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Mardi 23 novembre 2010

Standing Committee on Social Policy

Broader Public Sector Accountability Act, 2010

Comité permanent de la politique sociale

Loi de 2010 sur la responsabilisation du secteur parapublic

Chair: Shafiq Qaadri
Clerk: Susan Sourial

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Tuesday 23 November 2010

Mardi 23 novembre 2010

The committee met at 1607 in committee room 1.

BROADER PUBLIC SECTOR ACCOUNTABILITY ACT, 2010

LOI DE 2010 SUR LA RESPONSABILISATION DU SECTEUR PARAPUBLIC

Consideration of Bill 122, An Act to increase the financial accountability of organizations in the broader public sector / Projet de loi 122, Loi visant à accroître la responsabilisation financière des organismes du secteur parapublic.

The Chair (Mr. Shafiq Qaadri): Colleagues, ladies and gentlemen, I welcome you to the Standing Committee on Social Policy. As you know, we're here on day two of hearings on Bill 122, An Act to increase the financial accountability of organizations in the broader public sector. We have a number of presenters.

HEALTHCARE INSURANCE RECIPROCAL OF CANADA

The Chair (Mr. Shafiq Qaadri): I would invite Ms. Stevens of Healthcare Insurance Reciprocal of Canada to please come forward. Ms. Stevens, just to inform you and subsequent presenters, you'll have 10 minutes in which to make your presentation and five minutes for questions. It will be enforced with military precision. I invite you to introduce yourself and your colleague and please begin now.

Ms. Polly Stevens: Thank you very much. I want to just introduce Pat Hawkins by my side; he's counsel for HIROC from Borden Ladner Gervais. He is here to answer any curveballs related to legal or technical matters that I might not be able to answer.

Thank you very much for this opportunity to present to you today. I just want to draw your attention to our handouts. There's a PowerPoint presentation which outlines my speaking points for the oral presentation, as well as a written submission which includes more detailed analysis.

Turning to the second slide, I just quickly want to review Bill 122 and particularly our issues with the freedom-of-information act amendments that are proposed. The bottom line is we think that it will expose important quality improvement documents. We think a small change will make a world of difference. There's just a little bit about HIROC and me to establish some of our bona fides and why we are concerned about this. There's talk about our risk management programs—they're evidence-based and effective—and how they could be negatively impacted by this.

Bill 122, the bottom line: We see this as a welcome development, certainly improved financial accountability, but it does catch up some issues related to quality improvement. There is a gap, we think, in section 24, the proposed amendments to FIPPA. We think quality improvement and risk management information is exposed, and we think that will have a negative and unintended effect on quality in Ontario, particularly the programs that we engage in with our hospitals.

Slide four: We just request an additional clause in the amendment to FIPPA section 65, which is outlined in section 24 of Bill 122. We would like an extension to include a clause (e): "a record prepared for or by a committee or other body of a hospital for the purpose of risk management or for the purpose of activities to improve or maintain quality of care."

This is actually language that comes out of existing legislation, the FIPPA legislation, which outlines that personal health information can be used by hospitals for quality improvement and risk management purposes, so it's a concept that's already well understood.

Just a bit about HIROC and me, to establish our credibility and why we care about this. HIROC arose in the late 1980s, when there was a crisis in the commercial medical malpractice insurance markets. Hospitals either couldn't get medical liability insurance, or what they could get was really astronomically expensive, so they got together and formed a not-for-profit reciprocal. It's really owned by hospitals and other health care providers. Unused income is returned to hospitals, so there are no profits involved.

HIROC plays a unique role—which has already been recognized in PHIPA—where we're allowed to do systemic risk management reviews.

In terms of my personal background, I have a clinical professional background, but over the last number of years I have transitioned into a career that is really focused on patient safety, risk management and quality improvement.

I joined HIROC in June of this year, but prior to that, I was 10 years at the Hospital for Sick Children, director of

quality and risk management there, and helped lead the organization through some very difficult times over the last 10 years, to the point where here I am. Sick Kids is really recognized as an international leader in patient safety.

I'm fully supportive of disclosure of adverse events in health care. I've done research on that, and other peer-reviewed journals have been published. I want to draw your attention to the latest publication that I and my colleagues at Sick Kids just published. It really relates to the learnings from about 90 critical incident reviews that we've done at the hospital and what are the lessons learned.

Really, I know health care and have a good understanding of the levers that help or hinder the development of a quality improvement culture in health care.

HIROC's approach: It's about partnering to create the safest health care system. We are a recognized leader in patient safety, and we have many partners out there, including the Canadian Patient Safety Institute.

HIROC's approach is to look at adverse events in health care, look at those that are preventable, and try to decrease that. The circles that you see—there's a diagram on page 8 that outlines that.

We know that about 8% of patients who enter hospitals have an adverse event. Slightly less than half of those are preventable adverse events, and about 3% of those result in claims. Our approach is not about preventing adverse events converting to claims, but preventing adverse events, full stop.

We have very many risk management programs, but the one I want to highlight is our risk management self-assessment modules, which are based on 20 years of claims experience. We know that there are things that happen in claims, so what we've done is take our claims data research and other case law and convert that into a self-assessment program so that hospitals can learn from each other in how to prevent adverse events.

We ask pointed questions; we require critical self-appraisal and brutal honesty; and as a result, hospital documents are created. This has resulted in significant practice improvements in hospitals over the years. We do keep track of hospitals on a year-by-year basis and have found that significant changes are being made.

We also, through the process of our risk management discounts, are able to help fund quality improvement work. So when people in hospitals enter into our programs, they get a decrease on their premiums, and this has resulted in some great resources being returned to the health system for quality improvement.

The effect of Bill 122: Historically, these hospital documents have been prepared in confidence for quality improvement purposes. Under Bill 122, only QCIPA documents are going to be protected.

I know from personal experience that QCIPA is a welcome addition to the hospital system, but it does not go far enough and is not used, typically, for the kind of reviews that we're talking about. These would be system-wide reviews, looking at extensive practice issues in hospitals.

We know that if these were to be produced or disclosed, it would have a chilling effect on risk management and quality improvement programs. We've heard from risk managers. All it would take would be one request in one hospital, and participation in our programs and, really, other quality programs, may diminish.

Coming back to what we're asking, again, we think a small change could have a big impact. Adding this clause, which is already recognized in FIPPA, would really go a long way.

I think I'm under my time. I hope I've done a credible job of outlining our concerns. Thank you for listening, and I'll certainly entertain questions.

The Chair (Mr. Shafiq Qaadri): Thank you. We have three minutes or so per side, beginning with the PC caucus. Ms. MacLeod.

Ms. Lisa MacLeod: You did an incredible job, a great job. I really appreciate your coming here today and focusing on what's important and how this will impact what you do for Ontario patients and for Ontario hospitals.

You mentioned that without this small change, quality may diminish. Can you expound upon that?

Ms. Polly Stevens: Really, what we're asking is critical self-analysis. We ask a lot of questions, and some of them are fairly brutal, I would say, and we ask and hope for honesty. There is a lot of material in there. In the written submission, you'll see some of the questions that we're asking about everything: "Do you have a fever protocol for pediatrics?" "Do you have physicians personally see patients before they're discharged?" and things like that.

We know that by entering into this process, hospitals have changed practice. If they didn't enter it, they might not have changed practice, and we know that these are appropriate things that need to be done.

Ms. Lisa MacLeod: So it's essentially quality control as well and ensuring that the right information will get out rather than the wrong information?

Ms. Polly Stevens: Yes.

Ms. Lisa MacLeod: Of course, you welcome greater transparency, I'm sure, in Ontario hospitals and understand the need: so that taxpayers understand that their dollars are being spent wisely.

Do you have any other views on the bill per se, or is it just this specific clause?

Ms. Polly Stevens: This is really what we're focusing on. As we said early on, we appreciate the focus of the bill, financial accountability, but we know that it has caught this one issue up in it as well.

