

INFORMATION BULLETIN – SENIORS FOR SOCIAL ACTION (ONTARIO)

HIGHLIGHTS OF TESTIMONY BY HON. CHRISTINE ELLIOTT, MINISTER OF HEALTH AND HELEN ANGUS, DEPUTY MINISTER OF HEALTH ON FEBRUARY 24, 2021

[http://www.ltccommission-commissionsld.ca/transcripts/pdf/The Honourable Christine Elliott Deputy Premier of Ontario and Transcript February 24 2021.pdf](http://www.ltccommission-commissionsld.ca/transcripts/pdf/The_Honourable_Christine_Elliott_Deputy_Premier_of_Ontario_and_Transcript_February_24_2021.pdf)

Readers may find it interesting to read about the career of Deputy Minister Helen Angus on Pages 9 – 11 of the transcript above.

- Within the previous week, the Commission had received 217,000 documents, many of them from the Health Ministry (you will remember the Commission had been trying to get these documents for some time and the Premier had refused to extend the Commission’s mandate so that it could properly review them. The Commission’s term is up the end of April);
- Statement from John Callaghan – Co-Lead Counsel for the Commission “Counsel has been providing them as we go. But you can appreciate that in this process I won't be able to take you to documents that we haven't been able to see. I won't be able to help you with the process, as it were, and you must appreciate -- and it may be impossible to get through all these 217,000 documents, and likely will, as the Minister can no doubt appreciate being a Counsel..... we would desperately have appreciated the 217,000 documents well in advance so we could go through them, but with that caveat, then I guess we can begin.”
- Pgs 13 – 21 deal with who has responsibility for Public Health – Response: essentially Public Health itself, until lead counsel finally established that the Minister herself was responsible under “the Order in Council dealing with emergency planning with respect to the coordination of the health system in respect of a health emergency”. Her response was “yes”.
- In discussion the 2019 Provincial Emergency Response Plan it indicates that the Minister of Health is responsible for the plan related to emergencies (human health disease and epidemics, including a pandemic). Commission counsel went on to say that it was her responsibility to coordinate with the partners including long term care facilities, but the Minister claimed that that was the responsibility of the Minister of Long Term Care. When asked then if the Minister of Long Term Care had responsibility in terms of planning under that Order in Council the Minister of Health replied “I am not sure – could you please rephrase the question” (Pg 23).
- Counsel reiterates that both Ministers appeared to have responsibility and the Health Minister responded “yes”. Then he clarified that it was the Minister of Long Term Care who had specific responsibility for long term care facilities to which the Health Minister replied “yes”.
- Counsel then asked the Health Minister was she aware that the Minister of Long Term Care never had a plan? (Pg. 23). The Health Minister claimed she did not know there was no plan. When asked what plan existed to deal with an emergency pandemic, the Health Minister responded “there were a number of documents that were referred to, I know that, but there was no one plan that dealt with a pandemic of this nature.”(Pg. 24) Nothing was written down.

- Commission Counsel stated: “And it is a bit hard to understand, when we get to a pandemic -- and I can tell you we have heard from a host of people who did not know what the plan is, including, frankly, some of the people in your department, as far as I can tell, and that Ready and Resilient plan wasn't completed in four years, including two years under your supervision. Why would it take that long to create a plan? (Pg. 27). The Deputy Minister responds “I can't answer that”. The Minister responded because the plan needed to be “broad ranging”. At that point the counsel for the Ministry jumps in and the Chair of the Commission overrules him saying it is an interview not a trial.
- Commission Counsel asked the Minister: “I take it, as the Minister of Health, you were aware that the World Health Organization, for example, in 2019 was warning of the possibility of a pandemic and that governments weren't ready for it. Were you aware of that advice from the World Health Organization?” The Minister responded no she was not. (Pg. 33) Commission Counsel: “I take it then – were you aware that our domestic production prior to this pandemic did not really focus on the medical supplies needed for a pandemic? The Minister replied: “no, I was not aware of that.” (Pg. 35) Counsel then stated: “so were you aware that if an influenza pandemic were to hit or a corona pandemic would hit, that the supply chains around the world would tighten, and it would be hard to get necessary supplies? Was that something you adverted to prior to the pandemic?” The Minister replied that she was not aware of the issue to begin with so did not think about the situation in Ontario. (Pg. 36)
- Commission Counsel asked the Minister: “what I am asking is whether you took any steps to ensure that the long-term care facilities under your control as the Minister of Long-Term Care at the time actually had the supply [of PPE] that you as the Minister responsible for emergency preparedness would have expected, and I guess the answer is you didn't; correct?” The Minister's response was “that was not something that I looked into specifically.” Counsel: And do you know whether your counterpart who is now there, do you know if she looked into it prior to the pandemic?” Minister's response: “ I don't know that.” (Pg 39). Commission Counsel asked: “we heard from Deputy Minister Bell that in his tenure there was approval to destroy the stockpile, right? You are aware of that, because it expired?” The Minister responded “yes”. Then Counsel said “Right, and then there was never any approval given to replenish the stockpile. Were you aware of that?” The Minister replied “I didn't know that a specific approval was required for that.” (Pg. 46) The Minister then said that she got caught up with the government's plan for centralized procurement and was not aware that the PPE replenishment had been held up by that. (Pg. 47)
- Commission Counsel states: “this is twice now we are talking about policy reviews delaying protecting Ontarians, one, by having a single plan, and now by not having a stockpile. When do we tell the public that not protecting them is okay because we are doing a policy review? What is the timeline? These are four years. The public should be left for four years. Is that the understanding when we do policy reviews?” The Minister responded that it was centralized procurement that slowed the process down and the involvement of other ministries in that. (Pg. 48). Commission Counsel then asks the Minister where the responsibility lies for “those people who died at long term care where LTC homes did not have a supply of PPE?” The Minister response “loss of life here is tragic and is something...everyone in government feels some level of

