



Legislative Assembly
of Ontario
Second Session, 39th Parliament

Assemblée législative
de l'Ontario
Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Tuesday 26 October 2010

Journal des débats (Hansard)

Mardi 26 octobre 2010

**Standing Committee on
Social Policy**

Narcotics Safety
and Awareness Act, 2010

**Comité permanent de
la politique sociale**

Loi de 2010 sur la sécurité
et la sensibilisation
en matière de stupéfiants

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Room 500, West Wing, Legislative Building
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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
SOCIAL POLICY**

**COMITÉ PERMANENT DE
LA POLITIQUE SOCIALE**

Tuesday 26 October 2010

Mardi 26 octobre 2010

The committee met at 1608 in committee room 1.

NARCOTICS SAFETY
AND AWARENESS ACT, 2010
LOI DE 2010 SUR LA SÉCURITÉ
ET LA SENSIBILISATION
EN MATIÈRE DE STUPÉFIANTS

Consideration of Bill 101, An Act to provide for monitoring the prescribing and dispensing of certain controlled substances / Projet de loi 101, Loi prévoyant la surveillance des activités liées à la prescription et à la préparation de certaines substances désignées.

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues. As you know, we're here for clause-by-clause consideration. If there are no general comments at this time, we can begin with the presentation of amendments, and I believe we have NDP motion number 1.

Je passe la parole à M^{me} Gélinas.

M^{me} France Gélinas: I move that clause 1(a) of the bill be amended by adding "and addiction" at the end.

Basically, the idea is that there is nothing in this bill that talks about the treatment of addiction and that acknowledges that there is a role for some of those controlled substances in the treatment of addiction. So to put it in there is to include it.

The Chair (Mr. Shafiq Qaadri): Further debate? Comments? Ms. Sandals.

Mrs. Liz Sandals: This is almost identically worded to a government amendment, so we're quite happy to support this one.

The Chair (Mr. Shafiq Qaadri): Any further comments? Ms. Jones.

Ms. Sylvia Jones: I'm happy to support since it is identical to the PC motion.

The Chair (Mr. Shafiq Qaadri): Thank you. Those in favour of NDP motion 1? Those opposed? NDP motion 1 carried.

I'll take it as a withdrawal of the duplicate amendments, if that's agreeable?

Ms. Sylvia Jones: Yes.

The Chair (Mr. Shafiq Qaadri): Shall section 1, as amended, carry? Carried.

There are no amendments received to date for section 2, so I'll take that to a vote now, unless there's any comments. Shall section 2 carry? Carried.

Section 3, government motion 3: Ms. Sandals.

Mrs. Liz Sandals: I move that section 3 of the bill be struck out and the following substituted:

"Application

"3. This act does not apply to any person provided for in the regulations."

I think I need to explain a little bit about what's going on here. The issue of abuse and misuse of prescription narcotics and other controlled substances affects all parts of our health care system, including hospitals. We feel that it's important to address this issue across the system.

One of the issues that was actually raised by the Liberal members of the select committee when we had a look at the bill was that it excluded hospitals. The advice that we gave was that that wasn't really appropriate, that there could be problems in the emergency rooms of hospitals and prescribing issues within hospitals as well. So our advice was that we felt that hospitals should be included.

So what we're doing in striking out the current wording of section 3 is the explicit exemption of hospitals. What we are doing is leaving in the possibility to exclude persons or places in which persons practise by virtue of regulation. The issue here is that the prescribing protocols are quite different in hospitals—not in what you should prescribe but in the way in which it is recorded. It's a bit more technically difficult to capture the information as it flows in hospitals, so there does need to be a consultation with hospitals as to how to bring them within the scheme of the act. So what we're doing is removing the legislative exemption but allowing for there to be a regulatory exemption while we work with hospitals to figure out how to best bring them in.

When we get to the regulatory section, there will be a bit of fine-tuning there as well to make sure that we can do that appropriately. But that's the idea behind the act, that we really do need to capture prescribing and dispensing throughout the health sector and that hospitals are an important part of that.

The Chair (Mr. Shafiq Qaadri): Further comments? If there are none, we'll proceed to the vote. Those in favour of government motion 3? Those opposed? Motion 3 carried.

Shall section 3, as amended, carry? Carried.

We'll proceed to government motion 4: Ms. Sandals.

Mrs. Liz Sandals: I move that subsection 4(2) of the bill be amended by adding the following paragraph:

"1.1 Collecting, using and disclosing information collected under this act in accordance with this act, and co-

operating with other organizations, including colleges under the Regulated Health Professions Act, 1991, to achieve the purposes of this act.”

This amends the section dealing with the section of the powers and functions of the executive officer, and it speaks to the proposed use of the narcotics database to support education, training and practice standard development. Specifically, it speaks to the role of the colleges of the regulated health professions. You will recall that when the college presented to us, it wished to have some recognition of its role, and this is the way in which we are proposing to acknowledge their role within the act.

The Chair (Mr. Shafiq Qadri): Any further comments. Mrs. Elliott.

Mrs. Christine Elliott: We are pleased to support this amendment that was recommended by the college, so we're in agreement.

The Chair (Mr. Shafiq Qadri): Madame Gélinas.

M^{me} France Gélinas: I too was there when the college made their point. They were asking to clarify the role of the college, and they were also asking that the information that could be shared be further explained, that it be clarified also. I am not sure if this does it fully.

I guess I would go to legislative counsel. Is it your impression that it does clarify the role of the college and clarifies the information that should be shared?

The Chair (Mr. Shafiq Qadri): Who are we directing this question to?

Interjection.

The Chair (Mr. Shafiq Qadri): Ministry staff, allons-y. Welcome. I'm sure you know the protocol. Please introduce yourself, your position etc., and go ahead.

Ms. Diane McArthur: Diane McArthur. I'm the assistant deputy minister for the Ontario public drug program and the executive officer.

Yes, within the context of the bill, by amending this section to include the reference, it does meet the requirements that were requested.

M^{me} France Gélinas: Okay. Because the way the college explained it to me is that they have a role to protect the public—this is what they're there for—and when they go ahead and try to carry out this mandate, they often run into a problem if things are not spelled out properly. They then end up doing a whole pile of work just to show that, yes, it is within their mandate and it is within their role. So how do you see them gaining access through this paragraph to the information that should be shared?

Ms. Diane McArthur: What this section does is more explicitly recognize the role of the regulatory health professions in the responsibilities under the act, so that they can always point to this more explicitly in dealings with the ministry to gain access to any information that they deem they need in order to fulfill their obligations.

We believe that this clarifies it sufficiently with this bill, and then you take it in the context of the Regulated Health Professions Act, the two working together—by

making the reference explicit, it makes it clear enough for them to overcome any issues with the ministry.

M^{me} France Gélinas: Okay.

The Chair (Mr. Shafiq Qadri): Further comments before the vote? If not, we'll proceed to the vote. Those in favour of government motion 4? Opposed? Government motion 4 carried.

Shall section 4, as amended, carry? Carried.

We'll proceed to section 5. There are a number of amendments, beginning with NDP motion 5.

M^{me} France Gélinas: I move that clause 5(5)(a) of the bill be amended by adding “is determining whether to prescribe a monitored drug to the person or” after “if the prescriber”.

I hope everybody can follow that. Basically, what this is trying to do is make sure that before a prescriber—a physician, dentist or nurse practitioner—prescribes one of those substances, they have access to what has been prescribed before; that they have information on this particular patient who stands in front of them before they write the prescription rather than after the prescription has already been written, and then they realize that there has been double-doctoring or there has been abuse someplace else.

