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**Official Report
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(Hansard)**

G-42

**Journal
des débats
(Hansard)**

G-42

**Standing Committee on
General Government**

Strengthening Quality
and Accountability
for Patients Act, 2017

2nd Session
41st Parliament

Wednesday 6 December 2017

**Comité permanent des
affaires gouvernementales**

Loi de 2017 renforçant
la qualité et la responsabilité
pour les patients

2^e session
41^e législature

Mercredi 6 décembre 2017

Chair: Grant Crack
Clerk: Sylwia Przedziecki

Président : Grant Crack
Greffière : Sylwia Przedziecki

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Wednesday 6 December 2017

Mercredi 6 décembre 2017

The committee met at 1601 in committee room 2

**STRENGTHENING QUALITY
AND ACCOUNTABILITY
FOR PATIENTS ACT, 2017
LOI DE 2017 RENFORÇANT
LA QUALITÉ ET LA RESPONSABILITÉ
POUR LES PATIENTS**

Consideration of the following bill:

Bill 160, An Act to amend, repeal and enact various Acts in the interest of strengthening quality and accountability for patients / Projet de loi 160, Loi visant à modifier, à abroger et à édicter diverses lois dans le souci de renforcer la qualité et la responsabilité pour les patients.

The Chair (Mr. Grant Crack): Good afternoon, everyone; members of the committee, support staff. It's good to see you, Mr. Colle. It's always a pleasure.

I'd like to call the Standing Committee on General Government to order. Today we're here to continue clause-by-clause consideration of Bill 160, An Act to amend, repeal and enact various Acts in the interest of strengthening quality and accountability for patients.

We did have a recess prior to adjourning on Monday afternoon. The reason for that recess was the fact that government motion 35.3 was read into the record and subsequently Madame Gélinas proposed an amendment to government motion 35.3 and we required copies for all members.

Madame Gélinas, would you be so kind as to read your proposed amendment into the record?

M^{me} France Gélinas: I move that subsection 56(2) of the Oversight of Health Facilities and Devices Act, 2017, as set out in government motion 35.3, be amended by adding the following paragraphs:

"4.1 The projected cost in public money for the operation of the device.

"4.2 The availability of public money to pay for the operation of the device."

The Chair (Mr. Grant Crack): Discussion? Madame Gélinas.

M^{me} France Gélinas: It's just to make sure we have enough money for those private devices.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on the amendment to the amendment. It's a recorded vote.

Ayes

Gélinas.

Nays

Anderson, Colle, Fraser, Hoggarth, Rinaldi.

The Chair (Mr. Grant Crack): I declare NDP motion 35.3.1, which was the amendment to the amendment of government motion 35.3, defeated.

We will return back to original government motion number 35.3. Is there any further discussion on government motion 35.3? There being none, I shall call for the vote. Shall government motion 35.3 carry? I declare government motion 35.3 carried.

As a result of that amendment that just passed, schedule 9, section 56, is amended. Is there any discussion? I see that there is none. I shall call for the vote. Shall schedule 9, section 56, as amended, carry? I declare schedule 9, section 56, carried.

We shall move to government motion 35.4, which is proposing an amendment to section 56.1 of the Oversight of Health Facilities and Devices Act, 2017: Mr. Fraser.

Mr. John Fraser: I move that schedule 9 to the bill be amended by adding the following section:

"Health care system factors

"Community health facilities that were formerly licensed under the Private Hospitals Act

"56.1(1) With respect to a community health facility that was formerly licensed under the Private Hospitals Act, at any time the minister may revoke or refuse to renew a licence where the minister is of the opinion that it is in the public interest to do so.

"Same, public interest

"(2) In making a decision in the public interest under subsection (1), the minister may consider any matter he or she regards as relevant including, without limiting the generality of the foregoing, the integrity of the publicly funded health care system, the proper management of the health care system in general, and the availability of financial resources for the management of the health care system and for the delivery of health care services."

The Chair (Mr. Grant Crack): Mr. Fraser?

Mr. John Fraser: I think it's self-evident what this clause does.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on government

motion 35.4. Those in favour of government motion 35.4? Those opposed? I declare government motion 35.4 carried.

We shall move to schedule 9, section 57. There are no amendments. Any discussion? There being none, I shall call for the vote. Shall schedule 9, section 57, carry? I declare schedule 9, section 57, carried.

We shall move to schedule 9, section 58. Government motion 36 proposes an amendment to—

Mr. John Fraser: Withdrawn.

The Chair (Mr. Grant Crack): That is in order. Government motion 36 is withdrawn.

We shall move to government motion 36R, which is proposing an amendment to section 58 of the Oversight of Health Facilities and Devices Act, 2017.

Mr. John Fraser: I move that section 58 of schedule 9 to the bill be struck out and the following substituted:

“Forms and service of orders and notices

“58(1) An order under section 50 or 51, or the notice of taking an action under section 55 or 56,

“(a) must be in writing;

“(b) must set out the grounds upon which it is made;

“(c) must set out, if there is any right of review under section 52, a statement of that right and an explanation of how to exercise that right, including the deadline for requesting the review;

“(d) must set out, if there is a right under section 68 to appeal the order, a statement of that right and an explanation of how to exercise that right, including the deadline for exercising the right; and

“(e) subject to subsection (2), must be served on the licensee or prospective licensee against whom the order is made or the action is taken.

“Service of orders under s. 51

“(2) An order made under section 51 may be served on a person engaged in the administration or operation of a community health facility but, where an order is served on an administrator or operator, a copy of the order must be delivered to the licensee or prospective licensee of the community health facility.”

The Chair (Mr. Grant Crack): Discussion? Mr. Fraser.

Mr. John Fraser: A cessation of the order may need to take effect immediately.

The Chair (Mr. Grant Crack): Okay, thank you. Further discussion? Madame Gélinas.

M^{me} France Gélinas: Just to make sure, when he read (c), he said “must set out if there is any right.”

Mr. John Fraser: If there is “a” right. Sorry.

The Chair (Mr. Grant Crack): Thank you for the clarification.

Okay, further discussion? There being none, I shall call for the vote on government motion 36R. Those in favour? Any opposed? I declare government motion 36R carried.

Schedule 9, section 58, with that motion that just passed, is amended. Is there any discussion on section 58, as amended? There being none, shall schedule 9, section

58, carry as amended? I declare schedule 9, section 58, as amended, carried.

We shall move to government motion number 36.0.1, proposing a new section, 58.1. Mr. Fraser.

Mr. John Fraser: I move that schedule 9 to the bill be amended by adding the following section:

“Forms and service of orders and notices

“58.1 The notice of taking an action under section 56.1,

“(a) must be in writing;

“(b) must set out the grounds upon which it is made;

“(c) must be served on the licensee against whom the action is taken; and

“(d) may include directions to the licensee of a community health facility that was formerly licensed under the Private Hospitals Act providing for the actions the licensee must take to ensure the health and safety of patients.”

The Chair (Mr. Grant Crack): Discussion? Mr. Fraser.

Mr. John Fraser: I think it’s self-evident, Chair.

The Chair (Mr. Grant Crack): Discussion? Madame Gélinas.

M^{me} France Gélinas: I’m not sure what the difference is between 36R and 36.0.1. What does 36.0.1 do that 36R did not do?

Mr. John Fraser: The amendment is necessary to support the minister’s power to take CHF licence revocation decisions in respect of former private hospitals in the public interest and to issue directions for the protection of patients; it’s specific to that.

M^{me} France Gélinas: Okay, so it’s the same as 36R but we have added the community health facilities that used to be private hospitals?

Mr. John Fraser: Yes.

M^{me} France Gélinas: Okay.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on government motion 36.0.1. Those in favour? Any opposed? I declare government motion 36.0.1 carried.

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We shall move to PC motion 36.1, proposing an amendment to subsection 59(5), paragraph 4 of the Oversight of Health Facilities and Devices Act, 2017. Mr. Yurek?

Mr. Jeff Yurek: I move that paragraph 4 of subsection 59(5) of schedule 9 to the bill be amended by striking out “or such other person specified by the minister” and substituting “or other prescribed person” in the portion before subparagraph i.

The Chair (Mr. Grant Crack): Further discussion? Mr. Yurek.

Mr. Jeff Yurek: We’re just following up with the Privacy Commissioner’s recommendation. This amendment would enhance transparency and limit the disclosure of personal information, which we’ve been saying on and on and on during the past many days of amendments. We’re hoping there is support for this as we move forward.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: I think it's always wise to follow the recommendation of the Information and Privacy Commissioner.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote. Those in favour of PC motion number 36.1? Any opposed? I declare PC motion 36.1 defeated.

Mr. Jeff Yurek: Recount.

The Chair (Mr. Grant Crack): Pardon?

Mr. Jeff Yurek: Recount.

The Chair (Mr. Grant Crack): It was quite clear to me.

NDP motion 36.2, proposing an amendment to subsection 59(5) of the Oversight of Health Facilities and Devices Act, 2017: Madame Gélinas.

M^{me} France Gélinas: I move that paragraph 4 of subsection 59(5) of schedule 9 to the bill be amended by striking out the portion before paragraph i and substituting the following:

“The designated person or entity shall provide the reports, notices and other information, which may include personal information, if necessary, to the minister or prescribed person,”

The Chair (Mr. Grant Crack): Discussion? Madame Gélinas.

M^{me} France Gélinas: This is needed because all persons receiving personal information under schedule 9 should be prescribed in legislation to make sure that we keep access to personal information as personal as possible and as confidential as possible. It comes from IPC's deputation on pages 15 and 16.

The Chair (Mr. Grant Crack): Just for clarification, in your opening remark, it was, “I move that paragraph 4 of subsection 59(5) of schedule 9 to the bill be amended by striking out the portion before subparagraph i and submitting the following:”. Is that what you wanted to read in?

M^{me} France Gélinas: Absolutely.

The Chair (Mr. Grant Crack): Discussion? There being none, I shall call for the vote on NDP motion 36.2, recorded.

Ayes

Gélinas, Yurek.

Nays

Anderson, Colle, Fraser, Rinaldi.

The Chair (Mr. Grant Crack): I declare NDP motion 36.2 defeated.

We shall move to government motion 37, proposing an amendment to subsection—

Mr. John Fraser: Withdraw.

The Chair (Mr. Grant Crack): Withdrawn. That is in order. Government motion 37 is withdrawn.

We shall move to government motion 37R, which is proposing an amendment to subsection 59(5), paragraph 4. Mr. Fraser?

Mr. John Fraser: I move that paragraph 4 of subsection 59(5) of schedule 9 to the bill be amended by striking out the portion before subparagraph i and substituting the following:

“4. The designated person or entity shall provide the reports, notices and other information, which may include personal information, if necessary, to the minister or such other person prescribed in a regulation made under this section.”

The Chair (Mr. Grant Crack): Discussion? Mr. Fraser.

Mr. John Fraser: I think this will address the issue we've been discussing with the previous two motions.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: Is there a difference between the motion that I had presented and that one?

Mr. John Fraser: Yes. If you take a look, it's “or such other person prescribed in a regulation made under this section”; that's the difference.

M^{me} France Gélinas: Thank you.

The Chair (Mr. Grant Crack): Discussion? There being none, I shall call for the vote on government 37R. Those in favour? Any opposed? I declare motion 37R carried.

We shall move to government motion 38, proposing an amendment to subsection 59(6), the Oversight of Health Facilities and Devices Act, 2017. Mr. Fraser.

Mr. John Fraser: I move that section 59 of schedule 9 to the bill be amended by adding the following subsection:

“Regulations

“(6) The minister may make regulations prescribing persons or entities that may receive information under paragraph 4 of subsection (5).”

The Chair (Mr. Grant Crack): Discussion? Mr. Fraser.

Mr. John Fraser: I think it's quite clear.

