

# Overview and Summaries of Value-for-money Audits and Reviews

## Overview

### BETTER INFORMATION HELPS ENSURE VALUE FOR MONEY

There are numerous instances in this, my ninth Annual Report, where we noted that meaningful and reliable information was not being obtained or properly used to enhance the operation of government programs. In addition to enhancing day-to-day decision-making, better information would help government managers measure the results achieved for funds spent. It would also enable the Legislature and the public to reach knowledgeable conclusions about the extent to which their tax dollars have produced value for money. Areas we identified as needing better information include:

#### Auto Insurance Regulatory Reform

The Financial Services Commission of Ontario (FSCO) oversees auto insurance provided by the private sector. Auto insurance premiums are significantly higher in Ontario than anywhere else in Canada, and these high premium levels are driven primarily by high claims costs. However, FSCO does not get enough information to know whether insurance companies are handling claims judiciously and paying out the proper amounts. In addition, auto insurance fraud is estimated to account for up to 15% of all claims in Ontario, and better informa-

tion and more timely action are needed if both the government and the Commission are to proactively address this problem.

#### Electricity Sector—Renewable Energy Initiatives

The *Green Energy and Green Economy Act, 2009* gave the Minister of Energy authority to expedite the development of wind and solar power without many of the traditional planning and regulatory oversight processes. While this undoubtedly helped billions of dollars of renewable energy projects to move forward quickly, there are significant long-term costs associated with this initiative. Within this context, it will be critical for the Ministry of Energy and the Ontario Power Authority to objectively measure the progress to date against the associated costs and provide policy options supported by sound underlying analyses that government decision-makers can use on a go-forward basis.

#### Electricity Sector—Stranded Debt

The restructuring of the electricity sector in 1999 left Ontario Hydro with about \$20 billion in what was called stranded debt—loans that its successor companies could not realistically service in the new, more competitive electricity market. Responsibility for servicing and managing this debt was given to the new Ontario Electricity Financial Corporation (OEFEC). It was expected that about \$7.8 billion of

the debt could not be repaid by the electricity sector, and this debt was classified as “residual” stranded debt. The *Electricity Act* authorized collection of a Debt Retirement Charge from electricity consumers until this residual stranded debt was repaid. The Act requires the Minister of Finance to provide a public update “from time to time” on the outstanding balance of the residual stranded debt. The Debt Retirement Charge began in 2002 and the OEFC has collected more than \$8 billion so far, but no update to the public has been provided. We believe this information should be provided to electricity consumers in the near future.

### Forest Management Program

Private forestry companies that harvest timber are responsible for regenerating areas in which they operate, and the Ministry of Natural Resources is responsible to ensure that the companies carry out this work properly. The effectiveness of such oversight is especially important because forests take upwards of 70 years to regenerate, which leaves little immediate financial incentive for private companies to undertake appropriate renewal activities. We found that while the Ministry has developed a good process to assess regeneration activities, it did not follow through in carrying out the required oversight work and thus did not have reliable information about the extent to which harvested areas were actually being successfully regenerated.

### Funding Alternatives for Family Physicians

The province has traditionally paid family physicians on a fee-for-service basis. In recent years, however, the Ministry of Health and Long-Term Care has encouraged family doctors to participate in alternate funding arrangements designed to, among other things, improve patient access to care. While these arrangements have led to significant cost increases, the Ministry does not have adequate information to enable it to determine whether the new payment mechanisms have achieved their intended purposes.

### Funding Alternatives for Specialist Physicians

The Ministry of Health and Long-Term Care offered alternate funding arrangements to specialist physicians to, for instance, encourage them to provide academic training and to work in more remote areas. While overall payments to specialists have increased significantly, as with family physicians, the Ministry has conducted little formal analysis to assess whether the expected benefits, including improved access to specialists by patients, have been achieved.

### Legal Aid Ontario

Legal Aid Ontario has a mandate to provide legal assistance to Ontarians with little or no income. Although Ontario provides more funding for legal aid on a per capita basis than any other province, it issues the fewest certificates providing full legal representation on a per capita basis, which requires that more people rely on duty counsel and information from its call centre and website. Legal Aid Ontario, in conjunction with the Ministry of the Attorney General, has not conducted any formal analysis of the impact of this on low-income people needing legal representation.

### LCBO New Product Procurement

The LCBO pays its suppliers a percentage of the retail selling price it wants to charge for their products. Other provinces use a similar pricing mechanism. But if the LCBO obtained information on the lowest cost that the supplier was willing to accept, it could assess whether paying that cost would enable it to meet its retail price objectives while at the same time increasing its profit margins.

### Office of the Children’s Lawyer

Our research indicated that no other jurisdiction in Canada provides children with the same range of centralized legal services as Ontario’s Office of the

Children’s Lawyer, which is part of the Ministry of the Attorney General. The Office historically has exercised its discretion to refuse about 40% of child custody and access cases referred to it by the courts. However, it has never formally assessed the impact of these refusals on the children, their parents or guardians, and on the court system.

### Ontario Trillium Foundation

The Ontario Trillium Foundation provides grants to hundreds of not-for-profit and charitable organizations across Ontario, spending about \$110 million each year. While it has a well-defined grant review and approval process, the supporting documentation often did not demonstrate that the most worthy projects were funded for reasonable amounts; nor did the Foundation ensure that recipients always spent the grants for their intended purposes.

### Private Career Colleges

The Ministry of Training, Colleges and Universities oversees 470 private career colleges serving 60,000 students in Ontario. Five years ago, the Ministry stopped collecting information on graduation rates and employment success after graduation. Students who responded to our survey indicated that they would find such information extremely useful when evaluating colleges and their programs. Such data would also provide the Ministry with valuable information about the extent to which the colleges are meeting the needs of students and employers.

### Supportive Services for People with Disabilities

The Ministry of Community and Social Services’ Supportive Services program spent \$571 million providing services to help people with developmental disabilities live at home and work in their communities. However, although the program relies on community agencies to deliver most of the services, the Ministry does not know whether

the agencies are providing the appropriate level of service in return for the funding received; nor does it have reliable information on the level of unmet needs in each community across the province.

