Patients, not profit: Strengthening Ontario's community hospital labs

A submission of the Hospital Professionals Division, Ontario Public Service Employees Union, to the Standing Committee on the Legislative Assembly

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About the Ontario Public Service Employees Union

The Ontario Public Service Employees Union (OPSEU) is a trade union representing 130,000 Ontarians working in every corner of Ontario and most areas of the provincial public sector, including the municipal sector. In health care, OPSEU represents approximately 45,000 frontline workers in these areas: ambulance services; long-term care; mental health care; hospital professional services; hospital support services; community health care; and Canadian Blood Services and diagnostics.

Introduction

While there are several aspects of Bill 87, the *Protecting Patients Act* that are worth exploring, the Ontario Public Service Employees Union (OPSEU) will take this opportunity to focus on the changes proposed in Schedule 2 of the *Act*. Schedule 2 includes proposed amendments to the *Laboratory and Specimen Collection Centre Licensing Act, 1990,* and more specifically Sections 11 and 12, which outline amendments to the *Health Insurance Act* and *Public Hospitals Act*, which will expand the definition of community laboratory services to include hospitals and bring about changes to the community laboratory funding model.

Expanding the definition of "community laboratory services" to include hospitals

Bill 87 (Section 12) will amend the *Public Hospitals Act* in order to add a definition of "community laboratory services" that includes laboratory services provided by hospitals to those that are neither inpatients nor outpatients of the hospital.

Furthermore, a new section will be added to the *Public Hospitals Act* - Section 22. (1) - that gives the Minister of Health the authority to "designate one or more hospitals to provide community laboratory services." The designated hospitals would be subject to any conditions, restrictions or requirements that may be set out in regulations.

While we are pleased that the amendment recognizes the role of hospitals in providing community laboratory services, as they historically have done, and which is a step in the right direction, we are very concerned about increased pressure being placed on already overstretched community hospital laboratories and hospital global budgets. We are also deeply concerned that these changes are being put in place as a '"safety valve", so that in regions where competitive bidding for laboratory services is not successful, community laboratory services can be delegated to the local community hospital. The Ministry of Health appears to be laying the groundwork for a competitive bidding system, while they ought to focus on bringing all laboratory services under the public umbrella.

The government has outlined that Bill 87's goal to "modernize" the community laboratory sector will enhance access by paying community laboratory suppliers and rural-northern hospitals for the "true

cost of collecting specimens,"[i] but it remains unclear how they propose to do this. The amendment will establish "new specimen collection fee codes to incent access," but again, the details are lacking when it comes to the funding for community hospital laboratories.

Hospitals are "in the community"

Hospitals are the non-profit, health care hubs within our communities. While, in principle, we welcome the prospect of community hospitals having a larger role in providing community laboratory services, and furthermore, the full integration of community laboratory services within hospital labs, it is important to note this is not a novel proposition.

In Ontario, in the days before medicare, lab services were housed in hospitals. At that time, these hospitals had been formed as non-profit institutions. This is because both hospitals and public health laboratories were designed to fulfill social needs that could not be easily turned into profit-making opportunities.[ii] It is therefore not surprising that the laboratories themselves evolved as non-profits.

In the post-war period, there was growing public pressure for access to expanding hospital and diagnostic services, and by the 60s public money and programs had established a network of non-profit laboratory services across Canada for inpatients and community patients; but, private testing facilities had also begun to appear. According to author Ross Sutherland:

> Before universal medical insurance, a collective social need for public health services and popular pressure for access to hospital services led to the creation of a national network of non-profit medical laboratories. The medical profession and entrepreneurs countered these progressive developments by restricting the scope of hospital insurance and working with early private medical insurance programs to reinforce the authority of doctors and create a network of private laboratories. The activities of these for-profit laboratories raised public concerns about unnecessary testing, fraud, reduced quality and uneven access to services.

