Special Report on French Language Health Services Planning in Ontario, 2009

Ontario

OFFICE OF THE FRENCH LANGUAGE SERVICES COMMISSIONER
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The Honourable Madeleine Meilleur
Minister of Community and Social Services
Minister Responsible for Francophone Affairs

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Toronto ON M7A 1E9

Dear Minister,

Pursuant to section 12.5 (2) of the *French Language Services Act*, I hereby submit to you the Special Report on French Language Health Services Planning in Ontario by the French Language Services Commissioner, so that you may table it in the Legislative Assembly.

Yours respectfully,

François Boileau
French Language Services Commissioner of Ontario

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SUMMARY

In this special report, the Commissioner explains the importance of integrating French services into health care planning in Ontario. Throughout this report, the Commissioner identifies the obligations and responsibilities of the key players in the health care system with respect to the delivery of French health services. Supporting and illustrating his remarks are comments and anecdotes from the Francophone community. He then presents his conclusions and recommendations.

Chapter One contains an overview of Ontario's Francophone population. In this overview, the Commissioner explains that the Francophone population has specific needs and characteristics that differ from those of the rest of the population, where health is concerned. The lack of human resources and the persistent myth that all Francophones are bilingual pose a number of challenges. For this reason, the Commissioner insists on the importance of taking into consideration structures that already exist in the health system and in the community and recognizing these structures as partners in the planning of services.

The Commissioner's message in this regard is clear: make the Francophone community and its organizations true partners in the planning of French health care and use these organizations, which actively offer services that have been adapted to a community with distinctive needs, as models.

Chapter Two continues in this vein. By planning on the basis of the needs of Francophone individuals and communities, the government will be able to meet its obligations under the *French Language Services Act (FLSA)* and the *Local Health System Integration Act, 2006 (LHSIA)*. In this chapter, the Commissioner sets out the roles and responsibilities of the ministries and the Local Health Integration Networks (LHINs) with respect to planning French language health services.

Because the LHINs are government agencies within the meaning of the *FLSA*, they must engage the Francophone community in the development of their health service plans if they work within designated areas. For this reason, the Commissioner has recommended at the conclusion of Chapter Two, that the proposed regulation on the engagement of the Francophone community be amended to include true planning entities, as provided for in the *LHSIA*.

In Chapter Three, the Commissioner begins with the responsibilities of the LHINs *vis-à-vis* these planning entities. He recommends adding a French Language Services Coordinator to each LHIN. This would ensure that the activities of the French language health planning entities are followed up, and would make each LHIN accountable for its administrative decisions. The LHINs must justify the decisions they make and the actions they take – or fail to take – to the Francophone communities they serve. A process of accountability must be established to ensure that the health system meets it obligations to offer high-quality French health services.

In Chapter Four, the Commissioner recommends that clear guidelines be provided for a complaint procedure in the event of a lack of access to, or a lack of quality of, a French language health service. The public is entitled to high-quality French services from care providers and agencies in the health system, whether these are hospitals, health centres or LHINs. If such services are not available, there must be an easy way to file a complaint. This process must be clearly indicated and explained and simple to follow.

Ontario's health system is based on principles of quality of service and the Commissioner expects these principles to be also applied to the accessibility of its services. Access to high-quality health services in French is not a separate issue; it must be treated as a factor that has a direct impact on the health of Francophones. After all, members of the public benefit from receiving services in their own language and one such benefit is improved health.

The Commissioner concludes his special report with the consequences of failing to take action, making the point that the health of the Francophone population is at stake. His eight recommendations are based on this premise.

RECOMMENDATION 1

The Commissioner recommends that, in the development and implementation of their health policies and social policies designed to improve the health of the population, the ministries and officials in the health care system take the defining characteristics of the Francophone community into account.

RECOMMENDATION 2

The Commissioner recommends that the government and officials in the health system make access to French language health services a factor in the system's quality of service, efficacy and efficiency.

RECOMMENDATION 3

The Commissioner recommends that the government develop and implement specific strategies, while involving the Francophone community, to promote the training, identification, recruitment, retention and mobilization of Francophone health human resources.

RECOMMENDATION 4

The Commissioner recommends that the Minister of Health and Long-Term Care amend the proposed regulation to make it consistent with the wording of the *LHSIA* and to ensure that it provides for true French language health planning entities for each LHIN or group of LHINs.

RECOMMENDATION 5

The Commissioner recommends that principles of governance be developed in partnership with the Francophone community and that they be made public and submitted to a public consultation.

RECOMMENDATION 6

The Commissioner recommends that greater emphasis be placed on identifying the specific needs of the Francophone population and that the performance measures and the results be validated by the target population and evaluated by an independent entity.

RECOMMENDATION 7

The Commissioner recommends that the LHINs' organizational structures be modified in order to provide for the addition of a French-language services coordinator position within each LHIN. This position must be filled by a senior manager.

RECOMMENDATION 8

The Commissioner recommends to the government that clear guidelines be issued to the LHINs about establishing a complaint procedure, as part of the accountability and performance evaluation measures, that is clear and easy-to-follow by any member of the public who feels that a service provider failed to provide adequate access to French language services or that the quality of such services was deficient.

FOREWORD

During my student years, I had the privilege of working as an orderly in various hospitals. In the midst of the suffering, pain and death, I witnessed the empathy, courage, self-sacrifice and strength of character of the health care staff. I can assure you that I have the greatest respect for anyone who works in the health care field, in any capacity. Working in conditions that are not always ideal and contending with complex systems, health care professionals and the volunteers who work by their side represent, in my estimation, humanity in its noblest expression.

Since my appointment as French Language Services Commissioner, the issue of French language health services has been raised many times. I am very aware of the concerns of Francophone citizens over access to high-quality French language health services. I am well aware that, when you are sick, you feel vulnerable and not in full command of your resources. Having to describe your symptoms in another language exacerbates this feeling of vulnerability. After all, we first learn to say what we feel and seek comfort on our mother's lap. I am therefore aware that, although many Franco-Ontarians are bilingual, they want health services in French.

I have heard from the Francophone community that it is not prepared to accept compromises on the quality of the health services on offer and that it wants to help find ways to improve access to care, quality of care, and the health of its members.

I also acknowledge that officials in the health care system clearly want to improve service access and quality for all Ontarians. It is against this background that I address the Francophone community and health system players in this special report and put down my observations and recommendations.

I hope that this report will also help health care officials to understand, and assume, more fully their obligations with respect to French health services. It is important for several new players, including the Local Health Integration Networks (LHINs), that they clearly understand their responsibilities in the area of French health services. After the proposed regulation on Francophone community engagement under the *Local Health System Integration Act, 2006*, was tabled in September 2008, I came to realize that the issues surrounding the planning of French language health services were not clearly understood. The time to correct this is now and that is why action is urgently needed.

Lastly, I applaud all of the efforts being made to improve French language health services access and quality in the province. It is my fervent hope that Francophones will see themselves reflected in the health care system and that they will feel welcome, understood and confident that the system will provide them with the services they need.

INTRODUCTION

Over half of Ontario's Francophones believe that being offered French language health services by the provincial government is important.[1] Serving a total population of close to 13 million, the Ontario government faces the almost impossible task of offering high-quality health care on a daily basis. And yet, day after day and night after night, thousands of health care workers[2] take on this monumental task, which requires massive human and financial resources.

> "A French-speaking patient was prescribed a "nitro pump" by his English-speaking cardiologist for his heart problems. 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."
>
> **– Jocelyne Maxwell**, *Executive Director*
> Centre de santé communautaire du Témiskaming

Since the adoption of the *French Language Services Act (FLSA)*[3] in 1986, Ontarians have had the right to expect high-quality services in French from the health care system. It is important to remember that, 20 years ago, Franco-Ontarians were rather preoccupied with another sector that has always been critical to the survival of the Francophone community: education.

And then came an event that reminded Francophones across Ontario – indeed across Canada – that health was just as essential to the development of the community as education. When the provincial government of the day tried to shut down[4] Montfort Hospital in 1997, the only French language hospital west of Quebec, there was an outcry.

Francophones in this province became aware of both their strength as a community and their vulnerability as individuals. They knew that they were not going to demand service in French when they were at their most vulnerable – as patients in the health care system.

Realizing that perfection was not of this world and that it was pointless to strive for a guarantee of a fully-bilingual health care labour force, Ontario's Francophone community took charge of its own destiny. It became mobilized. It set priorities. It created its own health networks.[5] In the process, it demonstrated that, with proper effort and planning, the health care system can function efficiently and effectively in French.

[1] Corbeil, Jean-Pierre, Claude Grenier, and Sylvie A. Lafrenière. *Minorities Speak Up: Results of the Survey of the Vitality of Official-Language Minorities, 2006*. Ottawa: Statistics Canada, 2007, p.49.

[2] Last January, Statistics Canada published Labour Force Information. In these times of economic uncertainty, the only sector to post notable gains was the health care sector. In one year, health care and social assistance recorded the highest gains of any sector of activity, i.e. 5.1% (+95,000), as a result of increases in social assistance, nursing and residential care, and hospitals. To find out more, visit the Statistics Canada Website at: http://www.statcan.gc.ca/pub/71-001-x/71-001-x2009001-eng.pdf

[3] *French Language Services Act*, R.S.O. 1990, c. F.32. This *Act* came into full force in 1989.

[4] According to the first report of the *Commission de restructuration des services de santé* in February 1997, the initial recommendation called for the complete closure of Montfort Hospital. See *Lalonde* v. *Ontario (Commission de restructuration des services de santé)* (2001), 56 O.R. (3d) 577, [29-30].

[5] The French Language Health Services Network of Eastern Ontario was created with a specific mandate from the Ministry of Health and Long-Term Care and the three others were created further to a federal initiative.