The Chair (Mr. Shafiq Qadri): Further comments?

Ms. Sylvia Jones: We obviously support this because we have put in a similar motion.

The Chair (Mr. Shafiq Qadri): Obviously, yes. Ms. Sandals.

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Mrs. Liz Sandals: We agree with this in principle, and in fact the wording that you're proposing here, we understand, is the wording that the college was proposing.

When we pursued the comments that Dr. Glazier had made when he was presenting here about how he had access to this information, when we looked into it, we realized that some doctors, given their practice location and the software that's used in that particular practice location, would have access to the information easily. In other situations, physicians do not have access to the information because it's just technically difficult.

Again, we're getting into this area of differential proclamation. Rather than putting the thought of access after the fact and access before the fact all in one clause, we're going to keep the existing clause and propose to add a separate before-the-fact clause, again so that we can have some differential proclamation and sort out the technical issues and then proclaim the before-the-fact.

We agree with what you're proposing, with what both opposition parties are proposing, in principle; there are just technical reasons why we're going to oppose this, because we think it will be easier to administer if, quite frankly, we do it our way. But it isn't because we don't like what you're saying; it's just that it'll be easier to administer.

The Chair (Mr. Shafiq Qadri): I have one obvious agreement and one agreement in principle. Are we ready

to proceed to the vote, then? Those in favour of NDP motion 5? Those opposed? Motion 5 carries.

May I take it as—

Interjections.

The Chair (Mr. Shafiq Qadri): Three to five? Oh, I didn't notice. Okay.

Ms. Sylvia Jones: Actually, it was three to four. I think one of the members didn't vote.

The Chair (Mr. Shafiq Qadri): Do you mind if we redo that? Those in favour of NDP motion 5? Those opposed? Clearly defeated this time.

PC motion 5.1, which is a duplicate: The floor is available, or shall we withdraw it?

Ms. Sylvia Jones: Withdrawn.

The Chair (Mr. Shafiq Qadri): Withdrawn.

NDP motion 6.

M^{me} France Gélinas: This, again, deals with section 5 of the bill.

I move that section 5 of the bill be amended by adding the following subsection:

“Disclosure to health profession colleges

“(6) Where personal information collected by the minister or executive officer under subsection (1) gives rise to concerns regarding the prescribing or dispensing practices of a member of a health profession, the minister or executive officer, as the case may be, shall give a report to the registrar of the member's health profession college, which shall include,

“(a) the member's name;

“(b) the nature of the concern;

“(c) the information giving rise to the concern; and

“(d) any other relevant information.”

Basically, we have in Ontario a system where our health care professionals are governed by their college. Their college has an important role to play in protecting each and every one of us. In order for them to carry out this duty, they need access to information in a way that respects the patients and the right of their members also. If there is a concern with one of their members, the college needs to know. It needs to be clear and spelled out as to what information they're allowed to have in order to protect the public and do their work.

We already know that it is an issue that if a member is being investigated, they spend a lot of time, effort and energy limiting the amount of information that their college can use against them. This is to set out, right from the start, the information that the college is allowed to have on their members.

The Chair (Mr. Shafiq Qadri): Further comments? Ms. Sandals.

Mrs. Liz Sandals: Our concern would be that the bill, as currently structured, sets up a system of permissive disclosure so that when the information on the database has been analyzed, where there is a serious concern, the minister or the executive officer has the authority, as permitted, to disclose the information to one of the colleges, amongst others.

Our concern, is this sets up a mandatory disclosure system which actually is contrary to the way in which the

bill is currently structured and which gives rise to additional privacy concerns under health information privacy, so that the mandatory disclosure may be inconsistent with that legislation. In particular, because part of what will happen here may be education or simply, “Did you know that we need to resolve this issue?”, it isn't necessarily a disciplinary issue. Some of the concerns that are raised may not, in fact, be disciplinary; they may be able to just be dealt with directly with the prescriber or the pharmacist without requiring mandatory disclosure to the professional college.

As I say, it does significantly change the framework of the bill, which is permissive disclosure, to mandatory disclosure. For that reason, we will not be supporting this.

The Chair (Mr. Shafiq Qadri): Ms. Elliott?

Mrs. Christine Elliott: We are generally in agreement with the amendment as suggested by the college, as you can see by the subsequent amendment, which is a PC amendment. However, we had a further provision that was built into it which would have allowed more two-way communication with the college. Therefore, we can't support it, just because it doesn't contain the full text of what the amendments were from the college.

M^{me} France Gélinas: I would say that some of the worries about mandatory disclosure that the member talks about are going to be looked after in subsequent amendments that are coming, especially with regard to the protection of privacy of individuals. I feel pretty confident that this would give colleges direct and clear access to information about their members. We can certainly strengthen Bill 101 by some of the privacy amendments that are coming soon.

The Chair (Mr. Shafiq Qadri): Further comments? We'll proceed to the vote, then. Those in favour of NDP motion 6? Those opposed? Motion 6 is defeated.

PC motion 6.1: Ms. Elliott.

Mrs. Christine Elliott: I move that section 5 of the bill be amended by adding the following subsections:

“(6) Where information obtained by the minister or the executive officer gives rise to a concern regarding the prescribing or dispensing practices of a regulated health professional, the minister or the executive officer, as the case may be, shall prepare and submit a report to the registrar of the member's health profession college, which includes,

“(a) the name of the member;

“(b) the nature of the concern;

“(c) the information giving rise to the concern; and

“(d) any other relevant information.

“(7) Where a health profession college makes inquiries of the minister or the executive officer regarding the prescribing or dispensing practices of one of its members, the minister or the executive officer, as the case may be, shall disclose to the college any information collected under subsection (1) relating to the member's prescribing or dispensing practices.”

Again, this just allows for communication where prescribing or dispensing concerns have been raised.

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Sandals.

Mrs. Liz Sandals: As for the previous similar motion.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^{me} France Gélinas: I would certainly support this. It makes the two-way communication clearer and it certainly takes away any ambiguity as to what information the ministry can share with the college and the circumstances of that sharing.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to the vote. Those in favour of PC motion 6.1? Those opposed? PC motion 6.1 is defeated.

Government motion 7: Ms. Sandals.

Mrs. Liz Sandals: I move that section 5 of the bill be amended by adding the following subsection:

“Disclosure, prescriber considering prescription

“(6) The minister or the executive officer may disclose to a prescriber personal information respecting a person, if the prescriber is determining whether to prescribe a monitored drug to the person.”

This is the clause I promised you before.

1630

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed to the vote, then. Those in favour of government motion 7? Those opposed? Government motion 7 is carried.

NDP motion 8: Madame Gélinas.

M^{me} France Gélinas: I move that section 5 of the bill be amended by adding the following subsection:

“Same

“(7) Where a health profession college makes inquiries of the minister or the executive officer about the prescribing or dispensing practices of a member of the health profession college, the minister or executive officer, as the case may be, shall disclose to the college any information collected under subsection (1) relating to the member's prescribing or dispensing practices.”

This is similar to the motion that the PCs had put forward. We had separated it to really show that this is a two-way communication. Not only may the ministry share, but it clarifies what information will be available if there is an inquiry from the college regarding one of their members. There will be a wealth of information being collected. It can be shared in a way that protects people's right to privacy but at the same time allows the college to do their work, which is protecting the public.

