

# Bill 74, The People's Health Care Act, 2019

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# Introduction

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We recognize the opportunity that these reforms offer to collaborate with providers from across all sectors to improve care for clients patients and clients.

We were pleased to hear that the government has committed to a long-term and consultative implementation of these changes.

As these changes are rolled out current structures will remain in place. We encourage members to continue to cultivate long-term relationships with all partners – including existing LHINs.

We look forward to having more conversations with government about the coming changes, so that Ontario is able to use the strength of our sector to put people's care first.

# Bill 74, The People's Health Care Act, 2019

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Bill 74, outlines the legal structure for the creation of Ontario Health, a provincial agency that will amalgamate 20 other agencies and create Integrated Care Delivery Systems (ICDS') or Ontario Health Teams.

Once the act is passed, it will create *The Connecting Care Act* which will be the legislation that will govern the new system. Bill 74 sets up the eventual repeal of the *Local Health System Integration Act*.

It also amends the *Ministry of Health and Long-Term Care Act* to create an Indigenous Health Council and French Language Health Services Advisory Council. These previously existed through regulation.

Consequential amendments are made to 33 other pieces of legislation, including the *Home Care and Community Services Act*.

# Key Features of Reforms

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Overall, the proposed changes would be a significant centralization of the health system while at the same time empowering local health service providers (HSPs) to partner in service delivery.

The core features of the reorganization which will be rolled out over a number of years are:

- Creation of Ontario Health that will centralize the functions of 20 organizations and have 5 regional offices.
- The eventual creation of 30 to 50 Ontario Health Teams, called Integrated Care Delivery Systems in the legislation, composed of HSPs that would receive funding from Ontario Health to deliver coordinated services.

# Components of Bill 74

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- The Agency: Ontario Health
- Integrated Care Delivery Systems: Ontario Health Teams
- Legal framework and definition of home and community care health service providers
- Funding framework
- Integration powers
- Public Sector Labour Relations Transition Act

# Ontario Health

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Ontario Health will oversee health care delivery, improve clinical guidance and provide support for providers to enable better quality care for patients.

Ontario Health will eventually amalgamate:

- the 14 LHINs
- Cancer Care Ontario
- eHealth Ontario
- Health Force Ontario Marketing and Recruitment Agency
- Health Shared Services Ontario
- Ontario Health Quality Council
- and Trillium Gift of Life Network.

Passing the legislation would not automatically roll these organizations into Ontario Health. The integrations would be made through transfer orders by the Minister.

# Ontario Health - Mandate

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(a) to implement the health system strategies developed by the Ministry;

(b) to manage health service needs across Ontario consistent with the Ministry's health system strategies to ensure the quality and sustainability of the Ontario health system through,

(i) health system operational management and co-ordination,

(ii) health system performance measurement and management, evaluation, monitoring and reporting,

(iii) health system quality improvement,

(iv) clinical and quality standards development for patient care and safety,

(v) knowledge dissemination,

(vi) patient engagement and patient relations,

(vii) digital health, information technology and data management services, and

(viii) support of health care practitioner recruitment and retention;

(c) to plan, co-ordinate, undertake and support activities related to tissue donation and transplantation in accordance with the *Trillium Gift of Life Network Act*;

(d) to support the patient ombudsman in carrying out their functions in accordance with the *Excellent Care for All Act, 2010*;

(e) to support or provide supply chain management services to health service providers and related organizations;

(f) to provide advice, recommendations and information to the Minister and other participants in the Ontario health care system in respect of issues related to health care that the Minister may specify;

(g) to promote health service integration to enable appropriate, co-ordinated and effective health service delivery; and

(h) any other prescribed objects.

# Ontario Health – Powers and Authorities

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The legislation allows the Minister to delegate any of its powers, other than regulation-making power, to the agency.

The agency has powers to appoint supervisors and investigators similar to the provisions brought in by *the Patients First Act* in 2016.

Ontario Health will also have the power to issue directives. This provision is articulated differently than the power to issue policy and operational directives under the *Local Health System Integration Act* (LHSIA). OCSA is seeking advice to understand the impact of this different language.



# Ontario Health – Governance

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Ontario Health will be governed by a 15 member board.

The board of governance will be appointed by Orders in Council and will serve 3-year terms. They will be able to serve a maximum of 6 years.

Board meetings of Ontario Health will not be required to be open to the public.

# Ontario Health Teams

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“Ontario Health Teams are a new way of organizing and delivering services for patients. Local health care providers will be empowered to work as a connected team, taking on the work of easing transitions for patients across the continuum of care. Ontario Health Teams will be responsible for delivering all of the care for their patients, understanding their health care history and needs, and directly connecting them to the different types of care they need.”