### Déjà Vu

On the first page of last year’s Annual Report, I presented a few observations about the challenges facing Ontario over the next decade. I then wrote that I could not take credit for these pragmatic observations, as they were taken from reports issued by Ontario’s Committee on Government Productivity—four decades ago. One of these observations from the early 1970s bears repeating because it aptly sums up my view that the better the information underlying a decision is, the better that decision is likely to be: “The core of sound decision-making is good information. In government, where decisions have far-reaching implications, the means of obtaining and effectively using information are of critical importance as tools for management.”

## OUR WORK FOCUS

### Financial Audits

The Legislature, the media, and the public usually pay the most attention to our value-for-money audits. However, doing financial audits remains one of our most critical legislative responsibilities. The purpose of these audits is to express opinions on whether the province’s financial statements, as well as those of Crown agencies such as the LCBO, the Ontario Securities Commission, Legal Aid Ontario, and others, have been presented fairly. In the same way that corporate shareholders in the private sector expect independent assurance that a company’s financial statements fairly reflect its operating results and its balance sheet, Ontarians want the same assurances about public-sector entities.

I am pleased to report that for the 18th straight year, the Office was able to provide assurance to the Legislature and the public that the government-prepared consolidated financial statements of

Ontario—the largest audited entity in the province—are fairly presented in accordance with Canadian generally accepted accounting principles. The results of this work are discussed in Chapter 2.

Similarly, I can report that we concluded that the financial statements of all the Crown agencies we audited this year were also fairly presented.

### Value-for-money Audits

About two-thirds of the Office's resources are devoted to the conduct of value-for-money audits. These audits focus on assessing the delivery of services to the public rather than being an audit of just the “numbers,” as is the case with our financial audits. The next section in this chapter contains one-page summaries of the 14 value-for-money audits and reviews conducted this year.

### Pre-election Report on Ontario's Finances

The *Fiscal Transparency and Accountability Act, 2004* (Act) requires the Minister of Finance to issue a report on Ontario's finances in advance of a provincial election to provide detailed information on the province's estimated future revenues, expenses, and projected surplus or deficit for the next three fiscal years. A key principle of the Act is that Ontario's fiscal policy be based on cautious assumptions. Because a provincial general election had been called for October 6, 2011, the government released its *2011 Pre-Election Report on Ontario's Finances* on April 26, 2011.

The Act also requires the Auditor General to review this report to determine if it is reasonable, and to release a report on the results of this review. We released our review on June 28, 2011.

Overall, we concluded that the government's estimates of revenues and interest on the public debt were based on prudent and cautious assumptions. However, we also concluded that many of the assumptions underlying its estimates for program expenses (that is, expenses excluding interest on the public debt and reserves) were optimistic and

aggressive rather than cautious, especially for public-sector salaries and health-care costs, which together account for the majority of total expenses.

### The Government Advertising Act

The *Government Advertising Act, 2004* requires our Office to review most proposed government advertising before the items are broadcast, published, or displayed. In the 2010/11 fiscal year, we reviewed 1,082 individual advertising items. Chapter 5 contains a discussion of our work in this area.

### 125th Anniversary of the Office

On March 25, 1886, the *Act to Provide for the Better Auditing of the Public Accounts of the Province* was passed, creating an Office of the Provincial Auditor. That made 2011 our 125th anniversary.

MPPs and past and present staff, including former Auditors General Doug Archer and Erik Peters, attended an April reception at the Legislature.

We also published a booklet on the Office's history, along with brief sketches of the 12 Auditors General of the last 125 years and the Office's evolution from accounting to accountability and from compliance auditing to value-for-money auditing.

Some might think that 125 years of auditing would make for a pretty boring story. But I urge you to peruse this booklet. As you read it, I suspect you will be drawn by the narrative and the accompanying pictures that will take you back in time—and to some rather interesting times at that.

The booklet is available at [www.auditor.on.ca/en/downloads\\_en/oago\\_anniversary\\_booklet.pdf](http://www.auditor.on.ca/en/downloads_en/oago_anniversary_booklet.pdf).

## Summaries of Value-for-money Audits and Reviews

The following are summaries of the value-for-money audits and the review reported in Chapter 3.

### 3.01 AUTO INSURANCE REGULATORY OVERSIGHT

The Financial Services Commission of Ontario (FSCO), an arm's-length agency of the Ministry of Finance, is responsible for, among other things, regulating the province's insurance sector. FSCO's auto insurance activities include ruling on applications by private-sector insurance companies for changes in the premium rates that vehicle owners pay. FSCO must ensure that proposed premiums are justified based on such factors as an insurance company's past and anticipated claim costs and what would be a reasonable profit. FSCO also periodically reviews the statutory accident benefits available to people injured in auto accidents, and it provides dispute resolution services to settle disagreements between insurers and injured people about entitlement to statutory accident benefits.

The government must balance the need for a financially stable auto insurance sector with ensuring that consumers pay affordable and reasonable premiums and receive fair and timely benefits and compensation after an accident. Claims payments are the largest driver of the cost of auto insurance premiums and, with the average cost of injury claims in Ontario being about \$56,000 and five times more than the average injury claim in other provinces, Ontario drivers generally pay much higher premiums than other Canadian drivers do. However, claims costs in Ontario are also high because Ontario's coverage provides for one of the most comprehensive and highest benefit levels in Canada.

The government has begun taking action to address the high cost of claims in Ontario. However, the following observations outline some of the challenges FSCO faces if it is to be more successful in proactively fulfilling its role of protecting the public interest:

- From 2005 to 2010, the total cost of injury claims under the Statutory Accident Benefits Schedule rose 150% even though the number of injury claims in the same period increased by only 30%. Benefit payments rose the most

in the Greater Toronto Area, where drivers also generally pay much higher premiums.

