

**SUBMISSIONS ON BILL 135,  
THE *CONVENIENT CARE AT HOME ACT, 2023*  
TO THE STANDING COMMITTEE ON SOCIAL POLICY**

**ADVOCACY CENTRE FOR THE ELDERLY**

55 University Ave., Suite 1500  
Toronto, ON M5J 2H7

416-598-2656  
info@ace.clcj.ca  
[www.ancelaw.ca](http://www.ancelaw.ca)

**GRAHAM WEBB**

Lawyer/Executive Director

**JANE E. MEADUS**

Lawyer/Institutional Advocate

November 14, 2023

**SUBMISSIONS ON BILL 135, THE CONVENIENT CARE AT HOME ACT, 2023,**  
**TO THE STANDING COMMITTEE ON SOCIAL POLICY**

**ADVOCACY CENTRE FOR THE ELDERLY**

**Mission and Purpose**

The Advocacy Centre for the Elderly (ACE) is a specialty legal clinic under The *Legal Aid Services Act* that was established to provide a range of legal services to low-income seniors in Ontario. Its mission is to uphold the rights of low-income seniors, and its purpose is to improve the quality of life of seniors by providing legal services, which include direct client assistance, public legal education, law reform, community development and community organizing. ACE has operated at Toronto, Ontario, continuously since 1984. It was the first legal clinic in Canada with a specific mandate to serve older adults, with expertise in elder-law issues.

ACE currently employs six lawyers, three paralegals, an administrative coordinator, and one support staff. On average, ACE annually receives over 4,000 calls from older adults, families of older adults, health and social service providers and other callers. More than 65% of the intakes and client cases that ACE assists with are in the area of health law. Most of the telephone inquiries come from the Greater Toronto Area, with approximately 20% originating from other areas of the province. From time to time, ACE also receives inquiries from outside of Ontario.

**Problems with Home Care**

Our clients regularly seek our legal advice on issues relating to home care. Specifically, ACE has received many calls regarding:

- Callers being unable to access home care due to waiting lists;
- Callers advising that they do not receive sufficient home care hours to meet their health care needs;
- Callers advising that their home care hours have been reduced due to shortages of personal support workers (PSWs) in their area;
- Callers concerned about the poor quality of home care services;
- Callers concerned about violations of their privacy by home care workers;
- Callers advising that they are not receiving necessary home care due to workers, particularly PSWs, not showing up for scheduled shifts;
- Callers advising that they have a revolving door of PSWs, and do not receive any continuity with their caregivers;

- Callers reporting that PSWs refuse to attend where the caller has previously complained about abuse by a PSW;
- Callers claiming service cuts were imposed as retribution for being perceived as a “difficult” client, or for making complaints; and,
- Callers who require long-term care being forced out of the health-care system and placed in unregulated transitional housing, and who are unsure of their rights or complaint options.

### **Admission to Long-Term Care**

Requests for legal information and assistance regarding admission to long-term care homes had been the top request for services for many years. The year 2023 has likely been the most demanding ever, with requests that will top over a thousand by year’s end. While calls can come from those in the community, the bulk of them relate to hospital patients who are provided with erroneous information and whose rights are frequently overridden. Among the issues we encounter are:

- Refusal to allow an application for long-term care to be made from hospital;
- Preventing the applicant from speaking to the placement co-ordinator from the Home and Community Care Support Services (HCCSS) to inquire about an application;
- Providing misinformation about waiting lists from hospital, and specifically that hospital patients waiting for long-term care are automatically placed in Category 1 – Crisis;
- Advising applicants that they are required by law to return their home or go to a retirement home or other community setting in order to be have their eligibility for long-term care assessed; and,
- Misinforming applicants about their long-term care home choices and the consequences of those choices.

### **Community Legal Education and Law Reform**

ACE lawyers are in high demand as speakers on all issues relating to older adults including home care, long-term care homes, retirement homes, consent and capacity law, and elder abuse. ACE lawyers have made many presentations and submissions on these issues at the local, provincial national and international levels.

