

Motions package

Bill 8

An Act to establish the Ontario Health Quality Council, to enact new legislation concerning health service accessibility and repeal the Health Care Accessibility Act, to provide for accountability in the health service sector, and to amend the Health Insurance Act

Government Motions

Bill 8

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Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Preamble, paragraph 7

I move that paragraph 7 of the Preamble to the Bill be amended by adding “that reflects the public interest and” after “in a way”.

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M_____

Preamble, paragraph 8

I move that paragraph 8 of the Preamble to the Bill be struck out and the following substituted:

Affirm that a strong health system depends on collaboration between the community, consumers, health service providers and governments, and a common vision of shared responsibility;

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M_____

I move that the amendment to paragraph 8 of the Preamble to the Bill moved by Ms Smith be amended by striking out “consumers” and substituting “individuals”.

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M_____

Preamble, new paragraph

I move that the Preamble to the Bill be amended by adding the following paragraph after “high quality health services to all Ontarians”:

Recognize the importance of an Ontario Health Quality Council that would report to the people of Ontario on the performance of their health system to support continuous quality improvement;

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M_____

Section 1, definition of “health system organization”

I move that section 1 of the Bill be amended by adding the following definition:

“health system organization” means,

- (a) any corporation, agency or entity that represents the interests of persons who are part of the health sector and whose main purpose is advocacy for the interest of those persons,
- (b) the College of a health profession or group of health professions as defined under the *Regulated Health Professions Act, 1991*, or
- (c) a health resource provider within the meaning of Part III; (“organisme de santé”)

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Subsection 2 (7)

I move that subsection 2 (7) of the Bill be amended by striking out “or a senior staff member” and substituting “or the chief executive officer or an officer”.

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M_____

Section 5

I move that subsections 5 (1), (2) and (5) of the Bill be struck out and the following substituted:

Reports

- (1) The Council shall deliver to the Minister,
 - (a) a yearly report on the state of the health system in Ontario; and
 - (b) any other reports required by the Minister.

Tabling

(2) The Minister shall table a report under this section in the Legislative Assembly within 30 days of receiving it from the Council, but is not required to table the Council's annual business plan.

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M_____

Section 6

I move that section 6 of the Bill be amended by striking out clauses (a) and (c) and substituting the following:

(a) governing the Council's constitution, management, structure and legal status";

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(f.1) regarding the nature and scope of the yearly report required by section 5;

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M_____

New section 6.1

I move that Bill be amended by adding the following section:

Public consultation before making regulations

6.1 (1) Subject to subsection (7), the Lieutenant Governor in Council shall not make any regulation under section 6 unless,

- (a) the Minister has published a notice of the proposed regulation in *The Ontario Gazette* and given notice of the proposed regulation by all other means that the Minister considers appropriate for the purpose of providing notice to the persons who may be affected by the proposed regulation;
- (b) the notice complies with the requirements of this section;
- (c) the time periods specified in the notice, during which persons may make comments, have expired;
- (d) the Minister has considered whatever comments and submissions that members of the public have made on the proposed regulation, or an accurate synopsis of such comments; and
- (e) the Minister has reported to the Lieutenant Governor in Council on what, if any, changes to the proposed regulation the Minister considers appropriate.

Contents of notice

(2) The notice mentioned in clause (1) (a) shall contain,

- (a) a description of the proposed regulation and the text of it;
- (b) a statement of the time period during which a person may submit written comments on the proposed regulation to the Minister and the manner in which and the address to which the comments must be submitted;
- (c) a description of any other methods by which a person may comment on the proposed regulation and the manner in which and the time period during which they may do so;
- (d) a statement of where and when members of the public may review written information about the proposed regulation;
- (e) any prescribed information; and
- (f) any other information that the Minister considers appropriate.

Time period for comments

(3) The time period mentioned in clauses (2) (b) and (c) shall be at least 60 days after the Minister gives the notice mentioned in clause (1) (a) unless the Minister shortens the time period in accordance with subsection (4).

Shorter time period for comments

(4) The Minister may shorten the time period if, in the Minister's opinion,

- (a) the urgency of the situation requires it;
- (b) the proposed regulation clarifies the intent or operation of this Part or the regulations; or
- (c) the proposed regulation is of a minor or technical nature.

Discretion to make regulations

(5) Upon receiving the Minister's report mentioned in clause (1) (e), the Lieutenant Governor in Council, without further notice under subsection (1), may make the proposed regulation with any changes that the Lieutenant Governor in Council considers appropriate, whether or not those changes are mentioned in the Minister's report.

No public consultation

(6) The Minister may decide that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under section 6 if, in the Minister's opinion,

- (a) the urgency of the situation requires it;
- (b) the proposed regulation clarifies the intent or operation of this Act or the regulations; or
- (c) the proposed regulation is of a minor or technical nature.

Same

(7) If the Minister decides that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under section 6,

- (a) those subsections do not apply to the power of the Lieutenant Governor in Council to make the regulation; and
- (b) the Minister shall give notice of the decision to the public as soon as is reasonably possible after making the decision.

Contents of notice

(8) The notice mentioned in clause (7) (b) shall include a statement of the Minister's reasons for making the decision and all other information that the Minister considers appropriate.

Publication of notice

(9) The Minister shall publish the notice mentioned in clause (7) (b) in *The Ontario Gazette* and give the notice by all other means that the Minister considers appropriate.

Temporary regulation

(10) If the Minister decides that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under section 6 because the Minister is of the opinion that the urgency of the situation requires it, the regulation shall,

- (a) be identified as a temporary regulation in the text of the regulation; and
- (b) unless it is revoked before its expiry, expire at a time specified in the regulation, which shall not be after the second anniversary of the day on which the regulation comes into force.

No review

(11) No action, decision, failure to take action or failure to make a decision by the Lieutenant Governor in Council or the Minister under this section shall be reviewed in any court.

