

## **ATTESTATION**

Prepared in accordance with section 14 of the  
*Broader Public Sector Accountability Act, 2010* (“BPSAA”)

**To: The Board of Directors to the Erie St. Clair Local Health Integration Network,  
operating as Home and Community Care Support Services Erie St. Clair**

**From: Cynthia Martineau, CEO, Home and Community Care Support Services Erie St.  
Clair**

**Re: Quarterly Declaration of Compliance  
Reporting period of July 1 – September 30, 2022 (“the Applicable Period”)**

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On behalf of Home and Community Care Support Services Erie St. Clair (“HCCSS”), I attest to:

- The completion and accuracy of reports required of HCCSS, pursuant to section 5 of the BPSAA, on the use of consultants;
- HCCSS’ compliance with the prohibition, pursuant to section 4 of the BPSAA, on engaging lobbyist services using public funds;
- HCCSS’ compliance with all of their obligations under applicable directives issued by the Management Board of Cabinet
- HCCSS’ compliance with their obligations under their respective Memorandum of Understanding with the Ministry of Health (the “Ministry”) in effect; and
- HCCSS’ compliance with their obligations under their respective Ministry-LHIN Accountability Agreement in effect

during the Applicable Period.

In making this attestation, I have exercised the care and due diligence that would reasonably be expected of a Chief Executive Officer (“CEO”) in these circumstances, including making due inquiries of HCCSS staff that have knowledge of these matters.

I further certify that any material exceptions to this attestation are documented in the attached Schedule A.

Dated at Brampton, Ontario, this 19<sup>th</sup> day of October, 2022.

Original signed by

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Cynthia Martineau  
CEO  
Home and Community Care Support Services Erie St. Clair

## **Schedule A**

### **CEO Certificate of Compliance**

**For the Applicable Period: July 1 – September 30, 2022**

#### **1. MEMORANDUM OF UNDERSTANDING**

See below

#### **2. MINISTRY-LHIN ACCOUNTABILITY AGREEMENT**

See below

#### **3. COMPLETION AND ACCURACY OF REPORTS REQUIRED PURSUANT TO SECTION 5 OF THE BPSAA**

No known exceptions

#### **4. PROHIBITION ON ENGAGING LOBBYIST SERVICES USING PUBLIC FUNDS PURSUANT TO SECTION 4 OF THE BPSAA**

No known exceptions

#### **5. COMPLIANCE WITH APPLICABLE DIRECTIVES ISSUED BY MANAGEMENT BOARD OF CABINET**

- a. OPS Procurement Directives
  - See below
- b. OPS Travel, Meal and Hospitality Expenses Directive
  - No known exceptions
- c. OPS Perquisites Directive
  - No known exceptions

### **Note 1 – Healthcare Insurance Reciprocal of Canada (HIROC)**

HCCSS Erie St. Clair may be non-compliant with section 28 of the *Financial Administration Act* (“FAA”): The Community Care Access Centres (“CCACs”) HIROC Subscribers’ Agreements were transferred to the Local Health Integration Networks (“LHINs”) pursuant to a transfer order of the Minister of Health and Long-Term Care (“Minister”), as it then was, under section 34.2 of the historical version of the *Local Health Systems Integration Act, 2006* (“LHSIA”). A reciprocal, by its nature and composition, poses a compliance question under the *Financial Administration Act* because risks are shared amongst all the members; as noted below, there is uncertainty about the compliance of this specific HIROC arrangement. It is not certain from the Minister’s order or from applicable legislation whether or not this increase in the contingent liability of the Crown placed HCCSS in non-compliance with the FAA and with each Ministry-LHIN Memorandum of Understanding. Furthermore, HCCSS has no direct knowledge as to whether or not this matter was addressed in Cabinet’s approvals in respect of the legislative amendment that enabled the transfer.

HCCSS had previously understood, from the Ministry, that the transfer of the agreement under the Minister’s order does not give rise to non-compliance by HCCSS. However, in December 2020, Ontario Health submitted a business case to the Ministry requesting that the Ministry submit HCCSS’ situation to Treasury Board for an exemption. HCCSS awaits the outcome from this recent submission.