In 1971, in an effort to control hospital laboratory costs, the Ontario Hospital Services Commission (OHSC) switched from fee-for-service payments to hospitals to a monthly bulk payment for outpatient laboratory services. But in 1980, top-ups to hospitals for community laboratory work ended. Hospital were still obligated to provide laboratory services to community patients, but doing so meant taking resources from other hospital programs covered by their global budget. This paved the way for an expanded "community" laboratory market for the for-profit corporations, as hospitals could no longer afford to take on this work.[iii]

In the mid-1990s, the Mike Harris government began pressuring hospitals to restrict their own labs to in-house testing creating a huge market for private labs in the community but draining funds from public hospitals. This was met by widespread dissatisfaction in many communities – including smaller northern and rural communities.

Community hospitals and community laboratory services have had an interconnected history, one based on providing needed medical services to all patients regardless of their ability to pay. This is the foundation of our public medicare system.

But according to Sutherland, "Closing hospitals to community patients has increased inequities in the system. Traditionally, hospitals have provided an equity safety valve in that they have usually processed uninsured tests ordered by doctors at no cost to patients."[iv] It is our public community hospitals, and those working within them, that provide the care and services that keep our communities and loved ones healthy.

While the amendments proposed in Bill 87 will see a new role for community hospital laboratories, it is important to understand the context in which our hospitals are currently operating.

Ontario's hospitals are at a breaking point

Ontario's community hospitals are struggling. Despite this, it is health care professionals and hospital workers, including many OPSEU members that work tirelessly to provide excellent patient care.

Ontarians have endured nine years of deep and devastating cuts to hospital beds, services and staff in our community hospitals. The evidence shows that no peer jurisdiction has undertaken such radical cuts to community hospitals.[v] While hospitals have historically been the bedrock of public medicare, and its principles of universality, comprehensiveness, portability, accessibility and public administration as outlined by the *Canada Health Act*, years of cuts to global budgets have forced hospitals to make decisions based on dollars, rather than patient care.

By virtually every measure, Ontario now ranks at the bottom of comparable jurisdictions on hospital care levels: Ontario has the fewest hospital beds per capita of any Canadian province; Ontario has the fewest nurses per patient in Canada (RNs and RPNs); and Ontario ranks near the bottom for funding of our public hospitals (by population and as a percentage of GDP). This is not something to be proud of.

Perhaps most distressing, is that after nine years, and countless interactions with stakeholders including patients, seniors, workers and the organizations and unions that represent them and after years of budget presentations and submissions by these groups, including OPSEU, the current government is still unable or perhaps unwilling to recognize the severity of the hospital cuts crisis in this province. After years of zeros and below-inflation rate funding increases for hospitals, we are finally seeing some movement. The 2017 Ontario Budget provides a 3 per cent increase in hospital funding. This will cover basic inflation and population growth, but will do nothing to counteract nine years of real dollar cuts. Quite simply it is much too little, much too late. In fact, it is widely agreed upon by experts that 5 per cent increases are needed.

To reiterate, while we support the integration of community lab services into our community hospitals, there must be proper funding tied to this plan. Ontario's community hospitals, hospital laboratories and those that work within them simply cannot take on more work, without the appropriate funding.

An end to fee-for-service

The second matter of significant concern to OPSEU is the proposed changes to the fee-for-service funding model, as outlined in Section 11, Clause 2(2)(a) of Bill 87. This section makes amendments that would allow the Minister of Health to enter into arrangements for the payment of remunerations, not only to physicians and practitioners providing insured services on a basis other than fee for service, but now also to health facilities. In plain language, The *Health Insurance Act* will be amended to allow community laboratories to be paid by as per a negotiated transfer payment agreement, instead of fee-for-service.

Fee-for-service is a highly flawed method of payment. It benefits for-profit corporations that set up in urban areas where high volumes are easily achieved, and is detrimental to small, rural and northern communities with lower populations, where private lab corporations regionalize their services in order to make the volumes worthwhile financially. This model of remuneration has allowed a select few mega corporations to extract billions in profits off of the public health care system and the backs of Ontarians. This is especially true in Ontario, where two supplier entities have been permitted to hold ninety five per cent of the community laboratory market.