- FSCO had not routinely obtained assurances from insurance companies that they have paid the proper amounts for claims or that they have handled claims judiciously. Without such assurances, there is a risk that unnecessarily high payouts help insurers obtain FSCO approval for higher premium increases.
- Industry estimates peg the value of auto insurance fraud in Ontario at between 10% and 15% of the value of 2010 premiums, or as much as \$1.3 billion. Ontario does not have significant measures in place to combat fraud, and the government and FSCO are awaiting the recommendations of a government-appointed anti-fraud task force expected in fall 2012.
- In approving premium rates for individual insurance companies, FSCO allows insurers a reasonable rate of return—set at 12% in 1996, based on a 1988 benchmark long-term bond rate of 10%. However, that profit margin has not been adjusted downward, even though the long-term bond rate has been about 3% recently. Furthermore, FSCO needs to improve its documentation to demonstrate that it treats all insurers' premium-rate-change requests consistently and that its approvals are just and reasonable.
- FSCO's mediation service is backlogged to the point that resolution of disputes between claimants and insurers is taking 10 to 12 months, rather than the legislated 60 days.
- The Motor Vehicle Accident Claims Fund, administered by FSCO to compensate people injured in auto accidents when there is no insurer to cover the claim, had \$109 million less in assets as of March 31, 2011, than it needs to satisfy the estimated lifetime costs of all claims currently in the system. This unfunded liability is expected to triple by the 2021/22 fiscal year unless, for instance, the \$15 fee currently added to every driver's licence renewal is doubled.

### 3.02 ELECTRICITY SECTOR— REGULATORY OVERSIGHT

The Ontario Energy Board (Board) is charged with overseeing the electricity sector, which provides an essential commodity while operating as a near-monopoly. The Board is responsible for protecting the interests of Ontario's 4.7 million electricity customers, and for helping to see that the sector is run efficiently and cost-effectively, and that it remains sustainable and financially viable.

The Board has about 170 staff and operating costs of close to \$35 million, all of which are paid by the entities that it regulates. The Board sets prices for electricity and its delivery, monitors electricity markets, and approves the administrative costs of the Ontario Power Authority and the Independent Electricity System Operator.

Electricity prices for the average Ontario consumer have risen about 65% since the restructuring of the electricity sector in 1999, and prices are projected to rise another 46% in the next five years. In light of this, the Board's role of protecting consumers while setting rates that will provide a reasonable rate of return for the industry is all the more important.

However, a number of factors limit the Board's ability to perform these duties to the extent that consumers and the electricity sector might expect. Our observations included the following:

- The criterion that electricity bills be just and reasonable applies only to areas over which the Board has jurisdiction—only about half of the total charges on a typical bill. The Board can set rates only for the nuclear power and some of the hydro power produced by Ontario Power Generation (OPG), along with transmission, distribution, and certain other charges. The other half of a typical bill is based on government policy decisions over which the Board has no say, and these costs are not subject to Board oversight. This includes the 50% of the electricity sold to residential customers that comes from other electricity suppliers
- and that, in total, constitutes 65% of the cost of the electricity component of the typical bill.
- Consumers can purchase electricity through their utility at the Regulated Price Plan prices set by the Board or through an electricity retailer that sets its own price. About 15% of residential customers, looking for price stability on their power bills, signed fixed-price contracts with electricity retailers. These consumers could be paying 35% to 65% more for their electricity than they would pay had they not signed those contracts. In the last five years, the Board has received more than 17,000 complaints from the public, the overwhelming majority of them about electricity retailers. Issues included misrepresentation by sales agents and forgery of signatures on contracts. Although the Board follows up on complaints, it has taken only a limited number of enforcement actions against retailers.
- In areas in which it has jurisdiction, the Board sets rates using a quasi-judicial process that requires utilities and other regulated entities, such as OPG and Hydro One, to justify any proposed rate changes at a public hearing. Many small and mid-sized utilities say the cost of this process—\$100,000 to \$250,000 per application—can be as much as half the revenue increase sought in the first place. These costs, generally incurred every four years, are recovered from consumers.
- Individuals or organizations wishing to participate in the hearings on behalf of consumers can obtain intervenor status, and can qualify for reimbursement of their expenses. However, many of the utilities and other regulated entities that have to reimburse the intervenors say the number of requests that they receive can be onerous, the cost of providing detailed information to the intervenors is high, and they want the Board to better manage this process.

### 3.03 ELECTRICITY SECTOR— RENEWABLE ENERGY INITIATIVES

The Ontario government has proposed that the province rely increasingly on renewable energy—especially wind and solar power. One reason for this is to help replace the power lost from the phasing out of coal-fired generation plants, to be completed by 2014. In 2009, the government enacted the *Green Energy and Green Economy Act* (Act) to help attract investments and jobs in renewable energy, promote energy conservation, and reduce greenhouse gas emissions.

The Ministry of Energy (Ministry) has developed programs and policies to implement the Act, and the Ontario Power Authority (OPA) has played a key role in planning and procuring renewable energy by contracting to buy power from developers of renewable energy projects. Under the Act, the Minister is provided with the authority to supersede many of the government's usual planning and regulatory oversight processes in order to expedite the development of renewable energy.

Wind and solar power will add significant costs to ratepayers' electricity bills. It was felt that the higher costs associated with renewable energy were an acceptable trade-off given the environmental, health, and anticipated job-creation benefits. As well, these energy sources are not as reliable as traditional sources, and they require backup from alternative energy sources, such as gas-fired generation.

Our significant observations relating to the implementation of the government's renewable energy policy included the following:

- Ontario is on track to shut down its more than 7,500 megawatts (MW)—the capacity as of 2003—of coal-fired generation by the end of 2014, to be replaced by nuclear power from refurbished plants, an increase of about 5,000 MW of gas-fired generation, and renewable energy, which is projected to increase to 10,700 MW by 2018.
- Because the Ministry and the OPA aimed to implement the Minister's directions as quickly as possible, no comprehensive evaluation was done on the impact of the billion-dollar commitment to renewable energy on such things as future electricity prices, net job creation or losses across the province, and greenhouse gas emissions.
- When the Act was passed, the Ministry said implementing the Act would lead to modest increases in electricity bills of about 1% annually. This was later increased to 7.9% annually over the next five years, with 56% of the increase due mainly to the cost of renewable energy.
- The OPA was directed to replace a successful program—the Renewable Energy Standard Offer Program (RESOP)—with a much more costly Feed-in Tariff (FIT) program that required made-in-Ontario components and encouraged both larger and smaller generation projects, but provided renewable energy generators with significantly more attractive contract prices than RESOP.
- Although the OPA made a number of recommendations that could have significantly reduced the costs of FIT, these were held in abeyance until the two-year review of the FIT program could be undertaken so as to ensure price stability and maintain investor confidence.
- A Korean consortium contracted by the Ministry to develop renewable energy projects is to receive two additional incentives if it meets job-creation targets: \$110 million in addition to the already attractive FIT prices; and priority access to Ontario's already limited transmission capacity. However, no economic analysis or business case was done to determine whether the agreement with the consortium was cost-effective, and neither the Ontario Energy Board nor the OPA was consulted about the agreement.

