Concerned Friends of Ontario Citizens in Care Facilities

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Regulatory Registry

Bill 37, Providing More Care, Protecting Seniors, and Building More Beds Act, 2021

Concerned Friends Mission

To advance the health and well-being and enrich the experiences of those living in long- term care homes across Ontario.

Concerned Friends Vision

A system where individuals living in long-term care homes have access to health and support services that best meet their diverse needs; where every person has a voice that is heard, and rights that are respected. Those being served feel safe, cared for, and part of a vibrant inclusive community.

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Introduction

For 40 years, Concerned Friends of Ontario Citizens in Care Facilities (Concerned Friends) has been advocating for a system where all long-term care (LTC) residents have access to services that meet their diverse medical, mental health, social, and emotional needs. They must be safe, cared for, and part of a vibrant community.

The Pandemic has exposed and exacerbated serious system flaws in Ontario's long-term care homes (LTCHs). Concerned Friends understands that these deficiencies were present before the pandemic and that a succession of governments have failed to hold operators to account for protecting those in their care.

The public is now watching and expecting substantial improvement. Bill 37, as it is currently drafted, takes a first step in this direction but much more is needed. Comprehensive and fundamental improvements are needed in funding, accountability, human resources, and service standards.

We thank you for the opportunity to comment on *Bill 37, Providing More Care, Protecting Seniors, and Building More Beds Act, 2021.* We trust that our recommendations will assist your government to address the fundamental and long-standing challenges facing the LTC system, its workforce and most importantly, its vulnerable residents. Now is the time to take bold actions that will transform and create stability in LTC.

Please note the recommendations below are not ranked as they are all equally important.

(1) Increase Accountability, Enforcement and Funding for Compliance:

We agree. Bill 37 reinstates Resident Quality Inspections (RQIs), doubles the current fines and penalties for non-compliance, removes the *Voluntary Plan of Correction*, and grants the government powers to appoint supervisors for troubled homes [as is the current situation].

These are important legislative provisions, and they need to be used to ensure that LTCHs are safe. We support **i**mmediately restoring the annual unannounced resident quality inspection (RQI) home inspections to every LTCH. **However,** additional measures are urgently needed in order to provide the necessary conditions for compliance.

Recommendations:

(1.1) Ensure *full* enforcement of the regulations and the accountability framework embedded in Bill 37 and its regulations. Current standards are not being enforced and current penalties are not being administered. Inspections will not result in change unless there are serious consequences for non-compliance. The power to fine and to have a supervisor is good, but these measures need to be implemented in order to have any effect.

(1.2) Increase operating funding to LTCHs to enable compliance with established standards for, among other items, quality of care and infection control. Funding levels must address inflationary pressures and appropriate working conditions, including salaries for LTC staff. Current funding levels do not support the changes needed to address the increasing needs of LTCH residents.

(1.3) LTC must be funded as a publicly insured, accessible and universal core health service. To ensure a stable and adequate funding stream for LTC, the province should advocate, along with the other provinces and territories, for a designated elder care funding stream through the Canada Health Transfer payments. This will mean being able to obtain federal funding for insured services for LTC.

(1.4) Recognize the connection between compliance and working conditions. Provide funding to address recruitment, retention, and training challenges. This is key to creating a stable and committed workforce that consistently meets regulatory standards. (See other human resource recommendations in Section 3).

(1.5) Improve coordination and public reporting of all quality indicators including inspection results and follow-up action, complaints and critical incident reports, Ministry of Labour inspections, resident and family satisfaction surveys, and others that may apply; (e.g., accreditation). Ensure that residents and substitute decision-makers (SDMs) receive information on the results of the home's compliance with quality standards for LTC, and that they have an opportunity to provide meaningful input into the Home's quality improvement plans.

(2) Reform the Health Care System to Support the Aging Continuum of Care:

LTC needs to be integrated into the health care system in order for its residents to have optimal access to a full range of interventions, and staff have access to best practices and scientific knowledge.

