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Monday 29 November 2010

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Lundi 29 novembre 2010

**Standing Committee on
Social Policy**

Broader Public Sector
Accountability Act, 2010

**Comité permanent de
la politique sociale**

Loi de 2010 sur
la responsabilisation
du secteur parapublic

Chair: Shafiq Qadri
Clerk: Susan Sourial

Président : Shafiq Qadri
Greffière : Susan Sourial

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
SOCIAL POLICY**

**COMITÉ PERMANENT DE
LA POLITIQUE SOCIALE**

Monday 29 November 2010

Lundi 29 novembre 2010

The committee met at 1406 in committee room 1.

BROADER PUBLIC SECTOR
ACCOUNTABILITY ACT, 2010
LOI DE 2010 SUR
LA RESPONSABILISATION
DU SECTEUR PARAPUBLIC

Consideration of Bill 122, An Act to increase the financial accountability of organizations in the broader public sector / Projet de loi 122, Loi visant à accroître la responsabilisation financière des organismes du secteur parapublic.

The Chair (Mr. Shafiq Qadri): Thank you, colleagues. Welcome to clause-by-clause consideration of Bill 122. As you know, it's a government motion to amend the lobbyist act.

I'd now invite Madame Gélinas, après votre verre d'eau—unless there are any comments of a general nature before beginning clause-by-clause. If not, I'll invite Madame Gélinas to present NDP motion 1.

M^{me} France Gélinas: Thank you, Mr. Chair. I like your punctuality.

The Chair (Mr. Shafiq Qadri): As do we yours.

M^{me} France Gélinas: I move that the definition of "designated broader public sector organization" in subsection 1(1) of the bill be amended by adding the following clauses:

"(a.1) every local health integration network,

"(a.2) every board of health under the Health Protection and Promotion Act,

"(a.3) every community care access corporation,

"(a.4) every home-care agency, whether or not operated for profit,

"(a.5) every long-term-care facility, whether or not operated for profit,"

Basically, what we're trying to do here is to broaden the list of agencies that would be covered by this bill. That starts by adding those five types of health care providers and health care organizations as designated broader public sector organizations.

You will see through this afternoon that most of the motions we bring forward are to make this bill as broad as possible. We have to remember that some of the issues that have precipitated this bill—that is, the work that the Auditor General has done on the use of consultants—certainly are a strong motivator for this bill. What he has

uncovered is not solely happening in local health integration networks and hospitals. It happens in many other transfer payment agencies of the Ministry of Health. It happens in many other areas of the health care system. So we are trying to do that.

Le Président (M. Shafiq Qadri): Merci, madame Gélinas, pour votre motion.

Do we have some questions or comments before the vote? Monsieur McNeely.

Mr. Phil McNeely: The LHINs are already subject to existing procurement, public disclosure and other rules. As well, community care access centres are already listed as a designated broader public sector organization. The other items in this motion would shift the bill away from the intent, which is to increase the accountability and transparency over broader public sector organizations whose primary relationship is with the provincial government. For that reason, we cannot support this motion.

The Chair (Mr. Shafiq Qadri): Further comments, rebuttals, cross-examinations?

M^{me} France Gélinas: Sorry, could you repeat the last part? How do you see this as decreasing transparency? The last part, there.

Mr. Phil McNeely: Just to extend, the boards of health are municipal boards, and they're only partly funded by the province. Municipal governments are mature orders of government that have substantial revenue streams that are not derived from the provincial government, such as property taxes. They are accountable to their residents for their operations, which we expect to be open and transparent.

Home care agencies do not receive direct funding from the government. The long-term-care sector is a mix of profit and not-for-profit charitable and municipal homes. Long-term-care homes are accountable through long-term-care service accountability agreements with the local health integration networks. They receive funding envelopes targeted to care programs and accommodation. They are also subject to audited financial statements and recovery of unspent funding by the ministry.

M^{me} France Gélinas: But they're also completely opaque. You can't get any information on any long-term-care homes or homes as a whole. If you look at what this bill is trying to do by bringing transparency, it's trying to look at system issues. If you have a home that has system issues when it comes to quality, it is impossible. They're not covered by the Ombudsman; they're not covered by

freedom of access to information. There is no way people can have accountability from those organizations or transparency, which you just said doesn't go in the sense that the bill is trying to go.

Mr. Phil McNeely: I have no other comments, Chair.

The Chair (Mr. Shafiq Qaadri): Any comments, questions? Ms. Jones.

Ms. Sylvia Jones: Yes, I think it's an excellent addition to what we're trying to bring forward with Bill 122, and I support it.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote. Those in favour of NDP motion 1? Those opposed? NDP motion 1 is defeated.

PC motion 2: Ms. MacLeod.

Ms. Lisa MacLeod: I move that the definition of "publicly funded organization" in subsection 1(1) of the bill be amended by striking out "but does not include" and clauses (a) to (j).

The Chair (Mr. Shafiq Qaadri): Are there any comments?

Mr. Phil McNeely: This motion would be redundant as ministries and agencies of the government are already subject to procurement rules. The motion would also make the Office of the Lieutenant Governor and the Office of the Assembly subject to the act. It is customary to consult with these offices in advance of legislation, and we respect that custom.

The other item is this motion would shift the bill away from the intent, which is to increase accountability and transparency of our broader public sector organizations whose primary relationship is with the provincial government. For that reason, we cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas.

M^{me} France Gélinas: I still don't understand. Why are we trying to exempt those organizations? If we really want to tell the public, "We have learned from the Auditor General, we have learned from the headlines about the use of lobbyists, and we want our health care dollars to go to the provision of care," then why this list of excluded agencies?

Mr. Phil McNeely: No further comment, Chair.

The Chair (Mr. Shafiq Qaadri): We'll proceed, then, to the vote. Those in favour of PC motion 2? Those opposed? PC motion 2 is defeated.

Madame Gélinas, NDP motion 3.

M^{me} France Gélinas: I move that the definition of "publicly funded organization" in subsection 1(1) of the bill be amended by striking out clauses (g), (h) and (i).

Basically, we're removing the board of health, for-profit organizations and long-term-care homes from the list of the excluded organizations in the definition of publicly funded organizations.

If you look at what a board of health does, it gets significant funding from the Ministry of Health. It's the same thing with long-term-care homes. Long-term-care homes wouldn't exist if it wasn't for Ministry of Health funding; they would be retirement homes. You become a long-term-care home once you start receiving money—first of all, you get a licence, then you receive money—

from the Ministry of Health. Those are agencies that are within the control of the government. They receive, I think to this point, close to \$3 billion a year worth of Ministry of Health money, and yet you're completely excluding them from transparency, from accountability, from FOI, from everything else that would finally give the public a look and a say into how billions of dollars of health care are being spent.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. McNeely.

Mr. Phil McNeely: This motion would shift the bill away from the intent, which is to increase accountability and transparency over broader public sector organizations whose primary relationship is with the provincial government. For that reason, we cannot support this motion.

As we said before, the long-term-care sector is made up of a mix of not-for-profit, for-profit, charitable and municipal homes, and we will be opposing this motion.

The Chair (Mr. Shafiq Qaadri): Yes, Ms. Gélinas.

M^{me} France Gélinas: I still don't understand. In your opening comments, you say that it doesn't go towards transparency. How can making agencies and long-term-care homes FOI-able not support transparency and accountability? It does. This is what the bill is all about.

Mr. Phil McNeely: No further comments.

The Chair (Mr. Shafiq Qaadri): We'll proceed, then, to the vote. Those in favour of NDP motion 3? Those opposed? NDP motion 3 is defeated.

PC motion 4: Ms. MacLeod.

Ms. Lisa MacLeod: I move that the definition of "publicly funded organization" in subsection 1(1) of the bill be amended by striking out clause (g).

I believe that this is probably out of order, given the previous motion.

M^{me} France Gélinas: No, because mine was broader than yours.

Ms. Lisa MacLeod: Oh, broader? Okay.

The Chair (Mr. Shafiq Qaadri): You are fully in order, Ms. MacLeod.

Ms. Lisa MacLeod: Oh, thank you. I love hearing that from the Chair.

The Chair (Mr. Shafiq Qaadri): We commend you.

Ms. Lisa MacLeod: I just don't hear that enough.

The Chair (Mr. Shafiq Qaadri): I will endeavour to repeat it.

Ms. Lisa MacLeod: Can you talk to the Speaker on my behalf from time to time?

The Chair (Mr. Shafiq Qaadri): On occasion I will, yes.

Are there any comments either for or against PC motion 4? Seeing none—yes, Madame Gélinas.

M^{me} France Gélinas: Well, I would say, look at the work that the boards of health are doing. Ontario lives in a post-SARS era. They are responsible for a lot of communicating about diseases; they are responsible for implementing, on the ground, a lot of the work that the agency for health promotion and prevention has put forward; and they receive billions of dollars of Ministry

of Health funding. To exclude them from transparency makes no sense.

Our partners at the municipal level have no problem making their end transparent, but they can't. As long as the government of Ontario won't allow those agencies to be FOI-able, the municipal councillors can have the best intentions in the world, but if they're not included in Bill 122, they're not going to be able to move forward.

To say that you are holding it back because they receive part of their funding from the different municipalities flies in the face of what we're trying to do. The municipalities are not opposed to having the board of health FOI-able; you are.

The Chair (Mr. Shafiq Qadri): Comments, Mr. McNeely?

Mr. Phil McNeely: The boards of health are municipal boards and only partially funded by the province. Municipal governments are mature orders of government that have substantial revenue streams that are not derived from the provincial government, such as property taxes. They are accountable to their residents for their operations, which we expect to be open and transparent.

M^{me} France Gélinas: He's right. The municipalities want them to be transparent, but they cannot be because we're not giving them the permission to. Here is your chance.

Mr. Phil McNeely: Just an added comment that the boards of health are already under the FOI legislation.

M^{me} France Gélinas: They are not under the rest of the requirements of Bill 122.

The Chair (Mr. Shafiq Qadri): We'll proceed to the vote, then. Those in favour of PC motion 4? Those opposed? PC motion 4 is defeated.

Government motion 5: Mr. McNeely.

Mr. Phil McNeely: I move that section 1 of the bill be amended by adding the following subsection:

"Solicitor-client privilege preserved

"(3) Nothing in this act shall operate so as to require the disclosure of information that is subject to solicitor-client privilege, litigation privilege or settlement privilege."

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This was requested by the Ontario Bar Association and the Law Society of Upper Canada. It clarifies that nothing under the act will require a broader public sector organization to disclose privileged information in any of their reports. Client-solicitor privilege is a charter right, so we respect the charter rights and freedoms.

The Chair (Mr. Shafiq Qadri): Madame Gélinas?

M^{me} France Gélinas: Maybe I'll direct this to our legal counsel. Those are charter rights. Aren't they already protected by the Charter of Rights?

Mr. Ralph Armstrong: Well, yes. On the other hand, you can never be too safe to ensure that your legislation is not subject to being read in an anti-charter way and to show your intended compliance with all requirements under the charter, rather than embarking on the road of litigation to determine these matters.

M^{me} France Gélinas: Okay. So, if I understand what you're saying, it's that those provisions for exclusion already exist. We're repeating them.

Mr. Ralph Armstrong: How this might be interpreted in the absence of this provision would be a matter for the courts. Everyone advising any client, including the government, always hopes to keep things out of the courts by making clear statements in their documents.

M^{me} France Gélinas: Thank you.

The Chair (Mr. Shafiq Qadri): Are there any further comments on government motion 5 before we vote? Seeing none, we'll proceed, then.