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Section 9

I move that subsections 9 (1), (2) and (4) of the Bill be struck out and the following substituted:

Persons not to charge more than OHIP

(1) A physician or designated practitioner shall not charge more or accept payment or other benefit for more than the amount payable under the Plan for rendering an insured service to an insured person.

Exception

(1.1) Subsection (1) does not apply to,

- (a) a charge made to or a payment or benefit accepted from a public hospital for an insured service rendered to an insured person in that public hospital;
- (b) a charge made to or a payment accepted from a prescribed facility for an insured service rendered to an insured person in that facility; or
- (c) any other charge, payment, benefit or service that is prescribed, subject to any prescribed conditions or limitations.

Physicians and designated practitioners

(2) A physician or designated practitioner shall not accept payment or benefit for an insured service rendered to an insured person except,

- (a) from the Plan, including a payment made in accordance with an agreement made under subsection 2 (2) of the *Health Insurance Act*;
- (b) from a public hospital or prescribed facility for services rendered in that public hospital or facility; or
- (c) if permitted to do so by the regulations in the prescribed circumstances and on the prescribed conditions.

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Restriction on who may accept payment

(4) No person or entity may charge or accept payment or other benefit for rendering an insured service to an insured person,

- (a) except as permitted under this section; or
- (b) unless permitted to do so by the regulations in the prescribed circumstances and on the prescribed conditions.

Not a payment or other benefit

(4.1) For the purposes of subsection (4), “payment or other benefit” does not include a salary or an amount payable under a contract of employment or a contract of services to an employee of or a person who contracts with a physician, practitioner, public hospital or prescribed facility.

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M_____

Subsection 11 (1)

I move that subsection 11 (1) of the Bill be struck out and the following substituted:

Unauthorized payment

(1) If the General Manager is of the initial opinion that a person has paid an unauthorized payment, the General Manager shall promptly serve on the physician, practitioner, other person or entity that is alleged to have received the unauthorized payment notice of the General Manager's intent to reimburse the person who is alleged to have made the unauthorized payment, together with a brief statement of the facts giving rise to the General Manager's initial opinion.

Providing information

(1.1) The physician, practitioner, other person or entity that is alleged to have received the unauthorized payment may, not later than 21 days after receiving the notice described in subsection (1), provide the General Manager in writing with any information that he, she or it believes is relevant to determining whether an unauthorized payment has been paid.

Payment by General Manager

(1.2) If, after reviewing any information provided in accordance with subsection (1.1), the General Manager is satisfied that a person has paid an unauthorized payment, the General Manager shall pay to the person the amount of the unauthorized payment.

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M_____

Subsection 11 (2)

I move that subsection 11 (2) of the Bill be amended by striking out “subsection (1)” and substituting “subsection (1.2)”.

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M_____

Subsection 11 (5)

I move that subsection 11 (5) of the Bill be amended by striking out “subsection (1)” and substituting “subsection (1.2)”.

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Subsection 11 (6)

I move that subsection 11 (6) of the Bill be amended by striking out “subsection (5)” and substituting “subsection (1) or (5)”.

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M_____

Subsections 13 (1), (2) and (3)

I move that subsections 13 (1), (2) and (3) of the Bill be struck out and the following substituted:

Personal information

(1) The General Manager may directly or indirectly collect personal information, subject to such conditions as may be prescribed, for purposes related to the administration of this Part, the *Health Insurance Act* or the *Independent Health Facilities Act*.

Use of personal information

(2) The General Manager may use personal information, subject to any conditions that may be prescribed, for purposes related to the administration of this Part, the *Health Insurance Act* or the *Independent Health Facilities Act*.

Disclosure

(3) The General Manager shall disclose personal information if all prescribed conditions have been met and if the disclosure is necessary for purposes related to the administration of this Part, the *Health Insurance Act*, the *Independent Health Facilities Act*, the *Regulated Health Professions Act, 1991* or a health profession Act as defined in that Act, but shall not disclose the information if, in his or her opinion, the disclosure is not necessary for those purposes.

Limitation

(3.1) The General Manager shall not collect, use or disclose more information than is reasonably necessary for the purposes of the collection, use or disclosure.

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M_____

New subsections 13 (5) and (6)

I move that section 13 of the Bill be amended by adding the following subsections:

(5) Subsection (6) only applies if Bill 31, “An Act to enact and amend various acts with respect to the protection of health information”, which received first reading on December 17, 2003, receives Royal Assent.

(6) On the later of the day this subsection comes into force and the day on which Bill 31 receives Royal assent, clause (4) (b) is amended by adding “or the *Personal Health Information Protection Act, 2004*” at the end.

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M_____

Subsection 14 (1)

I move that subsection 14 (1) of the Bill be struck out and the following substituted:

Disclosure of information to the General Manager

(1) The General Manager may require that any person or entity submit information to the General Manager for the purposes of determining whether there has been a contravention of or a failure to comply with any of the following provisions, if the General Manager is of the opinion that such a contravention or failure may have taken place:

1. Section 9, 11, 15 or 16 of this Act.
2. Section 15 or 15.1 of the *Health Insurance Act*.
3. Section 3 of the *Independent Health Facilities Act*.

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M_____

Subsection 14 (2)

I move that subsection 14 (2) of the Bill be amended by striking out “that he or she requires” and substituting “is necessary for the purposes mentioned in subsection (1)”.

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M_____

Subsection 14 (3)

I move that subsection 14 (3) of the Bill be struck out and the following substituted:

Time and form

- (3) Subject to the regulations, the information shall be submitted and disclosed,
- (a) in the form required by the General Manager; and
 - (b) within 21 days of the receipt by the person or entity of the request by the General Manager.