Recommendations:

(2.1) Ensure full integration of LTC into the health care system through formal partnerships that are established between hospitals, primary care teams, and all LTCHs. This way the right expertise can be available at the right time, e.g., infection prevention and control, outbreak, pandemic/epidemic response.

(3) Address LTC Human Resources Challenges (Staffing Levels and Working Conditions):

Concerned Friends' members are regularly in LTCHs and observe, firsthand, how staffing shortages and poor working conditions compromise resident care.

The right staff mix and staffing levels are needed for the aging and changing LTC resident population.[1] The current demographics in Ontario are as follows:

- 83% of residents are older than 85 years of age
- 40% need monitoring for an acute medical condition
- 70% have dementia care needs; 90% have some form of cognitive impairment
- 86% require extensive help with activities of daily living

Currently, approximately 58% of the direct care staffing mix are personal support workers (PSWs) and approximately 70% of frontline workers are part-time, leading to high staff turnover and detracting from continuity of care.

[1] http://longtermcareinquiry.ca/wp-content/uploads/Exhibit-169-Long-Term-Care-in-Ontario-Sector-overview.pdf

Recommendations:

(3.1) Set out a requirement for 4 hours of direct daily care for each resident. The “average" hours of care should be replaced with an established staff per resident ratio that recognizes the medical and care needs of the demographics of residents (See recommendation 3.7).

(3.2) Speed up implementation of increased staffing and 4 hours of daily resident care to at least 2022. Bill 37 sets out “an average” of 4 hours of daily care as a ***target*** by 2025. Targets are not obligations, and 2025 is far too late, and beyond the mandate of this term of government. This timetable for improved staffing levels needs to be moved up to address urgent care needs, especially in the context of the ongoing COVID-19 pandemic.
(3.3) Recognize the increasingly complex medical needs of residents **by legislating, in addition to the Medical Director, that there be a Full-time Attending Physician or Attending Nurse Practitioner (ratio based on # of beds) who is on site and accessible at all times and is responsible for managing and coordinating resident care in their respective LTCH.** Key findings show that the proportion of residents that received physician visits dropped by 16% in Wave 1 of the pandemic compared to normal years. Resident deaths in LTCHs due to COVID-19 were disproportionate compared to the general population during this period.[2]

(3.4) Review required staffing models for LTCHs so that the right mix of staff (PSWs, RNs, RPNs, recreational and behavioural therapists, and other professionals are present to reflect the increased and diverse medical and mental health needs of residents. For example, the Registered Nurses’ Association of Ontario (RNAO) recommends 20% RN, 25% RPN, 55% PSW, 1 nurse practitioner per 120 beds.[3]

(3.5) Ensure that LTC residents have the same access to medical specialists and other health care and social services as other adults living in the community.

(3.6) Regulate PSWs as a licensed health care profession with a regulatory college whose mandate is to protect the public interest, and that is responsible to establish standards for education, licensing, public complaints, discipline and oversight, and on-going training requirements.

(3.7) Immediately improve recruitment and retention in LTCHs by specifically funding an increase in compensation (benefits and wages) for LTC staff comparable to that in the hospital sector for comparable positions. Limit the use of third-party staff by increasing requirements to hire 70% of full-time positions for direct care and other key operating staff; (e.g., cooks, dietary aides). Include funding to expand benefits to part-time staff.

