



OANHSS

**Submission to the Standing
Committee on Social Policy
– Bill 21, *An Act to Regulate
Retirement Homes***

May 2010

Ontario Association of Non-Profit Homes and Services for Seniors

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Introduction

OANHSS is appreciative of the efforts of this government to respond to the needs of seniors and to regulate a sector that delivers accommodation and care services for many seniors across the province. We thank the Standing Committee on Social Policy for providing us with the opportunity to present our perspective on the proposed statute.

We look forward to enhanced regulation in the seniors' services sector. We commend this government for hearing and responding to the concerns about the lack of protection for seniors accessing care services, and welcome the possibility of a more accountable, and resident focused retirement home sector.

This submission provides an overview of our Association's purpose and philosophy; our analysis and identification of areas of concern in the Bill; and the priorities of OANHSS members and the individuals that they serve, based on our knowledge, challenges, innovative projects, successes and expertise.

The recommendations articulated in this submission support the Ontario government's goals to ensure a strong, accountable, high quality, regulated care and services continuum which will help ease burdens on costlier parts of system and assist with reducing Alternative Levels of Care and Emergency Department waitlists. They support this government's commitment to caring for seniors, to developing environments in which seniors may fully realize their potential, to enhance access to care and accommodation in the community, and to fulfilling a quality agenda in regard to care for all Ontarians.

Background

The Ontario Association of Non-Profit Homes and Services for Seniors (OANHSS) is a provincial, membership-based association that has represented not-for-profit providers of care, services, and housing for seniors for over 90 years. Member operations span the full spectrum of the not-for-profit long term care continuum including seniors' housing (including retirement homes), community service agencies, municipal and charitable homes for the aged and non-profit nursing homes. Association members are respected and recognized for their dedication and commitment to quality care and services, and for the active and integral role they play in the communities they serve.

The diversity that is characteristic of seniors' housing is reflected in the OANHSS membership. Housing models operated by OANHSS members include social housing, supportive housing, life lease housing and non-profit retirement homes (please refer to the Appendix for descriptions). Settings often include a continuum of options that can include long term care in addition to a combination of social, supportive, and life lease housing and retirement homes. Buildings may be "mixed use" and include more than one type of housing – for example, life lease and rental housing, or social and supportive housing.

Projects are large and small; high rise, low rise and townhomes; urban, suburban and rural; stand alone and part of a continuum; serve various cultural, linguistic, religious and geographic communities; and are located throughout the province. The common denominators across the OANHSS membership are a not-for-profit philosophy, and a commitment to serve seniors and facilitate aging in place.

Recommendations

We urge the Standing Committee to consider the following priority areas in strengthening the proposed Retirement Homes Act and in improving seniors' care and accommodation services in Ontario:

1. Non-Profit Delivery Models

Recommendation:

- I. **Include a preamble to this legislation stating the government's support for the promotion of not-for-profit service delivery models.**

There are very clearly two distinct delivery modes in the retirement home sector – for profit and non-profit. Non-profit retirement and care home providers have a higher degree of openness and accountability than their for-profit counterparts; their boards are elected from the communities they serve; their meetings are open to residents and the public; and their “books” or operating budgets are open to the public. Support for models of service delivery that include such built-in transparency and accountability should be reflected in the development of this legislation.

This support is embedded in both the *Long-Term Care Homes Act, 2007*:

“The people of Ontario and their Government are committed to the promotion of the delivery of long-term care home services by not-for-profit organizations”

and in the *Local Health System Integration Act, 2006*:

“The people of Ontario and their government are committed to the promotion of the delivery of public health services by not-for-profit organizations.”

OANHSS therefore recommends that the government include a preamble to the proposed *Retirement Homes Act* stating the government's support for the promotion of not-for-profit service delivery models.

2. Care and Services

Recommendations:

- II. **Care and services provided to seniors should meet a consistent, minimum standard, regardless of where they are delivered;**
- III. **regardless of size, all housing providers that deliver care services should be regulated;**
- IV. **retirement home operators should be allowed to establish care packages;**
- V. **section 62 (Plan of Care) should be amended to reflect reasonable, clear roles and responsibilities for operators;**
- VI. **employ the use of standardized assessment tools; and**
- VII. **mirror the requirements of the *Long-Term Care Homes Act, 2007* and Regulation for secure units.**

At present, care services are being delivered under various regulatory frameworks which have few or no provisions that address care standards. For example, care services provided in social housing, supportive housing, and life lease housing are not expected to be included in the regulatory framework provided by the proposed Bill. While we recognize that it would be a significant undertaking to regulate care and services wherever they are delivered, it is the right thing to do. We do not believe the government should be constrained in its ability to protect vulnerable seniors according to the type or size of setting as all seniors deserve the same protections. The focus should be on both care services and any buildings in which care is delivered, and include all housing providers that provide care, regardless of the size of setting.