responsibility for" but she then says it was up to the inspectors to have check if there was an adequate supply of PPE. (Pg. 52).

- The discussion shifts to the Health Command Table and Commission Counsel asks the Minister if she sub-delegated her powers under the Emergency Powers Act to “flatten the command structure as it were to get people on the ground making decisions”. The Minister responds: “I don't recall a specific discussion of that issue.” (Pg. 88)
- Discussion shifts to the role of the Central Command Table chaired by the Secretary of Cabinet [head of the civil services] and the Premier’s Chief of Staff. The Commission Counsel points out that neither have Health experience. (Pg 107). Commission Counsel points out that there were up to 500 people in the tables below the Health Command Table. The adds “we have heard is that once they [health experts at the health and science tables etc] gave the advice, they would have no idea how decisions were made and, indeed, in some cases the scientific advice wasn't apparently accepted.” (Pg. 109) Deputy Minister Angus responds “And the executive of the government, the Cabinet, gets to make the big decisions. And the role of public servants is to then implement the decisions of government. And so those basic parameters of the Westminster Model did not change during the course of the pandemic.” (Pg. 110).
- Reading from the Minister’s diary of events, Commission Counsel says “when COVID-19 started, Ontario did not have a well-connected lab system, to deal with a pandemic or other health situations requiring large numbers of tests.... this is one of the reasons why Alberta was able to jump ahead of Ontario and other provinces in terms of number of tests. (Pg. 114). The Minister stated that “Ontario did not have a connected lab system involving hospitals, community labs and others that might have put us in a better position initially to be able to process more tests.”(Pg. 118)
- With respect to testing this exchange occurred between Commission Counsel and the Minister: “How is it that the science gets rejected and when a concern is the delay in getting responses to tests which we know had an impact on long-term care? How does the science get rejected in that?” The Minister responds: “The idea was that it was important to do whatever we could do to protect people in long-term care homes. This was something that was of concern, of course, to all of us because people were dying. 7 And this particularly affected the Premier, who I should mention his mother-in-law is a resident in a long-term care home, and it was very important to him that we do whatever we could to protect people in long-term care.” Commission Counsel says: “That doesn't answer my question. My question was, you had advice from Dr. Allen, Dr. Johnstone, and apparently the Chief Medical Officer of Health, saying universal testing to all people in Ontario on May 24th was not the strategy and that it would have an impact, as your note says on test turnaround times, et cetera, and yet the Premier and I take it yourself went ahead and approved universal testing. I am just wondering, what is the decision-making process that results in that decision being made in the face of the advice you had?” The Minister responds: “I would say that this was something that was very important to the Premier and that you would really need to speak to him about that.” Commission Counsel responds: “All right. But you do appreciate your -- what you just said is contradictory. You said the Premier was worried about long-term care, and now we are talking about getting tests universally, not in long-term care. You appreciate the difficulty I have with your answers.” (Pg. 129). Both the Minister and Deputy then say they think they misunderstood the question and thought he was talking about

the decision to test all residents in long term care. Counsel then discusses the decision by the Minister announced universal testing across the province apparently against the advice of the experts. The Minister responded that because of the increase in community transmission and needing to determine where it was coming from. (Pg. 130) Commission Counsel responds: "So as I understand what we were explained, that is not a strategy, and that in fact you are going to delay the responses from the tests because you are going to have so many of them that are unnecessary, that if you wanted to target areas, such as parts of Toronto where it was prevalent, you ought to do that and that would be a strategy. So I'm still at a loss how it was perceived that universal testing on May 24th was a strategy, a strategy, which, as I say, was contrary to the advice given by the scientists." The Minister responds that again it would have been because of community transmission.(Pg. 131)