(3.8) Repeal Bill 124, *Protecting a Sustainable Public Sector for Future Generations* Act, 2019. This wage-suppression legislation caps wage increases to 1% per year for three years. The pandemic has exacerbated the Health Human Resources (HHR) shortage due to overwork and resulting in high levels of staff burnout, and with rising inflation many nursing employees are leaving the profession. According to the RNAO, "RN vacancies increased by nearly 50% since the start of the pandemic”. Bill 124 was enacted in 2019 prior to the COVID-19 pandemic. The government must address the economic side effects of the pandemic, in an effort to retain experienced professional staff in LTC and the broader health care system.[4]

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[2] https://www.cihi.ca/en/long-term-care-and-covid-19-the-first-6-months
[3] https://rnao.ca/policy/nursing-home-basic-care-guarantee
[4] https://doris-blog.rnao.ca/post/ontarios-rn-understaffing-crisis-impact-and-solution

(3.9) Make the PSW hourly wage top-up for workers in LTCHs permanent. The Ministry of Long-Term Care acknowledged that "further extending the wage increase will help continue to attract and retain PSWs who provide residents with the care they need and deserve every day."[5] The government must address the wage gap for PSWs beyond the pandemic rather than falling back on a series of temporary extensions. This is necessary to assist with longer term recruitment and retention of PSWs in the LTCH sector.

(4) Increase Total LTCH Beds:

We acknowledge that the majority of Ontarians polled have indicated that they prefer to age at home, and we support the expansion of community services, including other models of LTC, in order to prevent early or inappropriate admission into LTCHs. However, LTCHs will always be an integral part of the health care system for those who are unable to manage their own health and supportive care needs.

The government's call for applications to develop new LTCHs are needed immediately so that those who require LTC care have a place to go. The current shortage of LTC beds (40,000 waitlist) has removed the element of choice and competition in the market. We understand the current reality that more than half of the LTCHs in Ontario are owned and operated by for-profit corporations (56%).[6] Current waitlist data shows that 68% of those on the waitlist indicated a not-for-profit/charitable or municipal/public LTCH as their first choice.[7]

Recommendations:

(4.1) Increase the number of LTCH beds. A wait list of 40,000 people means we have vulnerable seniors who are without services and who may be utilizing health care services that are not appropriate for the level of care necessary.

(4.2) Intentionally develop and **grow the not-for-profit and public component of the LTCH system**. Prioritize these operators when allocating *new* beds.

(4.3) Award new licenses to operators that consistently achieve regulatory standards.

(4.4) Expand existing financial programs so that not-for profit/charitable and public/municipal LTCHs have access to lower cost loans comparable to those that are available to hospitals and public housing (e.g., InfrastructureOntario, Ontario Financing Authority, and Canada Mortgage Housing Corporation).

(5) Enhance Quality of Care and Person-Centered Programming:

Effective and respectful care requires that staff be trained and supported to respond to each individual's needs. This approach should be evident in all aspects of care and service delivery including medical care and clinical treatment, personal support services, psychological and social support, spiritual and bereavement support, access to allied health professionals (e.g., physiotherapy, occupational therapy, etc.), pharmacy, and caregiver support. Plans of care must be adjusted as needs change with an emphasis on the residents' goals of care.

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[5] https://news.ontario.ca/en/release/1000756/ontario-further-extending-temporary-wage-increase-for-personal-support-workers

[6] https://www.cihi.ca/en/long-term-care-homes-in-canada-how-many-and-who-owns-them

[7] healthcareathome.ca

Recommendations:

(5.1) Implement state of the art programming standards for all resident populations including those with dementia. I**ncrease and improve involvement of residents or substitute decision makers** in the needs assessment and care planning processes.

(5.2) We agree with the requirement in Bill 37 that all residents should be provided with care and services that integrate a palliative care philosophy. As our population ages, more people will develop terminal diseases and require skilled care, including palliative care. The average length of stay in a LTCH is 18 months. According to a 2018 study by the Canadian Institute on Health Information (CIHI), only 6% of residents in a LTCH have a record of receiving palliative care in the last year of life.[8] In order for residents to benefit from a palliative care approach, LTCHs must be adequately staffed and trained in palliative care. Residents must have access to palliative care specialists and resources, which support their physical and emotional needs[9]. That requires relying on a recognized definition and established standards for palliative care, such as those adopted by the World Health Organization (WHO).[10]