Of further concern to non-profit housing providers is the operational complexity of a regulatory framework that is applicable to only a portion of their program(s), and the difficulty of incorporating the requirements of the framework into only the applicable programs.

Care and Service Standard

Social housing is regulated under the *Social Housing Reform Act*, the purpose of which is to “provide for the efficient and effective administration of housing programs by service managers”. This Act focuses on administration, powers and duties of service managers, establishment of local housing corporations, eligibility for assistance and so on, not on the care services that seniors may be accessing within the social housing setting.

Supportive housing is offered by numerous OANHSS member organizations across the province. As supportive housing programs are funded by the Ministry of Health and Long-Term Care, operators are required to follow the Ministry’s guidelines in delivering those care services. Those guidelines need to be examined to ensure that they provide a minimum standard of care that is consistent with the requirements in the proposed *Retirement Homes Act* and Regulation.

Similarly, Community Care Access Centres (CCACs) and private service providers may also deliver care services in supportive housing units, or in units that exist in the same building, or on the same campus, as supportive housing. CCAC services and private services are not required to be delivered under a consistent minimum standard of care to that proposed in the *Retirement Homes Act* and Regulation.

Life lease is a third housing option that is common among non-profit seniors’ housing providers, and it may be delivered on the same campus as supportive housing, social housing, and/or long term care. Seniors residing in life lease housing may access care through a number of avenues (e.g. CCAC or privately). These individuals should have the same level of protection through care and service standards as seniors living in retirement homes would have under the proposed *Retirement Homes Act*.

The current definition of retirement home will exclude homes that do not meet the minimum prescribed number of residents and is intended to exclude supportive housing, social housing, and life lease housing. It will effectively limit the government from providing protection to a significant number of seniors across the province. We strongly urge the government to regulate

care for seniors, regardless of where the service is delivered, or by whom, and regardless of the size of the home in which it is delivered.

Operational Complexity

Because the campus on which a service provider may deliver housing programs may include a variety of housing alternatives, sometimes even in the same building, a housing service provider may be responsible for meeting different standards depending on which service provider is delivering the service. For example, in one building one resident may be receiving care services through supportive housing, while another is accessing care services from a private provider. The proposed Retirement Homes Act would not provide for a consistent standard of care services for the two residents.

Care Packages

The proposed Act enables residents to opt in or out of care services provided by the retirement home. We agree with the intention of providing choice for seniors but housing providers need to have the ability to offer choice through care packages, without opt in/out options.

Retirement home operators offer various care packages and encourage residents to select the package they find most appealing and is the best fit with their needs. Once a care package is selected, however, it is very challenging for the operators to accommodate residents opting in or out of the individual services contained in the care package that was chosen.

A common model is for the operator to offer a mandatory minimum service package that sets out basic services (e.g. linen service and a basic meal service) that allows the operator to appropriately staff for the level of service being provided. Once a resident selects a care package, the resident should not have the ability to opt in or out of individual services that are a part of the care plan that was chosen. This allows the housing to remain affordable and for the home to be able to maintain availability of a consistent set of services Residents should be advised in advance of the minimum services that they are purchasing regardless of whether they choose to partake of each and every option.

External Care and Service Requirements

Section 62 of the Act includes provisions requiring a licensee to ensure that the resident is assessed and that a written plan of care is developed based on the assessment. The provisions in this section also include requirements for the licensee to include information in the plan of care regarding the details and goals of any care services being accessed by the resident privately (through an off-site provider). The licensee is required to take all reasonable steps to obtain this information and to put protocols in place to promote collaboration between their staff, external care providers and others involved in the different aspects of care being provided, assessments, development and implementation of the plan of care. Finally the licensee is required to ensure that reassessment and review and amendment of the plan of care occur in a certain time frame or as needed.

While we agree that collaboration between service providers is necessary and beneficial, this section of the Act could prove very challenging for the licensee to meet the requirements as the outcomes may be beyond their control. As drafted, the expectations are unclear and may be beyond the scope of what the licensee can reasonably deliver.

Standardized Assessment Tool

The proposed Act requires that residents be assessed upon admission to a retirement home, and at least every six months thereafter, so that an appropriate plan of care may be developed and maintained. In other sectors of seniors' care, such as in the community and long term care sectors, standardized assessment tools (that have been developed through rigorous research and analysis) are being employed.

