COFFEE TALK – BOARD OF DIRECTORS SERIES

Bill 74 for Boards: What Directors Need to Know About the Connecting Care Act, 2019

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AGENDA

1. Status update on Bill 74
2. Overview of The People’s Health Care Act, 2019
3. Key features of Ontario Health and Ontario Health Teams
4. Authority of the Minister and Ontario Health
5. Role of the Board in Transformation Governance
6. Summary
Status of Bill 74: Where are we now?

• April 18, 2019 - Bill 74, *The People’s Health Care Act, 2019* received Royal Assent

• *Connecting Care Act, 2019* comes into force on a day to be named by proclamation of the Lieutenant Governor
  ➢ No proclamation date set

• Some aspects of Bill 74 will take effect immediately while others will be implemented over time
Overview of *The People’s Health Care Act, 2019*

- Bill 74, *The People’s Health Care Act, 2019* has three parts:
  1. Connecting Care Act, 2019
  2. Amendments to Ministry of Health and Long-Term Care Act
     - Indigenous health council
     - French language health services advisory council
  3. Amendments/repeals over 29 other pieces of legislation
     - Changes generally to recognize Ontario Health and remove LHIN
     - Some substantive amendments
Connecting Care Act, 2019
Key Features

• Central Agency or Agency = Ontario Health
• Integrated Care Delivery Systems = Ontario Health Teams
Connecting Care Act, 2019
Key Features: Ontario Health

• Establish Ontario Health as Province-wide Central Agency
• Crown agency with Board of Directors of up to 15 directors appointed by Lieutenant Governor in Council
• Has already been established as “Health Program Initiatives” and will be continued as Ontario Health
• Initial Board of Directors appointed on March 8th
Connecting Care Act, 2019
Key Features: Ontario Health

• Central Agency to consolidate:
  ➢ 14 LHINs
  ➢ 6 provincial health agencies
    • Cancer Care Ontario
    • eHealth Ontario
    • HealthForceOntario Marketing and Recruitment Agency
    • Health Shared Services Ontario
    • Ontario Health Quality Council
    • Trillium Gift of Life Network
  ➢ Other entities by regulation (that receive funding from Ministry/Agency and provide programs/services consistent with Agency objects)
Connecting Care Act, 2019
Key Features: Ontario Health

• Each agency to be transferred to Ontario Health will require a Transfer Order from the Minister setting out the assets, liabilities, rights, obligations or employees to be transferred and the date of transfer

• Technically under the Act transfer could be to Ontario Health, health service provider or integrated care delivery system

• Ontario Health Board of Directors has already assumed governance control
Connecting Care Act, 2019

Key Features: Ontario Health

Objects of the Agency are:

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

c) 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;

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

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

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

g) 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;

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

i) any other prescribed objects.
Connecting Care Act, 2019
Key Features: Ontario Health

• Minister may delegate to Ontario Health any of its powers and duties under any Act and delegation may be made subject to conditions

• Minister to provide funding to Ontario Health pursuant to an Accountability Agreement

• Ontario Health to provide funding pursuant to a Service Accountability Agreement for:
  ➢ Health services to a health service provider or integrated care delivery system
  ➢ Non-health services that support health care to health service provider, integrated care delivery system or other person or entity
Connecting Care Act, 2019
Key Features: Ontario Health Team

• Integrated Care Delivery System = Ontario Health Team
• Minister may designate a person or entity or a group of persons or entities as an integrated care delivery system provided that they have the ability to deliver in an integrated and coordinated manner at least three of the following types of services:
  ➢ Hospital services
  ➢ Primary care services
  ➢ Mental health or additions services
  ➢ Home care or community services
  ➢ Long-term care home services
  ➢ Palliative care services
  ➢ Any other prescribed health care services or non-health care service that supports the provision of health care services

• Must also meet any prescribed conditions or requirements
Connecting Care Act, 2019
Key Features: Ontario Health Team

“Ontario Health Teams are groups of providers and organizations that are clinically and fiscally accountable for delivering a full and coordinated continuum of care to a defined geographic population”
Connecting Care Act, 2019

