

October 13, 2016.

Mr. Ed Clark  
Chair, Premier's Advisory Council on Government Assets  
Cabinet Office, 1075 Bay Street, Suite 830  
Toronto, ON  
M5S 2B1

Dear Mr. Clark;

Ontario's doctors read with great interest your mandate letter of October 7, 2016 from Minister Eric Hoskins – seeking your advice in valuing of Ontario's digital health program, its assets, and all related intellectual property and infrastructure.

We have grave concerns about how your mandate from Minister Hoskins is being interpreted, and we hope that we can meet with you soon to discuss these concerns.

Core to your mandate letter from Minister Hoskins is the focus on the establishment and maintenance of electronic health records for Ontario residents. To be clear, Ontario's physicians are very concerned about the sanctity of the information shared by their patients in the context of the physician-patient relationship. And, we are worried about the recent efforts of this Ontario government to gather massive amounts of patient data without appropriate controls and with little or no consent from patients.

We are scientists. We recognize that data, obtained through informed consent, aggregated to remove individual identifiers, and controlled in its use, can be a valuable tool to develop our knowledge of trends in health care and identify best practices. However, we are very concerned that the Ontario government is increasingly trending away from aggregated data, and requiring individual patient data. Further, the government is gathering data with little or no indication of its eventual use and without reassurance that there are appropriate governance and oversight mechanisms in place – particularly including informed consent.

We are particularly concerned to read in media reports that the government may be seeking to monetize this data-gathering ability for profit. This was certainly never explained in the process leading up to the government's introduction of the related legislation, which was touted as being "patient centric."

...2

The past year has seen some very aggressive moves by this government to centralize patient data over the objections of physicians and other health-care professionals. In particular, we have seen two specific pieces of legislation which are, in our view, unjustified invasions of privacy that could ultimately result in patients withholding clinically important information from their physicians.

To this end, we highlight Bill 119, which the government passed in the spring of 2016, ignoring physician concerns when we stated clearly that it is irresponsible for government to have access to vast amounts of patients' personal health information without clear consent.

More recently the government has introduced Bill 41 (formerly Bill 210) that allows for unprecedented access to patient records through Health Services Providers (HSPs), which could include physicians practising in Family Health Teams (FHTs).

These are just two examples of a disturbing trend in unauthorized data collection without informed patient consent that this government has implemented – the same government that has asked for your advice.

In patient data as in all things, the OMA continues to advocate for a patient-centred governance framework, which should involve shared decision-making between patients, physicians, and other health system stakeholders, together with the government. The government should not be making such decisions in isolation.

The blunt reality is that we do not currently have a functional eHealth system that benefits patient care, and it is unclear to us currently how your mandate from Minister Hoskins will help encourage or support this. Beyond a delivery strategy that has been focussed, to-date, on data repositories, efforts now should be on developing a functional, practical, usable, and accessible Electronic Health Record across the continuum of care – one that meaningfully helps patients and assists health-care providers. A critical focus on tools and services at the point of care, to enable patients to more fully participate in their health care, is both necessary and overdue.

To be absolutely clear, we are very concerned about any privatization that might occur without appropriate safeguards on patient data.

We hope that you will see our legitimate concerns on this very sensitive issue of patient privacy, particularly as government has given little attention to these matters over the last year.

We hope that as your thinking develops we might meet with you face to face on behalf of the Ontarians we care for, to ensure that their patient data will never be used inappropriately or without their full and informed consent. In the interim, we hope that you will ask the government to pause progress on Bill 41 in the Legislature until your advice can be tabled.



Thank you in advance for including Ontario's physicians in your consultation.

Sincerely,

Virginia M. Walley, MD FRCPC  
President  
Ontario Medical Association

Cc: The Hon. Eric Hoskins, Minister of Health and Long-Term Care  
Dr. Robert Bell, Deputy Minister