Extension of time

(3.1) The General Manager may extend the period of time mentioned in clause (3) (b) for a time that the General Manager believes is reasonable in the circumstances if the General Manager believes that the person or entity cannot submit or disclose the information within the prescribed time for reasons that he, she or it cannot control.

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M_____

New Subsection 14 (7.1)

I move that section 14 of the Bill be amended by adding the following subsection:

No retaliation

(7.1) No person or entity shall discipline or penalize any person for reporting, providing or disclosing information under this section unless he or she acts maliciously and the information is not true.

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M_____

Subsection 14 (9), definition of “provincially funded health resource”

I move that the definition of “provincially funded health resource” in subsection 14 (9) of the Bill be struck out.

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M_____

New subsections 15 (4.1) and (4.2)

I move that section 15 of the Bill be amended by adding the following subsections:

No retaliation

(4.1) No person or entity shall discipline or penalize any person for making a report under subsection (2) or for providing information in connection with the report unless the person who reported or provided the information acted maliciously and the information is not true.

Defence

(4.2) Where an employer or contractor is charged with contravening subsection (1) as a result of an act committed by an employee, subcontractor or person with whom the employer or contractor contracted, it is a defence to the charge that the employer or contractor took all reasonable steps in the circumstances to prevent such a contravention.

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Subsection 16 (1)

I move that subsection 16 (1) of the Bill be struck out and the following substituted:

Block fees

(1) A person or entity may only charge a block or annual fee in accordance with the regulations.

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M_____

Subsections 17 (2), (3), (5) and (6)

I move that subsections 17 (2), (3), (5) and (6) of the Bill be struck out and the following substituted:

Penalty, individual

(2) Subject to subsection (2.1), an individual who is convicted of an offence under this section is liable to a fine of not more than \$10,000.

Same, s. 15 (2)

(2.1) An individual who is convicted of an offence under this section for contravening subsection 15 (2) is liable to a fine not exceeding \$1,000.

Penalty, corporation

(3) A corporation that is convicted of an offence under this section is liable to a fine not exceeding \$25,000.

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Limitation

(5) A prosecution for an offence under this section shall not be commenced after two years after the date on which the offence was, or is alleged to have been, committed.

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M_____

Clause 18 (1) (g)

I move that clause 18 (1) (g) of the Bill be struck out and the following substituted:

- (g) governing the information that must be provided under section 14, including its content and the form in which it must be provided;

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New clause 18 (1) (h.1)

I move that subsection 18 (1) of the Bill be amended by adding the following clause:

(h.1) prescribing conditions and limitations for the purposes of this Part;

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M_____

Section 19, definition of “executive function or position” and “primarily an executive function or position”

I move that the definitions of “executive function or position” and “primarily an executive function or position” in section 19 of the Bill be struck out.

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M_____

Section 19, definitions of “chief executive officer”, “compensation package” and “performance agreement”

I move that section 19 of the Bill be amended by adding the following definitions:

“chief executive officer” means any individual who holds the position of chief executive officer with a health resource provider, and any individual who, regardless of title,

- (a) holds a position with a health resource provider similar to that of chief executive officer, or
- (b) performs functions for a health resource provider similar to those normally performed by a chief executive officer; (“chef de la direction”)

“compensation package” means the value of any compensation in any form that is provided to or on behalf of a chief executive officer in respect of his or her office with a health resource provider including,

- (a) any amount that is required by section 5 of the *Income Tax Act* (Canada) to be included in the chief executive officer’s income from his or her office with the health resource provider;
- (b) any amount or benefit paid to or on behalf of another person arising directly or indirectly from the chief executive officer’s position with or services provided to the health resource provider; and
- (c) any other prescribed compensation type; (“rémunération”)

“performance agreement” means an agreement between a health resource provider and a chief executive officer of the health resource provider under this Part; (“convention de performance”)

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M_____

Section 19, definition of “health resource provider”

I move that the definition of “health resource provider” in section 19 of the Bill be struck out and the following substituted:

“health resource provider” means,

- (a) an entity that operates,
 - (i) a hospital within the meaning of the *Public Hospitals Act*,
 - (ii) a private hospital within the meaning of the *Private Hospitals Act*,
 - (iii) a psychiatric facility within the meaning of the *Mental Health Act*, or
 - (iv) an institution within the meaning of the *Mental Hospitals Act*,
- (b) an approved corporation within the meaning of the *Charitable Institutions Act* that operates and maintains an approved charitable home for the aged,
- (c) each municipality or a board of management maintaining a home for the aged or a joint home for the aged under the *Homes for the Aged and Rest Homes Act*,
- (d) a licensee under the *Nursing Homes Act*,
- (e) a licensee under the *Independent Health Facilities Act*, or

- (f) a community care access corporation within the meaning of the *Community Care Access Corporations Act, 2001*,

but does not include a physician or practitioner, as defined in the *Health Insurance Act*, or a group of physicians or practitioners, in his, her or its capacity as a physician, practitioner or group that receives any payment for the provision of an insured service to an insured person under the *Health Insurance Act*, or a trade union; (“fournisseur de ressources en santé”)

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M_____

Section 19, definition of “provincially funded health resource”

I move that the definition of “provincially funded health resource” in section 19 of the Bill be struck out.

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M_____

Section 20

I move that section 20 of the Bill be struck out and the following substituted:

Governing principle

20. (1) In administering this Part, the Minister shall be governed by the principle that accountability is fundamental to a sound health system.

Public interest

(2) The Minister and the Lieutenant Governor in Council may exercise any authority under this Part where he, she or it considers it in the public interest to do so and, in doing so, the Minister or the Lieutenant Governor in Council may consider any matter that he, she or it considers relevant in the circumstances, including any of the following:

1. Clear roles and responsibilities regarding the proper management of the health care system and any health resource provider.
2. Shared and collective responsibilities.
3. Transparency.
4. Quality improvement.
5. Fiscal responsibility.
6. Value for money.