The Chair (Mr. Grant Crack): Further? Mr. Yurek.

Mr. Jeff Yurek: Just a question to the government: Has the privacy commissioner looked at this amendment? Has he had any comment?

Mr. John Fraser: The amendment is a companion to motion 37R, which the Information and Privacy Commissioner has recommended for greater transparency that recipients of information from designated persons and entities under subsection 59(5) be specified in regulation.

The Chair (Mr. Grant Crack): Discussion? There being none, I shall call for the vote on government motion 38. Those in favour? Those opposed? I declare government motion 38 carried.

There are two amendments that carry; therefore schedule 9, section 59 is amended. Any discussion on schedule 9, section 59, as amended? There being none, I shall call for the vote. Shall schedule 9, section 59, as amended, carry? I declare schedule 9, section 59, carried.

We shall move to schedule 9, section 60. There are no amendments. Any discussion? Shall schedule 9, section 60, carry? I declare schedule 9, section 60, carried.

We shall move to government motion number 39, proposing an amendment to subsection 61(2), the Oversight of Health Facilities and Devices Act, 2017. Mr. Fraser.

Mr. John Fraser: I move that subsection 61(2) of schedule 9 to the bill be struck out and the following substituted:

“Personal health information to be removed

“(2) Before making an order, or anything provided for in the regulations, available to the public, the executive officer shall ensure that all personal health information is removed.”

The Chair (Mr. Grant Crack): Further discussion? Mr. Fraser.

Mr. John Fraser: I think the amendment speaks for itself.

The Chair (Mr. Grant Crack): Okay. Discussion? There being none, I shall call for the vote. Shall government motion 39 carry? I declare government motion 39 carried.

There is one amendment that has carriage. Any discussion on schedule 9, section 61, as amended? There being none, I shall call for the vote. Shall schedule 9, section 61, as amended, carry? Any opposed? I declare schedule 9, section 61, as amended, carried.

We shall move to NDP motion 39.1 proposing an amendment to schedule 9, subsection 62, the Oversight of Health Facilities and Devices Act, 2017. Madame Gélinas.

M^{me} France Gélinas: I move that subsection 62(1) of schedule 9 be struck out and the following substituted:

“Protection from liability

“62(1) No action or other proceeding, other than an application for judicial review under the Judicial Review Procedure Act or any right of appeal or review that is permitted under this act, shall be commenced against the crown, the minister, the executive officer or any employee or agent of the crown, including a local health integration network, or any officer, director or employee of a local health integration network or an inspector appointed by the executive officer or an inspecting body or any employee or agent of an inspecting body or person appointed by an inspecting body or a member of a council or a committee of an inspecting body, for anything done or omitted to be done in good faith in the execution or intended execution of a power or duty under this act.”

The Chair (Mr. Grant Crack): Discussion? Madame Gélinas.

M^{me} France Gélinas: So basically I just added the part about the “person appointed by an inspecting body or a member of a council or a committee of an inspecting body” to make sure that we extend immunity from being forced to testify in civil proceedings to committee and council members.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on NDP motion 39.1. It will be recorded.

Ayes

Gélinas.

Nays

Anderson, Colle, Fraser, Hoggarth, Rinaldi.

The Chair (Mr. Grant Crack): I declare NDP motion 39.1 defeated.

We shall move to government motion 40, proposing—

Mr. John Fraser: Withdraw.

The Chair (Mr. Grant Crack): That is in order. Government motion 40 is withdrawn.

We shall move to government motion 40R, which is proposing an amendment to section 62. Mr. Fraser.

Mr. John Fraser: I move that section 62 of schedule 9 to the bill be struck out and the following substituted:

“Protection from liability

“62(1) No action or other proceeding, other than an application for judicial review under the Judicial Review Procedure Act or any right of appeal or review that is permitted under this act, shall be commenced against the crown, the minister, the executive officer or any employee or agent of the crown, including a local health integration network, or any officer, director or employee of a local health integration network or an inspector appointed by the executive officer or an inspecting body or any employee or agent of any inspecting body or person appointed by an inspecting body or a member of the board of directors of an inspecting body or a member of a committee of an inspecting body, for anything done or omitted to be done in good faith in the execution or intended execution of a power or duty under this act.

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“No remedy

“(2) Despite any other act or law, no costs, compensation or damages are owing or payable to any person and no remedy, including but not limited to a remedy in contract, restitution, tort or trust, is available to any person against the crown, the minister, the executive officer or any employee or agent of the crown, including a local health integration network, or any officer, director or employee of a local health integration network or an inspector appointed by the executive officer or an inspecting body or any employee or agent of an inspecting body or person appointed by an inspecting body or a member of the board of directors of an inspecting body or a member of a committee of an inspecting body, in connection with anything referred to in subsection (1) except as otherwise provided under this act.”

The Chair (Mr. Grant Crack): Well done. Thank you. Just one point of interest—

Mr. John Fraser: Did I make a mistake?

The Chair (Mr. Grant Crack): We wouldn't call it that. Under 62(1), three quarters of the way down: “employee or agent of an inspecting body,” I believe you would have liked to have said.

Mr. John Fraser: Yes, that's right. Yes.

The Chair (Mr. Grant Crack): Otherwise, that was well done.

Any discussion? Madame Gélinas.

M^{me} France Gélinas: I think it's well done.

The Chair (Mr. Grant Crack): Further discussion? Mr. Yurek.

Mr. Jeff Yurek: Just if you could clarify: If there is an action or omission that was done in good faith, what does the licensee have, to seek remedy?

Mr. John Fraser: What does the licensee have, to seek remedy?

Mr. Jeff Yurek: What is the complaint mechanism?

Mr. John Fraser: “No action or other proceeding, other than an application for judicial review under the Judicial Review Procedure Act or any right of appeal or review that is permitted under this act”—that’s in the beginning, in the first sentence of the clause.

Mr. Jeff Yurek: Right. So what’s permitted in this act? I just want clarification so that I understand what’s going on here.

Mr. John Fraser: Yes, okay.

The Chair (Mr. Grant Crack): Madame Theodonis. Welcome back.

Ms. Theodora Theodonis: Thank you very much. Good afternoon. Theodora Theodonis, counsel, legal services branch, Ministry of Health and Long-Term Care.

Mr. Jeff Yurek: It’s me this time. Sorry.

Ms. Theodora Theodonis: Hello. When there is a good-faith action taken, the licensee or prospective licensee could commence an application for a judicial review in divisional court where there is an exercise of statutory decision-making power. That is one form of remedy.

The second form of remedy is an appeal of various decisions to an administrative tribunal, the Health Services Appeal and Review Board. I will take you to that particular section. I believe it’s somewhere around section 68 of schedule 9. Yes. Rights of appeal for the licensee are set out in section 68.

M^{me} France Gélinas: On which page?

Ms. Theodora Theodonis: That would be page 71.

M^{me} France Gélinas: Thank you.

The Chair (Mr. Grant Crack): Thank you, Ms. Theodonis.

Further discussion? There being none, I shall call for the vote on government motion 40R. Those in favour? Any opposed? I declare government motion 40R carried.

Schedule 9, section 62 has just been amended with that motion that passed. Any discussion? There being none, I shall call for the vote. Shall schedule 9, section 62, as amended, carry? Any opposed? I declare schedule 9, section 62, as amended, carried.

There are no amendments to schedule 9, sections 63 through 65. Is there any discussion on either of those? There being none, I shall call for the vote. Shall schedule 9, section 63, section 64 and section 65, carry? Any opposed? I declare schedule 9, section 63, carried; schedule 9, section 64, carried; and schedule 9, section 65, carried.

We shall move to PC motion 40.1, proposing a new section, section 65.1, the Oversight of Health Facilities and Devices Act, 2017. Mr. Yurek.

Mr. Jeff Yurek: I move that section 9 to the bill be amended by adding the following section:

“Confidentiality of information

“65.1 The executive officer and any committee established under paragraph 8 of subsection 36(3), supervisor appointed under subsection 53(1), person or entity prescribed under paragraph 4 of subsection 59(5) and prescribed person or entity to which the executive officer delegates the officer’s powers under section 71 shall keep confidential all information that comes to their knowledge in the course of carrying out their functions under this act and shall not communicate any information to any other person except as required by law or except if the communication is to the minister or a person employed in or performing services for the ministry.”

The Chair (Mr. Grant Crack): Just for clarification: “I move that schedule 9”—not section 9—“to the bill be amended.”

Mr. Jeff Yurek: Okay, I’ll let you have it. Schedule 9.

The Chair (Mr. Grant Crack): Discussion? Mr. Yurek.

Mr. Jeff Yurek: Again, we’re just looking out for protecting personal information and ensuring that it’s only used and collected for the needed purpose in carrying out one’s duty and it doesn’t go beyond that part.

The Chair (Mr. Grant Crack): Discussion? Madame Gélinas.

M^{me} France Gélinas: If this is voted down, how do we make sure that the confidentiality of information will be respected?

Mr. John Fraser: It is addressed in the act—

The Chair (Mr. Grant Crack): Mr. Fraser.

Mr. John Fraser: Thank you, Chair. Sorry. Also, we’ve just gone through motions 27, 34 and 37.

M^{me} France Gélinas: Motion what?

Mr. John Fraser: Motions 27, 34 and 37. The three that we just did.

M^{me} France Gélinas: Okay.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on PC motion 40.1. Those in favour? Those opposed? I declare PC motion 40.1 defeated.

We shall move to schedule 9, section 66, PC motion 40.2, proposing an amendment to subsections 66(3) and (3.1), the Oversight of Health Facilities and Devices Act, 2017. Mr. Oosterhoff.

Mr. Sam Oosterhoff: I move that subsection 66(3) of schedule 9 to the bill be struck out and the following substituted:

“Disclosure

“(3) Despite anything else in this act, the minister or the executive officer shall disclose personal information subject to subsection (3.1) and the conditions, if any, that are prescribed, if the disclosure is necessary for purposes related to the administration of this act, the Health

Insurance Act or the Commitment to the Future of Medicare Act, 2004 or for any other prescribed purposes.

“Restriction on collection, use and disclosure

“(3.1) The minister and the executive officer shall not,

“(a) collect, use or disclose personal information if other information will serve the purpose of the collection, use or disclosure; and

“(b) collect, use or disclose more personal information than is reasonably necessary to meet the purpose of the collection, use or disclosure.”

The Chair (Mr. Grant Crack): Discussion? Mr. Yurek?

Mr. Jeff Yurek: Yes, thanks. This amendment, again, reaches out to protecting personal health information. The privacy commissioner thought it was a great idea, and we think so as well.

The Chair (Mr. Grant Crack): Ms. Hoggarth.

Ms. Ann Hoggarth: I think that the member said “disclosure (3).” There is no (3) on my copy.

The Chair (Mr. Grant Crack): So is it “disclosure (3.1)”? Is that what you’re—

Mr. Sam Oosterhoff: I said “3.1.”

Ms. Ann Hoggarth: In the actual wording of the amendment, it says “Disclosure,” but there—

The Chair (Mr. Grant Crack): So “Disclosure” up top is “(3),” and then further down, “Restriction on collection, use and disclosure” is “(3.1).”

Ms. Ann Hoggarth: Okay. Sorry.

Mr. Sam Oosterhoff: No worries.

The Chair (Mr. Grant Crack): This is clarified. Further discussion? There being none, we shall call for the vote on PC motion 40.2. Those in favour? Those opposed? I declare PC motion 40.2 defeated.

We shall move to NDP motion 40.2.1, proposing an amendment to section 66 of the Oversight of Health Facilities and Devices Act, 2017. Madame Gélinas.