Those in favour of government motion 5? Those opposed? Government motion 5 is carried.

Shall section 1, as amended, carry? Carried.

We'll proceed now to section 2. PC motion 6: Ms. MacLeod.

Ms. Lisa MacLeod: I move that subsection 2(1) of the bill be struck out.

The Chair (Mr. Shafiq Qadri): Are there any issues, comments people would like to offer?

Mr. Phil McNeely: We can't support this motion because the existing section reflects standard language to allow the government the flexibility to exclude organizations that may experience undue burden from the impact of the new procurement directives which the government did not intend when developing the legislation. It's to protect those small groups.

The Chair (Mr. Shafiq Qadri): Madame Gélinas?

M^{me} France Gélinas: Isn't this, when the government does due diligence in putting forward legislation, they make sure that those don't happen? Then, after second reading, we have the opportunity for consultations with the community, and those are also picked up. If you were thorough in really not wanting to add a burden to organizations, then you take your time and you draft good bills. You don't time-allocate them. Then you take your time and allow all of the public consultation necessary, including—we had said that we should have gone to Ottawa to listen to what the people there had learned and were willing to share with us. You turned that down. To me, you didn't take your time to put this legislation out. You time-allocated it. Then you limited the public consultation.

This is a way for the PC caucus to really make sure that you don't add other exemptions to this act after it has left this place.

The Chair (Mr. Shafiq Qadri): Further comments?

Mr. David Zimmer: No comments, Chair.

Mr. Phil McNeely: No comments.

The Chair (Mr. Shafiq Qadri): We'll proceed, then, to the vote. Those in favour of PC motion 6? Those opposed? PC motion 6, defeated.

Shall section 2 carry? Carried.

We'll proceed: Shall section 3 carry?

Ms. Lisa MacLeod: No.

The Chair (Mr. Shafiq Qadri): Is that a formal "no"? Because then we have to vote.

Ms. Lisa MacLeod: Yes, a formal "no."

The Chair (Mr. Shafiq Qaadri): Fair enough. We'll proceed to section 3. Those in favour of section 3 carrying?

Interjections: Carried.

Ms. Lisa MacLeod: Not carried.

The Chair (Mr. Shafiq Qaadri): Not carried—all right.

Section 3 is carried.

Section 4: NDP motions 7A and 7B. That's one motion, right?

M^{me} France Gélinas: It's one?

The Chair (Mr. Shafiq Qaadri): Yes.

M^{me} France Gélinas: Okay, thank you. This has to do with section 4 of the bill.

I move that subsections 4(1) to (4) of the bill be struck out and the following substituted:

“No publicly funded lobbyists

“4.(1) No organization to which this section applies shall engage a lobbyist to provide lobbyist services.

“Application

“(2) This section applies to,

“(a) every agency of the government of Ontario;

“(b) every broader public sector organization;

“(c) Hydro One Inc. and each of its subsidiaries;

“(d) Ontario Power Generation Inc. and each of its subsidiaries;

“(e) Ontario Power Authority;

“(f) Independent Electricity System Operator; and

“(g) every organization that is provided for in regulations made under subsection (5).

“Transitional

“(3) Where, immediately before this section applied to an organization, there was an agreement in place that provided for the payment of money by the organization for lobbyist services, the agreement is deemed to contain the following provisions:

“1. The lobbyist services are terminated on the earlier of the date that is 30 days after this section applies to the organization and the date that they would have otherwise been terminated under the agreement, despite any notice provisions required under the agreement.

“2. The lobbyist may only charge, and shall only be paid for, lobbyist services provided to the organization under the agreement up to the date provided for in paragraph 1.

“3. Unless inconsistent with paragraphs 1 and 2, all other terms and conditions related to the lobbyist services terminated in accordance with paragraph 1 that would otherwise survive the term of the agreement shall continue to apply to those services.

“No circumvention of prohibition on engaging lobbyists

“(4) No organization to which this section applies shall provide funds to any person or entity for the purpose of that person or entity engaging a lobbyist to provide lobbyist services to the organization.”

Basically, when the public heard of hospitals using lobbyists to lobby the government for more money, they were, let's just say, really unhappy—I'm trying to be

politically correct. They didn't care where the money came from; they were just appalled that a transfer payment of a ministry—that a hospital would hire lobbyists to lobby their own government. It makes no sense.

The minister stood in the House time after time and said that they won't be allowed to use your money, and if they call, we won't return their call. If you are serious that you do not want hospitals to hire lobbyists, then you have to simply pass this amendment.

What we have right now is a system where, we will say, at a high number, close to 10%—and it's higher than this—of the money that the hospitals have has nothing to do with the government. So if you look at all 155 hospitals, we're talking about \$3 billion that does not come from the government, \$3 billion that the hospitals can continue to hire lobbyists and continue the practice that has motivated the government to put this bill forward.

With this bill, you're kind of pointing them in the right direction, but you don't go all the way to your objective. If the objective is that they call and you don't return the call, then put it in the bill. Don't limit yourself. Otherwise, you're leaving \$3 billion on the table.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Phil McNeely: That the bill will prevent the lobbyists from using government money to lobby government is the right direction to go, but this motion would prohibit an organization from using funds not received from government to hire a lobbyist, as you say.

The bill has been carefully drafted to align with the Charter of Rights and Freedoms. The advice we've received is that this prohibition would contravene the right to freedom of expression under the charter. We respect the Charter of Rights and Freedoms and will not support this motion.

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The Chair (Mr. Shafiq Qaadri): Thank you. If there's any further comment—Madame Gélinas?

M^{me} France Gélinas: We received legal counsel before we put those amendments forward, and I guess I will direct my questions to our legal counsel. Our legal counsel agreed that this is an amendment that could be done to Bill 122, and the member opposite is saying that this amendment would be non-receivable because of another bill that I forget the name of now. What's your opinion?

Mr. Ralph Armstrong: I do not purport to be a constitutional lawyer. In drafting motions, I act on instructions from clients. Since the member is asking my opinion, my opinion would be in accordance with what the parliamentary assistant has said: that purporting to dictate to these organizations what they could do with money that is not provided by the government in terms of exercising rights of opinion would probably be declared unconstitutional. I say that as my own opinion, based on what I know and for what it is worth. The courts, of course, are the arbiters of these matters.

M^{me} France Gélinas: I say that the public outrage was such that we have to bring language—you cannot leave \$3 billion on the table. This defeats the entire pur-

pose of the law. If you are serious that you're not going to pick up the phone, you're not going to return those phone calls, then you have to give the law the full intent of what your objective is, and that's to say no more lobbying by transfer payment agencies of the Ministry of Health.

Mr. Phil McNeely: Chair, can I ask the solicitor to come up to the table to present his information?

The Chair (Mr. Shafiq Qadri): Sure, please. Welcome, and just please identify yourself as you're making your remarks.

Mr. Don Fawcett: Sure. My name is Don Fawcett. I'm a lawyer with the Ministry of the Attorney General, employed in the legal services branch of the Ministry of Government Services. I've been working with the Ministry of Health on this bill. You've asked me to come up—I'm sorry, I was just distracted for a moment in terms of the question you wish to ask me.

Mr. Phil McNeely: We had the comments that we had made that the advice we've received is that this prohibition as proposed by the NDP would contravene the right to freedom of expression under the charter. That's why we are opposed to this motion. I think we had concurrence from the solicitor—

Mr. Don Fawcett: Okay. In my role as counsel in the ministry, of course, I provide legal advice to the ministry. I will comment on legislative counsel's point. When we were drafting the bill, we did have consideration of section 2(b) of the charter, which is freedom of expression, and considered that in the drafting of the bill. In our view, the drafting, as you see it there, strikes the appropriate balance between protecting organizations' right to freedom of expression and the need to make organizations accountable for spending public funds. So it's a question of striking that balance between the Charter of Rights and the purpose of this bill, which is to regulate how organizations are spending public funds.

The Chair (Mr. Shafiq Qadri): Thank you. Any further comments?

M^{me} France Gélinas: So let me get this right: We are afraid that the hospital is going to sue the government, under the freedom of expression, to let them hire lobbyists to lobby the government?

Mr. Don Fawcett: I can't answer that question. I can say—

M^{me} France Gélinas: Isn't this what you just told us?

Mr. Don Fawcett: In terms of when we were considering drafting it, we wished to do so consistent with the charter. So the question of whether we will be sued or a hospital will take issue with that in court, I guess is a second concern in terms of getting it right in the first place, to make sure it's consistent with the charter.

The Chair (Mr. Shafiq Qadri): Thank you. Are there any further contributions on this issue? Seeing none, we'll proceed to the vote.

Those in favour of NDP motion 7? Those opposed? Motion 7 is defeated.

Government motion 8.

Mr. Phil McNeely: I move that clauses (a) and (b) of subsection 4(1) of the bill be struck out and the following substituted:

“(a) in the case of an organization referred to in clause (2)(b), from public funds; or

“(b) in the case of an organization referred to in clause (2)(a), (c), (d), (e), (f) or (g),

“(i) from public funds, or

“(ii) from revenues generated by the organization.”

The Chair (Mr. Shafiq Qadri): Thank you.

Mr. Phil McNeely: If I could speak to that, Chair, this is a technical amendment. It clarifies that an organization that generates revenues cannot use those revenues and any public funds it receives to hire an external lobbyist.

The Chair (Mr. Shafiq Qadri): Comments?

Ms. Sylvia Jones: Just one. But it still would allow foundation money, donation money, to be used to hire lobbyists. Correct?

Mr. Khalil Ramal: Not necessarily.

Mr. Phil McNeely: What it means is that an organization that generates revenues in addition to government funds cannot use those revenues and any public funds it receives to hire an external lobbyist.

Ms. Sylvia Jones: Right. So in the case of hospital foundations, donated dollars could still be used for hiring consultants and lobbyists. Correct?

Mr. Khalil Ramal: Could I, Mr. Chair?

Mr. Phil McNeely: I would ask the solicitor to come up again to look at that.

The Chair (Mr. Shafiq Qadri): Mr. Ramal, you have some comments?

Mr. Phil McNeely: It's subsection 4(1) of the bill.

Mr. Khalil Ramal: I want to comment about the question. As you know, most of the hospitals across the province of Ontario have two sources of revenue. One is from the government, which they are banned from using to hire any lobbyists, and the other money comes from fundraising, which they have free movement to use wherever they think fit for their organization. That's my answer.

The Chair (Mr. Shafiq Qadri): Thank you. The question continues before the floor. Do you need it restated?

Mr. Don Fawcett: Yes, that would be helpful, thank you.

The Chair (Mr. Shafiq Qadri): Ms. Jones, I invite you to restate your question.

Ms. Sylvia Jones: Third time lucky.

The Chair (Mr. Shafiq Qadri): Possibly.

Ms. Sylvia Jones: Donation dollars collected by hospital foundations, as an example, would still be able to be used to hire lobbyists and consultants. Correct?

Mr. Don Fawcett: If I may comment on the intention of this section initially, and then, with respect, I'll answer that question.

What we're intending to capture with this provision is that certain of these organizations—for example, a government agency—may generate revenues, and so it's

intended to also put the prohibition on using those revenues, in addition to any public funds they receive.

Ms. Sylvia Jones: I understand—like parking revenues. I get that. What I'm asking is, this still allows donated dollars collected by—I'm using the example of hospital foundations. They can continue to use those donated dollars to hire lobbyists or consultants.