Case Study: Lower costs per test in community hospital laboratories

In response to the public outcry that resulted from the Harris government's mid 90s attack on hospital labs, the government agreed in 1997 to fund a pilot project to compare costs between public and private labs.

In the pilot project, private labs were paid per test while hospitals were paid a lump sum for the community volumes regardless of how many tests they conducted. For many years the results of the pilot project were not evaluated. Then, in 2007, following a battle to retain community lab volumes at the hospitals in Muskoka and Huntsville, the government hired RPO Management Consultants to finally evaluate the pilot.

RPO found that even the smallest hospitals in the province had no trouble competing with large centralized private laboratories. In 2005- 06, costs at the public hospitals averaged $22 per test, compared to $33 per test – for the same tests – in the large for-profit labs. By maintaining community volumes, the hospital labs were able to use the money saved to expand the scope of testing, extend lab hours, purchase new equipment, speed up turnaround, and keep access local.

Despite the evident superiority of the hospital labs in the pilot project, the consulting firm nonetheless called for its termination – a clear sign that the (by then Liberal) government's preference was for private delivery, not value for money. When the pilot project was terminated at Muskoka Algonquin Healthcare, the overnight lab shift was also cancelled.

Ross Sutherland, author of False Positive: Private Profit in Canada's Medical Laboratories, estimates the Ontario health care system could save between $175 to $200 million per year by integrating community lab services with hospital labs.

Source: *Epic Fail: A short history of privatization in Ontario*. 4th Edition – Spring 2014. Ontario Public Service Employees Union.

While we support the departure from the fee-for-service model, it appears that the government's proposed alternative - based on recommendations made by a Laboratory Services "Expert" Panel in 2015 - is to negotiate transfer payment contracts with private laboratory corporations. The new funding model would allow the government to establish a competitive bidding system for laboratory services. The government could delegate community lab services to hospitals as a "safety valve" in regions where competitive bidding fails (this is most likely in rural and northern "under-served" areas). But competitive bidding does not drive efficiency or produce better quality care; it just allows more private companies to "gain greater market shares and revenues." Put more plainly, it allows more private, for-profit players to get their hands into the public purse.

The Laboratory Services Expert Panel, 2015

In 2015, the Laboratory Services Expert Panel (Panel) was convened by Dr. Eric Hoskins, the Minister of Health and Long-Term Care to conduct a review of Ontario's community laboratory sector, and to provide recommendations to improve and "modernize" laboratory sector funding and services. Despite our deep concerns with their analysis and recommendations, the Panel does identify a very significant problem; over the past ten years, the community laboratory sector has seen significant consolidation of ownership of supplier entities, resulting in two suppliers holding ninety five per cent of the community laboratory market.

In 2010, Canadian public health care funds paid at least one billion dollars to three companies, LifeLabs, CML Healthcare Fund, and Gamma-Dynacare Medical Laboratories; $650 million of which was paid for by OHIP.[vi] Today, just two companies, LifeLabs and Dynacare, control 95 per cent of the market in Ontario. In fact, Ontario is the most "competitive" market in Canada for laboratory services in that it is the only province where the private sector is expected to provide all outpatient tests.

According to the Panel report, "A modern community laboratory sector model could be best described as one of 'managed competition', where the government supports a system in which multiple providers compete and are governed by a common set of expectations and levers to incent improved quality and patient satisfaction."[vii] The Panel also supported a $50 million reduction proposed in the 2015 Ontario Budget as a "reasonable starting point for improving the value proposition of community laboratory services."[viii] The Panel's first and most pressing priority recommendation is to change the funding model, including the introduction of an RFP process, as it "allows for competition and the achievement of the best price and value for money for a population of patients" recognizing that this will result in transition costs, including the cost of professional procurement expertise.