Ms. Lisa MacLeod: Do you foresee any problems if there are not changes? I understand that there could be challenges if that small change isn't made, but do you see a real possibility of a problem once this bill is enacted?

Ms. Polly Stevens: Absolutely, and that's the word we're getting from our risk managers and patient safety experts in the hospital system.

Ms. Lisa MacLeod: Were you consulted at all on this legislation before it was brought forward?

Ms. Polly Stevens: I would say no.

Ms. Lisa MacLeod: I'd be happy to put forward this amendment for you when it comes time to do clause-by-clause.

Ms. Polly Stevens: Thank you.

Ms. Lisa MacLeod: Thanks very much. You did a great job.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod. Madame Gélinas.

M^me^ France Gélinas: Thank you very much for coming. The OHA was here yesterday, and they brought the identical issue, and their recommendation for a change in the wording is slightly different, one word different, but very similar.

We've had deputants talk to the other extreme, as in they have tried to get information from other agencies that have FOI and get very little of it. I'm trying to understand: Everything that a hospital does could be interpreted as something useful to improve quality, so where would you draw the line?

Ms. Polly Stevens: Going to my focus in previous research and disclosure of adverse events, when something bad happens to a patient in a hospital, they are absolutely entitled to know what happened. They need to know the facts related to that.

What we're talking about here is a big-system review. It's not patient-specific. There is not identifiable personal health information, but just like we know from the principles of QCIPA, health care providers need to have a safe environment in which they can challenge themselves, have those discussions and ask themselves the hard questions. If they know that that's going to be produced, it will really just shut down some of that activity.

M^me^ France Gélinas: I understand the principle of it, and I support quality improvement. What I'm afraid of is that some hospital will interpret this as everything they do. Would you be satisfied if it would have to be captured in writing? It would have to be captured in writing under an item in the agenda that clearly says "quality improvement," and whatever is under that discussion then becomes outside of FOI. But anything else that has been shared during a meeting that could be used for quality improvement, if it was not captured on the record as under the heading of quality improvement and risk management, would be fair game for FOI.

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Ms. Polly Stevens: I guess I would have to see some of the specifics. I can't necessarily answer. If it's just a technical question—did they miss including that in the agenda?—I'm not sure. I do support, certainly, the Excellent Care for All Act. Certainly hospitals putting together their quality improvement plans every year, having a select panel of patient safety indicators, which are publicly reported—that's absolutely appropriate. But we know that each indicator is carefully selected—

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

To the government side, Mr. Johnson.

Mr. Rick Johnson: I understand that no other province has exclusions for this type of info, only exemptions. Would you be happy with an exemption, which would have to meet a compelling public interest test?

Ms. Polly Stevens: I just know that even if it's just an exemption—it would just create a lot of work in the facilities having to operationalize that challenge, a lot of time spent. Just the opportunity cost involved in working through all of that—I don't know that that would go far enough.

Mr. Rick Johnson: Do you agree in principle that hospitals, as large, public sector organizations, should use best practices when it comes to procurement, such as competitive tendering?

Ms. Polly Stevens: That's really not my area of expertise.

Mr. Rick Johnson: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Stevens and your colleague, for your deputation on behalf of Healthcare Insurance Reciprocal of Canada.

MS. CYBELE SACK

The Chair (Mr. Shafiq Qaadri): I invite our next presenter, Ms. Cybele Sack, to please come forward. Ms. Sack, you've seen the protocol. You have 10 minutes. I invite you to—

Ms. Cybele Sack: Just let me sit down.

Hello. Good afternoon. My name is Cybele Sack. I'm here today with ImPatient for Change, a new patients' rights organization whose goal is to exchange information about patient safety and to advocate for medical reform in the public interest. We believe that every patient matters.

I would like to explain to you what kind of impact accountability and transparency legislation has on patient safety from my perspective as a patient who has survived a negative and preventable medical experience, still not counted in the hospital statistics.

Patient safety is in the public interest, and patient rights are human rights. Every Ontarian is a patient because we all have interactions with the medical system. Every time we go to a hospital, we face an unknown statistical risk of falling prey to medical error. In 2008, it was me; tomorrow, it could be your mother, sister, son or grandchild.

In 2008, I went to a hospital with appendicitis, but after too long of a delay in ER, my appendix burst. Because of a series of errors in diagnosis, care and decision-making, and because of systemic weaknesses in the hospital, I did not receive surgery for over five months and had to switch hospitals to get it done. This wait time resulted in very serious acute complications, putting my life at risk, and then lingering chronic and painful complications, which kept me out of work for over two years.

According to a study funded by Health Canada, more Canadians are dying from preventable adverse events in

hospitals than from breast cancer, motor vehicle accidents and HIV combined.

We believe that these injuries and deaths are happening because we lack a culture of accountability and transparency, and we think it is possible to bring the number of deaths and injuries down, if the government would only set up independent and patient-focused mechanisms to learn from our experiences.

This means we need independent oversight over hospitals and other treatment in medical facilities in this province, where patient complaints can be investigated, where information about patient safety is made public and where binding recommendations are enforced and changes measured. The first step to creating these mechanisms is to enshrine them in law. Let's start with Bill 122.

The Ontario Hospital Association claims that releasing information to the public will undermine patient safety culture. I object to this. I don't see how we are increasing patient safety culture by excluding patients and the public from a discussion about our problems. Patient safety culture needs patients.

It is in the interest of the public and of patient safety to transparently report all data—excluding identifying information—related to death and injury. In order for us to learn from our mistakes, we need to know where the problems are. We therefore request that legislation involving access to health care information make it clear that patients' rights to safe care are a priority, above any other interests, and that quality-of-care information be made explicitly public.

Yesterday, the OHA asked your committee to keep medical error private, to exclude quality-of-care information from freedom-of-information and anti-lobbying legislation. The OHA says this specific exclusion clause will encourage doctors to come forward, because doctors will be reluctant to admit to error if they might be vulnerable to public embarrassment and accusation. But the OHA is not asking for names to be stripped; they're asking that the information not be made public at all. The OHA wants to extend the privacy in QCIPA without the strict parameters, so that doctors and hospitals won't be held liable for any information divulged during discussion about patient safety issues, no matter the context.

After the Toronto Star ran a series by Rob Cribb about patient safety, the government promised to make adverse event information accessible. We hope you will not go back on your word to the public about this. We need dialogue about medical error.

Patients, academics, media and members of the public must get access to information which will help advance the cause of patient safety. Otherwise, we will have no way to independently assess the gaps in the quality of our health care system, and we won't know what the biggest sources of medical errors are. If this OHA, OMA and hospital insurance company amendment goes through, it will be at the expense of patients and the public's right to know.

Ontario is the only province without hospital oversight. In Manitoba, for example, patient reports are investigated and lead to recommendations which are applied across the system. I tested their phone line with my own story, and their patient voice facilitators were ready to launch an investigation of my case until I told them I lived in Ontario. I was disappointed that I could not benefit from the impressive level of service I received because of my address.

If we allow the medical industry to lobby against independent oversight of hospitals and other medical facilities, against transparent reporting of data relating to injuries or death or against mandatory reporting of drug-adverse reactions, then we are legally allowing professional interests to stand in the way of the public interest. The Minister of Health said yesterday that the practice of the Liberal government is not to allow lobbyists in. Let's make that practice law.

We appreciate the government's recognition of the importance of patient-centred, excellent and publicly accountable care in the preamble of Bill 46, the Excellent Care for All Act. But Bill 46 does not include a mechanism for independent oversight and investigation of patient complaints.

Both opposition parties have introduced bills designed to give the Ontario Ombudsman oversight over hospitals and medical facilities. The most recent example is Bill 131, which passed through first reading. We encourage the government to adopt this bill or introduce their own, giving the Ombudsman the power to independently investigate patient complaints. Because it is so onerous for patients to complain using current channels to get justice and to make changes, we believe the message is that patient safety doesn't matter enough to our government.