The retirement home sector will be out of step with the other seniors' service sectors if homes are not required to utilize an assessment tool that is consistent with the tools being used elsewhere. A standardized assessment tool would be beneficial to enable development of a profile of the population that is using retirement home services so that it may be compared to the senior's populations using community care and long term care. This information would be valuable for long term planning.

In addition, while an assessment may not be completed without the consent of the resident, it is not stated in the proposed Act whether the licensee would be able to refuse admission to a resident who would not consent to an assessment, or to the development of a plan of care.

Secure Units

As drafted the provisions allow for the confinement of a resident to a secure unit provided the confinement is identified in the resident's plan of care. The Bill does not include adequate provisions for a minimum appropriate level of care for the population that we would expect secure units to be applicable to. It is imperative that a very high level of oversight be provided in regard to secure units, and we strongly recommend that if they are to be allowed by this legislation, that the requirements for allowing confinement mirror the admission and care requirements of the *Long-Term Care Homes Act, 2007* and the Regulation.

3. Affordability

Recommendation:

VIII. Ensure the financial burden on providers is fair and manageable.

The costs associated with implementation of this Bill are anticipated to be significant. The regulatory framework is expected to be self sustaining, and therefore, possible funding to cover the costs of remuneration of the Board, inspections (annual and compliance-related), documentation, training, and staffing to meet a higher skilled level is not being considered. However, these costs are likely to prove to be unmanageable for some non-profit service providers, particularly the smaller, stand alone homes.

Non-profit retirement homes aim to provide high quality, affordable retirement home services and the ability of the providers to continue to deliver high quality, affordable services without significantly increasing costs for residents may be very limited. Our members are concerned that they will not be able to provide an affordable option if they are required to absorb significant additional costs. Sources of new expenses include fees that may be set by the Regulatory Authority in relation to anything that the Authority does in administering the Act

and the regulations; remuneration of the Authority; investigations and annual home inspections; and new requirements for documentation, training, and higher qualification levels for staff.

Certain costs for staff training and competencies are universal and therefore would apply to all homes not currently meeting the standard. Smaller homes will not achieve the economies of scale that larger homes and organizations/corporations may benefit from. Homes with lower revenues will have to assume the same training costs as homes with greater revenues, or corporations which include many homes, and will significantly disadvantage smaller, stand alone homes. In these homes, operators may be forced to increase the costs for residents and quality of care may suffer.

4. Authority

Recommendation:

IX. Ensure that provisions in the Act require that:

- a) the Authority include representatives of the consumers; and**
- b) an appeal process for individuals is included.**

The potential for the Authority to not include representatives of consumers it is being created to protect is strong. The process as currently drafted will require that the Lieutenant Governor in Council appoint the interim directors, and they will then elect the remaining directors at the appropriate time. At this time, it is not apparent what qualifications will be sought in a director as the Minister may, by order, set these requirements. Therefore, as noted above, we recommend that the Authority include representatives of consumers.

While the Bill provides an appeal process for homes through a tribunal and court, the individuals who raise complaints have not been provided with such a process. In their case, the decision of the Registrar is final. An appeal process should be developed for residents of retirement homes that is consistent with that developed for residents of long term care (providing an option to appeal to the Health Services Appeal and Review Board). The lack of an appeal process combined with lack of representation on the Authority is very concerning.

5. Ministry Action and Implementation

In addition to the recommendations noted previously, we make the following recommendations related to development of the regulations and the implementation of the Act.

Recommendation:

- X. Ensure a transparent and collaborative process for the development of all regulations;**
- XI. develop (collaboratively) a concrete, phased action plan and approach to implement change; and**
- XII. ensure that an evaluation process is incorporated into the implementation plan so that appropriate data may be collected, and that the evaluation process is initiated in a timely manner.**

The Act sets out an exhaustive list of provisions and details that will be prescribed by order or regulation. In order to ensure that this Act is successfully implemented, the regulations should be developed in close cooperation with stakeholders – including consumers and providers and agencies that advocate for the rights of seniors. Compliance will be much more achievable, and transition to a regulated environment a more successful process, if the consumers, advocates, and providers are engaged and can contribute and have concerns addressed.

In order to achieve a high level of success over time, such an initiative requires an implementation plan which includes clear timelines, accountabilities, responsibilities, cost projections, funding and evaluation details. The design and implementation plan must involve the numerous stakeholders (service providers, funders, individuals, families) who comprise, fund or access seniors care and accommodation services. It would be unrealistic to hope that an unregulated sector would have the skills, resources, capacity to become compliant with a new regulatory framework without supports.

