
Subject: BILL 66: RESTORING ONTARIO'S COMPETITIVENESS ACT:
Legislative Amendments related to Home Child Care Programs

Report to: Regional Council

Report date: Thursday, January 17, 2019

Recommendations

That the Regional Chair **BE DIRECTED** to write a letter to the Ministry of Education containing the recommended changes to Bill 66 as they relate to Home Child Care and to include this report for their consideration.

Key Facts

- On December 6, the provincial government announced proposed legislative amendments, contained within Bill 66, to the *Child Care and Early Years Act, 2014* (CCEYA) and the *Education Act, 1990*. The consultation period for this new bill closes January 20, 2019.
- Details of these amendments, as they relate to Home Child Care are contained in the attached memo, CWCD 421-2018, most importantly highlighting proposed increased allowable limits for the number of infants in licensed and unlicensed home child care as well as lowering the age at which home childcare providers must count their own children towards the maximum allowable number of children "in care". The government has indicated that these changes are intended to increase choice and availability of child care for families.
- Children's Services is one of two local licensed home childcare operators; the other is Wee Watch Licensed Home Child Care Niagara.
- In consultation with Niagara's local licensed provider and with municipal service manager counterparts across Ontario, concerns have been raised as to the potential risks associated with the proposed changes in Bill 66, particularly as they relate to the unlicensed home childcare sector.
- Further to Council's request for recommendations, staff are recommending that the increased limits proposed in Bill 66 should not be applied to unlicensed home child care and that the ministry should review the Ombudsman report, *Careless About Child Care*, October 2014, and recommendations outlined in the report be implemented to reduce risks for children in informal care homes.

Financial Considerations

There are no financial considerations associated with the recommendations of this report.

Analysis

Niagara Region is the larger of two licensed home childcare agencies that oversee contracted home childcare providers across Niagara. Between both agencies there are approximately 100 contracted home childcare providers in Niagara. As Niagara's Municipal Service Manager for the licensed childcare sector, we share the goals with the province that seek to expand childcare capacity, reduce administrative burden and ensure children's safety within the Early Years system. Service managers welcome system improvements that support local flexibility and ensure municipalities have continued input into legislative and investment improvements to this sector.

After reviewing Bill 66, *Restoring Ontario's Competitiveness Act 2018*, and the proposed amendments to the CCEYA, the following has been identified by Niagara Region Children's Services, in consultation with Wee Watch, as changes that warrant significant attention, particularly as applied to the unlicensed home childcare sector:

- Lowering the age at which home childcare providers must count their own children towards the maximum allowable number of children in care, from 6 to 4 years old
- Increasing the number of young children that home childcare providers can have in their care, from two under 2 years old to three under 2 years old

In consultation with Wee Watch, it is agreed that should the proposed legislation pass, placement decisions with contracted licensed home childcare providers will be managed locally on a home by home approach by the licensed agency. The decision would take into consideration the number and age of children in the home, including the caregiver's own children, the capacity and ability of the home childcare provider, the size of the home, additional safety factors, and the impact on the quality of services in the home.

Of greatest concern are the implications of the proposed changes for the informal care sector. Unlike licensed operators, informal home childcare providers are not required to be registered or affiliated with an agency or service, there are no standards for safety and quality of service, and there are no requirements for routine inspections or oversight. Unlicensed home child care has been a sector of significant concern over the last decade with a number of tragic deaths prompting the Ombudsman to produce a report in 2014, titled *Careless About Child Care*, which culminated in 113 recommendations to improve the safety of children in care. In present day, the only legislation that applies to this sector relates to the maximum number of children, by age, that are allowed to be in care, the age of the provider (18 years of age or older) and the requirement to advise parents that they are an unlicensed provider. These requirements, and current ministry processes fall well short of the Ombudsman's recommendations.

As the proposed changes apply to the licensed and unlicensed sectors equally, the sector is concerned that there is a lack of recognition of the significant differences in these two sectors and the well-recognized risks of the unregulated system. The childcare sector believes that *Caveat Emptor* or "let the buyer beware", an implication of this proposed

legislative change, is not an acceptable approach when we are considering the safety of very young children. It should be noted that a similar response has been provided to the government from the Home Child Care Association of Ontario (attached).