### **Scope of Expertise**

Given ACE’s lived and professional experience in legal issues affecting the rights and interests of older adults in Ontario and throughout Canada, we trust that our submissions concerning the proposed changes to the Ontario home care system will fairly represent the public-policy interests of community-dwelling older adults.

## A FRACTURED AND CHAOTIC SYSTEM

Bill 135 promises to deliver a fractured and chaotic system of home care in Ontario.

The *Convenient Care at Home Act* purports to simplify and streamline the delivery of home care and placement services in Ontario, but in fact, it does the exact opposite. The legislation dissolves and consolidates 14 Crown corporations that delivered home care and placement services throughout Ontario on a publicly administered basis into one single Crown corporation -- the "Service Organization" -- to be known as Ontario Health atHome. This new service organization would primarily act as a funder to a multitude of different health service providers throughout the province.

The first health-system transformation goal of the current mandate letter to Ontario Health from the Minister of Health includes a directive to "[d]evelop and implement initiatives to advance the Ontario Health Team service delivery model . . ." <sup>1</sup>

Bill 135 is primarily designed to facilitate the Ontario Health Team service delivery model for home care services in Ontario.

Ontario Health Teams are a poor substitute for a unified and publicly administered home care service delivery model. Ontario Health Teams may be comprised of for-profit and not-for-profit service providers and are expected to be dominated by for-profit service providers. Ontario Health Teams are not presently established throughout Ontario, and they lack any semblance of transparency, accountability and public administration. They are merely vehicles for the downloading of publicly funded health-care and home-care services to -- in the area of home care services -- mainly for-profit service providers.

At present, the Ontario Health Teams website -- <https://www.ontario.ca/page/ontario-health-teams> -- states that some 57 Ontario Health Teams have already been approved throughout the province of Ontario. The composition of their ownership and/or membership, their mandates and areas of operation varies from organization to organization.

The downloading of service delivery of home care services from publicly administered Crown corporations to privately operated Ontario Health Teams represents a transition to a fractured and disjointed delivery model that promises to be more complex and confusing for home care clients. The separation of home care co-ordination from placement management will also serve to increase confusion for those who may require long-term care, as these will now be managed by difference services.

---

<sup>1</sup> Mandate letter from the Hon. Sylvia Jones, Deputy Premier and Minister of Health, to Mr. Bill Hatanaka, Chair, Ontario Health (December 22, 2022) at p. 4: <https://www.ontariohealth.ca/sites/ontariohealth/files/2023-01/OH-2023-24-Mandate-Letter.pdf>. Accessed November 13, 2023.

Furthermore, Bill 135 promises to transition home care services to a new service delivery model that is not yet fully developed. According to the Ministry of Health website:

An initial group of 12 Ontario Health Teams have been chosen to accelerate their work to deliver home care in their local communities starting in 2025. With support from the Ministry of Health and Ontario Health, these teams will start by focusing on seamlessly transitioning people experiencing chronic disease through their primary care, hospital, and home and community care needs.

The initial 12 Ontario Health Teams are:

All Nation Health Partners Ontario Health Team, serving Kenora and Sioux-Narrows-Nestor Falls

Burlington Ontario Health Team, serving Burlington and surrounding areas

Couchiching Ontario Health Team, serving Orillia and area

Durham Ontario Health Team, serving Durham region

East Toronto Health Partners Ontario Health Team, serving East Toronto area

Frontenac, Lennox and Addington Ontario Health Team, serving Frontenac, Lennox and Addington region, including Kingston, Greater Napanee and surrounding rural communities

Greater Hamilton Health Network Ontario Health Team, serving Hamilton area

Middlesex London Ontario Health Team, serving Middlesex London area

Mississauga Ontario Health Team, serving Mississauga area

Nipissing Wellness Ontario Health Team, serving Nipissing and East Parry Sound.

Noojmawing Sookatagaing Ontario Health Team, serving the City and District of Thunder Bay

North York Toronto Health Partners Ontario Health Team, serving North York, Thornhill and Markham<sup>2</sup>

Until such time as Ontario Health Teams are fully developed and operational in all parts of Ontario, Ontario Health atHome would be mandated to deliver home care services through approved health service providers. Whether persons needing home care should approach an Ontario Health Team, Ontario Health atHome, the HCCSS or the former Local Health Integration Networks (“LHINs”) for home care services is not known.