Conclusion

While our submission has focused in some detail on specific provisions and intentions of the Bill, the key message we wish to convey is our deeply held conviction that care and services for seniors should be regulated and must meet a consistent, minimum standard regardless of where they are delivered.

We recognize that the retirement home sector is a very diverse and extensive entity, and commend this government for this very positive step forward, toward a future for seniors that promotes choice, autonomy, respect, dignity, and safety and security.

Thank you for giving our recommendations your consideration.

Summary of Recommendations

Highlighted in each section of this paper are recommendations and narratives providing detail relevant to the issue. In summary, our key recommendations are:

Category	Recommendations
1. Non-Profit Delivery Models	I. Include a preamble to this legislation stating the government's support for the promotion of not-for-profit service delivery models.
2. Care and Services	II. Care and Services provided to seniors, regardless of where they are delivered, should meet a consistent, minimum standard.
	III. Regardless of size, all housing providers who deliver care services should be regulated.
	IV. Allow retirement home operators to establish care packages.
	V. Amend Section 62 (Plan of Care) to reflect reasonable, clear roles and responsibilities for operators.
	VI. Employ the use of standardized assessment tools.
3. Affordability	VII. Mirror the requirements of the Long-Term Care Homes Act, 2007 and Regulation for secure units. VIII. Ensure the financial burden on non-profit providers is fair and manageable.

Category	Recommendations
4. Authority	<p>IX. Ensure that provisions in the Act require that:</p> <ul style="list-style-type: none"> a. the Authority include representation from the consumer group; and b. an appeal process for individuals is included.
5. Ministry Action and Implementation	<p>X. Ensure that a transparent and collaborative process is developed and implemented for the development of all regulations.</p>
	<p>XI. Develop (collaboratively) and implement a concrete, phased action plan and approach to implement change.</p>
	<p>XII. Ensure that the evaluation process is incorporated into the implementation plan so that appropriate data may be collected, and that the evaluation process is initiated in a timely manner.</p>

Appendix

Models of Care Services and Accommodation

This appendix is provided to assist in clarifying the existing housing and care options that may be implicated by this Bill, or that currently do not appear to be required to provide a minimum standard of care. Seniors residing in such homes, or receiving care as described, are not currently benefiting from protection.

Retirement Homes

Retirement Homes are rental accommodation for seniors who are able to manage and pay for their own care. Generally, retirement homes are designed for seniors who need minimal to moderate support with their daily living activities. These settings enable residents to live as independently as possible, while providing some services and social activities. Retirement homes are sometimes called "retirement residences" and sometimes provide nursing staff or health care aides for medication administration and personal care. They may also provide 24 hour supervision, meals (often in a common dining room), recreational activities, and laundry and housekeeping services. Anyone can apply to a retirement home, however the retirement home may assess needs to ensure that residents do not need more support than the home can provide.

Life Lease

Under a Life Lease Plan, residents purchase a life lease interest in property and a suite; residents are neither tenants nor owners. The price of the life lease may be based on the market or may be determined by a formula; this varies by project. Residents have exclusive use of their individual suites and shared use of all common areas and facilities. Residents may be able to sell their Right to Occupy, or the life lease interest may be purchased from the resident by the operator of the Life Lease. Life Lease communities enable residents to belong to a community designed to meet their changing needs and to lead as independent a life for as long as possible. Residents may have the option of purchasing support services and some life lease projects which are connected with long term care homes may provide some level of support.

Supportive Housing

Supportive Housing is designed for people who require minimal to moderate care, such as homemaking or personal care and support, and are able to live independently with this level of support. Supportive Housing can be found within many types of seniors housing including rental units within an apartment building or a variety of large dwellings shared by people, each of whom has some private space.

Supportive housing buildings are owned and operated by municipal governments or non-profit groups including faith groups, seniors' organizations, service clubs, and cultural groups. Accommodations, on-site services, costs, and the availability of government subsidies vary with each building. The care arrangements between a tenant and a service provider are usually defined through a contract between the two parties.

Social Housing

Social housing may be in the form of high-rise buildings, houses or rooming houses, mid-rise buildings, low-rise buildings and townhouses. Many tenants are low-income households paying 30% of their income on rent while others are moderate-income households paying market rent. The types of social housing available include:

- non-profit housing;
- public housing (owned and managed by municipal housing corporations); and
- co-operative housing (owned and controlled by the residents; units cannot be sold).

In addition, the government offers a rent supplement program in which government pays a subsidy to a private landlord to allow lower income people to access housing in the private sector.

Responsibility for social housing lies with municipal governments referred to as Service Managers, often counties or regional municipalities. The Service Managers are responsible for funding and administration of all social housing.



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