Based on concerns identified, it is recommended that the Ministry be requested to:

- Review the Ombudsman report *Careless about Child Care*, October 2014 and recommendations outlined in the report be implemented to reduce risks for children in informal care homes.
- Strike the proposed changes, to the number of children, by age, allowed to be in care in an informal care setting, instead remaining with the current allowable maximums.
- And, further to the Ministry's commitment to develop a new Early Years and child care plan in 2019, it should work with local service managers to consider any future legislative changes within the context of this new plan, that would seek to increase access to child care, improve service, reduce administration and ensure a fiscally responsible system

Alternatives Reviewed

N/A

Relationship to Council Strategic Priorities

N/A

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Submitted by:
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This report was prepared in consultation with Helen Lake, Manager Children's Services, and Darlene Edgar, Director, Children's Services

Appendices

- Appendix 1 CWCD 421 – 2018 BILL 66: RESTORING ONTARIO'S COMPETITIVENESS ACT:
Legislative Amendments related to Child Care Programs and Long Term Care
- Appendix 2 Home Child Care Association of Ontario response

MEMORANDUM

CWCD 421 - 2018

Subject: BILL 66: RESTORING ONTARIO'S COMPETITIVENESS ACT: Legislative Amendments related to Child Care Programs and Long Term Care

Date: December 14, 2018

To: Regional Chair and Members of Council

From: Adrienne Jugley, Commissioner Community Services

Further to a recent Councillor information request, the following outlines the proposed legislative amendments within Bill 66: Restoring Ontario's Competitiveness Act, to both childcare and long term care.

Childcare

On December 6, the provincial government announced proposed legislative amendments to the *Child Care and Early Years Act, 2014* (CCEYA) and the *Education Act, 1990*. Within the proposed legislative amendments, there are changes directed at both licensed and unlicensed home child care operations.

As background, it should be noted that Niagara Region is the municipal service manager, managing the local licensed child care system on behalf of the provincial government, operating under rules established by the Ministry of Education and the *Child Care and Early Years Act, 2014*.

Among its services, Niagara Region is also the larger of two licensed home child care agencies that oversee contracted home child care providers across Niagara. Between both agencies there are approximately 100 contracted licensed home child care providers in Niagara. As part of the responsibility of a licensed home child care agency, contracted providers are visited, unannounced, on a monthly basis, where qualified staff ensure appropriate developmental programs are provided to each child in care, and health and safety checks of the home ensure the environment meets legislative requirements.

The number of unlicensed home child care providers operating in Niagara is unknown to both the provincial government and Niagara Region. Unlicensed home child care providers are not required to be registered or affiliated with an agency or service. There are no standards for safety and quality of service (beyond legislated capacity maximums), or requirements for routine inspection or oversight.

It should be noted that despite their significantly legislated role in planning, supporting evidence informed practice and funding, municipal service managers were not consulted prior to the announcement of the proposed changes to the CCEYA. The following outlines the proposed legislative amendments within Bill 66 that have been identified by Niagara Region Children's

Services, in consultation with Wee Watch Home Licensed Child Care, as items that warrant further review and consultation with the childcare sector:

1. Lowering the age at which home child care providers must count their own children towards the maximum allowable number of children in care, from 6 to 4 years old (maximum allowable children in care in licensed operations is 6; maximum allowable in unlicensed operations is 5)
2. Increasing the number of young children that home child care providers can have in their care, from two under 2 years old to three under 2 years old

These changes are proposed by the provincial government to support increased access to infant childcare spaces, increase “parent choice” and align service age criteria to what is currently considered “school aged children”. With these proposed changes, operators will be able to have more children in care (as 4 and 5 year olds will no longer be counted against the operating maximum). Additionally, operators will be able to have three infants, rather than the current 2 under these changed operating limits. As both Niagara local licensed home childcare operators have expressed concern about possible safety and service implications due to these changes, and the provincial sectors (e.g. Provincial Children’s Services Network) have not yet had an opportunity to provide feedback to the proposed changes, staff will be working with sector partners to develop a response to be provided to the province during the consultation period for this legislation (closing January 20, 2019). This response, as well as recommendations for Niagara Region Home Childcare operations, will be provided to Council for endorsement in January.