---

<sup>2</sup> <https://www.ontario.ca/page/ontario-health-teams#section-0>. Accessed November 13, 2023.

Such a disjointed and dizzying array of service delivery models promises to form a confusing barrier to service for home care clients.

ACE recommends that:

1. The Ministry of Health should not download delivery of home care services to Ontario Health Teams.
2. If the Ministry of Health were to download delivery of home care services to Ontario Health Teams, it should only do so into an easily understood, accessible and fully developed system that is consistent throughout the entire province of Ontario.

## **LOSS OF PUBLIC ADMINISTRATION OF PUBLIC SERVICES**

Bill 135 would advance and complete the loss of public administration over the delivery of publicly funded home care services in Ontario.

Ontario Health Teams do not have any formal legal structure. They are loosely based collaborations of for-profit and not-for-profit health-service providers. They are not required to have any particular corporate structure -- nor, in fact, any corporate structure at all. There is no legally required process for the internal governance, oversight, operations and legal liabilities or other responsibilities of Ontario Health Teams.

Ministry of Health literature suggests that at some indefinite time in the future, Ontario Health Teams may be required to incorporate as not-for-profit corporations, but for the time being they should “await ministry and Ontario Health guidance and supports.”<sup>3</sup>

Furthermore, even if Ontario Health Teams were incorporated as not-for-profit corporations, the health team members may include for-profit health service providers, which in the area of home-care service delivery could be expected to dominate the corporate structure.

Alarming, the *Connecting Care Act* and Bill 135 do not require any standards of transparency, oversight and public accountability for Ontario Health Teams, other than reporting to Ontario Health atHome which itself is also not subject to any such standards.

Under Bill 135, the delivery of home care services would be downloaded from Ontario Health atHome to Ontario Health Teams, neither of which organizations have any legal responsibility for public access to board meetings or other governance decision-making mechanisms, minutes of board meetings, audited financial statements or any other information relevant to the operation of publicly funded home care services.

ACE recommends that:

---

<sup>3</sup> *Ontario Health Team: The Path Forward* (Ministry of Health, November 2022) at p. 6. See [https://www.health.gov.on.ca/en/pro/programs/connectedcare/oht/docs/OHT\\_path\\_forward.pdf](https://www.health.gov.on.ca/en/pro/programs/connectedcare/oht/docs/OHT_path_forward.pdf). Accessed November 13, 2023.

3. Administration of publicly funded home-care services should not be downloaded to Ontario Health Teams that have no corporate structure, nor any required mechanisms for transparency, oversight and public accountability.

### **CONFLICTING INTERESTS FOR SERVICE PROVIDERS**

Bill 135 would create conflict between the financial interests of service providers and the health care needs of the home-care clients they serve.

Under this model, health service providers will become responsible for the care coordination and engagement of publicly funded home care services. Health service providers have a vital and inherent self-interest in the financial viability and profitability of their services and operations. Home care clients have a different and competing interest in receiving home care services that meet their health care needs.

Further, the health service providers' knowledge about the system, including long-term care, will be restricted. Currently, case managers are also trained to identify when a person requires long-term care and complete the placement co-ordination function. This will no longer be the case once home care coordination services are downloaded to other agencies. In some cases, clients may not know whether home care or long-term care is the best option; however, they will no longer be dealing with a person who is able to assist with both. When long-term care is contemplated, this will mean bringing in another agency to manage that process.

Through decades of experience serving community-dwelling older adults, ACE has witnessed countless occasions where service providers are reluctant to serve sometimes demanding and difficult to serve clients, even to the point of the outright refusal of service. It is our experience that service providers would much prefer to cherry-pick the easier to serve consumers of home care services, and to limit access to their services by difficult or demanding clients as much as is legally possible.

