

August 30, 2022

Ena Chadha
Chief Commissioner
Ontario Human Rights Commission
Dundas/Edward Centre 9th Floor
180 Dundas Street West
Toronto, Ontario M7A 2G5

Via email: cco@ohrc.on.ca

Dear Chief Commissioner:

As you will no doubt recall, we wrote to you last year to request that the Human Rights Commission use its public inquiry powers under section 31 of the *Human Rights Code* to investigate systemic discrimination based upon age against the elderly in the provision of health care in Ontario. We are writing to you again today to urge that you reconsider our request on an urgent basis given the apparently imminent passage of Bill 7, *More Beds Better Care Act, 2022*.

We previously raised grave concern about the designation of disproportionately elderly patients as “Alternate Level of Care” (“ALC”) without sufficient and individualized attention to their particular care needs. Patients designated ALC are routinely treated as “bed blockers” who do not require hospital care, despite data showing that a significant proportion are actually in hospital waiting for another appropriate level of in hospital care, including rehabilitation and complex continuing care. Elderly patients designated ALC are already systematically denied equitable access to publicly-funded health care services in this province.

If enacted, Bill 7 will profoundly exacerbate the discrimination and disadvantage that elderly patients – and their families – experience today. Under Bill 7, any patient designated as ALC may be assessed without their consent, have their personal information shared with long-term care home operators without their consent, have applications to long-term care filled out without their consent and be admitted to a long-

term care (“LTC”) home to which they do not want to go, without their consent. If they resist transfer they may be charged a fee at the uninsured rate of approximately \$1,200-\$1,500 for every single day they remain in hospital. The Ford government has refused to provide clear and detailed information about how the new provisions would be implemented. There are reports, however, that in the north, so-called ALC patients could be sent to an LTC home as far as 300 kilometres away from their homes and families, while in the south patients may be sent up to 100 kilometres away.

There can be no dispute that the province’s hospitals are under intense strain, and that access to health services for all Ontarians is in serious jeopardy. ALC patients are not, however, responsible for this crisis. It is instead the result of Ontario’s long-standing policy of “de-hospitalizing” the health care system by cutting the number of public hospital beds to levels far below population need. As we noted in our earlier correspondence, a copy of which is attached for ease of reference, Ontario now has the fewest hospital beds per capita of any province in the country and ranks third to last in number of hospital beds among all countries in the OECD.

At the same time that the province has been pursuing the most extreme hospital downsizing policy in the developed world, it has also failed to plan to meet population need for long-term care. As we previously noted, Ontario currently has a LTC wait list exceeding 30,000 people. In addition, the acuity of residents admitted to LTC homes has increased dramatically over the past number of years while levels of hands-on care have decreased. The Covid-19 pandemic has made painfully apparent the inadequacy of care – and the deeply disturbing conditions – in many LTC homes. It is hardly surprising that elderly patients would resist transfer to one of these homes, potentially hundreds of kilometres away from their loved ones and the care and scrutiny they might otherwise provide.

Furthermore, the government of Ontario should be actively exploring alternatives to long-term care through in-home and community-based support services that would help community-dwelling older adults stay out of hospital and LTC for longer or even entirely, subject to their right to choose.

The government’s policies of de-hospitalization, failing to provide viable alternatives to LTC and rationing of LTC have long had a profoundly and disproportionately negative impact on elderly Ontarians. Many Ontario seniors designated ALC have been discharged and sent home or to other facilities ill-equipped to meet their care needs – only to be re-admitted to hospital when their health unsurprisingly suffers. Yet rather than seek to redress the gaps and inequities in seniors’ access to health care, the government has

instead adopted an approach that deepens those harms and implicitly holds seniors accountable for its own failings.

The current strain on the hospital system is the entirely predictable consequence of decades of cuts to the number of hospital beds despite a growing and aging population. While the Ford government effectively blames elderly patients for “overstaying” in hospital, this crisis is entirely one of the government’s own making. We agree with the Ford government that the status quo simply is not working. But forcing vulnerable, overwhelmingly elderly patients to bear the consequences of chronic and deliberate underfunding is not the solution. Denying elderly patients appropriate hospital care and discharging them into profoundly under-resourced facilities is not only inhumane and ineffective but also deeply discriminatory.

In our previous correspondence, we submitted that the Commission had a critical role to play on pervasive age-based discrimination in access to publicly-funded health services, which affects the elderly and their families throughout the province. The importance of that role is even greater today. As you are no doubt aware, the Ford government has moved a motion that would advance Bill 7 directly to third reading, without being considered by committee or addressed in public hearings. In other words, not only is the government seeking to enact legislation that runs roughshod over the rights of the elderly, it is also seeking to avoid meaningful debate.

The time is past due for a robust, systemic, equality rights informed inquiry into seniors’ access to publicly-funded health care services in this province. We are therefore renewing our call for the Commission to exercise its inquiry powers, and bring its particular expertise in relation to age-based discrimination to bear on this issue. Ontario seniors and their families deserve no less.

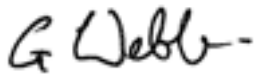
Sincerely,



Michael Hurley
President
Ontario Council of Hospital Unions-CUPE



Natalie Mehra
Executive Director
Ontario Health Coalition

A handwritten signature in black ink that reads "G Webb". The signature is written in a cursive, slightly slanted style.

Graham Webb
Executive Director
Advocacy Centre for the Elderly