Mr. Don Fawcett: Under the act, an organization can't use public funds, and that's defined. It's essentially any funds that are transferred to the organization from the government. So in that respect, if the funds are not public funds, as defined, then the prohibition won't apply to those funds.

Ms. Sylvia Jones: So the answer is, "Correct."

Mr. Khalil Ramal: Well, I mean, Mr. Chair, it's not fair—

The Chair (Mr. Shafiq Qadri): You're welcome to make your comments, but I think the question is perfectly phrased and fair and legitimate.

I would invite now Mr. Armstrong, the legislative counsel, to weigh in, and if we need to bounce it back a couple of times, that's fine.

Mr. Khalil Ramal: Mr. Chair, do you mind if—

The Chair (Mr. Shafiq Qadri): Yes, Mr. Ramal.

Mr. Khalil Ramal: Actually, we don't have to put the ministry staff in that spot. It's clear to everyone across the province of Ontario and to my friend on the opposite side that hospitals across the province of Ontario generate two different funds. One comes strictly from the taxpayers, which is the government, and the other revenue comes from fundraising or parking or the cafeteria or whatever. I think they're allowed to use that fund any way and every way they think is fit to support their organizations. I think that's the answer from this side.

The Chair (Mr. Shafiq Qadri): I thank you for your contribution, Mr. Ramal.

Mr. Armstrong?

Mr. Ralph Armstrong: The hospital would still be able to use foundation money not from public sources for consultant lobbyist purposes, yes.

Ms. Sylvia Jones: Thank you.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Armstrong. Are there any further comments from any source? Madame Gélinas.

M^{me} France Gélinas: From what we had before to what we have now in the list, are there more or less organizations that are covered in that section?

Mr. Don Fawcett: In our view, the net effect of this is not to increase or decrease the number of organizations covered. It's the same organizations, in practice. We're just clarifying that for those organizations listed in (b), it's two sources of revenues that they can't use to hire an external lobbyist: whatever public funds they might receive through a transfer payment; in addition to that, any revenues that they're generating.

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M^{me} France Gélinas: And revenue-generating would be?

Mr. Don Fawcett: If an organization to which this section applies is out in the marketplace selling goods or

services, for example, those may well be revenues that would be caught by this.

M^{me} France Gélinas: Okay.

The Chair (Mr. Shafiq Qadri): We will then immediately proceed to the vote unless there are further comments of any kind. If not, those in favour of government motion 8? Those opposed? Government motion 8 carries.

Government motion 9.

Mr. Phil McNeely: I move that section 4 of the bill be amended by adding the following subsection:

"Saving, association fees

"(4.1) Subsection (4) does not operate in respect of membership fees paid by an organization to which this section applies, to be a member of an association that is established to represent the interests of a group or class of similar organizations."

The Chair (Mr. Shafiq Qadri): Comments? If none, we'll proceed to the vote. Those in favour of government motion 9? Those opposed? Motion 9 carries.

Shall section 4, as amended, carry? Carried.

We'll proceed then, to section 5, NDP motion 10. Madame Gélinas.

M^{me} France Gélinas: I move that subsection 5(1) of the bill be amended by adding "and provide a copy of the report to the Minister of Health and Long-Term Care, which shall be tabled in the Legislature and posted publicly on the Ministry of Health and Long-Term Care website" at the end.

Basically, in the bill, the LHINs have to make report on their use of consultants, but the bill doesn't tell us who those reports will be tabled with, who they will be made to, how accessible they will be. It would be nice, in view of accountability and transparency, if we said it upfront that at the minimum, those reports are made to the ministry, are tabled in the Legislature and are available on a website.

To ask the LHINs to make reports but then to not make those reports available, we're back to the same point we are at now, and certainly not in the spirit of the Auditor General's recommendation on transparency and accountability and also not doing what the public of Ontario expects. If a report on the use of consultants is not available publicly, then we might as well not have a report.

The Chair (Mr. Shafiq Qadri): Comments?

Mr. Phil McNeely: The bill responds directly to and fulfills the recommendation of the Auditor General's report with respect to reporting on the use of consultants. We believe providing the minister with the power to issue directives on how the reports are to be produced and distributed is appropriate. We cannot support this motion.

Ms. Lisa MacLeod: I just have a question.

The Chair (Mr. Shafiq Qadri): Ms. MacLeod.

Ms. Lisa MacLeod: I have no idea why the parliamentary assistant would not want to extend this, given what the auditor found, what the Ombudsman has found, what the public outcry has been. I think this is a more

than reasonable motion, and we will be putting forward two similar amendments later.

The official opposition will support this motion. We would encourage the government to think outside the box on this one and not just react, but do something that I believe would be much better for the taxpayers of this province and support the NDP on this motion.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^{me} France Gélinas: If you read the report of the Auditor General in its entirety, it is clear that the reporting that the auditor is recommending is public reporting. To make it so that LHINs will submit the consultant reports and nobody will have access to them is not what the auditor had recommended and had in mind and not what the auditor speaks about in his report. What good comes of a report that nobody sees?

Ms. Lisa MacLeod: Exactly. I think she makes an excellent point. Further to that, we had a number of deputants who have actually called for this. I think that if the government doesn't support this motion, it's clear that they're not listening to the people who came to committee to talk to us about the challenges of this bill.

Let's be quite clear about something: This bill, as my colleague mentioned earlier, was a knee-jerk reaction. It was rushed through the House; it is now being rushed through committee. Many of the deputants indicated that they hadn't been consulted prior to this. Now we've done that through this committee last week. They're telling us that we need to look in greater detail at what the LHINs are doing and that that information should be made publicly available. I'd like to be on the record as such, and I know my colleague from Dufferin-Caledon concurs.

The Chair (Mr. Shafiq Qaadri): Any further comments on NDP motion 10? Seeing none, we'll proceed to the vote.

Ms. Lisa MacLeod: Recorded vote, please.

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, Lalonde, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 10 falls.

PC motion 11.

Ms. Lisa MacLeod: I move that subsection 5(1) of the bill be amended by adding "and shall ensure the reports are made publicly available" at the end.

Obviously we put this motion forward because it was requested by a number of stakeholders who will be affected and impacted by this legislation. In the official opposition, we feel it's important that the local health integration networks be transparent and accountable. Therefore, we also think that the Minister of Health and

her bureaucracy should do so as well. This is why we put this forward. We appreciate support.

The Chair (Mr. Shafiq Qaadri): Comments on PC motion 11?

M^{me} France Gélinas: When the auditor tabled his report, and we got a glimpse as to the use of consultants within the hospitals and within the LHINs, everybody was horrified by what they saw. The hospital association actually issued a public apology. We all agree that it shouldn't happen.

The LHINs already knew how much they were spending, but they were not making that information public. Now you're saying that they will do a report, and that report won't be public. We haven't moved. We're exactly where we were at before. The LHINs know how much they're spending on consultants. They were not making that information public. When the auditor did, people were horrified. The ministry acted and said, "We will bring accountability. We will bring transparency." But if all we do is ask them to do a report that nobody has access to, we haven't done anything.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Phil McNeely: The bill responds directly and fulfills the recommendation of the Auditor General's report with respect to reporting the use of consultants. We believe providing the minister with the power to issue directives on how the reports are to be produced and distributed is appropriate. We cannot support this motion.

I would ask, maybe, the solicitor to come up. You're saying these reports will not be available. Would you comment on that?

Ms. Lisa MacLeod: How does he know? I guess the problem that I've got with this is that the government says it's a direct reaction. It could be a reaction; it doesn't mean they've gotten it right. That's the whole problem with this bill. It's the whole problem with the process we're moving forward.

All we're asking in the official opposition, and I believe my colleague from the NDP is asking it as well, is for them to disclose this information, to make it public and easily accessible. If the government doesn't want people to find out what's going on, that's their prerogative. However, they should just say it. If they're going to issue directives, and these reports are going to be prepared and approved, they should be made available to the public. That's simply all we're asking.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod. Please?

Mr. Don Fawcett: I'll just ask the member if he could repeat the question to me to make sure I answer the question you want.

Mr. Phil McNeely: I think what you've heard from the two opposition parties is that giving minister power to issue directives on how the reports are to be produced and distributed is not transparency. I would like you to explain how this means that the reports are available.

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Mr. Don Fawcett: Subject to what will be actually set out in the directive issued by the minister in respect of

LHINs, of course any record that they are preparing and producing is ultimately subject to the Freedom of Information and Protection of Privacy Act. Those LHINs are in fact subject to FIPPA. Certainly it's open to anyone to make an FOI request to access those reports.

Now, it remains to be seen what will—

Ms. Lisa MacLeod: Okay, but here's the thing: That's all well and good. So it's open to freedom of information. That's all well and good. My party put forward several freedom-of-information requests to the tune of \$4,000, \$8,000, \$9,000. Are you basically trying to tell the public that they should pay for this information? If that LHIN report is available, why can't it be made public?

You're telling me that my constituents or members of our staff or other members of the public should pay for this information when it could easily just be posted on a website, the minister's own website or the local health integration network's website. That could be done very easily, very quickly, without any cost to anybody.

Mr. Don Fawcett: Maybe I'll direct the question over to the members, but yes, there is a cost associated with making an FOI request.

Ms. Lisa MacLeod: This is just more cover-up; that's basically why they're asking this question. We just want to let the sunshine in and let the information get out there if people want to see it. But the fact that the government doesn't want to disclose these potentially embarrassing reports in the future, I don't think we need legal opinions on that. I think that just speaks to the way things have always been and the way they want them to continue.

The Chair (Mr. Shafiq Qadri): Are there further comments? If not, we'll proceed to the vote.

Those in favour of PC motion 11? Those opposed? PC motion 11 is defeated.

PC motion 12: Ms. Jones.

Ms. Sylvia Jones: I move that subsection 5(1) of the bill be amended by adding "and provide a report to the Minister of Health and Long-Term Care, which shall be tabled in the Legislature and posted publicly on the ministry's website" at the end.

Again, this is just a reinforcement of the transparency that we're trying to ensure with the amendments that we're bringing forward with Bill 122.

The Chair (Mr. Shafiq Qadri): Thank you. Further comments on PC motion 12?

Ms. Lisa MacLeod: Great motion.

The Chair (Mr. Shafiq Qadri): If there are none—

M^{me} France G  linas: Yes.

Le Pr  sident (M Shafiq Qadri): Yes, Madame G  linas. Excusez-moi. Le plancher est    vous.

M^{me} France G  linas: Merci. Pensez-vous, si je leur demande en fran  ais, que je vais aller plus loin que quand je leur demande en anglais? Parce qu'   date, je ne suis pas all  e tr  s loin.

Le Pr  sident (M Shafiq Qadri): C'est votre choix.

M^{me} France G  linas: Mon choix? OK.

This is a significant issue my colleague has raised. If a report is prepared and is no more accessible and available

than it was before, then we haven't listened to the people of Ontario. The people of Ontario told us that they were disgusted, that they were appalled and that they were saddened by what had happened to their health care dollar, that it went off to exotic trips and to wine and dine on the public dime. Now you're saying, "Well, we'll ask them to prepare reports, but those reports won't be available, or maybe they will be, but you will have to pay to make them available." That's not what the public asked for.

All this motion is saying is that you will now mandate those agencies to prepare a report. Once we have this report, let people see it.

The Chair (Mr. Shafiq Qadri): Further comments on PC motion 12? Seeing none, we'll proceed to the vote. Those in favour of PC motion 12?

Ms. Lisa MacLeod: Could this be recorded, please?

Ayes

G  linas, Jones, MacLeod.

Nays

Dhillon, Johnson, McNeely, Ramal.