While we are not surprised that the government has taken up the Panel's pro-privatization and profit-focused recommendations, we are deeply disappointed. In their April, 2017 *Protecting Patients Act* Technical Briefing, the Ontario government "anticipates" that the amendment to Section 11 of the *Health Insurance Act*, will "modernize Ontario's funding model for community laboratory services through an open competition model," that will incent suppliers to improve the patient experience to

gain market shares and revenues. We know with certainty that competition and profit-taking in health care do not improve the patient experience; they are just ways to transfer wealth from working people and citizens to business owners and investors.

In Ontario, successive governments have turned to the private sector to deliver public services. The argument that competition will drive efficiency, giving citizens better quality at a lower price seems to resonate at Queen's Park. But the facts simply do not support this belief, which is based on a deep-rooted political and economic ideology and neoliberal agenda.

The Ontario Ministry of Health does not seem to understand this. Meanwhile, the NDP government in Alberta is consolidating all of Alberta's medical testing under the public umbrella, by taking over the testing now done by Dynalife (the only remaining private provider in the system) by 2022.

According to Sutherland's research, for-profit laboratories cost Ontario's health care system an additional 25 per cent, and this is a conservative analysis. In the 1970s, hospital labs in the province formed a community lab service program called Hospitals In-Common Laboratory (HICL), to make more efficient use of their facilities. This non-profit program was a long-term, stable public sector model that integrated inpatient and community lab services, and cost the province at least 25 per cent less than the private sector labs (Between the HICL model and the government's own review, this percentage is based on the more conservative analysis). The for-profit companies in turn successfully lobbied the government to shut down the HICL, arguing that the jobs of those employed in private labs needed to be protected. We need look no further than our own history to see that the public system is both more efficient, and more patient-focused.

Conclusion and recommendations

Bill 87 opens the door for an end to the fee-for-service model of payment. It allows hospitals to provide community laboratory services and this is the part that we do welcome and encourage.

But our hospitals are struggling. Our community hospitals and the laboratories within them need the proper funding, especially if they are expected to take on more work.

Laboratories are central to our public medicare system. According to the Canadian Society for Medical Laboratory Science (CSMLS), they play a role in more than 80 per cent of medical diagnoses, and laboratory workers comprise the third largest group of health care professionals.[ix] Furthermore, medical laboratories consume more than $4 billion of public money annually; that's money that should be funding public laboratory services, not benefiting the elite few. While it is frequently argued that greater private involvement is more efficient and effective, these arguments are "driven by a naïve belief in the superiority of the marketplace."[x]

Rather than move to a system that will increase competition when it comes to laboratory services in this province, it's time that this government recognize the need to stop the flow of our public dollars into the

hands of profiteers. All community laboratory services should be fully integrated into our community hospital labs. The government must work to protect and uphold a robust public medicare system.

Endnotes

[i] Technical Briefing, *Protecting Patients Act, 2016*: Schedule 2 – Proposed amendments to support Community Laboratory Modernization. April 12, 2017.
[ii] Leys, Colin, 2009. "Health, Health Care and Capitalism." In Leo Panitch and Colin Leys (eds.), *Morbid Symptoms: Health Under Capitalism*. London. Merlin Press.
[iii] Sutherland, Ross, 2011. "False Positive: Private Profit in Canada's Medical Laboratories." Fernwood Publishing, Halifax and Winnipeg. (pp. 26).
[iv] Ibid., (pp. 64).
[v] *Beyond Limits: Ontario's Deepening Hospital Cuts Crisis*, April 13, 2016. Ontario Health Coalition.
[vi] Sutherland, Ross, 2011. "False Positive: Private Profit in Canada's Medical Laboratories." Fernwood Publishing, Halifax and Winnipeg. (pp. 71).
[vii] *Laboratory Services Expert Panel*. November 12, 2015. Laboratory Services Expert Panel Review (pp. 5).
[viii] Ibid.
[ix] Sutherland, Ross, 2011. *Private labs: A cautionary tale.*
[x] Ibid.