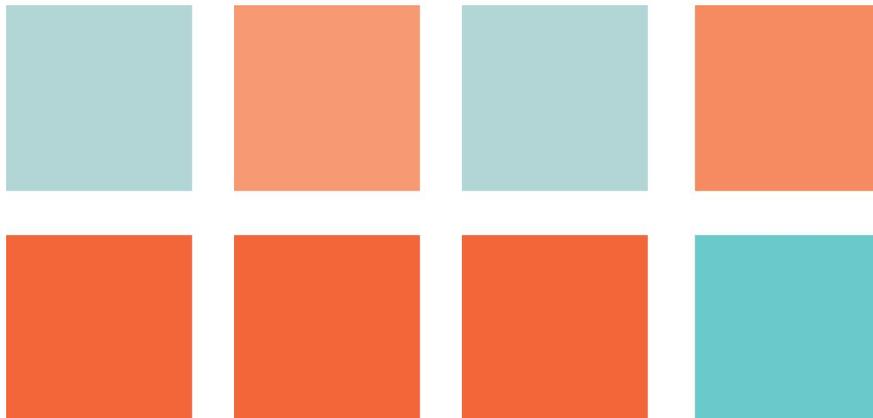


**Submission to the Ministry of Health on
regulations related to Bill 60, Your Health Act,
2023**

July 2023



The Registered Nurses' Association of Ontario (RNAO) represents more than 50,000 registered nurses (RN), nurse practitioners (NP) and nursing students across the province. For nearly a century, the association has advocated for changes that improve people's health.

Introduction

RNAO welcomes the opportunity to present our views on the following regulations related to Bill 60, Your Health Act, 2023, posted on June 9, 2023:

- Proposal 23-HLTC041: Proposed regulations under the Integrated Community Health Services Centres Act, 2023
- Proposal 23-HLTC042: Proposed regulatory amendments to allow out-of-province regulated health professionals to temporarily practice in Ontario without registration with an Ontario regulatory college.

RNAO's response to these regulatory proposals is shaped by the yawning gap between Bill 60 and RNAO's vision for Ontario's health system. RNAO's vision is of an Ontario that creates the conditions for health and wellness for everyone, that addresses the many determinants of health. This means a system that is:

- **accessible**, with interprofessional care teams anchored in the communities where people live, work and play
- **person-centred**, where a person and their support system are viewed as a whole and powered to be genuine partners for their own health
- **equitable**, where deliberate efforts are made to decrease gaps in health outcomes, services and experiences
- **integrated**, where care is coordinated so that transitions from sector to sector and service to service are all seamless
- **publicly-funded and not-for-profit**, so that it is sustainable, efficient and equitable and everyone – no matter their means – receives the care they require

Although Bill 60 nominally espouses many of these principles, RNAO has repeatedly expressed grave concerns about the threats the bill represents to the foundations of universal health-care delivery in our province. The parallel for-profit delivery system resulting from Bill 60 undermines the public system and stress its already-beleaguered health human resources. Provisions in the bill also undermine existing self-regulation of health professionals, including nurses.

More generally, we remain very concerned that there are no limits under the legislation on profitizing health-care delivery in our province has been put forward in far-reaching draft legislation that leaves blanket discretion to cabinet to do whatever it wants via regulation. Major changes impacting our public health-care system – a system so highly valued and so integral to the social and political fabric of our province and country – warrant far fuller transparency and meaningful opportunity for comment. This is especially true given the open-ended powers the bill gives to ministers, cabinet and – most problematically – unelected “directors.” The only protection that Ontarians can hope for must come from appropriate regulatory guardrails. But, the regulations proposed to date give us no reassurance in that regard. Ontarians require much better.

The proposed regulations

A. **Proposal 23-HLTC041:** Proposed regulations under the Integrated Community Health Services Centres Act, 2023

Bill 60 repeals existing legislation – the Independent Health Facilities Act (IHFA) – and replaces it with the Integrated Community Health Services Centres Act. This proposed regulation would carry over some existing regulatory requirements in the IHFA ¹, and add some requirements to that scheme, including:

- appointing a quality assurance advisor and an advisory committee to advise the advisor
- meeting generally accepted professional standards
- maintaining patient and financial records
- complying with the patient complaints process laid out in the regulation
- posting
 - a “list of prices for all uninsured services that are offered by licensee at the centre and the process for obtaining patient consent in connection with those services”
 - the “licensee’s process for receiving and responding to patient complaints pursuant to section 22 of the Act and sections 21 to 25 of this Regulation.”
 - the “contact information for the patient ombudsman under the Excellent Care for All Act, 2010.”
 - the “phone number and email address for the Ministry’s Protecting Access to Public Healthcare program.”

Further, the regulation prescribes the College of Physicians and Surgeons of Ontario and the College of Midwives of Ontario – currently quality assessors under the IHFA – as inspecting bodies. It is also noted that further regulatory amendments may be expected in autumn 2023.

RNAO commentary

Bill 60 would enable outsourcing of public health services to private, generally for-profit clinics on the flawed assumption that more care would be provided at a reduced unit cost with no loss in quality of care nor destabilization of the health-care workforce. As RNAO pointed out in a previous submission to this ministry ², evidence around the world contradicts these claims. RNAO, therefore, expects that any regulation triggered by Bill 60 would mitigate the worst effects of the expansion of for-profit health services in Ontario. Specifically, RNAO assesses proposed regulations under Bill 60 based on their ability to protect patient health and safety, contain profit-driven costs and prevent exodus of health human resource from the public sectors to the private for-profit one.