### 3.04 ELECTRICITY SECTOR—STRANDED DEBT

The restructuring of Ontario's electricity sector in 1999 and the creation of competitive wholesale and retail markets for electricity effective May 2002 meant the province had to deal with the sector's stranded debt. This is defined as that portion of the total debt of the old Ontario Hydro that could not be serviced in a competitive market environment.

On April 1, 1999, the Ministry of Finance determined that Ontario Hydro's total debt and other liabilities stood at \$38.1 billion. This greatly exceeded the estimated \$17.2-billion market value of the assets being transferred to the five new companies that were formed to succeed Ontario Hydro. The resulting shortfall of \$20.9 billion was determined to be "stranded debt." Responsibility for servicing and managing the stranded debt was given to the Ontario Electricity Financial Corporation (OEFEC).

To service and retire the stranded debt, the government's long-term plan called for \$13.1 billion to be funded from expected dedicated revenue streams from the electricity sector, and for the remaining \$7.8 billion—called the "residual stranded debt"—to be funded through a new Debt Retirement Charge (DRC), borne by electricity consumers. Since spring 2002, nearly every Ontario consumer's electricity bill has included the DRC.

We have provided updates in past Annual Reports on the electricity sector's stranded debt, and this year we also reviewed the DRC, in response to ongoing interest shown by members of the Legislature, the public, and the media.

Some of our observations included the following:

- Progress in retiring the overall stranded debt has been slower than anticipated, due primarily to the lower-than-expected profitability of Hydro One and, particularly, Ontario Power Generation (OPG). The lower their earnings, the lower the payments in lieu of taxes they are required to make to the OEFEC. Some of the factors that have affected OPG's profitability

over the past 11 years include cost overruns on electricity-generation projects, volatile investment returns, and public and political pressure to keep electricity rates low.

- The original objective of the DRC, as stated by the then-Minister of Energy in 2000 and reiterated in the OEFEC's 2010 and 2011 Annual Reports, was that it would be paid by consumers until the residual stranded debt was retired. However, external legal advisers we engaged to assist us with our review of the DRC confirmed our view that section 85 of the *Electricity Act, 1998* (Act), which is titled "The Residual Stranded Debt and the Debt Retirement Charge," allows the DRC to be used for any purpose that is in accordance with the OEFEC's objectives and purposes, and not just the retirement of the residual stranded debt.
- Section 85 requires that the Minister of Finance "from time to time" determine the amount of the outstanding residual stranded debt and make this determination public. To date, this has not been done. Given that the DRC has been collected from electricity consumers for almost a decade and that more than \$8 billion in DRC revenue has been collected during that time, we believe that the Minister should make such a determination in the near future and make this determination public. We also suggest that the government consider specifying by regulation, as allowed for under section 85, how the amount of the outstanding residual stranded debt is to be calculated and when it is to be publicly reported.

### 3.05 FOREST MANAGEMENT PROGRAM

Forests cover more than 700,000 square kilometres—about two-thirds—of Ontario. More than 80% of these forests are on Crown land, and their management—harvesting, renewal, and maintenance—is governed mainly by the *Crown Forest Sustainability Act, 1994* (CFSA). The CFSA aims to provide for the long-term sustainability of Ontario's Crown forests so that they meet the social, economic, and environmental needs of present and future generations.

The forest industry is an important source of employment, especially in northern communities. In 2009, overall employment in the industry was estimated at 166,000 jobs, and the value of the sector's products at \$12 billion. However, the industry has experienced significant decline in recent years due mainly to the increase in value of the Canadian dollar and the economic downturn in the United States. Many mills have closed, resulting in a reduction in timber harvest levels and associated forest management activities.

Before the CFSA was enacted, the province was directly responsible for managing Crown forests, including regeneration. Under the CFSA, licensed forest management companies became responsible for overall forest sustainability planning and for carrying out all key management activities, including harvesting and forest renewal, on behalf of the Crown. The province's role in ensuring the sustainability of Crown forests has increasingly become one of overseeing the activities of the private-sector forest management companies. Such oversight is vital given that forests take upwards of 70 years to re-grow and these companies have little immediate financial incentive to carry out appropriate renewal activities.

Overall, we found that improvements are needed if the Ministry of Natural Resources (MNR) and the Ministry of Northern Development, Mines and Forestry are to have adequate assurance about the long-term sustainability of Ontario's Crown

forests. Our significant observations included the following:

- In 2008/09 (the latest period for which information was available at the time of our audit), the two-thirds of the licensed forest management companies that had reported the results of their forest management activities indicated that although 93% of the total area that had been assessed by the companies had met the province's minimum 40% stocking standard, only 51% of the total area assessed had achieved silviculture success—a measure of whether the appropriate or preferred trees have grown back.
- MNR's 40% stocking standard has not changed since the 1970s. Several other provinces hold the industry to higher standards.
- Two factors ensure the likelihood of successful regeneration: preparing the site, not only before planting and seeding, but also before natural regeneration can take place; and then tending the site to kill off competing vegetation. From 2004/05 to 2008/09, only about a third of the area targeted for regeneration was prepared and/or subsequently tended by the forest management companies. Several Independent Forest Audits completed in 2008 and 2009 expressed concern about inadequate site preparation or about non-existent or inadequate tending practices that were leading to reductions in growth, yield, and stand densities.
- Although the Silviculture Effectiveness Monitoring program was a good initiative to assess forest industry regeneration efforts, we found that MNR's district offices were not completing many of the “core tasks” in the program.