A Partner Community

1.1 Portrait of a Community and its Needs

Close to 600,000 Francophones live in Ontario. Although efforts have been made to identify the defining characteristics of this community, much work remains to be done to improve its health and well-being and to achieve a level of health and quality of life that is comparable to that of the general Ontario population.[6] One determining factor in the improvement of a community's health and welfare is its ability to take charge of its own development. For this to happen, it must be involved in planning and governing its own local health services. Where health is concerned, the Francophone community has characteristics and needs that differ from those of the general population. As was concluded in the *Second Report on the Health of Francophones in Ontario*, published by the *Institut franco-ontarien* and the Sudbury & District Health Unit in 2005, these differences must be recognized when planning health policies and services.[7] As set out in the *Local Health System Integration Act, 2006 (LHSIA)*, the Local Health Integration Networks (LHINs) and the French language health planning entities must identify these needs and respond with services that are adapted to the needs of the Francophone population.

1.1.1 Characteristics of Francophones

Recent Statistics Canada data[8] provide an indication of what Ontario's Francophones think about the French health services they are offered:

- 31% of Ontario's Francophone adults report that they speak French with their family physician;
- 20% of Ontario's Francophone adults report that they use French when availing themselves of health services in a location other than their family physician's office;
- 76% of Francophone adults in Southeastern Ontario consider that receiving health services in French is very important or important (this percentage is 65% in Ottawa and 58% in Northeastern Ontario).

The Ontario Public Health Standards recognize that language and culture are determinants of health, on a par with income and social status, education and literacy, biological and genetic predisposition, gender, social support networks, employment and working conditions, and health-related lifestyle.

Linguistic and cultural[9] barriers have many negative effects on the quality of the services and the efficacy and efficiency of the health system. These barriers reduce recourse to preventive services and affect the quality of services that require effective communication. They increase consultation times, the number of diagnostic tests ordered, and the probability of diagnostic and treatment errors. Linguistic and cultural barriers also reduce the probability of compliance with treatment and users' satisfaction with the care and services they receive.[10]

> Tom is an eight-year-old Francophone living in Eastern Ontario. He has serous otitis media and periodically needs day surgery to have tubes put in his ears.
>
> Tom was only 4 years old when he underwent this surgery in 2005. 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.

[6] Picard, Louise and Gratien Allaire (Eds.), *Second Report on the Health of Francophones in Ontario*. Sudbury: Sudbury & District Health Unit and *Institut franco-ontarien*, 2005. Available online at: http://www.sdhu.com/uploads/content/listings/secondreporthealthoffrancophonesON2005wcover.pdf (document consulted in March 2009).

[7] *Ibid*.

[8] Corbeil, Grenier et Lafrenière, op. cit., pp. 45 and 48.

[9] Income, employment, education, security, housing, food, the economy, and reliable resources are also determinants of the health of a community. For more information, visit the Ontario Public Health Standards Website at: http://www.health.gov.on.ca/english/providers/program/pubhealth/oph_standards/ophs/index.html (page consulted in March 2009).

[10] Consultative Committee for French-Speaking Minority Communities. *Report to the Federal Minister of Health: Towards a New Leadership for the Improvement of Health Services in French*. *Ottawa*, February 2007. Available online at: http://www.hc-sc.gc.ca/ahc-asc/alt_formats/hpb-dgps/pdf/olcdb-baclo/cccfsm/2007-cccfsm/2007-cccfsm-eng.pdf (page consulted in March 2009).

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.

1.1.2 Myths

On a more basic level, there are misconceptions and even persistent myths. One such myth is that Francophones in Ontario are completely bilingual and don't really need French health services. Another myth is that language isn't all that important when you need health care. Anyway, why should the French language be treated differently from any of the hundreds of other languages spoken in Ontario?

This issue of the relevance of French when the province has hundreds of other languages is often raised. French has special status in Ontario under the *Constitution* and a number of provincial statutes. French also has special status by virtue of the contributions that Francophones have made in the past and continue to make today to the fabric of Ontarian society. Rights entrenched in the *FLSA* are not special privileges accorded Francophones. Over the last centuries, the latter have fought long and hard, with courage, determination and conviction, to gain political and legislative recognition of their rights.

Furthermore, there is often a tendency to forget that French is a *langue d'accueil* or second language for many newcomers.[11] These myths persist and we must fight hard to dispel them.

"An 80-year-old woman went to a walk-in clinic because she wasn't feeling well. She was given a prescription. She started taking the medication, even though she didn't understand it or the dosage, which was written in English. After one week, she did not feel well at all and came to our community health centre. Our staff explained the effects of her medication and the importance of taking it as prescribed. Our medical staff adjusted the dosage because there was a risk that it would make her situation worse. The medication could have harmed her instead of helped her."

– Marc Bisson, *Executive Director*
Centre de santé communautaire de l'Estrie

It simply is not true that all Ontario Francophones are bilingual and therefore do not really need French language services. **Patients are not going to insist on being heard, understood or cared for in French when they are at their most vulnerable and legitimately preoccupied with their health**. Clearly, whether we are talking about the health care of unilingual Francophones from here or elsewhere, very young children, patients with mental health problems or the elderly, the need for French language health services can be found everywhere.

1.2 Inadequate Access to Services

A study conducted by the *Fédération des communautés francophones et acadienne du Canada (FCFA)* [Federation of Francophone and Acadian Communities of Canada] and commissioned by Health Canada's Consultative Committee for French-Speaking Minority Communities (CCFSMC) concluded that:

"… access to health care services in French for Franco-Ontarians is severely lacking in hospital services, community health centres, medical clinics, and home care: these four sectors cover most health care services available in Ontario.

Hospital emergency services are often the key entry point to the health care system, yet three-quarters of Franco-Ontarians are denied such access in their language.

[…] 74% of Franco-Ontarians said they have either no access at all or rarely access to hospital services in French. In fact, only 12% claimed that they could access hospital services in French at all times.

- 47% have no access at all to an emergency access centre (other than hospital emergencies) in French;
- 59% have no or rare access to seniors' home services in French;
- 77% have no or rare access to alcohol treatment centres in French;
- 66% have no or rare access to drug addiction centres in French;
- 66% have no or rare access to crisis lodging centres in domestic violence cases in French; and
- 53% have no or rare access to mental health services (excluding psychiatric hospitals) in French."[12]

[11] According to the Office of Francophone Affairs, in 2001, 58,520 Francophones in Ontario were members of a visible minority, i.e., a 41.9% increase between 1996 and 2001.

[12] Ontario Ministry of Health and Long-Term Care. French Language Health Services Working Group. *Health Care Services for Franco-Ontarians: A roadmap to better accessibility and accountability*. October 2005. Available online at: http://www.health.gov.on.ca/english/public/pub/ministry_reports/flhs_06/flhs_06.pdf (page consulted in March 2009).

More recently, Ontario's four French-language health networks made similar observations in 2006, at the conclusion of an in-depth planning exercise entitled *Setting the Stage: Primary Health Care in Ontario. Provincial Report*:

> "All four networks report major inconsistencies in the availability of services in French, a shortage of bilingual health practitioners, difficulty recruiting and retaining bilingual practitioners, deficiencies in the service coordination and referral processes that prevent Francophones from using these services to their fullest, as well as insufficient follow-up. In all four regions, there is a marked shortage of health promotion and disease prevention services in French. As well, a common complaint across the province is the failure by government to engage the Francophone community in the planning of health care services."[13]

> In 1993, a mother faced the unthinkable: her 6-year-old son, Luc, would not be receiving treatment because the region did not have a psychologist who spoke French.
>
> As a toddler, Luc had been in an accident causing severe trauma. The doctors recommended that he receive psychological treatment. But with no French-speaking specialist for their son and four children at home, his parents made the difficult decision to abandon their search for treatment. They decided that they would temporarily offer their son the support he needed at home. For them, this was the short-term solution until Luc learned English and could be taken to see an English-speaking psychologist. They resigned themselves to their predicament. In the end, however, it caught up with them. Luc is now 21 and finally getting the therapy he didn't get in French at age 6.

Over and above the fact that we still need studies specifically on the accessibility of French language health services in Ontario, health remains a central concern for Francophones in this province. In all of my travels around the province and in all of my meetings since my appointment as French Language Services Commissioner, people constantly talk to me about the lack of access to health services in French.

1.2.1 Lack of Human Resources

There is a pressing need for French-speaking health professionals in every part of the province, but these professionals do not suddenly appear simply because this need has been identified. There is a severe shortage of physicians, nurses and other health professionals and the situation is becoming critical. As Commissioner, I am fully aware of this state of affairs.

In some regions, there are French-speaking health professionals but they are tucked away, like well-guarded secrets. Interaction amongst these professionals has not materialized. In many cases, they do not broadcast their ability to speak French for fear of being swamped with patients. For example, a Francophone nurse will identify herself as an Anglophone to avoid being overwhelmed with patients. The health system relies too heavily on Francophones to identify themselves as Francophones within the system, and this is affecting the system's ability to retain those professionals who do report that they speak French.

Moreover, it is not possible to guarantee substantive equality in the area of French language health services if health professionals do not have a working knowledge of French. Having medical staff whose French consists of *bonjour* and *merci* is a band-aid solution.

The government is very concerned about labour shortages in the health system and has launched related initiatives such as HealthForce Ontario.[14] However, the government must recognize that the problems regarding the availability of French-speaking health professionals and the solutions to these problems have certain defining characteristics. As has been noted by the French Language Health Services Office of the Ministry of Health and Long-Term Care (MOHLTC), the main challenge in the implementation of French language health services in the health care system is the availability of French-speaking health professionals. For this reason, as French Language Services Commissioner, I applaud initiatives such as the Careers in Health/Carrière en santé[15] program being run in partnership with the *Regroupement des intervenantes et intervenants francophones en santé et en services sociaux de l'Ontario (RIFSSSO)*.[16]

These are laudable initiatives but they can only fix part of the problem. More concerted efforts are required and ideas from the community itself must be added to the mix. Specific strategies that involve the Francophone community must be developed to promote the training, identification, recruitment, retention and mobilization of Francophone health professionals.[17]

[13] Ontario's French Language Health Networks. *Setting the Stage: Primary Health Care in Ontario. Provincial Report*. 2006.

