



Successor Rights

Submission to Ministry of Labour

Overview

Patient-centered care is the guiding principle of the government's *Patients First Act*, which is a transformative piece of legislation that has been the cornerstone of the government's health care agenda.

While Home Care Ontario supports the spirit of the *Fair Workplaces, Better Jobs Act* (Bill 148), we feel it is imperative that any policy changes affecting the health care system, such as successor rights, must be evaluated through this lens to ensure it helps fulfill the Patients First Act's goal of further improving access, encouraging innovation, and enhancing quality of care in order to build the patient-centered model of care Ontarians want and deserve.

There are two primary reasons that successor rights are unnecessary in the home care sector:

- it will severely impede and undermine the government's Patients First Act to build an innovative and transformative health care model centered around patients; and,
- compensation and contracts are largely controlled by the government and Local Health Integration Networks (LHINs).

Undermine the Patients First Act and Transformation of Ontario's Health Care System

There are four primary objectives of the *Patients First Act*: **Access** to the right care; **Connect** for improved coordination and integration of care; **Inform** by providing education, information and transparency to make the right decisions; and, **Invest** in staying healthy. At the system level, the goal is to *Protect* the universal health care system using evidence-based decisions to deliver quality care for patients at the right place and the right time.

It is clear from these objectives that expanding successor rights beyond groups, building services and the construction industry, already outlined in Bill 148 would have a detrimental impact on implementing the goals of the Patients First Act.

Specifically, it would limit the LHINs' and provider's ability to change and integrate services by creating additional roadblocks to service realignment and flow through sub-LHINs planning, as competing collective agreements rather than patients, would define when, where and how labour is provided and therefore how services can be delivered.

This would limit the extent to which service delivery can be adjusted to meet client needs across a region or sub-region as LHINs currently work with Service Provider Organizations (SPOs) to realign their contracts for home care services to LHIN sub-regions to drive integrated planning at the local level. Such realignment would allow for coordinated delivery and better alignment of home care with the primary care strategy to create an integrated care team that will improve communication, health outcomes and all the other benefits of team-based care for patients.

This realignment to further improve patient care could mean that LHINs assign new contracts to SPOs, and caregivers and their wage and compensation contracts from other providers, without a transfer of

ownership ever taking place. It is simply about delivering patient care in the most effective, coordinated, and timely manner possible.

This type of LHIN region and sub-region realignment, as envisioned by the Patients First Act, also establishes wages and compensation frameworks for professional caregivers across an entire LHIN region or sub-region. The potential existence of multiple and varying contract agreements would create barriers for moving employees to a sub-region. It would mean no change would be possible and the ministry's goal of moving health care to a sub-LHIN region will never be realized.

This impedes the work of aligning with primary care physicians, hospitals, and LTC Homes to support the key objectives of access and connect, as well as, undermines collaboration and the ability to move SPOs to different regions to improve patient care.

Additionally, The Ministry of Health of Long-Term Care (MOHLTC) unveiled its *Aging with Confidence: Ontario's Action Plan for Seniors* for policy and program guidelines supporting seniors as they age. A key element of this plan is the development of naturally occurring retirement communities.

These communities allow for seniors at varying stages of health, fitness, and mobility, to live and age in their own homes through coordinated deployment of caregivers. This type of care model, which Home Care Ontario fully supports, requires community driven local health system planning, and possible realignment of SPOs and professional caregivers within a LHIN region or sub-region.

This local planning is fundamental to achieving the government's laudable goals in both the Patients First Act and their seniors' strategy and the expansion of successor rights would fundamentally impede this work.

Compensation and Contracts Largely Set by Government and LHINs

The factors leading to the need for successor rights in sectors already outlined in Bill 148, such as building services and the construction industry, simply do not exist in the home care sector. That is because unlike those sectors where compensation and contractual compensation are determined by companies, in home care these are largely controlled by the Ontario government and the LHINs.

Under home care contracts for publicly funded services, the MOHLTC sets provincial pricing. This includes a standard rate across the province for Personal Support Workers (PSWs) who deliver the vast majority of the current services assigned by the LHINs in the home care sector. There is no ability for a SPO to set the price as the LHIN ultimately determines funding for the service and this results in a standardized rate paid to all providers across the province.

There is also currently a mandated wage of \$16.50 per hour – above the general minimum wage - for PSWs which is set by the MOHLTC for all publicly funded services. This rate is subject to audit by the LHINs - SPOs providers attest to implementing these rates. Other professional services where wage rates are not set are generally determined by the other provincial union bargain rates and/or market rates.

There is currently a shortage of professional caregivers across the province, such as PSWs, which is severe in some areas, the environment for hiring and retaining qualified and trained staff is highly competitive and therefore there is minimal opportunity for an employer to provide uncompetitive wages.

Finally, all SPOs delivering publicly funded home care services in Ontario must meet strict performance indicators set out by the LHIN. Any organization that fails to meet these LHINs performance targets in home and community care can have their volumes reduced or contracts severed. It is not an option for an organization to dissolve and reincorporate under a different name and reacquire a contract from the LHIN within these requirements.