1630

M^{me} France Gélinas: I move that subsection 66(3) of schedule 9 to the bill be amended be struck out and the following substituted:

“(3) Despite anything else in this act, the minister or the executive officer shall disclose personal information, subject to such conditions as may be prescribed, where the disclosure is necessary for purposes related to the administration of this act, the Health Insurance Act or the Commitment to the Future of Medicare Act, 2004 or for any other prescribed purposes.

“Where shall not disclose

“(3.1) The minister and the executive officer shall not,

“(a) collect, use or disclose personal information if other information will serve the purpose of the collection, use or disclosure; and,

“(b) collect, use or disclose more personal information than is reasonably necessary to meet the purpose of the collection, use or disclosure.

“Confidentiality

“(3.2) The executive officer and any committee established under paragraph 8 of subsection 36(3), supervisor appointed under subsection 53(1), person or entity pre-

scribed under subsection 59(5) and prescribed person or entity to which the executive officer delegates his or her powers under section 71, shall keep confidential all information that comes to their knowledge in the course of carrying out their functions under this act and shall not communicate any information to any other person except as required by law or except where the communication is to the minister or a person employed in or performing services for the ministry.

“Same

“(3.3) Except as permitted or required by law and subject to the exceptions and additional requirements, if any, that are prescribed, a person or entity that receives personal information under subsection 35(1), paragraph 5 of subsection 36(3) and paragraph 4 of subsection 59(5), shall not use or disclose the information for any purpose other than,

“(a) the purpose for which the information was authorized to be disclosed under this act; or

“(b) the purpose of carrying out a statutory or legal duty.”

The Chair (Mr. Grant Crack): Discussion? Madame Gélinas.

M^{me} France Gélinas: This comes from the Information and Privacy Commissioner. Again, this will ensure that the amount of information collected is not more than is needed and makes sure that everybody is covered by this directive.

The Chair (Mr. Grant Crack): Further discussion?

Mr. Jeff Yurek: Yes, I like this amendment, and especially the addition of the confidentiality that is added. I think this should unanimously pass as we go forward. Good work.

The Chair (Mr. Grant Crack): Discussion? There being none, I shall call for the vote on NDP motion 40.2.1. Those in favour?

Ayes

Gélinas, Oosterhoff, Yurek.

Nays

Anderson, Colle, Fraser, Hoggarth, Rinaldi.

The Chair (Mr. Grant Crack): I declare NDP motion 40.2.1 defeated.

We shall move to PC motion 40.3, proposing an amendment to subsections 66(5) and (6).

Mr. Jeff Yurek: I move that section 66 of schedule 9 to the bill be amended by adding the following subsections:

“Restrictions on other persons and entities

“(5) In performing a duty or exercising a power under this act, any inspecting body, inspector, committee established under paragraph 8 of subsection 36(3), supervisor appointed under subsection 53(1), person or entity prescribed under subsection 59(5) and prescribed person or

entity to which the executive officer delegates the officer's powers under section 71 shall not,

“(a) collect, use or disclose personal information if other information will serve the purpose of the collection, use or disclosure; and

“(b) collect, use or disclose more personal information than is reasonably necessary to meet the purpose of the collection, use or disclosure.

“Same

“(6) Except as permitted or required by law and subject to the exceptions and additional requirements, if any, that are prescribed, a person or entity that receives personal information under subsection 35(1), paragraph 5 of subsection 36(3) or paragraph 4 of subsection 59(5), shall not use or disclose the information for any purpose other than,

“(a) the purpose for which the information was authorized to be disclosed under this act; or

“(b) the purpose of carrying out a statutory or legal duty.”

The Chair (Mr. Grant Crack): Discussion? Mr. Yurek.

Mr. Jeff Yurek: Again, we're following the direction of the privacy commissioner to protect the disclosure of personal health information and ensure that it is only used for its proper purposes and under certain direction specified in this amendment.

The Chair (Mr. Grant Crack): Thank you. Further discussion? Madame Gélinas.

M^{me} France Gélinas: If this is voted down, could they point me to where in the bill we will make sure that this still exists?

The Chair (Mr. Grant Crack): Mr. Fraser.

Mr. John Fraser: The same three amendments that we just discussed apply to this as well, too: 27, 34 and 37.

M^{me} France Gélinas: Okay.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on PC 40.3.

Those in favour? Any opposed? I declare PC motion 40.3 defeated.

There are no amendments, therefore, to schedule 9, section 66. Any discussion? There being none, I'll call for the vote. Shall schedule 9, section 66 carry? I declare schedule 9, section 66 carried.

We have no amendments proposed for schedule 9, section 67, section 68, or section 69. Any discussion? There being none, I shall call for the vote. Shall schedule 9, sections 67, 68 and 69 carry? I declare schedule 9, sections 67, 68 and 69 carried.

We'll move to schedule 9, section 70: government motion 41, proposing an amendment to subsection 70(1), Oversight of Health Facilities and Devices Act, 2017. Mr. Fraser.

Mr. John Fraser: I move that subsection 70(1) of schedule 9 to the bill be amended by striking out “records of the executive officer” wherever it appears and substituting in each case “records of the executive officer

if the executive officer is serving notice or of the inspecting body if the inspecting body is serving notice”.

The Chair (Mr. Grant Crack): Discussion? Mr. Fraser.

Mr. John Fraser: It would enable a more efficient operation of the quality inspection regime, and it responds to stakeholder comments.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: Do you remember which stakeholders asked for that?

Mr. John Fraser: I don't offhand, sorry.

The Chair (Mr. Grant Crack): Further discussion?

Interjection.

M^{me} France Gélinas: Oh, there's somebody who knows.

The Chair (Mr. Grant Crack): For the record, Mr. Fraser? For clarification?

Mr. John Fraser: CPSO.

The Chair (Mr. Grant Crack): CPSO?

Mr. John Fraser: Yes, the College of Physicians and Surgeons of Ontario.

The Chair (Mr. Grant Crack): Okay, thank you. Further discussion? There being none, I shall call for the vote on government motion 41. Those in favour? Any opposed? I declare government motion 41 carried.

We'll move to NDP motion 41.1, proposing an amendment to section 70: Madame Gélinas.

M^{me} France Gélinas: I move that section 70 of schedule 9 to the bill be struck out and the following substituted:

“Service

“70(1) Any notice that is required to be served under this act may be served,

“(a) by personal service;

“(b) by sending the notice by registered mail addressed to the person or entity to be served at their last address appearing on the records of the executive officer or inspecting body;

“(c) by sending the notice by fax to the person or entity to be served at their last fax number appearing on the records of the executive officer or inspecting body;

“(d) by sending the notice by email to the person or entity to be served at their last email address appearing on the records of the executive officer or inspecting body;

“(e) by sending the notice by commercial courier to the person or entity to be served at their last address appearing on the records of the executive officer or inspecting body; or

“(f) by any other prescribed method of delivery.

“Deemed receipt

“(2) Where notice is served in a manner described in subsection (1), the person or entity shall be deemed to have received the notice,

“(a) in the case of a notice sent by registered mail, on the fifth business day after the day it was mailed;

“(b) in the case of a notice sent by personal delivery, fax or email, on the first business day after the day it was sent;

“(c) in the case of a notice sent by commercial courier, on the second business day after the commercial courier received the document; or

“(d) in the case of a notice sent by any other prescribed methods, on a day provided for in the regulations.”

The Chair (Mr. Grant Crack): Okay, thank you. Just for clarification: As a result of government motion 41, which is a previous motion, passing, I would imagine you would have proposed “I move that section 70” because it was amended, you should say, “I move that section 70, as amended, of schedule 9 of the bill.” Is that—

M^{me} France Gélinas: Absolutely.

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The Chair (Mr. Grant Crack): Thank you. And you did read it correctly under (2)(a) on the second page. It says, in writing, “after the day is was mailed”. You actually said it correctly: “it was mailed.” I just want to make sure, for the written record, that it is correct.

Madame Gélinas.

M^{me} France Gélinas: Correction done.

Basically, CPSO has a little bit of experience doing that kind of stuff, and it is a lot easier if it’s in the law to make sure that the method of delivery does not become a contentious issue that holds everything back.

The Chair (Mr. Grant Crack): Discussion? Mr. Yurek.

Mr. Jeff Yurek: I appreciate the addition of utilizing email to send notices. I hope the government listens to that. We need to move away from the dated fax machine. It’s an old technology. It has lots of problems. There are blips. We need to modernize our health care system to utilize newer technologies in delivering information—email, and whatever is coming up. We need to have that transition going. I would love to see the Ministry of Health and government, as a whole, move away from fax.

The Chair (Mr. Grant Crack): Further discussion? Mr. Fraser.

Mr. John Fraser: Just very quickly, Chair, I think that we have to ensure that we have a secure channel through email. Once you can determine that, you can change that through regulation. I don’t think we’re there yet, but it can be accommodated through regulation.

I agree with what you’re saying, but we’re not there yet.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on NDP motion 41.1. It will be recorded.

Ayes

Gélinas, Yurek.

Nays

Anderson, Colle, Fraser, Rinaldi.

The Chair (Mr. Grant Crack): I declare NDP motion 41.1 defeated.

There was one amendment that carried. Schedule 9, section 70, as amended: Any discussion? There being none, I shall call for the vote. Shall schedule 9, section 70, as amended, carry? I declare schedule 9, section 70, as amended, carried.

We will move to schedule 9, section 71. No amendments. Any discussion? There being none, I call the vote. Shall schedule 9, section 71 carry? I declare schedule 9, section 71 carried.

Let’s move to schedule 9, section 72. Government motion 42 proposes an amendment to clause 72(3)(1), the Oversight of Health Facilities and Devices Act, 2017. Mr. Fraser.

Mr. John Fraser: I move that clause 72(3)(1) of schedule 9 to the bill be struck out and the following substituted:

“(1) respecting and governing reports, decisions and orders that are required to be made publicly available and the persons responsible for making such reports, decisions and orders available;”

The Chair (Mr. Grant Crack): Discussion? There being none, I shall call for the vote on government motion 42. Those in favour? Any opposed? I declare government motion 42 carried.

We shall move to NDP motion 42.1, proposing an amendment to subsection 72(3). Madame Gélinas.

M^{me} France Gélinas: I move that clause 72(3)(1) of schedule 9 to the bill be struck out and the following substituted:

“(1) respecting and governing reports, decisions and orders that are required to be made publicly available and the persons responsible for making such reports available;”

The Chair (Mr. Grant Crack): Discussion? Madame Gélinas—wait, sorry.

Interjection.

The Chair (Mr. Grant Crack): Again, it would be “I move that”—

M^{me} France Gélinas: “As amended”?

The Chair (Mr. Grant Crack): Yes, “clause 72(3)(1), as amended, of schedule 9.” Correct?

M^{me} France Gélinas: Correct.

The Chair (Mr. Grant Crack): Okay. Proceed, Madame Gélinas.

M^{me} France Gélinas: Just basically adding “decisions and orders,” but I think we’ve already done that.

The Chair (Mr. Grant Crack): Further discussion?

Mr. John Fraser: Withdraw?

M^{me} France Gélinas: Yes, sure, withdraw.

The Chair (Mr. Grant Crack): You’re withdrawing it?

M^{me} France Gélinas: We did it in the previous motion.

The Chair (Mr. Grant Crack): Okay, so NDP motion 42.1 is now withdrawn. That is in order.

Let’s move to government motion 43, an amendment proposed to clause 72(3)(t). Mr. Fraser.

Mr. John Fraser: I move that clause 72(3)(t) of schedule 9 to the bill be struck out and the following substituted:

“(t) requiring applicants for a licence, prospective licensees and licensees to pay fees established by an inspecting body for any activity the inspecting body is required or permitted to carry out under this act or the regulations, including fees for administrative and overhead costs related to the activity.”

The Chair (Mr. Grant Crack): Discussion? Mr. Yurek.

Mr. Jeff Yurek: Are there any plans in place to try to make it as cost-neutral as possible at the end of the day?