7. Public reporting.
8. Consistency.
9. Trust.
10. Reliance on evidence.
11. A focus on outcomes and the quality of the care and treatment of individuals.
12. Any other prescribed matter.

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M_____

Section 21

I move that section 21 of the Bill be struck out and the following substituted:

Accountability agreements

21. (1) The Minister may give notice to a health resource provider that,

- (a) the Minister proposes to enter into an accountability agreement with the health resource provider; or
- (b) the Minister proposes to enter into an accountability agreement with the health resource provider and one or more other health resource providers.

Discussion

(2) The Minister and the health resource provider shall negotiate the terms of an accountability agreement and enter into an accountability agreement within 60 days after the notice under subsection (1) is given.

Information

(3) The Minister and the health resource provider shall disclose to each other any information, other than personal information, that they consider necessary for the purposes of negotiating an accountability agreement, but this subsection does not,

- (a) authorize or require the Minister to disclose information that is not required to be disclosed to a requester under the *Freedom of Information and Protection of Privacy Act*;

- (b) authorize or require a health resource provider to disclose information that is not required to be disclosed to a requester under the *Municipal Freedom of Information and Protection of Privacy Act*, if that Act applies to a health resource provider;
- (c) authorize or require the disclosure of any information that is subject to any privilege recognized by law; or
- (d) require the disclosure of any information that the Minister or health resource provider is entitled not to disclose by virtue of any other law.

Direction

(4) If the health resource provider and the Minister do not enter into an accountability agreement within 60 days after the Minister gave notice under subsection (1), the Minister may direct the health resource provider to enter into an accountability agreement with the Minister and with any other health resource provider on such terms as the Minister may determine, and the health resource provider shall enter into and shall comply with the accountability agreement.

Performance agreement

(5) An accountability agreement may provide that a health resource provider will enter into a performance agreement with its chief executive officer to support the achievement by the health resource provider of the terms of the accountability agreement.

Same

(6) If an accountability agreement requires that a health resource provider enter into a performance agreement, the health resource provider and its chief executive officer shall enter into a performance agreement within such period of time stipulated in the accountability agreement, and the terms of the performance agreement shall be consistent with the accountability agreement.

Exception – chief executive officer

(7) Despite subsection (6), a chief executive officer shall not be required to enter into a performance agreement except with respect to that part of the individual's appointment, employment or contract that relates to his or her function or position as a chief executive officer for the health resource provider.

Duty of health resource provider

(8) A health resource provider has a duty to take all reasonable care to ensure that its chief executive officer complies with any performance agreement and his or her duties under this Part, including taking such measures as may be necessary from time to time to enforce the health resource provider's rights under the performance agreement.

Bill 8

An Act to establish the Ontario Health Quality Council, to enact new legislation concerning health service accessibility and repeal the Health Care Accessibility Act, to provide for accountability in the health service sector, and to amend the Health Insurance Act

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

New Section 21.1

I move that the Bill be amended by adding the following section:

Notice of non-compliance – health resource provider

21.1 (1) The Minister may give notice in writing to a health resource provider where the Minister believes that any of the following circumstances have occurred:

1. A health resource provider has not entered into an accountability agreement as directed by the Minister under subsection 21 (4).
2. A health resource provider has not entered into a performance agreement with its chief executive officer as required under subsection 21 (6).
3. A chief executive officer has not entered into a performance agreement with a health resource provider as required under subsection 21 (6).
4. The terms of a performance agreement that a health resource provider and its chief executive officer have entered into or intend to enter into are not consistent with the terms of an accountability agreement as required under subsection 21 (6).
5. A health resource provider has not complied with a term of an accountability agreement.
6. A health resource provider has not complied with its duty under subsection 21 (8).

7. A health resource provider has not complied with a term of a performance agreement.
8. A chief executive officer has not complied with a term of a performance agreement, an order issued under subsection 26.1 (5) or any provision of this Part that a chief executive officer is required to comply with.
9. A health resource provider has not complied with a compliance directive, an order issued under section 25, or an order issued under subsection 26 (1).
10. A health resource provider has not complied with any provision of this Part.

Contents of notice

- (2) A notice under subsection (1) shall briefly describe,
 - (a) the circumstance that has led the Minister to give the notice; and
 - (b) any directions that the Minister proposes to make to the health resource provider in a compliance directive or an order under subsection 26 (1).

Process of dispute resolution

- (3) After receiving a notice under subsection (1), where a health resource provider disputes any matter set out in the notice,
 - (a) the Minister and the health resource provider shall discuss the circumstances that resulted in the notice or any directions that are proposed in the notice;
 - (b) the Minister shall provide to the health resource provider any information that the Minister believes,
 - (i) is appropriate for the Minister to disclose to the health resource provider, and
 - (ii) is necessary to an understanding of the circumstances referred to in the notice or the directions that are proposed in the notice; and
 - (c) the health resource provider may make representations to the Minister about the matters set out in the notice.

Consideration

- (4) The Minister shall consider any representations made under subsection (3) before making a decision to issue a compliance directive or an order under subsection 26 (1).

Exception

(5) Subsections (1) to (4) do not apply to the issuance of an order under subsection 26 (1) if the Minister believes that,

- (a) a circumstance described in subsection (1) exists which urgently requires that an order under subsection 26 (1) be issued to a health resource provider and the circumstance is,
 - (i) exceptional and unlikely to occur in the future, or
 - (ii) causing or likely to cause harm to any person or property;
- (b) it is reasonable not to follow the procedures set out in subsections (1) to (4);
and
- (c) it is necessary to issue an order under subsection 26 (1) to a health resource provider to remedy the circumstance or alleviate the effects of the circumstance.