The Chair (Mr. Shafiq Qadri): PC motion 12 falls. NDP motion 13.

M^{me} France G  linas: I move that subsections 5(2) and (3) of the bill be struck out and the following substituted:

"Regulations

"(2) The Minister of Health and Long-Term Care may make regulations respecting the reports, including regulations with respect to,

"(a) the information that shall be included in reports made under subsection (1);

"(b) to whom the reports shall be submitted; and

"(c) the form, manner and timing of the reports.

"Compliance

"(3) Every local health integration network shall comply with the regulations."

The Chair (Mr. Shafiq Qadri): Thank you. Comments?

M^{me} France G  linas: Basically, what we are saying here is that we've listened to what the people have told us. After people found out how much money was being spent on consultants, the ministry put forward a bill that said that they will report. All that we're saying is, let's make sure that we know what kind of information they will have to report on. To ask simply for the agency to make a report could be left to interpretation, where the goal that we have for accountability and transparency won't be achieved. So all this amendment is doing is making sure that the report will at least include what I've just read into the record.

The Chair (Mr. Shafiq Qadri): Thank you. Comments?

Ms. Lisa MacLeod: He can go first.

The Chair (Mr. Shafiq Qaadri): Mr. McNeely?

Mr. Phil McNeely: There's no legal difference between a regulation and a directive, especially because under the bill, organizations subject to directives are required to comply with directives. A directive made under the bill must also be made public. Directives allow more flexibility in adapting to changing circumstances to ensure accountability and transparency. We cannot support this NDP motion.

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod.

Ms. Lisa MacLeod: We're supporting this because we actually have the same motion in here, which will be ruled out of order, I believe. But I think this is in keeping with what our stakeholders had been asking for during the limited time that this bill was in the public domain for discussion, particularly in front of this committee. So we'll be supporting my colleague in the third party. I think it's a reasonable request.

The Chair (Mr. Shafiq Qaadri): Any further comments on NDP motion 13? If there are none, we'll proceed to the vote. Those in favour of NDP motion 13? Those opposed? NDP motion 13 falls.

PC motion 14. Ms. MacLeod, as you have rightly noted, it is a duplicate and is out of order, so may I assume that you'll be withdrawing that?

Ms. Lisa MacLeod: That hurts, but withdrawn.

The Chair (Mr. Shafiq Qaadri): I appreciate the trauma, but I thank you for withdrawing it.

NDP motion 15.

M^{me} France Gélinas: I move that clause 5(2)(c) of the bill be struck out and the following substituted:

“(c) the form, manner, timing and public posting of the reports.”

Here again, it goes in the way of wanting more accountability. If you ask the LHINs to prepare a report, you have to make those reports accessible. You have to let the people have access to those.

The public has already spoken. It's spoken loud enough to move the government into action. Let's not stop short of giving something that is meaningful, because a report that is not accessible is not a meaningful act on our part.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments on NDP motion 15? Ms. MacLeod this time.

Ms. Lisa MacLeod: Please, I'll allow him to go.

The Chair (Mr. Shafiq Qaadri): All right. Mr. McNeely.

Mr. Phil McNeely: The bill responds directly to and fulfills the recommendations in the Auditor General's report with respect to reporting on the use of consultants. We believe that providing the minister with the power to issue directives on how the reports are to be produced and distributed is appropriate, so we cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod.

Ms. Lisa MacLeod: I'll be supporting this motion, as will my colleague in the official opposition, given we have the exact same motion that will likely be ruled out of order. I think this speaks again to the public record and

the public nature of this document and its importance to be transparent to the public, given what has occurred.

We'll be supporting this. Again, I think it speaks to the reality that we are now in, where the public expects to see these reports without having to go through freedom-of-information requests. So we support it and we hope it passes.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 15? Seeing none, we'll proceed to the vote. Those in favour of NDP motion 15?

Ms. Lisa MacLeod: A recorded vote, please.

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Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 15 falls.

Ms. MacLeod, as you have once again rightly noted, PC motion 16 is out of order. May I assume you withdraw it?

Ms. Lisa MacLeod: Thanks very much.

I move that subsection 6(1) of the bill be amended by adding “and contracting out” after “use of consultants”.

I believe—

The Clerk of the Committee (Ms. Susan Sourial): You have to withdraw the previous one.

Ms. Lisa MacLeod: I withdraw the previous one first, and then I've made this motion.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll then proceed.

Shall section 5 carry?

Ms. Lisa MacLeod: No.

The Chair (Mr. Shafiq Qaadri): Vote?

Ms. Lisa MacLeod: Yes.

The Chair (Mr. Shafiq Qaadri): We'll vote.

Those in favour of section 5 carrying? Those opposed? Carried.

Section 6: PC motion 17, Ms. MacLeod.

Ms. Lisa MacLeod: I move that subsection 6(1) of the bill be amended by adding “and contracting out” after “use of consultants”.

This was put forward by one of the delegations, I believe, to enhance public transparency, and we'll be supporting it.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on PC motion 17? Mr. McNeely?

Mr. Phil McNeely: The term “contracting out” is ambiguous and not legally enforceable. The existing provision responds to and fulfills the Auditor General's recommendation, so we cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Further comments on PC motion 17? Madame Gélinas?

M^{me} France G linas: What do you base your statement on, that they can't do this?

Mr. Phil McNeely: That the term "contracting out" is ambiguous and not legally enforceable? Is that what you're asking? I'd have to bring the solicitor up for that.

Mr. Don Fawcett: The question is in respect to the term "contracting out." Within the context of the bill, to make this term "contracting out" understandable—we may have a general sense of contracting out, but in the context of the bill, we would have to define "contracting out" for it to have legal effect. In this case, "contracting out" appears ambiguous. It could mean any kind of contract by the organization with any entity.

M^{me} France G linas: So are you saying that if we were to define "contracting out," you would support this amendment?

Ms. Lisa MacLeod: Say yes.

Mr. Phil McNeely: I think I've spoken on that. We'll be opposing that motion.

M^{me} France G linas: Is somebody going to answer my question? If we were to define "contracting out," would you be supporting the amendment?

Mr. Khalil Ramal: No.

Mr. Phil McNeely: I would have to get a further solicitor explanation on that.

Ms. Lisa MacLeod: My colleague from the third party is actually asking a political question, one where she would actually appreciate an answer, as would I, as the mover of this amendment.

If we said extend the proposed legislation to include reporting on forms of contracting out to beyond the hiring of consultants, if we defined "contracting out," would you, Phil McNeely, support this amendment?

Mr. Khalil Ramal: No.

Mr. Phil McNeely: I think that the reasons that we want it to stay as is have been explained, and we'll be opposing that motion.

The Chair (Mr. Shafiq Qaadri): Are there any further comments on—

M^{me} France G linas: Can we get Khalil's answer on the record?

The Chair (Mr. Shafiq Qaadri): Pardon me?

Mr. Khalil Ramal: It's already on the record.

The Chair (Mr. Shafiq Qaadri): Anything said in this committee is on the record.

M^{me} France G linas: Okay, because Khalil has said no, and his little microphone wasn't on at the time.

The Chair (Mr. Shafiq Qaadri): Thank you. Any further comments on PC motion 17? Then we'll proceed to the vote. Those in favour of PC motion 17?

Ms. Lisa MacLeod: A recorded vote, please.

Ayes

G linas, Jones, MacLeod.

Nays

Dhillon, Johnson, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): PC motion 17 falls. NDP motion 18.

M^{me} France G linas: I move that section 6 of the bill be amended by adding the following subsection:

"Same

"(1.1) The hospital shall provide a copy of the report to the Minister of Health and Long-Term Care, which shall be tabled in the Legislature and posted publicly on the Ministry of Health and Long-Term Care website."

Basically, what I'm trying to do is outline the obligation of the hospital on the reporting of their use of consultants.

The Chair (Mr. Shafiq Qaadri): Further comments?

Ms. Lisa MacLeod: We obviously have the same motion, which will be ruled out of order, so we will therefore be supporting the third party.

This is a reasonable request made by the Registered Nurses' Association of Ontario who, if you will recall, in their presentation to committee last week, had a lot of concerns with the LHINs and wanted to make sure that there was more transparency. In this instance, they are looking for more transparency: that hospitals should provide a copy of the report to the Minister of Health and Long-Term Care and that it ought to be tabled in the Ontario Legislature and publicly posted online. We think that this is the new era of public accountability, one in which this bill, in more cases than not, neglects to be up to the job. In fact, as you'll recall, we put forward a bill called the Truth in Government Act that would have had more disclosure on public websites of this nature.

The reason we will not support this bill at the end of the day is because in every attempt to make the system more whole and to ensure that there is more transparency and accountability, the government either goes halfway or doesn't go there at all.

We'll be supporting this motion. We do hope that the government will support it as well.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 18?

M^{me} France G linas: I want to make sure that everybody understands: The hospital will be doing the report. The work is already done. All we're asking is that the work that they have done because of Bill 122 becomes accessible, so that people can have access to it. To table it with the Legislature and to put it on a website is not hard work. It may seem like tabling with the Legislature will include a lot of work; it doesn't. You send it to the Clerk, and the Clerk brings it, and voila, it's done. To put it on a website—I'm sure they know how to do this.

We have to complete the next step. To ask them to prepare all sorts of reports and then not make those reports accessible to the public defeats the purpose of the bill. The purpose of the bill is to bring accountability. Accountability comes through transparency. To have them prepare all sorts of reports—hospitals already prepare all sorts of reports that none of us have access to. That didn't help us, did it?

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments to NDP motion 18?

Ms. Lisa MacLeod: I request a recorded vote.

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 18 falls.

Ms. MacLeod, as you see, PC motion 19—may I take it as a withdrawal?

Ms. Lisa MacLeod: Withdrawn.

The Chair (Mr. Shafiq Qaadri): Thank you. NDP motion 20: Madame Gélinas.

M^{me} France Gélinas: I move that subsections 6(2) and (3) of the bill be struck out and the following substituted:

“Regulations

“(2) The Minister of Health and Long-Term Care may make regulations respecting the reports, including regulations with respect to,

“(a) the information that shall be included in reports made under subsection (1);

“(b) to whom the reports shall be submitted; and

“(c) the form, manner and timing of the reports.

“Compliance

“(3) Every hospital shall comply with the regulations.”

Basically, we’re changing a directive into a regulation.

The Chair (Mr. Shafiq Qaadri): Thank you.

Ms. Lisa MacLeod: You will notice that the official opposition does have the exact same motion put forward, and let me explain why the official opposition believes this is important.

One of the big reasons we voted against this at second reading and will likely vote against this at third reading is that we don’t believe the directives are strong enough. We feel that it’s toothless, it lacks any strength and won’t really impact much. It’s not as strong as it could have been and should have been. We heard, from time to time, our colleagues from the Registered Nurses’ Association of Ontario put forward this idea, and I must say the official opposition concurs. We feel that the bill lacks any strength, given this sort of flimsy approach with just general directives.

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It also, I think, speaks to the fact that on many occasions, the Premier of this province has put forward directives to agencies that have not been met. Our concern in the official opposition is if the government is willing to break the rules on some of its directives and even some of those laws, we need to be a little stronger in the language in these bills.

We will be supporting this motion to amend subsections 6(2) and (3) of the bill in keeping with the ideas put forward by the RAO.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 20? Mr. McNeely.

Mr. Phil McNeely: There’s no legal difference between a regulation and a directive, especially because under the bill, organizations subject to directives are required to comply with the directives. A directive made under the bill must also be made public. Directives also allow more flexibility and in adapting to changing circumstances to ensure accountability and transparency. We will not be supporting this motion.