Mr. John Fraser: I hear your comments. Yes, I think that’s—

Mr. Jeff Yurek: You think?

Mr. John Fraser: Yes.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote: Shall government motion 43 carry? Any opposed? I declare government motion 43 carried.

We shall move to NDP motion 43.0.1 proposing an amendment to clause 72(3)(t). Madame Gélinas.

M^{me} France Gélinas: I think the changes we’ve done with this motion we just passed cover what I wanted to do, so I don’t put it forward.

The Chair (Mr. Grant Crack): So NDP motion 43.0.1 is not moved?

M^{me} France Gélinas: Correct.

The Chair (Mr. Grant Crack): That is in order.

We shall move to PC motion 43.1, proposing an amendment to clause 72(5)(c), the Oversight of Health Facilities and Devices Act, 2017. Mr. Yurek.

Mr. Jeff Yurek: I move that clause 72(5)(c) of schedule 9 to the bill be amended by striking out “services” and substituting “persons or classes of persons”.

The Chair (Mr. Grant Crack): Discussion? Mr. Yurek.

Mr. Jeff Yurek: Yes, this was brought forward by CPSO, which asked us to add this in with regard to regulating services that can create a gap in the system. Utilizing their skills over the years and having done this for many, many years, for the thousands of organizations they oversee, we should take a close look at what they’re offering. This amendment will hopefully prevent any gaps from occurring. I’m concerned, with this rushed legislation, that unintended consequences can occur. Listening to our stakeholders to ensure that those consequences do not occur is our duty, and this amendment does so.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: I just want to make sure that I’m at the right place. I’m on page 75: (5)(c) says, “prescribing services for the purpose of the definition,” but now it would say, “prescribing persons or classes of persons for the purpose of the definition”? Am I at the right place?

Mr. John Fraser: Chair?

The Chair (Mr. Grant Crack): Mr. Fraser.

Mr. John Fraser: I think what this does is, it tries to reframe it in terms of “persons or classes of persons” as opposed to the services that are provided in a facility. What’s consistent in the legislation is talking about the services that are provided in a facility, so I can’t support the motion.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: Did you say that this came from CPSO?

Mr. Jeff Yurek: Yes.

The Chair (Mr. Grant Crack): Further discussion? There being none, I call for the vote on PC motion 43.1. Those in favour? Any opposed? I declare PC motion 43.1 defeated.

There were two amendments that carried to schedule 9, section 72. Is there any discussion on the schedule, as amended? There being none, I shall call for the vote: Shall schedule 9, section 72, as amended, carry? Any opposed? I declare schedule 9, section 72, as amended, carried.

We shall move to PC motion 43.2, proposing a new section, section 72.1, the Oversight of Health Facilities and Devices Act, 2017.

Mr. Jeff Yurek: I move that schedule 9 to the bill be amended by adding the following section:

“Public consultation before making regulations

“72.1(1) The Lieutenant Governor in Council or the minister shall not make any regulation under section 72 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 members of the public may exercise a right described in clause (2)(b) or (c), have expired; and

“(d) the minister has considered whatever comments and submissions that members of the public have made on the proposed regulation in accordance with clause (2)(b) or (c) and has reported to the Lieutenant Governor in Council on what, if any, changes to the proposed regulation the minister considers appropriate.

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“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 members of the public 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 whatever other rights, in addition to the right described in clause (b), that members of the public have to make submissions on the proposed regulation and the manner in which and the time period during which those rights must be exercised;

“(d) a statement of where and when members of the public may review written information about the proposed regulation;

“(e) all prescribed information; and

“(f) all 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).”

The Chair (Mr. Grant Crack): Discussion? Mr. Yurek.

Mr. Jeff Yurek: I think this is appropriate, considering we’ve seen some feedback from patients or the public who didn’t have a part in creating this piece of legislation, and considering there’s a lot to be made in regulation with this bill, especially the access to their personal health information. It’s only appropriate that we actually include the patient in a health care bill that’s dealing with their personal information.

This amendment ensures that there is some consultation period, because it’s not happening with this current government.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: If we have heard it once, we have heard it 100 times that it will be done in regulations. What we’re doing here is giving the stakeholders and the people of Ontario a little bit of reassurance that there will be proper notice and proper time to make comments to all of those regulations yet to be heard of.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on PC motion 43.2. Those in favour? Those opposed? I declare PC motion 43.2 defeated.

We shall move to NDP motion 43.2.1, proposing new section 72.1 of the Oversight of Health Facilities and Devices Act, 2017. Madame Gélinas.

M^{me} France Gélinas: I move that schedule 9 to the bill be amended by adding the following section:

“Notice and comment

“72.1(1) The Lieutenant Governor in Council and minister shall not make any regulation under section 72 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 members of the public may exercise a right described in clause (2)(b) or (c), have expired; and

“(d) the minister has considered whatever comments and submissions that members of the public have made on the proposed regulation in accordance with clause (2)(b) or (c) and has reported to the Lieutenant Governor in Council on what, if any, changes to the proposed regulation the minister considers appropriate.

“Same

“(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 members of the public 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 whatever other rights, in addition to the right described in clause (b), that members of the public have to make submissions on the proposed regulation and the manner in which and the time period during which those rights must be exercised;

“(d) a statement of where and when members of the public may review written information about the proposed regulation;

“(e) all prescribed information; and

“(f) all other information that the minister considers appropriate.

“Time

“(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).”

The Chair (Mr. Grant Crack): Madame Gélinas, I’m going to declare this motion out of order. It is the same as the one the committee has just passed previously. The decision has already been made. Sorry—it was voted on, but not passed. So, it is out of order.

We shall move to government motion 43.2.1.1, proposing an amendment to subsections 73(91)—wait a second.

It’s schedule 9, subsections (1) to (3), the Oversight of Health Facilities and Devices Act, 2017.

Mr. John Fraser: I move that subsections 73(1) to (3) of schedule 9 to the bill be struck out and the following substituted:

“Offences

“73(1) Every person is guilty of an offence who,

“(a) transfers a licence contrary to section 9;

“(b) transfers a licence contrary to section 9.1;

“(c) contravenes any requirement under part IV;

“(d) does anything prohibited under part V;

“(e) contravenes any requirement under part VI;

“(f) contravenes subsection 39(14);

“(g) fails to comply with an order under clause 48(1)(a);

“(h) fails to comply with an order under clause 48(1)(b) or subsection 48(2);

“(i) fails to comply with a direction of the minister under clause 58.1(d);

“(j) does anything prohibited in section 75.1; or

“(k) fails to comply with a compliance order or cessation order.

“No imprisonment or probation

“(2) Despite anything else in this act, a person convicted of an offence under clause (1)(g) or (k) is not liable to imprisonment or to a probation order under subsection 72(1) of the Provincial Offences Act as a result of the conviction or as a result of default in payment of the fine resulting from the conviction.

“Due diligence, mistake not a defence

“(3) It is not a defence to a charge under clause (1)(g) or (k) that the person took all reasonable steps to prevent any failure to comply with this act or, at the time of the failure, the person had an honest and reasonable belief in a set of facts that, if true, would have resulted in there not being any non-compliance.”

The Chair (Mr. Grant Crack): Further discussion? Mr. Fraser?

Mr. John Fraser: Chair, this proposed amendment is consistent with the legislative regime set out in the OHFDA. Other prohibitions in the act are specified as offences, for instance, under the prohibitions in part V. Transferring a CHF licence without the prior approval of the executive officer is an offence. This is an adjunct motion, as well, to the next motion coming up, government motion 43.2.1. That’s about it, Chair.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: You made reference to the OFDA. You said it too fast, I didn’t—

Mr. John Fraser: OHFDA, the Oversight of Health Facilities and Devices Act.

Interjections.

The Chair (Mr. Grant Crack): After consulting with the Clerk and legislative counsel, under “Offences,” 73(1)(j), “anything prohibited in section 75.1; or,” 75.1 has not been dealt with at committee yet. We haven’t gotten there. As a result, I would ask—would it be in the interest of the committee to stand this down until such time as that has been dealt with and then come back to this one?

Mr. John Fraser: That’s fine.

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The Chair (Mr. Grant Crack): Okay. If there’s no opposition to that, then we shall do that. We’re going to just stand down government motion 43.2.1.1 until we get past section 75.1.

Mr. John Fraser: Just before we start—okay, great. Got it. We’re good.

The Chair (Mr. Grant Crack): Okay. It’s not far. Everybody be patient.

We shall move to NDP motion 43.2.2, proposing an amendment to subsection 73(1.1), the Oversight of Health Facilities and Devices Act, 2017: Madame Gélinas. It’s a recorded—oh, go ahead. Sorry. I was getting ready for a recorded vote; I was so excited.

M^{me} France Gélinas: I think we already dealt with this, so I’m happy to withdraw.

The Chair (Mr. Grant Crack): That is in order. It is withdrawn, NDP motion 43.2.2.

We’ll stand down the section at this point, which is schedule 9, section 73, and we shall move to schedule 9, sections 74 and 75. Is there any discussion on schedule 9, section 74 or 75? There being none, I shall call for the vote. Shall schedule 9, section 74, and schedule 9, section 75, carry? I declare both sections carried.

We shall move to government motion 43.2.2.1, proposing a new section, section 75.1, the Oversight of Health Facilities and Devices Act, 2017. Mr. Fraser.

Mr. John Fraser: I move that schedule 9 to the bill be amended by adding the following section immediately before the heading “Part XI Repeals”:

“Prohibition, providing in-patient medical and nursing care

“75.1(1) Only the persons and entities specified in subsection (2) may accept a person as an in-patient and provide treatment to that person.

“Entities specified for the purposes of subs. (1)

“(2) The following persons and entities are specified for the purposes of subsection (1):

“1. A person or entity that is licensed under the Private Hospitals Act.

“2. A community health facility that was formerly licensed under the Private Hospitals Act.

“3. A public hospital within the meaning of the Public Hospitals Act.

“4. The University of Ottawa Heart Institute/Institut de cardiologie de l’Université d’Ottawa.

“5. A psychiatric facility within the meaning of the Mental Health Act.

“Application

“(3) The prohibition in subsection (1) only applies with respect to insured services.

“Definitions

“(4) In this section,

“‘in-patient’ means a person admitted to and assigned a bed for overnight accommodation in any type of health care facility; (‘malade hospitalisé’)

“‘treatment’ means medical and nursing care including the maintenance, observation and supervision of an in-patient. (‘traitement’)”

The Chair (Mr. Grant Crack): Further discussion? Mr. Fraser.

Mr. John Fraser: This further clarifies. Again, the intent of the OHFDA is to repeal the Private Hospitals Act and to bring an end to the licensing of private hospitals.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: I continue to have very many worries that many of the for-profit community health facilities will operate pretty much like hospitals. I don’t feel reassured when I see this, that it’s only in respect to insured services, because right now as we have it—I like to give the example of Women’s College Hospital, which is a fantastic facility with great staff. They do not have beds, but they are a hospital, and everybody knows that

they are a hospital. All we're saying here is that if you don't have a bed, then it's good to go. That means Women's College Hospital, which does not have a bed, could become a community health facility, which I don't have any worries about; they're not about to do that. But in reverse, you could get those community health facilities to become hospitals, just like Women's College Hospital, hospitals without beds, and I'm opposed to that, and I will always be opposed to it.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on government motion 43.2.2.1. Those in favour? Any opposed? I declare government motion 43.2.2.1 carried.

We shall go back to government motion 43.2.1.1, which we stood down. I don't know if we have to read it all into the record again. Do we? I think it's pretty clear, so I'm going to call for discussion on government motion 43.2.1.1, which is an amendment to subsections 73(1) through (3) of the Oversight of Health Facilities and Devices Act, 2017. Mr. Fraser, discussion?

