

# *Bill 160, Strengthening Quality and Accountability for Patients Act, 2017*

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Submission to the Legislative Committee on General Government

November 16, 2017

On behalf of the Association of Municipalities of Ontario and our members, I would like to thank you for the opportunity to speak to you today about Bill 160, the *Strengthening Quality and Accountability for Patients Act*.

Municipal governments need a well-considered voice on this Bill. We are more than just mere stakeholders when it comes to ambulance services, public health, and long-term care homes. Municipal governments are co-funders and in most cases, the employers of the staff that delivers these services. By legislation, municipal governments are 100% financially responsible for the costs of land ambulance operations and public health, however, by policy the Province cost-shared these costs with us. You will not be surprised that we have proposed amendments to Bill 160 to put the current provincial-municipal cost-sharing arrangements into law and reduce the fiscal risk we continue to hold.

As well, our residents are increasingly looking to municipal councils to represent their interests about health care delivery to both the government and provincial institutions such as Local Health Integration Networks (LHINs).

I would like to share the municipal perspective on how to improve Bill 160 to meet the public policy goals. My comments today will focus on three pieces of legislation being amended by the Bill: the *Ambulance Act*, the *Health Promotion and Protection Act*, and the *Long Term Care Homes Act*.

### ***Ambulance Act***

There is a significant interest in the proposed changes to the *Ambulance Act*.

Municipal governments and District Social Services Administration Boards co-fund 50%, and deliver ambulance services and employ paramedics. Therefore, municipal governments have the 'on the ground' experience and knowledge to provide advice to this committee.

Modernization of the Act is overdue and welcome. However, I have come before you today as parts of the Act have significant implications for municipal governments and property taxpayers.

Our key concern with the Act is that it opens the door to the fire-medical model. AMO has consistently opposed this; however, it seems certain to happen despite our and our members' strong objections and best advice to the government.

The legislation will enable two pilot projects. These pilots are to be hosted by willing municipal governments that would allow fire fighters, certified as paramedics, to treat low-acuity patients. There is no evidence from other jurisdictions that this model works effectively. Labour relations issues will arise and the cost to municipal governments from increased fire settlements will be significant.

It is troublesome that the government remains committed to proceed with the fire-medical model. Given that it is to happen, municipal governments need guaranteed protection from arbitrators. The protection is needed from binding interest arbitration that could replicate and force the pilots on unwilling municipal governments. There is precedence to justify this concern. It has happened before with 24-hour shift pilots imposed on fire departments across the province, despite opposition from the municipal employers. I cannot emphasize enough that other related legislation must be amended at the same time as the *Ambulance Act*.

Therefore, AMO has proposed concurrent legislative changes to the *Fire Protection and Prevention Act* and the *Ambulance Services Collective Bargaining Act*. Wording for your consideration is provided in the appendix of our submission. We understand that all-party support is required to make these amendments as they are in different Acts than Bill 160 opens. On behalf of municipal governments in the province, we implore you to include these amendments in your clause-by-clause deliberations.

AMO is also asking for other amendments to the *Ambulance Act*. One that I will comment on is that there is an amendment that would let the Minister set ambulance fees and issue operational or policy directives to the operator of a land ambulance. AMO is concerned that this will provide too much authority to the Minister to bypass the regulatory process that allows for public comment on proposed changes. At a minimum, these directives should be discussed with AMO and municipal partners as we pay half the cost of the service. This should happen prior to finalization as per the terms of the Ontario-AMO Memorandum of Understanding.

AMO has analyzed the proposed flexibility for paramedics. We understand that they will be able to deliver alternative care options to low acuity patients. We agree that it will provide better patient care. It will also avoid unnecessary trips to emergency rooms. This will free up ambulance resources to respond to other emergency calls without experiencing as many offload delays in hospital.

However, with the new expanded responsibility there will be increased risk of liability for decisions made by paramedics. Ideally, the Act and regulations should provide protection to mitigate against risk, for both municipal governments and for individual paramedics who serve our communities. If the Bill passes, AMO will be asking the Ministry to develop clear standards and policies and provide training on them.

Lastly, I would comment that it is disappointing the glacial speed at which the Province is making dispatch improvements. We understand that there are lots of moving parts to improve dispatch communications but municipalities have been asking for dispatch modernization for the last decade for which the Province is 100% financially responsible. There is urgency to get this done right in a timely manner to improve patient outcomes now.

### ***Long-Term Care Home Act***

Concerning the *Long-Term Care Homes Act*, I believe that we can all agree on the need and value of a stronger inspection program to ensure compliance with strengthened enforcement tools. The provision of safe and quality care is top of mind for municipal long-term care home operators. AMO acknowledges the need for additional protections for residents in homes across the province, especially when it comes to recurring non-compliance issues.