Medical errors are costing lives, costing time and costing money. Right now, tax money is used to defend doctors and hospitals when claims are made against them, but no tax money is spent to protect patients who have been hurt or to measure who has been hurt and why. Independent oversight over hospitals and medical care would help even the playing field.

Why am I the only one speaking on behalf of injured patients for these committee meetings? More effort must be made by this government to consult with the public. We should not let special interest groups dominate this discussion. Yesterday, I asked the Minister of Health and the parliamentary secretary for health, Dr. Kular, if they would commit to meeting with me, but neither said yes.

There is an urgency to this legislative exercise. We are losing lives, time and money every day that goes by without protection for patient rights. I hope you will recognize what that means for some patients—each hour of pain or, perhaps, the last second of their breath. Politics is a slow process that we can barely afford.

My primary three recommendations to your committee are that you (a) ensure that patients have the right to access quality-of-care information, (b) that you adopt Ombudsman oversight of hospitals, and (c) that you engage in more public consultation about patient safety and quality of care.

Medical errors happen because we allow them to happen, and they are repeated because we allow them to be repeated, at tremendous human cost. I echo Allan Cutler's comment yesterday when he said he supports "the ability to open up and expose anything to daylight."

The Chair (Mr. Shafiq Qaadri): Thank you. Madame Gélinas, about two and a half minutes.

M^me^ France Gélinas: Thank you. It was a very dynamic presentation. You made your point really clear. I agree with what you're saying. We need to give people who have questions a chance to be heard, a chance to bring closure and a chance to have access to all of the information.

I can tell you that you are not the only one who spoke against taking exemptions to FOI. When the RNAO—that's the Registered Nurses' Association of Ontario—was here yesterday, I asked them, what did they think about excluding the quality element from FOI? And they spoke in exactly the same language you did. They saw that it was better for this information to be known and to be accessible because it is better for patient care. When the Ontario Health Quality Council came and presented yesterday, I did the same thing. I asked them if they thought quality elements should be exempt from access to freedom of information, and here again they used your language and said people need to have access to that information, and it should continue to be available.

I also thank you for your support for bringing Ombudsman oversight of our health care facilities. To this day, I don't understand why Ontario sticks out as the only province and jurisdiction in Canada that does not have Ombudsman oversight of our hospitals. Although the Ombudsman doesn't have oversight of our hospitals, he gets over 350 to 360 requests every year, and he has to say, "I'm sorry. It is outside of my mandate."

This is not acceptable, and I support what you have brought forward. There's a difference between having access to information and having an advocate speak for you, and this is what the Ombudsman will bring.

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I see that you now have a blog, a Facebook address and a Twitter address for patients to join. I sure hope that a lot of people join your group so that you are giving patients a voice.

I thank you for your deputation.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. To the government side: Mr. Johnson or Mr. McNeely?

Mr. Rick Johnson: It will be me.

This bill is in direct response to the Auditor General's report on consultant use at the ministry, the LHINs and hospitals. Do you support what's currently included in the bill in this area?

Ms. Cybele Sack: In terms of the LHINs, you mean? Is that what you mean?

Mr. Rick Johnson: On consultant use with the LHINs and hospitals.

Ms. Cybele Sack: The only thing I would add, in terms of if you're talking about consultant use and lobbyists—I've included, actually, several extra pages that I didn't get to: the recommendations that I think are in the interest of patient safety, as well as provisions in Bill 122 which I think should be reconsidered, given the patient safety context. I hope you'll have a look at those, as well as another document by a law professor that goes through some of these issues in greater detail.

I think the most important thing that I feel I need to say about LHINs is that, because of their lack of accountability, they are not providing the same oversight that other provinces are getting from their regional health authorities.

We have an issue where, if we were to come up with this patient safety office, where would we put it? Maybe under the Ombudsman, because we can't trust the LHINs. I think we need to deal with the LHINs to make them more accountable, including getting rid of lobbyists so that we can actually have some oversight.

Mr. Rick Johnson: Are you aware, too, though, of the Excellent Care for All Act, passed earlier this year, which makes it mandatory for hospitals to have declarations of values and a patient complaint process?

Ms. Cybele Sack: Yes. The problem with internal complaint processes—I experienced this myself as a patient who was hurt and then tried to use it—is that there's a conflict of interest. As you can tell from the last speaker, there's this issue that the hospital is put in where they may genuinely want to improve the quality of care but they also need to protect the hospital from lawsuits. I'm not saying that they only do one—they probably do both—but it doesn't put them in a position where they can objectively look at a patient complaint and find for the patient, for example. So that's a problem. That's why we need something that's independent, where they don't feel like their job is in jeopardy if they say, "You know what? The patient was hurt and what we did was wrong."

Mr. Rick Johnson: Thank you. I appreciate the work you've put into this document. I was going through it as you were speaking.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. To the PC side: Ms. Jones.

Ms. Sylvia Jones: Thank you for your presentation. Two quick questions: I'm going to follow up on the LHINs, or the regional health authorities, depending on which province you're in. There's at least one province that's eliminating the regional health authorities because they've seen that they haven't improved patient care or access.

Would you support—I'm going to assume that you would support an amendment that would include allowing Ombudsman oversight for hospitals?

Ms. Cybele Sack: Absolutely. I fully support that. That would be fantastic.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Thanks to you, Ms. Sack, for your deputation and presence.

ONTARIO NONPROFIT NETWORK

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter, Ms. Eakin of the Ontario Nonprofit

Network, to please come forward. Your materials have been distributed already by our able clerk.

Just to let the committee know, our 4:30 presenter, Mr. Kelly, has cancelled.

You've seen the protocol. You have 10 minutes in which to make your presentation. Please do introduce yourselves and please begin now.

Ms. Lynn Eakin: Thank you, Mr. Chairman, and members of committee.

I'd like to introduce my colleague Jini Stolk, who's the executive director of the Creative Trust and a member of the ONN steering committee.

I'm the interim executive director of the Ontario Nonprofit Network, which serves 40,000 community-based charities and non-profits working in Ontario, and it is many of these organizations that are being swept up into Bill 122.

We're here today to ask you to amend Bill 122 to remove the Ontario transfer payment organizations from your definition of broader public service organizations. These independent, community-based organizations are not big institutions, and government procurement policies will hinder and hurt the work these organizations do in local communities. Lack of consultation has resulted in these organizations being included in this bill.

Government and institutional procurement policies are totally inappropriate, and you're asking community organizations to comply with them at a time when they're enormously stressed. Demand for their services is skyrocketing as Ontario goes through the most major restructuring of our economy in living memory. Community organizations are the ones in the trenches dealing with the distressed families and disrupted lives in these extraordinarily hard times. Moreover, they are doing so with no budget increase and frozen staff salaries.

Since the deep budget cuts of 1995, these organizations' budgets have been essentially flatlined. They've cut all there is to cut, and their salaries lag well behind both the public and private sector. Transfer payment organizations are the poorest organizations in the province, yet they toil away in their communities, serving with a dedication beyond all reasonable expectations.

Even the largest community-based organizations delivering services in your communities are not institutions, but rather clusters of different community services grouped together so the people they serve do not fall through the cracks. Each program is small, personal and deeply embedded in the communities they serve. The clusters of services will typically have five or more different funders, all with different contracts, all with different terms and conditions and all extremely tight in accountability.

Transfer payment organizations will typically have to get prior approval from their funder for any deviation from budget. Indeed, as I demonstrated in a recent report, We Can't Afford to Do Business This Way, the administrative and accountability burden on these organizations is already crushing and hindering their ability to respond creatively to changing conditions and shrinking resources in communities. They do not need additional administrative requirements placed on them at this time, particularly ones that are not appropriate or helpful.

But there is an even more serious threat hidden in government procurement processes, a threat to the very principles upon which these organizations operate.