Mr. John Fraser: I think I went through that already just before we declared it and before we stood it down.

The Chair (Mr. Grant Crack): Fair enough. Further discussion? There being none, then I shall call for the vote on government motion 43.2.1.1. Those in favour? Any opposed? I declare government motion 43.2.1.1 carried.

NDP motion 43.2.2 was withdrawn. We shall go to the schedule, so schedule 9, section 73: There was one amendment. Is there any discussion on this amended section? There being none, I shall call for the vote. Shall schedule 9, section 73, as amended, carry? Any opposed? I declare schedule 9, section 73, as amended, carried.

We shall continue past schedule 9, section 75, which was just dealt with previously, to schedule 9, section 76.

I just want to note to the members that certain amendments in this section were incorrectly numbered. They should be ordered as below, and if there are any questions, don't be shy to let me know.

NDP motions will be considered first—

Interjection.

The Chair (Mr. Grant Crack): We're going to move to NDP motion 43.2.3, which is an amendment to subsection 76(1) of the Oversight of Health Facilities and Devices Act, 2017.

M^{me} France Gélinas: I move that subsection 76(1) of schedule 9 to the bill be struck out.

The Chair (Mr. Grant Crack): Okay. Discussion? Madame Gélinas.

M^{me} France Gélinas: Well, during deputations, we heard from a large number of organizations that are opposed to community health facilities and opposed to the repeal of the Independent Health Facilities Act and Private Hospitals Act. They included the Ontario Health Coalition, the Advocacy Centre for the Elderly, the Registered Nurses' Association of Ontario, the Nurse Practitioners' Association of Ontario, Unifor, OPSEU, CUPE, Ontario Society of Senior Citizens' Organiza-

tions, national organizations on aging and longevity and ONA, and the Ontario Nurses' Association.

The Chair (Mr. Grant Crack): Any further discussion? There being none, I shall call for the vote on NDP motion 43.2.3.

Ayes

Gélinas.

Nays

Anderson, Colle, Fraser, Hoggarth, Rinaldi.

The Chair (Mr. Grant Crack): I declare NDP motion 43.2.3 defeated.

We shall move to NDP motion 43.2.4, which is an amendment to subsection 76(3).

M^{me} France Gélinas: I move that subsection 76(3) of schedule 9 to the bill be struck out.

The Chair (Mr. Grant Crack): Discussion? Madame Gélinas.

M^{me} France Gélinas: I am not willing to repeal the Private Hospitals Act. It has served us right. I supported some of the amendments that were made by the government to try to bring back parts of it, but the possibilities of opening up more private hospitals are real with all of the changes that have been done through this bill, and I don't think private hospitals have a role to play in this province. I don't think we should take the risk that some very clever private health enterprise will basically spring up a whole bunch of hospitals, calling them "community health facilities." It makes no difference to me. They will be private hospitals where the heart of medicare won't be respected.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on NDP motion 43.2.4.

1710

Ayes

Gélinas.

Nays

Colle, Fraser, Hoggarth, Rinaldi.

The Chair (Mr. Grant Crack): I declare NDP motion 43.2.4 defeated.

We shall move to government motion 43.2.2.2.

Mr. John Fraser: Withdraw.

The Chair (Mr. Grant Crack): That is in order. Government motion 43.2.2.2 is withdrawn.

We shall move to government motion 43.2.2.3, proposing an amendment to section 76 of the Oversight of Health Facilities and Devices Act, 2017. Mr. Fraser?

Mr. John Fraser: I move that section 76 of schedule 9 to the bill be struck out and the following substituted:

“Amendments

“76. Paragraph 1 of subsection 75.1(2) of this act is repealed.”

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: I have no idea where we are.

Mr. John Fraser: On 43.2.2.3, page 179.

M^{me} France Gélinas: Page what?

Mr. John Fraser: Oh, sorry. That’s not your page, sorry. My mistake.

M^{me} France Gélinas: So I see: “76. Paragraph 1 of subsection 75.1”—

Mr. John Fraser: Bracket two.

M^{me} France Gélinas: Yes, but I don’t find the subsection 75.1(2).

Mr. John Fraser: Didn’t we do that through—that was our—

Interjections.

M^{me} France Gélinas: Can I have a lawyer, someplace, help me?

Mr. John Fraser: Yes. Who’s got it?

The Chair (Mr. Grant Crack): Hi, welcome back.

Ms. Tara Corless: Tara Corless, counsel for the Ministry of Health and Long-Term Care.

The provision that this proposed clause would repeal was introduced with government motion 43.2.2.1, which introduced a new section 75.1 to the bill that would prohibit the provision of medical and nursing on an overnight basis.

M^{me} France Gélinas: But now we’re repealing it?

Ms. Tara Corless: This clause here would repeal paragraph 1 of subsection 75.1(2), which is the reference to licensees of private hospitals. This clause here is intended to be proclaimed into force at the same time as the repeal of the Private Hospitals Act. Once all private hospital licences have been revoked and the Private Hospitals Act has been repealed, there will be no need to continue this reference to private hospitals licensed under the Private Hospitals Act within the prohibition. So it’s a technical amendment, intended to remove the references to private hospitals after the Private Hospitals Act has been repealed.

M^{me} France Gélinas: Okay, so we’ve introduced it in a government motion, and we will repeal it; it’s just the timing that will be different between the two?

Ms. Tara Corless: Yes. This is a transition provision, so this would not be proclaimed into force until such time as the government is prepared to repeal the Private Hospitals Act.

M^{me} France Gélinas: Okay. That’s a little bit complicated.

Ms. Tara Corless: It is.

M^{me} France Gélinas: Thank you.

The Chair (Mr. Grant Crack): Thank you, Ms. Corless, for coming before committee again.

Further discussion on government 43.2.2.3? There being none, I shall call for the vote. Those in favour of government motion 43.2.2.3? Any opposed? I declare government motion 43.2.2.3 carried.

With that amendment carried, we have one amendment to schedule 9, section 76. Any discussion on the section, as amended? There being none, I shall call for the vote. Shall schedule 9, section 76, as amended, carry? I declare schedule 9, section 76, as amended, carried.

We shall move to government motion 43.2.2.4, proposing a new section 76.1, the Oversight of Health Facilities and Devices Act, 2017. Mr. Fraser?

Mr. John Fraser: I move that schedule 9 to the bill be amended by adding the following section:

“Repeals

“76.1(1) The Independent Health Facilities Act is repealed.

“(2) The Healing Arts Radiation Protection Act is repealed.

“(3) The Private Hospitals Act is repealed.”

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: Okay, so I’m looking at 76—

Mr. John Fraser: It simply renumbers it.

M^{me} France Gélinas: Is this what that is?

Mr. John Fraser: Yes.

M^{me} France Gélinas: Can I have a lawyer tell me that?

Mr. John Fraser: You don’t trust me? I’m just kidding. Go ahead. It’s all right. I’m just pulling your leg.

Interjection: We trust you.

The Chair (Mr. Grant Crack): Ms. Corless.

Ms. Tara Corless: Tara Corless, counsel with the Ministry of Health and Long-Term Care.

That is correct. This provision would simply correct a numbering problem and would renumber what appears as section 76 in the bill as introduced in first reading and make that 76.1.

M^{me} France Gélinas: Okay.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: I’m still opposed to this, no matter what number you call it.

The Chair (Mr. Grant Crack): No further discussion? I’ll call for the vote on government motion 43.2.2.4. Those in favour? Any opposed? I declare government motion 43.2.2.4 carried.

We shall move to schedule 9. Okay, so we have a little bit of potential to bundle here. Ms. Hoggarth, would that be appropriate?

Ms. Ann Hoggarth: I think that would be a wonderful idea. I have another suggestion, though.

The Chair (Mr. Grant Crack): Now, or can we deal with these sections?

Ms. Ann Hoggarth: Well, it is to deal with these sections.

The Chair (Mr. Grant Crack): Okay. Let me get them on the floor first—or did you want to propose something?

Ms. Ann Hoggarth: I’m a rookie Chair, but I did ask a question at the meeting the other day. I asked if I needed to go back and say that they were all carried.

The Chair (Mr. Grant Crack): No, you don't have to.

Ms. Ann Hoggarth: Okay. So—

The Chair (Mr. Grant Crack): Are you asking for me not to do that?

Ms. Ann Hoggarth: Would you mind? Thank you.

The Chair (Mr. Grant Crack): I'll think about that, but thanks for the opportunity.

We have schedule 9, section 77 through section 95, inclusively. There are no amendments to any of those sections. I'll do it again: schedule 9, section 77 through section 95, inclusive. Any discussion? There being none, I shall call for the vote. Shall schedule 9, section 77, through to schedule 9, section 95, inclusively, carry? I declare schedule 9, section 77, through schedule 9, section 95, carried.

You'll have to give us just a second to update.

We'll move to NDP motion 43.2.5, which is an amendment proposing new section 95.1. Madame Gélinas.

M^{me} France Gélinas: I move that schedule 9 to the bill be amended by adding the following section:

“Nursing Act, 1991

“95.1 Clause 5(1)(b) of the Nursing Act, 1991 is repealed and the following substituted:

“(b) the procedure is ordered by a person who is authorized to do the procedure by section 5.1 of this act or by the Chiropractic Act, 1991, the Dentistry Act, 1991, the Medicine Act, 1991, the Midwifery Act, 1991 or the Naturopathy Act, 2007.”

The Chair (Mr. Grant Crack): Unfortunately, this is out of order. This motion seeks to amend an act, the Nursing Act, 1991, that is not open in the bill before us and so therefore is beyond the scope of the bill. Madame Gélinas.

M^{me} France Gélinas: Can I ask for unanimous consent?

The Chair (Mr. Grant Crack): Yes, you can. I will ask the committee members: Do we have unanimous consent to consider NDP motion—I heard a no.

M^{me} France Gélinas: It was weak.

The Chair (Mr. Grant Crack): We tried. You tried. It is out of order, and without unanimous consent as well.

We have a number to bundle again, so we'll continue along the same path as previously.

Schedule 9, section 96, through schedule 9, section 102: There are no amendments. Any discussion? There being none, I shall call for the vote. Shall schedule 9, section 96, through schedule 9, section 102, inclusively, carry? I declare schedule 9, section 96, through to schedule 9, section 102, as carried.

We shall move to government motion 43.2.6, which is an amendment to schedule 9, section 103, the Oversight of Health Facilities and Devices Act, 2017. Mr. Fraser.

1720

Mr. John Fraser: I move that section 103 of schedule 9 to the bill be struck out and the following substituted:

“Public Hospitals Act

“103(1) Section 2 of the Public Hospitals Act is repealed and the following substituted:

“Community health facilities not affected

“2. Nothing in this act in any way relates to or affects a community health facility within the meaning of the Oversight of Health Facilities and Devices Act, 2017.”

“(2) Section 2 of the Public Hospitals Act, as enacted by subsection (1), is repealed and the following substituted:

“Community health facilities not affected

“2(1) Subject to subsection (2), nothing in this act in any way relates to or affects a community health facility under the Oversight of Health Facilities and Devices Act, 2017.

“Prohibition, identifying as or holding self out as hospital

“(2) Persons and entities that are not hospitals approved by the minister under this act shall not,

“(a) identify themselves as hospitals; or

“(b) hold themselves out as providing hospital services.”

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: This makes me extremely nervous. We all know that there are private entities out there—sorry, community health facilities out there that want to hold themselves out as hospitals. You put diagnostic imaging with an x-ray and an MRI next to a private lab next to a big walk-in clinic, and you have a women's health hospital in the private sector.

They know full well that this is what's coming down the pipe in Ontario, so they put those amendments to lead us to believe that if you don't have a big H, people won't treat you like a hospital. It doesn't matter if you have a big H on the front anymore; people will see those for what they are. They will see them for hospitals when they are not, and they will be completely private entities.