(5.3) Strengthen the Residents' Bill of Rights. Ensure that all staff, visitors, residents, and SDMs are aware of and understand the *Residents' Bill of Rights*. LTCHs must demonstrate that residents, staff, and family/caregivers are aware of and understand how to make a complaint to the LTCH, Ministry of Long-Term Care and/or contact the LTC Ombudsman. Residents and SDMs must have freedom to advocate without reprisals if a concern arises related to the *Residents' Bill of Rights.*

(5.4) Increase resident and family engagement. Annual surveys provide a necessary feedback mechanism for LTC Homes. Therefore, fund the additional time and resources required to successfully implement and use these annual surveys.

(5.5) Beyond annual surveys, include in Bill 37 the requirement for **LTCHs to conduct other regular assessments** of resident and family satisfaction that are integrated into already established communication processes and procedures. LTCHs must then demonstrate how they are using this data for continuous quality improvement, staff training, and designing business processes that support the overall safety and quality of care and life outcomes for residents.

(5.6) LTCHs must demonstrate regular outreach efforts to establish an active and informed Family Council.

(5.7) Whistle Blower Protection. Each LTC home must have a clear Whistle Blower Protection Policy and be held responsible for complying with, and training staff in this policy, with no fear of reprisals.

[8] cihi.ca/sites/default/files/document/access-palliative-care-2018-en-web.pdf
[9] https://policyoptions.irpp.org/magazines/july-2020/palliative-care-has-been-lacking-for-decades-in-long-term-care/
[10] www.who.int/health-topics/palliative-care

(6) Enhance Infection Control Measures

Residents living in LTCHs are most vulnerable to the spread of infection due to their reduced immune system capacity and congregate living settings. The pandemic exposed the LTCH sector was lacking the essential resources required to handle an emergency pandemic; such as: knowledge and expertise of Infection Prevention and Control (IPAC) measures and surveillance strategies for staff; personal protective equipment (PPE) and training in its use; on-site leadership; strategies for isolating ill residents and those that tested positive; staff to fill vacancies due to sickness or self-isolation; links to acute care hospitals; training in end-of-life and access to relevant medications and staff to administer them; resources for end-of-life decisions; wellness resources for staff; appropriate policies on visitors and the role of the essential caregiver in the residents' quality of life; and adequate IT capacity and internet access to enable video communication with families/caregivers/others during an outbreak. [11]

Recommendations:

(6.1) Require mandatory COVID-19 vaccination and booster shots of all staff, volunteers, students, independent practitioners, visitors, and essential caregivers attending at LTCHs.

(6.2) Implement immediately a maximum of 2 beds per room in all LTCHs.

(6.3) Include the legislative requirement for updated pandemic response and emergency plans, which are to be reviewed and updated annually.

(6.4) Require a trained staff be responsible for an **IPAC program** and Inspectors be required to audit IPAC programs at LTCHs.

(6.5) Ensure IPAC programs include pandemic and epidemic emergency response plans, which include established partnerships with local hospitals and community organizations, regular review and revision, testing, reporting and staff and community updates on changes.

(7) Modernize Building Design and Accommodation to Meet Resident and Staff Needs

Almost half of the existing LTCHs (approximately 30,000 beds) do not meet the province's design standards (Long Term Care Home Design Manual, 2015), in terms of the amount of space per resident and the amenities being provided (e.g. 3 and 4 beds per room). Many of these homes are over 40 years old and need to be redeveloped by 2025 when their operating licenses expire.

Recommendations:

(7.1) Ensure that building layouts **enable effective workflow** to support a safe, caring, and responsive living/working environment, e.g., dementia care, behaviour support.

(7.2) Provide dedicated long-term funding for on-going capital repair and maintenance of LTCHs to ensure that aging facilities are regularly assessed and updated or replaced as needed. Recognize that building maintenance supports livable and safe spaces for residents and staff.

[11] https://www.facetsjournal.com/doi/10.1139/facets-2020-0056