Let me make clear the organizations we're talking about: shelters for abused women, services for families seeking help for their troubled child, adult mental health services, services for people with developmental disabilities, services for families facing eviction, retraining for displaced workers, settlement supports, arts organizations, major sports organizations, youth services in troubled neighbourhoods, early childhood drop-ins, Meals on Wheels, and the list goes on. Most of you will have visited one of these organizations recently, and if you think about it, you will know that procurement policies based on principles followed by government are the last thing they need.

Most of the funds you give them are tied up in salaries. Some goes to rent. You rarely cover all their costs. Their biggest outside procurements are typically food, drugs and professional services that they can't afford to have internally in their organization, such as psychiatric consultation, IT support or accounting. Any significant external purchase is put to tender if necessary, but the first option is to have it donated or deeply discounted by sympathetic local businesses.

If you have not recently read the procurement guidelines for government, you may not know that the principles and practices behind them are only appropriate for large institutions and government. Principles of interprovincial trade, multiple levels of segregated decision-making, prohibitions from buying local and requirements to tender are fundamental tenets of government procurement. And so they should be.

Transfer payment organizations are the exact opposite. Operating independently between government and communities, they are all about local. They are all about relationships with the people and communities they serve. Let me illustrate.

Food is a significant cost for many services. Under the institutional procurement guidelines, they would tender their food purchases on MERX, the Internet-based procurement site used by government for a single provider. To accommodate a sole provider, they would have to reorganize their staff to centrally order food and oversee delivery across the homes spread throughout their community.

This approach is the antithesis of what happens now in your communities. Indeed, the very reason you fund community organizations is because they are not government and can be with people and work in communities in a way that government cannot.

What happens now in the women's shelter or the residence for people with disabilities is that each residence has a food budget, and the staff, along with the residents, plan their menu. Then they head off to the local grocery store where they load up the cart, carry it home

and cook it together. Think how healing it is for a young mother who has recently fled an abusive relationship to be able to give her child their favourite food.

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Consider also the pride and satisfaction of the people with disabilities as they work to prepare their special meal in the house. To participate with others in such a timeless activity, feelings of friendship and caring and belonging—it's these activities that the bill threatens.

We know that for smaller organizations, procurement policies so far are just a guideline; they don't have to follow them. But it's a slippery slope, and at any time they could be made mandatory.

In addition, if it is procurement today, what will it be tomorrow? In any case, why would you want to have guidelines that require volunteer boards of directors to defy them to stay true to their principles and values? That's not how you support your community partners. Moreover, for the larger transfer payment organizations, the harm is immediate as the procurement requirements are mandatory.

The auditor who does the local women's shelter audit at half price, the psychiatrist who makes time and loses money to support staff to manage some challenging behaviours, the local businessmen who give their cast-off furniture to the local agency, all the people receiving help, their families and neighbours—none of these people are asking you to impose this added burden, this make-work project, on local organizations.

There's no justification for these organizations to be included in this bill. It will do harm. Government procurement policies are not able to value relationships and local community connections.

I'm asking you all to do the right thing for the non-profit and charitable organizations working in communities, lifting people out of despair, making hard lives easier and building caring communities.

Please—we beg you—do not impose government procurement policies on your community-based service partners. Pass the amendments we have put before you.

Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you. We've got two minutes per side, beginning with the government. Mr. McNeely?

Mr. Phil McNeely: Thank you, Chair. Thank you very much for your presentation. You make some excellent points on what happens with these large pieces of legislation when it comes to small organizations that are dealing, generally, with volunteers.

We might want some advice from you on how the government could implement the broader public sector guidelines for organizations under $10 million if Bill 122 is passed.

I'd just like to ask you this question: The official opposition wants to place even further burdens on small organizations, including bringing them under freedom of information and posting all contracts. What would you think of that for your organization?

Ms. Lynn Eakin: I think I made it pretty clear that I think it is the polar opposite of what you actually want out of your community-based agencies. I don't think you understand how important the interactivity from these agencies with their local communities is, one, to their survival, and two, to the kind of work they do in communities with people. I think that you will do untold harm if you bureaucratize these organizations.

They already put out to tender. If they can get better prices, or if they haven't been able to get a half-price deal someplace, they put things out to tender and are required to put things out to tender by their funders already.

Mr. Phil McNeely: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. McNeely. To the PC side. Ms. McLeod?

Ms. Lisa MacLeod: Thanks very much, Chair. Thanks very much for coming in. I appreciate you being here today. I appreciate the passion and the heart with which you have brought your presentation forward.

Moving aside from procurement for a moment, what organizations—how do I ask this delicately? What is the amount of money that the majority of your organizations are receiving? Can you give me an average? From the government.

Ms. Lynn Eakin: From the government? No, we don't—but we do know that the majority of organizations would be well under $500,000.

Ms. Lisa MacLeod: So the majority would be receiving well under $500,000?

Ms. Lynn Eakin: There are some bigger ones. Depending on the program, some organizations are larger, but they range in size and the government funds the full range.

Ms. Lisa MacLeod: Okay. So let's look at it this way: If there's $500,000 coming from the province of Ontario or the government of Ontario to an organization, what are the appropriate controls for transparency and accountability for how those tax dollars are spent?

Ms. Lynn Eakin: They already are on, typically, line-by-line budgeting that they submit in great detail. If they're buying capital purchases, they usually have to identify those capital purchases to the funder for prior approval. They submit detailed reports. They have to request permission prior to being able to make any adjustments in their budget. Typically, if those are coming from various ministries, they're reporting, on separate reporting formats, to the various ministries on separate budget lines.

Ms. Lisa MacLeod: But you don't think that information should be made available to the public, if it's their tax dollars?

Ms. Lynn Eakin: Sorry; what are you asking?

Ms. Lisa MacLeod: I'm asking, I guess—for example, say that $500,000 is given to a transfer agency, and you're having an agreement with the provincial government, whichever ministry it is, or agency. Do you agree that there should be transparency to the public for those tax dollars?

Ms. Jini Stolk: May I? Non-profit organizations are required—

The Chair (Mr. Shafiq Qaadri): Apologies, Ms. MacLeod. I'll need to intervene there. In the absence of the third party, I will thank you for your deputation, Ms. Eakin, and for your presence here.

CONFEDERATION OF ONTARIO UNIVERSITY STAFF ASSOCIATIONS AND UNIONS

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward: Mr. Barry Diacon of the Confederation of Ontario University Staff Associations and Unions. Welcome, Mr. Diacon. Please begin.

Mr. Barry Diacon: Thank you, committee members, for inviting me to make a presentation.

The member groups of my organization, COUSA, represent a diverse variety of non-academic employees at many universities in Ontario. We are secretaries, technicians, lab assistants, academic counsellors, administrators, library assistants, clerks of various kinds, labourers, skilled trades workers, research nurses, research engineers, scientists and many others.

We welcome the scrutiny which has been placed on the hiring of lobbyists by publicly funded organizations in Ontario, including some of our universities. We have always believed that Ontario universities are adequately served by their respective public relations departments and through the organization of their administrations, the Council of Ontario Universities. We were quite shocked to learn that some of our institutions were engaged in expending public funds on consultant lobbyists.

I should hasten to add, however, that our organization supports increased government funding for universities. We think that the proportion that comes from tuition is far too high and threatens to erode accessibility of universities for many deserving students.

The use of consultant lobbyists diminishes the credibility of the whole campaign to increase government support for universities. It also puts universities into competing with each other more so than they already are. Once you get this thing started, then we're sure it could ramp up quite a lot to where all the universities, then, would soon be using lobbyists.