### 3.06 FUNDING ALTERNATIVES FOR FAMILY PHYSICIANS

In the past, Ontario family physicians were traditionally paid almost entirely on a fee-for-service basis from the Ontario Health Insurance Plan for providing medical services. Over the past 10 years, the Ontario Ministry of Health and Long-Term Care (Ministry) has significantly increased its use of alternate funding arrangements for family physicians in order to, among other things, improve patients' access to care and provide income stability for physicians.

By 2011, there were 17 types of alternate funding arrangements for family physicians. Under many of the funding arrangements, instead of receiving a fee for each service performed, physicians are paid an annual fee (called a capitation fee) to provide any of a specific list of services to each enrolled patient (that is, each patient who agrees to see the physician as his or her regular family physician). Physicians may bill for additional services, as well as for services to non-enrolled patients, on a fee-for-service basis. In the 2010/11 fiscal year, the Family Health Group (FHG), Family Health Organization (FHO), and Family Health Network (FHN) arrangements accounted for more than 90% of family physicians in alternate funding arrangements, and more than 90% of enrolled patients.

By the end of the 2009/10 fiscal year, more than 7,500 of the province's almost 12,000 family physicians were participating in alternate funding arrangements, and more than nine million Ontarians had enrolled with these physicians. Of the \$3.7 billion in total payments made to the province's family physicians in 2009/10, more than \$2.8 billion was paid to physicians participating in alternate funding arrangements, with \$1.6 billion of this amount related to non-fee-for-service payments, such as annual capitation payments.

In 2007/08, most family physicians participating in alternate funding arrangements were being paid at least 25% more than their counterparts in the fee-for-service system. By 2009/10, the 66% of family physicians who participated in alternate

funding arrangements were receiving 76% of the total amount paid to family physicians. The Ministry has not tracked the full cost of each alternate funding arrangement since 2007/08, or analyzed whether the expected benefits of these more costly arrangements have materialized.

Some of our other significant observations included the following:

- Based on a survey it commissioned, the Ministry estimated that various initiatives, including alternate funding arrangements, have resulted in almost 500,000 more Ontarians having a family physician in 2010 than in 2007. However, the survey also found that patients generally indicated that the wait times to see a physician had not changed significantly. Although more than 40% of patients got in to see their physician within a day, the rest indicated that they had to wait up to a week or longer.
- Of the 8.6 million patients enrolled with either an FHO or an FHG, 1.9 million (22%) did not visit their physician's practice in the 2009/10 fiscal year, yet the physicians in these practices received \$123 million just for having these patients enrolled. Further, almost half of these patients visited a different physician, and OHIP also paid for those visits.
- The annual capitation fee for each patient enrolled in an FHO can be 40% higher than the annual fee for patients enrolled in an FHN, because almost twice as many services are covered under FHO arrangements. Nevertheless, in 2009/10, 27% of all services provided to FHO patients were not covered by the arrangement, and the Ministry paid an additional \$72 million to the physicians for providing these services. Thirty percent of these services were for flu shots and Pap-smear technical services, yet the Ministry had not assessed whether it would be more cost-effective to have the annual capitation payment include coverage for these and other relatively routine medical services.

### 3.07 FUNDING ALTERNATIVES FOR SPECIALIST PHYSICIANS

Specialist physicians provide services in more than 60 areas, including cardiology, orthopaedic, and emergency services, and obtain most of their income from fee-for-service OHIP billings. In the 1990s, the Ministry of Health and Long-Term Care (Ministry) introduced alternate funding arrangements to encourage specialist physicians to provide certain services, such as training new physicians and doing research, as well as to encourage them to work in remote areas of the province. In 1999, the Ministry introduced specialist alternate funding arrangements for physicians who provide emergency services in hospitals.

In the 2009/10 fiscal year, the Ministry paid almost \$1.1 billion under specialist alternate funding arrangements to more than 9,000 physicians, about 17% of the \$6.3 billion the Ministry paid to all specialists that year and more than a 30% increase from 2006/07. As of March 31, 2010, half of the almost 13,000 specialists in the province and more than 90% of the 2,700 emergency department physicians received payments through a specialist alternate funding arrangement.

We found that the Ministry has conducted little formal analysis of whether the alternate funding arrangements for specialists have yielded the expected benefits—such as improving patients' access to specialists—or whether the arrangements are cost-effective. We found, for instance, that payments to emergency department physicians increased by almost 40% between 2006/07 and 2009/10, while the number of physicians working in emergency departments increased by only 10%, and the number of patient visits increased by only 7%.

Some of our more significant observations were as follows:

- There are numerous types of payments and premiums that specialists can earn under alternate funding arrangements, making it difficult for the Ministry to monitor contracts and related payments. For example, for aca-

demical services at Academic Health Science Centres, there are as many as nine different categories of payments.

- Ten Academic Health Science Centres received “specialty review funding” totaling \$19.7 million in 2009/10 to serve as an interim measure to alleviate shortages in five specialty areas. Yet similar interim funding has been given annually since 2002.
- The Ministry paid \$15,000 each to 234 northern specialists, who gave the Ministry permission to collect information on each physician's income from provincial government-funded sources.
- In order to monitor whether specialists funded under academic contracts performed the required services, the Ministry provided the specialists with a checklist to self-evaluate their performance. But the checklists were never requested back, and minimal other monitoring has been done.
- In April 2008, the Ministry paid more than \$15 million to 292 physicians who signed a document indicating that they intended to join a northern specialist alternate funding arrangement. However, 11 of the physicians, who were paid a total of \$617,000, did not subsequently join such an arrangement, yet they were allowed to keep the funding.

### 3.08 LCBO NEW PRODUCT PROCUREMENT

The mandate of the Liquor Control Board of Ontario (LCBO)—a Crown agency with the power to buy, import, distribute, and sell beverage alcohol products in Ontario—is to be a socially responsible, performance-driven, innovative, and profitable retailer. For the 2010/11 fiscal year, the LCBO’s sales and other income totalled approximately \$4.6 billion, and net income was \$1.56 billion. The LCBO remitted virtually all that profit to the province. LCBO sales have increased 67% from 10 years ago, and its net income and the dividends it pays to the province have gone up 80% in that time.

