Part 3 – Bill 60: Your Health Act, 2023, update on proposed regulations

July 07, 2023

This is the third in a series of articles on Bill 60 and its implications for health sector stakeholders.

Royal Assent for *Your Health Act*, 2023 (the Act) was received on May 18, 2023. This means that the Act is now Ontario law. However, the entire Act has not yet been proclaimed in force as many operative provisions of the Act are still awaiting proclamation.

Importantly, section 11 of the Act has been proclaimed into force. This section amends the *Pharmacy Act*, 1991 by expanding the practice of pharmacy to include the assessment of conditions for the purposes of providing medication therapies. For more information, please refer to our second article which considers the implications of such amendments for health sector stakeholders.

On June 9, 2023, the Ministry of Health (MOH) released three draft regulations (the draft Regulations) under the Act which propose additional regulatory requirements and provide insight on the application of the Act. The draft Regulations are open for public commentary until July 9, 2023.

The key aspects of the draft Regulations are outlined below.

Proposed regulations under the *Integrated Community Health Services Centres Act*

Once the operative provisions of the Act are proclaimed into force, the Act would repeal *the Independent Health Facilities Act* (the IHFA) and replace it with the *Integrated Community Health Services Centres Act*, 2023 (the ICHSA), among other things. The first draft Regulation, as a supporting regulation to the ICHSA, would carry over many of the regulatory requirements that currently exist under the IHFA, with the following key differences:

- References to “independent health facility” are replaced with “independent health services centre”.

- As a result of an exemption in the IHFA, public hospitals have not been permitted to become IHFA licensees. The proposed ICHSA Regulation provides an exception to this exemption, which appears to open the door for long-term care homes and hospitals, amongst other facilities, to potentially become ICHSA licensees.
- Adds a requirement for licensees to post a list of prices for all uninsured services that are offered at the Integrated Community Health Services Centre.
- Adds a requirement for licensees to post the phone number for the MOH's *Protecting Access to Public Healthcare* program (the Program). The Program ensures that patients with valid OHIP coverage are not being charged for insured health care services.
- Adds specific requirements that licensees must include in their patient complaint process and introduces a requirement for licensees to post their process for receiving and responding to patient complaints.
- Prescribes the College of Physicians and Surgeons of Ontario and the College of Midwives of Ontario as inspecting bodies for Integrated Community Health Services Centres (which are currently quality assessors under the IHFA).

The provincial government has also indicated that it intends to introduce a subsequent set of regulations under the ICHSA to support additional quality assurance, safety, and inspections in fall 2023.

Please refer to our first article for more information on Integrated Community Health Services Centres.

Proposed regulatory amendments to As-Of-Right Licensing

The second draft Regulation proposes regulatory amendments to support as-of-right licensing in Ontario. If approved, this draft Regulation would assist with Ontario healthcare worker shortages by allowing certain out-of-province regulated health professionals, including:

- “medical laboratory technologist” under the *Medical Laboratory Technology Act*, 1991;
- “osteopath”, “physician” or “surgeon”, under the *Medicine Act*, 1991;
- “nurse”, “nurse practitioner”, “registered nurse” or “registered practical nurse” under the *Nursing Act*, 1991; and
- “respiratory therapist” under the *Respiratory Therapy Act*, 1991,

to *temporarily* practice in Ontario without registering with an Ontario regulatory college, *subject to certain conditions*.

Under the proposed Regulation, these out-of-province healthcare professionals would be permitted to use the restricted titles reserved for Ontario licensed healthcare professionals and to hold themselves out as competent to practise their respective professions in Ontario, provided:

- The person is registered with a regulatory authority in a Canadian jurisdiction, other than Ontario, and holds in that jurisdiction the equivalent of a certificate of registration authorizing independent practice in Ontario.
- A regulatory authority in a Canadian jurisdiction has not refused to grant the person a certificate of registration in the profession within the last two years.
- A finding of professional misconduct, incompetence, or incapacity has not been made against the person as a result of a proceeding.
- The person must not be the subject of any current professional misconduct, incompetence, or incapacity proceeding.
- The person only provides services in an Ontario public hospital or long-term care home.
- The person has submitted to the relevant Ontario regulatory college an application for a certificate of registration prior to providing professional services in Ontario.

While waiting for their application to be assessed by the relevant Ontario regulatory college, these out-of-province regulated healthcare professionals would be permitted to commence providing professional services in an Ontario public hospital or long-term care home immediately (subject to public hospital and long-term care home credentialing and hiring processes). However, out-of-province healthcare professionals would lose their exemption and therefore would no longer be permitted to practise in Ontario if their application is rejected or if they have not been issued a certificate of registration by the relevant regulatory college within six months of the date that they first began to provide professional services in Ontario.

The Act, once proclaimed in force, and the proposed regulatory amendments would also expand the definition of certain regulated healthcare professions under the *Public Hospitals Act* and the *Fixing Long-Term Care Act* to enable out-of-province regulated healthcare professionals to provide professional services in public hospitals and long-term care homes provided they satisfy regulatory requirements. Specifically, the current definition of “physician” in the *Public Hospitals Act*, will be expanded to include “or another prescribed person”. Additionally, the definition of “physician”, “registered nurse”, “nurse practitioner”, “registered practical nurse” and “respiratory therapist” in the *Fixing Long-Term Care Act* would be expanded to include out-of-province healthcare professionals.

For more information on as-of-right licensing and its implications for health sector stakeholders please refer to our second article.

Proposed regulations under the *Freedom of Information and Protection of Privacy Act*

The third draft Regulation proposes to designate the non-profit research organization Institute for Clinical Evaluative Sciences (ICES) as an extra-ministerial data integration unit (external data integrator) under the *Freedom of Information and Protection of Privacy Act* (FIPPA). The proposed regulation is meant to increase the government’s data integration capacity and expertise to provide the government better timed access to integrated, de-identified data for analysis which would support evidence-based decision-making.

We will continue to monitor Bill 60 and provide updates in this series of articles. For more information on Bill 60 or the new draft Regulations, please reach out to any of the key contacts listed below.

Special thanks to summer student Nicole Bruce for her assistance with this article.

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