Update — Ontario Passes The Patients First Act to Implement Health Sector Reform

December 14, 2016

On December 7, 2016, Ontario passed the *Patients First Act*, significantly expanding the role of Local Health Integration Networks ("LHINs") and the Minister of Health and Long-Term Care (the "Minister") in the delivery of health care services.

The *Patients First Act* brings a variety of new entities under the LHIN framework including, for example, primary care providers, hospices and physiotherapy clinics. The Act also transfers the operations of Community Care Access Corporations ("CCACs") and, accordingly, responsibility for the provision of home care and community services, to the LHINs.

The *Patients First Act* changes the way funding for health service providers ("HSPs") is arranged by the LHINs, permitting a LHIN to provide funding to an HSP outside of its prescribed geographic area and creating a new process for the negotiation and imposition of service accountability agreements.

In addition, provincial oversight over HSPs is significantly expanded under the *Patients First Act*. LHINs are authorized to issue operational and policy directives to HSPs (excluding long-term care homes and public hospitals) and the Minister is authorized to issue operational and policy directives to HSPs, including hospitals. Both LHINs and the Minister are authorized to investigate the quality of management and/or care and treatment provided by certain HSPs and appoint a supervisor, where appropriate. Similarly the Minister is authorized to investigate and appoint a supervisor in respect of a LHIN.

Initially tabled in June of 2016 as Bill 210, and re-introduced as Bill 41 in October of 2016, the *Patients First Act* was amended again before being passed following its review by the Standing Committee on the Legislative Assembly. These minor amendments were primarily focused on the treatment of personal health information by LHIN and Ministry investigators and supervisors:

- Investigators are not permitted to access personal health information without the consent of the person who is the subject of the personal health information or as prescribed;

- Before providing a report to the Minister, an investigator must ensure that all personal health information is de-identified;
- A supervisor must not collect, use or disclose personal information if other information will serve the purposes of the supervisor; and,
- A supervisor must not collect, use or disclose more personal information than is reasonably necessary for the purposes of the supervisor.

In respect of the appointment of a supervisor by a LHIN, the notice provision was amended requiring the LHIN to provide 14 days' notice to the HSP *and to the Minister*. Other amendments clarify that where the LHIN has been appointed to act as an agent of the Minister under the *Health Insurance Act*, the LHIN is not authorized to amend any arrangement for the payment of remuneration to physicians and practitioners rendering insured services to insured persons on a basis other than fee for service .

The *Patients First Act* will come into force the day it receives Royal Assent. Certain provisions — including provisions regarding the transfer of CCAC operations to the LHINs, and the authority of a LHIN to make directives or appoint investigators, among others — will not come into force until a day "to be named" by the Lieutenant Governor in Council. Many of the changes introduced under the *Patients First Act* are expected to be implemented over the coming months. HSPs are encouraged to review their policies and practices in anticipation of heightened oversight and an increased focus on accountability.

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