- Moving on Commission Counsel discusses notes from the Minister's diary stating that hospitals working in long term care homes could now assume management of homes that had little to no management staff as specifically ordered by the Minister of Health (this was dated May 13, 2020). He goes on to mention that the Durham Medical Officer of Health had to issue an order regarding Orchard Villa because things were so bad there in April. Dr. Kyle, the Medical Officer of Health for Durham said that there was no plan of which he was aware that hospitals could move into long term care homes. The Minister said that was not true that the middle of April (18th or 19th) there was an agreement that hospitals could move into long term care homes and that specific requirements had to be met concerning labour relations issues that needed to be discussed with nurses' organizations and others as well as liability issues requiring an indemnity from Treasury Board protecting hospitals if they moved into LTC homes that they would be insured. Commission Counsel's response is that apparently Durham's Medical Officer of Health and the hospitals that they spoke to did not know that there was a plan and they had to come up with a Public Health Order, so "it may be in the documents we have yet to get, but you are telling me that there was a plan somewhere prior to April 20th to deal with this? Because my understanding is this process where local Medical Officers of Health had to use their own devices continued until about the date of your note of May 3rd." (Pg. 135). The Minister responded that there was an order that hospitals could go in but that assuming management of a facility required an order from the Minister of Long Term Care. (Pg. 136) The Deputy Minister goes on to speak about Orchard Villa as follows: "What specifically happened in the case of Orchard Villa might have been -- and I think, you know, you would need to determine that, that the processes of the Management Orders that the Ministry of Long-Term Care has under its purview might not be seen to be as fast as what the Medical Officer of Health could be, because I understand from my recollection of that situation was the hospitals were actually already in Orchard Villa providing support by the time Dr. Kyle's section 22 order was put into place, and two, there was a subsequent Management Order from the Ministry of Long-Term Care put into place as well. But those Management Orders -- and now we are going back a long time -- are a feature of the long-term care legislation that the Ministry of Long-Term Care can use in a variety of circumstances, not solely in the case of a pandemic. So they are a tool of long standing." (Pg. 138). Commission Counsel responds: "So I won't belabour the point because it is not my evidence. It is Dr. Kyle's. Dr. Kyle's evidence and that of Lakeridge was that there was no plan. He had to devise a plan using his powers under the HPPA." (Pg. 138).

- Minister Elliott made a lot of comments about PSW's and their training as well as the possibility of regulation. One statement that she made was particularly interesting – something that SSAO has been saying for quite some time: “And that there are issues with training as well, that a lot of PSWs leave very quickly after their graduation because they don't feel that they have been given proper training for the set of circumstances and the nature of the patients that they are caring for, because they are very vulnerable. And I think a lot of PSWs feel that they haven't had the training or experience in order to be able to properly care for the residents of long-term care homes.” (Pg. 148). She also mentioned that they are looking at regulation.
- Minister Elliott outlined the plan to make health care a “more connected system for the patient” – “patient-centered whether at home, in hospital, or in long term care”. She says they recognized that the connections were not there hence the plan to phase out the Local Health Integration Networks (LHINs) and introduce Ontario Health Teams in various regions across the province which would consist of people who actually provide care in particular areas – from hospitals, long term care, retirement homes, mental health and some social services. The plan was to have one number to call so that the health system “would surround the patient”. She considers the Ontario Health Teams to have been very useful during the pandemic. (Pg. 168).
- The Commission Counsel also asked about alternatives to long term care institutions: “We heard from the group in Kingston and from others about the need for home care. 6 And I guess -- I mean, you were there when the Harris government built beds. You came back I guess at the end when it appears that the McGuinty government was doing home care. You are building beds again. What is the sustainable model that you can envision? Because of course, you know, the congregate setting is one issue that caused this terrible situation of COVID. Not that I want to get into that. But what is -- that is why we are talking about it, but what do you see, I mean, with your breadth of experience of years?”
- The Deputy Minister appears to see only institutional forms of residential care as possible and believes modernizing them to be the answer, but later moves on to discuss smaller settings from a personal perspective. Her comments are included here in their entirety.
- “a lot of European jurisdictions were building kind of naturally occurring communities and sort of non-congregate settings where people would come together. I think there are examples of that with the Schlegels that have done more of that than, you know, kind of the 32-bed pod kind of long-term care facility that is maybe a little more thinking about providing care and support to people, but some of whom don't have housing needs. So my mother is a home care patient. She has been for four or five years. It works because she has got daughters, and you know, we can intensify in the home probably even more than where we are at now. And there are many people in that situation. There is probably some people who kind of could live together in smaller congregate settings where there is care being provided. It would be efficient, and it may feel sort of a little less institutional than a long-term care home. You know, then there is supportive housing and that kind of thing. I think that -- you know, I'll put on my urban planner hat for a second, but, you know, the baby-boomers have defined, you know, the standards, you know, and the expectations and recalibrated throughout their life cycle. I'm the last year of the baby-boom formally. And I hope that for me that there is some kind of solution that is somewhere between my university residence and, you know, an independent apartment that has people coming in and providing care because I don't have children, so I will be, you know, on -- don't cry for me, but,

you know, on my own trying to manage probably with my peer group of elderly women who, you know, support each other in some kind of way. So can we allow for some of those solutions that -- and by virtue of policy and planning allow for that to become a more predominant part of the system. I hope so.”(Pg. 171).