[-Backgrounder, Building a Connected Public Health Care System for the Patient, February 26, 2019](#)

# Ontario Health Teams

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Key features of these new structures:

- They are meant to be voluntary networks of providers.
- They will be the recipient of government funding and point of accountability for client experience and financial administration of services.
- They need to be able to deliver better services in a integrated and coordinated way in at least 3 prescribed subsectors.
- They will serve a population of approximately 300,000 people tied to a geography or a specific client characteristic.
- There will be a rolling readiness assessment process for the designation of the teams.

# Ontario Health Teams

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The power to designate Ontario Health Teams rests with the Minister. In order to be designated an ICDS “the person, entity or group of persons or entities” has to have “the ability to deliver, in an integrated and co-ordinated manner, at least three of the following types of services:”

- (i) hospital services,
- (ii) primary care services,
- (iii) mental health or addictions services,
- (iv) home care or community services,
- (v) long-term care home services,
- (vi) palliative care services,
- (vii) any other prescribed health care service or non-health service that supports the provision of health care services; and (b) any prescribed conditions or requirements have been met.

# Definition of Health Service Provider

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1. A person or entity that operates a hospital within the meaning of the *Public Hospitals Act* or a private hospital within the meaning of the *Private Hospitals Act*.
2. A person or entity that operates a psychiatric facility within the meaning of the *Mental Health Act* except if the facility is,
  - i. a correctional institution operated or maintained by a member of the Executive Council, other than the Minister, or
  - ii. a prison or penitentiary operated or maintained by the Government of Canada.
3. The University of Ottawa Heart Institute/Institut de cardiologie de l'Université d'Ottawa.
4. A licensee within the meaning of the *Long-Term Care Homes Act, 2007*, other than a municipality or board of management described in paragraph 5.
5. A municipality or board of management that maintains a long-term care home under Part VIII of the *Long-Term Care Homes Act, 2007*.
- 6. A person or entity approved under the *Home Care and Community Services Act, 1994* to provide community services.**
7. A not-for-profit entity that operates a community health centre.
8. A not-for-profit entity that provides community mental health and addiction services.
9. A not-for-profit entity that operates a family health team.
10. A not-for-profit entity that operates a nurse practitioner-led clinic.
11. A not-for-profit entity that operates an Aboriginal health access centre.
12. A person or entity that provides primary care nursing services, maternal care or inter-professional primary care programs and services.
13. A not-for-profit entity that provides palliative care services, including a hospice.
14. A person or entity that provides physiotherapy services in a clinic setting that is not otherwise a health service provider.
15. An independent health facility within the meaning of the *Independent Health Facilities Act*.
16. Any other person or entity or class of persons or ent that is prescribed.

# Definition of Health Service Provider

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The definition of a HSP in Bill 74 is similar to the one offered by LHSIA with one notable difference.

It does not have the clear exclusion of physicians, chiropractors, dentists and optometrists and their professional corporations.

The ability to expand the list through regulation is still present.

The definition of approved agency under the *Home Care and Community Services Act* has not changed.

# Exclusion of home and community care

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“Exclusion, community services

(3) A person or entity that provides, as a service provider within the meaning of the *Home Care and Community Services Act, 1994*, a community service that has been purchased by a health service provider or an integrated care delivery system, is not a health service provider within the meaning of this Act in respect of the provision of the purchased service.”

This exclusion clause existed under LHSIA. The impact of this clause is to maintain the legal distinction between a HSP and a service provider organization based on how an organization receives its funding.

# Legal framework for home and community care

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This new legal framework maintains the ability to fund services under the *Home Care and Community Services Act* through both a funding agreement with Ontario Health or Ontario Health Teams or through purchase agreements with a HSP or Ontario Health Team.



# Funding framework

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Section 18 outlines the funding framework for the Ministry to fund Ontario Health through an accountability agreement.

Section 21 outlines the funding framework for Ontario Health to fund health service providers or Ontario Health Teams.

# Funding framework

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Section 21 breaks down funding into two categories:

- Funding to a health service provider or Ontario Health Team for “health services that the provider or system provides.”
- Funding to “a health service provider, integrated care delivery system or other person or entity in respect of non-health services that support the provision of health care.”

The difference between the two types of services are not defined in the legislation. This is one area that OCSA hopes to obtain greater clarification around.

# Funding framework

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Bill 74 sets out a 90 day framework for negotiating service accountability with delivery organizations following a notice of offer with the ability to extend the negotiations if both parties agree.

The ability to impose a Service Accountability Agreement that existed in LHSIA is amended. The process has been shortened to a 30 day notice period where if the delivery organization doesn't reject it, it would be deemed accepted.

