians and other health professionals, including permitting ordering of X-rays, permitting compensation through OHIP, requirements to report narcotics dispensing, permitting collection of OMA dues and permitting practice in hospitals.

- ***Proposed Amendments to the Pharmacy Act, 1991*:**The ministry is proposing to make legislative amendments to clarify pharmacists' scope of practice to include the assessment of conditions for the purposes of prescribing for minor ailments. It remains outside of pharmacists' scope of practice to diagnose. The OMA is recommending using the word "evaluation" instead of "assessment" as the latter is an established term set out in The Schedule of Benefits for Physician Services, which forms part of Regulation 552 under the *Health Insurance Act*.

- **Proposed amendments to extra-ministerial data integration units in the *Freedom of Information and Protection of Privacy Act:*** The OMA does not have concerns with these amendments and does not believe this will significantly impact physicians or their patients.

- *Your Health Act, 2023* will now go through the legislative process, including parliamentary debate and public consultation. Amendments may be considered. If the bill is approved, it will receive royal assent and become law.

- *Your Health Act, 2023* comes into force on the day it receives royal assent, but with some notable exceptions:
    - Most provisions of the *Integrated Community Health Services Centres Act, 2023* will come into force at later stage. The actual day is not official yet.

- If the *Integrated Community Health Services Centres Act, 2023* is passed, regulations will also be put forward and a policy framework will be developed to support implementation.

Detailed analysis

Integrated Community Health Services Centres Act, 2023

The OMA welcomes the government's proposed new legislative framework for new community surgical and diagnostic centres, *the Integrated Community Health Services Centres Act, 2023* (ICHSCA).

The government has listened and responded to the OMA's proposal to establish integrated ambulatory centres, which would provide OHIP-insured surgeries and procedures, on an outpatient basis.

What does this mean for independent health facilities?

The ministry proposes to repeal the *Independent Health Facilities Act, 1990* (IHFA) and replace it with new legislation, the *Integrated Community Health Services Centres Act, 2023.*

Therefore, if the legislation is passed and when it comes into force, IHFs will become integrated community health service centres (ICHSCs) and subject to all the new provisions in the legislation. Licences granted under the IHFA will continue to be in force and will be governed by the new act. Many of the current rules of the IHFA remain in place: a licence is needed to operate an ICHSC, an ICHSC may provide insured and non-insured services, an ICHSC may be a for-profit or not-for-profit corporate entity, an ICHSC is eligible to receive ministry funding, etc.

What does this mean for out-of-hospital premises?

Out-of-hospital premises, governed by Ontario Regulation 114/94 under the *Medicine Act, 1991* will not be subject to the proposed ICHSCA. Out-of-hospital premises would be able to apply to become an integrated community health services centre, when the Ministry of Health issues a call for applications for new licences. When further details regarding the legislative and regulatory changes become available, the OMA will make sure to inform members.

Overview of new ICHSCA legislation

The following provides an overview of provisions in the proposed ICHSCA legislation, which are different from the current *Independent Health Facilities Act,* and which integrated community health services centres would become subject to:

- **Appointment of director:** The minister has the authority to appoint one or more persons as the director for ICHSCs. Under the IHFA, this director is an appointed ministry employee and only one director can be appointed.

- **Quality oversight:** The ministry is provided with the authority to prescribe an inspection body with inspection powers for all integrated community health services centres. This may include the College of Physicians and Surgeons of Ontario, which is the current oversight body for IHFs, or it may mean that a different inspection body will be in place

for ICHSCs. The inspection body and the ICHSC director (a person appointed by the minister) are also granted new powers, for example, a licensee can be ordered to cease delivery of services until in compliance with quality and safety standards.

- **Additional requirements for licence application:** A licensee application must now include, but is not limited to:
    - information on the applicant's capacity to improve wait times
    - plans to integrate with the health system
    - details of the applicant's quality assurance and improvement program
    - a detailed staffing model including model for anesthesia delivery and information on hospital privileges of physicians who provide centres if applicable
    - a description of consultations and linkages with health system partners
    - a description of how the applicant will address health equity needs
    - a description of any uninsured services

- **Consideration of licence application:** In deciding whether to issue a licence, the director will, among other things:
    - consider the applicant's capacity to improve patient wait times
    - plans to improve patients' experience
    - plans for integration with the health system
    - current and future needs of Ontarians, including taking into account the needs of diverse, vulnerable, priority and underserviced populations and linguistic needs
    - potential impact on health system planning, including the availability of health human resources

- **Limitations on licence issuance:** No licence for the operation of an integrated community health services centre can be issued for a centre that is located within or adjacent to a private hospital or in any other prescribed place.

- **Licence term:** The five-year licence term limit remains, but the new legislation proposes that a longer maximum term may be provided for in the regulations.

- **Complaint process:** Every integrated community health services centre must establish and maintain a process for receiving and responding to complaints. Requirements for the complaint process would be defined in regulations. Under the *Excellent Care for All Act, 2010,* an ICHSC will also come under the mandate of the patient ombudsman. This means that a person who receives or has received services from an integrated community health services centre can register a complaint with the patient ombudsman about their care.