Furthermore, the downloading of care coordination to service providers creates the opportunity and incentive for care coordination services to focus on the ease of delivery and maximization of profits for the service delivery agents to the detriment of the client. This will also cause increased demand for long-term care home beds as home care agencies redirect clients they no longer wish to serve into the long-term care system.

In view of this inherent conflict of interest, care coordination and service delivery should not be delegated to the same agency or organization, whether or not those entities are operated on a for profit or not-for-profit basis.

ACE recommends that:

4. Care co-ordination for publicly funded home care services and placement co-ordination for admission to long-term care should not be downloaded to Ontario Health Teams or any other health service providers.

## **CHRONIC UNDERFUNDING OF HOME CARE SERVICES IN ONTARIO**

Bill 135 does not address the chronic underfunding of home care services in Ontario, nor the lack of proper hospital care, sufficient long-term care and other housing options in Ontario.

The most pervasive and consistent complaint that ACE receives concerning home care services in Ontario is that waiting lists are too long, and not enough high-quality home care service is provided. Addressing the root cause of the failed and broken home care system that operates in Ontario today necessarily requires more funding for more home care services to more Ontarians in need of such service.

An inherent danger that accompanies the infusion of more public funds is the possibility - - if not the likelihood -- that increased funding will go to increased profits and increased profitability for service providers, rather than to increased services for home care consumers.

It is essential that more and adequate funding be provided for home care services in Ontario, within publicly owned and administered service delivery mechanisms that preclude favoritism, self-dealing, profiteering and the service of other interests of for-profit service providers.

ACE therefore recommends that:

5. The Ministry of Health provide increased and sufficient funding of publicly funded home care services to meet the reasonable home care needs of all Ontarians.

## **PLACEMENT MANAGEMENT SERVICES**

Bill 135 has separated the placement management services from the care co-ordination services, the latter of which can be downloaded to other agencies. As set out above, this separation of services is not in the best interest of the client.

A current issue in the area of placement management services is the lack of independence that case managers have in the hospital setting. While the amendments to the *Fixing Long-Term Care Act* passed in 2022<sup>4</sup> exacerbated this problem, they by no means created it. Hospitals have been interfering with the placement of patients from hospital into long-term care for decades: Bill 135 will simply expand this issue to the community sector.

Currently, it is common for hospital personnel to actively prevent HCCSS case managers from discussing placement with patients, despite the patients' rights to do so. With the

---

<sup>4</sup> More Beds, Better Care Act, 2022, S.O. 2022, c. 16.



new placement management services being entirely separated from care co-ordination, it will be easier for this to occur.

Furthermore, the other health service providers or Ontario Health Teams that are managing care co-ordination will also be able to manipulate the system, either by preventing clients from being referred to placement management, or by referring their clients to placement management due to perceptions of that person being too “heavy care” or “difficult”, despite the client continuing to qualify for home care services. The reliance of referrals will now be on the other health service providers or Ontario Health Teams, which will create barriers for their clients in accessing placement management services.

Finally, there will be increased pressure on placement management to act for the benefit of the service providers, as currently occurs in the hospital situation, rather than for the benefit of the client.

ACE therefore recommends that:

6. The placement management services and care coordination services be kept together in an independent agency.
7. The Ministry of Long-Term Care increase oversight into the placement co-ordination system to ensure that all applications are performed in compliance with the requirements set out in the *Fixing Long-Term Care Act* and the *Health Care Consent Act*

## **CONCLUSION**

Bill 135 is not client-centered and will not benefit those who require home care or placement services.

ACE therefore recommends that:

8. The Minister of Health withdraw Bill 135 in its entirety.
9. The Ontario Legislative Assembly repeal and replace the *Connecting Care Act* with remedial legislation that restores and implements public administration and not-for-profit service delivery of publicly funded home care services.

ALL OF WHICH IS RESPECTFULLY SUBMITTED at Toronto, Ontario, this 14th day of November 2023.

**ADVOCACY CENTRE FOR THE ELDERLY**

*Graham Webb.*

---

Graham Webb  
Lawyer/Executive Director

*Jane E. Meadus*

---

Jane E. Meadus  
Lawyer/Institutional Advocate