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Sandals.

Mrs. Liz Sandals: This particular amendment actually raises either greater concerns around privacy because, unlike the disclosures by the minister or the executive officer, which are triggered by the information in the database, this doesn't seem to be triggered by anything in particular other than that the college wants to know about this particular member's prescription or dispensing practices. Because it's mandatory that the minister or executive officer shall respond, and there's no limit on this—it's sort of an unfettered response—we

think that this is actually quite an intrusion into the protection of privacy as it exists in the other act.

We would point out, however, that if there is actually an ongoing investigation under the Regulated Health Professions Act—so you've got a formal investigation going on—in fact, the college already has the power and the authority under that act to compel the disclosure of information. So it isn't that where there's a legitimate investigation going on, they can't get the investigation.

But this is a very unfettered power for mandatory information.

The Chair (Mr. Shafiq Qaadri): Ms. Jones.

Ms. Sylvia Jones: I think the reality is, we give that power to the college as a regulatory body. For the parliamentary assistant to suggest that the college would go on unnecessary hunts of their own members is a little disconcerting. I obviously support this motion. I think it's a good way to communicate on both sides of the issue.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas.

M^{me} France Gélinas: It really brings us back to the system that we have about the self-regulatory model. We have set this up. It is there to protect the public. In order for them to carry out those important tasks, duties and responsibilities, they need access to some information. When they make inquiry of the government—I'll support what my colleague just said—they do this because they're trying to protect the public, not because they're chasing down their own members; they are trying to protect the public. This clarifies that they are allowed to have access to that information.

I don't believe that they already have that power, and if they do, it has been and continues to be challenged by some of their members, who want to restrict the amount of information their college can use to carry out their duties.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote on NDP motion 8. Those in favour of NDP motion 8? Those opposed? NDP motion 8 is defeated.

We'll now proceed to NDP motion 9.

M^{me} France Gélinas: All right. I move that section 5 of the bill be amended by adding the following subsection:

“Discretionary disclosure

“(8) In determining whether to disclose personal information under this section, the minister or the executive officer, as the case may be, shall consider any threats to public safety that may result from the disclosure and whether the disclosure will serve the purpose stated in section 1, and shall not disclose information if the risk to public safety resulting from the disclosure outweighs the benefits.”

This is here again an opportunity to give some parameters regarding the disclosure and to respect the fact and the importance of public safety. It also serves to clarify that when the minister is deciding whether to disclose information, public safety shall be the precedent. The ministry will continue to use its judgment, and public safety will always overrule.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mrs. Liz Sandals: My sense here is that perhaps this was originally, in thought, attached to the mandatory disclosure in motions 6 and 8 and was trying to put some wraps around mandatory disclosure, but we're not discussing mandatory disclosure; we're considering the bill now as originally drafted with the permissive disclosure. This seems to be potentially constraining the information that you just said you wanted to have it mandatory to disclose.

My other observation is that I'm not sure why public safety would be pulled out, because you might argue that the entire intent of the bill is to support public safety so that we don't have the misuse and abuse of prescription narcotics, and that, in and of itself, is a plus to public safety.

Anyway, I don't think this is actually necessary because, given we're back to permissive disclosure, this really isn't required. So we will be opposing this, Chair.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mrs. Christine Elliott: We would support this amendment, which is substantially in the same form and content as our subsequent amendment with respect to disclosure and setting some parameters on the discretion allowed.

The Chair (Mr. Shafiq Qaadri): Further comments?

M^{me} France Gélinas: Here again, we come back to the fact that we have a self-regulatory model that is there to protect the public. What this amendment speaks to is really that that protection of the public trumps everything else. So when we say that public safety could be used as a reason for the government to not share information, it's because the role of the colleges is just that: It's public safety. It's to protect the public, and that was added there for the same reason.

The Chair (Mr. Shafiq Qaadri): Thank you. If there are no further comments, we'll proceed to the vote on NDP motion 9. Those in favour of NDP motion 9? Those opposed? I believe NDP motion 9 has been defeated.

We'll proceed to PC motion 9.1.

Mrs. Christine Elliott: Mr. Chair, given the defeat of the previous motion, which was substantially the same form and content as our motion, we can see where this is going, so we will just simply withdraw.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the consideration of the section. Shall section 5, as amended, carry? Those in favour? Those opposed? Carried.

Section 6: PC motion 9.2.

1640

Mrs. Christine Elliott: I move that section 6 of the bill be amended by adding the following subsection:

“(2) The notice required under subsection (1) shall set out:

“(a) the personal information collected by the minister or the executive officer;

“(b) the purposes for which the personal information may be used by the minister or the executive officer;

“(c) the purposes for which and the circumstances in which the personal information may be disclosed by the minister or the executive officer;

“(d) the persons or organizations to whom the personal information may be disclosed by the minister or the executive officer;

“(e) the length of time the personal information may be retained by the minister or the executive officer;

“(f) the administrative, technical and physical safeguards that have been implemented by the minister or the executive officer to protect the privacy of the individuals whose personal information was collected; and

“(g) the name, title and contact information of a person to whom inquiries or concerns respecting the collection, use and disclosure of personal information may be directed.”

We're bringing this amendment forward as recommended by the Information and Privacy Commissioner. I must say that I was a little bit surprised when we did get into the review of this act because it was more or less represented that all of the concerns with respect to the Information and Privacy Commissioner had been dealt with before this bill was brought forward, but given the substantial written material that was provided to us by the commissioner, it's apparent that, in fact, her current concerns haven't been addressed. So this is one of a series of amendments that we'll be bringing forward to bring forward those issues and hopefully have them supported.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on PC motion 9.2? Ms. Sandals.

Mrs. Liz Sandals: This is, in my understanding, the notice that would go in public places like a pharmacy or a doctor's office to inform patients about what they can expect to happen in the context of this bill.

Number one, the ability to make a regulation defining the content is already specified in the act under clause 17(1)(e). This is one of those things where, over time, there may be some need to vary the content of the notice somewhat as circumstances change, technologies change, whatever. For that reason, we feel that this is something that is more appropriately dealt with in regulation.

The other thing is, given that this is information that is going to be publicly posted—in fact, what is set out here is what should be publicly posted. It looks like it is quite long and technical, which isn't necessarily the best way to get the public's attention. Some brief, plain-English description of what can happen under this act is probably a better way to inform the public than a long, technical explanation. We will be opposing this.

The Chair (Mr. Shafiq Qaadri): Thank you. Madame Gélinas?

M^{me} France Gélinas: I think this is important enough that it is worth being laid out in the bill rather than in subsequent regulation like clause 17(1)(e), I think, talks about; it will be found in regulation. If it needs to change, then the legislation can be amended.

As far as the way that it is set out, I would trust that the privacy commissioner knows a thing or two about privacy and that if those are the recommendations, that

they have been thought out, tested and shown to give results.

As much as I support the colleges getting information so that they can do the work with their members that would protect the public, I would say that I'm even more concerned about the government having personal health information about us—about each and every one of us—that we'll be prescribed those drugs at some point in our lives, I take it. It makes it a lot safer for all of us if this amendment is put in. It is clear, it is detailed, it comes from a very knowledgeable source that knows about privacy, and it has been put there for us to protect our privacy, so I would certainly support what has been put forward in this motion.

The Chair (Mr. Shafiq Qadri): Thank you, Madame Gélinas. If there are no further comments on PC motion 9.2, we'll proceed to the vote. Those in favour of motion 9.2? Those opposed? PC motion 9.2 is defeated.