The LCBO offers consumers more than 21,000 products available at more than 600 stores. It uses three methods to select and buy new products. The principal one, both for general-list products and for the Vintages fine wine and premium spirits line, is to issue a call to suppliers, known as a “needs letter,” for a specific category of product. It can also buy products on an ad hoc basis, or, in the case of Vintages, directly from suppliers.

The LCBO has the power to set the retail prices for the products it sells, guided by its mandate to promote social responsibility in the sale and consumption of alcohol while generating revenue for the province. Ontario’s *Liquor Control Act* sets out minimum retail prices for alcohol to encourage social responsibility, and most Canadian jurisdictions operate this way. This means that the LCBO, like other Canadian jurisdictions, does not sell its products at the lowest possible prices, so retail prices for alcohol products are generally higher than those in the United States.

Although some of the products that the LCBO sells are offered at lower prices in other Canadian jurisdictions, an April 2011 survey found that the LCBO had the lowest overall alcohol prices of all those jurisdictions, with the third-lowest prices for spirits and beer, and the lowest wine prices.

Among our observations were the following:

- In the private sector, large retailers use their buying power to negotiate lower costs with suppliers. However, the LCBO, despite being one of the largest purchasers of alcohol in the world, does not focus on getting the lowest cost it can for a product. Rather, the cost it pays is driven by the retail price it wants to charge for a product. The LCBO gives suppliers a price range within which it wants to sell a product. Suppliers’ product submissions include, among other things, the retail price at which they want their product to sell in LCBO stores, and they then work backwards, applying the LCBO’s fixed-pricing structure to determine their wholesale cost. We noted that in some instances suppliers submitted wholesale quotes that were significantly lower or higher than what the LCBO expected, in which cases the suppliers were asked to revise the amount of their quotes in order to match the agreed-upon retail price, which effectively either raises or lowers the price the LCBO pays the supplier for the product.
- The LCBO does not negotiate volume discounts. This is also true of other Canadian jurisdictions we looked at. The LCBO’s fixed-pricing structure gives it no incentive to negotiate lower wholesale costs; doing so would result in lower retail prices, and, in turn, lower profits, something that runs against the LCBO’s mandate of generating profits for the province and encouraging responsible consumption.
- We did note that the LCBO has many well-established purchasing practices that are consistent with those in Canadian and other jurisdictions. However, it could improve some of its processes relating to purchasing and monitoring of product performance to better demonstrate that these processes are carried out in a fair and transparent manner.

### 3.09 LEGAL AID ONTARIO

Legal Aid Ontario is an independent corporation accountable to the Ministry of the Attorney General with a mandate to provide low-income people with consistently high-quality legal aid services in a cost-effective and efficient manner, while recognizing the private bar and clinics as the foundation for providing such services.

Legal Aid Ontario provides assistance to people in three ways: it issues legal aid certificates to people who then retain private lawyers who in turn bill Legal Aid Ontario for those services; it pays and manages about 1,500 staff and contract lawyers to provide duty counsel services at criminal and family courts; and it funds and oversees 77 independent community legal clinics to assist people with government assistance issues and tribunal representation issues, such as landlord–tenant disputes. Legal Aid Ontario received \$354 million in funding during the 2010/11 fiscal year, most of that from the provincial government.

For at least the past decade, Ontario has spent more on legal aid support per capita than any other province, even though it has one of the lowest income eligibility thresholds and issues fewer certificates entitling people to legal aid per capita than most other provinces. Legal Aid Ontario acknowledges the need to address a history of operating deficits, make its operations more cost-effective, improve access to its services, and help make the courts more efficient. We noted that it has a well-defined long-term strategy to address these issues and that it has moved to increase access to legal aid services beyond the issuing of certificates, such as through expanded use of duty counsel available at courthouses and through its new call centre.

We felt that Legal Aid Ontario's multi-year long-term strategy was heading in the right direction. However, the following are some of the areas the program must address if it is to be fully successful in meeting its mandate:

- Only people with minimal or no income qualify for legal aid certificates or for assistance

from community legal clinics, and the financial eligibility cut-offs for qualifying have not changed since 1996 and 1993, respectively. This, combined with an escalation in the average legal billing for each certificate issued, has meant fewer people over the last couple of years have been provided with certificates and more clients have been required to rely on duty counsel, legal advice, and information from Legal Aid Ontario's website for legal services.

- Since its inception in 1999, Legal Aid Ontario has not had a quality assurance audit program in place with the Law Society of Upper Canada to help ensure that legal services provided by contract and staff lawyers to its low-income and vulnerable clients are of a high standard.
- At the time of our audit, Legal Aid Ontario was working to address deficiencies with its lawyer payment system. Most importantly, strengthening of controls is required to ensure that all payments, which total \$188 million annually, are justified.
- Legal Aid Ontario's efforts to extract greater efficiencies from community legal clinics have strained its relationship with the clinics.
- With the significant amount of solicitor–client privileged information on Legal Aid Ontario's information technology systems, we expected it to have performed recent and comprehensive privacy and threat risk assessments of its computer databases. However, the last privacy assessment was in 2004, and its systems have changed significantly since then.

As with our 2001 audit, we again noted that Legal Aid Ontario was lacking key performance measures on the services it provides to its clients and stakeholders, and its annual reporting was three years overdue.

### 3.10 OFFICE OF THE CHILDREN'S LAWYER

The Office of the Children's Lawyer (Office), which is part of the Ministry of the Attorney General, provides children under the age of 18 with legal representation in child protection cases, custody and access cases, and property rights matters such as personal injury claims. Although the Office must provide legal representation for children in child protection cases and property rights cases when appointed by the court, it has discretion in accepting cases when the court requests its involvement in custody and access matters.

