

Ontario Health Coalition
Comparison of Long Term Care Act (Bill 140) to
Our Key Issues in Long Term Care Homes (September 2006)
November 25, 2006

Adequate funding must be provided for ongoing supportive home and community care to offer seniors, persons with disabilities and those with chronic illnesses the opportunity to live in the community as long as possible.

X NOT IN THE ACT

1) A province-wide minimum staffing standard that ensures sufficient hands-on staff to provide a minimum of 3.5 hours per day of nursing and personal care per day per resident. This is to reach the goal of prevention of risk, it is not an optimum. Increases in staffing should be shared proportionately among all members of the health care team. The government must fund and set standards for specialty units or facilities for persons with cognitive impairment who have been assessed as potentially aggressive, and staff them with sufficient numbers of appropriately trained workers.

X NOT IN THE ACT: THERE IS A POSSIBILITY THAT IT CAN BE INCLUDED IN A REGULATION PERTAINING TO STANDARDS BUT THE GOVERNMENT HAS NOT YET AGREED TO THIS.

2) A provincial funding model that is based on a uniform assessment tool across the province to ensure that there are uniform provincial standards and funding assessment tools across all LHINs. The funding model must provide adequate funding for the required staffing ratio set out in #1 and strong accountability as to how that money is spent.

X NOT IN THE ACT: THE FUNDING AND ASSESSMENT TOOLS ARE LEFT TO REGULATION AND LICENSE AGREEMENTS AND LHINS SERVICE AGREEMENTS.

3) The continuance of the new completely random surprise inspection regime with an adequate number of inspectors to respond to complaints within a reasonable amount of time. Any assessment process must include talking with representatives from residents' and family councils where they exist and speaking to nursing and personal care staff.

✓ ANNUAL INSPECTIONS THAT ARE UNANNOUNCED ARE IN THE ACT. OTHER INSPECTIONS MAY BE PRECEDED BY NOTICE TO THE FACILITY UNDER THE REGULATIONS. HOWEVER, THE REGULATIONS MAY EXEMPT SOME HOMES FROM ANNUAL INSPECTIONS.

4) A ratio of 60% of facility beds for non-preferred accommodation and 40% for preferred accommodation should be reinstated. No increase in out-of-pocket fees for beds beyond inflation.

X NOT IN THE ACT: THIS HAS BEEN LEFT TO THE REGULATIONS.

5) All long term care facility beds receive public funding. The legislation must include strong message of support for public and non-profit delivery of care. All new capacity should be built in public and non-profit homes. Operators that transfer their licenses must transfer them to public or non-profit ownership only.

X NOT IN THE ACT: THE ACT IS IN OPPOSITION TO THIS. TRANSFERS FROM NON-PROFITS TO FOR-PROFITS ARE ALLOWED AS SPECIFIED IN REGULATIONS. MUNICIPALITIES IN THE NORTH ARE NO LONGER REQUIRED TO HAVE HOMES. THIS ALLOWS THE BALANCE OF HOMES TO SHIFT FURTHER TO FOR-PROFITS.

6) Family councils should be recognized in the legislation with official recognition of their right to advocate. Families must be guaranteed access to the information required to hold facilities accountable. Complaints by family members must trigger an automatic inspection within two weeks of receipt of the complaint. In the case of abuse, the inspection must be immediate. Inspectors should be mandated to meet with family and resident councils where they exist. The Ministry should continue to provide funding and support to establish and continue family councils through the office of the elder care ombudsperson. There must be whistle-blower protection for residents, families and staff that speak out about poor practices in the homes.

✓/X FAMILY AND RESIDENTS COUNCILS ARE RECOGNIZED AND HAVE A RIGHT TO RAISE CONCERNS OR COMPLAINTS. NO ROLE IN APPEALS OR INSPECTIONS. COMPLAINTS TRIGGER INSPECTIONS IN PARTICULAR CIRCUMSTANCES. IMMEDIATE INSPECTION IN CASES OF ABUSE IS IN THE ACT. NO FUNDING FOR RESIDENTS AND FAMILY COUNCILS IN THE ACT. NO OMBUDSPERSON. THERE IS WHISTLE-BLOWER PROTECTION IN THE ACT.

7) There must be clear and enforced guidelines in the legislation limiting the use of physical, chemical and environmental restraints on residents. Restraints should only be used for the purpose of preventing harm. There must be a clear decision-making process, notification of families, and restraints-as-last-resort policies.

✓ THIS IS IN THE ACT. THERE IS, HOWEVER, SOME CONCERN THAT CHEMICAL RESTRAINTS ARE NOT TREATED THE SAME AS PHYSICAL RESTRAINTS AND ARE NOT RECOGNIZED AS RESTRAINTS IF THEY ARE SET OUT IN THE RESIDENT'S CARE PLAN.

8) Program standards must be reviewed and improved and enforced through the inspection regime set out in #3. More attention must be paid to homes that are non-compliant and strong and effective sanctions must be imposed on homes that are consistently non-compliant with significant care standards including non-renewal of the license to operate.

✓/X THERE ARE POTENTIAL SANCTIONS FOR NON-COMPLIANT HOMES. THERE IS NO OBLIGATION FOR THE MINISTRY TO PURSUE SANCTIONS FOR PERSISTENTLY NON-COMPLIANT HOMES.

9) The training opportunities for front-line staff, administrators, and Compliance Advisors must be improved to ensure consistency and an understanding of how to provide residents and staff a safe, secure and compassionate environment.

THERE ARE TRAINING PROVISIONS IN THE ACT, HOWEVER, THEY NEED TO BE IMPROVED TO COVER EQUITY ISSUES AND PHYCOGERIATRIC ISSUES, AMONG OTHERS.

10) Consultation on adequate regulation of retirement homes should be instituted.

X NOT IN THE ACT.