So we welcome the initiative to ban the hiring of lobbyists using Ontario public funds, but in the case of universities, we fear that the proposed law does not go far enough. Universities have many sources of funds besides the Ontario government funding. A short list includes:

—tuition paid by students which is regulated;

—tuition paid by students which is unregulated;

—grants from various governments and their agencies, including the Ontario Ministry of Health; the Canadian federal government, through SSHRC, NSERC, MRC, CFI etc.;

—grants from agencies in other countries, like the National Institutes of Health and the US military;

—grants from various commercial or charitable organizations for research;

—bequests from various private donors, most of which is designated for a particular purpose, but some of which is not designated;

—interest which the universities earn on short-term investments on unexpended funds, mostly from the advance government funding, student tuition and bequests; at McMaster alone, the short-term investment pool varies between about $40 million to $80 million over the course of a year, depending upon when the tuition has to come in.

—then, of course, there's also capital from bond issues.

In short, it's easy for universities to pretend that the source of payments for lobbyists comes from some source other than public funds.

So we would like to suggest certain modifications to the proposed legislation. The easiest and most straightforward would be to include "(b)" in the list of organizations to which section (1)(a)-(1)(b) applies, so that it would read:

"(b) in the case of an organization referred to in clause (2)(a), (b), (c), (d)" and so on—in other words, all of them.

A fallback position would be to include in the definition of "public funds" all student tuition fees and all interest or revenue which the universities earn from funds which commingle public funds with other sources of funding. In other words, the interest is quite a large amount of money, and you can buy all kinds of lobbyists with that money.

Thank you for listening to our submission.

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The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Diacon. We have a generous amount of time per side, I think almost four minutes or so, beginning with the PC caucus. Ms. MacLeod.

Ms. Lisa MacLeod: Thanks very much for your presentation. It was very succinct. I'm just wondering what your views are on freedom of information being extended across all public sector bodies?

Mr. Barry Diacon: That's a good thing. I know that's kind of a tangential part of this bill. It's not the most prominent part, but freedom of information is very good. Universities resisted it for a long time because they didn't want to set up the mechanisms and they didn't want to share any information with anybody. Particularly, they didn't want to share the compensation of their chief executive officers.

The Hamilton Spectator has been very diligent at getting out all that information, not only for McMaster but for all the universities, and posting it on their website. So I have to commend the Hamilton Spectator for doing all that research for all of us.

Ms. Lisa MacLeod: Great. What about disclosure of hospitality expenses and travel expenses with organizations who are using public money?

Mr. Barry Diacon: Absolutely. That's very important, too. McMaster has defended the travel expenditures

of Peter George on many of his foreign jaunts as being legitimate, profiling and raising of the flag of McMaster around the world. Maybe that's justified; maybe it's not. But in any case, it should be transparent and it should be freely available for everyone to see.

Ms. Lisa MacLeod: Thank you very much. I appreciate your time today.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod.

Mr. Barry Diacon: Oh, yeah, it's this side now.

The Chair (Mr. Shafiq Qaadri): No, it's to the NDP.

Mr. Barry Diacon: Oh, the NDP. Right. Sorry. I didn't know you're the NDP. I thought maybe you were, but—

M^me^ France Gélinas: That's okay. She's a Tory, but—

Mr. Barry Diacon: You're a Tory?

Interjections.

The Chair (Mr. Shafiq Qaadri): Mr. Diacon, few have made that error, but we thank you.

Mr. Barry Diacon: No, that's fine. As long as her heart's in the right place.

M^me^ France Gélinas: I can see where the confusion would come in.

Ms. Lisa MacLeod: Yeah, I have a heart.

The Chair (Mr. Shafiq Qaadri): Lisa, you must be softening up or something.

M^me^ France Gélinas: We don't get to laugh very often around there, so thank you for that.

I agree with what you've said. Wouldn't the bill make more sense if we simply banned the practice if lobbying rather than trying to define it with that pot and that pot of money? Just change the language of the bill to say, "make it illegal for organizations such as hospitals and universities to lobby"—would you see a problem with this?

Mr. Barry Diacon: No, and that's exactly what I propose: Just make it clear that none of them can do it. They have their PR departments that can draw to everyone's attention their own peculiar benefits to society, and that's good. Every university has its own particular achievements that it wants to let everyone know about, but hiring people who only do lobbying for a living to do this is a bit of a misuse, I think.

M^me^ France Gélinas: Would you feel that the funding of your particular university, McMaster, would be in jeopardy if they were not able to lobby anymore?

Mr. Barry Diacon: Well, McMaster was one of the ones that didn't engage in this practice, so I've got no fears. But this is the thing: Once some of them started doing it, and some of them did start doing it, then everyone wants to do it because they don't want to be left out. It's better to nip it in the bud.

M^me^ France Gélinas: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Now to the government side, Mr. Johnson.

Mr. Rick Johnson: Thank you for presenting today. You represent a great university. I've been there many times—

Mr. Barry Diacon: Well, I'm speaking for all of them, actually, but I happen to be from McMaster; that's all.

Mr. Rick Johnson: That's good, though. I have two children in college right now, so reading down the tuition list, I can understand some of the concerns.

Are you in favour of procurement rules being extended to universities?

Mr. Barry Diacon: On the face of it, I think it's a good idea, too. Anything which helps increase transparency is a good thing.

Mr. Rick Johnson: I know for myself, I have a great relationship with the universities and colleges in my area. The heads of universities or the colleges pick up the phone and call their MPP because that's what our job is. I appreciate the comments you've made here.

What supports and guidance do you think your members will require to comply with the new accountability provisions?

Mr. Barry Diacon: Well, some of the people who would be doing this wouldn't actually be my members. They'd be in management. Most likely it would affect managers more, but some of my members would then be tasked with assembling information and stuff like that in order to help produce reports. So it might mean that they'd have to prioritize their work and they've got to focus on this job rather than another job when the deadline's coming up to produce the report; that's all.

Mr. Rick Johnson: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson, and thanks to you for your deputation.

WATERLOO REGIONAL FAMILIES UNITED

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter to please come forward: Mr. Carter of Waterloo Regional Families United. Welcome, Mr. Carter. You've seen the drill. Please be seated, and I invite you to please begin now.

Mr. Chris Carter: Yes, sir. Just initially, I know this isn't required as part of the protocol, but I would like to swear to tell the truth and that everything that I report to this committee today is true and factual, as I understand it to be.

This is my second time presenting to the Standing Committee on Social Policy. I also presented in December 2008 in regards to Bill 103, which was also, perhaps coincidentally, a Deb Matthews-sponsored bill. She introduced that bill when she was the Minister of Children and Youth Services. I know that this committee works because, at that time, our very serious concern about that particular bill was that one of the legislative initiatives contained in that bill would have allowed foster parents the right to intercept mail between their foster children and those foster children's lawyers, which is obviously a violation of client-solicitor privilege. Perhaps based on the submissions that the committee heard, the committee very wisely removed that aspect from that

bill, and they were not allowed to do that. Thank you very much for that.

Just very briefly, I am a 44-year-old father from Cambridge, Ontario. Due to very, very severe, maliciously perpetrated litigation against me and my four children and the mother of my youngest child, I have been denied the right to parent my children, depending on the child, from anywhere from four to two years. Obviously, today my specific concern is with the lobbyist organization of the children's aid societies, which is, perhaps, familiar to you. It's known as the Ontario Association of Children's Aid Societies.

Since the changes to the Child and Family Services Act in 1999, when the Honourable Mike Harris was in power—which resulted in the lowering of the threshold standards that allow children's aid societies to become legally involved in a family's life on the allegation that a child is in need of protection—the damage incurred by the primarily working-class and poor children and families of this province has been severe and even unspeakable in nature. I would say that there is probably not an organization in this entire country today more publicly protested against than the children's aid societies in the province of Ontario; and the lobbyist business, which has been enthusiastically working hand in hand with the children's aid societies to commit these crimes against our communities, children and families, is the Ontario Association of Children's Aid Societies.