The Chair (Mr. Shafiq Qaadri): Thank you. Ms. Jones, then Madame Gélinas.

Ms. Sylvia Jones: Thank you. That’s the second time that the parliamentary assistant has made reference to the similarities between directives and regulations. The reality is that directives can be changed with one person; regulations, at least, have to go to cabinet and be signed off by cabinet. So there is a rather dramatic difference—and of course, they have to be gazetted as well, where directives do not. There is a big enough difference between a directive and a regulation that at the very minimum, we should be ensuring these changes through regulation.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^{me} France Gélinas: I would concur and add to what my colleague has just said that regulations are subject to public consultation. What could happen with a directive is a directive comes out of nowhere, nobody knows, and then you’re left to react. When you make it a regulation, then at least there’s a phase of public consultation. If the stakeholder, if the public of Ontario is not happy, they have an opportunity to have their voices heard before the fact. With a directive, you are after the fact and frankly, ineffective.

I would ask legal counsel to confirm that.

Mr. Ralph Armstrong: I am not sure that I can confirm that in the case of the system under this bill. Regulations are not in all cases subject to public consultations. There are certain government policies in place about certain regulations that must be consulted on, and some acts specifically require them; yet that cannot be said to be a general rule.

There are differences between regulations and directives. Regulations must be filed with the registrar of regulations; they are published on e-Laws etc. On the other hand, in fairness, it must be said that the directives under this bill are required to be publicly posted on a government website, which would be in its nature similar to e-Laws. So it’s difficult to—there are certain things that are regulations; there are certain things that are directives. But on the specific situation of this bill, it is, I would think, fair to say that there is a distinct similarity between directives and regulations.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 20?

Ms. Lisa MacLeod: Recorded vote, please.

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, McNeely, Ramal.

The Chair (Mr. Shafiq Qadri): The NDP motion falls.

Ms. MacLeod, may I take it that PC motion 21 is withdrawn?

Ms. Lisa MacLeod: Yes. Given that the government has voted against this, I withdraw.

The Chair (Mr. Shafiq Qadri): Thank you. NDP motion 22.

M^{me} France Gélinas: I move that clause 6(2)(b) of the bill be struck out and the following substituted:

“(b) in addition to the board of the local health integration network, to whom the reports shall be submitted; and”.

Basically, what we’re doing is we want to make sure that at least the report by the hospitals on consultants be submitted to the boards of the LHINs, as well as other bodies.

The Chair (Mr. Shafiq Qadri): Further comments on NDP motion 22. Ms. MacLeod?

Ms. Lisa MacLeod: We do have the same motion on the next page, which will be ruled out of order, so I will lend my support to my colleague from the third party because we do feel it is important that this information is circulated to the appropriate bodies, particularly when it comes to the troubled LHINs.

The Chair (Mr. Shafiq Qadri): Further comments to NDP motion 22?

Mr. Phil McNeely: The government supports this motion. It is consistent with the accountability relationship existing between hospitals and the LHIN.

The Chair (Mr. Shafiq Qadri): Are there any further comments?

Interjections.

The Chair (Mr. Shafiq Qadri): I would invite those interjections on the record, should you wish.

Ms. Sylvia Jones: I’m speechless.

The Chair (Mr. Shafiq Qadri): Those in favour of NDP motion 22? Any opposed? NDP motion 22 carries.

PC motion 23 is out of order, withdrawn and also carried, now. Fine.

NDP motion 24.

M^{me} France Gélinas: I move that clause 6(2)(c) of the bill be struck out and the following substituted:

“(c) the form, manner, timing and public posting of the reports.”

Basically, it’s a requirement that we would put on hospital reports.

The Chair (Mr. Shafiq Qadri): Further comments? Ms. MacLeod.

Ms. Lisa MacLeod: We too have this motion, which will be ruled out of order. Hopefully, the government will also vote to support this one, but we believe—

Mr. Khalil Ramal: They were faster.

Ms. Lisa MacLeod: Pardon me?

Mr. Khalil Ramal: They were faster, I guess, submitting the—

Ms. Lisa MacLeod: Yeah, they were faster than we were.

The RNAO has put this idea forward. We agree with them; we believe that these reports should be publicly posted. We have suggested this in earlier motions as well, that these reports be made publicly available and accessible without charge to the public, so we will be supporting the NDP motion in the spirit of the motion that we’ve put forward as well.

The Chair (Mr. Shafiq Qadri): Mr. McNeely?

Mr. Phil McNeely: The bill responds directly to and fulfills the recommendation in the Auditor General’s report with respect to reporting on the use of consultants. We believe providing the minister with the power to issue directives on how the reports are to be produced and distributed is appropriate, so we cannot support this motion.

The Chair (Mr. Shafiq Qadri): Madame Gélinas.

M^{me} France Gélinas: The intentions of Bill 122 are good: They want to bring accountability; they want to bring transparency. But if you don’t make it publicly accessible, we’re not going to achieve anything.

If you read the complete Auditor General’s report, it’s clear that the type of reports he’s talking about are publicly accessible reports. This is how the accountability comes into play. You are accountable once people see what you have done. To leave the bill as it is, where there is nowhere that says that those reports will be made public, then leads one to believe that you have no intention of making those reports public. People will have to spend lots of money to get at them through freedom of access of information. Why? How do we serve the public good?

The hospital has done the work, the public has already spoken and said that they wanted transparency, the Auditor General writes a report telling you that you have to do better and you respond with a bill that’s labelled “accountability,” but then you ask a whole bunch of health care transfer payment agencies to do a whole bunch of work—and then it’s all to no avail, because nobody will have access to that work. Nobody will have access to that information.

1520

The Chair (Mr. Shafiq Qadri): Thank you, Mme Gélinas. Further questions, comments, replies even? We’ll proceed then to the vote.

Ms. Lisa MacLeod: Recorded vote, please.

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 24 falls.

May I take it that PC motion 25 is withdrawn?

Ms. Lisa MacLeod: Withdrawn.

The Chair (Mr. Shafiq Qaadri): We'll proceed to consider the section.

Shall section 6, as amended carry?

Ms. Lisa MacLeod: No.

The Chair (Mr. Shafiq Qaadri): Then we'll have a vote on that.

Ms. Lisa MacLeod: Recorded vote, please.

Ayes

Dhillon, Johnson, McNeely, Ramal.

Nays

Gélinas, Jones, MacLeod.

The Chair (Mr. Shafiq Qaadri): Section 6, as amended, carries.

NDP motion 26.

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

“Reporting, others

“6.1 Sections 5 and 6 apply, with necessary modifications, to,

“(a) every board of health under the Health Protection and Promotion Act;

“(b) every community care access corporation;

“(c) every home-care agency, whether or not operated for profit; and

“(d) every long-term care facility, whether or not operated for profit.”

Basically, it makes the public reporting of the use of consultants apply to not only hospitals but to all of the major health care players, the ones that receive the bulk of the \$43 billion—almost \$45 billion—that the government spends on health care.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Phil McNeely: This motion would require boards of health, home care agencies and long-term-care homes to report on their use of consultants, but none of these entities are included under the bill. For this reason, we cannot support the motion.

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod?

Ms. Lisa MacLeod: I'm going to be supporting this bill. I think it's unfortunate that the government has taken that approach because I think it speaks to—if we want to get this bill right, and some of us do, it becomes impossible to support it when trying to get the whole bill right is deemed not important by the government. I think my colleague from the NDP enters into this debate today, particularly with this motion, as someone who wants to ensure that we're doing it right and doing it appropriately.

I'll just take the defeat of this motion as one more example that the government just wants, I guess, to give

a band-aid solution to what I think is a very gaping and problematic issue that we're faced with in Ontario with respect to transparency and public accountability. She'll have my support on this, and I want to congratulate her for bringing it forward.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 26? Madame Gélinas?

M^{me} France Gélinas: All we're asking for here is a report on the use of consultants. This is not a big step towards transparency, but it is a step, and to say that the boards of health, CCACs, home care and long-term-care facilities are not—you give me as an excuse that they're not included in the bill, but we are working through the bill right now. It is up to us to include them, and all we're asking them to do is report on the use of consultants. That's it; that's all. It's not a big ask, but it will go a long way towards appeasing the public who doesn't think that their health care dollars are being used wisely.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote.

Those in favour of—

Ms. Lisa MacLeod: Recorded vote.

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 26 falls.

We'll proceed now to the next section, government motion 27. We invite you to present it, Mr. McNeely.

Mr. Phil McNeely: I move that subsection 7(1) of the bill be amended by striking out “form, manner and timing” and substituting “content, form, manner and timing”.

This is a technical amendment to make the regulation-making authority in this section align with the directive-making authority above.

The Chair (Mr. Shafiq Qaadri): Comments on government motion 27? Seeing none, we'll proceed to the vote. Those in favour of government motion 27? Those opposed? Motion 27 carries.

Shall section 7, as amended, carry?

Ms. Lisa MacLeod: No.

The Chair (Mr. Shafiq Qaadri): We'll vote on this.

Ms. Lisa MacLeod: Recorded vote.

Ayes

Dhillon, Johnson, McNeely, Ramal.

Nays

Jones, MacLeod.

The Chair (Mr. Shafiq Qaadri): Section 7, as amended, carries.

Section 8, NDP motion 28.

M^{me} France G linas: I move that section 8 of the bill be amended,

(a) in subsection (1), by striking out “directives” and substituting “regulations”;

(b) in subsection (2), by striking out “may issue directives” and substituting “may make regulations”; and

(c) in subsection (3), by striking out “directives” and substituting “regulations”.

Basically, what we’re trying to do is that—with regulations come the requirement for public consultation. Directives do not come with this obligation for public consultation. It is an attempt to increase transparency. If there are going to be changes, let’s make the changes, at least, in regulations, so that people are aware, people’s voices can be heard and it doesn’t hit the field when they didn’t even see it coming. A regulation is preferable, and I hope the government will see that.

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod?

Ms. Lisa MacLeod: I support this motion. Obviously, we’ve got our motion, which is identical, right after this, which will be ruled out of order.

May I just remind members of the committee that it was health care professionals who did put forward this motion, from the Registered Nurses’ Association of Ontario. I think had the government communicated with that group prior to bringing this to the House and to this committee, they probably would have done it over again and probably would have chosen some of the wording put forward by the RNAO, as well as by the third party and the official opposition.

We will be supporting this. I believe it enhances transparency and accountability, but I also think it strengthens what the government is intending to do here, but we’ll see what happens.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 28?

Mr. Phil McNeely: There is no legal difference between a regulation and a directive, especially because, under the bill, organizations subject to directives are required to comply with directives. A directive made under a bill must also be made public. Directives allow more flexibility in adapting to changing circumstances to ensure accountability and transparency, so we cannot support this motion.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we’ll proceed to the vote on NDP motion 28—

Ms. Lisa MacLeod: Recorded vote, please.

Ayes

G linas, MacLeod.

Nays

Dhillon, Johnson, Lalonde, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 28 falls.

May I take it that PC motion 29 is withdrawn?

Ms. Lisa MacLeod: Withdrawn.

The Chair (Mr. Shafiq Qaadri): NDP motion 30, Madame G linas.

M^{me} France G linas: I move that subsection 8(3) of the bill be amended by striking out “may” in the portion before clause (a) and substituting “shall”.

To me, if we keep it as “may”, then that means that the directive regarding the public reporting of expenses is not mandatory but an option; it “may” happen. If we switch this to “shall”, then it makes it mandatory.