The Office has approximately 85 staff, including lawyers, social workers, and support staff. The Office also engages what it calls "panel agents"—approximately 440 private lawyers and 180 clinical investigators—on an hourly fee-for-service basis. For the 2010/11 fiscal year, the Office's expenditures totalled approximately \$32 million. It accepts about 8,000 new cases a year, and, as of March 31, 2011, it had more than 11,000 open cases.

Demand for the Office's legal and clinical investigation services is significant. The Office is unique—no other jurisdiction in Canada provides children with the same range of centralized legal services. Overall, the legal and investigative work done by the Office is valued by the courts, children, and other stakeholders. However, these services are often not assigned or delivered in a timely enough manner.

We identified several areas in which the Office's systems, policies, and procedures needed improvement. Among our more significant findings:

- The Office's case management system was not meeting its information needs, and the Office did not have an adequate process in place for evaluating the cost-effectiveness of its operations. For example, the Office had not adequately analyzed why its payments to panel agents had increased by more than \$8 million, or 60%, over the last 10 years even though new cases accepted each year

decreased by 20% and the Office's overall active caseload did not change significantly over the same period.

- In the 2010/11 fiscal year, the Office exercised its discretion to refuse more than 40% of child custody and access cases referred to it by a court. We found, however, that the Office had not adequately assessed the impact of these refusals on the children and courts. Many of the decisions to refuse cases were made primarily because of a lack of financial resources.
- Although the Office has substantially reduced the time it takes to accept or refuse custody and access cases—from 68 days in 2008/09 to 39 days in 2010/11—it still is not meeting its 21-day turnaround target.
- In custody and access cases in which the Office is asked to investigate and then provide the court with a report and recommendations, Family Law Rules require it to do so within 90 days. However, the Office met this deadline less than 20% of the time and did not have any formal strategy in place for improving its performance in this regard.
- The Office had a sound process for ensuring that personal rights lawyers and clinical investigators were well qualified and selected fairly. However, there was no open selection process in place for the almost 100 property rights lawyers the Office engaged.
- The Office permits property rights panel lawyers to charge up to \$350 an hour when recovering their costs from a child's estate, or from trust or settlement funds. Yet if the same lawyers charge their services directly to the Office, they are paid \$97 an hour.
- The Office's programs for reviewing the quality of the work performed by panel agents did not include an assessment of whether the fees charged were reasonable.

### 3.11 ONTARIO TRILLIUM FOUNDATION

The Ontario Trillium Foundation (Foundation) was established in 1982 as an agency of the Ontario government. Its mission is to build “healthy and vibrant communities throughout Ontario by strengthening the capacity of the voluntary sector, through investments in community-based initiatives.”

In the 2010/11 fiscal year, the Foundation distributed about 1,500 grants worth more than \$110 million to not-for-profit and charitable organizations working in the areas of human and social services, arts and culture, environment, and sports and recreation. Most of the grant money goes to pay the salaries and wages of people working in these organizations.

The agency has a volunteer board of directors and about 120 full-time staff located at its Toronto head office and in 16 regional offices. In addition, more than 300 volunteers may be named to grant-review teams across the province—18 to 24 volunteers on each team—to vote on which projects or organizations should be funded.

Among our observations are the following:

- One of the Foundation’s main responsibilities is to ensure that it gives out its allocation of more than \$100 million each year to community not-for-profit and charitable organizations. A wide range of projects can be funded, as long as they support the local community and relate to the areas mentioned above. The determination of value for money received for each grant may well be in the eye of the beholder, and it is within this context that the Foundation operates.
- Although the Foundation has a well-defined grant application and review process for deciding which applicants receive grants, the underlying process and resulting documentation often did not demonstrate that the most worthy projects were funded for reasonable amounts. This was due to the fact that there was often little documentation available to demonstrate that the Foundation objectively

compared the relative merits of different proposals, adequately assessed the reasonableness of the grant amounts requested and approved, and effectively monitored and assessed spending by recipients.

- Many of the grant recipients we visited could not substantiate the expenditure and performance information they reported to the Foundation.
- We felt the Foundation’s website was comprehensive and informative. However, the Foundation could do more to inform community organizations about the availability of grants and about the application process. It could, for example, consider advertising in local and ethnic-community newspapers.
- Although the Foundation’s administrative expenditures are relatively modest, it nevertheless needs to tighten up certain of its administrative procedures to ensure that it complies with the government’s procurement and employee-expense guidelines.

### 3.12 PRIVATE CAREER COLLEGES

Private career colleges are independent organizations that offer certificate and diploma programs in fields such as business, health services, and information technology. They often cater to adult students who need specific job skills to join the workforce or become more competitive in the job market. There are about 470 registered private career colleges in Ontario serving 60,000 students.

The Ministry of Training, Colleges and Universities (Ministry) administers the *Private Career Colleges Act, 2005* (Act). The Act focuses on protecting the rights of students. Through the Training Completion Assurance Fund, the Act also provides students with the right to complete their training at another institution at no additional cost if the college they are attending ceases operations.

Although the Ministry does not fund private career colleges directly, it provides significant funding to the sector through its employment training and student assistance programs. Over the past three fiscal years, a total of almost \$350 million was provided through the Ministry's Second Career and Skills Development programs to an average of 13,000 students annually for their tuition at private career colleges. In addition, in the last three academic years, almost \$200 million in loans and grants was provided to an annual average of 9,500 students through the Ministry's Ontario Student Assistance Program.

The Ministry has recently undertaken a number of good initiatives to improve its oversight of private career colleges and strengthen protection for students. However, further improvements are needed to ensure compliance with the Act, its regulations, and ministry policies, and to protect students. The following are some of our more significant observations:

- Although it has taken steps to identify and act on unregistered colleges, the Ministry could make better use of information it already has on hand to identify colleges that continue to operate illegally. For example, the Ministry

does not routinely check to see that schools that have been closed remain closed. We reviewed a sample of schools that had been closed and found that a number appeared to be offering courses.