When I'm speaking about the children's aid societies committing crimes against our communities, specifically, I'm speaking about crimes which, in my opinion, meet the Criminal Code of Canada threshold criteria for offences, such as making false statements in affidavits, perjury—or, as I more commonly identify children's-aid-society sworn statements in court, testi-lying—and also crimes which aren't identified by the Criminal Code of Canada, but are much more violently destructive and immoral, namely, using children and families as commodities that, to them, have no human worth.

I did provide a package to the committee today, and if I could ask you to please refer to the handout: the Ontario Association of Children's Aid Societies, Achieving a Better Balance, November 2004. If I could get you to turn to the third page—I didn't include the entire report; it can be found on the association's website under the position papers heading. If I could get you to turn to the third page, which is page 8 from the report. This is a report by the Ontario Association of Children's Aid Societies. In this section that I'm going to read, they are referring to something called an operational review, which is a review done on children's aid societies by the Ministry of Children and Youth Services from time to time as the ministry sees fit. If you'll look at the second paragraph, I'm just going to read it into the record.

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"Agencies also believe that that these reviews need to be performed by a dedicated ministry unit of credible reviewers with current expertise to ensure consistency. Conducting operational reviews on an ad hoc basis using ad hoc teams means that the criteria for the reviews may be inconsistent and subjective according to the reviewers selected for the" operational review. "Agencies find" operational reviews "to be very labour intensive, stressful and expensive, and believe that they should be used only in exceptional circumstances where there is a reasonable concern of fraud, poor service standards, illegal practices or other significant shortcomings in an agency's operations."

I wonder if you, honourable members of the committee, will do me just one favour today when you leave here: Consider, and perhaps even research, whether, to any of our knowledge, any children's aid society in this province has been charged under the Criminal Code of Canada with fraud. Has the Ministry of Children and Youth Services ever explicitly acknowledged that a children's aid society is perpetrating illegal practices or poor service standards? I personally have spent a lot of time and energy researching the children's aid societies and the child protection system, and I do not know of one single case where the children's aid society has been found guilty of fraud. Yet here we have their very own lobbyist acknowledging that that has occurred.

One of the things, before I go on any further—and I'm not sure if this is already part of Bill 122. I will ask the committee to consider, if it's not already part of the bill, an amendment to the bill that will explicitly establish that if a lobbyist organization privy to insider information of its client subsequently becomes aware of any Criminal Code infractions committed by that client, that lobbyist or organization is legally obligated to report that infraction to any police service.

The children's aid societies and, by proxy, the Ontario Association of Children's Aid Societies, allege to operate in the best interest of children, working to achieve child welfare. That is a disgustingly obscene position for the families and children of this province being litigated against by the children's aid societies to accept. It simply is not happening. The thing that we need even more than Bill 131, to allow the Ombudsman the authority to investigate complaints against a children's aid society, at this point, is a public inquiry into the children's aid societies.

Back to the Ontario Association of Children's Aid Societies: I think it was last year that the Ontario Association of Children's Aid Societies began an "I am Your Children's Aid" campaign. Very briefly, and I'm not sure if the protocol allows this, have any of the members been exposed to that campaign? I don't know if you've seen the "I am Your Children's Aid" campaign. It's on YouTube. It shows perhaps six or so former crown wards or foster children who have achieved, I guess, perhaps a modicum of success in their lives as a result of having been protected and raised in the children's aid society system. This flies in the face of what we often hear anecdotally from the families involved. The children's aid society will often use the position—when one of their crown wards grows up and has children of their own, the children's aid society—

The Chair (Mr. Shafiq Qaadri): Mr. Carter, I'll need to intervene there. We do have five minutes left now for

questions, which will begin with the NDP. Madame Gélinas.

M^me^ France Gélinas: Thank you for your presentation. The first question I'd like to ask is: You did mention briefly Ombudsman oversight of the children's aid society.

Mr. Chris Carter: Yes, ma'am.

M^me^ France Gélinas: This is something that I feel has been needed for a long time. Could you expand a little bit as to what changes it would bring if we had Ombudsman oversight of our children's aid?

Mr. Chris Carter: Okay. Now, I apologize, because there is no way to talk about child protection without ruffling feathers, shall we say. But my personal experience and my knowledge—acknowledging that, without a doubt, we need organized child protection in this province and this country; that goes without saying. But my personal experience is that what I will classify as the Ontario Court of Justice's secretive Child and Family Services Act children's aid society court is not just blatantly but actually openly aligned with the children's aid societies.

I don't want to make this about myself, because I am just one of an uncountable number of families who are being hurt, but I personally represented myself in a 22-day trial against the Waterloo regional children's aid society—

The Chair (Mr. Shafiq Qaadri): Merci, madame Gélinas, pour vos questions. I offer the floor now to Mr. Johnson.

Mr. Rick Johnson: Thank you for your presentation and for providing these documents. You are obviously very passionate about this. Would you support the expansion for the lobbyist ban, expense rules and procurement rules applying to CAS agencies?

Mr. Chris Carter: Most definitely. But this is a double-edged sword, because approximately just under $3 million in membership fees, taxpayers' dollars, which the Ontario Association of Children's Aid Societies currently receives from its children's aid society members—that money is just more than likely going to go to perpetrate more malicious litigation against children and families in this province. So it is a double-edged sword.

But as I was stating previously, the denial of due process and the denial of procedural fairness which is occurring in the Ontario Court of Justice against families being litigated against by the children's aid societies is severe. It's obscene, it's violently injurious, it is perverted, and I just cannot understand why the province of Ontario is allowing our families to be brutalized and destroyed by those two business partners: the Ontario Court of Justice and the children's aid societies. I don't understand.

The Chair (Mr. Shafiq Qaadri): Thank you. To the PC side: Ms. MacLeod.

Ms. Lisa MacLeod: Thanks very much. Before we went into the round of questioning, you were making an impassioned plea, and I just wanted to know if you'd just like to continue. I'd like to give you the time.

Mr. Chris Carter: Thank you very much. As I said before, I'm one of many. On the sheet, I'm identified as a representative of Waterloo Regional Families United. In 2003, in its very first year of existence, in one of its very first official acts, the Ministry of Children and Youth Services undertook to complete a research project which they titled A Review of the Legal Services of the Children's Aid Societies of the Central-West Region.

The ministry subgroups the children's aid societies into regions. The Waterloo regional children's aid society is in a region identified as the central-west region, with the CASs of Wellington, Halton, Dufferin and Peel. The sole objective of that research project was to ascertain and correct the issues which were resulting in the Waterloo regional children's aid society experiencing higher rates of litigation than any of the other CASs in the central-west region. When I put a FIPPA FOI request for that document in 2008, I was told by the ministry's freedom-of-information officer that I was wasting my time: over 50% of the document would be blacked out, and actually they assigned a fee of $187 to produce the document.

As well, I have another—just so that we understand the true nature of FIPPA FOI requests—

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The Chair (Mr. Shafiq Qaadri): Mr. Carter, with regret, I'll need to intervene there. I thank Ms. MacLeod for her questions, and I thank you for your presentation on behalf of Waterloo Regional Families United.

SERVICE EMPLOYEES INTERNATIONAL UNION

The Chair (Mr. Shafiq Qaadri): I invite our next presenter to please come forward: Mr. Callan, director of policy and capital stewardship, Service Employees International Union.

Mr. Callan, welcome. You've seen the protocol. I invite you to please begin now.

Mr. Eoin Callan: My name is Eoin Callan, and I'm with SEIU, which represents more than 100,000 members across Canada from a diversity of sectors and cultural backgrounds.

We're the fastest-growing union in Ontario, the fastest-growing union in Canada and the fastest-growing union in North America. We represent more than 50,000 members who are front-line health care workers here in Ontario, who work in hospitals, nursing homes, retirement homes, in-home care and community services—a diverse group of people, predominantly female, that includes practical nurses, personal support workers and other front-line caregivers.

I'd like to talk for a moment about accountability in the health and long-term-care sector in particular.