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Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 22

I move that section 22 of the Bill be struck out and the following substituted:

Compliance directives – health resource provider

22. (1) If any circumstance referred to in a notice under subsection 21.1 (1) continues for more than 30 days after the notice was given by the Minister, the Minister may issue a compliance directive to the health resource provider.

Compliance

(2) The health resource provider shall comply with a compliance directive.

Directions

(3) A compliance directive may require the health resource provider to comply with any directions set out in the compliance directive relating to the following:

1. Requiring the health resource provider to enter into an accountability agreement with the Minister on the terms set out in the compliance directive.
2. Requiring the health resource provider to enter into a performance agreement.
3. Requiring the health resource provider to comply with a provision of this Part, a term of an accountability agreement, or a term of a performance agreement.
4. Requiring the health resource provider to meet with the Minister or any person designated by the Minister, at a time and place set out in the compliance

directive, for the purposes of discussing any non-compliance identified by the Minister.

5. Requiring the health resource provider to carry out or cause to be carried out an audit, as directed by the Minister.
6. Requiring the health resource provider to study and to report to the Minister on any matter as directed by the Minister.
7. Requiring the health resource provider to provide any information identified in the compliance directive to the Minister or to otherwise assist the Minister or any person authorized by the Minister to conduct an audit or carry out a study or report in respect of the operations of the health resource provider.
8. Requiring the health resource provider to develop or implement an education or remedial learning plan for the health resource provider, or to follow an educational or remedial learning plan.
9. Requiring the development of a budget for the review and approval of the Minister as set out in the compliance directive.
10. Requiring compliance with a budget as set out in the compliance directive.
11. Requiring the posting and distribution of any matter as required by subsection 29 (3).
12. Taking any action or refraining from taking any action that is specified in the compliance directive to correct the circumstance of non-compliance described in the notice under subsection 21.1 (1), to prevent its reoccurrence, or to remedy any effects of the circumstance of non-compliance.

Times

(4) In any compliance directive, the Minister may specify the time or times when or the period or periods of time within which the health resource provider must comply with the directive.

Directions not in notice

(5) Despite subsection 21.1 (2), a compliance directive may set out a direction that the Minister did not propose in the notice under subsection 21.1(1).

Varying

(6) The Minister may vary a compliance directive after it is issued if the change relates to a circumstance referred to in the notice under subsection 21.1 (1).

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NOTICE

Section 23

The Government recommends voting against section 23.

Reason for notice rather than motion: This notice, which recommends voting against the section, is provided instead of a motion to delete it. The reason for this approach is that parliamentary procedure requires that the Committee vote against the section, rather than pass a motion to delete it from the Bill, if the Committee wishes to have it removed from the Bill.

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NOTICE

Section 24

The Government recommends voting against section 24.

Reason for notice rather than motion: This notice, which recommends voting against the section, is provided instead of a motion to delete it. The reason for this approach is that parliamentary procedure requires that the Committee vote against the section, rather than pass a motion to delete it from the Bill, if the Committee wishes to have it removed from the Bill.

Bill 8

An Act to establish the Ontario Health Quality Council, to enact new legislation concerning health service accessibility and repeal the Health Care Accessibility Act, to provide for accountability in the health service sector, and to amend the Health Insurance Act

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 25

I move that section 25 of the Bill be struck out and the following substituted:

Recognition of accomplishment

25. If a health resource provider meets or exceeds all or part of the terms of an accountability agreement, the Minister may, in his or her discretion, make an order directing that the accomplishment be recognized in any prescribed manner.

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Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 26

I move that section 26 of the Bill be struck out and the following substituted:

Order – health resource provider

26. (1) If the circumstance referred to in a notice under subsection 21.1 (1) continues for more than 30 days after the notice was given by the Minister, or if no notice was given by virtue of subsection 21.1 (5), the Minister may issue an order to the health resource provider.

Compliance

(2) The health resource provider shall comply with an order issued under subsection (1).

Matters in order

(3) An order issued under subsection (1) may require the health resource provider to comply with any directions set out in the order relating to any or all of the following:

1. Requiring a health resource provider to comply with any part of a compliance directive that has been issued to the health resource provider.
2. Requiring a health resource provider to comply with any direction that may be made in a compliance directive.
3. Holding back, reducing or discontinuing any payment payable to or on behalf of a health resource provider by the Crown in any manner and for any period of

time as provided in the order and despite any provision in a contract to the contrary.

4. Requiring a health resource provider to enforce any provision of a performance agreement with a chief executive officer.
5. Varying any term of an agreement, as set out in the order, between the Crown and the health resource provider.

Times for compliance

(4) In an order under this section, the Minister may specify the time or times when or the period or periods of time within which the health resource provider or chief executive officer must comply with the order.

Direction not in notice

(5) An order under this section may set out a direction that the Minister did not propose in the notice under subsection 21.1 (1).

Varying

(6) The Minister may vary an order after it is issued if the changes relates to a circumstance which caused the order to be issued under subsection (1).

Orders without notice

(7) If, by virtue of subsection 21.1 (5), the Minister did not give notice under subsection 21.1 (1) before issuing an order under this section, the Minister shall, as soon as reasonably possible after issuing the order, provide the health resource provider with,

- (a) reasons for the issuance of the order;
- (b) the matters that the Minister took into account in making his or her decision to issue an order; and
- (c) the matters that caused the Minister to form his or her belief under subsection 21.1 (5) and to not follow the procedures set out in subsections 21.1 (1) to (4).

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Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

New Section 26.1

I move that the Bill be amended by adding the following section:

Notice in exceptional circumstance

26.1. (1) The Minister may give notice in writing to a chief executive officer and a health resource provider where,

- (a) the Minister has issued a compliance directive or an order under subsection 26 (1) to a health resource provider in respect of non-compliance by the health resource provider under the accountability agreement or any provision of this Part or by its chief executive officer under a performance agreement or any provision of this Part which the chief executive officer is required to comply with;
- (b) the Minister believes that the health resource provider has not complied with an accountability agreement or any provision of this Part or the chief executive officer has not complied with a performance agreement or has not complied with a provision under this Part which the chief executive officer is required to comply with, despite a compliance directive or an order under subsection 26 (1); and
- (c) the Minister believes that, even though attempts have been made to require the health resource provider or chief executive officer to comply, an exceptional circumstance may exist which may require that an order be issued under subsection (5) to the chief executive officer and the health resource provider.