Key Features: Ontario Health Team

• Currently voluntary and provider driven but stated goal is “for all health service providers to eventually become Ontario Health Teams”
• Population-based
• Intended to be 30-50 across the Province over time, selected through Self-Assessment submission and Application process by invitation
• First call for Ontario Health Team Self-Assessments released on April 3rd and due May 15th
• Assessment process will be repeated until full Provincial coverage of OHTs is achieved
1. **Self-Assessing Readiness**: Interested groups of providers and organizations submit Self-Assessment of readiness

2. **Validating Provider Readiness**: Based on Self-Assessments, groups of providers identified as:
   - In Discovery
   - In Development (Those in development will be invited to make an application to become an OHT candidate)

3. **Becoming an Ontario Health Team Candidate**: Based on full application process, those identified as meeting readiness criteria may be selected to begin implementation of the model

4. **Becoming a Designated Ontario Health Team**: Once ready to receive an integrated funding envelope and operate under a single accountability agreement, designated as an Ontario Health Team

*Groups may be asked to collaborate with additional providers and resubmit a joint Self-Assessment*
Connecting Care Act, 2019
Key Features: Ontario Health Team

• Self-Assessment prescribes minimum readiness criteria to be considered for OHT selection
• Expectations stated for first year and at maturity
• Initial indication that existing SAA to continue
• Single fund holder to be identified for future integrated funding envelope
• Teams to work towards harmonized information management
Connecting Care Act, 2019
Key Features: Ontario Health Team

• Currently OHT membership to self-organize, no governance or corporate structure prescribed
• But, certain expectations identified:
  ➢ Plan to include patients, families and/or caregivers in governance
  ➢ Inclusion of physician and clinical leadership in governance structure
  ➢ Central brand
  ➢ Documentation of arrangements in formal agreements
• Understood that OHT governance structures may evolve over time as OHT matures
**Connecting Care Act, 2019**

Minister/Agency Powers and Authority

- Ministry of Health and Long-Term Care has overall responsibility for the health system and for establishing provincial policy

- *Connecting Care Act, 2019* conveys significant powers and authority to the Minister and the Agency which may shape future direction
Minister/Agency Powers and Authority

• Expanded statutory oversight authority and powers include authority for:
  ➢ Minister to issue directives
  ➢ Agency to direct an audit or operational review
  ➢ Agency to require information or reports
  ➢ Agency or Minister to appoint investigators
  ➢ Minister to appoint supervisor
  ➢ Facilitated integration (Agency) or required integration (Minister)
Minister/Agency Powers and Authority Directives by Minister

- When Minister considers it to be in public interest to do so, may issue directives to any or all of:
  - the Agency or any person or entity that receives funding from the Agency
- May be general or particular in application
- Agency or entity must comply
- Protection for denominational organizations
- Directives must be published on website
Minister/Agency Powers and Authority Investigators

• Agency or Minister may, where in public interest, appoint investigator(s) to report on:
  ➢ quality of management of HSP or ICDS
  ➢ quality of care and treatment by HSP or ICDS
  ➢ any other matter related to HSP or ICDS

• Notice of appointment to Minister, HSP and ICDS

• Must report in writing to the Agency/Minister and make report available to HSP, ICDS and public
Minister/Agency Powers and Authority Investigators

• Broad powers of investigation
  ➢ Access to premises, inspection, production of records (including PHI), authority to question persons
  ➢ Obligation to produce and assist – HSP, ICDS, employees and service providers
  ➢ Must produce evidence of appointment
Minister/Agency Powers and Authority

- Minister may appoint a supervisor of HSP or ICDS where considers in public interest
- Special rules for LTC homes and hospitals
- Powers of supervisor binding on each constituent person or entity of ICDS and its board or responsible body
- Notice of appointment (14 days) unless immediate appointment necessary
- Appointment valid until terminated
Minister/Agency Powers and Authority Supervisor