- **No preference:** The integrated community health services centre cannot charge or accept payment for providing a person with a preference in obtaining access. This provision was put in place to address "queue-jumping."

- **No refusal for choice not to pay:** The integrated community health services centre is prohibited from requiring a patient to purchase a product or service to access an insured service at an ICHSC.

- **Inspection body:** The regulation under this act may prescribe an organization as inspecting body of integrated community health services centres for the purpose of ensuring compliance with this act. The new legislation also stipulates the responsibilities of inspecting bodies, including, but not limited to, that they are responsible for establishing quality and safety standards, and making summaries of inspection reports available to the public.

- **Repeal of OFHDA**: The ministry is proposing to repeal the *Oversight of Health Facilities and Devices Act, 2017*, which was passed in 2017, but has not been proclaimed into force.

The new legislation closely aligns with the OMA's recommendations to establish integrated ambulatory centres including on key parameters related to system integration, access to care, quality measures and oversight. The government heeded the OMA's recommendation to introduce a modernized fit-for purpose legislative framework. We continue to reinforce our principles as outlined in our white paper, and are actively involved in influencing the government. The OMA has proposed to assemble an expert panel of physician leaders to provide clinical advice to the ministry along with a standing multi-stakeholder advisory working group.

Proposed legislative amendments to enable interjurisdictional mobility for select registered health professionals

- The bill seeks to amend several pieces of legislation to expand the definition of a "physician" to include other persons prescribed in regulation. The bill includes similar provisions for other professions.

- The government has indicated that the intent of this is to allow Canadian health-care workers that are already registered in another Canadian jurisdiction to practice in Ontario, pending subsequent proposed regulations, without having to first register with one of Ontario's health regulatory Colleges. This would, in the perspective of government, help Ontario hospitals, long-term care homes, and potentially other settings to increase their health human resources capacity where they need it the most.

- The OMA is monitoring the proposed amendments and will continue to provide updates as Bill 60 progresses.

- The OMA welcomes the plan to speed up the ability of already-registered health workers from other provinces to practice in Ontario. We are also calling for a broader strategy to address doctor shortage, including peer mentorship programs to support physicians who

are new to Canada and robust data about our physician workforce so we can plan wisely for future needs.

Proposed amendments to the *Pharmacy Act, 1991*

- The Ministry of Health is proposing to clarify pharmacists' scope of practice to include that pharmacists can assess conditions for the purposes of providing medication therapies. It remains outside of pharmacists' scope of practice to diagnose. The OMA is recommending using the word "evaluation" instead of "assessment" as the latter is a medical term almost exclusively used in respect to physician practice. We are also recommending to further narrow the proposed provision so that the evaluation is for purposes of prescribing for certain minor ailments only.

- The OMA continues to advocate on behalf of members on any proposal to expand the scope of practice of regulated health professionals. When considering a change in scope of practice, patient safety and continuity of care are paramount. The goal of any scope of practice change should be to improve and enhance high-quality patient care, not just to provide convenience. It is important for the health professionals involved to have the appropriate knowledge, skill and judgment to perform the task.

- The OMA has developed a framework of 12 principles that is used to consider any scope of practice change. Those principles say scope change should:

    - Be consistent with the knowledge, skill and judgment of the professionals involved.
    - Be subject to a rigorous regulatory structure
    - Support a truly collaborative, team-based approach to care as opposed to parallel care
    - Not raise patient safety concerns
    - Be accompanied by system initiatives/supports to ensure that no health-care provider is unreasonably burdened with complications arising from expanded scopes of practice from other professions
    - Be subject to stringent conflict of interest provisions
    - Be applied with consideration of current best practices and lessons learned from other jurisdictions
    - Be applied with consideration to cost effectiveness at a health-system level
    - Promote inter-professional communication and information sharing
    - Promote continuity of care
    - Promote positive relationship with patient
    - Should be subject to system evaluation to determine if leading to positive outcome

Freedom of Information and Protection of Privacy Act, 1990

Amendments to the *Freedom of Information and Protection of Privacy Act* (FIPPA) concern "extra-ministerial data integration units," which were first introduced in March 2020. These units are to be prescribed by regulation. Currently, no extra-ministerial data integration units have been prescribed. The current amendments propose to:

- Extend the application of FIPPA to these extra-ministerial data integration units that are not already considered institutions under the act
- Clarify obligations of extra-ministerial data integration units to publish information on an annual basis and report annually to the Information and Privacy Commissioner

The OMA's analysis suggests that these units are intended to be similar to "prescribed entities" under the *Personal Health Information Protection Act* (PHIPA) such as the Institute for Clinical Evaluative Sciences in allowing the integration of data, but with the addition of being able to do analysis across other sectors. The amendments, if approved, would extend the existing provisions regarding privacy, transparency, and accountability under FIPPA to these units. The OMA does not have concerns with these amendments and does not believe this will significantly impact physicians or their patients.