That said, there are systemic issues and factors outside the control of municipal home operators. This can affect the ability to be in compliance. There are shortages of nurses and personal support workers to meet staffing and legislative requirements. This is often acute in rural and northern areas. Consideration by the Province on how to best address this problem is needed. We encourage the government to work with us, the municipal operators and the long-term care associations to come up with constructive solutions.

In order to be successful, there must be corresponding investments by the government in the long-term care sector. Homes must have adequate resources to meet their obligations. AMO has asked that there be an average of 4 hours of care per resident per day. This is needed as residents have more complex needs, such as dementia, and require attention that is more personal. Therefore, it was welcome news to hear of the government's commitment to increase the hours of care through Ontario's Action Plan for Seniors. We look forward to implementation details to assess the impact.

Concerning confinement, a similar point can be made. While it appears that there is sector support for a new consent-based framework governing confinement practices in homes, the process as proposed is complex. It will cause additional and challenging administrative work for homes. The Ministry should cover these new costs. There is good public policy intent; however, the cumulative impact and administrative burden must be accounted for by the government to ensure successful implementation.

The committee would do well to heed the advice of AdvantAGE as provided by their submission. They represent both non-profit and municipal homes in Ontario. One issue they have raised that we share concerns about is that the proposed amendments will result in higher offence provisions on directors and officers of Long-Term Care Homes than those serving on boards of public hospitals. This needs to be revisited and the Bill modified to achieve parity with hospital boards.

AMO is not suggesting any amendments to this Act. However, we encourage the committee to review carefully the proposed amendment being brought forward in a submission by a group of northern municipal district homes. The intent is to modernize the borrowing authorities of the territorial district homes. Their concern is that the inability of homes to raise mortgages or borrow on their own is a barrier to redevelopment. Certainly, it is a problem that requires a solution by the Ministry.

### ***Health Promotion and Protection Act***

Finally, I will speak about the changes to the *Health Promotion and Protection Act*. It is positive step forward to permit the regulation of recreational water facilities and personal service settings. This will increase protection of the health of children and consumers of these services and facilities. I would point out, however, that the responsibility to inspect and ensure compliance will fall to municipal public health inspectors. This will entail an additional cost to municipal government.

There is already a tension in the public health system in that the funding is just not adequate for public health units to meet their current obligated requirements. To top it off, funding for 28 of 36 units has been flat-lined the past few years. More provincial funding for mandated public health services is needed. Municipal governments are on average providing 38% of the financial support for public health mandatory program even though we are only required to provide 25% of the funding.

Thank you for the opportunity to provide feedback on these important health issues from a municipal government perspective.

## APPENDIX: PROPOSED AMENDMENTS TO BILL 160

The Association of Municipalities of Ontario (“AMO”) requests the following amendments to Bill 160.

### *Ambulance Act*

1. Amend the *Fire Protection and Prevention Act, 1997* in the following manner:

#### Duty of board

Section 50.5 (2.1) In making a decision, the board of arbitration shall not expand the work jurisdiction of the firefighters to include duties and responsibilities of a “paramedic”, as defined in section 1(1) of the *Ambulance Act*, beyond those paramedic duties and responsibilities which are currently performed by firefighters, Acting as firefighters, for the employer.

Amend the *Ambulance Services Collective Bargaining Act, 2001* in the following manner:

#### Criteria

Section 21 (2.1) In making a decision, the arbitrator shall not expand the work jurisdiction of the ambulance workers to include duties and responsibilities of a “firefighter”, as defined in section 1(1) of the *Fire Protection and Prevention Act, 1997*, beyond those firefighter duties and responsibilities which are currently performed by ambulance workers, Acting as ambulance workers, for the employer.

2. Amend the Act to update the definition of a paramedic.
3. Amend the Act, regulations, policies, and guidelines to mitigate against increased municipal liability given the new models of patient care expand the scope of paramedic practice.
4. Amend the Act, and other Acts as needed, to allow forms of transportation other than an ambulance to provide conveyance to a hospital or other non-hospital facility.
5. Amend the Act, regulations, and procedures as needed to permit dispatch not to require a paramedic to respond to a 911 call in all cases if not deemed medically required.
6. Amend the Act, as needed, to provide flexibility for municipal governments and District Social Service Administration Boards (DSSABs) to operate their own dispatch systems, without changing the 100% provincial funding arrangement.
7. Amend the Act, as needed, to identify that third party operators contracted by the Province, not municipal ambulances, will provide inter-facility transfer services throughout the province and only in circumstances when there is no other alternative shall an ambulance be used, with the LHIN providing payment for full cost recovery of the cost of the service.

8. Amend the Act to clearly state that the Province is responsible for funding the operation of the land ambulance system at the rate of 50% of actual costs, both capital and operating, and is 100% responsible for the funding of land ambulance dispatch.

*Health Protection and Promotion Act*

9. Amend the Act to clearly state that the Province is responsible for funding the public health mandatory programs at the rate of 75% of actual costs.