[14] HealthForceOntario is a government strategy that involves collaboration between three ministries: the Ministry of Health and Long-Term Care, the Ministry of Training, Colleges and Universities, and the Ministry of Citizenship and Immigration. It is designed to ensure that the province has enough health care providers. To achieve this, it includes many initiatives designed to help the province to keep its health professionals here, encourage young people to pursue a career in health, and convince foreign-trained health care providers to come to Ontario, by making it easier for them to settle here. For more information, consult HealthForceOntario's Website at: http://www.healthforceontario.ca/WhatIsHFO.aspx (page consulted in March 2009).

[15] This program takes place in various regions of the province and is designed to interest students in pursuing a career in health and completing the appropriate learning programs. For more information: http://www.health.gov.on.ca/english/public/program/flhs/carriere_mn.html (page consulted in March 2009).

[16] The *Regroupement des intervenantes et intervenants francophones en santé et en services sociaux de l'Ontario (RIFSSSO)* is an umbrella association of Francophone stakeholders in health and social services. For more information: http://www.rifssso.ca/english/ (page consulted in March 2009).

[17] Société Santé en français. *Des communautés francophones en santé: les réseaux au cœur de l'action* [Healthy Francophone Communities: Networks at the Centre of the Action], October 2007.

1.2.2 Active Offer

Another concern that I have is Francophones' lack of knowledge of their right to access to French-language services and the availability of these services in their area. Many Francophones still do not know where to obtain French health services in their community or which services are available. In a post-census survey,[18] close to half of Francophones in Ontario reported that gaining access to and obtaining health services in their language was either very difficult or impossible. This very high percentage indicates that Francophones do not necessarily know where to go to get French health services and that, when they do know, they sometimes have difficulty obtaining care in French. Clearly, a concerted effort is required to make Francophone communities aware of the health services that are being offered to them. The government's new link **http://www.health.gov.on.ca/ms/optionsdesoins desante/public/index.html**[19] is certainly a step in the right direction. However, the onus continues to be on individual members of the public to actively seek out French services.

Active offer is one part of the solution. It has been shown, time and time again, that active offer has a considerable impact on the demand for services. The more actively a service is offered, the more demand there is for it. This is as true for health as for any other sector.

This principle holds true in Ontario, and Francophones should be able to expect that these services will be offered to them in their language. It goes without saying that a Francophone who visits a Francophone community health centre such as the *Centre de santé communautaire francophone de Sudbury* expects to receive health care services in French. This is the simplest form of active offer. The ministries and the LHINs must emulate this form of active offer and ensure that it is applied by those of their health care providers that are designated or identified as providing services in French.

As Commissioner, I have been told that the greatest challenge facing French health care providers is dealing with a system that does not take responsibility for actively offering quality health services in French. The system simply fails to see the importance, need or added value of doing so. Failing to offer a service in the patient's language puts his health at risk. Unfortunately, the system still does not recognize this.

Despite the principle of active offer being a clear commitment of the Ontario government according to an internal document entitled *A Framework for Action*, this does not always manifest in the health sector. Active offer is a minimum service that should be implemented by service providers. However, citizens do not always actively receive this minimum offer of French language services. Even when available, it neither guarantees nor ensures the quality of the services on offer.

> "Although it is important, active offer does not guarantee fair and equitable treatment. Nor does it necessarily have an impact on the demand for services. Even when French language services are offered at the window or the counter, we wonder whether we are really going to be taken first or whether we are going to be stuck on some waiting list until a French-speaking doctor becomes available. And there is a lingering fear that we will not receive equal service. Often, Francophones continue to ask for service in English in the belief that they will be served more quickly. This is a systemic problem. Patients must feel confident that they will receive services that are equivalent to those offered in English, in terms of quality and speed. In other words, by itself, active offer isn't enough."
>
> **– Marc Bédard**, *Executive Director*
> Réseau francophone de santé du Nord de l'Ontario

[18] Corbeil, Grenier, Lafrenière, op. cit., pp. 50-51. Note, however, that this rate varies depending on the relative size of the Francophone population. For example, in municipalities in which Francophones make up less than 10% of the population, 66% stated that it would be difficult or very difficult for them to obtain services in French, whereas in municipalities in which Francophones make up 10% to 30% of the population, 32% reported that it would be difficult or very difficult to obtain services in French.

[19] Although this site is user-friendly, its search engine does not provide a function to look up French-speaking health professionals by region, such as the number of French-speaking physicians in the Toronto area.

1.3 A Partner Community

The Ministry of Health and Long-Term Care and the 14 LHINs must work in partnership with the Francophone community to improve the delivery of health services to Francophones. The province and the LHINs do not have a choice about involving the community and its stakeholders in decisions about health care planning and access. Without this willingness to come to an understanding and work together, the health of Francophones remains at risk.

A community's ability to shape its reality and take charge of its own development is a determining factor in its ability to improve its health and well-being. According to the CCFSMC, experience shows that:

> "[…] the more Francophones are involved in the care delivery process, including managing health care institutions, the more French is respected and reflected in service delivery. This participation is also crucial if the population is to take real responsibility for health." [20]

This demonstrates the major impact of involving the community in the planning and management of health services. In health care, active participation by the Francophone community is both desirable and essential.

In Ontario, a full range of French language health services and Francophone health professionals is neither accessible nor available in all of the areas served by each LHIN. And yet, the LHINs have an obligation to work together to ensure access to French language services for Francophone communities. The *Local Health System Integration Act (LHSIA)* provides for the LHINs to implement and participate in joint strategies with other local health integration networks, in order to improve care and access to high-quality health services and promote continuity of care between local health systems and throughout the province.[21] However, there has to be a genuine willingness on the part of the LHINs to achieve this.

Francophones have repeatedly demonstrated that they are willing and able to co-operate with the government and with officials in the health care system to improve access to health services in their language. The same is true for their desire to improve the health of the Francophone community in general. Moreover, *"[…] successful community development depends, in large measure, on the community's ability to ensure the co-operation of the actors and to translate this co-operation into a partnership […] in order to meet needs that have been jointly recognized as important."*[22] The Francophone community believes that it is best able to identify its own needs; it really wants to be involved in the search for ways to improve access to services and improve the health of community members. It should be pointed out that this is essentially the same line of reasoning that was followed by the framer of the *LHSIA*. In this manner, the Francophone community becomes a crucial actor and partner in access to health care in French, especially when its development and growth are at stake.

1.3.1 Community Health Centres as an Example

Community partnership obviously includes Ontario's community health centres. There are 62 community health centres in Ontario, not including their satellite units.[23] They play a crucial and essential role in the delivery of health services in Francophone communities. All too often, however, Community Health Centres are not perceived as partners. This is especially true when they offer services exclusively in French, and it's the Francophone patient who pays for this.

> "Anglophone doctors in the region avoid sending us Francophone patients because they are afraid of losing these patients as clients. We have had to meet with these doctors, one by one, and explain to them that we do not want to steal their Francophone patients. They should be using us as a resource and see us as community partners."
> – **Marcel Castonguay**, *Executive Director*
> Centre de santé communautaire Hamilton/Niagara

For over a year now, the barrier between physicians in the Hamilton/Niagara region has been removed. I believe that this willingness to draw on the resources that the Francophone community has to offer must be replicated in other regions and reflected in the agreements with the community.

[20] Consultative Committee for French-Speaking Minority Communities, op. cit., p.16.
[21] *Local Health System Integration Act*, R.S.O., 2006 *(LHSIA)*, s. 5.
[22] Bourque, Denis, Louis Favreau. *Le développement des communautés et la santé publique au Québec [Community Development and Public Health in Quebec], Service social 2003;50(1).*
[23] Ministry of Health and Long-Term Care. Available online at: http://www.health.gov.on.ca/ms/healthcareoptions/public/index.html (page consulted in March 2009).

To return to the concept of active offer, when a Francophone patient enters a French language community health centre such as the *Centre de santé communautaire de l'Estrie*,[24] he does not wonder about the language in which the services will be delivered. This takes an enormous burden off his shoulders. What is more, the community health centres are clear proof of the energy and vitality of the Francophone communities. These centres have taken responsibility for the delivery of French language health services in their community – a model that must be encouraged. They accomplish much more than the delivery of French language health services, a complex undertaking in and of itself. They represent an important link according to the theory of institutional completeness (*complétude institutionnelle*), developed in the *Lalonde*[25] case. This theory holds that whenever a community loses an institution, this loss erodes the confidence that Francophones have in these institutions and leads to their assimilation. It is difficult to quantify, in a way that makes sense from a purely bureaucratic standpoint, the pride that comes from governing and serving one's community effectively in French.

For these reasons, it is regrettable that the MOHLTC has stopped funding new community health centres. These centres serve as examples of tangible and practical services developed on the basis of the community development initiatives that Ontario's minority Francophone community needs in order to counter assimilation.

1.3.2 French Language Health Networks as an Example

Ontario has four French language health networks. The first network was established in the wake of the Montfort Hospital crisis in 1997. Three more networks were established after Health Canada's Consultative Committee for French-Speaking Minority Communities released its first report in 2001. The role of the French language health networks is to support the planning, development and evaluation of French language health services in co-operation with their partners.

This type of network may provide an interesting model of a partnership with the community and, therefore, an interesting networking model with potential for efficacy. Because their roots go deep into the Francophone community, these networks could, if they were provided with the appropriate resources, provide the LHINs with tangible help in ensuring real participation on the part of the community in service planning and in searching for solutions that are adapted to the specific needs of this community.

Conclusions

Access to French language health services is a quality of service issue, as well as an issue of system efficacy and efficiency. The Francophone community has defining characteristics that must be taken into account in the planning of policies and services that affect health. We must ensure that health professionals with the appropriate linguistic and cultural skills are available.

The Francophone community must be considered as a crucial partner for improving access to French language health services. Community representation and active participation are essential at every organizational level. They will enable health care organizations to understand the needs of their patients better. They will aid in better allocation of resources and the implementation of mechanisms for making institutions accountable for the quality of their services.

Recognition of existing French health service planners and providers will make it possible to build on the experience and expertise that has already been acquired in the system. Services adapted to the specific needs of the Francophone community are already being offered by several organizations. Their best practices should be shared and recognized in order to avoid re-inventing the wheel.