Shall section 6 carry? Carried.

We have received no motions to date for section 7, so we will proceed to the vote, unless you have comments.

Shall section 7 carry? Carried.

We'll proceed now to section 8: PC motion 9.3, Mrs. Elliott.

Mrs. Christine Elliott: I move that paragraph 1 of subsection 8(1) of the bill be amended by striking out "section 10 or 11" at the end and substituting "subsection 10(1) or 11(1)".

Again, Chair, this was recommended by the Information and Privacy Commissioner—just an amendment really for clarification purposes.

The Chair (Mr. Shafiq Qadri): Are there any comments on this? If not, we'll proceed to the vote on PC motion—

Mr. Khalil Ramal: Chair—

The Chair (Mr. Shafiq Qadri): Yes. Madame Gélinas.

M^{me} France Gélinas: The comments are worth repeating. This bill will give members of the government access to very private, personal health information. We were told that an at-length conversation and discussion had taken place with the privacy commissioner and that this bill basically had been read, supported and agreed upon by the privacy commissioner. But much to my surprise, that wasn't the case at all. The privacy commissioner has made some substantial requests for change. I think we owe it to the people of Ontario to respect the work of one of the commissioners of this Legislature and include this paragraph in section 8 of the bill.

The Chair (Mr. Shafiq Qadri): Thank you. Further comments on PC motion 9.3?

Mrs. Liz Sandals: This just gives some further clarification to where some of the rules are laid out, so we're fine with this amendment.

The Chair (Mr. Shafiq Qadri): We'll proceed, then, to the vote. Those in favour of PC motion 9.3? Those opposed? PC motion 9.3 carries.

We will proceed now to NDP motion 10, Madame Gélinas.

M^{me} France Gélinas: I move that section 8 of the bill be amended by adding the following subsection:

"(4) Despite subsection 36(1) of the Regulated Health Professions Act, 1991, a person mentioned in that subsection may disclose any information required for the administration of this act."

Basically, what this talks about is clearing up the confusion about the roles of the regulatory colleges and the need for them to have access to information in order to do their work.

The Chair (Mr. Shafiq Qadri): Further comments on NDP motion 10?

Mrs. Liz Sandals: This isn't a bill that amends the Regulated Health Professions Act, so I'm a little bit surprised that we've suddenly gotten into amending the regulations—well, I guess we're not amending, but we're sort of overriding, if you will. We're not amending, obviously, but we're overriding, and once again, I think this does raise privacy issues. As far as we're concerned, the disclosure, as set out in the act, is clear; this additional clarification isn't required.

The Chair (Mr. Shafiq Qadri): Thank you. We'll proceed, then, to the vote, unless you have comments.

Mrs. Christine Elliott: We would agree with this amendment. It is important to clarify which act is paramount for the purposes of disclosure.

The Chair (Mr. Shafiq Qadri): Thank you. Those in favour of NDP motion 10? Those opposed? NDP motion 10 is defeated.

We'll proceed now to PC motion 10.1.

Mrs. Christine Elliott: I move that section 8 of the bill be amended by adding the following subsection:

"(4) Before directing a prescriber, dispenser or operator of a pharmacy to disclose personal information under subsection (1), the minister or the executive officer, as the case may be, shall submit a proposal to the Information and Privacy Commissioner."

Again, this amendment was suggested by the Information and Privacy Commissioner. There is a series of amendments that relate to this particular provision, just allowing the Information and Privacy Commissioner to be involved, to make recommendations regarding disclosure, and if disclosure is to be allowed, which form it shall take. We believe this is important in order to safeguard privacy rights under the act itself.

1650

The Chair (Mr. Shafiq Qadri): Are there any further comments on the PC motion? Ms. Sandals.

Mrs. Liz Sandals: As you noted, there's a series of amendments coming up here that are related to material from an assistant in the Information and Privacy Commissioner's office. I must say that we were as surprised as you were to see that particular document because, as the minister reported, there were extensive discussions with the Information and Privacy Commissioner before the bill was tabled. There were pre-tabling amendments, if I can put it that way, or pre-tabling changes made to the bill before it was tabled, so we were a little bit surprised to see this catalogue of additional concerns raised.

The other thing I would like to note is, I find it a little bit odd that the amendments that we have dealt with so far have been largely focused on mandatory disclosure going above and beyond the disclosures that were originally set out in the bill and which would further intrude on privacy rights. I figure that I've been sort of defending privacy rights, and now we're doing this complete 180-degree turn, which is actually a whole series of amendments that are actually extending privacy rights and, in some cases, would virtually constrain the minister and the executive officer in their role of analyzing the information they receive and disclosing it to the appropriate regulatory colleges, or dealing with anomalies that they find in the data.

In many cases, it would appear that some of these amendments would almost take away the functionality of what it is the bill is actually trying to achieve in terms of collecting the data, identifying misuse and abuse, and then dealing either with the individuals or, where it looks that the misuse or abuse may be deliberate, dealing with the professional colleges or even potentially the criminal system.

As I say, there seems to be a whole series of motions here that are related to dramatically extending privacy issues within the bill. I suppose the bottom line is that this whole scheme of giving the ministry the authority to collect the information, giving the ministry the authority to analyze and monitor the information, giving the authority to the minister or the executive officer to disclose the information as necessary to get some resolution to misuse and abuse, is something that has, in principle, been approved by all three parties. It's something that the select committee felt we needed to do something about. It's something that the college of physicians and surgeons said we need to do something about. It's something that the minister's drug strategy committee has said we need to do something about.

Our sense is, if the Legislature and the community are in consensus that we need to do this for the sake of the health of our citizens, then we don't need to put these further constraints around it to make the scheme somewhat dysfunctional.

That's rather a long explanation, but it's the basic rationale. There are different details here, but the whole "trying to box in the legislation," we will be opposing.

The Chair (Mr. Shafiq Qaadri): Further comments? Madame Gélinas.

M^{me} France Gélinas: Here again, I don't see what we're trying to do with those motions as limiting the bill; I see it as doing our work. We have a duty to protect peoples' privacy, and this is what the series of amendments is trying to do. At the same time, we have a self-regulating system of colleges for our health professionals. The clearer we make this relationship as to how they can access information, when, what will be shared—on one hand, we're asking for clarity so that the colleges can do their work. With this series of amendments, we're trying to protect the public.

The college is there to protect the public, but the laws that we pass should always be respectful of the fact that

we are now introducing a bill that will collect very personal health information about millions of Ontarians. Because it is personal health information, we have developed in this House a privacy commissioner, somebody who basically is the expert in this field and is there to protect the privacy of Ontarians. We are introducing a bill that deals with very private issues for millions of Ontarians. To be respectful of the advice of our own expert in privacy to me is the minimum that we can do.

This bill, to me, has been a little bit of a rush job. We were told—well, I certainly believed it—that the work had been done with the privacy commissioner. Right out, when I heard about what we're doing—we are collecting health information about Ontarians, where you will actually be able to identify the individual person, the drugs they were prescribed, the quantity, the number of times, and we are making that information available to people in the government. The risk to the public is huge, but I had taken heart in the fact that the minister started her address by explaining the depth of the relationship that had taken place with the privacy commissioner. That kind of put my fear aside, that this work had been done. But then, to everybody's surprise, we get the privacy commissioner coming forward and ringing five-star alarm bells about the bill, basically stating that we are putting people's privacy about health matters at risk. She is making recommendations as to how we can protect and limit this risk, and here we are, tossing all of this aside.

