

Ontario Ministry releases draft regulation in connection with private surgical and diagnostic services

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On June 9, 2023, the Ministry of Health published a [draft regulation](#) under the *Integrated Community Health Services Centres Act, 2023* (the New Act), which was introduced as part of the Ontario government's plan to reduce wait times for surgeries and diagnostic procedures in the province through Bill 60. The New Act regulates "integrated community health services centres," which are privately owned health facilities licensed to provide surgical and/or diagnostic services in respect of which facility costs will be paid by the Ontario government.

The New Act came into force and received Royal Assent on May 18, 2023, but the majority of the operative provisions within the New Act will come into force on a day to be named by proclamation of the Lieutenant Governor. For more information on Bill 60 and the New Act, please refer to [our previous Osler Update](#).

The New Act contains provisions not yet proclaimed into force that will repeal the *Independent Health Facilities Act* (the IHFA). The draft regulation would maintain the majority of the regulatory requirements that currently exist under the IHFA. However, new provisions introduced by the draft regulation include the matters summarized below.

Facility costs

The draft regulation includes definitions for facility costs and clarifies that facility costs paid to integrated community health services centres will follow the existing technical fees paid to hospitals for insured services under the Schedule of Benefits, with certain limited additions for therapeutically necessary radiography ordered by a member of the College of Chiropractors of Ontario.

The draft regulation also states that claims for facility costs will not be paid unless submitted to the Minister within three months of the service date.

Patient complaints

There is a patient complaint process set out in the draft regulation that would impose onerous obligations on the licensees since it applies to every written or verbal complaint made to the licensee or to a staff member concerning the care of a patient or the operation

of the centre (a Patient Complaint). The proposed Patient Complaint process is more robust than the complaint process currently applicable to public hospitals under the *Patient Relations Process Regulation* under the *Excellent Care for All Act*.

Each Patient Complaint must be investigated and resolved, where possible, with a response being provided to the complainant within 10 business days of the receipt of the Patient Complaint. The licensee's response to the complainant must include an explanation of what the licensee has done to resolve the Patient Complaint or state that the licensee believes the Patient Complaint is unfounded, together with reasons for that belief.

The draft regulation also includes detailed requirements for record keeping and the process a licensee must follow when responding to Patient Complaints. With the volume of complaints made by patients against health professionals increasing significantly in recent years, the draft regulation's proposed Patient Complaint process could introduce a significant administrative burden for integrated community health services centres.

Posting requirements

The draft regulation would include new requirements for licensees to post information both on their websites and in their facilities, including

- a list of prices for all uninsured services that a patient may choose to purchase — i.e., devices, treatments or services that are not insured services (as drafted, this could become an unwieldy exercise for larger centres offering a variety of services and products that are not provided by physicians)
- the licensee's process for receiving and responding to Patient Complaints
- contact information for the patient ombudsman under the *Excellent Care for All Act*
- the phone number for the Ministry of Health's Protecting Access to Public Healthcare program

Industry oversight

The draft regulation also prescribes that the College of Physicians and Surgeons of Ontario and the College of Midwives of Ontario would be the inspecting bodies for the oversight of integrated community health services centres.

The stakeholder consultation period for the draft regulation is open until July 9, 2023. Stakeholders are encouraged to review and respond to the consultation.