### **Note 2 – Ontario Digital and Data Directive, 2021**

The Ontario’s Digital and Data Directive, 2021 requires all data created, collected and/or managed by ministries and provincial agencies to be made public as open data, unless it is exempt for privacy, confidentiality, security, legal or commercially-sensitive reasons. There are no HCCSS processes in place to implement this Directive. HCCSS organizations have not analyzed their data and have not applied the principles in the International Open Data Charter in preparation to release data as a result of resourcing challenges and other provincial priorities.

There is no work underway to address this exception due to resourcing challenges and other provincial priorities. However, HCCSS ensures that they respond to data requests from the public in a timely manner.

### **Note 3 – Archives and Recordkeeping Act, 2006**

Pursuant to a transfer order issued by the Ministry under the historical version of LHSIA, the records of the CCAC transferred to HCCSS. The transfer of these records has resulted in non-compliance with the *Archives and Recordkeeping Act, 2006* (the “ARA”) primarily related to record series alignment and adoption timelines.

HCCSS submitted and received approval for two Patient Care Record Series and one associated Source Document Series from the Archivist of Ontario. HCCSS are in the process of implementing these Series.

#### **Note 4 – Expired Janitorial Contracts**

HCCSS Erie St. Clair has continued with janitorial contracts on a month-to-month basis. Staff have identified this as a procurement need, however due to the pandemic- and transition-related activities, there has not been any opportunity to issue a Request for Proposals for these services. Procurement of cleaning services may be complicated by requirements under the *Employment Standards Act, 2000*, as persons providing cleaning services for a premise are considered 'building service providers' in which case specific legislated provisions apply (e.g. regarding termination and severance pay). HCCSS will need to consider this legislation as part of their procurement plan.

#### **Note 5 – Non-Compliance - Procurement of Service Provider Overflow Contracts**

HCCSS Erie St. Clair is non-compliant with the requirement under each MLAA to adhere to the 2007 CCAC Client Services Procurement Policy & Procedure. Under this Procurement Policy & Procedure, HCCSS may exercise operational considerations where the resulting total contract price will be equal to or less than \$250,000. These contracts provide no guarantee of volume to the Service Provider and are contemplated to augment patient care in scenarios whereby Market Share Service Providers do not have capacity or resources. Due to continued health human resource challenges, these no-volume contracts have exceeded the \$250,000 threshold but continue to be required to ensure patient care. Ontario Health ("OH") has requested that HCCSS agencies with current overflow contracts exceeding \$250,000 in value should provide direction to the overflow contracted Service Providers, requesting each Service Provider to submit an application to Ontario Health to move through the current round of the Pre-qualification Process.

#### **Note 6 – Single or Sole Source Procurement**

HCCSS Erie St. Clair is non-compliant with single or sole source procurement requirements. Single or sole source procurements require approved annual business cases with valid non-competitive exemptions.

HCCSS Erie St Clair's specific matters of non-compliance relate to:

- I. eShift Clinic Model of Care system license renews annually unless terminated. The termination date has passed. The eShift model began as a pilot project in one of the legacy Community Care Access Centres (CCACs) using a new specialized technology. Contract extensions were implemented when the project was still in a research and development phase and there were no comparable solutions. The CCAC received Ministry of Health approval to apply a Broader Public Services (BPS) procurement exemption under the Agreement on Internal Trade applicable to publicly funded health service organizations. It is now clear that alternative technology solutions exist and a competitive procurement should be undertaken and include other HCCSS organizations using (or interested in) the same technology.
- II. HCCSS Erie St. Clair (ESC) has engaged in a single source procurement related to Pay Equity professional services. These services are required to provide guidance and advice to

HCCSS ESC with regard to maintaining its pay equity obligations. Work on this project has been a phased approach and the project is in its final stages, anticipated for completion in calendar year 2022. Should any additional pay equity advisory services be required beyond fiscal 2022/23, a competitive procurement process will be undertaken.

All HCCSS have renewed software licenses through an annual renewals process which is non-compliant with competitive procurement requirements. It is a software that is used to store the electronic documents related to individual patients and is integrated with the Client Health Related Information System (“CHRIS”). It was competitively procured and renewed by Ontario Health on an exception basis given it is a proprietary system and integrated with CHRIS.