Contents of notice

- (2) A notice under subsection (1) shall briefly describe,
- (a) the reasons for the notice; and
 - (b) any directions that the Minister proposes to recommend be made in an order under subsection (5).

Dispute resolution process

(3) After receiving a notice under subsection (1), where a chief executive officer or a health resource provider disputes any matter set out in the notice,

- (a) the Minister and the health resource provider and the chief executive officer shall discuss the circumstances that resulted in the notice or any directions that are proposed in the notice;
- (b) the Minister shall provide to the chief executive officer and the health resource provider any information that the Minister believes is necessary to an understanding of the reasons for the notice or the directions that are recommended in the notice; and
- (c) the chief executive officer or the health resource provider may make representations to the Minister about the matters set out in the notice.

Consideration

(4) The Minister shall consider any representations made under subsection (3) before making a recommendation to issue an order under subsection (5).

Order in exceptional circumstances

(5) The Lieutenant Governor in Council may make an order to the chief executive officer and the health resource provider, where,

- (a) the Lieutenant Governor in Council believes that an exceptional circumstance exists which makes it necessary to issue an order;
- (b) a period of 30 days has passed since the Minister gave notice under subsection (1) and the circumstance of non-compliance that caused the notice under subsection (1) to be issued has not been remedied to the satisfaction of the Minister;
- (c) the Minister has recommended in writing to the Lieutenant Governor in Council that the order be made; and

- (d) the Minister has notified the chief executive officer and the health resource provider that he or she has made the recommendation to the Lieutenant Governor in Council and the reasons for the recommendation.

Directions

(6) An order issued under subsection (5) may require the chief executive officer and health resource provider to comply with any directions set out in the order relating to any or all of the following:

1. Holding back, reducing or varying the compensation package provided to or on behalf of a chief executive officer in any manner and for any period of time as provided for in the order and despite any provision in a contract to the contrary.
2. Requiring a chief executive officer to pay any amount of his or her compensation package to the Crown or any person.

Compliance

(7) A chief executive officer and a health service provider shall comply with the directions set out in the order.

Times

(8) In an order under subsection (5), the Lieutenant Governor in Council may specify the time or times when or the period or periods of time within which the chief executive officer and health service provider must comply with the order.

Direction not in notice

(9) An order under subsection (5) may set out a direction that the Minister did not propose in the notice under subsection (1).

Varying

(10) The Lieutenant Governor in Council may vary an order after it is issued if the change relates to a circumstance which caused the order to be issued under subsection (5).

Maximum limit

(11) An order issued under subsection (5) shall not require the payment by the chief executive officer of more than, or shall not hold back, reduce or vary the compensation package by more than, 10 per cent of the compensation package in respect of the calendar year during which the non-compliance occurred which caused the notice under subsection (1) to be given.

Prohibition

(12) Where an order is issued under subsection (5) that holds back, reduces or varies the compensation package of a chief executive officer or requires the chief executive officer to make a payment,

- (a) no person shall provide any payment, compensation or benefit to the health resource provider or the chief executive officer or to any other person on behalf of the health resource provider or the chief executive officer to compensate for or reduce or alleviate the effects of the order on the chief executive officer, despite any provision at law or in a contract to the contrary; and
- (b) the health resource provider or the chief executive officer shall not accept or permit any other person to accept on its or his or her behalf any compensation, payment or benefit to compensate for or to reduce or alleviate the effects of the order on the chief executive officer, despite any provision at law or in a contract to the contrary.

Civil enforcement

(13) An order under subsection (5) that requires a chief executive officer to pay an amount may be filed by the Minister with a local registrar of the Superior Court of Justice and enforced by the Minister as if it were an order of that court.

Same

(14) Section 129 of the *Courts of Justice Act* applies in respect of an order filed with the Superior Court of Justice, and the date of filing shall be deemed to be the date of the order.

Bill 8

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Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 27

I move that section 27 of the Bill be struck out and the following substituted:

Where change in employment

27. (1) Where, as the result of entering into a performance agreement under subsection 21 (6) or the making of an order made under subsection 26 (1) or 26.1 (5), there is a material change in a chief executive officer's terms of employment with a health resource provider, including a holdback, reduction or variation of the compensation package or a payment by the chief executive officer,

- (a) the change shall be deemed to have been mutually agreed upon by the chief executive officer and the health resource provider;
- (b) no proceeding shall be brought by or on behalf of the chief executive officer for any payment, compensation, benefits or damages from the health resource provider, the Minister or any other person, despite any provision to the contrary at law or in his or her contract of employment; and
- (c) the chief executive officer shall not receive any payment, compensation, benefits or damages from the health resource provider, the Minister or any other person, despite any provision to the contrary at law or in his or her contract of employment.

Services

(2) Subsection (1) applies with necessary modification to a contract or agreement for services between a health resource provider and a chief executive officer.

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Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 28

I move that section 28 of the Bill be struck out and the following substituted:

Where change in funding, agreement, etc.

28. Where, as the result of an order made under subsection 26 (1), any funding or payment by the Crown to a health resource provider is withheld, reduced or discontinued, or any term of a contract or agreement between the Crown and a health resource provider is varied, the reduction, variance or discontinuance,

- (a) shall be deemed to have been mutually agreed upon by the parties; and
- (b) does not entitle the health resource provider to payment or compensation, despite any provision to the contrary at law or in the contract or agreement.

