

Speech
by Commissioner François Boileau

*Appearance Before the Standing Committee
of the Legislative Assembly
on Bill 41*

Toronto, Ontario
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9 minutes



Dear President, members of the Committee and partners present here today, good day. First of all, I would like to thank you for allowing us to appear before you today and present the key elements of the brief submitted by the Office of the French Language Services Committee.

Health has been a priority issue for the Commissioner's Office since it was established. Many studies show that the health of a community depends on the health of its members.

When we fall ill, we lose our faculties, and we are unable to function normally.

We are vulnerable. Whether illness has struck a loved one or us personally, we have all been in this situation.

When we find ourselves in this situation, we look for ways to make us feel better.

We look for guidance, and in most cases, we have to call on someone in the health care field.

With this in mind, I'd like to tell you a story. A story about the reality that Francophone patients live with. Afterwards, I will propose two additions to Bill 41 that would remedy the unacceptable state of the availability and quality of French-language health services.

My first story is about Tom, who was only four years old when he underwent surgery.

At the time, his mother made sure that the entire medical team knew that her son spoke French and might speak to them in French, even though he understood a bit of English.

She also translated everything that the doctor said about the surgery into French for her son. She reassured him and told him what was going to happen.

When the surgery was over, Tom opened his eyes in the recovery room and, quite naturally, asked in French for his mother, who was in the waiting room.

The nurse did not understand French and saw that he was becoming agitated, but was unable to understand what he was saying. Even though he was perfectly fine, she administered a sedative and Tom went back to sleep.

Time passed and Tom's mother became worried. When she asked the nurse what was happening, she was told that her son had been babbling incoherently and that they had concluded that he was showing signs of post-operative confusion.



Tom's mother was angry. Her son was not incoherent when he woke up; he was speaking French. In spite of her insistence before the surgery, no one recognized that Tom was speaking French and was simply asking for his mother.

Surgery that took less than an hour turned into a day-long ordeal for this four-year-old.

Now, some years later, Tom's parents reiterate that Francophone patients must remain vigilant where their health needs and health care are concerned.

This experience undermined their confidence in the health care system and strengthened their resolve to ask for French services in the future.

And finally, another story is about a French-speaking man who was prescribed a "nitro pump" by his English-speaking cardiologist.

When the patient returned to the clinic for a follow-up visit, the nurse practitioner realized that, because of his limited ability to understand and speak English, he had not grasped how to use the pump.

He thought that he had been given a ventilator, and was using it only when he really needed to.

If he had not returned as quickly as he did to the French health care centre for his follow-up appointment, there could have been very serious consequences for his health.

These stories reflect the consequences that inaction has for Francophones. If nothing is done to improve access to French-language health services, it is Francophone citizens who are affected.

Such inaction has after-effects that could be serious or even fatal. It also leads to costly repercussions for the patient and the Ministry of Health and Long-Term Care.

In my office, we receive many complaints of this sort.

They inform us and inspire us to propose changes that will address the needs of Francophones.

They also provide me with the opportunity to launch special investigations.

Such was the case in 2009, with the publication of the Special Report on French Language Health Services Planning in Ontario.



As you probably know, this led the following year to the establishment of the six French Language Health Planning Entities, the subject of my first proposed amendment to the bill.

The Entities' role is to promote greater access to health services in French.

They also work to improve the quality of services, and they make sure that the services address the specific needs of the Francophone population.

In this sense, the Entities are excellent instruments for implementing this vision and ensuring that Francophones have access to French-language health services wherever and whenever they need them.

Consequently, the Entities' role should go beyond consultation.

It seems inconceivable to me that we are still unable to prove to the LHINs what a key role the Entities play for Francophone patients.

It's a deplorable waste of potential.

We believe that to enable Francophones to live, grow and develop in French in Ontario, we have to expand the Entities' role vis-a-vis the LHINs by allowing them to participate fully, as their names suggest, in the planning of French-language health services.

Their expertise and knowledge regarding French-language health services make them not only key partners but critical partners for the LHINs.

On another note, I would like to draw your attention to the transparency of the Ministry of Health and Long-Term Care with a revision of the *Local Health System Integration Act* to enable health system organizations to fulfil their obligations with respect to the application of the French Language Services Act.

I would like to focus on the application of the FLSA and its regulations vis-a-vis the LHINs and service providers.

The LHINs and the Commissioner's Office have been in a legal debate for a number of years.

Although it is obvious to the Commissioner's Office that service providers are subject to the French Language Services Act and its regulations, the LHINs believe that since they do not provide health services directly, they do not have the power to delegate that



obligation to service providers, and therefore they do not have to ensure that service providers are in compliance with the French Language Services Act.

If this interpretation were to prevail, it would mean that health service providers could not be forced to provide services in French, even though those services are funded by the government.

It goes without saying that such an interpretation of the facts and of Ontario legislation is completely inconsistent with the history of French-language services in the province in the health sector and certainly contrary to both the letter and the spirit of *Local Health System Integration Act* and the French Language Services Act.

In fact, the prevalence of health service providers is the main reason we worked so hard to bring in Regulation 284/11 on third parties!

Accordingly, my recommendation is divided into two parts. First, the LHINs must work even more closely with the Entities to identify service providers that will deliver health services in French.

Once they sign an agreement with the LHINs, those service providers become subject to the French Language Services Act, including Regulation 284/11, and must comply with them.

Second, I remind you that in this scenario, the LHINs have an obligation to ensure that those service providers fulfil their obligations.

Any failure to honour those obligations is a violation of the French Language Services Act, but most importantly, it can have serious consequences for Francophone patients, as I pointed out at the beginning of this speech.

It is illogical for the LHINs not to take adequate measures to ensure that the health services provided by health service providers on their behalf meet the requirements of the French Language Services Act.

Worse, it is inconceivable to the Commissioner's Office that the French Language Services Act's application to health services funded by the LHINs would be even questioned.



The Minister of Health and Long-Term Care has repeatedly stressed the importance of Bill 41, noting in particular that Ontario's Francophones do not receive health services of equal quality and that those services are not always tailored to address their interests.

Adoption of the amendments that the Commissioner's Office is proposing today would make it possible to turn words into concrete actions.

I trust that in view of the recommendations made in my brief, you will consider the important, critical issues of Francophone patients.

I would like to conclude by emphasizing the consequences of inaction.

Action is needed now, because the health of the Francophone population is at stake.

My appearance here and those of the other organizations that presented their briefs over the last two weeks are perfect opportunities for the members of the Legislative Assembly to take immediate measures to remedy this unacceptable situation.

It is my duty to stress the fact that these circumstances, which have persisted for too long, must be given priority in order to safeguard the health of Francophone patients and language rights.

I thank you again for listening to me. I look forward to your questions, and I will attempt to answer them to the best of my knowledge.

Thank you.