RECOMMENDATIONS

Recommendation 1

The Commissioner recommends that, in the development and implementation of their health policies and social policies designed to improve the health of the population, the ministries and officials in the health care system take the defining characteristics of the Francophone community into account.

Recommendation 2

The Commissioner recommends that the government and officials in the health system make access to French language health services a factor in the system's quality of service, efficacy and efficiency.

Recommendation 3

The Commissioner recommends that the government develop and implement specific strategies, while involving the Francophone community, to promote the training, identification, recruitment, retention and mobilization of Francophone health human resources.

[24] Ontario has seven French language community health centres: *Centre de santé communautaire Hamilton/Niagara*, *Centre de santé communautaire de Kapuskasing*, *Centre de santé communautaire de l'Estrie*, *Centre de santé communautaire de Sudbury*, *Centre de santé communautaire de Sudbury-Est*, *Centre de santé communautaire du Témiskaming*, and *Centre Francophone de Toronto*.

[25] *Lalonde* v. *Ontario* (*Commission de restructuration des services de santé*) (2001), 56 O.R. (3d) 577.

Obligations and Opportunities

Canada's official language minority communities have almost always wanted to build a sound legal foundation that would provide continuity in the event of a change to a government that had other intentions, as well as protect them from the power of the majority. It is important to be clear on this point: without actually acting in bad faith, the majority is not always able to clearly understand the needs and priorities of the official language minority communities. That is why the *Constitution* and, in particular, the *Canadian Charter of Rights and Freedoms* go to such lengths to describe language rights.

At a time when budgets are being cut and with the provincial government already allocating the major part of its total budget to the health sector,[26] some might argue that this is not the time to be committing to new expenditures. And yet, by engaging in planning that is strategically based on the health needs of individuals and communities – which is precisely the philosophy behind the LHINs – the government and its institutions will both meet their obligations and ensure that they limit costs by creating communities made up of individuals who are in better health.

The government and its institutions do not deliver French language services to Francophones because they have to. They do so because this has a direct and positive impact on the latter's health – it is simply the right thing to do.

2.1 General Principles

The *French Language Services Act (FLSA)* dates back to 1986, although implementation of the *Act* largely only began in 1989. The *FLSA* states that the Government of Ontario and its agencies shall ensure that services are provided in French.[27] It also states that a person has the right to communicate in French with any head or central office of a government agency or institution of the Legislature or with a local office in a designated area.[28]

In the *Lalonde* case (also known as the *Montfort* case), the Ontario Court of Appeal stated: "*It was within the overall context of steady progression and advancement of services in French that the FLSA was introduced and passed in 1986.*"[29] The *FLSA* must be interpreted in light of the fundamental constitutional principle of respect for and protection of minorities. Consequently, it must be interpreted broadly and liberally, in accordance with its objectives of promoting and protecting Ontario's Francophone community. The Ontario Court of Appeal also recognized the quasi-constitutional nature of the *FLSA*.

Apart from recognition of its linguistic rights, Ontario's Francophone community must be able to count the presence of institutions to develop and flourish. Public recognition of its language, and therefore its status, and institutional support for the community are essential factors in the development of the Francophone community.

The principle of substantive equality[30] has value when accompanied by recognition of the Francophone community's right to participate in and govern institutions that are essential to its development. The fight to keep Montfort Hospital open was a reminder of the importance of the relationship between a community's institutions, its public recognition by the government, and the preservation of Ontario's Francophone cultural heritage for future generations, as stated in the preamble to the *FLSA*.

Government agencies play an important role in the growth and development of Ontario's Francophone communities. Recently,[31] the Supreme Court of Canada confirmed that, depending on the nature of the service being offered, it must be designed and offered on the basis of the needs of the Francophone community. Once again, it's a matter of substantive equality.

[26] In the 2009 Budget, the Ontario Government proposed spending $42.6 billion in the health sector in 2009-10, out of a total budget of $108.9 billion. For more information:http://www.fin.gov.on.ca/english/budget/ ontariobudgets/2009 /chpt2.html (page consulted in April 2009).

[27] S. 2, *FLSA*: "The Government of Ontario shall ensure that services are provided in French in accordance with this Act."

[28] S. 5. (1), *FLSA*: "A person has the right in accordance with this Act to communicate in French with, and to receive available services in French from, any head or central office of a government agency or institution of the Legislature, and has the same right in respect of any other office of such agency or institution that is located in or serves an area designated in the Schedule."

[29] *Lalonde*, op. cit., [141], in accordance with the principle of the advancement of equality of status and use of French and English that is contained in s. 16(3) of the *Charter of Rights and Freedoms*.

[30] *R. v. Beaulac*, [1999] 1 SCR 768. In *Beaulac*, the Supreme Court of Canada ruled that the exercise of language rights was not to be considered exceptional, nor was it to be considered a response to a request for accommodation.

[31] *Desrochers v. Canada (Industry)*, 2009 SCC 8. In 2000, *Centre d'avancement et de leadership en développement économique communautaire de la Huronie (CALDECH)*, located in Penetanguishene, Ontario, filed a complaint against North Simcoe Community Futures Development Corporation, an economic development agency funded by Industry Canada, with respect to the French services it offered. On February 5, 2009, the Supreme Court of Canada rendered its decision in which it reminded the Federal Government of its obligation to make services of equal quality available to the public in both official languages. This ruling is available online at: http://www.canlii.org/en/ca/scc/doc/2009/2009scc8 /2009scc8.html (page consulted in March 2009).

2.1.1 The *French Language Services Act* and Health Care

Any decrease in the health services that are offered to the Francophone community and any action that compromised the training of French health professionals "*would increase the assimilation of Franco-Ontarians*."[32] Thus, health institutions play a positive and determining role in the promotion of Francophone communities.

In the *Lalonde* case, the Divisional Court and the Ontario Court of Appeal recognized that health institutions have a broader institutional role than the provision of health care services. This role includes "*maintaining the French language, transmitting francophone culture, and fostering solidarity in the Franco-Ontarian minority.*"[33]

The courts have interpreted the *FLSA* broadly and liberally. In referring to health services, the Ontario Court of Appeal determined that the words "available services" in s. 5 of the *FLSA* referred to available healthcare services at the time Montfort Hospital was designated under the *FLSA*[34], and ruled that the Health Services Restructuring Commission's decision to reduce the health services offered by Montfort Hospital was contrary to the *FLSA*. What emerges clearly from the *Lalonde* case is that the courts place great importance on the ability of health care institutions to protect and promote the province's Francophone communities and to support their growth and development. The *FLSA* must be interpreted broadly and liberally in order to protect this important role played by the health institutions.

2.1.2 Partially and Fully Designated Health Care Agencies

The designation of an agency that offers public services under the *FLSA* has been interpreted as including not only the right to health care services in French, but also the right to "*whatever structure is necessary to ensure that those health care services are delivered in French*."[35] It follows that a decision – even a discretionary decision – that changes the services that are offered in French by a health institution designated under the *FLSA* cannot be justified simply by invoking administrative convenience and vague funding concerns.[36]

Agencies that offer public services may be identified as French language health service providers without being designated under the *FLSA*. The designation of agencies is completely separate from Ontario's designated areas. In other words, the fact that a hospital is located in a designated area does not mean that it is automatically designated. It must apply to be designated. All agencies that offer services on behalf of the Ministry of Health and Long-Term Care may apply for designation as a public service agency for the purpose of the definition of government agency under the *Act*. Applying is voluntary and the agency itself must apply for designation. At the present time, according to data provided by MOHLTC, 97 service providers in Ontario have full or partial designation[37] under a regulation pursuant to the *FLSA*.

An agency must first qualify for designation by meeting four criteria.[38] These criteria are: offering quality French language services on a permanent basis, guaranteeing access to these French language services, ensuring proportional Francophone representation on its board of directors and executive, and developing a written policy on French language services that has been adopted by the board of directors and sets out its responsibilities in the area of French language services. Rather like a Francophone ISO 9001: 2000 standard,[39] designation guarantees the institution's express desire to offer high-quality services in French.

Lastly, designation can be full or partial. Partial designation means that only some of an agency's services are available in French.

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[32] *Lalonde*, *supra* note 24, [162].

[33] In this decision, Montfort Hospital was described as "an important linguistic, cultural and educational institution, vital to the minority francophone population of Ontario." *Lalonde*, op. cit., [181].

[34] *Lalonde*, op. cit., [160].

[35] *Lalonde*, op. cit., [162].

[36] *Lalonde*, op. cit., [168].

[37] Of the 215 agencies that have been designated or partially designated under the *FLSA* for all ministries, 97 have obtained such a designation in the health sector. Available online at: http://www.health.gov.on.ca/french/public/programf/flhsf/designated_dtf.pdf (page consulted in March 2009).

[38] Office of Francophone Affairs. Available online at: http://www.ofa.gov.on.ca/en/flsa-agencies.html (page consulted in March 2009).

[39] The International Organization for Standardization (also known as the "ISO") is the largest producer and publisher of standards in the world. ISO 9001:2000 certification is the assurance of an organization's ability to meet quality requirements and to enhance customer satisfaction in customer-supplier relations.

2.1.2.1 Obligations that Come with Designation or Being Identified

Before the creation of the LHINs, responsibility for the application of the *FLSA* with respect to the offer of French language health services fell to the Ministry of Health and Long-Term Care (MOHLTC). Consequently, when a LHIN concludes a purchase of service or sector accountability agreement with a health service provider, it must ensure that it signs an agreement that has a clause with respect to the offer of French language services by this service provider. The LHIN remains accountable for the French services offered by the service provider under this type of agreement.

When designated or identified, agencies are required to offer French language health services just as a ministry would; they are required to report on these services as part of their annual health service planning exercise.[40] These agencies must prepare this report every year and submit it to the LHIN so that progress on implementing French language health services and identifying potential gaps can be evaluated. This will enable the Ministry to determine the level of equity and performance of these agencies in terms of the delivery of French services based on their designation.