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Motion to be moved in Committee

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M_____

Section 29

I move that section 29 of the Bill be struck out and the following substituted:

Information

29. (1) For the purposes of carrying out the provisions of this Part, the Minister may require any health resource provider or chief executive officer to provide the Minister with a performance agreement or any information that the Minister considers necessary other than personal health information, in such form and at such times as the Minister may require, and the health resource provider or chief executive officer shall comply with the Minister's requirement.

Posting and distribution

(2) A health resource provider shall post in a conspicuous place or distribute all or part of any accountability agreement, notice under subsection 21.1 (1), compliance directive, order issued under section 26 (1), notice under subsection 26.1 (1) or order issued under subsection 26.1 (5) when ordered to do so by the Minister, even if this results in the disclosure of personal information.

Public disclosure

(3) The Minister shall disclose to the public all or part of any accountability agreement, notice under subsection 21.1 (1), representations under subsection 21.1 (4), compliance directive, order issued under subsection 26 (1), notice under subsection 26.1 (1), representations under subsection 26.1 (3), order issued under subsection 26.1 (5) or any enforcement action taken by the Minister even if personal information is contained in

what is disclosed, if the Minister is of the opinion that disclosure would promote accountability.

Offence

(4) Every person who fails to provide a performance agreement or information as provided in subsection (1) or refuses to post or distribute as required by subsection (2) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Definition of “personal health information”

(5) In subsection (1),

“personal health information” means information, other than information referred to in subsection (6), that is in oral or recorded form, if the information,

- (a) is information that identifies an individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify an individual, and
- (b) is information that,
 - (i) relates to the physical or mental health of the individual, including information that consists of the medical history of the individual’s family,
 - (ii) relates to the providing of health care to the individual, including the identification of a person as a provider of health care to the individual,
 - (iii) is a plan of service within the meaning of the *Long-Term Care Act, 1994* for the individual,
 - (iv) relates to payments or eligibility for health care in respect of the individual,
 - (v) relates to the donation by the individual of any body part or bodily substance of the individual or is derived from the testing or examination of any such body part or bodily substance,
 - (vi) is the individual’s health number, or
 - (vii) identifies an individual’s substitute decision-maker.

Exception

(6) “Personal health information” does not include identifying information contained in a record that is in the custody or under the control of a person if,

- (a) the identifying information contained in the record relates primarily to one or more employees or other agents of the person; and
- (b) the record is maintained primarily for a purpose other than the provision of health care or assistance in providing health care to the employees or other agents.

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(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 30

I move that section 30 of the Bill be struck out and the following substituted:

Non-liability

30. (1) No compensation or damages shall be payable by the Crown, the Minister or an employee or agent of the Crown or Minister for any act done in good faith in the execution or intended execution of a duty or authority under this Part or the regulations, or for any alleged neglect or default in the execution in good faith of any such duty or authority.

Same

(2) No action or proceeding for damages or otherwise, other than an application for judicial review, shall be instituted against the Crown, the Minister or an employee or agent of the Crown or Minister for any act done in good faith in the execution or intended execution of a duty or authority under this Part or the regulations or for any alleged neglect or default in the execution in good faith of any such duty or authority.

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Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 31

I move that section 31 of the Bill be struck out and the following substituted:

Offence

31. (1) Subject to subsection (2), every health resource provider that fails to comply with an order under subsection 26 (1), every health resource provider or chief executive officer who fails to comply with an order made under subsection 26.1 (5), every person who fails to comply with subsection 26.1 (12) and every person who wilfully attempts to circumvent or obstruct compliance with an order under subsection 26 (1) or 26.1 (5) is guilty of an offence.

Exception

(2) Despite subsection (1), where a health resource provider consists of a board of trustees of a non-profit oriented entity, an individual member of the board of trustees is not liable to a conviction for failing to comply with an order under subsection 26 (1), if that individual receives no compensation of any kind for being a member of the board of trustees.

Penalty - individual

(3) An individual who is convicted of an offence under this section is liable to a fine or not more than \$10,000.

Penalty - corporation

(4) A corporation that is convicted of an offence under this section is liable to a fine of not more than \$25,000.

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Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Subsection 32 (1)

I move that subsection 32 (1) of the Bill be struck out and the following substituted:

Regulations

- (1) The Lieutenant Governor in Council may make regulations,
 - (a) prescribing anything that may be prescribed for the purposes of this Part;
 - (b) respecting the content or terms and conditions of any accountability agreement;
 - (c) prescribing manners in which accomplishment may be recognized in orders under section 25.

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Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

New Section 32.1

I move that Bill be amended by adding the following section:

Public consultation before making regulations

32.1 (1) Subject to subsection (7), the Lieutenant Governor in Council shall not make any regulation under section 32 unless,

- (a) the Minister has published a notice of the proposed regulation in *The Ontario Gazette* and given notice of the proposed regulation by all other means that the Minister considers appropriate for the purpose of providing notice to the persons who may be affected by the proposed regulation;
- (b) the notice complies with the requirements of this section;
- (c) the time periods specified in the notice, during which persons may make comments, have expired;
- (d) the Minister has considered whatever comments and submissions that members of the public have made on the proposed regulation, or an accurate synopsis of such comments; and
- (e) the Minister has reported to the Lieutenant Governor in Council on what, if any, changes to the proposed regulation the Minister considers appropriate.

Contents of notice

(2) The notice mentioned in clause (1) (a) shall contain,

- (a) a description of the proposed regulation and the text of it;
- (b) a statement of the time period during which a person may submit written comments on the proposed regulation to the Minister and the manner in which and the address to which the comments must be submitted;
- (c) a description of any other methods by which a person may comment on the proposed regulation and the manner in which and the time period during which they may do so;
- (d) a statement of where and when members of the public may review written information about the proposed regulation;
- (e) any prescribed information; and
- (f) any other information that the Minister considers appropriate.

