

Pathway to Integration: Identifying Legal Barriers and Enablers

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Lydia Wakulowsky
Chair, Health Law Group
416.865.7066

Catalysts for Change

- National fixation on sustainability
- Rising consumer expectations re: access, quality, efficiency, transparency and accountability
- Changing/aging demographics
- Rising patient care needs and complexity of patient problems
- Unprecedented cost pressures

Catalysts for Change

- Fiscal restraints and increasing tensions between governments and providers
- Critical human resources shortages, especially in under-services areas
- Spotlight on governance and accountability
- Increasing focus on evidence-based decisions, best practices and outcomes
- Growing availability and use of performance measurement

Catalysts for Change

- *“Leaders of health care organizations develop organizational plans that are their best assessment of the fit between their organization’s capabilities and the needs of the market they serve, without sufficient reference to the capabilities and needs of other components of the community’s health system;*
- *Community health care organizations should be intensely interdependent but there is little incentive to collaborate and no mechanism to manage this interdependence;*
- *Strategic plans are developed without reference to who might assume jettisoned activity or the impact of increased program activity on other providers;*
- *There is little, if any reference to any common understanding of community need, government policy or organizing principles that operate at the community level;*
- *Resource allocation decisions... are not driven by system goals imbedded in a plan. In the absence of a plan and with the lack of open, transparent resource allocation and accountability processes, these decisions can sometimes have the appearance of political expediency and caprice.”*

*The Role of District Health Councils in Health System Alignment, March 5, 2004

The Minister's Expectations

Too often health providers are working in isolation, losing opportunities to share information and to work together in a complementary way. It's time to actually transform our health care system into a system ...

What's needed is better integration and planning at the local level so that we can deliver better results in each part of the province. Not a regionalized model. A made-in-Ontario solution that builds on the strength of our community-based organizations large and small.

What Effect?

- Recent discussions in health care identified integrated health systems as a means to address catalysts, and improve efficient and effective health care delivery
- Integration can take three forms:
 - Integration of governance functions
 - Integration of clinical functions
 - Integration of back office functions

What Effect?

Past

- Mandatory (HSRC) and voluntary hospital restructuring
- Laboratory services reform
- Primary Care and Family Health Networks

Since the 2003 change in Ontario government

- New accountability requirements in Bills 8 and 18
- New health privacy rules in Bill 31
- Accelerated integration strategy with LHINs

The Minister's Strategy

- Providers must work together as a team
- LHINs = made in Ontario solution built on local experience
- Both providers and Ministry will be accountable to meet defined performance expectations and outcomes
- Targeted areas: wait times, primary care, public health, community-based services and long-term care
- Relieve pressures on hospitals, which should focus on care that only they can provide

How Have Others Done This?

- Every province except Ontario has RHAs to:
 - provide better access, streamline service delivery system
 - improve continuum of care
 - focus on health of community as well as individuals
 - enhance public participation in needs identification
 - simplify accountability through single governance
- No single approach taken across the provinces
 - most integrate hospitals, long term care, home care
 - some include public health
 - none include physicians, drugs
 - mix of elected and appointed Boards

Implications for Ontario

- Minister's goals for transformation are essentially the same as in other provinces with regionalized systems
- RHAs not the solution for Ontario, based on mixed experience across Canada
- LHINs are the “made-in-Ontario” solution
- Ontario is utilizing RHA accountability tools, such as results based funding, performance agreements, incentives, rewards and penalties in development of LHIN system

LHINs: What We Know

- Roles of Ministry and providers will change
- Ministry role to focus on policy, standards and performance monitoring
- LHIN role to plan, integrate, coordinate, fund and evaluate area providers
 - 14 LHINs with boundaries based on hospital referral patterns
 - LHIN board appointed by Order-in-Council
 - LHIN performance agreement with the Minister

LHINs: What We Know

- Provider organizations to:
 - deliver services to communities served
 - have greater accountability for Ministry-defined expectations
 - lead change in health system transformation
- Community engagement – November 2004
- LHIN Boards in place – April 2005
- Integrated Health Services Action Plan – October 2005
- Implementation by March 2007

LHINs: What We Don't Know

- How existing networks will be “built upon”
- How/whether DHCs, CCACs and Ministry regional offices will be folded into LHINS
- Alignment of LHINs with Specialized Disease Management Networks and Academic Health Science Centres

LHINs: What We Don't Know

- Powers and authorities of LHINs
- Governance model for LHINs
- Impact of LHINs on hospital governance
- Phasing of LHIN implementation
- Mechanisms for breaking down the silos and barriers to integration (e.g., legislative changes)

Integration: The Legal Barriers

- Legal and systemic barriers have inhibited the evolution of integrated health systems in Ontario
- OHA Report: *Pathway to Integration: Identifying Systemic Barriers* identified 28 barriers to integration
- Of the total, six barriers were legal:
 - the *Public Hospitals Act* (Ontario)
 - the *Corporations Act* (Ontario)
 - the Office of the Public Guardian and Trustee
 - the Ministry of Health
 - Information and Privacy Issues
 - Community Care Access Centres

Public Hospitals Act

- Restricts the type of entity that will be considered a public “hospital”
- Restricts the integration of unlike entities
- Lacks clarity on hospital authority to formalize integration relationships
- Provides Ministry control of premise and infrastructure-related matters
- Requires certain structures and by-laws

Corporations Act

- Only corporations with the same or similar objects may amalgamate (e.g., hospitals may amalgamate with other hospitals; home care providers may amalgamate with other home care providers)
 - Restricts vertical integration of a number of different existing providers (e.g., hospitals may not amalgamate with home care providers)

Public Guardian and Trustee

- Scrutinizes hospital activities
- Lengthy approval processes
- Imposes limitations on:
 - ability to deal with hospital funds
 - borrowing and investment powers
 - ability to change corporate objects

Ministry of Health and Long-Term Care

- Inability to be flexible with funds within subsectors
- Restricts ability to:
 - raise funds
 - move funds between funding envelopes
 - flow funds to a facility to augment budgets and to embark on capital projects

Integration: The Legal Enablers

- Establish LHINs
- Develop new legislation for their establishment, and assumption of power and authority
- Amend the *Public Hospitals Act*
- Amend the *Corporations Act*
- Provide direction to the PGT to facilitate (not delay or prevent) integration

Integration: The Legal Enablers

- Introduction of *Personal Health Information Protection Act*
 - Applies to “health information custodians”, which includes most, if not all, seeking integration
 - Effect of “Circle of Care” provisions
 - Ability to collect, use and disclose personal health information to plan, deliver, evaluate, monitor and improve programs, services and the health system generally

The Road Ahead

- Addressing catalysts of change will shake foundation of governance and service delivery in the system
- Public and Ministry performance expectations of hospitals will be fed by increasing public exposure to performance information
- Realignment of hospital mandates will occur
- Pressures on government and providers will continue

The Road Ahead

- Hospitals must be ready to function in a dramatically different environment
- Hospitals must reframe their understanding of their role as beyond the organization to include shared accountability among providers
- Hospitals must have contemporary, nimble governance and fresh ideas on health services delivery to be successful

The Road Ahead

- Hospitals must ask themselves:
 - What is the appropriate mandate for the health institution?
 - What is the appropriate rationalization of service delivery in the area?
 - What is the relative quality of performance between health institutions?
 - What are reasonable expectations of quality arising from the consolidation of expertise?

The Road Ahead

- Hospitals will need:
 - new governance structures, based on governance best practices of both LHINs and provider organizations
 - new contracts to facilitate shared services between/among hospitals and community providers
- Are you ready?