As I said, it seems like a rush job. We did not have a chance to hear from the privacy commissioner directly because we were told that that work had been done. And now, we have to rely on what we were given in writing to make the amendments to that bill so that it serves us well. It is not going to serve anybody well if we end up basically putting at risk people's right to privacy when it comes to health matters.

I know that there is a series of motions that deals with the privacy commissioner's serious concerns. We cannot be told on one hand, "Don't worry; it has been looked after," and then get a letter that says, "No, this bill needs to be changed." We have a duty to change this so that at the core of it, we do no harm. It's all fine and good to try to help people and improve their health, but at the beginning, do no harm. This is what the privacy commissioner is trying to tell us, that we're not going to achieve anything good or great or quality care if we don't respect people's privacy. This is not what Ontarians want.

1700

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Elliott?

Mrs. Christine Elliott: The protection of personal health information is so important. Frankly, when this bill came forward, that was one of our paramount concerns, and it was stated on the record. We were assured that, basically, this had been vetted and that there were no significant concerns. So when we received this package from the Information and Privacy Commissioner, it did ring alarm bells, as Ms. Gélinas said.

I think we would do well to listen and to read and to consider the recommendations that the Information and

Privacy Commissioner has made, because she's certainly suggesting in her correspondence with us that we don't have the balance right yet. We need to really reflect on that, because if we're going to really have an effective piece of legislation, we want to make sure that it affords the protections needed all the way around.

Rather than constrain the minister and the executive officers from dealing with what needs to be done under this bill, it would seem to me that the Information and Privacy Commissioner is trying to suggest that there may be other options that may need to be considered, short of disclosing the information that is being sought by the minister, and that there are other ways to do it. She's simply appealing for some consideration by her office of the best way possible to deal with the release of information.

I would urge the government members to reconsider their position on this amendment.

The Chair (Mr. Shafiq Qaadri): Are there any further comments? We'll proceed to the vote. Those in favour of PC motion 10.1? Those opposed? PC motion 10.1 is defeated.

We'll proceed now to PC motion 10.2.

Mrs. Christine Elliott: Well, I'll try it, Chair.

I move that section 8 of the bill be amended by adding the following subsection:

"(5) Within 30 days after the Information and Privacy Commissioner receives a proposal described in subsection (4), he or she shall review the proposal and may comment in writing on the proposal."

The Chair (Mr. Shafiq Qaadri): Before you proceed, Mrs. Elliott, it is with extreme regret that the Chair informs you that the particular motion is out of order, as it was dependent on the life of PC motion 10.1, which has since expired.

Mrs. Christine Elliott: Chair, may I presume that the rest of the amendments that relate to 10.1 will similarly be ruled out of order?

The Chair (Mr. Shafiq Qaadri): You may presume so. May I take it, then, that you are withdrawing 10.2, 10.3 and 10.4?

Mrs. Christine Elliott: Regrettably, since they will be ruled out of order.

The Chair (Mr. Shafiq Qaadri): With generalized regret, yes.

We'll now proceed to PC motion 10.5. The floor is still yours.

Mrs. Christine Elliott: I move that section 8 of the bill be amended by adding the following subsection:

"(8) The minister or the executive officer shall not direct a prescriber, dispenser or operator of a pharmacy to disclose personal information if other information will serve the purpose of the disclosure."

Again, the purpose of bringing forward this amendment is to ensure that only the least amount of information possible to fulfill the requirements of the act is submitted.

The Chair (Mr. Shafiq Qaadri): Comments on PC motion 10.5? Ms. Sandals?

Mrs. Liz Sandals: Again, as I say, I'm a little bit mystified by spending the first half of our time discussing mandatory disclosure, which goes above and beyond the original intent of the bill, and now discussing constraints on the disclosure that overturn the ability to disclose.

In particular, the whole reason for the bill is that the government does not currently have the authority to collect the information at all in some cases, and does not currently have the ability to collect the information for the specific purpose of looking at use and abuse of prescription narcotics in other cases. By definition, the government doesn't otherwise have the information available, or we wouldn't be having the bill in the first place.

So we are opposed to this particular amendment. Again, it seems to totally get in the way of the actual purpose of the bill.

The Chair (Mr. Shafiq Qaadri): Comments? Madame G  linas?

M^{me} France G  linas: To me, again, it is important to set the tone that we respect people's privacy. We have an expert who, as time goes on, stimulates radical changes in the way that we do things and sometimes makes minor changes. But what those motions talk to is the fact that we respect people's right to the privacy of their health information. This is what this amendment talks to. It talks about, "If other information serves the purpose of the disclosure, then use that."

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote. Those in favour of PC motion 10.5? Those opposed? PC motion 10.5 is defeated.

PC motion 10.6: Ms. Elliott.

Mrs. Christine Elliott: I move that section 8 of the bill be amended by adding the following subsection:

"(9) The minister or the executive officer shall not direct a prescriber, dispenser or operator of a pharmacy to disclose more personal information than is necessary to meet the purpose of the disclosure."

This is a variation on the previous amendment in the sense that it's putting a limit on personal disclosure, just to limit it to what is absolutely necessary to fulfill the purposes of the act.

The Chair (Mr. Shafiq Qaadri): Comments on PC motion 10.6? Ms. Sandals?

Mrs. Liz Sandals: If we look at the particular sections where it is laid out what it is that people will be required to disclose, it's actually quite clearly laid out. Presumably, the way the bill will work is that prescribers will be expected to submit the information that is laid out clearly. Dispensers will be required to submit the information that is clearly laid out in the bill.

To suggest that the minister or the executive officer will somehow be differentially deciding what information that different pharmacists or different doctors or dentists or whatever should send, absent having even seen the information—it just doesn't seem to make sense in the normal operation or intent of the bill.

The Chair (Mr. Shafiq Qaadri): Madame G  linas?

M^{me} France Gélinas: We know that we are creating this database of very personal health information on millions of Ontarians. We know that a series of prescribers will get some access to this, a series of dispensers will get some access to this and a series of government people will get some access to this, and then it will be shared with the colleges and other third parties, as is fitting.

This is the type of sober second thought that forces you to look at what is necessary to meet the purpose of the disclosure. Once information is collected, it becomes easy, physically, to share it. Therefore, you don't always ask yourself, "Does all of it need to be shared with each and every one—with each of the prescribers, with each of the dispensers etc.?" It is, to me, a safeguard to the people of Ontario, whose very personal health information will now be collected.

The Chair (Mr. Shafiq Qadri): Further comments? Seeing none, we'll proceed to the vote. Those in favour of PC motion 10.6? Those opposed? Motion 10.6 is defeated.

Shall section 8, as amended, carry? Carried.

We've received no amendments to date for sections 9 to 12, inclusive. If it is the will of the committee, we will proceed to consider those as a block. Shall sections 9 to 12, inclusive, be carried? Carried.

Section 13, PC motion 10.7: Ms. Elliott.

Mrs. Christine Elliott: I move that subsection 13(2) of the bill be struck out and the following substituted:

"(2) An inspector shall not enter a prescriber's or a dispenser's place of practice for the purpose of determining compliance with the requirements of this act without first obtaining a warrant and without giving notice to the prescriber or dispenser of the inspector's intention to enter the prescriber's or dispenser's place of practice."