Time period for comments

(3) The time period mentioned in clauses (2) (b) and (c) shall be at least 60 days after the Minister gives the notice mentioned in clause (1) (a) unless the Minister shortens the time period in accordance with subsection (4).

Shorter time period for comments

(4) The Minister may shorten the time period if, in the Minister's opinion,

- (a) the urgency of the situation requires it;
- (b) the proposed regulation clarifies the intent or operation of this Part or the regulations; or
- (c) the proposed regulation is of a minor or technical nature.

Discretion to make regulations

(5) Upon receiving the Minister's report mentioned in clause (1) (e), the Lieutenant Governor in Council, without further notice under subsection (1), may make the proposed regulation with any changes that the Lieutenant Governor in Council considers appropriate, whether or not those changes are mentioned in the Minister's report.

No public consultation

(6) The Minister may decide that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under section 32 if, in the Minister's opinion,

- (a) the urgency of the situation requires it;
- (b) the proposed regulation clarifies the intent or operation of this Act or the regulations; or
- (c) the proposed regulation is of a minor or technical nature.

Same

(7) If the Minister decides that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under section 32,

- (a) those subsections do not apply to the power of the Lieutenant Governor in Council to make the regulation; and
- (b) the Minister shall give notice of the decision to the public as soon as is reasonably possible after making the decision.

Contents of notice

(8) The notice mentioned in clause (7) (b) shall include a statement of the Minister's reasons for making the decision and all other information that the Minister considers appropriate.

Publication of notice

(9) The Minister shall publish the notice mentioned in clause (7) (b) in *The Ontario Gazette* and give the notice by all other means that the Minister considers appropriate.

Temporary regulation

(10) If the Minister decides that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under section 32 because the Minister is of the opinion that the urgency of the situation requires it, the regulation shall,

- (a) be identified as a temporary regulation in the text of the regulation; and
- (b) unless it is revoked before its expiry, expire at a time specified in the regulation, which shall not be after the second anniversary of the day on which the regulation comes into force.

No review

(11) No action, decision, failure to take action or failure to make a decision by the Lieutenant Governor in Council or the Minister under this section shall be reviewed in any court.

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An Act to establish the Ontario Health Quality Council, to enact new legislation concerning health service accessibility and repeal the Health Care Accessibility Act, to provide for accountability in the health service sector, and to amend the Health Insurance Act

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 33 of the Bill (Subsection 15 (3) of the *Health Insurance Act*)

I move that subsection 15 (3) of the *Health Insurance Act*, as set out in section 33 of the Bill, be struck out.

Bill 8

An Act to establish the Ontario Health Quality Council, to enact new legislation concerning health service accessibility and repeal the Health Care Accessibility Act, to provide for accountability in the health service sector, and to amend the Health Insurance Act

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 33 of the Bill (Subsection 15.1 (4) of the *Health Insurance Act*)

I move that subsection 15.1 (4) of the *Health Insurance Act*, as set out in section 33 of the Bill, be struck out.

Bill 8

An Act to establish the Ontario Health Quality Council, to enact new legislation concerning health service accessibility and repeal the Health Care Accessibility Act, to provide for accountability in the health service sector, and to amend the Health Insurance Act

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 33 of the Bill (Subsection 15.1 (6) of the *Health Insurance Act*)

I move that subsection 15.1 (6) of the *Health Insurance Act*, as set out in section 33 of the Bill, be struck out and the following substituted:

Interpretation

(6) In this section,

“designated practitioner”, “non-designated practitioner” and “practitioner” have the same meanings as in Part II of the *Commitment to the Future of Medicare Act, 2004*.

Bill 8

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Motion to be moved in Committee

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M_____

Subsection 40 (3) of the Bill (Subsection 45 (2.1) of the *Health Insurance Act*)

I move that subsection 45 (2.1) of the *Health Insurance Act*, as set out in subsection 40 (3) of the Bill, be struck out and the following substituted:

Ministerial order

(2.1) Upon the advice of the General Manager, and where the Minister considers it to be in the public interest to do so, the Minister may make an order amending a schedule of fees or benefits that has been adopted in a regulation in any manner the Minister considers appropriate for the purposes of the regulation.

Bill 8

An Act to establish the Ontario Health Quality Council, to enact new legislation concerning health service accessibility and repeal the Health Care Accessibility Act, to provide for accountability in the health service sector, and to amend the Health Insurance Act

Motion to be moved in Committee

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M_____

Subsection 40 (3) of the Bill (Subsection 45 (2.2) of the *Health Insurance Act*)

I move that paragraph 2 of subsection 45 (2.2) of the *Health Insurance Act*, as set out in subsection 40 (3) of the Bill, be amended by adding “or benefits” after “fees” wherever it occurs.

Bill 8

An Act to establish the Ontario Health Quality Council, to enact new legislation concerning health service accessibility and repeal the Health Care Accessibility Act, to provide for accountability in the health service sector, and to amend the Health Insurance Act

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Subsection 40 (3) of the Bill (Subsection 45 (2.4) of the *Health Insurance Act*)

I move that subsection 45 (2.4) of the *Health Insurance Act*, as set out in subsection 40 (3) of the Bill, be amended by adding “or benefits” after “fees”.

Bill 8

An Act to establish the Ontario Health Quality Council, to enact new legislation concerning health service accessibility and repeal the Health Care Accessibility Act, to provide for accountability in the health service sector, and to amend the Health Insurance Act

Motion to be moved in Committee

(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 42

I move that section 42 of the Bill be struck out and the following substituted:

Commencement

42 (1) Subject to subsection (2), this Act comes into force on Royal Assent.

Same

(2) Sections 1 to 6, 7 to 32, and 33 to 41 come into force on a day to be named by proclamation of the Lieutenant Governor.