I guarantee that they are biting at the bit right now for schedule 9 to be voted for so that they can start to bring a whole bunch of private hospitals into our province. This will be shame on this Liberal government for allowing this to happen in our province. We don't need private hospitals in this province, and this is what schedule 9 will bring us.

Mr. John Fraser: I don't think this clause—

The Chair (Mr. Grant Crack): Mr. Fraser.

Mr. John Fraser: I think this clause directly addresses what you're concerned about.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on government motion 43.2.6. Those in favour? Those opposed? I declare government motion 43.2.6 carried.

There are no amendments to schedule 9, section 103 to section 116, inclusive.

Interjection.

The Chair (Mr. Grant Crack): Oh, sorry, I forgot that one. With government motion 43.2.6 carried, there is one amendment to that section. Is there any discussion on schedule 9, section 103, as amended? There being none, I shall call for the vote. Shall schedule 9, section 103, as

amended, carry? I declare schedule 9, section 103, as amended, carried.

We shall therefore move to schedule 9, section 104, through to schedule 9, 116, inclusively. There are no amendments. Any discussion? There being none, I shall call for the vote. Shall schedule 9, section 104 through schedule 9, section 116, carry? Any opposed? I declare schedule 9, section 104 through schedule 9, section 116, carried.

We shall go to schedule 9, as amended. Is there any discussion on schedule 9, as amended? Madame Gélinas.

M^{me} France Gélinas: I know that when the Minister of Health talks, he says that all of the independent health facilities that they have approved since 2011 have all been not-for-profit, but when I ask to put that all of the ones in the future will be not-for-profit, you vote down this amendment. What you are really saying is that you don't care if all of the community health facilities that will continue to pop up in this province will be for-profit. You have basically set the stage with schedule 9 to have private hospitals, and I wouldn't be surprised if we had them as early as 2018. This is terrible.

I would encourage you to go and listen to what ACE, RNAO, Unifor and CUPE/OCHU said. Everybody who came made a plea to the Liberal government to really focus on the not-for-profit, to really be careful with schedule 9, which is opening the door wide to further privatization of our health care system.

We have statistics that show us that 98% of 1,000 community health facilities are for-profit. This is money that will never reach patient care. This is money that will never be used to provide quality care. This is money that will be used for profit.

You have an opportunity to vote this down. You've seen the number of amendments that you've done. Let me pull the stats here. You've done over 62 amendments to this schedule alone. Schedule 9 is full of holes that very expensive lawyers working for people who have very deep pockets just can't wait for this to be voted on. You are about to vote in favour of schedule 9. I can hear them clap from here because of the money they are going to make. They look at this \$54-billion health care budget and they see this as a direct link to those billions of dollars going into their pockets rather than to patient care.

Vote this thing down. We are not ready for this. If you want oversight, we can get oversight through the Auditor General, through the Ombudsman, through the ministry office. We don't need schedule 9. What schedule 9 really does is swing the doors wide open to privatization in our health care system, which you say you don't want, but you act otherwise.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on schedule 9, as amended.

M^{me} France Gélinas: Recorded vote.

Ayes

Anderson, Colle, Fraser, Hoggarth, Rinaldi.

Nays

Gélinas, Oosterhoff, Yurek.

The Chair (Mr. Grant Crack): I declare schedule 9, as amended, carried.

We shall move to PC motion number 43.3.2, proposing a new schedule 9.1, sections 1 and 2. Mr. Yurek.

Interjections.

The Chair (Mr. Grant Crack): It's PC motion 43.3.

Mr. Jeff Yurek: We've taken care of the tattooing, have we not?

Interjection.

Mr. Jeff Yurek: So in the essence of time, I will withdraw this motion.

The Chair (Mr. Grant Crack): Withdrawal is in order. PC motion 43.3, which proposed a new schedule 9.1, sections 1 and 2, is withdrawn.

We shall move to the Retirement Homes Act, 2010, which is schedule 10. There are no amendments to schedule 10, section 1. Any discussion? There being none, I shall call for the vote. Shall schedule 10, section 1 carry? I declare schedule 10, section 1 carried.

We shall move to NDP motion 43.4, which is proposing a new section, section 1.1, section 2.1 of the Retirement Homes Act, 2010. Madame Gélinas.

M^{me} France Gélinas: I move that schedule 10 to the bill be amended by adding the following section:

"1.1 The act is amended by adding the following section:

"Personal information

"2.1 In performing a duty or exercising a power under this act, the authority and its officers, directors, registrar, investigators, inspectors, employees and agents shall not,

"(a) collect, use or disclose personal information or personal health information if other information will serve the purpose of the collection, use or disclosure; and

"(b) collect, use or disclose more personal information or personal health information than is reasonably necessary to meet the purpose of the collection, use or disclosure."

1730

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: This comes from the integrity and privacy commissioner, who wants to make sure, given that retirement homes are not health care facilities but do have access to a lot of personal information and personal health information, that everybody knows that they'll be covered by trying to keep this information as private as possible.

The Chair (Mr. Grant Crack): Further discussion on NDP motion 43.4? There being none, I shall call for the recorded vote—

M^{me} France Gélinas: No, there is some more.

The Chair (Mr. Grant Crack): Oh, there is more. Okay. Madame Gélinas?

M^{me} France Gélinas: If we vote this down, can somebody show me where in the Retirement Homes Act we

find this duty to preserve the personal health information?

The Chair (Mr. Grant Crack): Further discussion?

M^{me} France G  linas: Can I ask a lawyer to please show me where this is?

The Chair (Mr. Grant Crack): Yes. If there is someone from the ministry who could come and help clarify, you're more than welcome. Please state your name for the record.

Ms. Deborah Baumgarten: Deborah Baumgarten, counsel, Ministry of Seniors Affairs.

In the Retirement Homes Act at section 113, there is a provision that puts a duty of preserving confidentiality and secrecy of personal information and personal health information on the retirement home regulatory authority and its employees and officers.

M^{me} France G  linas: Would that include directors?

Ms. Deborah Baumgarten: I can double-check. I believe it does. I'll double-check, though, for you.

Yes, it says "officers, directors, employees and agents."

M^{me} France G  linas: Would that include inspectors?

Ms. Deborah Baumgarten: Yes. The inspectors would be employees. I believe they are exclusively employees, or they would be agents.

M^{me} France G  linas: Or they would be agents. Would that include people who are hired through a third party?

Ms. Deborah Baumgarten: I don't know if that is a system that's now in place, or could be. I don't have enough knowledge about the internal operations to know if that has ever been considered. But my understanding would be that if they had an arrangement like that, those people would be agents and would be covered by this confidentiality clause of the act.

M^{me} France G  linas: Thank you.

The Chair (Mr. Grant Crack): Thank you very much for coming before committee.

Further discussion? Madame G  linas.

M^{me} France G  linas: Given that—how can I say it?—they didn't convince me with the answer, I say we go on the side of caution and we make sure that personal information is protected in our retirement homes.

Mr. Mike Colle: But she just read it in the act.

M^{me} France G  linas: But she was not sure if contractors were falling under "agents" or not.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on NDP motion 43.4—a recorded vote.

Ayes

G  linas, Oosterhoff, Yurek.

Nays

Anderson, Colle, Fraser, Hoggarth, Rinaldi.

The Chair (Mr. Grant Crack): I declare NDP motion 43.4 defeated.

We shall move to schedule 10, section 2. There are no amendments. Any discussion? There being none, I shall call for the vote. Shall schedule 10, section 2 carry? I declare schedule 10, section 2 carried.

We'll move to NDP motion 43.5, proposing an amendment to section 3, section 19.1 of the Retirement Homes Act, 2010. Madame G  linas.

M^{me} France G  linas: I move that section 19.1 of the Retirement Homes Act, 2010, as set out in section 3 of schedule 10 to the bill, be struck out and the following substituted:

"Ministerial control

"19.1 The minister is responsible for supervising the work of the authority, and no action of the authority is valid unless it is approved by the minister."

The Chair (Mr. Grant Crack): Discussion? Madame G  linas.

M^{me} France G  linas: Sure. The oversight of retirement homes has been left to the industries themselves. There are way too many vulnerable Ontarians who live in those retirement homes to be left to for-profit industries to oversee themselves. The Minister of Health has to play a role, or the Minister of Seniors Affairs. There has to be ministerial oversight of retirement homes. How many front pages about horrific conditions in retirement homes do we need to suffer through before we realize that this self-governance and self-oversight of this very lucrative private industry is putting profit ahead of people?

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on NDP motion 43.5. It is recorded.

Ayes

G  linas, Oosterhoff, Yurek.

Nays

Anderson, Colle, Fraser, Hoggarth, Rinaldi.

The Chair (Mr. Grant Crack): I declare NDP motion 43.5 defeated. We shall move to NDP motion 43.6, proposing an amendment to section 3, section 19.1.1 of the Retirement Homes Act, 2010. Madame G  linas.

M^{me} France G  linas: I move that section 3 of schedule 10 to the bill be amended by adding the following section to the Retirement Homes Act:

"Audits

"19.1.1 The Auditor General shall regularly audit the authority."

The Chair (Mr. Grant Crack): This motion is out of order. It seeks to introduce elements that are beyond the scope of the bill as established at second reading. Further, any amendment may not seek to accomplish indirectly what it cannot accomplish directly. This motion could be seen to propose an indirect amendment to the Auditor General Act, which establishes the scope of the Auditor

General's powers. Therefore, once again, it is out of order.

Madame Gélinas?

M^{me} France Gélinas: Can I ask for unanimous consent?

The Chair (Mr. Grant Crack): You can ask. Do we have unanimous consent to consider—I heard a no, so NDP motion 43.6 is out of order.

We shall move to schedule 10, section 3. There were no amendments. It passed. Any discussion? There being none, I shall call for the vote. Shall schedule 10, section 3 carry? I declare schedule 10, section 3 carried.

We've got a bundling exercise here. We shall move to schedule 10, section 4 through to schedule 10, section 13, inclusive. Is there any discussion? There being none, I shall call for the vote. Shall schedule 10, section 4 through to schedule 10, section 13, inclusive, carry? I declare schedule 10, section 4 through to schedule 10, section 13, inclusive, carried.

We shall move to NDP motion 43.7, which is proposing an amendment to schedule 10, section 14, section 68 of the Retirement Homes Act, 2010. Madame Gélinas.

M^{me} France Gélinas: I move that section 14 of schedule 10 to the bill be struck out and the following substituted:

“14(1) Subsection 68(2) of the act is repealed and the following substituted:

“Same, confinement

“(2) No licensee of a retirement home and no external care providers who provide care services in the home shall confine a resident of the home to a unit of the home, except through the use of,

“(a) barriers, locks or other devices or controls at the entrances and exits to the home or the grounds of the home, if they do not prevent the resident from leaving the home; or

“(b) barriers, locks or other devices or controls at stairways in the home as a safety measure.”

“(2) Subsection 68(4) of the act is repealed.”

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: I cannot for the life of me ever support a landlord being given the right to restrain and confine people. In retirement homes we are talking about very vulnerable people; I would say that some of them have behavioural issues. We all know that if we give them permission to restrain and confine people, they will use it as a punitive measure because some of the residents have behavioural issues. If somebody ever needs to be controlled, ever needs to be restrained, they should not be in a retirement home that is self-governed with self-oversight; they should be within the health care system.

When I hear that they have the choice, I don't believe that if you come to the point where you need restraints and need to be restrained, you really have a choice. Those people need care. They don't need to be abused financially for a \$5,000-a-month room so that they can be restrained in their room.

1740

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the vote on NDP motion 43.7. It will be recorded.

Ayes

Gélinas.

Nays

Anderson, Colle, Fraser, Hoggarth, Rinaldi.