The provisions set out in Proposal 23-HLTC041 completely fail to recognize the perverse incentives that profit motives trigger in health care. Nor do these provisions address the tendencies of privatized, investor-driven, for-profit surgical clinics to privilege profit over safety and quality of outcomes. As a result, Bill 60 places patient health and safety at risk. Further, Bill 60 forces patients into commercial relationships with private, for-profit providers, with the onus placed on patients to resist upselling pressures from commercial entities without adequate support or information. Moreover, Proposal 23-HLTC041 does not address the impact of ICHSCs on the health human resource workforce or the anticipated tendency of ICHSCs to pull health human resources out of the not-for-profit health system. Finally, given the grave concerns RNAO has regarding investor-driven health care, we expect that any

and all health facilities legally protect nurses by providing them with professional liability insurance such as is now done by Ontario hospitals.

RNAO looks forward to regulatory proposals that address the application process with the expectation that prescribed assessment criteria for ICHSCs will address quality of health practices, cost containment, and impacts on the broader health system, with a particular focus on implications for health human resources.

B. Proposal 23-HLTC042: Proposed Regulatory Amendments to Allow Out-Of-Province Regulated Health Professionals to Temporarily Practice in Ontario Without Registration with an Ontario Regulatory College

These regulatory amendments would permit health professionals registered in other provinces to work in Ontario providing they meet the following six criteria (quoted below directly from the proposal):

1. The person is registered with a regulatory authority in a Canadian jurisdiction, other than Ontario, and holds in that jurisdiction the equivalent of a certificate of registration authorizing independent practice in Ontario.
2. A regulatory authority in a Canadian jurisdiction has not refused to grant the person a certificate of registration in the profession within the last two years.
3. A finding of professional misconduct, incompetence or incapacity has not been made against the person as a result of a proceeding.
4. The person must not be the subject of any current professional misconduct, incompetence, or incapacity proceeding.
5. In Ontario, the person only provides services in public hospital or long-term care home.
6. The person has submitted to the college an application for a certificate of registration prior to providing professional services.

RNAO commentary

RNAO recommends this regulatory amendment be withdrawn, and that instead there be alignment with mechanisms already in place through labour mobility provisions to allow out-of-province regulated health professionals to practice in Ontario without Ontario registration. The existing mechanisms enable immediate registration upon application to the College of Nurses of Ontario (CNO), with applicants then given a defined time frame to meet requirements. Given these applicants are registered with the CNO prior to working in Ontario, the CNO's public protection role is not compromised³.

The CNO, with its long history of public protection, has recently initiated a number of new processes to expedite registration of out-of-province and out-of-country applicants. These processes both meet the goals of the government to remove potential barriers to registration, and support safe practice for the public of Ontario.

The CNO has no jurisdiction over nurses who are not registered in Ontario, and other provincial regulatory bodies face legal challenges in regulating professionals working outside their jurisdiction. Therefore, the proposed regulation leaves out-of-province nurses undocumented in Ontario and, consequently, with no regulatory oversight. Further proposal 23-HLTC042 does not make clear how the

six conditions for out-of-province nurses to work in Ontario listed above will be monitored, nor by whom. If this is not carried out through the CNO, there is risk of introducing another process, potentially resulting in additional time and cost.

While fast-tracking out-of-province regulated health professionals is important for those interested in moving to Ontario, RNAO is opposed to poaching health professionals from other jurisdictions. While the nursing crisis is particularly acute in Ontario – largely due to a long history of understaffing and the impacts of Bill 124 – jurisdictions across Canada are having to contend with nursing shortages. Our Ontario nursing crisis is a made-in-Ontario crisis and the solution needs to be a made-in-Ontario solution. That solution comes in the form of provincial policy that focuses on nurse retention, first and foremost⁴. RNAO strongly believes the intent of “as of right” – to facilitate mobility of regulated health professionals across Canada – is best met through collaborative approaches resulting in national regulation.

Conclusion

Through the expansion of for-profit delivery of health care, Bill 60 has the potential to reshape health care in Ontario profoundly to the detriment of Ontarians’ health and safety. The bill will lead to poorer health outcomes, higher costs, and less overall access to health-care services for those most in need. The bill will deepen the nursing crisis by draining staff into the for-profit sector, while leaving the most complex procedures to the public sector which will experience higher staffing shortfalls. The bill will undermine the longstanding health professions regulatory framework established to protect the public, resulting in lack of proper oversight over health professionals who would be working but not licensed in Ontario. And, the bill will delegate essential components about the delivery of health-care services in Ontario to unnamed and unelected officials, without the public accountability that comes with elected positions. Access to a universal and equitable health-care system – access that all Ontarians need and deserve – must not be profitized in our province or our country.

Because of these concerns, RNAO looks to proposed regulations related to Bill 60 to constrain the profit incentives in our health care system unleashed through this act. Those posted on June 9, 2023, as analysed above, fail in this crucial task.

¹ O.Reg 353/13, O.Reg 57/92, R.R.O. 1990, Reg 650 and R.R.O, 1990, Reg 649

² Registered Nurses’ Association of Ontario. (2023). Submission to the Ministry of Health on Bill 60, Your Health Act, 2023. <https://rnao.ca/media/3914/download?inline>

³ College of Nurses of Ontario. (2023). Letter to Standing Committee on Social Policy, March, 23, 2023. <https://www.cno.org/globalassets/docs/general/bill60-submissions-feedback.pdf>

⁴ Registered Nurses’ Association of Ontario. (2023). Nursing Career Pathways: Opportunities and Barriers. <https://rnao.ca/policy/library/nursing-career-pathways-2023>.