

Bill 160: Residents & staff still short-changed in long-term care



A response of OPSEU's Long-Term Care Division to Bill 160, the *Strengthening Quality and Accountability for Patients Act*

Introduction

The Ontario Public Service Employees Union (OPSEU) represents 130,000 members across Ontario including more than 3,000 long-term care home workers. We are deeply concerned about changes proposed in Bill 160. An omnibus bill with sweeping implications, Bill 160 would repeal, amend or enact more than 40 pieces of legislation. Most of the provisions of Bill 160 have undergone no public consultation. While we are concerned about the implications of several schedules as proposed under this legislation, OPSEU members working in long-term care are particularly concerned with the implications of Schedules 5 and 10 – amendments to the *Long-Term Care Homes Act* and the *Retirement Homes Act*.

Schedule 5: Proposed changes do not address the fundamental problem

Under Schedule 5 of Bill 160, there are a host of amendments being proposed that would minimize the use of confinement and clarify the rights of, and protections for, residents living in long-term care homes. This is a positive step.

While OPSEU is supportive, in principle, with restricting the use of restraints and the confinement of residents, the proposed legislative changes do not address or rectify the existing systemic issues, which have led to the widespread use of such means: understaffing, and a lack of appropriate resources and beds, among others.

Additionally, while the proposed changes are meant to clarify the rights of the resident and the circumstances under which they could be confined, it is a troubling that the term “confinement” itself has not been defined in the legislation. Rather, the definition is left to be passed by regulation. This is a questionable omission, considering that all amendments pertaining to the use of restraints are premised on that very definition.

Long-Term Care: the ‘wild west’ of Ontario’s health care sector

Ontario’s long-term care sector is in crisis. Currently, Canada has the lowest care levels in long-term care among comparable economies, and Ontario has the lowest standards in all of Canada. As a result, residents are suffering and often confined for too long, making them more susceptible to premature incontinence and loss of mobility.

These issues are compounded by the proliferation of privately-operated homes. In fact, to see how privatization might impact our health care system more broadly, one need only look to Ontario’s long-term care home sector where residents are increasingly forced to pay massive out-of-pocket costs or face long wait lists in accessing publicly-funded long-term care. Our province faces a deepening crisis as more of these facilities come under the ownership of a small handful of major private-sector corporations who cut corners by cutting staff, rationing supplies such as incontinence products, and reducing the quality of food.

In Ontario, the number of individuals waiting to access long-term care has exceeded 20,000 since the late 1990s; this includes residents as young as 18 years old. As more beds are cut from our community hospitals – including complex continuing care beds, which have been halved since the 1990s – patients are continually offloaded from hospitals and into long-term care homes “sicker and quicker.”

These severe cuts to services, combined with an aging population, have meant that staff are increasingly overworked, rushed and expected to do more with less, while patient acuity and the complexity of care is growing. This is dangerous, both for residents and staff alike. Nearly 84 per cent of those entering long-term care homes today have high or very high needs as a

result of cognitive or behavioural problems; the result has been a dramatic spike in violent incidents.

According to reports from the Office of the Chief Coroner of Ontario's Geriatric and Long-Term Care Review Committee, there have been 25 homicides committed by residents inside long-term care facilities in just the past four years. We raise this point not to stigmatize the residents, but to bring awareness to the real safety concerns of those living and working in these homes.

Safety is paramount

Ontario's long-term care home residents and staff have been put at risk for far too long. The increased exposure to violence is the result of the growing complexity of care, limited availability of mental health resources, and too few staff to meet these demands. We know that resident care and well-being depends on a more humane approach, but our homes lack the appropriate number of staff to spend quality time and provide one-on-one care.

The amendments proposed under Schedule 5 do not recognize the dire need for additional resources, more staffing, supports for residents, and appropriate staff training to minimize exposure to these risks.

Repeal Schedule 10

The *Retirements Homes Act* is a deeply problematic piece of legislation; from the outset it created a model of self-regulation for retirement homes, where there are fewer legal requirements than in the long-term care sector. As a result, retirement homes are cheaper to operate. This incentivizes for-profit providers to operate retirement facilities rather than long-term care homes, worsening bed shortages and the quality of care provided. Many individuals who require long-term care end up waiting in retirement homes that are not publicly funded, and where they are forced to cover all costs out of pocket.

It is important to note that retirement homes are not health care facilities. They are governed under the *Tenant Protection Act*. While Schedule 5 sets out to restrict the use of confinement, Schedule 10 does the opposite; it would allow unregulated, for-profit

operators to confine residents. This would never be accepted in any other residential location, and should not be acceptable in retirement facilities. Furthermore, private, for-profit retirement residences should not be substituted for properly-funded and staffed long-term care homes.

Conclusion

While OPSEU supports the effort to reduce the use of confinement, the government must also address the systemic underfunding and understaffing that has plagued Ontario's long-term care sector.

Since the Casa Verde inquest, Ontario's government has known that changes are needed. It was in 2004 when a coroner's jury recommended sweeping changes to Ontario's long-term care system, following the death of two men at a Toronto home in 2001. The jury made 85 recommendations including the need for more staffing, better training, and specialized secure units. To date, the recommendations have never been implemented. OPSEU continues to push for improvements that include:

- **A minimum care standard of four hours of hands-on care per resident per day (contoured based on need).** This includes care provided by RNs, RPNs, and PSWs. Appropriate resources must be provided to ensure this standard is met, and the MOHLTC must monitor and enforce this standard. The standard must be based on hours of actual hands-on care, not paid hours, which can include vacation pay and sick leave.
- **Appropriate funding** for increased access to specialized long-term care homes, with appropriate staffing, including skilled regulated health professionals.
- **More annualized random inspections** for long-term care homes.
- **A provincial strategy to improve access to specialized seniors' mental health services** (as per the recommendations of the Office of the Chief Coroner of Ontario's Geriatric and Long-Term Care Review Committee).
- **Repeal of Schedule 10.**