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Ontario Health Coalition & Advocacy Centre for the Elderly will go to court to challenge Ford government's new law forcing elderly into long-term care homes against their choice: "an egregious violation of their Charter rights"

Toronto –The Ontario Health Coalition and the Advocacy Centre for the Elderly launched a Constitutional Challenge this morning in response to the Ford government's new law that forces elderly hospital patients into long-term care homes against their choice. The two groups will be co-applicants to the Ontario Superior Court of Justice in what is known as a Charter Challenge, seeking a court ruling to strike down the law as a violation of the fundamental rights of the patients affected under the *Charter of Rights and Freedoms*.

On Sunday November 20, regulations under Bill 7, the euphemistically titled *More Beds Better Care Act (2022)* came into effect, requiring hospitals to charge elderly patients \$400 if they refuse to go to a long-term care home or other service against their will. Despite the title given to it by the Ford government, the Act neither provides more beds nor better care. Instead, it affects patients, the vast majority of them elderly, who are called Alternate Level of Care (ALC) patients waiting for long-term care or other services. It enables hospitals and discharge planners to:

- assess the patient without their consent,
- share their personal health information to an array of long-term care or other companies without their consent,
- fill in their applications without their consent, and;
- admit them into long-term care homes or other services without their consent.

In Southern Ontario patients will be transferred up to 70 km away. In Northern Ontario, patients can be transferred up to 150 km away, or if there are no beds available, any distance. If a patient refuses to go, the hospital is required to charge them \$400 per day.

"The purpose of the legislation and mandatory \$400 fee is to intimidate and coerce older adults to leave hospital, to any destination, even those which are inappropriate," said Jane Meadus, lawyer and institutional advocate at the Advocacy Centre for the Elderly (ACE). "Under this law, hospitalized senior's personal health information can be sent to any long-term care home without their consent, breaching a fundamental right to privacy over health information that every other Ontario citizen enjoys."

"This law will result in the forced admission of older adults into homes far away from their spouses, whom they may have been married to for 50 or 60 years, making it impossible for them to visit, likely for the rest of their lives, causing unimaginable harm to both," added lawyer Graham Webb who is the executive director of ACE. "They can now send a hospital patient to a long-term care home that is hours away from their home, resulting in the inability of family or loved ones to visit on a regular basis. As we saw during the COVID-19 lockdown, this deprivation caused untold harm and suffering to the residents, and Bill 7 will again impose this harm on seniors of this province."

"Bill 7 represents an unprecedented and egregious deprivation of the *Charter* rights of many elderly and vulnerable hospital patients in respect of both their right to life, liberty and security of the person and to equality," recounted Steven Shrybman, lawyer at Golblatt Partners LLP, counsel for the Health Coalition and ACE in the Charter Challenge. "Because the intent of Bill 7 is to coerce certain hospital patients who can no longer be cared for at home into being

placed in a long-term care home that may have a terrible record and be far from their family and community, it is a direct affront to the fundamental right to give informed consent to medical treatment.”

“Bill 7 targets a group of people who are vulnerable and frail because of their physical or mental health issues and/or old age, and therefore their right to equality under Section 15 of the *Charter*,” added Benjamin Piper, lawyer at Goldblatt Partners LLP.

“We have been under enormous pressure from Ontarians in general who are both furious and fearful about being forced into long-term care homes that are far away or that have terrible reputations,” reported Natalie Mehra, executive director. “There is no doubt there is a crisis in our hospitals – a crisis that is the result of government policy *choices* – choices to fund Ontario’s hospitals at the lowest rate in the country and to have the fewest beds of any province staffed and in operation. Choices not to do what is needed to improve the staffing crisis and build more public long-term care beds as quickly as possible. There are many other solutions to the hospital crisis, but steamrolling over the fundamental rights of the elderly and the dying is not one of them.”

“We are talking about elderly patients in the last months of their lives. They are human beings with the same right to compassion and care as all Ontarians. Their lives have value. They cannot just be shipped off against their will to somewhere they are afraid to go, away from their loved ones, where they will most likely die. It is wrong. We have to challenge this, on principle,” she concluded.

The Ontario Health Coalition has compiled a list of long-term care homes with the longest wait lists and the shortest wait lists in each region of the province to illustrate where patients might be most likely to be forced. Available at: <https://www.ontariohealthcoalition.ca/wp-content/uploads/LTC-waitlist-data-final.pdf>

The Ontario Health Coalition has to raise the funds to cover the costs of the Charter Challenge. To give a sense of the work we need to do, we need to find 500 people who will donate \$1000 each, 1000 people who will donate \$500 each, or 10,000 people who will donate \$50 each or 20,000 people who will donate \$25 each. If you can help, please donate here: <https://www.ontariohealthcoalition.ca/index.php/donate-now/>