An identified agency is not necessarily a designated agency

Often, a designated area has few, if any, agencies that have been granted full or partial designation under the *FLSA*. On the other hand, an agency may be identified by the MOHLTC, and now by the LHINs, to offer French health services.[41] In this case, even if it is not designated under the *FLSA*, it is still required to offer high-quality services and, as a result, it must provide minimum supports such as interpretation services and training for staff to develop their cultural skills and guarantee the quality of the services that are offered to the public.

The MOHLTC, as well as the LHINs, have a responsibility to inform health service providers of their obligation to provide not only French health services but also high-quality services. The LHINs have a responsibility to provide these agencies with the resources they need to meet these obligations. The government and the LHINs must ensure that these agencies are accountable specifically for these obligations.

2.2 Key Players

In 2006, the Ontario government embarked on an in-depth reform of Ontario's health care system. The Legislative Assembly adopted the *Local Health System Integration Act, 2006 (LHSIA)*. As its name indicates, the purpose of this *Act* is the integration of health services at the local level. This *Act* confers on the LHINs the major responsibility for ensuring that the local health system gives priority to the needs of the community. The *Act* conveys all the importance the legislator placed on giving responsibility back to communities for planning, funding and integrating local health systems by designating LHINs to accomplish this.

The *LHSIA* also stipulates that French language health services will be given special attention in the development and implementation of the new Local Health Integration Networks (LHINs). The *LHSIA* states that these LHINs must engage the community of persons and entities that work in the local health system, in particular, in the integrated health services plan and when setting priorities. More specifically, it states that each LHIN shall engage its "*French language health planning entity for the geographic area of the network that is prescribed*."

Clearly, the legislator expects the *French Language Services Act* to apply to the delivery of French health services and he provides specific means for achieving this in the *Local Health System Integration Act, 2006*.

Ontario's health system has many different players, all of whom are equally important. From the perspective of the mandate of the Office of the French Language Services Commissioner, and in light of the obligations and responsibilities for French language health service planning, this report identifies three main categories of key players. Naturally, the Ministry of Health and Long-Term Care (MOHLTC) and the Ministry of Health Promotion (MHP) play a preponderant role. The creation of the new LHINs has created a lot of expectations both within the community and for the MOHLTC. The *LHSIA* clearly states that the community – including the Francophone community – must play a key role in planning and implementing a health system that is integrated and accountable at the local level.

2.2.1 Role of the Ministries

In addition to articulating the major strategies of the Ontario government, the Ministry of Health and Long-Term Care is responsible for the administration of the health care system and the delivery of services to the population of Ontario. It does so through a variety of programs, including the health insurance plan, the drug programs, and the assistive devices program. Although the Ministry does not deliver health care directly, it regulates but does not operate hospitals, nursing homes, and clinical medical laboratories. Its role is rather one of articulating the strategies of the Ontario government. Like any other ministry of the Ontario government, the MOHLTC and MHP must comply with and enforce the *FLSA*.

[40] Known as the Hospital Annual Planning Submission.

[41] The obligations of these service providers will be analyzed in greater depth in the next chapter.

The mission of the Ministry of Health Promotion is to help Ontarians to lead healthier lives through programs that encourage healthy choices and lifestyles. Just like the MOHLTC, the MHP does not deliver health care directly. Nevertheless, it develops health policy and provides information and tools to help Ontarians adopt healthy habits. To do this, it works closely with other ministries, in particular the Ministry of Health and Long-Term Care, the Ministry of Education, and the Ministry of Children and Youth Services, and creates partnerships with local communities and organizations and with the private sector.[42]

The MOHLTC is gradually detaching itself from the day-to-day administration of the system in order to focus on the design, funding, monitoring and development of strategies. This is more of a stewardship role. And this is what the *LHSIA* provides for.[43]

2.2.2 The Local Health Integration Networks (LHINs)

In 2006, the *LHSIA* created 14 Local Health Integration Networks (LHINs); these networks are Crown agencies that are subject to the *French Language Services Act*. They cooperate with local health care providers and members of the community to develop health service integration plans for the sectors they serve. Thus, they assume the role of planning and funding health services without actually offering services directly to the public. The creation of the LHINs is based on a clear mission: to plan, coordinate and fund at the local level and in an integrated manner the health services identified by the members of the community considered in the best position to determine the health needs and priorities.[44] Many organizations, such as public and private hospitals, community care access centres (CCACs), community health centres, and long-term care homes now report to a LHIN. Each LHIN acts as an agent of the Crown[45] and has a mission to:

> "Promote the integration of the local health system to provide appropriate, coordinated, effective, and efficient health services."

Like the Ministry, each LHIN must develop a local strategy, referred to in the *Act* as an "integrated health service plan". This plan shall "*include a vision, priorities, and strategic directions for the local health system and shall set out strategies to integrate the local health system in order to achieve the purpose of [the LHSIA]*."[46]

It is clear, even from a brief look, that this entails huge responsibilities and represents a colossal undertaking.

Unlike the Minister, the LHINs do not have an obligation to create a French language health services advisory council; however, they shall "engage the community of diverse persons and entities involved with the local health system about that system on an ongoing basis", including about the integrated health service plan.

Where the Francophone community is concerned, the *LHSIA* states that the LHIN has a commitment to engage its **French language health planning entity**. The term "French language health planning entity" is not defined in the *Act*. However, the legislator does stipulate that the French language health planning entities must be prescribed by regulation in order to create an obligation for the LHINs to engage them in their planning process.

Thus, the LHINs are government agencies within the meaning of the *FLSA*. Clearly, given their explicit obligation to respect the principles of the *FLSA* in health service integration, LHINs that operate in designated areas must engage the Francophone community "on an ongoing basis" in the development of these plans. Incidentally, the February 5, 2009, Supreme Court of Canada decision in the *Desrochers* case[47] is completely consistent with this interpretation, even though this decision pertained to the obligations of federal institutions. The key in this case was the scope of the expression "services of equal quality".

> "It is difficult to imagine how the federal institution could provide the community economic development services mentioned in this description without the participation of the targeted communities in both the development and the implementation of programs. That is the very nature of the service provided by the federal institution." [53]

The legislator chose to require the LHINs to engage the Francophone community "on an ongoing basis", and it must be possible to interpret this as meaning more than simply consulting the community. Thus, members of the community must be able to participate in a meaningful way in the development of the services plan and priorities of the LHIN.

To sum up, the role of the LHINs consists in planning health care in a given region. And because they do not deliver health services directly, they must ensure that service providers, such as hospitals and other health centres, respect the priorities that the LHINs have established.

[42] Ministry of Health Promotion. Available online at: http://www.mhp.gov.on.ca/english/about/default.asp (page consulted in March 2009).
[43] *LHSIA*, s. 14(1).
[44] Ministry of Health and Long-Term Care. Available online at: http://www.health.gov.on.ca/english/public/legislation/lhins/lhins_faq.html (page consulted in March 2009).
[45] *LHSIA*, s. 4.
[46] *LHSIA*, s. 15.
[47] *Desrochers v. Canada (Industry)*, op. cit., note 30.

2.2.3 Proposed Regulation on the Engagement of the Francophone Community

On September 13, 2008, the MOHLTC tabled a proposed regulation on the engagement of the Francophone community in application of s. 16 of the *LHSIA*, which reads:

> "16. (1) A local health integration network shall engage the community of diverse persons and entities involved with the local health system about
> that system on an ongoing basis, including about the integrated health service plan and while setting priorities.
>
> […]
>
> Duties
>
> (4) In carrying out community engagement under subsection (1), the local health integration network shall engage:
>
> […]
>
> (b) the French language health planning entity for the geographic area of the network that is prescribed. 2006, c. 4, s. 16 (4) […]"

Reaction to the proposed regulation was swift. During the public consultation, the Ministry received several hundred letters of protest. I also made my views known to the Minister in a public letter dated November 12, 2008. A detailed analysis of the proposed regulation has now been completed, and this special report does more than deal exclusively with the latter.

The Office of the French Language Services Commissioner received over 100 complaints on the subject of the proposed regulation; and many of these letters contained long petitions. The community reacted strongly to the proposed regulation – and with cause!

A Brief Review

A review of the context of the discussions surrounding the preparation of the new structure proposed in the current version of the *LHSIA* is in order. At the time, members of the Francophone community were actively involved in the negotiating process.

The MOHLTC created a French Language Health Services Working Group chaired by Gérald R. Savoie.[48] This working group delivered a report to the Minister in October 2005, in which it provided a roadmap for increased accessibility and greater accountability for French language health services. The working group recommended the creation of a Francophone LHIN for reasons of governance, a sense of community membership, efficacy and accountability.

The government did not follow this recommendation for valid reasons that this report in no way questions. From the government's standpoint, it would have been difficult to design a Francophone LHIN with a territory that included all of the areas designated under the *FLSA*, as this would have caused confusion among service providers.

The fact remains that the *LHSIA* stipulates that each LHIN must engage the Francophone community through a French language health planning entity. Clearly, if we follow the legal logic of this provision, it means that the legislator wanted to achieve a compromise. There would be no Francophone LHINs, as had been recommended, but there would be, at a minimum, a mechanism for each LHIN – a planning entity – to ensure that institutions vital to the Francophone community were fully involved in planning and governing French language health services.

Since the creation of the LHINs, there have been laudable efforts made here and there but, overall, they have been few and far between. The LHINs are waiting. Before doing anything – again, there are a few exceptions – the LHINs are patiently waiting for the proposed regulation.

In the meantime, they are expanding and growing into their new roles, and French language health services on the whole are definitely not a priority.

2.2.3.1 Central Concerns over the Proposed Regulation

Advisory Committees versus Francophone Planning Entities

Clearly, there is a real difficulty here that must be addressed. The proposed regulation calls for the creation of advisory committees under s. 16 of the *LHSIA*, whereas the Francophone community was expecting the creation of French language health planning entities, as provided for by s. 16(4) of the *LHSIA*.

The proposed regulation indicates that the composition of the committee, assuming that it will now be a planning entity, will consist of persons who represent the diversity of the Francophone community and who work in the local health system or are affected by it. The proposed regulation rightly provides that persons appointed to these entities must include members of the Francophone community and representatives of health care sectors that have connections with the community and who participate in the planning and delivery of health care in the geographic area, including community agencies, institutions of learning, members of the regulated health professions and health service providers.