This was a recommendation suggested by the OMA to require a warrant before an inspector would proceed to exercise their powers under the act.

The Chair (Mr. Shafiq Qadri): Comments on 10.7? Ms. Sandals?

Mrs. Liz Sandals: It's actually quite unusual to require a warrant to carry out an inspection. I think this is one of the places where, as Madame Gélinas mentioned earlier, from the point of view of the College of Physicians and Surgeons, they wanted mandatory disclosure because sometimes members resist.

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I think we need to be clear that this is a routine inspection; it isn't a criminal investigation. Normally, when you are dealing with a routine inspection, just for the sense of monitoring compliance under a regulation, you do not require a warrant. Warrants are usually only needed when there is a suspicion that a statute is being violated and a prosecution is likely to result—because then you would obviously need the warrant for court purposes—or where there is an invasion of privacy at a person's home.

There would be all sorts of instances in provincial law where there are inspectors, and inspectors do not require warrants to do routine inspections.

For example, because this is the one that maybe most closely parallels the subject matter that we are dealing with, under regulations under the Medicine Act, an inspector for the College of Physicians and Surgeons of Ontario has the right already to inspect a physician's records without a warrant.

That would be the most parallel. One is from the ministry and one is from the College of Physicians and Surgeons, but in either case, you would be looking at the prescription records. There is not, in terms of routine audits, a warrant required for inspections.

The Chair (Mr. Shafiq Qadri): Madame Gélinas?

M^{me} France Gélinas: This is very important to the difference that I have been trying to make. A college is a self-regulatory body that protects the public by doing the work with their members. We are not talking about a college working with its membership anymore; we're talking about a government employee. This is what I have been trying to separate from the start.

I want the colleges to be in a position to do what we set them up to do: to protect the public. They do this by monitoring their members. We have agreed to set up this system of self-regulation because it works and because it's in line with the values of Ontarians that members of a college are monitored by their college, get their licence from their college and are disciplined by their college.

We're not talking about an inspector from the college here; we're talking about a government employee who will enter a physician's office, a nurse practitioner's clinic or a dental office. This is groundbreaking. In all of the laws of Ontario right now, very few government employees have the right to enter a doctor's office and ask for information that is personal health information about specific patients. Think about what we're about to do. We are setting up government employees to go into physicians' offices, nurse practitioners' clinics, dental offices and pharmacies. We are setting up something that has never existed before. Before, it was always your college. It was always the colleges that looked after their members. Now it will be a government employee who is armed with a database full of personal health information about millions of Ontarians. All this does is give us a little bit of protection.

Let the colleges do the work of investigating their members. They are good at it. This is what we set them up to do. If a government employee ever needs to do any of this, let's make sure we protect ourselves. This is what this motion sets out to do.

The Chair (Mr. Shafiq Qadri): Further comments? Ms. Sandals.

Mrs. Liz Sandals: With respect, it was not the college that said, "We think you should get a warrant"; it was the OMA. The college did not complain about this part of the legislation.

With respect, if what any of the colleges were currently doing was working, we would not have had all the colleges coming in here saying, "Please set up this database because we need this central collection of the information so we can put it all together and monitor it.

We need the Ministry of Health to take on this role because we, as the individual colleges—none of us have the information in and of our own particular area in which we have authority.”

The College of Physicians and Surgeons did not come and say, “We think you should get a warrant to do this work,” because the College of Physicians and Surgeons or the college of dentists or the college of pharmacists or the college of nurses knows that they already have similar authority in doing inspections of their members’ place of practice.

I’m sorry, but I respectfully disagree with you. We do not require the authority to have a warrant. This is perfectly consistent with the way in which other inspection regimes are described in Ontario law.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we’ll proceed to the vote. Those in favour of PC motion 10.7? Those opposed? Motion 10.7 is defeated.

PC motion 10.8: Ms. Elliott.

Mrs. Christine Elliott: I move that section 13 of the bill be amended by adding the following subsection:

“(6.1) For the purposes of subsection (6), a readable format means a format that meets standards set out in the regulations made under the Medicine Act, 1991.”

Again, this was suggested by the OMA to define “readable format,” because there was no definition in this act, just to make sure that it complies with the standards that the physicians are already meeting with respect to the regulations made under the Medicine Act. So just to give a definition.

The Chair (Mr. Shafiq Qaadri): Comments on 10.8? Madame Gélinas.

M^{me} France Gélinas: I’m not sure I understand what this means. Can somebody give me an example?

The Chair (Mr. Shafiq Qaadri): Madame Gélinas, are you directing that question to anyone in particular?

M^{me} France Gélinas: Let’s start with legislative counsel.

The Chair (Mr. Shafiq Qaadri): Let’s start with legislative counsel.

Mr. Ralph Armstrong: There are regulations under the Medicine Act in which the term “readable format” is defined. That is what it’s getting at, linking it up with that system. On the other hand, there is no necessary link between the Medicine Act and this expression. It’s also possible to leave a term to be decided through the normal meaning of the words.

It appears that ministry counsel is prepared to expand.

The Chair (Mr. Shafiq Qaadri): Sounds good. Ministry counsel?

Mr. Robert Maisey: If it would be of assistance, I can expand on it. My name is Robert Maisey, counsel with the Ministry of Health and Long-Term Care. I also had to go and look up what this reference meant. Under the Medicine Act, there are various record-keeping standards that physicians are required to keep in order to maintain a patient record, and some of it refers to a patient record; other pieces refer to computerized records. This is cross-

referencing it, as was mentioned earlier, to indicate that “readable format” means, for physicians, what is referenced under the professional standards for record-keeping under the Medicine Act.

M^{me} France Gélinas: Does the Medicine Act only refer to physicians or is everybody else who writes in a health record also intended to have a readable format?

Mr. Robert Maisey: The Medicine Act provisions only apply to physicians and surgeons; they don’t apply to pharmacists.

The Chair (Mr. Shafiq Qaadri): Any further comments on 10.8? Seeing none, we’ll proceed to the vote. Those in favour of PC motion 10.8? Those opposed? Motion 10.8 is defeated.

Shall section 13 carry? Carried.

Section 14, PC motion 10.9: Ms. Elliott.

Mrs. Christine Elliott: I move that clause 14(1)(c) of the bill be amended by adding “knowingly” at the beginning.

Again, this was recommended by the OMA because, under the act, as written, it is possible that a prescriber could inadvertently pass along false information to the minister based on information which has been provided to them. This section is amended to provide that it is only an offence when a prescriber knowingly provides false information to the minister. There may be some occasions where they just pass along what they’ve already been told, so they’re not knowingly breaking the law, but it happens, so they want to make sure that “knowingly” is inserted for their protection.

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The Chair (Mr. Shafiq Qaadri): Motion 10.9 comments? Ms. Sandals.

Mrs. Liz Sandals: Because of the fact that in this act—I understand that if people are going to end up somehow in criminal court or some sort of litigious situation, they may want to be able to claim they didn’t knowingly break the law. Certainly, that would be open to people as a defence. But given that our first response of the minister or the executive officer in dealing with this is going to be more by way of education around best practice and bringing information to people’s attention, we certainly want the ability to intervene in the case where there has been negligence or where maybe the physician or someone has been too trusting of their patients in passing along information. When we find that there has been misuse or abuse, the minister or the executive officer needs the authority to follow up on it.