"High-priced hospital consultants expensing $700-a-night hotel rooms in Singapore, Christmas luncheons and boozy dinners, all charged to taxpayers"—that's how the Toronto Star described life for executives at Ontario hospitals.

The Office of the Auditor General, in an independent audit delivered to the Legislative Assembly here, provided a similar assessment in a special report in October on selected health organizations.

Jim McCarter described a hospital executive being paid approximately $270,000 annually while being classed as a consultant, and also claiming another $97,000 in fees to have another consultant perform his duties. He charged an additional $50,000 in support fees, which was not authorized but was paid, and he paid himself thousands more in bonuses. Not satisfied to stop there, the executive consultant also charged the hospital, and was paid, for what the auditor called "questionable business-related expenses" during around-the-world trips.

Unsurprisingly, the head of the Ontario Hospital Association, Tom Closson, had one thing of note to say in the wake of the report: "We apologize to the people of Ontario." The apology of Mr. Closson is noted; however, the damage has been done. Public trust has been eroded.

It is clear that a culture of entitlement has arisen among executives in our health care system, and that culture of entitlement is anathema to the values of Ontarians. It offends their sense of fairness; it offends their sense of reason. You can see evidence of this, or hear evidence of this, across Ontario, whether you're in Peterborough, Hamilton, Etobicoke or Brampton. Voters are deeply offended by how their tax dollars are being spent by executives in our health care system.

The revelations of the Auditor General show that Ontarians are not getting full value out of their investment in health care services. Too much is being wasted by executives who are taking more than their fair share and siphoning off tax dollars that should be going to front-line care.

What you have is what investors or shareholders would call an agency problem: when the owners of a company—the shareholders—have interests, and those interests diverge from those of the folks managing that company, that organization, and you have inadequate tools to hold those running the organization accountable. So they run the organization not in the interests of you, the owners, the effective shareholders in these organizations, but they begin to run these organizations in their own interest, in the interests of management.

One of the conclusions that investors or shareholders have come to is that sunlight is an important response and a vital response to the agency problem that they encounter from time to time, and that's because sunlight can be the best disinfectant.

We heard the Minister of Health and Long-Term Care, Deb Matthews, say, when introducing this legislation, that it's like pulling the fridge out. Sometimes you don't really want to know what has gathered behind your fridge, but pulling the fridge out and cleaning up is the right thing to do.

That's why the Broader Public Sector Accountability Act is necessary. The act, if passed, will lead to higher accountability standards for hospitals and local health integration networks. The act will expand freedom-of-information legislation to cover hospitals, it will require hospitals and LHINs to post the expenses of senior executives online and it will require hospitals and LHINs to report annually on their use of consultants.

Each of these steps will contribute to greater transparency. They will bring sunlight to the delivery of vital health care services in the management of the hospitals in our health system, and they will help ensure that precious health dollars go to front-line care. Each of these steps will also ensure that Ontarians get more value out of their investments in public services. Together, with some hope, these steps will increase public confidence in our health care system.

Importantly, LHIN and hospital executives will also see reductions in pay if they fail to comply with the requirements under the act. Forcing executives to pay back taxpayers will increase accountability, and it's vital we make sure that that enforcement is in place, should this act be passed.

SEIU has two recommendations: The first is that the bill be passed and implemented in a timely fashion, and the second is that the bill be expanded so that freedom-of-information legislation also covers community care access centres. As it stands, if passed, the act will result in freedom-of-information legislation being applied to both hospitals and local health integration networks, two important pillars of the province's health care system. We're recommending extending that legislation so that it applies to that third important pillar of our hospital system, CCACs.

CCACs, as most of you probably know, were created in 1997, about 14 years ago, and there are now 14 of them across the province that manage local care. Just like the 14 LHINs and public hospitals, CCACs are funded by this Legislature and by the Ministry of Health and Long-Term Care. This public funding means that because of taxpayer dollars, CCAC advice and services are covered by OHIP.

The 14 local health integration networks are already under the FOI act; the current amendment is to include hospitals under the act. The next logical step is to include the 14 CCACs under the act, given their similar scale, their services, their public funding model and the need to strengthen accountability and enhance transparency in the selection of service providers in Ontario who deliver home care.

The transparency of CCACs might not sound like something that matters a great deal to voters in your constituencies, but in fact, we know from history that it does. Those of you with good memories will recall when, in 2007 in the city of Hamilton, hundreds, if not thousands of people took to the streets because of concern about the lack of transparency and the process by which the local CCAC awarded contracts to home care services, stripping away the funding for a long-standing not-for-profit agency that had been in that community for more than 80 years and awarding it to a for-profit US provider without adequate transparency or accountability in place, in the view of many members of the public who came out in force.

So that's why we're recommending that, in addition to LHINs and hospitals, CCACs be included. That would simply require amending the penultimate sentence of the legislation so that where it reads "hospitals," it would read: "hospitals and CCACs." Those are the only words that would need to be added to this bill.

Making hospitals and LHINs subject to freedom of information, but not CCACs, is a bit like pulling out your fridge and pulling out your dishwasher, but then ignoring the 14-year-old freezer that's been sitting in the corner for more than a decade. Pull it out. Clean it up. It's the right thing to do. Pretending it's not there and that there's nothing lurking behind it is a mistake and it will come back to haunt you.

I'll stop there.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Callan. Two minutes per side, starting with the government. Mr. Johnson?

Mr. Rick Johnson: Thank you for your presentation. I appreciate the depth that you've gone into on this. Bill 122 will require hospitals to report on their use of consultants. Do you think this will increase accountability in the health care system?

Mr. Eoin Callan: Yes, absolutely. The measures to require hospitals to report on their use of consultants, to post the expenses of CEOs and senior executives online and to punish non-compliance by giving boards the power to claw back, or have taxpayers be paid back, are important steps that will increase transparency and accountability.

Mr. Rick Johnson: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Johnson. PC caucus: Ms. MacLeod.

Ms. Lisa MacLeod: Thanks very much. Great presentation. I appreciate your recommendation that this be expanded to CCACs. In fact, I'll be putting forward an amendment to this bill that would not only do that, extend this legislation to CCACs, but also out of the broader public service, because right now it's really only limiting freedom of information to some elements in the health care field. I'm just wondering your opinion on that.

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Mr. Eoin Callan: As stated during the presentation, extending the freedom-of-information act so that in addition to applying to LHINs, as is currently the case, and in addition to applying to hospitals, which would be the case if the act was passed, it would also apply to CCACs and capture that third important pillar of our health care system in Ontario, and help to instill maximum public confidence that there is transparency and accountability in our health system. It's our view that we would all be well served and that the members of this committee and this Legislature and the democratic process would be well served by taking those steps to instill greater public confidence.

Ms. Lisa MacLeod: How would you feel about expanded Ombudsman oversight into the health care sector?

Mr. Eoin Callan: The Ombudsman has shown himself to be an enterprising watchdog and, in many instances, a diligent one. He has certainly brought additional transparency and a degree of accountability to several sectors of our government.

I think we can see from the Auditor General's report in October that there are significant issues around transparency, accountability and appropriate use of taxpayer funds. The Auditor General only looked at 16 hospitals and found that at least half of those were engaged in practices that required closer scrutiny around their use of consultants in particular. He didn't attempt to audit the rest of the system but has made recommendations which are being realized in the act before you.

It certainly—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod. Madame Gélinas, le plancher est à vous.

M^me^ France Gélinas: Thank you for your presentation. It was very well done. I certainly support extending freedom of access to information to CCACs. I would bring it a step further and ask your opinion. There is an exemption right for long-term-care homes. Do you feel that not being able to access information via freedom of access to information of long-term-care homes is beneficial, or should they be included?

