COFFEE TALK:
A HEALTH INDUSTRY SEMINAR SERIES

Legislative Update:
Recent Changes in the Law You Need to Know
January 29, 2020

Kristen Vandenberg
kvandenberg@millerthomson.com
416.595.8165
This presentation is provided as an information service and is a summary of current legal issues. This information is not meant as legal opinion and viewers are cautioned not to act on information provided in this publication without seeking specific legal advice with respect to their unique circumstances.
Agenda

1. Overview
2. Recent Amendments to Existing Legislation
3. New Legislation
4. Changes on the Horizon
Overview

A number of Bills were passed in 2019 which amended existing or introduced new health care laws:

- **Bill 66**: Restoring Ontario’s Competitiveness Act, 2019
- **Bill 74**: The People’s Health Care Act, 2019
- **Bill 100**: Protecting What Matters Most Act (Budget Measures), 2019
- **Bill 116**: Foundations for Promoting and Protecting Mental Health and Addictions Services Act, 2019
- **Bill 138**: Plan to Build Ontario Together Act, 2019

Previous Bills have recently come into force

Numerous Regulations also amended or introduced
# Overview

<table>
<thead>
<tr>
<th>Bill</th>
<th>Relevant Legislation Amended / Enacted</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Bill 66: Restoring Ontario’s Competitiveness Act, 2019</strong></td>
<td>Long-Term Care Homes Act, 2007 (amended)</td>
</tr>
</tbody>
</table>
| **Bill 74: The People’s Health Care Act, 2019**                      | Connecting Care Act, 2019 (enacted)  
Ministry of Health and Long-Term Care Act (amended)  
Repeals, revocations and consequential related amendments to over 30 other pieces of legislation |
| **Bill 100: Protecting What Matters Most Act (Budget Measures), 2019** | Ambulance Act (amended)  
Broader Public Sector Accountability Act, 2010 (amended)  
Child, Youth and Family Services Act, 2017 (amended)  
Connecting Care Act, 2019 (amended)  
Freedom of Information and Protection of Privacy Act (amended)  
Excellent Care for All Act, 2010 (amended)  
Healing Arts Radiation Protection Act (amended)  
Local Health System Integration Act, 2006 (amended)  
Personal Health Information Protection Act, 2004 (amended) |
# Overview

<table>
<thead>
<tr>
<th>Bill</th>
<th>Relevant Legislation Amended / Enacted</th>
</tr>
</thead>
</table>
Opioid Damages and Health Care Costs Recovery Act, 2019 (enacted)  
Connecting Care Act, 2019 (amended)  
Limitations Act, 2002 (amended)                                         |
Connecting Care Act, 2019 (amended)  
Health Insurance Act (amended)  
Independent Health Facilities Act (amended)  
Ministry of Health and Long-Term Care Act (amended)  
Ontario Drug Benefit Act (amended)  
Personal Health Information Protection Act, 2004 (amended)            |
Recent Amendments to Existing Legislation
Recent Amendments

- Long-Term Care Homes Act, 2007
- Ambulance Act
- Freedom of Information and Protection of Privacy Act
- Personal Health Information Protection Act, 2004
- Health Insurance Act
- Independent Health Facilities Act
- Child, Youth and Family Services Act, 2017
Recent Amendments

• *Long-Term Care Homes Act, 2007*
  
  ➢ Amendments in force July 1, 2019
  
  ➢ Allow for longer temporary emergency licences of up to one year to accommodate persons affected by a temporary emergency
  
  ➢ Provisions regarding short-term authorizations repealed
Recent Amendments

• Regulation 79/10 (General) under the Long-Term Care Homes Act, 2007
  ➢ Amendments in force on August 29, 2019
  ➢ New provisions re: high acuity priority access beds for individuals who:
    • Are at a significant risk of avoidable admission to a hospital or a psychiatric facility, occupy a bed in a hospital or psychiatric facility and require an alternate level of care; or are a long-stay resident in a long-term care home; and
    • Can benefit from provision of ongoing nursing or other personal care and technology-based care
Recent Amendments

- **Ambulance Act**
  - Amendments to Reg. 257/00 (General) in force November 1, 2019
  - Ability of Ministry and ambulance services to implement new models of care
  - Will provide certain patients with alternative care options where appropriate
  - Proposed Patient Care Model Standards posted January 7, 2020; comment period closed January 21, 2020
Recent Amendments