**Note 7 – Legislative/Policy Requirements (Corporate Policy on Information Sensitivity Classification, Corporate Policy on Recordkeeping, Corporate Policy on the Protection of Personal Information)**

On July 5, 2021 the Chief Privacy Officer and Archivist of Ontario, acting as the Chief Information Security Officer, issued a memo confirming that the 1. Corporate Policy on Information Sensitivity Classification; 2. Corporate Policy on Recordkeeping; and 3. Corporate Policy on the Protection of Personal Information (collectively referred to as “the Policies”) apply to all provincial organizations. HCCSS organizations have not implemented the Policies consistently or to their full extent.

Due to long-standing hiring freezes and budget reductions, there are approximately 70 HCCSS staff cross-appointed to other HCCSS organizations to support the continuity of home care operations. In addition, each of the 14 HCCSSs has the same CEO and a cross-appointed Board of Directors. This has resulted in corporate records being created across HCCSSs without a structured or documented approach to the management of these records within the appropriate legal entity. Information may not be protected, classified, retained and disposed of in accordance with applicable policies.

A recordkeeping committee across the 14 HCCSS has been formed to advance records management.

**Note 8 – Purchasing Card Program**

The Purchasing Card (PCard) is a mechanism for acquiring and paying for low dollar value goods and services. Use of the PCard reduces the administrative costs of payables associated with low dollar value purchases, improves cash flow and accounts receivable status for vendors, and simplifies the purchase process for employees. Section 7.12.1 of the Ontario Public Service (OPS) Procurement Directive states the PCard must be used for low dollar value purchases. Some HCCSS discontinued the use of the PCard after a period of transition involving Ontario Health and HCCSS. Meanwhile, other HCCSS historically did not use PCards and did not implement the program. The PCard must be used for low dollar value purchases, which are generally deemed to be purchases of \$5,000 or less.

HCCSS are working on a consistent policy and practice across the 14 HCCSS in alignment with the OPS Procurement Directive and PCard program guidelines.

**Note 9 – Receipt of money outside of the Crown in right of Ontario**

Under section 6(4) of LHSIA, HCCSS shall not receive money or assets from any person or entity except the Crown in right of Ontario without the approval of both the Ministers of Health and Finance. On October 3, 2017, HCCSS received an approval to receive money from designated non-Crown in right of Ontario sources. Subsequently, HCCSS identified multiple situations of receiving money from entities that may not be captured by the October 2017 approval. HCCSS intend to work with the Ministry to obtain or confirm approval to receive these monies.

**Note 10 – Direct funding to individuals outside of Ministry-approved programs**

HCCSS Erie St. Clair provides funding to individuals to directly purchase patient care services outside of the Family-Managed Home Care and Self-Directed Care programs approved by the Ministry. These individuals would not be eligible for funding under the two approved programs. A transition plan is being developed to support individuals to move off the program and no new individuals will be added.

**Note 11 – MLAA - Annual Balanced Budget Requirements**

All HCCSSs have internal Administration budgets that are deficits for fiscal year 2022/23 and were required to arbitrarily reduce line items to submit a balanced budget for the Annual Business Plan. HCCSS will work closely with the Ministry during the fiscal year to develop plans that will achieve balanced budgets by fiscal year end and have submitted requests for additional funding. The ability to balance Administration budgets without additional funding will be challenging and require aggressive cost containment strategies.

Annual Balanced Budget Requirements in the MLAA require HCCSS to plan for and achieve an Annual Balanced Budget for their operations.

**Note 12 – Expired Banking Agreement**

HCCSSs have continued with their current banking agreements which expired on April 30, 2022. The agreement with RBC was under a Vendor of Record that expired in January 2021 and no further extensions are available. Under the Interim Procurement Directive, Financial Services are a Mandatory Common Service, supplied by the Ministry of Government and Consumer Services (MGCS). HCCSS staff have been working with the Ministry to determine how to access a new VOR and have recently been informed that MGCS will no longer be supporting a Mandatory Common Service for Financial Services. HCCSS has been asked to proceed independently with a procurement. HCCSS will engage Ontario Health to issue a Request for Proposals for banking services.