As I say, if it came to criminal or disciplinary proceedings, that would be the time for somebody to introduce “knowingly” as a defence. But we do need to be able to get at what will be the bulk of things, which are negligence and lack of information. We need to be able to get at those in the normal course of business for this registry, for this database, to be effective.

The Chair (Mr. Shafiq Qaadri): Further comments on 10.9? Seeing none, we’ll proceed to the vote. Those in favour of PC motion 10.9? Those opposed? Motion 10.9 is defeated.

Shall section 14 carry? Carried.

Shall sections 15 and 16, inclusive, carry? Carried.

Section 17: government motion 11, Ms. Sandals.

Mrs. Liz Sandals: I move that clause 17(1)(b) of the bill be struck out and the following substituted:

“(b) excluding a person from the application of this act, or from one or more provisions of this act, subject to the conditions, if any, provided for in the regulations;”

If you recall, when we were talking about this business of hospitals being no longer legislatively excluded—that there need to be consultations with the hospitals on just how the bill would apply to hospitals. This fleshes out the regulation authority a little bit more in terms of—again, you can imagine the situation where perhaps there’s some reason where some physicians within a hospital would be included and others would be excluded; some circumstances would be included and others would be excluded.

It gives the flexibility to work through the issues that may arrive from hospital practice and to have a regulation—where there’s sufficient flexibility to come up with a regulation that makes sense.

The Chair (Mr. Shafiq Qadri): Further comments? If there are none—Madame Gélinas.

M^{me} France Gélinas: I’m not opposed to what was said, but I’m a little bit worried that there are half a dozen modifications to this bill that have been brought forward by the government. To me, it sort of supports what I have been saying today, that it seems like this bill has been rushed through.

You all know that I had asked for consultation to take place in northern Ontario, to take place in rural Ontario. None of this happened. We’ve received dozens of written submissions. I have the Arthritis Society here that says, “The society is also concerned that the time frame for submissions to the hearings does not allow it to comprehensively review the bill and consider what advice and comment it should provide to this process.” We have the Canadian Diabetes Association and Action Ontario.

We now have a whole bunch of controlled substances. One of them, let’s say, is testosterone. Did we go and ask the people dealing with transgender what this bill will do to them? There are many mental health agencies out there that will be significantly affected by this bill. But here again, they are working flat out with minimum resources. They did not have a chance to bring forward their comments and their requests for changes. They did not have a chance to be consulted and be heard. First Nations, northerners, rural Ontario, the transgendered, the Arthritis Society, the diabetes society, Action Ontario—the list goes on and on. We all got the package from the clerk. This bill is being rushed through.

There are some good changes that are being made today. I have a feeling that if we had taken the time to listen to everybody else who will be affected by what this bill is trying to do, we could have come out with something way better for the people of Ontario—not to mention everybody who is asking for a pain strategy, which is the flip side of putting in place a supply bill.

This is a bill that deals with the supply of narcotics without looking at one of the reasons why people use narcotics: because they’re in pain. We don’t have a complete pain management strategy—nowhere near. It’s the same thing with access to treatment.

So I feel we’re rushing this through. We are bringing things forward that are significant changes in the way we do things in Ontario—with good intentions, but our good intentions may end up doing more harm than good because we didn’t listen to all of the people who were affected by those changes.

Again, I will support the government’s wanting to amend its own legislation, because, yes, this bill needs amendment. It would need way more amendment if we had time to hear from everybody who will be affected.

The Chair (Mr. Shafiq Qadri): Comments? Ms. Sandals.

Mrs. Liz Sandals: I must quibble with your characterization of “a lot of government amendments.” In fact, we have made very few amendments to the bill. There have been a few where there were some wording changes like that suggested by CAMH, where all three parties submitted the same amendment and we all agreed on it.

There are essentially two substantive changes that we are proposing. One is the change to give physicians access to the prescription information for the patient prior to prescribing. All three parties submitted amendments that address that issue. The other substantive issue is to ensure that the information from hospitals is not legislatively excluded and that we work with the hospitals on how to collect it.

There are only two substantive changes that we are making, and this is part of one of them. We’d like your support.

The Chair (Mr. Shafiq Qadri): Unless there are more comments, those in favour of government motion 11? Those opposed? Motion 11 is carried.

NDP motion 12.

M^{me} France Gélinas: I move that subsection 17(1) of the bill be amended by adding the following clause:

“(k) in keeping with the purpose of this act and in recognition of one of the underlying causes of misuse of prescription narcotics, respecting the development of a province-wide comprehensive pain strategy that includes a public consultation process.”

This amendment deals with what we’ve heard over and over and over through the hearings as well as the information that was given to us in writing—and, I’m sure, in the emails that we’ve all received—that you cannot go ahead with a supply bill without looking at how we’re going to cope with this and what kind of effect it’s going to have on the ground for people who need those types of medication.

Dozens of groups have written to us. They all want a comprehensive pain management strategy. Other jurisdictions have them. Ontario is lacking. This bill will have a horrific impact on people living with chronic pain if we don’t do the flip side of this; that is, to give them access to a comprehensive pain management strategy. They’ve

all told us that they've all worried. If you cut off the supply of narcotics to people who need them for a legitimate reason, you are needlessly making a lot of Ontarians suffer.

1730

The Chair (Mr. Shafiq Qaadri): Comments on the NDP motion?

Mrs. Liz Sandals: This is a case which I think is a little legislatively odd, because this would have the effect of adding regulatory authority concerning something about which there is no actual legislative hook in the bill. It essentially gives cabinet the authority to make regulations without having any legislative direction in the bill on this subject. It just seems to be procedurally rather unusual. But more to the point, probably, we don't need legislation to have a pain management or chronic pain management strategy. That's something that the Ministry of Health can and is working on quite independently of legislation.

The Chair (Mr. Shafiq Qaadri): Comments?

Mrs. Christine Elliott: Though it may be procedurally a little bit unusual, we heard from so many presenters who were concerned about the need to counterbalance the aim of the legislation with the legitimate need of many people who are in pain to have access to the narcotics that they need in order to control the pain. I think that if we have an opportunity to deal with that based on, as I said, the many presentations we heard, we should seize on that opportunity. We would certainly support this amendment.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^{me} France Gélinas: Well, this bill, at the core—I mean, we all know that this bill has been put forward to deal with the misuse of prescriptions of controlled substances, most of them being narcotics; some of them are others. We've heard deputant after deputant and we've received lots of written information that all says the same thing: One of the big reasons for the misuse is because we don't have a comprehensive pain management strategy in Ontario. If we are serious that we want to deal with the misuse, then we will listen to all of the deputants that have come forward and have sent us their comments, and put them in the bill so that we have a balanced approach to misuse of prescription narcotics, not solely supply-side.

The Chair (Mr. Shafiq Qaadri): Any further comments on NDP motion 12? If not, we'll proceed to the vote. Those in favour of NDP motion 12? Those opposed? NDP motion 12 is defeated.

We move to 12.1R, PC motion.

Mrs. Christine Elliott: I move that clause 17(2)(a) of the bill be struck out and the following substituted:

“(a) the minister has published a notice of the proposed regulation in the Ontario Gazette, on the website of the ministry and in any other format the minister considers appropriate for the purpose of providing notice to the persons who may be affected by the proposed regulation;”

This simply expands the notice provisions to ensure that all necessary persons receive notice of the proposed regulation and have the opportunity to provide their input on it.

The Chair (Mr. Shafiq Qaadri): Further comments on 12.1?