• *Ambulance Act*

  ➢ Proposed Patient Care Model Standards
    • 3 Patient Care Model Standards:
      • Alternate Destination
      • Treat and Refer
      • Treat and Release
    • Sets out Patient Care Model submission and approval process
    • Phase 1 Patient Cohorts:
      • Mental Health and Addictions (excluding cognitive conditions)
      • Palliative Care
Recent Amendments

- *Freedom of Information and Protection of Privacy Act*
  - New Part III.1 (Data Integration) in force November 4, 2019
  - Creation of inter-ministerial and ministry data integration units
  - Allows for indirect collection of personal information from other ministries and agencies to enable analysis for:
    - Managing/allocating resources
    - Planning for delivery and evaluation of government programs and services
Recent Amendments

• FIPPA Cont’d

- Indirect collection of personal information subject to certain restrictions
- Privacy controls: data minimization, mandatory breach reporting, IPC review and order making powers
- Only ministry data integration units located in Ministry of Health may collect personal health information (PHI) from health information custodians (HICs)
- Inter-ministerial data integration units may not collect PHI from HICs unless authorized by regulation
Recent Amendments

- *Personal Health Information Protection Act, 2004*
  - Amendments not yet in force
  - New offence for non-prescribed persons/entities to use or attempt to use de-identified information to identify an individual
  - Ability to make regulations prescribing:
    - Collection, use and disclosure of personal health information by Ontario Health and Ontario Health Teams
    - Disclosures that may be made to Ontario Health and Ontario Health Teams
Recent Amendments

• PHIPA Cont’d

- Amendments to Regulation 329/04 (General) in force December 2, 2019:
  • Reflect assumption by Ontario Health of eHealth Ontario in respect of administrative, technical and physical safeguards, practices and procedures to protect privacy
  • Ontario Health named as a “prescribed person” and a “prescribed entity”
Recent Amendments

• *Health Insurance Act*
  
  ➢ Majority of amendments in force on December 10, 2019
  
  ➢ Intended to provide greater oversight and increased transparency
  
  ➢ Amendments include:
    
    • Allowing for publication of information relating to any payments under the *Health Insurance Act* to physicians, practitioners or health facilities
Recent Amendments

- *Health Insurance Act* Cont’d

  - Amendments (cont’d)
    - Repeal of various committees
    - Codification of health card requirements
    - Expansion of provisions regarding billing numbers
    - Expansion of rules requiring provision of information to the General Manager required for prescribed purposes
    - Amendment of refusal to pay provisions
Recent Amendments

- *Independent Health Facilities Act*
  - Amendments in force December 10, 2019
  - New rules for applications to establish and operate Independent Health Facilities (IHF)
    - Request for Proposal → Call for Applications
  - New record-keeping requirements
  - New refusal to pay provisions
  - Ability of Director to issue compliance orders to IHFs
Recent Amendments

• *Child, Youth and Family Services Act, 2017*

- Part X (Personal Information) in force January 1, 2020
- Establishes rules for collection, use, disclosure of and access to personal information held by service providers
- Health information custodians under PHIPA and institutions under FIPPA exempt from much of Part X
- Important to understand if/when Part X applies to your organization
- Ability of Minister to collect personal information for prescribed purposes
New Legislation
New Legislation

- *Connecting Care Act, 2019*
- *Opioid Damages and Health Care Costs Recovery Act, 2019*
- *Mental Health and Addictions Centre of Excellence Act, 2019*
- *Supply Chain Management Act (Government, Broader Public Sector and Health Sector Entities), 2019*
New Legislation

• *Opioid Damages and Health Care Costs Recovery Act, 2019*
  
  ➢ Introduced by Bill 116; in force December 12, 2019
  
  ➢ Gives Ontario a direct and distinct action against manufacturers and wholesalers of opioid products to recover the cost of health care benefits caused or contributed to by an “opioid-related wrong”
New Legislation

- *Mental Health and Addictions Centre of Excellence Act, 2019*
  - Introduced by Bill 116; not yet in force
  - Minister to develop and maintain a mental health and addictions strategy recognizing mental health and addictions care as core component of integrated health system
  - Ontario Health to establish and maintain within Ontario Health a Mental Health and Addictions Centre of Excellence
NEW LEGISLATION

- **Supply Chain Management Act (Government, Broader Public Sector and Health Sector Entities), 2019**
  - Introduced by Bill 138; not yet in force
  - Requires prescribed entities to comply with regulations governing supply chain management and requiring implementation of specified vendor performance standards and practices
  - Obligations under the Act deemed to be obligations under the terms of existing funding agreements
New Legislation