Over and above the composition of the members of an advisory committee, what resources would there be to support the work performed by these volunteers? What would their specific mandate be? How would genuine accountability to the Francophone community be ensured? What guarantee would exist that the LHIN would take the recommendations of another advisory committee seriously?

[48] Ministry of Health and Long-Term Care, French Health Services Working Group, op. cit., note 11.

The legislator wanted to make each LHIN accountable for its obligations under the *FLSA* without dissociating itself from the institutions that are vital to the Francophone health sector, hence the mention of French language health planning entities. This was not a mistake on the part of the legislator; rather, it shows a clear willingness to involve institutions vital to the Francophone health sector. It is important not to give the impression of starting all over again, and of failing to take into account all of the expertise and networks that have been developed in recent years, indeed over many years.

A French language health planning entity would have many functions. These would include identifying the needs of the area's Francophone community, or recommending partial or full designation of certain key services by identifying service providers. The French language health service plans of these service providers would have to be evaluated in order to help the LHIN accomplish its mission. The planning entity could help the LHIN identify gaps in the professional resources that are available and develop training and recruitment strategies. Another function of the planning entity would be to support the Ministry of Health Promotion in the health promotion strategies that it deployed in the Francophone community in its service area and that had been developed on the basis of priority needs identified in advance. This is by no means an exhaustive list of the planning entity's functions.

The bottom line: an advisory committee is simply *not* a French language health planning entity.

Support and resources for the French language health planning entities

The composition of these new entities seems to be adequate; however, the fact remains that these committees would play an advisory role and there is no clear indication that adequate resources would be provided or that their recommendations would be implemented. This is another reason for amending the proposed regulation so as to ensure that French language health planning entities are created. The LHINs are responsible for ensuring compliance with the *FLSA* because they are new government agencies within the meaning of the *Act*.

However, it is perfectly plausible that, in certain areas such as Toronto, several LHINs might have a single French language health planning entity. The Toronto area has no fewer than five LHINs, and Francophones are dispersed throughout the area. It would be normal to assume that a single seniors' residence, to give an example, can serve the entire Francophone community of the Greater Toronto Area.

The Future

The community's shock and strong reaction to the proposed regulation are understandable. However, since the public consultations, which ended in mid-November 2008, there have been encouraging indications of progress on the regulation. Premier Dalton McGuinty himself has said that he will "*continue working with Minister Caplan to ensure that we protect the rights of Francophones so that they can play a real role in managing the services on which they depend, in the area of health care*."[49] [Unofficial translation]

As French Language Services Commissioner, I view the Premier's position in a very positive light. I sincerely hope that the community's many comments and suggestions will be taken into account and that efforts will be made to address them through changes to the proposed regulation so that it reflects the true needs of this community. For that purpose, a working group was established to find a solution that is satisfactory to all stakeholders in the proposed regulation on Francophone community engagement. Chaired by the Honourable Charles Beer and composed of representatives from the MOHLTC, the Office of Francophone Affairs, the Provincial Advisory Committee on Francophone Affairs, the French Language Health Services Council and the *Assemblée de la francophonie de l'Ontario*, the group will focus on, among other things, the content of the proposed regulation.

Conclusions

As it currently stands, the proposed regulation is inconsistent with the intentions expressed by the legislator in the *LHSIA*. Section 16 of the *Act* provides for health service planning entities, not committees. The proposed regulation must specifically set out the role of these entities and a governance structure that will enable them to fulfill their mandate. As French Language Services Commissioner, it is clear to me that the proposed regulation must be amended to refer to the planning entities in a way that is in keeping with both the letter and the spirit of the *LHSIA*.

RECOMMENDATION

Recommendation 4

The Commissioner recommends that the Minister of Health and Long-Term Care amend the proposed regulation to make it consistent with the wording of the *LHSIA* and to ensure that it provides for true French language health planning entities for each LHIN or group of LHINs.

[49] Radio-Canada Ontario reporter, Christian Noel, weighs in during a news report entitled *Les Franco-Ontariens auront leur mot à dire dans la gestion des soins de santé dans leur province* [Franco-Ontarians will have their say about the management of health care in their province], that aired on January 6, 2009.

Planning and Governance

"*Francophones, even those who are bilingual, must have access to services in French because the mother tongue, which represents the foundation for personality development and allows a speaker to express his or her needs and feelings more easily, takes on great significance in the relationship between the health care provider and the health care recipient*"[unofficial translation].[50] This is as true today as it was in 1975, when these words were written.

Health agencies and other institutions are on the front line of French-language health service delivery. The new *LHSIA* and the creation of the LHINs do not change this important reality. What the *LHSIA* must bring about, however, is a greater measure of local control over health priorities. This chapter will examine the various aspects of planning between the various players in government and those they serve.

3.1 Liaison between Ministry of Health and Long-Term Care (MOHLTC) and the LHINs

3.1.1 Creation and Role of the LHIN Liaison Branch

Overseeing the creation of 14 new Crown agencies that are now responsible for a multitude of tasks previously performed by Ministry officials is no small task.

To ease and support the transition, the Ministry of Health and Long-Term Care created the LHIN Liaison Branch in 2007 to act as an interface between the Ministry and the LHINs. This entity is a branch of the Ministry that provides a liaison between the MOHLTC and the LHINs. Its role is to provide coordination and continuity between the Ministry and the networks and ensure that both sides meet their requirements under the *LHSIA*.

Within this Branch is another division, i.e. the French Language Health Services Office (FLHS), whose primary purpose it is to ensure that French language services are implemented within the Ministry and the LHINs.[51] The FLHS Office plays an oversight role by advising the Ministry on the integration of French language services in the health system.

The MOHLTC originally created this structure in order to monitor the work of the LHINs. The intention in creating two offices was to ensure that the LHINs would be supervised in their new duties and that they would have the support and resources needed for implementation. However, it has turned out quite differently. The French Language Health Services Office, which no longer reports to the LHIN Liaison Branch[52], should have been able to support and coach the LHINs in the integration and planning of French health services, in particular with the communities. However, I have noted that, since the beginning, the LHINs have not truly grasped their obligations under the *FLSA*. It was the LHIN Liaison Branch's job to ensure that they did so.

I acknowledge that the 14 newly created LHINs are under enormous pressure, not to mention the fact that they have experienced a high staff turnover. At the MOHLTC's request, KPMG conducted an analysis of the efficacy of the transition and devolution of authority from the Ministry to the newly-created LHINs. KPMG submitted its final report on September 30, 2008.[53] It is to the MOHLTC's credit that it requested this review, which will allow us to make any necessary adjustments while we are still in the long transition process.[54]

In a section on community engagement, the KPMG report makes the following comment:

> "Additionally, LHINs have been very active in planning through the creation of their IHSPs [Integrated Health Service Plan] and different planning structures in their local health regions. In implementing the IHSPs, LHINs have created a multitude of planning networks, advisory groups, councils, planning areas, and so on. LHINs use these networks to varying degrees. Some have decision-making authority, some have finite time schedules and terms of reference to deliver recommendations, while others are ongoing and are used for advice and feedback.

[50] Dubois, Jacques et al. *Pas de problème [No Problem] Report of the French-Language Health Services Task Force*. Toronto, Ministry of Health of Ontario, 1976.

[51] The FLHS Office was established in the early 80s and existed before both the *French Language Services Act* and the *Local Health Service Integration Act* came into force.

[52] Following the government-wide restructuring of French language services and the creation of FLS clusters, the FLHS Office was transferred to the Corporate Management Branch of the Corporate and Direct Services Division.

[53] KPMG, *MOHLTC-LHIN Effectiveness Review Final Report*, Ministry of Health and Long-Term Care, September 2008. This report is available in English only on the Ministry's website: http://www.health.gov.on.ca/transformation/lhin/effectiveness _review_report.html (page consulted in March 2009).

[54] The LHINs were established in 2005.

> An observation is that the LHINs have been very involved in planning but due to the delayed release of the Provincial Strategy, and because LHINs are still getting to know the needs of their regions, there has not been sufficient prioritization of the planning function and planning bodies. LHINs need to prioritize their activities and balance provincial priorities with local priority needs. This should allow them to also focus more resources on system transformation."[55]

Consequently, KPMG recommended that the LHINs prioritize or simply eliminate some community engagements. This makes it easier to understand the tensions that the LHINs are clearly experiencing in their attempts to please everyone. And when the needs are so critical, it is clearly tempting to drop the need for Francophone community engagement in favour of other more loudly voiced or seemingly more urgent priorities.

The difference being that, for Francophone communities, the assurance of engagement comes from the Legislative Assembly itself. All too often, the needs of the Francophone community are overshadowed by those of the majority. This is why the legislator so wisely stipulated the legislative requirement that the LHINs *had* to engage the Francophone community in the geographic area for their respective networks and that one of the ways to achieve this was through French language health planning entities.

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3.1.2 Accountability

By virtue of their nature and role, the LHINs are accountable to the government and must justify their budgetary and administrative decisions through their performance on the priorities identified by the Ministry. To meet this requirement, the Ministry concludes a specific agreement with each LHIN.

Each LHIN must ensure not only that French health services are available, but also that the needs of Francophones are taken into consideration in planning the local health system, i.e. in the geographical area served by the LHIN. This task is especially challenging due to the lack of reliable data and representative stakeholders because the planning entities for which provision is made in *Act* have not yet been created.

In spite of these deficiencies, the LHINs must still engage, fund and integrate health services in their geographic areas while identifying services providers that can provide French language health services and recommending designation of these providers to the MOHLTC. It is up to the LHINs to review the designation plans and to make recommendations to the MOHLTC for the full or partial designation of health service providers under the *FLSA*. It also falls to the LHINs to evaluate the human resource capability of their health service providers in order to improve the access and accessibility of the health services offered to Francophones.

The LHINs will not achieve these outcomes on their own. This is why the legislator provided for French language health planning entities to help the LHINs to complete their mandate.