Mrs. Liz Sandals: Just that there is already a statutory requirement that this regulation, as a Ministry of Health regulation, be posted on the Ministry of Health website. Quite frankly, that's where most people who are health practitioners would go, to the Ministry of Health, as opposed to the Ontario Gazette, which I guess lawyers might go to occasionally. But the people who are actually health stakeholders are going to go to the Ministry of Health website, and there's already a statutory requirement to post this there.

The Chair (Mr. Shafiq Qaadri): Further comments on 12.1R?

M^{me} France Gélinas: I hate to say this, but I don't seem to have the right motion in front of me.

Mrs. Liz Sandals: This is the replaced one.

M^{me} France Gélinas: This is the replacement one?

Mrs. Liz Sandals: Yes.

M^{me} France Gélinas: And I got the replacement when?

Mrs. Liz Sandals: When you walked into the room.

M^{me} France Gélinas: I hate when that happens. Okay. Sorry about that.

The Chair (Mr. Shafiq Qaadri): Are there any further comments, or would you like a moment to consider it?

M^{me} France Gélinas: I will be supporting the motion.

The Chair (Mr. Shafiq Qaadri): Thank you. Any further comments? We'll proceed to the vote. Those in favour of PC motion 12.1R? Those opposed? I'll take that as PC motion 12.1R has been defeated.

PC motion 12.1—

Mrs. Christine Elliott: 12.2?

Interjection.

Mrs. Christine Elliott: Oh, yes.

The Chair (Mr. Shafiq Qaadri): PC motion 12.1 is withdrawn. PC motion 12.2.

Mrs. Christine Elliott: I move that subsection 17(2) of the bill be amended by striking out “and” after clause (c), adding “and” after clause (d) and adding the following clause:

“(e) any other information that the minister considers appropriate.”

Again, this was an amendment suggested by the Information and Privacy Commissioner to expand the clauses of the information that might be considered, so it's just an expansion provision.

The Chair (Mr. Shafiq Qaadri): Thank you. PC motion 12.2: Ms. Sandals?

Mrs. Liz Sandals: Sorry; I'm reading at the moment. Okay. This is the one where we can't figure out what it means, so we will be opposing it because we can't make it read right.

So 17(2), the intro line on it is, “The Lieutenant Governor in Council shall not make any regulations under clause” blah, blah, blah, “unless ... any other information that the minister considers appropriate.” It’s just not a sensible statement.

Mrs. Christine Elliott: I think it’s really just clarifying some of the language. I don’t think there’s any real substantive amendment. I think it’s just clarifying.

Mrs. Liz Sandals: It just doesn’t read appropriately. The English language doesn’t make sense.

M^{me} France Gélinas: I would say that, to me, the English language doesn’t make sense lots. Adding this makes sense to me, so I have no problem supporting this.

Le Président (M. Shafiq Qadri): Si vous voulez une présentation en français, c’est votre choix, et votre droit aussi.

M^{me} France Gélinas: Merci, monsieur le Président.

The Chair (Mr. Shafiq Qadri): All right. If there are no further linguistic or procedural issues on 12.2, we’ll proceed to the vote. Those in favour of PC motion 12.2? En faveur? Contre? Thank you. PC motion 12.2 defeated, in both languages.

We’ll now proceed to PC motion 12.3.

Mrs. Christine Elliott: I move that subsection 17(4) of the bill be amended by striking out “30” and substituting “60”. This is to change the time for consultation with respect to the regulations from 30 to 60 days, as is required in the Personal Health Information Protection Act.

The Chair (Mr. Shafiq Qadri): Thank you. Any further comments on PC motion 12.3? Seeing none, we’ll proceed to the vote. Those in favour of PC motion 12.3? Those opposed? Motion 12.3 is therefore defeated.

Shall section 17, as amended, carry? Carried.

Shall sections 18 and 19, inclusive, carry? Carried.

Shall the preamble—actually, we’ve got NDP motion 13 with reference to the preamble. I will invite Ms. Gélinas to present it.

M^{me} France Gélinas: Thank you. As I said, I felt that there have been enough changes to the bill that would warrant the preamble to be modified. So I move that the preamble to the bill be amended by adding the following paragraph at the end:

“The program of monitoring the prescribing and dispensing of certain controlled substances is one of several tools that the government of Ontario is using to address health and safety concerns related to the use of narcotics and other controlled substances. In order to aid this program, the government will work with and disclose information to other parties, in particular, the health profession colleges, who will be able to assist in achieving the government’s goals.”

Basically—

The Chair (Mr. Shafiq Qadri): Ms. Gélinas, I need to once again, with extreme regret, inform you that this particular NDP motion 13 is out of order.

I have some very interesting explanation for it, should you wish, although I’d invite wiser heads to explain it. Would you like the explanation?

M^{me} France Gélinas: Is it long? You’re scaring me.

The Chair (Mr. Shafiq Qadri): It is in English.

M^{me} France Gélinas: It’s a big document you’re waving right now.

The Chair (Mr. Shafiq Qadri): There are objectionable elements, but in any case—

M^{me} France Gélinas: Go ahead. I’m listening.

The Chair (Mr. Shafiq Qadri): “Preamble: In the case of a bill that has been referred to a committee after second reading, a substantive amendment to the preamble is admissible only if it is rendered necessary by amendments made to the bill. In addition, an amendment to the preamble is in order when the purpose is to clarify it or make the English and French uniform.”

M^{me} France Gélinas: Isn’t this what I said? I thought that we had made enough changes to the bill to justify—

The Chair (Mr. Shafiq Qadri): We value your thoughts, and I would invite legislative counsel to clarify, if you’d like, or the clerk.

The Clerk of the Committee (Mr. Trevor Day): You had earlier amendments that, had they passed, would have made your specific changes to the preamble admissible as a motion. They failed, and for that reason, this change cannot be made to the preamble, based on the changes that have already been made to the bill.

The Chair (Mr. Shafiq Qadri): There’s a lot of excitement back here, but if you need more clarification, I will offer it to you.

M^{me} France Gélinas: No, that will be sufficient.

The Chair (Mr. Shafiq Qadri): I will take it, then, that NDP motion 13 is withdrawn: out of order. Thank you.

NDP motion 14.

Interjection.

M^{me} France Gélinas: So I move that the preamble to the bill be amended by adding the following paragraph at the end:

“Finally, in recognition of one of the underlying causes of misuse of prescription narcotics, the government of Ontario will develop a province-wide comprehensive pain strategy in tandem with the program of monitoring the prescribing and dispensing of narcotics.”

We heard this—

The Chair (Mr. Shafiq Qadri): Thank you, Madame Gélinas. Je vous informe maintenant que cette motion-ci n’est pas en ordre, for approximately the same reasons.

M^{me} France Gélinas: Okay.

The Chair (Mr. Shafiq Qadri): NDP motion 14 is now out of order.

PC motion 15.

Mrs. Christine Elliott: May I presume from your previous comments that our amendments to the preamble will similarly be ruled out of order?

The Chair (Mr. Shafiq Qadri): They similarly will be ruled out of order, yes.

Mrs. Christine Elliott: Thank you.

The Chair (Mr. Shafiq Qadri): I’ll take it, then, that PC motion 15 is withdrawn, as it is out of order.

Therefore, I'll pose the question now, unless there are further comments.

Shall the preamble carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 101, as amended, carry? Carried.

Shall I report the bill, as amended, to the House?

Carried.

Any further business? Seeing none, committee is adjourned.

The committee adjourned at 1742.

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