Mr. Eoin Callan: I guess in simple terms, we have significant risk of what investors would call an agency problem in the long-term-care sector. We have public dollars being flowed to for-profit operators, many of them US-based. Those for-profit operators run our long-term-care homes ostensibly in the interest of the residents, in the interest of taxpayers, but they also have a fiduciary duty to their boards and their investors to maximize shareholder return. That creates a situation that, based on the auditor's examination of the hospital sector and the LHINs, suggests that there would be additional benefits if we were to bring greater transparency and greater accountability—if we were to bring sunlight to the full extent of the operations of for-profit nursing home chains in Ontario.

M^me^ France Gélinas: Would your answer be similar for retirement homes?

Mr. Eoin Callan: Well, retirement homes, as I'm sure you're aware, are in the process of being regulated in this province. That process is not yet complete. We're looking to see the final regulations that will govern retirement homes in this province before making an assessment about whether there is adequate transparency and accountability.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Callan, for your deputation on behalf of Service Employees International Union.

OFFICE OF THE INTEGRITY COMMISSIONER OF ONTARIO

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to please come forward, an officer of the Legislature, as you'll know, from the Office of the Integrity Commissioner of Ontario: Lynn Morrison,

Integrity Commissioner, accompanied by legal counsel, Ms. Jepson. Welcome.

Just to review, you'll have 10 minutes in which to make your presentation and five minutes for questions afterward. We invite you to please begin now.

Ms. Lynn Morrison: Good afternoon, and thank you for giving me this opportunity to speak to you today on Bill 122, the Broader Public Sector Accountability Act. I'm happy to be here. Of course, I think you all may know Valerie, my legal counsel.

As you know, I am not only the Integrity Commissioner for the province of Ontario, but I am also the lobbyist registrar. My remarks today are made in my role as registrar, overseeing the registry, which has been in place since 1999.

The bill before you covers a number of different areas, but my remarks will be confined only to the sections relating to the lobbyists and the proposed changes to the Lobbyists Registration Act. In this, I have three main points I'd like to raise with you.

First, I want to let you know that my office is preparing for any changes that result from this legislation. It contains a new requirement for a letter of attestation from some lobbyists. We have reviewed our systems and our processes, and we will be ready as required.

Second, I would like to speak about lobbyists and the act. The Lobbyists Registration Act creates a registry to document and track lobbying activity undertaken in the province. The registry covers two types of lobbyists: consultants, and those who work in-house as employees of an organization. As the committee knows, it is the activity of consultants that is the subject of this bill.

It's important to realize that the organizations covered by Bill 122 will still be able to lobby government without hiring consultants. They will do it themselves and, of course, will be required to register when lobbying comprises a significant part of their duties, as defined in the Lobbyists Registration Act.

I have noticed that since Bill 122 was introduced, there is a growing concern about having a registration on the registry. I want to put it on the record that having a registration, as long as the activity is compliant with the law, is not a bad thing. It only provides transparency.

Lobbying is a legitimate activity. Elected officials and public servants benefit from the information provided by various types of organizations and entities. Lobbyists of all types, including consultant lobbyists, help these organizations to better understand how policy and laws are created, and how to ensure their information provides the maximum benefit and impact.

Finally, on my third point, I want to elaborate about my experience with the registry and how I believe it has helped shine a light on lobbying activity. My office works very hard to review each registration and assess the information provided. We frequently contact the registrants to ask for more details and, as registrar, I accept these only when I am satisfied that they are telling the full story of their lobbying activity.

The registry is user-friendly. It is public. It is accessible online. Not only can you find out who is lobbying whom, but you can also check the inactive list to get information on past activities. I encourage you to check it regularly, as it provides a wealth of information that I believe supports the goal of transparency in lobbyist dealings with the government.

In closing, I would be pleased to answer any of your questions and provide additional information about the registry and the Lobbyists Registration Act to any member of the assembly or their staff, should they wish it.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Morrison. We've got three minutes or so per side, beginning with Ms. Jones.

Ms. Sylvia Jones: I'm sorry I came halfway through your presentation. I did want to ask a question that was raised yesterday by a number of presenters. There was concern that the legislation, as it is written, does not have anything in it if a lobbyist is in non-compliance. Would you have any recommendations for the committee in how we could strengthen this legislation to ensure that those who weren't following the rules would be properly dealt with?

1730

Ms. Lynn Morrison: First of all, it's an offence under the Lobbyists Registration Act not to comply. It has provisions for fines of up to $25,000 for non-compliance, if convicted.

At this moment, my office has policies and procedures in place to deal with complaints. We've successfully relied on moral suasion to encourage individuals to register when necessary, and to ensure that they are complying.

But with all due respect, my job is to administer the act, and I think it's up to the members to decide what they need to ensure compliance.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Jones. Madame Gélinas.

M^me^ France Gélinas: I'm a little bit worried about some pictures that came to my mind as you were going through your presentation. Am I right in thinking that some lobbying activity will now not need to be reported, won't be on the registry, for the simple reason that the percentage of time spent on lobbying will be below the threshold?

Ms. Lynn Morrison: There are three types of lobbyists. The consultants have to register within 10 days of their first communication.

For in-house organizations—your not-for-profit organizations and associations—it's the accumulated activity of paid employees reaching a threshold of a significant part of their duties, which is 20%, which equates to about four days' lobbying per month.

For in-house persons and partnerships, your for-profit organizations—your pharmaceutical companies and similar for-profit organizations—each employee must spend 20% of their time, or four days a month, before they're required to register.

Having said that, I can tell you that there are a large number of organizations on the registry—I don't know for sure, but I don't expect that they're lobbying four

days a month, 12 months a year. I think a lot of them have registered out of an abundance of caution and for transparency purposes. The same applies for your for-profit companies.

M^me^ France Gélinas: So basically the system works, if they are coming forward—

Ms. Lynn Morrison: It has been, I think, yes.

M^me^ France Gélinas: Okay. I was curious when you said, "I accept these only once I'm satisfied that they are telling the full story of their lobbying activities". Have you ever not accepted somebody or delayed their acceptance, which meant they couldn't do their lobbying?

Ms. Lynn Morrison: No. At that point, if we receive a registration, whether it's an initial registration or a renewal, if the activity is not clear to me such that I think that the ordinary person on the street could get some sense of what the lobbying activity is about without revealing secrets or confidential information, then we will contact the lobbyist and ask for further information

M^me^ France Gélinas: I also take it from your presentation that you're not looking for word changes to the bill.

Ms. Lynn Morrison: Some minor changes. Maybe Valerie could speak to that.

The Chair (Mr. Shafiq Qaadri): I'll need to intervene there, Madame Gélinas. To the government side, to Monsieur McMeekin.

Mr. Ted McMeekin: Ms. Morrison, I appreciate your perspective. I appreciate the good work you do as well, so I'll just put that on the record.

I get a sense from listening to you as you speak—I would appreciate your comments on this. I don't want to put words in your mouth, but it sounds to me, reading perhaps between the lines, that you might have some concerns about lobby chill here in terms of the impact of the legislation. You've talked about the registry, how well it works and the protections that are there. Are we using a cannon to shoot a mouse here? What's your sense on that?

Ms. Lynn Morrison: I have some concerns that that may be happening. I have no proof. I obviously observe the registry on a daily basis and I look at every registration. I see terminations. I think it's due to a misunderstanding of what the legislation really says, that a lot of people do not understand that in-house lobbyists are employees of organizations that are entitled to lobby. It's a legitimate activity. They need to contribute information. I'm seeing some terminations that concern me. Whether it's due to this bill or not, I don't know.

Mr. Ted McMeekin: Okay. Thanks.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. McMeekin.

And thanks to Ms. Morrison and to your legal counsel, Ms. Jepson, for your deputation on behalf of your Office of the Integrity Commissioner of Ontario.

If there is no further business for this committee, I'd just remind committee members that amendments are due solidly by Friday, November 26, at 12 noon. As it's through the House, there will be no extensions, no late amendments.

Is there any further business before this committee? Committee adjourned.

The committee adjourned at 1736.

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