• Unless appointment provides otherwise, supervisor has exclusive right to exercise all powers of HSP or ICDS and that of its board, officers, members and shareholders
• Minister may issue directions to supervisor with regard to any matter within jurisdiction
• Reports to Minister
Minister/Agency Powers and Authority Public Interest

• May consider any matter they regard as relevant, including but not limited to:
  ➢ quality of the management and administration of the Agency, the HSP, the ICDS or other person or entity that receives funding from the Agency
  ➢ proper management of the health care system
  ➢ availability of financial resources for the management of the health care system and for the delivery of health care services
  ➢ accessibility to health services; and
  ➢ quality of the care and treatment of patients
Minister/Agency Powers and Authority
Integration by Agency

• Through providing or changing funding to HSP or ICDS

• By facilitating and negotiating integration of persons or entities or integration of services

• Must issue facilitation decision where:
  - facilitates or negotiates integration; and
  - the parties reach an agreement with respect to integration
Minister/Agency Powers and Authority
Required integration (Minister)

- Minister may, where considers in public interest, order one or more HSPs or ICDSs that receive funding from the Agency to do anything to integrate the health system, subject to restrictions
- Must provide at least 30 days notice of proposed order, process for submissions and issuance of integration order and integration decision
Minister/Agency Powers and Authority
Required integration (Minister)

• Restrictions on order-making authority:
  ➢ “unjustifiably” requiring a religious organization to provide a service contrary to the religion
  ➢ requiring transfer of property held for a charitable purpose to person or entity that is not a charity
  ➢ requiring HSP or ICDS that carries on operations on a not-for-profit basis to amalgamate or to transfer all or substantially all of its operations to one or more HSPs or ICDSs that carry on operations on a for-profit basis
Transformation Governance
Board Responsibilities

- Act in best interest of the Corporation
- Act with honesty and good faith
- Confidentiality
- Board solidarity (respect the decision of majority)
- Avoidance of conflict of interest

*Duty owed to the Corporation*
*(not to any one group or interest)*

*All directors owe same duty*
Transformation Governance
Board Responsibilities

- **Generative**: Framing questions; Shifting the cognitive paradigm
- **Strategic**: Prospective and Reactive
- **Fiduciary**: Oversight and Policy
Transformation Governance Board Responsibilities

- Fiduciary – oversight/stewardship of operations and assets
- Strategic – priorities and strategies re: resources, programs and services
- Generative – underlying purpose and values; long term sustainability
Transformation Governance Board Responsibilities

- Exercising good governance and fulfilling fiduciary, strategic and generative duties in leading and assessing health system renewal options requires applying an Enterprise Risk lens to planning, design and implementation of Ontario Health Teams
Transformation Governance

Board should:

- Set organizational standard for risk appetite/tolerance
- Engage an enterprise risk lens as part of Board decision-making, strategic planning and generative exploration of system renewal options
- Have understanding and oversight of key risk exposure and intended response
- Ensure appropriate processes in place to protect against risk
Transformation Governance

• Applying Enterprise Risk lens to system renewal plans and initiatives means:
  ➢ Engage in external due diligence on potential partners
  ➢ Consider impact on patients, staff, finances, liability exposure, program sustainability, stakeholder relations etc.
  ➢ Risk assessment will inform how to proceed
Transformation Governance

• Assessment will identify vulnerabilities
• Identified vulnerabilities may be mitigated through structure, approach and terms of integration
• Contractual agreements to:
  ➢ Provide clarity on roles and responsibilities
  ➢ Create collaboration committees and address decision-making
  ➢ Allocate risk and liability
  ➢ Establish standards and expectations

*Commitment to enter legal agreements required by MOHLTC*
Summary

- Bill 74 will introduce substantial change to the health system in Ontario
- The *Connecting Care Act, 2019* introduces the Super Agency Ontario Health and Ontario Health Teams
- Ontario Health Team Readiness Assessment process underway sets out minimum criteria and expectations at maturity
- OHT governance models by self-design and to be documented in legal agreements that will require Board engagement
- Pro-active transformation governance is advisable to fulfill fiduciary duty to advance organizational interests