

ATTESTATION

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

To: The Board of Directors to the Hamilton Niagara Haldimand Brant Local Health Integration Network, operating as Home and Community Care Support Services Hamilton Niagara Haldimand Brant

From: Cynthia Martineau, CEO, Home and Community Care Support Services Hamilton Niagara Haldimand Brant

**Re: Quarterly Declaration of Compliance
Reporting period of July 1 – September 30, 2023 (“the Applicable Period”)**

On behalf of Home and Community Care Support Services Hamilton Niagara Haldimand Brant (“HCCSS”), I attest to:

- The completion and accuracy of reports required of the HCCSS, pursuant to section 5 of the BPSAA, on the use of consultants;
- The HCCSS’ compliance with the prohibition, pursuant to section 4 of the BPSAA, on engaging lobbyist services using public funds;
- The HCCSS’ compliance with all of their obligations under applicable directives issued by the Management Board of Cabinet
- The HCCSS’ compliance with their obligations under their respective Memorandum of Understanding with the Ministry of Health (the “Ministry”) in effect; and
- The 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 Markham, Ontario, this 18th day of October, 2023.

Original signed by

Cynthia Martineau

Chief Executive Officer

Home and Community Care Support Services Hamilton Niagara Haldimand Brant

Schedule A

CEO Certificate of Compliance

For the Applicable Period: July 1 – September 30, 2023

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 Hamilton Niagara Haldimand Brant 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 FAA 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, the 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.

The 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. The HCCSS awaits the outcome from this submission.

Note 2 – Ontario Digital and Data Directive, 2021

The Directive 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. With the Chief Privacy Officer now in place, there will be an assessment of current state to inform a plan to improve compliance. In the interim, 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 of Health and Long-Term Care in 2017 under the historical version of the *Local Health System Integration Act, 2006* (LHSIA), the records of the CCAC transferred to the HCCSS. The transfer of these records resulted in non-compliance with the *Archives and Recordkeeping Act, 2006* (the “ARA”) primarily related to record series implementation. Three new record series relating to patients have been developed by HCCSS and accepted by the Archivist of Ontario. HCCSS is now working on a SPO Contracts record series.

Note 4 – Expired Janitorial Contracts

HCCSS Hamilton Niagara Haldimand Brant has continued with janitorial contracts on a month-to-month basis. A staggered procurement approach is in place to procure janitorial services for

five HCCSS, one of which is HCCSS Hamilton Niagara Haldimand Brant, with the expectation that the contracts for each HCCSS will be in place by end of Q4, 2023-24.

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

HCCSS Hamilton Niagara Haldimand Brant is non-compliant with the requirement under the Ministry of Health-HCCSS Memoranda of Understanding to adhere to the *2007 Client Services Procurement Policy & Procedures for CCACs*. These overflow contracts augment patient care in scenarios whereby Service provider organizations (SPO) with market share do not have capacity or resources to do so. Due to continued health human resource challenges, these no-volume contracts have exceeded the \$250,000 threshold. HCCSS Hamilton Niagara Haldimand Brant with current overflow contracts exceeding \$250,000 in value has provided direction to the overflow contracted SPOs, requesting each SPO to submit an application to Ontario Health to move through the next scheduled Pre-Qualification Process. Since the Pre-Qualification Process will not be occurring right away, a risk assessment of all SPOs will be conducted with Ontario Health involvement, commencing in September 2023 with the intent to complete by December 2023.

Note 6 – Single or Sole Source Procurement

HCCSS Hamilton Niagara Haldimand Brant 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 Hamilton Niagara Haldimand Brant's specific matter of non-compliance relates to the eShift Clinic Model of Care. The system licenses renew annually unless terminated. The termination date has passed. The model began as a pilot project in one of the legacy 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 may exist and HCCSS will explore new models of virtual care and the associated technology to do so.

All HCCSS have renewed software licenses through an annual renewals process which is non-compliant with competitive procurement requirements. The Docushare solution (Docushare), an integral component of the Client Health and Related Information System (CHRIS), is specific to one vendor and has not been competitively procured. Docushare holds more than 10 million patient records. Docushare was originally procured by the Ontario Association of Community Care Access Centres as a solution for document management in CHRIS. Docushare is a tightly integrated solution, which has been customized to provide interoperability with the CHRIS and Health Partner Gateway (HPG) solution components, and deployed specifically to enable enhanced security of stored personal health information. A solution to mitigate for fiscal 2024-25 is in progress by Ontario Health.

A non-compliance for all HCCSS relates to the continued non-competitive procurement of the existing Benefits carrier contracts. It should be noted that HCCSS did receive approval of their business case submission for an exemption from the open competitive requirements of the OPS Procurement Directive to renew the existing Benefits Carrier contracts for a term of up to eight months [to April 1, 2024], however as part of that approval HCCSS was also directed to report the non-compliance.

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

HCCSS organizations have not consistently implemented these policies to their full extent, however have ensured robust implementation with respect to access and privacy of records. Recordkeeping has become a challenge due to the same CEO for the 14 legal entities and the significant number of cross-appointed staff making it difficult to maintain 14 legal entity books of record. A structured and documented approach to the management of these records is in progress.

Note 8 – 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 has been working with the Ministry and has received clarification on a number of items and is awaiting final confirmation on the remaining items under discussion.

Note 9 – Expired Banking Agreement

HCCSS 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. The HCCSS Board of Directors approved a one-year contract extension with the Royal Bank of Canada expiring December 31, 2023.

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

HCCSS Hamilton Niagara Haldimand Brant provides funding to a Community Support Services agency that uses the funds to reimburse clients who are directly purchasing patient care services. As these clients should be receiving their care through the Ministry's approved Family-

Managed Home Care (FMHC), plans are underway to transition these clients to the FMHC program.