- **Supply Chain Management Act (Government, Broader Public Sector and Health Sector Entities), 2019** Cont’d
  - Prescribed entities must ensure any contracts with third party supply chain managers require compliance with Act
  - Regulations under the Act will prevail over Broader Public Sector Procurement Directive
Changes on the Horizon
Changes on the Horizon

• Currently 12 bills at various stages in Ontario Legislature which could amend existing or introduce new laws which would affect health care organizations

• May be amended prior to enactment

• Not guaranteed to become law

Stay tuned…
# Changes on the Horizon

<table>
<thead>
<tr>
<th>Bill</th>
<th>Proposed Legislation to be Amended/Enacted</th>
<th>Status as of January 28, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bill 3: <em>Compassionate Care Act, 2018</em></td>
<td><em>Compassionate Care Act, 2018</em></td>
<td>Passed second reading July 26, 2018; referred to Standing Committee on General Government</td>
</tr>
<tr>
<td>Bill 8: <em>Transparent and Accountable Health Care Act, 2018</em></td>
<td><em>Transparent and Accountable Health Care Act, 2018</em></td>
<td>Passed first reading July 31, 2018</td>
</tr>
<tr>
<td>Bill 13: <em>Time to Care Act (Long-Term Care Homes Amendment, Minimum Standard of Daily Care), 2018</em></td>
<td><em>Long-Term Care Homes Act, 2007</em></td>
<td>Passed first reading July 31, 2018</td>
</tr>
<tr>
<td>Bill 5: <em>Long-Term Care Homes Amendment Act (Preference for Veterans), 2018</em></td>
<td><em>Long-Term Care Homes Act, 2007</em></td>
<td>Passed second reading November 15, 2018; referred to Standing Committee on Social Policy</td>
</tr>
<tr>
<td>Bill 63: <em>Right to Timely Mental Health and Addiction Care for Children and Youth Act, 2019</em></td>
<td><em>Right to Timely Mental Health and Addiction Care for Children and Youth Act, 2019</em></td>
<td>Passed second reading February 21, 2019; referred to Standing Committee on General Government</td>
</tr>
</tbody>
</table>
# Changes on the Horizon

<table>
<thead>
<tr>
<th>Bill</th>
<th>Proposed Legislation to be Amended/Enacted</th>
<th>Status as of January 28, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bill 73: Home Care and Community Services Amendment Act (Dan's Law), 2019</td>
<td>Home Care and community Services Act, 1994</td>
<td>Passed first reading February 25, 2019</td>
</tr>
<tr>
<td>Bill 91: Peter Kormos Memorial Act (Trillium Gift of Life Network Amendment), 2019</td>
<td>Trillium Gift of Life Network Act</td>
<td>Passed first reading March 28, 2019</td>
</tr>
<tr>
<td>Bill 102: Closing Oversight Loopholes for Home Care Clinics Act, 2019</td>
<td>Health Protection and Promotion Act Home Care and Community Services Act, 1994 Ministry of Health and Long-Term Care Act</td>
<td>Passed second reading May 2, 2019; referred to Standing Committee on Justice Policy</td>
</tr>
<tr>
<td>Bill 114: Nancy Rose Act (Paediatric Hospice Palliative Care Strategy), 2019</td>
<td>Nancy Rose Act (Paediatric Hospice Palliative Care Strategy), 2019</td>
<td>Passed second reading May 30, 2019; referred to Standing committee on Finance and Economic Affairs</td>
</tr>
</tbody>
</table>
Changes on the Horizon

<table>
<thead>
<tr>
<th>Bill</th>
<th>Proposed Legislation to be Amended/Enacted</th>
<th>Status as of January 28, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bill 140: <em>Defibrillator Registry Act, 2019</em></td>
<td><em>Defibrillator Registry Act, 2019</em></td>
<td>Passed first reading November 18, 2019</td>
</tr>
<tr>
<td>Bill 141: <em>Defibrillator Registration and Public Access Act, 2020</em></td>
<td><em>Defibrillator Registration and Public Access Act, 2020</em></td>
<td>Passed second reading November 21, 2019; referred to Standing Committee on Social Policy</td>
</tr>
<tr>
<td>Bill 153: <em>Long-Term Care Homes Amendment (Till Death Do Us Part) Act, 2019</em></td>
<td><em>Long-Term Care Homes Act, 2007</em></td>
<td>Passed second reading on December 12, 2019; referred to Standing Committee on Justice Policy</td>
</tr>
</tbody>
</table>
Kristen Vandenberg
kvandenberg@millerthomson.com
416.595.8165