It is not clear at this point which governance model, policies, mechanisms and procedures will be put in place to meet this requirement of accountability to the public, or what recourse will be made available to members of the public who wish to file a complaint and who want an explanation for, or changes made to, the decisions of each LHIN.

LHINs are also accountable to the communities they serve and they must be able to justify the decisions they make publicly and unequivocally. The LHINs are not required to follow all of the recommendations made by their French language health planning entity, but they must be able to explain their actions or decisions not to take action. For example, if a service is not available in a region due to a shortage of bilingual staff, the LHIN must be able to present a staff training, recruitment and retention plan.

[55] KPMG, op. cit., p. 44.

3.1.3 Evaluation of Performance

The MOHLTC uses a three-pronged approach to evaluate the performance of service providers who offer French language health services: its annual planning process, the Ministry and LHIN performance process, and the LHIN-service provider performance process.

Every year, the Ministry reports on services offered in French through its results-based management plan. It submits a report to the Treasury Board with information on access to services, community engagement, integration and participation of Francophones.

These results are based on the percentage of programs and divisions that integrate the needs and take into account the concerns of their Francophone clientele in their operational procedures, based on the number of designated positions provided or on the percentage of LHINs in a designated area that have an adequate distribution of French language health service providers. These data collected from the LHINs are used as key performance indicators and enable the Ministry to evaluate the performance of the LHINs in the area of French language services.

The MOHLTC and the LHINs must ensure that, in the designated areas, the health services put in place for the Francophone community are quality services. The specific responsibilities of the MOHLTC and the LHINs are clearly stated in the *LHSIA*. Section 5 states that the objects of the LHINs are to:

> "[…] ensure that there are appropriate processes within the local health system to respond to concerns that people raise about the services that they receive; […] evaluate, monitor and report on and be accountable to the Minister for the performance of the local health system and its health services, including access to services and the utilization, co-ordination, integration and cost-effectiveness of services."[56]

The LHINs are government agencies within the meaning of the *FLSA*. They must ensure that French language service requirements are met within the geographic area they serve. They are accountable within the meaning of the *FLSA* and to the Francophone population.

Like every agent of the Crown, the LHINs contribute to the Results-Based Plan that the MOHLTC must produce annually in order to obtain its financial resources. Where French language services are concerned, there are four key results areas.[57]

It is also important to have clear provisions for performance indicators in the area of French language services. In a field such as health, the quality of the services that are delivered locally must be a key performance indicator. Unfortunately, the current proposed regulation does not take such a measure into account, and I feel that an opportunity to strengthen the accountability of the LHINs has been missed.

The measures proposed by the Ministry and included in the accountability agreements focus more on inputs and outputs than on strategic and operational plans based on real needs identified by the population. The proposed measures will not give us results such as improvements in the health of Francophones.

Under the accountability agreements, agencies are currently required to provide an overview of their service plan for the following fiscal year, a report on the actions taken to improve service integration, an analysis of their situation that includes challenges and obstacles, and an evaluation of their performance during the previous fiscal year. The LHINs do not follow up to ensure that services are actually offered in French by providers committed to do so.

[56] *LHSIA*, s. 5.

[57] The first area relates to the ability to actively offer French services that are equivalent to those being offered in English. This also applies to services offered electronically or through partnerships. The second area concerns the public's and government employees' knowledge of the *Act* and its implications for the delivery of services. The third area concerns the integration of the legislative requirements with respect to French language services in the development of strategic plans and decision-making mechanisms, and in all activities to transform and modernize the government. Lastly, the fourth area concerns the participation of Francophones in every public consultation activity and their equitable representation on the boards of directors of agencies, boards and commissions created by the government. For more information, please refer to the French Language Services Commissioner's first annual report 2007-2008, Chapter 4 (4.2.1 Critical Analysis): http://www.flsc.gov.on.ca/files/4606_Eng_03LR.pdf

Nor does establishing an accessibility index based on the number of designated bilingual positions in an institution guarantee that a member of the public will receive services in French when they are needed. Other factors come into play, for example employee specialties and their distribution. To truly ensure accessibility, each institution must be required to conduct an inventory of the services it offers and take specific actions to ensure that these services are offered in French. This is not a matter of hiring more staff; rather, it is a matter of adequate staff distribution and availability.

These indexes rely too heavily on numerical factors of varying significance, without requiring a strategic and operational plan to improve performance and outcomes in terms of the public's health.

In addition, because they are based on subjective reports prepared by administrators and, to my knowledge, no independent audits are conducted of the quality of the services offered or the language skills of the service providers, these results are not all that meaningful.

3.2 Links between the MOHLTC and Ontario's Francophone Community

To advise the Minister of Health and Long-Term Care on issues pertaining to the delivery of health services to Francophone communities and on priorities and strategies for the provincial strategic plan for these communities, the *LHSIA* provides for the creation of a "French Language Health Services Advisory Council".[58] This advisory council was established in November 2007. By regulation, members must be chosen from a specific list of organizations representing the Francophone community.[59]

3.2.1 Importance of Data to the Planning Process

One must know one's clients in order to serve them well. This is true in all areas of human endeavour, including the field of health. Collecting data on public health is an ongoing challenge. Millions of dollars are spent each year to collect, compile and interpret statistical data. Reliable data are crucial to any health service planning exercise, but collecting reliable data, whether for research on mental health or on the lifestyle and behaviours of certain populations, such as people with diabetes, is no small task.

This data can be collected in a variety of ways. One method is the interpretation of statistical data, for example from the Canada Health Survey.[60] Another is the use of soft data on specific target populations collected through focus groups and surveys or through community consultations.

Unfortunately, there are very few studies on access to French language health services. This is largely due to the fact that the various provincial databases contain very little information on the delivery of French health services. Because health institutions are not required to include a language variable on their intake forms, few data exist on the actual consumption of health services by Francophones. What is more, the MOHLTC has not really succeeded in integrating the Francophone component into its research plans over the years.

The specific or defining characteristics of a target population[61] are crucial when the time comes to plan adequate health resources on a regional and local basis, taking language into account. A Francophone patient's language must be considered a characteristic – a *defining* characteristic – by a health service. French must not be a language barrier for a Francophone patient when receiving medical care.

Understandably, LHINs, which are still very new, have not yet developed the reflex of fully grasping the health care needs of the Francophone population. Be that as it may, the *FLSA* has been in effect since 1989 in the vast majority of designated areas. Failure to act also has consequences. **A lack of reliable data is preventing the planning of appropriate solutions to the health problems that are specific to Ontario's Francophone communities.**

[58] *LISSL*, s. 14(2).

[59] Ontario Regulation 162/07 permits the creation of the French Language Health Services Advisory Council. Its members include: *Alliance des réseaux ontariens de santé en français, Assemblée de la francophonie de l'Ontario, Association française des municipalités de l'Ontario, Fédération des aînés et retraités francophones de l'Ontario, Groupe francophone de l'Association des centres de santé de l'Ontario, Regroupement des intervenantes et intervenants francophones en santé et en services sociaux de l'Ontario*, and *Union Provinciale des Minorités Raciales et Ethnoculturelles Francophones de l'Ontario*. Available online: http://www.pas. gov.on.ca/scripts/en/boardDetails.asp?boardID=141560 (page consulted in March 2009).

[60] The Canada Health Survey provides data on the lifestyle and health of Canadians and these data complement existing administrative databases. The Canada Health Survey data are used by provincial governments for monitoring the health of the population and implementing policies and programs. These data are also used by universities and foreign countries for research and comparative studies.

[61] Picard and Allaire (Eds.), op. cit., p.136. These defining characteristics are described in the 2005 *Institut franco-ontarien* report on the health of Francophones in Ontario, which offers a regional profile of the unique features and specific needs of the province's Francophones.

3.3 Links between LHINs and Francophone Communities

In accordance with the objectives of the *Local Health System Integration Act, 2006*, and the *French Language Services Act*, a LHIN that does not follow all of the recommendations of its French language health planning entity must be able to justify this decision. Making a decision is one thing, but being publicly accountable for it is quite another. If a LHIN is unable to justify an administrative decision, this would constitute a departure from the mandates set out in both acts. This is why I believe that the proposed regulation is flawed. Moreover, reporting administrative decisions in the LHINs' annual report is clearly inadequate. Other accountability measures must be put in place to reassure the Francophone population that the statutes and regulations, including the *French Language Services Act*, are being enforced. For example, the proposed regulation must make provision for at least one annual meeting before making any health service planning decisions. As Commissioner, I see this as the minimum, because it would be unacceptable for a government agency, such as a LHIN, to be unable to justify a decision that went against the recommendations of its French language health planning entity.

3.4 The French Language Services Coordinators

The LHINs have never really understood their new responsibilities where French language services are concerned. Furthermore, the MOHLTC has not succeeded in explaining to them their obligations in the area of French language services, or in adequately coaching them so that they are able to meet these new obligations.

The LHINs must have a clear and unequivocal understanding of their new obligations in the area of French health services. The first step in this process is the adoption of a regulation that is equally clear on this matter. The MOHLTC must also increase its support to the LHINs, both in terms of human resources and in terms of structures.

During the public consultations that were held on the proposed regulation in the Fall 2008, I suggested that provision be made for **French language services coordinators** for each LHIN. On average, each LHIN has 23 full-time employees, seven of whom are dedicated to the planning, integration and community engagement component.[62]

After careful consideration, I am now making this a recommendation. The person chosen for this position must be at the management or senior management level. Naturally, the position would be a designated bilingual position. Ideally, this position would be that of Senior Director, Planning, Integration and Community Engagement.

In my first annual report, I emphasized the importance of taking French language services into consideration right from the policy, program, service and product design stage. Section 13 of the *French Language Services Act* provides for the appointment of a French language services coordinator within each ministry. The legislator's intention was to ensure that these coordinators had direct access to their respective deputy ministers, in order to facilitate the work of planning, internal liaison and follow-up. In the case of the LHINs, if the French language services coordinators were actively involved in their LHIN's strategic planning process, it would be easier to integrate the concept of useful and effective French language services for the well-being of the Francophone communities in the region served by the LHIN.