The Chair (Mr. Shafiq Qaadri): Any further comments on NDP motion 30?

Ms. Lisa MacLeod: If I may, very quickly, obviously you will see that the official opposition has put forward the same motion, so we will withdraw it at the time.

Having said that, we again have listened to our friends at the RNAO, who would like to see this bill with more teeth and with more strength.

With that in mind, I will support my colleague in the third party.

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The Chair (Mr. Shafiq Qaadri): Mr. McNeely?

Mr. Phil McNeely: We support this amendment, Chair.

Mr. Rick Johnson: Recorded vote.

The Chair (Mr. Shafiq Qaadri): We’ll proceed now to the recorded vote.

Ayes

Dhillon, G linas, Johnson, Lalonde, MacLeod, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. NDP motion 30 carries.

Ms. MacLeod, may I assume PC motion 31 is withdrawn?

Ms. Lisa MacLeod: Yes, now that it’s carried.

The Chair (Mr. Shafiq Qaadri): Shall section 8, as amended, carry? Carried.

To date, we’ve received no motions for sections 9 to 13, so will committee consider them en bloc?

Those in favour of sections—

Ms. Lisa MacLeod: Just very quickly, I wanted to highlight—I’ve been contacted, and I know many of my colleagues have been, with respect to procurement standards by the broader public sector. There were some concerns of the charitable groups—I want to look at their proper name here—the Ontario Nonprofit Network had some concerns. I’m not sure if the government has responded to those at all, but there were concerns raised during this debate and I wanted to put that on the record.

The Chair (Mr. Shafiq Qaadri): Are there any further comments before we consider, en bloc, sections 9 to 13 inclusive?

Seeing none, we'll proceed to that vote. Shall sections 9 to 13 carry? Carried.

We'll now proceed to NDP motion 32.

M^{me} France Gélinas: I move that subsection 14(2) of the bill be amended by striking out "may" in the portion before clause (a) and substituting "shall".

Basically, here again it is to make it mandatory, as opposed to optional.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 32? Mr. McNeely?

Mr. Phil McNeely: Although we intend on including this information in the directives, the motion would mean that the directives would have to be issued immediately upon proclamation, limiting flexibility in implementing the bill. For that reason, we cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod.

Ms. Lisa MacLeod: This also was a product of our discussion in this committee by the RAO. As a result, I've put forward the same motion, which is on page 33. Therefore, I will be supporting the NDP motion before mine is ruled out of order.

The Chair (Mr. Shafiq Qaadri): We'll proceed now to the vote. Those in favour of NDP motion 32? Those opposed? NDP motion 32 is defeated.

May I take it, then, that PC motion 33 is withdrawn?

Ms. Lisa MacLeod: Withdrawn.

The Chair (Mr. Shafiq Qaadri): NDP motion 34.

M^{me} France Gélinas: I move that section 14 of the bill be amended by adding the following subsection:

"Posting

"(4) Every local health integration network shall publicly post the attestations on their website."

Basically, this makes sure that LHINs make this information available on their websites.

The Chair (Mr. Shafiq Qaadri): Comments? Ms. MacLeod.

Ms. Lisa MacLeod: This will probably come as no surprise: The official opposition also put forward the same amendment.

Mr. Khalil Ramal: You guys think alike, eh?

Ms. Lisa MacLeod: I beg your pardon?

Mr. Khalil Ramal: You think alike.

Ms. Lisa MacLeod: Well, when it comes to accountability, I don't think the opposition parties are that far off. In addition, I think that when the Registered Nurses' Association of Ontario comes to committee and brings forward their views on health care, one must listen. Therefore, we've put forward the same amendment, at their request, and we will therefore be supporting the NDP.

The Chair (Mr. Shafiq Qaadri): Mr. McNeely?

Mr. Phil McNeely: We support the intent of this motion. We'll be supporting the next motion from the official opposition as well. LHINs currently provide attestations to the ministry and these are often posted on their websites or reported in board minutes, which are publicly available. So we support motion 34.

The Chair (Mr. Shafiq Qaadri): Then we'll proceed to the vote. Those in favour of NDP motion 34? Those opposed? None. NDP motion 34 carries.

May I take it that PC motion 35 is withdrawn?

Ms. Lisa MacLeod: It's withdrawn.

The Chair (Mr. Shafiq Qaadri): NDP motion 36. Madame Gélinas?

M^{me} France Gélinas: I move that section 14 of the bill be amended by adding the following subsection:

"Tabling

"(5) The Minister of Health and Long-Term Care shall table the attestations from the local health integration networks in the Legislature."

Here again, it's trying to make work that will already have been submitted more accessible and publicly available.

The Chair (Mr. Shafiq Qaadri): Merci. Madam MacLeod.

Ms. Lisa MacLeod: Mr. Chair, as you've seen on page 37, the official opposition has put forward the same amendment. Therefore, we will be supporting it, and I look forward to government support of this motion as well.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 36? Mr. McNeely.

Mr. Phil McNeely: We believe that publicly posting the attestations on a website is sufficient. LHIN annual reports are already tabled in the Legislature. We cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Are there any further comments? We'll proceed, then, to the vote.

M^{me} France Gélinas: Recorded vote.

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, Lalonde, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 36 is defeated.

May I take it that PC motion 37 is withdrawn?

Ms. Lisa MacLeod: Withdrawn.

The Chair (Mr. Shafiq Qaadri): Shall section 14, as amended, carry? We'll proceed to a vote. Those in favour of section 14, as amended? Those opposed? Section 14, as amended, carries.

Section 15, NDP motion 38.

M^{me} France Gélinas: I move that subsection 15(3) of the bill be amended by striking out "may" in the portion before clause (a) and substituting "shall".

Here again, the LHINs will prepare the attestations, will have to submit them. With changing "may" to "shall," we make sure that it is not an option, that it is mandatory.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments to NDP motion 38? Ms. MacLeod.

Ms. Lisa MacLeod: On page 39, we have the same motion. Obviously, it was proposed as well by the RNAO. We believe that this makes the language in the bill stronger, and that's why we will be supporting both the NDP motion and ours. I look forward to government support of this motion.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments to NDP motion 38? Mr. McNeely.

Mr. Phil McNeely: Although we intend to include this information in the directives, this motion would mean that the directives would have to be issued immediately upon proclamation, limiting flexibility in implementing the bill. For that reason, we cannot support this motion.

The Chair (Mr. Shafiq Qaadri): We'll proceed, then, to the vote. Those in favour of NDP motion 38?

Ms. Lisa MacLeod: Recorded, please.

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, Lalonde, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 38 falls.

May I take it that PC motion 39 is withdrawn?

Ms. Lisa MacLeod: Withdrawn.

The Chair (Mr. Shafiq Qaadri): NDP motion 40: Madame Gélinas.

M^{me} France Gélinas: I move that section 15 of the bill be amended by adding the following subsection:

"Posting

"(5) Every hospital shall publicly post the attestations on their website."

Basically, it makes the attestations accessible to all.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments to NDP motion 40? Mr. McNeely.

Mr. Phil McNeely: We support the motion.

M^{me} France Gélinas: Thanks.

The Chair (Mr. Shafiq Qaadri): Ms. MacLeod.

Ms. Lisa MacLeod: We have the same motion right behind here, so we clearly support it. We look forward to supporting this.

Interjection.

Ms. Lisa MacLeod: I can't hear myself above the calling from the colleague across the way. If he could just listen when I speak.

The Chair (Mr. Shafiq Qaadri): I would invite the colleague from across the way to adopt that measure.

Ms. MacLeod.

Ms. Lisa MacLeod: We'll be supporting this.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed now to the vote. Those in favour of NDP motion 40?

Mr. Rick Johnson: Recorded vote.

Ayes

Dhillon, Gélinas, Johnson, Jones, Lalonde, MacLeod, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): None opposed. NDP motion 40 carries.

I'll take it that PC motion 41 is withdrawn.

Ms. Lisa MacLeod: Withdrawn, now that it's been adopted.

The Chair (Mr. Shafiq Qaadri): NDP motion 42: Madame Gélinas.

M^{me} France Gélinas: I move that section 15 of the bill be amended by adding the following subsection:

"Tabling

"(6) The Minister of Health and Long-Term Care shall table the attestations from hospitals in the Legislature."

This is again to make them more accessible, visible, and increase transparency.

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The Chair (Mr. Shafiq Qaadri): Further comments? Ms. MacLeod.

Ms. Lisa MacLeod: You'll notice that on page 43 the official opposition has put forward the same resolution. We believe that that's important as we move forward.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 42? Seeing none, we'll proceed then—

Mr. Phil McNeely: Just a minute, Chair.

The Chair (Mr. Shafiq Qaadri): Yes, Mr. McNeely.

Mr. Phil McNeely: We believe that public posting of the attestations on a website is sufficient. Tabling over 150 reports every time they are received would be administratively burdensome for the ministry and the Legislature, especially considering they will be publicly posted. We cannot support this motion.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote. Those in favour of NDP motion 42? Those opposed? Motion 42 is defeated.

May I take it that PC motion 43 is withdrawn?

Ms. Lisa MacLeod: Yes.

The Chair (Mr. Shafiq Qaadri): Shall section 15, as amended, carry?

Ms. Lisa MacLeod: No.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote. Those in favour of section 15, as amended, carrying? In favour? Those opposed? Section 15, as amended, carries.

Section 16: government motion 44. Mr. McNeely.

Mr. Phil McNeely: I move that subsection 16(1) of the bill be amended by striking out "form, manner and timing" and substituting "content, form, manner and timing".

This is a technical amendment to make the regulation-making authority in this section align with the directive-making authority above.

The Chair (Mr. Shafiq Qaadri): Any further comments on government motion 44?

Seeing none, we'll proceed to the vote. Those in favour of government motion 44? Those opposed? Motion 44 carried.

Shall section 16, as amended, carry? Carried.

Having received to date no motions for sections 17 to 23, inclusive, I take it as the will of committee that it will proceed on block vote. Those in favour of sections 17 to 23, inclusive, carrying? Opposed? Sections 17 to 23, inclusive, carry.

Section 24: NDP motion 45.

M^{me} France Gélinas: I move that subsection 24(4) of the bill be struck out and the following substituted:

“(4) The definition of ‘institution’ in subsection 2(1) of the act is amended by striking out ‘and’ at the end of clause (a.1) and by adding the following clauses:

“(a.2) a hospital,

“(a.3) a long-term care home within the meaning of the Long-Term Care Homes Act, 2007,

“(a.4) a community care access corporation within the meaning of the Community Care Access Corporations Act, 2001, and

“(a.5) a board of health under the Health Protection and Promotion Act;

“(a.6) a home care agency, whether or not operated for profit;

“(a.7) a company subcontracted by an entity mentioned in clause (a.4), (a.5) or (a.6). and”

The Chair (Mr. Shafiq Qadri): Thank you. Further comments on NDP motion 45?

M^{me} France Gélinas: Basically, it's taking the language out of FIPPA and adding this to this bill so that all of the agencies that FIPPA applies to, the FOI would also apply to.

The Chair (Mr. Shafiq Qadri): Any further comments? Mr. McNeely?

Mr. Phil McNeely: This motion is very problematic. We cannot support it for a number of reasons.

Boards of health are currently subject to the Municipal Freedom of Information and Protection of Privacy Act. Including them here would conflict with their current status.

Bringing other agencies under the Freedom of Information and Protection of Privacy Act with one line in a bill is not an approach we're supportive of. We believe in working with our partners, especially when sensitive health information is present, to get it right.