Long Term Care

Bill 66 also contains recommended regulatory changes related to long term care. These are largely administrative in nature and proposed as changes that will reduce unnecessary ‘red tape’. The provincial Long Term Care sector association (Advantage) was consulted prior to the release of these proposed amendments to the *Long Term Care Homes Act, 2007*. The primary changes are as follows:

- *Change the mandatory requirement for ministry led public meetings related to bed license changes;*

Status Quo: Ministry must conduct a public consultation, including opportunity for oral presentations in a public meeting, before certain licensing decisions can be made by the (provincial) Director. These decisions include issuing a license, undertaking to issue a license, transferring a license or beds under a license, amending a license to increasing the number of beds or extend the term, or deciding (3 years before expiry) not to issue replacement license.

Proposed changes: Modernize the way the ministry seeks feedback on licensing transactions by allowing additional/alternative formats (rather than requiring a public meeting as a part of every public consultation).

- *Allow homes that have been forced to evacuate their residents to apply for emergency bed licenses that will last up to a year, at the Ministry's discretion (rather than having to renew monthly)*

Status Quo: The Director may authorize temporary additional beds at a Long Term Care Home (LTCH) for a single period of no more than 30 consecutive days. This can be done when a person requires immediate admission to a LTCH as a result of a crisis arising from the person's condition/circumstances.

Proposed changes: Repeal this provision and the criteria currently related to short-term authorizations would instead be included under the temporary emergency license provisions.

- *Reduce reporting requirements for admission refusals*

Status Quo: If a licensee withholds approval for admission, the licensee must provide written notice to the applicant, the Director and the LHIN Placement Coordinator. The written notice must explain grounds as to why the licensee is withholding approval, a detailed explanation of supporting facts as they relate to the home and applicant's condition and requirements for care, and an explanation of how the facts justify the decision to refuse admission.

Proposed Changes: Reduce the number of persons to whom LTC home licensees must provide written notification when the licensee withholds approval for the admission of an applicant into a LTC home.

These proposed changes appear to align with recommendations from the long term care sector that currently struggles with a significant reporting and application burden, including processes that result in duplicate reporting or administrative procedures. Staff will continue to monitor both the ministry details related to these changes and dialogue with sector groups to ensure that the proposed changes support both improved operations and effective sector accountability.

Respectfully submitted and signed by

Adrienne Jugley, Commissioner

- PRESS RELEASE -

The Home Child Care Association of Ontario calls for revision to the proposed legislation to increase the numbers of young children (ages 0-2) a child care provider can have in their care

Ottawa (Ontario), December 17th, 2018 - In response to the memorandum from the Honourable Lisa Thompson, Minister of Education relating to child care in Ontario, the Home Child Care Association of Ontario (HCCAO) calls for revision to the proposed increase to the number of young children that home child care providers can have in their care, from two under 2 years to three under 2 years, as it has the potential to compromise the safety of young children.

Regulations are in place to support safety and quality; with no oversight this change means that one adult can choose to care for three non-walking, infants by themselves. Parents may start in care expecting their infant will receive the necessary individualized attention and care needed to provide a quality early learning experience but without licensing oversight the caregiver can add additional young infants. As such, the only options left to parents are to accept the additional risk and lesser attention or to end care with possible employment and educational consequences.

The HCCAO recognizes that access to early learning and child care is a significant need for families across Ontario. When carried out **within the licensed sector only**, because of the existing responsible oversight, focus and commitment to quality, regulatory requirements and high standards, the legislative change allowing care in homes for 3 children under two years is achievable without compromising children's safety.

While there was no specific consultation with the licensed home child care sector regarding this proposed change, HCCAO has subsequently met with staff from the Ministers office and will continue to work diligently during the legislative review process to assist the government in developing a greater understanding of the diversity of home child care offered throughout this province and the necessity of licensing oversight to support safety and quality.

The HCCAO does support the government's call to improve quality and deliver high standards of care and to make child care more affordable for Ontario families, as well as their interest in reducing red tape and to assist self-employed providers, who are affiliated with licensed agencies, increase their earnings.

The HCCAO membership is committed to the well-being of children and has a strong interest in contributing to the dialogue about how child care programs for children are organized, delivered and regulated throughout the province. For more information regarding the HCCAO please visit their website at www.hccao.com/about.html.

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Source:

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