- In 2006, the Ministry stopped collecting information on graduation rates and employment upon graduation for private career colleges, something it does for public colleges. More than 85% of the private career college graduates who responded to our survey said that such student outcome data would have been useful in helping them with their choice of college and courses.
- The Ministry did not have adequate processes in place for assessing the financial viability of colleges when they seek to renew their annual registration. One college with significant losses had its registration renewed without any evidence that its financial viability had been reviewed. The college subsequently closed, costing the Training Completion Assurance Fund more than \$800,000.
- The Ministry can enter and inspect the premises of a registered private career college or an unregistered institution that should be registered. Although a recent risk assessment done by the Ministry identified 180 private career college campuses with multiple compliance risk factors, the Ministry could not demonstrate that it had done enough inspections to manage the risk of non-compliance with the Act and its regulations. There are approximately 470 registered private career colleges with 650 campuses in Ontario, but the Ministry estimated that only 30 campuses had been inspected in 2010.

### 3.13 STUDENT SUCCESS INITIATIVES

Ontario's Student Success Strategy is a collection of initiatives that has been implemented by the Ministry of Education (Ministry) since 2003 to help secondary school students graduate with their high school diplomas. A 2003 Ministry report cited the graduation rate at the time as 68%. The overall objective of the Student Success Strategy was to reduce the high school dropout rate, and raise the graduation rate to 85% by the 2010/11 school year.

The Ministry's Student Achievement Division is responsible for developing and monitoring the Student Success Strategy, while school boards and schools are responsible for delivering the strategy's initiatives. Every board receives funding for one student success leader to help implement programs in its schools, as well as funding for one student success teacher per secondary school who is responsible for providing supports to students at risk of not graduating. In the 2010/11 school year, the Ministry provided almost \$130 million to school boards for the delivery of student success initiatives.

Steady progress has been made toward the goal of an 85% graduation rate, and the rate stood at 81% for the 2009/10 school year. However, we did note some areas where refinements to the initiatives would help ensure that the Ministry's objectives can be met and that students have acquired the knowledge and skills they need to go on to post-secondary education or employment. Some of our observations were as follows:

- Ontario school boards we visited track risk factors such as gender, absenteeism, and course success to help identify students at risk and then provide them with supports. However, we noted that some other jurisdictions have found that targeting supports to specific groups of students based on factors such as ethnicity, disability, and economic status has been very effective in improving graduation rates. For example, targeted programming in one U.S. high school resulted in a 92% gradu-

ation rate for African-American students, which far exceeded the state-wide average of 67% for this group.

- The Ministry's reported graduation rate is based on calculating the percentage of grade 9 students who graduate within five years. However, the 2009/10 graduation rate would have been 72% if it had been based on graduation within the four-year span of high school. On the other hand, the graduation rate would have been 91% if it had been extended to when students reach the age of 25.
- The Ministry relies primarily on tracking changes in the graduation rate to measure the outcome of the Student Success Strategy. However, graduation rates are generally not publicly available by school board, and boards do not use a consistent method of calculating graduation rates, so it is difficult to meaningfully compare rates across the province. Better information is also needed on graduates' level of preparedness for post-secondary studies and employment.
- We noted situations where the work placements in the Cooperative Education program did not appear to complement the students' curriculum requirements for in-class learning. Students earned credits in a wide range of placements, such as clothing stores, fast-food outlets, coffee shops, and laboratories.
- In the 2009/10 and 2010/11 school years, only \$15 million of the \$245 million the Ministry provided to school boards for student success initiatives was allocated based on a direct assessment of student needs. Much of the remaining funding was allocated based on the number of students in each board, rather than being targeted to the boards, schools, and students most in need of support.

### 3.14 SUPPORTIVE SERVICES FOR PEOPLE WITH DISABILITIES

The Ministry of Community and Social Services (Ministry) funds a variety of supportive services programs to help people with developmental disabilities live at home and work in their communities. In 2010/11, the Ministry spent \$571 million on such programs, \$472 million of that through 412 contracts with transfer-payment agencies in nine regions, which provided services to about 134,000 eligible people. The Ministry-administered Special Services at Home (SSAH) program received \$99 million to serve 24,000 families.

Agencies that receive transfer-payment funding provide or arrange for such services as assessment and counselling, speech and language therapy, behaviour intervention therapy, and respite care. Agencies also administer the Passport program, which provides direct funding to families for such things as personal development, as well as social and recreational activities. The SSAH program provides direct funding to eligible families for purchasing supports and services beyond those typically provided by families and that are designed primarily to enhance personal development and provide family relief through respite care.

Many of the concerns noted in our last audit of this program 15 years ago have still not been satisfactorily addressed. The Ministry still does not have adequate assurance that its service delivery agencies are providing an appropriate and consistent level of support in a cost-effective manner to people with developmental disabilities. The Ministry's oversight procedures are still not adequate to ensure that quality services are provided and that public funds are properly managed by transfer-payment agencies.

Although the Ministry is in the midst of a comprehensive Developmental Services Transformation project intended to address these and other areas, it will take several years before many of the issues we identified can be effectively addressed. Among our more significant findings were the following:

- In half the cases we reviewed, agencies lacked supporting documentation to adequately demonstrate a person's eligibility or needs. As a result, agencies could not demonstrate, and the Ministry could not assess, whether the individual was receiving the appropriate level of service or was in need of additional support.
- The Ministry has not established acceptable standards of service, or the necessary processes to properly monitor the quality of services provided. Consequently, it cannot assess whether it is receiving value for money for the funding provided to community-based agencies. Ministry staff rarely visit agencies for these purposes.
- The Ministry is not aware of the number of people who are waiting for agency-based supportive services, information that is necessary for assessing unmet service needs.
- Although one would expect a consistent set of rules about what are appropriate services and, therefore, allowable expenditures under the Passport program, the Ministry has not set such rules. As a result, expenses for services reimbursed in one region were deemed ineligible for reimbursement in another.
- In practice, annual agency funding continues to be primarily historically based rather than needs-based. This exacerbates any previous funding inequities. As a result, some hourly service costs appeared excessive, and the range of costs per hour for similar services varied widely across the province.
- The Ministry had little knowledge of whether the agencies it funded and their boards of directors had effective governance and control structures in place.
- As of March 31, 2011, there was a waiting list of almost 9,600 people who met the SSAH eligibility criteria but were still waiting for SSAH funding.