Clause (a.7) is highly problematic and unintentionally broad. Any company subcontracted by a community care access corporation, a board of health or a home care agency would become subject to FIPPA. This means that private sector service providers become subject to FIPPA once they have contracted with one of these organizations. For example, this could have the effect of bringing Sears Canada under FIPPA if Sears was hired to clean the carpets of one of these organizations. It's much too broad, so we will not be supporting this motion.

The Chair (Mr. Shafiq Qadri): Further comments on NDP motion 45?

M^{me} France Gélinas: The Freedom of Information and Protection of Privacy Act actually gives people more privacy. We brought those agencies under FIPPA so that they would have to treat personal information with more privacy. To now make them FOI-able—those are already agencies that know how to handle personal information. It is an opportunity to strengthen the bill so that people have access to information.

As I said, the information that our Auditor General has uncovered when it comes to the use of consultants, the use of lobbying and the use of public money to wine and dine people has shocked the people of Ontario. It is not only happening in hospitals and LHINs; it is happening in other parts of our health care system. The public wants information on them just as much as they want information on hospitals and LHINs.

The Chair (Mr. Shafiq Qadri): Are there any further comments on NDP motion 45? Seeing none, we'll proceed to the vote. Those in favour of NDP motion 45? Those opposed? NDP motion 45 is defeated.

PC motion 46.

Ms. Lisa MacLeod: I move that subsection 24(4) of the bill be struck out and the following substituted:

“(4) The definition of ‘institution’ in subsection 2(1) of the act is amended by striking out ‘and’ at the end of clause (a.1) and by adding the following clauses:

“(a.2) a hospital,

“(a.3) a public sector body, and”

The reason we do this is because we in the official opposition believe that freedom of information should be expanded throughout all of government.

The Chair (Mr. Shafiq Qadri): Further comments on PC motion 46?

Mr. Phil McNeely: This motion would have no legal effect because “public sector body” is not defined in FIPPA. Therefore, this provision would be unenforceable. We cannot support this motion.

Ms. Lisa MacLeod: I ask my honourable colleague, if there was a legal definition that was acceptable to him that would take in the spirit of “public sector body,” meaning any entity that was wholly publicly funded, would the government support this motion?

Mr. Phil McNeely: We cannot support this motion.

Ms. Lisa MacLeod: Why, if it was wholly defined? I'm asking a political question of the government.

The Chair (Mr. Shafiq Qadri): I believe you're getting a political answer currently.

Ms. Lisa MacLeod: Silence. Well, their silence is speaking volumes.

Ms. Sylvia Jones: Yes, it is.

The Chair (Mr. Shafiq Qadri): Are there any further comments on PC motion 46?

Ms. Lisa MacLeod: I'd like a recorded vote.

The Chair (Mr. Shafiq Qadri): Madame Gélinas?

M^{me} France Gélinas: I would say their answer to this motion was a technicality: that we don't have a definition. But when you offered to work around and work out the technicality, then they went silent. To me, this is not the real reason why they're voting it down. It's not

because of a technicality. It's because they don't want the transparency that is sought for all of the agencies that make up the \$45 billion that we spend on health care in this province.

The Chair (Mr. Shafiq Qaadri): Are there any further comments?

Ayes

Gélinas, Jones, MacLeod.

Nays

Dhillon, Johnson, Lalonde, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): PC motion 46 is defeated.

PC motion 47.

Ms. Lisa MacLeod: I move that subsection 24 of the bill be amended by adding the following subsection:

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

“Broader public sector

“(6) For the purposes of this act, the powers of the commissioner are defined to include the power to require,

“(a) full proactive disclosure of all contracts over \$10,000 at all public sector bodies, including their posting on-line;

“(b) full proactive disclosure of travel and hospitality expenses at all public sector bodies, including their posting on-line;

“(c) full proactive disclosure of grants and contributions over \$10,000 at all public sector bodies;

“(d) full proactive disclosure of all position reclassifications at all public sector bodies.”

This motion would entrench and enshrine into law a previous bill put forward by myself and the Ontario PC caucus called the Truth in Government Act. We feel that in order to have full disclosure, accountability and transparency in the public sector with taxpayer dollars, these four items do need to be enacted.

We have had great support from groups like the National Citizens Coalition, the Canadian Taxpayers Federation, and from many constituents right across the province who represent taxpayers.

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We feel that this is the be-all and end-all for our support of this bill. If subsection 24's amendment does not pass, it is of grave concern to us in the official opposition, and we will be forced to vote against this bill.

The Chair (Mr. Shafiq Qaadri): Further comments on PC motion 47?

Mr. Phil McNeely: This is an improper amendment to the definition section of FIPPA. Public sector bodies are not defined in FIPPA, so these provisions would be unenforceable.

Furthermore, the powers of the commissioner are set out in section 59 of FIPPA. Section 59 is the section to amend in the event that additional powers are given to

the commissioner. This amendment is not consistent with the drafting of FIPPA. A requirement for an institution to proactively disclose information should be placed on the institution itself, not as a discretionary power of the commissioner to compel production. We cannot support this motion.

Ms. Lisa MacLeod: Would the government be supportive if we moved it to another section in the bill?

The Chair (Mr. Shafiq Qaadri): Are there any further comments?

Ms. Lisa MacLeod: Yes. I didn't get that. Again, the silence was deafening.

Mr. Phil McNeely: We can't support this motion.

Ms. Lisa MacLeod: So you won't support this motion.

I guess the question that any reasonable person would put forward is, why is the government afraid of posting information that we already have in locations we already know about—posting this information online?

I must say, I had a meeting earlier today about this topic with the Integrity Commissioner, who indicated to me that all ABCs should be posting this information online. We already possess it; it does not cost a thing. It should be posted on ministerial websites. In the case that an ABC has its own website—for example, maybe the Niagara Parks Commission is one, or Ontario Place—it should be posted there as well. I'm just wondering why the government is afraid to post this information and bring Ontario into line with the federal government, British Columbia, Alberta and nations elsewhere.

The Chair (Mr. Shafiq Qaadri): Are there any further comments on PC motion 47?

Ms. Lisa MacLeod: A recorded vote, please.

Ayes

Jones, MacLeod.

Nays

Dhillon, Gélinas, Johnson, Lalonde, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): PC motion 47 is defeated.

Government motion 48.

Mr. Phil McNeely: I move that section 24 of the bill be amended by adding the following subsection:

“(6.1) Subsection 18(1) of the act is amended by adding the following clause:

“(j) information provided to, or records prepared by, a hospital committee for the purpose of assessing or evaluating the quality of health care and directly related programs and services provided by the hospital.”

The Chair (Mr. Shafiq Qaadri): Mr. McNeely, before you proceed, it is my solemn duty to inform you as Chair of the social policy committee that because this particular motion opens section 18 of the Freedom of Information and Protection of Privacy Act, which was not previously opened in Bill 122, this motion is out of

order. There is a considerably more elegant explanation, should you wish me to enter it into the record, but I would invite you to—

Ms. Lisa MacLeod: I move unanimous consent to adopt the government's motion.

The Chair (Mr. Shafiq Qadri): We'll just consider this. You've understood that your motion is out of order, Mr. McNeely?

Mr. Phil McNeely: Pardon me? I missed that, Chair.

The Chair (Mr. Shafiq Qadri): It's my responsibility as Chair of this committee to inform you that the motion that you just proposed is out of order. It opens up section 18 of the Freedom of Information and Protection of Privacy Act, which was not previously opened in Bill 122. I will invite legislative counsel to contribute.

Mr. Ralph Armstrong: I have nothing to add to the explanation you've given. Those are the rules—

Ms. Lisa MacLeod: Am I able to seek unanimous consent to open this up so that this motion can be discussed? I understand, having put forward a motion on page 49, that that is what several stakeholders had requested, that the government is responding to that. I would put forward, as the official opposition, unanimous consent to support the government's motion.

The Chair (Mr. Shafiq Qadri): The proposal on the floor is to grant unanimous consent for the discussion of this particular motion. Is it the will of the committee that we have unanimous consent?

M^{me} France Gélinas: The motion that has been initially provided was something that I could not support. At the 11th hour, some changes were made to it.

This bill was rushed through. Then it got time-allocated, so we never had a chance to fully debate it. Then it came to committee. Here again, we asked for the committee to go out, and here again, the opportunity to speak, to understand, to be heard, to correct this bill so that we get it right was curtailed.

Frankly, I support quality improvement. I support continuous quality improvement. We have made some great strides within the hospital sector lately and really want this to move forward, but you're asking me to do something at the 11th hour that—I haven't had time to really look as to what this will entail.

Some stakeholders were quick and were able to get a hold of me and talk to me this morning. I had questions for the privacy commissioner and finally got a hold of the privacy commissioner—one of the workers. I was never able to talk to her, but a worker called me back about 10 minutes before I came here.

This is not reasonable. The intent is good; the process did not allow me to give my support.

The Chair (Mr. Shafiq Qadri): All right. So to be clear, the government, having proposed the motion, is likely in favour of discussing it. The PCs have also offered their consent. I will just ask: Do we have unanimous consent to consider this particular motion?

M^{me} France Gélinas: No.

The Chair (Mr. Shafiq Qadri): We do not have unanimous consent. The initial ruling of being out of order stands.

We'll now proceed to the next motion, which is PC motion 49.

Ms. Lisa MacLeod: I move that subsection 24(19) of the bill be struck out and the following substituted:

“(19) Subsection 65(8.1) of the act is amended by striking out ‘or’ at the end of clause (a) and by adding the following clauses:

“(c) to a record respecting or associated with research, including clinical trials, conducted or proposed by an employee of a hospital or by a person associated with a hospital;

“(d) to a record of teaching materials collected, prepared or maintained by an employee of a hospital or by a person associated with a hospital for use at the hospital; or

“(e) to a record prepared for or by a committee or a other body of a hospital for the purpose of risk management or for the purpose of activities to improve or maintain the quality of care.”

I put this forward on behalf of several health care providers who made this request at committee.

The basic thought is that health care providers and those who insure health care providers were concerned that this bill could have a chilling effect on the risk management and quality improvement programs. Particularly, the risk managers had a concern with this. I believe it's quite reasonable. We, certainly, in the official opposition do not want to get in the way of those who are important to the health care system and we don't want to make sure that they are discouraged from participating in critical self-appraisals or quality-of-care reviews. That's why we would have supported the government amendment.

I agree with my colleague from the New Democrats in some respects: that it is unfortunate that this amendment only came to the official opposition and the NDP today, without explanation. I think we could have averted some of the pitfalls in this.

Having said that, the original request by four of our health care provider groups stands, and that's why I'm moving this motion forward.

The Chair (Mr. Shafiq Qadri): PC motion 49: comments? Mr. McNeely?

Mr. Phil McNeely: We believe that excluding this information outright is too severe. The Information and Privacy Commissioner is not supportive of an exclusion of this type of information. If quality-of-care information were to be excluded from FIPPA, there would be no ability for the Information and Privacy Commissioner to order the disclosure of quality-of-care information in circumstances where there's a compelling public interest in doing so.

We cannot support this motion.

The Chair (Mr. Shafiq Qadri): Thank you. Madame Gélinas.

M^{me} France Gélinas: This motion had been circulated ahead of time, so when we had the community consultations, I went out of my way to ask the different groups if they would support this or not. Some did and spoke to it in their presentations. Some were really opposed.

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I agree with the fact that we needed to find new language for this to move forward. Is there a need to make sure that we foster continuing quality improvements in our health care organizations? Absolutely.