The primary responsibility of the French language services coordinator within a LHIN would be to supervise the integration of French language services in the LHIN's short, medium and long-term strategy. The coordinator would thus act in an advisory capacity with respect to needs and priorities, and as a liaison both with the Ministry and with the Francophone communities. In addition, by having direct access to the chief executive officer, this person would be in a position to influence the design of the LHIN's strategic directions.

The primary activity of the French language services coordinator within each LHIN would be to ensure follow-up of the activities of the French language health planning entity. This new role must also be described in the proposed regulation.

[62] KPMG, op. cit., p. 64.

Conclusion

Health officials must be made accountable for their obligations and responsibilities in the area of French health services. **A specific and public process of accountability must be implemented to ensure compliance with the obligations of the health system in terms of the access to and quality of French language health services.**

The responsibility for ensuring access to and the quality of French language services must be laid down in an accountability framework to ensure oversight and accountability. The expectations must be clear, performance indicators must be in place, and reports must be required in order to evaluate the progress that has been made.

RECOMMENDATIONS

Recommendation 5

The Commissioner recommends that principles of governance be developed in partnership with the Francophone community and that they be made public and submitted to a public consultation.

Recommendation 6

The Commissioner recommends that greater emphasis be placed on identifying the specific needs of the Francophone population and that the performance measures and the results be validated by the target population and evaluated by an independent entity.

Recommendation 7

The Commissioner recommends that the LHINs' organizational structures be modified in order to provide for the addition of a French language services coordinator position within each LHIN. This position must be filled by a senior manager.

Complaints about French Language Health Services

Francophone citizens who wish to file a complaint often become lost in the complexity of the health care system. They must be made aware that, just like any other member of the public, they may file a complaint against a health institution over the access to or quality of health services in French, whether or other not they received these services. Complaints have a crucial purpose as they provide direct feedback about a public service and can be used to improve it. Unfortunately, members of the public are not adequately informed of their language rights. Health service providers have a responsibility, just like the LHINs and the ministries, in this regard.

4.1 Value of the Complaint Process

Filing a complaint is constructive when it has to do with ensuring respect for the user's rights. It is the most effective way to express frustration and dissatisfaction with a lack of French language services or with their poor quality. Those who complain help to improve the quality of French language health services, and make the agencies that deliver them and those that gave them their mandate accountable.

4.2 Filing a Complaint

Members of the public may file a complaint directly to the health institutions, also named services providers. They can also make a complaint to the LHIN or to the ministries, depending on the circumstances. At all times, they can address a complaint to the Office of the French Language Service Commissioner.

4.2.1 Health Institutions (Service Providers)

A wide range of services is offered by a large number of organizations: hospitals, community health centres, long-term care facilities and homes, family health care teams, health professionals, etc. Every day, thousands of health care workers belonging to a myriad of organizations perform thousands of procedures. It is plausible that complaints may arise from all those procedures. A complaint derived from those acts is probably the most common type of complaint; as it relates to access to a service or to the quality of a service, whether or not it was delivered, by a health institution such as a hospital, a community health centre, etc.

The vast majority of health institutions have created ombudsman positions within their establishment, someone who is assigned to receive and treat patient's complaints. **It is important to try and ensure that each institution assumes responsibility for the French Language services it is supposed to provide.** If an institution is fully or partially designated, or has been identified as having to deliver health services in French, patients should know that they can address a complaint to these institutions.

Unfortunately, citizens are often not even aware of their language rights. Moreover, when they are, it is not when they feel sick and vulnerable that they are going to claim them, even though this would contribute to ensuring that they receive the best diagnosis and treatment possible. Therefore, it is vital to fully understand the patient. It is equally important to ensure that, when patients give their informed consent for a proposed treatment, they understand its repercussions.

The government and the LHINs must play a key role in ensuring that service providers inform patients of the fact that they can file a complaint over a deficiency in a French language health service. This, too, is a matter of accountability and transparency.

If the complaint concerns a professional practising in a health care institution, such as a physician, dentist, pharmacist or resident physician, the Office of the French Language Services Commissioner will redirect the complaint to the applicable service provider or professional body and notify the complainant of its action.

Physicians, dentists or other health care professionals in private practice are not subject to the *French Language Services Act*, but citizens can still address complaints directly to the appropriate professional body.

However, sometimes the institution in question is not able to receive a complaint regarding an alleged breach of the *FLSA*, or its response is not entirely satisfactory. In this case, the complaint may be sent to the Office of the French Language Services Commissioner in order to determine the circumstances and any appropriate action.

4.2.2 LHINs and Ministries

Some individual complaints may become systemic complaints if they are recurrent. Systemic complaints may relate to a wide range of situations such as the organization of services or the configuration of the health care system as a whole. Such complaints may be filed by an individual citizen or a group of citizens. Systemic complaints generally have to do with an organizational deficiency preventing adequate access to French language health services or a flawed accountability process or even the governance structure of a particular institution that does not ensure adequate representation of the Francophone community.

Because I am advocating making officials in the health care system accountable, I recommend that members of the public address their complaints directly to the LHIN or the ministry concerned, such as the Ministry of Health and Long-Term Care or the Ministry of Health Promotion, unless the agency reports to the federal government.

Complaints may also be directed to the French Language Services Commissioner. The Office of the French Language Services Commissioner will then be in a position to put questions of a systemic nature directly to the institution in question.

When in doubt, a member of the public may always contact the Office of the French Language Services Commissioner. The Office team will know how to redirect the complaint, if necessary, and provide the appropriate follow-up.

4.2.3 Office of the French Language Services Commissioner

Members of the public may file a complaint with the Office of the French Language Services Commissioner at any time. Under the *French Language Services Act*, the Office has the power to conduct investigations and is there to process the complaint, promote quality of service, and ensure that citizens' rights to French language services are respected. The Office will make use of the complaints process of the service provider or professional body concerned and ensure that any complaint it receives is followed up.

All government institutions and agencies must cooperate in the review of complaints that are the subject of an investigation. In the field of health, health care institutions that are designated within the meaning the *FLSA* are among the organizations that the Commissioner may investigate. The same is true for the LHINs, which fall within the definition of a "government agency" in the *Act*. After information is collected and an initial analysis performed, the Commissioner shall decide whether the complaint is admissible and proceed accordingly.

The goal is not to make the system less complex, but to ensure that all of the stakeholders in the system assume their responsibility for continuity of service to the public so that the public receives services that are integrated and adapted to its needs, regardless of how complex they are. Like all Ontarians, Francophone Ontarians are entitled to quality services in French.[63]

Conclusion

Members of the public expect that health institution officials will receive their complaints. They anticipate that their complaints will be examined to pinpoint the problem and that efforts will be made to resolve it. The complainant expects to be notified of the results of the investigation into his complaint.

The conclusions of the investigation must include solutions for resolving the issue or recommendations for corrective measures to be taken by the individuals involved. Lastly, members of the public expect their complaints to be handled in complete confidentiality. **As the French Language Services Commissioner, I encourage Ontarians to participate actively, to get involved, and to make themselves heard when they are not satisfied with the quality of the services, by contacting either the institution concerned or the Office of the French Language Services Commissioner.**

RECOMMENDATIONS

Recommendation 8

The Commissioner recommends to the government that clear guidelines be issued to the LHINs about establishing a complaint procedure, as part of the accountability and performance evaluation measures, that is clear and easy-to-follow by any member of the public who feels that a service provider failed to provide adequate access to French language services or that the quality of such services was deficient.

[63] The Ontario Quality Health Council defines quality as a system that is accessible, equitable and patient-centred. For further details: http://www.ohqc.ca/en/strategic_plan.php (page consulted in March 2009).

Consequences of Not Taking Action

For the Francophone population, the consequences of not taking action are very serious. If nothing is done to improve the delivery of French language health services, there will be a direct impact on the health of Francophones. There will also be significant repercussions for the health care system and health care professionals. There will inevitably be a costly lack of efficacy and efficiency, which we can ill afford in the current context of scarce resources. Every day, health professionals see the negative impact of language barriers and cultural barriers on the quality of services that they hope will match their professional commitment. We could see a lack of quality health care combined with over-worked Francophone medical staff, resulting in an increase in the amount of overtime, as well as significant costs caused by inefficiency that sometimes may even lead to absenteeism.

Hence, access to French language health services is an issue of quality of service that must be of concern to every stakeholder in the health care system. Much remains to be done to improve the health and well-being of the Franco-Ontarian population and to bring its health and quality of life to a level comparable to that of the general population of Ontario. Much especially remains to be done to ensure that Francophones have adequate access to quality health services.

Access to French language health services must not be treated as an isolated issue or a separate function by health officials. It is a fundamental component that must be integrated into the clinical, organizational, and systemic aspects of the organization of health services in Ontario.

Ontario's health system is firmly based on the principle of quality of service. As the French Language Services Commissioner, I would like the officials in this system to acknowledge that these principles also apply to access to services that are delivered competently in terms of language and culture.

I recognize that major changes are required and that these changes will be gradual. However, I firmly believe that improving the French language health services that are available in the system must be done with the active involvement of the Francophone community. The community must continue to contribute to the process of designing and implementing government policies in a spirit of understanding, exchange and dialogue. It is important that the community understand the government's motivations and priorities so that it can articulate its own needs and defining characteristics. And this is what the Ministry must ensure as well.

The consequences of not taking action will be very serious for Francophones who are sick and vulnerable if, in addition to dealing with their health challenges, they must grapple with not being understood by health care providers or by a system that has a mission to relieve their pain and, if possible, cure their disease. For this reason, I am calling on the Francophone community, the government, and stakeholders in the health system to engage in an urgent and unprecedented joint course of action to make improved health for Francophones a priority.

LIST OF ACRONYMS

CCAC – Community Care Access Centre
CCFSMC – Consultative Committee for French-Speaking Minority Communities
FCFA – Fédération des communautés francophones et acadienne du Canada, an association representing the Francophone and Acadian communities in Canada
FLHS – French Language Health Services
FLSA – French Language Services Act
LHIN – Local Health Integration Networks
LHSIA – Local Health System Integration Act, 2006
MOHLTC – Ministry of Health and Long-Term Care
MHP – Ministry of Health Promotion