The Chair (Mr. Grant Crack): I declare NDP motion 43.7 defeated.

We shall move to NDP motion 43.8, proposing an amendment to subsection 14(1), Subsection 68(2.1) of the Retirement Homes Act, 2010. Madame Gélinas.

M^{me} France Gélinas: I move that subsection 14(1) of the bill be amended by adding the following subsection after subsection 68(2) of the Retirement Homes Act, 2010:

“Restrictions

“(2.1) A resident shall not be restrained or confined except under temporary and extraordinary circumstances, and until the resident can be placed in an appropriate setting, and in any case, for no more than one day.”

The Chair (Mr. Grant Crack): Discussion? Madame Gélinas.

M^{me} France Gélinas: Basically, this section of the act would give the landlord—because the relationship between a resident of a long-term-care home and the home is a landlord/tenant relationship. Where else in our society would you ever give a landlord the right to restrain and confine people? Nobody has this right. Hospitals do, and long-term-care homes do, under plans of care that have been reviewed. Now we are going to give landlords, most of them for-profit, the right to lock you up in your room and charge you \$5,000 a month for that room. I cannot stand for this.

If it comes to it that it's for your safety, then sure, confine, but for no more than one day, so that we either bring you to a hospital or find you an emergency bed in a long-term-care home. But if you need to be confined, you don't belong in a retirement home.

The Chair (Mr. Grant Crack): Mr. Fraser?

Mr. John Fraser: I want to add in here that inside the bill as currently drafted, there is a set of criteria. There has to be consent by the resident or a substitute decision-maker, and the substitute decision-maker who has the consent of the resident will have a right to review. There are a whole bunch of protections that exist in there.

I agree with you about a landlord, but a care home is not just a landlord. They're responsible for that care, and there are choices that people can make about where they would like to be cared for. We know that confinement is happening right now, and I do believe that there are cases where people want to choose to live in that place where they're living, if they can afford to pay for it or not—I

know that not everybody can; I accept your concerns. But I think what we've done inside that bill is to provide provisions to protect the patients.

At the same time, there is a choice. There is a difference between living in a long-term-care home, a hospital bed and a retirement home, and that's a choice that people make. The protections that we provided for in the bill—I respect what you're saying. I think they provide enough protection, so we don't agree.

The Chair (Mr. Grant Crack): Madame Gélinas?

M^{me} France Gélinas: It doesn't matter how good those criteria are. There will be nobody there to enforce those criteria. What will happen is: Jack is very annoying. He's very loud. He goes into the dining room and says things that are obscene and upsetting. Jack is going to be locked up in his room, not because of a plan of care but because he's annoying to everybody else in the retirement home who finds him offensive, who finds him too loud, who finds his jokes racist, sexist, demeaning and everything else.

The people living in retirement homes are too vulnerable to ever enforce—I know that it is being done right now, and it should not be. It goes to show you that there is no enforcement. Right now, they are not allowed to do this, yet the member and I both know that it is happening now. Why is it happening now? Because there is absolutely nobody enforcing the law that says that you are not allowed to do this right now.

So rather than fix this so that they don't do this anymore, they make it legal to do it under criteria that everybody knows will never be enforced because there is no enforcement in our retirement homes.

Mr. John Fraser: You know, I don't think you can characterize every restriction on a person's movement in a retirement home, as my colleague just said. There are people who are living together as husband and wife in a retirement home, and it would be necessary to confine one resident and not the other simply because somebody wandered, or simply because somebody would be at risk for doing that. And that's part of their care plan; that's part of their protection.

I understand your concerns. That's why we've put this consent framework in: to protect people. You're right: Right now there's nothing. But now in this bill, there will be something, and I think that that's important.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall call for the recorded vote on NDP motion 43.8.

Ayes

Gélinas, Oosterhoff, Yurek.

Nays

Anderson, Colle, Fraser, Hoggarth, Rinaldi.

The Chair (Mr. Grant Crack): I declare NDP motion 43.8 defeated.

There are no amendments to schedule 10, section 14. Any discussion? There being none, I shall call for the vote. Shall schedule 10, section 14, carry? I declare schedule 10, section 14, carried.

We shall move to NDP motion 43.9, proposing an amendment to section 15, section 70 of the Retirement Homes Act, 2010. Madame Gélinas.

M^{me} France Gélinas: I move that the amendments to section 70 of the Retirement Homes Act, 2010, in section 15 of schedule 10 to the bill, be amended by striking out “confinement” and “confining” wherever they occur and substituting “placement in a protected area” and “placing in a protected area” in each case.

The Chair (Mr. Grant Crack): Discussion? Madame Gélinas.

M^{me} France Gélinas: The word “confining” is offensive. If what we really want to do is provide a protected area, then this is what we should call it.

The Chair (Mr. Grant Crack): Further discussion? There being none, then I shall call for the recorded vote on NDP motion 43.9.

Ayes

Gélinas.

Nays

Anderson, Colle, Fraser, Hoggarth, Rinaldi.

The Chair (Mr. Grant Crack): I declare NDP motion 43.9 defeated.

We shall move to government motion 44, proposing an amendment to subsection 15(10)—

Mr. John Fraser: Withdraw.

The Chair (Mr. Grant Crack): Government motion 44 is withdrawn. That is in order.

We shall move to government motion 44R, which is amendment to subsection 15(10), subsection 70(11) of the Retirement Homes Act, 2010. Mr. Fraser.

Mr. John Fraser: I move that subsection 70(11) of the Retirement Homes Act, 2010, as set out in subsection 15(10) of schedule 10 to the bill, be amended by adding “if any” after “the regulations” in the portion before clause (a).

The Chair (Mr. Grant Crack): Discussion? Mr. Fraser.

Mr. John Fraser: The proposed amendment would clarify that the statutory requirements related to the rights adviser apply even if there are no regulations dealing with these matters. This amendment will ensure that rights advisers understand they must comply with both the requirements in the statute as well as any regulations that can be developed.

The Chair (Mr. Grant Crack): Further discussion? Madame Gélinas.

M^{me} France Gélinas: I wasn't able to follow in the bill. Are you at the bottom of page 86?

Mr. John Fraser: One second, here. Where's the bill?

M^{me} France Gélinas: Can somebody tell me where we are in the bill?

The Chair (Mr. Grant Crack): Page 87.

M^{me} France Gélinas: Okay, we're at page 87?

Interjections.

M^{me} France Gélinas: Does anybody know where we are in the bill? Can I ask a lawyer to help me out?

The Chair (Mr. Grant Crack): Would you like legislative counsel to clarify?

M^{me} France Gélinas: Sure.

The Chair (Mr. Grant Crack): Mr. Chamney.

Mr. Eric Chamney: I believe we're at the bottom of page 87. The last bold text provision there says that we're amending subsections 70(10), (11), (12) and (13).

This amendment is to subsection 70(11). It's kind of right at the bottom there, "Assistance of rights adviser." That's the provision that's being amended.

M^{me} France Gélinas: Found it. Thank you.

The Chair (Mr. Grant Crack): Okay, thank you very much.

Further discussion? There being none, I shall then call for the vote on government motion 44R. Those in favour? Any opposed? I declare government motion 44R carried.

We shall move to NDP motion 44.1, proposing an amendment to section 15, section 70 of the Retirement Homes Act, 2010. Madame Gélinas.

1750

M^{me} France Gélinas: I move that section 15 of schedule 10 to the bill be struck out and the following substituted:

"15. Section 70 of the act is repealed."

The Chair (Mr. Grant Crack): Discussion? Madame Gélinas.

M^{me} France Gélinas: This basically would prohibit any confinement in retirement homes.

The Chair (Mr. Grant Crack): Discussion? There being none, I call the vote on NDP motion 44.1.

Ayes

Gélinas.

Nays

Anderson, Colle, Fraser, Rinaldi.

The Chair (Mr. Grant Crack): I declare NDP motion 44.1 defeated.

We shall move to schedule 10, section 15 through schedule 10, section 24, inclusive. There are no amendments to those sections. Any discussion? There being none, I shall call for the vote. Shall schedule 10, section 15 through schedule 10, section—

Interjection.

The Chair (Mr. Grant Crack): Sorry; we've got to go back. Schedule 10, section 15 was amended with that one government motion. I apologize. Any discussion on the amended section? There being none, shall schedule

10, section 15, as amended, carry? I heard a no. Those in favour? Any opposed? I declare schedule 10, section 15, as amended, carried.

Once again, schedule 10, section 16 through schedule 10, section 24: No amendments. No discussion? I shall call for the vote. Those in favour of schedule 10, section 16 through schedule 10 section 24 carrying? I declare schedule 10, section 16 through to schedule 10, section 24 carried.

We shall move to government motion 45, proposing—

Mr. John Fraser: Withdraw.

The Chair (Mr. Grant Crack): That is in order. Government motion 45 is withdrawn. We shall move to government motion 45R, proposing an amendment to subsection 25(2), subsections 98(8) and (9) of the Retirement Homes Act, 2010. Mr. Fraser.

Mr. John Fraser: I move that section 25 of schedule 10 to the bill be amended by adding the following subsection:

"(2) Section 98 of the act is amended by adding the following subsections:

"Protection of information

"(8) In a prosecution for an offence under this act or if documents or materials are filed with a court under sections 158 to 160 of the Provincial Offences Act in relation to an investigation into an offence under this act, the court may, at any time, take precautions to avoid the disclosure by the court or any other person of any personal health information about an individual, including, where appropriate,

"(a) removing the identifying information of any person whose personal health information is referred to in any documents or materials;

"(b) receiving representations without notice;

"(c) conducting hearings or parts of hearings in private; or

"(d) sealing all or part of the court files.

"Definition

"(9) In this section,

"personal health information" means personal health information as defined in the Personal Health Information Protection Act, 2004."

The Chair (Mr. Grant Crack): Just for clarification, under "Protection of information," (8), the second-last line, "by the court or any person." I believe you said "any other person."

Mr. John Fraser: Oh, sorry; "any person."

The Chair (Mr. Grant Crack): That's clear. Discussion? Mr. Fraser.

Mr. John Fraser: I think it's pretty straightforward, Chair.

The Chair (Mr. Grant Crack): Further discussion? There being none, I call for the vote on government motion 45R. Those in favour? Any opposed? I declare government motion 45R carried.

NDP motion 45.1, proposing an amendment to section 25, section 98 of the Retirement Homes Act, 2010. Madame Gélinas.

M^{me} France G elinas: I move that section 25 of schedule 10 to the bill be amended by adding the following subsection:

“(2) Section 98 of the act is amended by adding the following subsection:

“Protecting information

“(8) Where documents or materials are filed with a court in relation to an investigation into an offence under this act or in a prosecution for an offence under this act, including under sections 158 to 160 of the Provincial Offences Act, the court may, at any time, take precautions to avoid the disclosure by the court or any person of any personal health information about an individual, including, where appropriate,

“(a) removing the identifying information of any person whose personal health information is referred to in any documents or materials;

“(b) receiving representations without notice;

“(c) conducting hearings or parts of hearings in private; or

“(d) sealing all or part of the court files.”

The Chair (Mr. Grant Crack): So this is out of order. As a result of 45R passing, everything contained in 45R is in this motion and therefore it’s redundant. So it is out of order, NDP motion 45.1.

There was one amendment that carried to schedule 10, section 25. That was government motion 45R. Is there any discussion on schedule 10, section 25, as amended? There being none, I shall call the vote. Shall schedule 10, section 25, as amended, carry? I declare schedule 10, section 25, as amended, carried.

We shall move to schedule 10, section 26—no amendments. Any discussion? There being none, I call the vote. Shall schedule 10, section 26 carry? I declare schedule 10, section 26 carried.

We shall move to PC motion 46, proposing an amendment to subsection 27(3), subsection 113(4.1) of the Retirement Homes Act, 2010. Mr. Oosterhoff.