This bill was rushed through and we see some of its weaknesses right now. This bill, as it stands, will have a chilling effect on many of the quality improvements that we have seen developing. This is what happens when a government goes too fast, doesn't consult and uses time allocation. We see something that is half-baked, half-cooked, doesn't meet the needs of anybody and, frankly, has the possibility to wreak havoc in the organizations that we want to succeed.

The Chair (Mr. Shafiq Qaadri): Further comments on PC motion 49?

Ms. Lisa MacLeod: Just a final comment: I think all three parties acknowledge that this bill, at this point in time, is far less than perfect and, in the words of some of our stakeholders, could diminish or have a chilling effect on the quality improvement programs that they put in place. I believe it's incumbent upon us to work out a solution. That's why we call for a recess so that the official opposition, the NDP and the government can work on improving this bill. That's what our job is.

The Chair (Mr. Shafiq Qaadri): Any further comments on PC motion 49?

Did you ask for a recess?

Ms. Lisa MacLeod: I've just asked for a recess so that the three parties can work on improving this bill because the government certainly hasn't done its due diligence on this.

The Chair (Mr. Shafiq Qaadri): Is there unanimous consent for a recess at this time?

Interjections: No.

The Chair (Mr. Shafiq Qaadri): So we'll proceed then to PC motion 49 consideration, unless there are any further comments.

Those in favour of PC motion 49?

Ms. Lisa MacLeod: Recorded vote.

Ayes

Jones, MacLeod.

Nays

Gélinas, Johnson, Lalonde, McNeely, Ramal.

The Chair (Mr. Shafiq Qaadri): PC motion 49 is defeated.

Shall section 24 carry? Carried.

Section 25: government motion 50.

Mr. Phil McNeely: I move that subsection 25(1) of the bill be struck out and the following substituted:

"Lobbyists Registration Act, 1998

"25(1) Clause (a) of the definition of 'public office holder' in subsection 1(1) of the Lobbyists Registration Act, 1998, is repealed and the following substituted:

“(a) any minister, officer or employee of the crown,”

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Phil McNeely: This motion corrects an error in drafting. There's no director of the crown.

The Chair (Mr. Shafiq Qaadri): Any further comments on government motion 50?

Those in favour of government motion—Madame Gélinas, oui? Yes?

M^{me} France Gélinas: Not that I would doubt their words, but is that true, that there's no such thing as a director of the crown?

The Chair (Mr. Shafiq Qaadri): I see a question before the floor. Would anyone care to—

M^{me} France Gélinas: Our trusty little legislative counsel there, is there such a thing as a director of the crown? Anybody?

Mr. Ralph Armstrong: Not to the best of my knowledge, but I think Mr. Fawcett, who has been indicating a desire to speak on it, can give a definitive answer.

Mr. Don Fawcett: We've asked for the amendment primarily because the expression “employee of the crown” is the correct terminology to use. There are employees of the crown employed at each ministry at what we call the director level, but that's an internal HR term. I think the correct legal expression is “employee of the crown.”

M^{me} France Gélinas: That would include the directors?

Mr. Don Fawcett: That would include the directors.

M^{me} France Gélinas: Thank you.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to the vote. Those in favour of government motion 50? Those opposed? Motion 50 carries.

NDP motion 51.

M^{me} France Gélinas: I move that paragraph 14.1 of subsection 4(4) of the Lobbyists Registration Act, 1998, as set out in subsection 25(6) of the bill, be struck out and the following substituted:

“14.1 Information confirming that the consultant lobbyist has not been engaged by a client that is prohibited from engaging lobbyist services under the Broader Public Sector Accountability Act, 2010.”

Basically, if you're going to ban lobbying activity in hospitals and other broader public service from hiring lobbyists, then this section flows.

The Chair (Mr. Shafiq Qaadri): Further comments to NDP motion 51?

Mr. Phil McNeely: This motion is related to motions on pages 7(a) and 7(b) that would prohibit an organization from using funds not received from government to hire a lobbyist. The bill has been carefully drafted to align with the Charter of Rights and Freedoms. The advice we have received is this prohibition would contravene the right to freedom of expression under the charter. We respect the Charter of Rights and Freedoms and will not support this motion.

The Chair (Mr. Shafiq Qaadri): Comments? We'll proceed to the vote then. Those in favour of NDP motion 51? Those opposed? NDP motion 51 falls.

Government motion 52.

Mr. Phil McNeely: I move that subsection 4(5.1) of the Lobbyists Registration Act, 1998, as set out in subsection 25(7) of the bill, be struck out and the following substituted:

“Transitional

“(5.1) A consultant lobbyist who has filed a return with the registrar before section 4 of the Broader Public Sector Accountability Act, 2010 applies to a client shall provide the information required by paragraph 14.1 of subsection 4(4) to the registrar within 30 days of the day on which that section begins to apply.”

The Chair (Mr. Shafiq Qaadri): Further comments on government motion 52?

M^{me} France Gélinas: Am I right in thinking that there would be a comma after “applies to”—“applies to, a client shall provide the information required...”? Otherwise, the sentence could be interpreted to mean different things.

The Chair (Mr. Shafiq Qaadri): The question is before the floor.

Mr. Ralph Armstrong: Would you mind repeating the question, ma’am?

M^{me} France Gélinas: Am I right in saying it reads, “A consultant lobbyist who has filed a return with the registrar before section 4 of the Broader Public Sector Accountability Act, 2010 applies to, a client shall provide the information required...”? Otherwise, the sentence kind of makes no sense.

Mr. Ralph Armstrong: You think there should be a comma after “applies to”?

M^{me} France Gélinas: “Applies to, a client shall provide”—can somebody help me here?

The Chair (Mr. Shafiq Qaadri): One may need to be a lawyer to actually allow it to make sense. That’s always a possibility.

M^{me} France Gélinas: Sorry.

Mr. Ralph Armstrong: I think the punctuation is correct, ma’am. I may be missing something.

Mr. Phil McNeely: Can we have some clarification on that?

Mr. Don Fawcett: I think it may be helpful to walk through what the intention of the section is, just to make sure that what we’re intending is in line with the concern that you have or addressing your concern.

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This provision provides that a consultant lobbyist has filed a return with the registrar—currently under the Lobbyists Registration Act, all the consultant lobbyists are to file a registration each time that they’re proposing to lobby—before section 4 of the Broader Public Sector Accountability Act applies. So when this act comes into force, that provision’s going to apply to the client. If they’re subject to that prohibition in section 4, it means they can’t retain a consultant lobbyist using public funds. This requires, then, the consultant lobbyist to provide the information that you’ll see up in section 14.1, saying that they’re not being retained by an organization that can’t hire them using public funds.

So I think “applies to a client” is the correct expression.

M^{me} France Gélinas: Okay, then “shall provide the information”—all right, gotcha. I understand.

The Chair (Mr. Shafiq Qaadri): We’ll proceed then to the vote. Those in favour of government motion 52? Those opposed? Motion 52 carries.

NDP motion 53.

M^{me} France Gélinas: I move that section 4.1 of the Lobbyists Registration Act, 1998, as set out in subsection 25(9) of the bill, be struck out and the following substituted:

“Consultant lobbyists and publicly funded organizations

“4.1 No consultant lobbyist shall undertake to lobby on behalf of a client where the client is prohibited from engaging a lobbyist to provide lobbyist services under section 4 of the Broader Public Sector Accountability Act, 2010.”

Basically, this is closing the loop to make sure that, even if you are private or a health care provider, you’re not allowed to use lobbyists.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Phil McNeely: This motion is related to motions on page 7(a) and 7(b) that would prohibit an organization from using funds not received from government to hire a lobbyist. The bill has been carefully drafted to align with the Charter of Rights and Freedoms. The advice we’ve received is that this prohibition would contravene the right to freedom of expression under the charter. We respect the Charter of Rights and Freedoms and will not support this motion.

The Chair (Mr. Shafiq Qaadri): Any further comments on motion 53?

Seeing none, we’ll proceed to the vote. Those in favour of NDP motion 53? Opposed? Motion 53 is defeated.

Shall section 25, as amended, carry? We’ll proceed to the vote. Those in favour of section 25, as amended, carrying? Opposed? Carried.

Shall section 26 carry? We’ll proceed to the vote. Shall section 26 carry? Those in favour? Opposed? Carried.

Section 26.1: NDP motion 54.

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

“Ombudsman Act

“26.1 The definition of ‘government organization’ in section 1 of the Ombudsman Act is amended by adding ‘and every long-term-care home within the meaning of the Long-Term Care Homes Act, 2007 and every hospital’ at the end.”

Le Président (M. Shafiq Qaadri): Malheureusement, madame Gélinas, je dois vous informer que votre motion n’est pas à l’ordre. The motion is not in order, for some usually extremely elegant reasons, which I’m happy to tell you.

M^{me} France Gélinas: No, that’s okay. Can I ask for unanimous consent to open up the Ombudsman Act?

The Chair (Mr. Shafiq Qaadri): You may certainly ask for unanimous consent. Do we have unanimous consent to open up the Ombudsman Act?

Seeing that we do not have unanimous consent, the motion is out of order and we shall now proceed to PC motion 55.

Ms. Lisa MacLeod: Section 26.1: I move that the bill be amended by adding the following section:

“26.1 The Ombudsman Act is amended by adding the following section

“Broader Public Sector

“1.1 The Ombudsman has the power to act with regard to,

“(a) hospitals and long-term care homes;

“(b) any organization receiving government funds;

“(c) patient complaints;

“(d) children’s aid societies.”

This is as a result of the—

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. MacLeod. It is with regret, and my solemn duty once again, to inform you that your motion is out of order.

Ms. Sylvia Jones: But it’s an excellent amendment.

Ms. Lisa MacLeod: It was such a good amendment.

The Chair (Mr. Shafiq Qaadri): I will certainly accept that issue.

Seeing as it’s out of order, we’ll now proceed to the next consideration and vote. We received two—

Mr. Khalil Ramal: Mr. Chair?

The Chair (Mr. Shafiq Qaadri): Yes, Mr. Ramal.

Mr. Khalil Ramal: Just for the record, I want to say, on this side of the table, we are in support of accessibility and accountability. That’s why we worked hard in this bill to make sure the people of Ontario would be informed and also would have the right to access all the information if they ask for it.

Also, the powers given to the Minister of Health give him or her the flexibility to publish the directives as they see fit for the public interest.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ramal. The committee commends such due diligence.

I’d now invite us to consider en bloc sections 27 to 29, having received no motions to date. If there are no objections, shall sections 27 to 29 carry?

Interjections: No.

The Chair (Mr. Shafiq Qaadri): They shall not carry without the vote. I will now proceed to the vote.

Shall sections 27 to 29, inclusive, carry? Those in favour? Those opposed? Carried.

Shall the short title carry? Carried.

Shall the title carry? Carried.

Shall Bill 122, as amended, carry?

Ms. Lisa MacLeod: No. Recorded vote.

Ayes

Dhillon, Gélinas, Johnson, Lalonde, McNeely, Ramal.

Nays

Jones, MacLeod.

The Chair (Mr. Shafiq Qaadri): Bill 122, as amended, carries.

Shall I report the bill, as amended, to the House?

Ms. Lisa MacLeod: No.

The Chair (Mr. Shafiq Qaadri): We’ll proceed to the vote.

Those in favour? Those opposed? The bill will be reported to the House, as amended.

Is there any further business before this committee? Seeing none, committee adjourned.

The committee adjourned at 1616.

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