# Integration Powers

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Section 30 builds on the integration powers outlined in LHSIA. It empowers Ontario Health to facilitate and negotiate integrations but gives the power to direct integrations to the Minister.

The Agency will have the power to integrate the health system by providing or changing funding, integrating organizations that are health service providers or Ontario Health Teams and integrating services.

One key difference is that Ontario Health will have the power to facilitate and negotiate service integration between health service providers or Ontario Health Teams with a “person or entity that is not a provider or a system, but which supports the provision of health care.”

# Directed Integration Powers

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Under Bill 74, the Minister would have similar powers for direct integration as what the LHINs held under LHSIA. The powers in bold below are new.

1. To provide all or part of a service or to cease to provide all or part of a service.
2. To provide a service to a certain level, quantity or extent.
3. To transfer all or part of a service from one location to another.
4. To transfer all or part of a service to or to receive all or part of a service from another person or entity.
5. To cease operating, to dissolve or to wind up its operations.
- 6. To amalgamate with one or more persons or entities that receive funding from the Agency under section 21.**
- 7. To co-ordinate services with or partner with another person or entity that receives funding from the Agency under section 21.**
- 8. To transfer all or substantially all of its operations to one or more persons or entities.**
9. To carry out another type of integration of services that is prescribed.
10. To do anything or refrain from doing anything necessary for them to achieve anything under any of paragraphs 1 to 9, including to transfer property to or to receive property from another person or entity in respect of the services or operations affected by the decision.

# Directed Integration Powers

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There are a number of restrictions placed on the Minister's directed integration powers. These include a restriction on the Minister's ability to issue directives that would transfer the property held for charitable purposes to an entity that is not a charity.

More importantly it limits the Minister's ability to amalgamate a not-for-profit health service provider or Ontario Health Team with a for-profit one.

It also limits the Minister's ability to issue a directive to transfer all or substantially all of a not-for-profit HSP's or Ontario Health Team's operations to a for-profit one.

# Supply Chain Management

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Aligned with recommendations from the Ernst & Young Line by Line Review the government is setting up a single province-wide supply chain management model for the entire health care sector.

The province is giving itself powers to do this through the funding of non-health services in the legislation.

The distinction between the two types of services that the agency can fund may be related to this plan for a provincial role in supply chain management.

# What is PSLRTA?

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The *Public Sector Labour Relations Transition Act* was passed in 1997 in order to deal with collective bargaining rights throughout significant restricting of the hospital sector, school boards and municipalities.

It sets out a process for determining which union or bargaining group rights are transferred in integration or mergers.

When LHINs were introduced in 2006, PSLRTA was amended to include transfers of service and partial integrations.

OCSA has been advocating with OHA and Home Care Ontario to return the application of PLSRTA to only full-mergers and integrations.



# Public Sector Labour Relations Transition Act (PSLRTA)

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Bill 74 provides PSLRTA would apply to certain types of integrations – including partial integrations of services, operations and amalgamations.

However, it does provide for exemptions – such as when the integration involves someone who isn't a health service provider or if all parties agree that PSLRTA doesn't apply.

# Opportunities for advocacy

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There are opportunities to present amendments throughout the legislative process.

OCSA is exploring possible amendments that would ensure that there is a community governance structure to Ontario Health Teams and establish procedural checks on the new integration powers included in the legislation.

OCSA also sees an opportunity for advocacy in the development of the criteria for the selection of Ontario Health Teams.

# OCSA's positions

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Ontario Health Teams must incorporate a strong model of community governance and not-for-profit delivery of services.

A list of core services Ontario Health Teams are expected to deliver across the province needs to be identified. Core services must include community support services and independent living, along with home care.

Any transformation strategy must include a plan to support and address the shortage of frontline workers across the health system. The PSW shortage is at a crisis level and nursing shortages are starting many areas of the province.

Existing local collaborations should be leveraged. Good work to build partnerships across sectors has already taken place at the local level.

Increase the focus on upstream services – including health promotion and preventative health.

# Opportunities for members

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Build new or leverage existing partnerships across different health services and sectors.

Identify possible partners to build a Ontario Health Team proposal.

Identify who may be a Ontario Health Team in your region.

Make sure you can articulate your value to potential Ontario Health Teams.

# Next steps

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OCSA is building a range of supports for members.

Please keep an eye out for other webinars on system transformation and innovative partnership models.

If you haven't yet, watch the Ministry of Health and Long-Term Care stakeholder webcast [here](#) and register for updates on the transformation from the government [here](#).

Register for our [annual conference](#) to get the tools you need to take a leading role in collaborating towards a silo-free future to provide a seamless health care experience for Ontarians.

# Questions

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If you have any questions or comments reach out to us:

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