Mr. Sam Oosterhoff: I move that section 27 of schedule 10 to the bill be amended by adding the following subsection:

“(3) Section 113 of the act is amended by adding the following subsection:

“Personal information

“(4.1) Despite anything else in this section, in performing a duty or exercising a power under this act, the authority and its officers, directors, registrar, investigators, inspectors, employees and agents shall not,

“(a) collect, use or disclose personal information or personal health information if other information will serve the purpose of the collection, use or disclosure; and

“(b) collect, use, or disclose more personal information or personal health information than is reasonably necessary to meet the purpose of the collection, use or disclosure.”

The Chair (Mr. Grant Crack): Discussion? Mr. Oosterhoff.

Mr. Sam Oosterhoff: We believe it’s important that as part of conducting inquiries, investigations and inspections, the Retirement Homes Regulatory Authority may

obtain personal information, but this personal information and personal health information should only be collected, used and disclosed where it is necessary.

The Chair (Mr. Grant Crack): Further discussion? There being none, I shall for the vote on PC motion 46. Those in favour? Those opposed? I declare PC motion 46 defeated.

We shall move to PC motion 47, an amendment to subsection 27(4), subsection 113(7) of the Retirement Homes Act, 2010. Mr. Oosterhoff.

Mr. Sam Oosterhoff: I move that section 27 of schedule 10 to the bill be amended by adding the following subsection:

“(4) Section 113 of the act is amended by adding the following subsection:

“Personal information

“(7) Where documents or materials are filed with a court in relation to an investigation into an offence under this act or in a prosecution for an offence under this act, including under sections 158 to 160 of the Provincial Offences Act, the court may, at any time, take precautions to avoid the disclosure by the court or any person of any personal health information about an individual, including, where appropriate,

“(a) removing the identifying information of any person whose personal health information is referred to in any documents or materials;

“(b) receiving representations without notice;

“(c) conducting hearings or parts of hearings in private; or

“(d) sealing all or part of the court files.”

The Chair (Mr. Grant Crack): Thank you very much. Again, this is similar to government motion 45R. This incorporates everything that just passed in that particular amendment and motion, so it is out of order.

We shall move to schedule 10, section 27. There were no amendments that passed. As a result, I shall call for the vote on schedule 10, section 27. Those in favour—or shall it carry? Any opposed? I declare schedule 10, section 27 carried.

We shall do both schedule 10, section 28 and schedule 10, section 29. There are no amendments. Shall those sections carry? Any opposed? I declare schedule 10, section 28 carried. I declare schedule 10, section 29 carried.

Schedule 10: Let me check. Yes, schedule 10 did have amendments. Is there any discussion on schedule 10, as amended? There being none, I shall call for the vote. Shall schedule—sorry?

M^{me} France G elinas: We’re voting on schedule 10?

The Chair (Mr. Grant Crack): Schedule 10.

M^{me} France G elinas: Okay.

The Chair (Mr. Grant Crack): Any discussion on schedule 10, as amended? Madame G elinas.

M^{me} France G elinas: It’s not too late—sorry, you said that really quickly. I really want the Liberal government to realize that by putting in writing the conditions under which a resident of a retirement home can be confined and can be restrained, we are literally putting people’s lives at risk.

1800

We already know what can happen in retirement homes. You will remember the case I brought forward of a man who was discharged from hospital, waiting for a long-term-care home, and was put into a retirement home, where a PSW was supposed to come and be there 24/7. Right after the first day, the PSW did not show for her shift. He spent eight hours in soiled clothes, without his medications, without food and without water.

We already know that this is not the proper environment to restrain and confine people. People will lose their lives because you will be voting in favour of this schedule. I want you to realize what you are doing. When you read in the paper that a poor soul has died in confinement in a retirement home, I hope you will remember that you had a choice. You could have voted against it.

The Chair (Mr. Grant Crack): Further discussion on schedule 10, as amended? There being none, I shall call for the vote. Shall schedule 10, as amended, carry? I heard a no.

M^{me} France Gélinas: Recorded vote.

The Chair (Mr. Grant Crack): It's a little too late for that.

M^{me} France Gélinas: Oh, am I?

The Chair (Mr. Grant Crack): Sorry.

I just want clarification: Those in favour of schedule 10, as amended? Any opposed? I do declare schedule 10, as amended, carried.

We shall move to NDP motion 48, which is proposing a new schedule 11, sections 1 to 9 of the Lung Health Act. Madame Gélinas.

M^{me} France Gélinas: I move that the bill be amended by adding the following schedule:

“Schedule 11

“Lung Health Act, 2017

“Definitions

“1. In this act,

“‘Council’ means the Lung Health Advisory Council established under section 2; (‘Conseil’)

“‘Minister’ means the Minister of Health and Long-Term Care or any other member of the executive council to whom responsibility for the administration of this act is assigned or transferred under the Executive Council Act; (‘ministre’)

“‘Ministry’ means the ministry of the minister. (‘ministère’)

“Lung Health Advisory Council

“2. A council to be known in English as the ‘Lung Health Advisory Council’ and in French as ‘Conseil consultatif de la maladie pulmonaire’ is established.

“Composition of the council

“3(1) The council shall be composed of up to 20 members appointed under subsections (2), (3) and (4).

“Lieutenant Governor in Council appointment

“2) The Lieutenant Governor in Council shall appoint the minister or a deputy minister, assistant deputy minister or director of the ministry as a member of the council.

“Same

“(3) The Lieutenant Governor in Council shall appoint up to 18 other members of the council, including at least one representative of each of the following:

“1. Persons with lung disease.

“2. Informal caregivers of persons with lung disease.

“3. Respiriologists, other physicians who specialize in lung health or family physicians.

“4. Respiratory therapists.

“5. Registered nurses with lung health expertise.

“6. Other professionals with expertise in the prevention or treatment of lung disease, such as pharmacists, physiotherapists or public health workers.

“7. Researchers in the field of lung health.

“8. Non-profit organizations with an interest in lung health.

“Ontario Lung Association appointment

“(4) The Ontario Lung Association shall, by resolution, appoint one member of the council.

“Term

“(5) The members shall be appointed for a term of two years and are eligible for reappointment.

“Co-chairs of the council

“(6) The member appointed under subsection (2) and the member appointed under subsection (4) shall be the co-chairs of the council.

“Recommendations

“4(1) The council may make recommendations to the minister in respect of the following:

“1. Promoting the lung health of Ontarians.

“2. Preventing lung disease.

“3. Increasing early detection of lung disease and treatment interventions.

“4. Ensuring fair and equitable patient access to proven and effective evidence-based supports needed to manage lung disease.

“5. Disseminating best practices to improve the prevention, diagnosis and treatment of lung disease.

“6. Accelerating investments in all areas of lung health research.

“7. Research, diagnosis and treatment of lung disease.

“8. Increasing public awareness to overcome the stigma related to lung disease.

“9. Any other matter that the minister requests.

“Annual report

“(2) The council shall submit an annual report to the minister containing recommendations on the matters listed in subsection (1).

“Minister’s actions

“5(1) The minister shall, to the extent he or she considers it reasonable and appropriate to do so,

“(a) increase awareness of lung disease and its related risk factors;

“(b) develop partnerships across health care sectors to provide greater integration of care and increased use of chronic disease prevention and management;

“(c) facilitate the creation of training and professional development opportunities for health care providers in the detection, diagnosis, treatment and prevention of lung disease;

“(d) improve access to early diagnosis, treatment, rehabilitation and health maintenance services for persons with lung disease; and

“(e) improve access to community and home support services for persons with lung disease and their informal caregivers.

“Annual report

“(2) In every year, the minister shall prepare an annual report regarding the progress made under subsection (1) and make it publicly available.

“Ontario Lung Health Action Plan

“(6(1) The minister shall develop and implement an Ontario Lung Health Action Plan respecting research, prevention, diagnosis and treatment of lung disease, taking into consideration,

“(a) the recommendations set out in the annual report of the council;

“(b) any other recommendations made by the council;

“(c) the annual report prepared by the minister under subsection 5(2); and

“(d) the annual report on the state of the health system in Ontario made by the Ontario Health Quality Council.

“Interim report

“(2) The minister shall publish a report within two years after this act comes into force respecting the minister’s progress in developing the Ontario Lung Health Action Plan.

“Report on action plan

“(3) The minister shall publish a report within three years after the day this act comes into force that sets out the Ontario Lung Health Action Plan and the steps that the minister intends to take to implement the Ontario Lung Health Action Plan.

“Regulations

“7. The Lieutenant Governor in Council may make regulations,

“(a) governing the calling, holding and conducting of meetings of the council;

“(b) prescribing the duties or responsibilities of members of the council, including the co-chairs of the council;

“(c) governing the council’s procedures for making recommendations to the minister or preparing the annual report under section 4.

“Commencement

“8. The act set out in this schedule comes into force six months after the day the Strengthening Quality and Accountability for Patients Act, 2017 receives royal assent.

“Short title

“9. The short title of the act set out in this schedule is the Lung Health Act, 2017.”

The Chair (Mr. Grant Crack): Thank you very much.

M^{me} France Gélinas: That was long.

The Chair (Mr. Grant Crack): Yes, it was, and I’m going to declare it out of order. A motion may not seek to add or modify an entire schedule, compromising multiple

sections, during clause-by-clause consideration. Each amendment may seek to modify or add only a single section. Furthermore, the proposed amendment introduces provisions not contemplated by the bill at second reading, rendering it beyond the scope of Bill 160. Madame Gélinas?

M^{me} France Gélinas: I know that for this one we will have unanimous consent, because everybody supports the Lung Health Action Plan. Can I call for unanimous consent?

The Chair (Mr. Grant Crack): Yes, you can. Do we have unanimous consent to consider—I heard a no. NDP motion 48 is out of order.

Previously, on the first day, we stood down sections 1, 2 and 3. Now that we have had the opportunity to deal with amendments to the various sections, we can return back to the individual schedules. Is there any discussion on—sorry, individual sections. Is there any discussion on section 1? Is it amended? No. On section 1? There being none, I shall call for the vote. Shall section 1 carry? I declare section 1 carried.

Section 2, discussion? I shall call for the vote. Shall section 2 carry? I declare section 2 carried.

Section 3 is the short title. Any discussion? There being none, I call the vote. Shall section 3, the short title, carry? I declare section 3, the short title, carried.

We shall move to the title of the bill. It’s not amended. Any discussion on that great title? There being none, I shall call the vote. Shall the title of the bill carry? I declare the title of the bill carried.

Mr. John Fraser: Recorded vote on this one, Chair.

The Chair (Mr. Grant Crack): Okay, that is in order.

Bill 160, as amended: Is there any further discussion on Bill 160, as amended? There being none, I shall call the recorded vote.

Ayes

Anderson, Colle, Fraser, Hoggarth, Rinaldi.

Nays

Gélinas.

The Chair (Mr. Grant Crack): I declare Bill 160, as amended, carried.

Shall I report the bill, as amended, to the House? Those in favour of me reporting the bill to the House? Any opposed? I declare that I shall report the bill, as amended, to the House.

I want to thank everyone for their hard work over the last number of days and for doing their due diligence on behalf of the people of Ontario. There’s no further business. Enjoy your evening.

This meeting is adjourned.

The committee adjourned at 1811.

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M^{me} France Gélinas (Nickel Belt ND)

Ms. Ann Hoggarth (Barrie L)

Mr. Jeff Yurek (Elgin–Middlesex–London PC)

Also taking part / Autres participants et participantes

Ms. Tara Corless, counsel, legal services branch, Ministry of Health and Long-Term Care

Ms. Deborah Baumgarten, counsel, Ministry of Seniors Affairs

Ms. Theodora Theodonis, counsel, legal services branch, Ministry of Health and Long-Term Care

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