

May 21, 2020

Natalia Kusendova, MPP
Chair, Standing Committee on Social Policy
99 Wellesley Street West
Room 1405, Whitney Block
Queen's Park, Toronto, ON M7A 1A2
Re: Submission to the Standing Committee on Bill 175 –
Connecting People to Home and Community Care Act

Attention:
Eric Rennie, Committee Clerk
comm-socialpolicy@ola.org

Dear Ms. Kusendova:

Care Watch is a not-for-profit volunteer-run advocacy organization led by senior citizens. We advocate for high quality home and community care services for Ontario's seniors. We have no political affiliation and work with decision makers and politicians of all stripes to establish and maintain an equitable home care system that supports safe and dignified ageing.

We applaud government's goal of modernizing home and community care. COVID-19 has highlighted serious, and dangerous, gaps in the way Ontario cares for its seniors. Available data concentrate on long-term care homes, but the situation in the community – where the vast majority of seniors live – is probably, if anything, more dire. Yet home and community care services can help keep seniors out of hospital emergency rooms and long-term care homes, both of which face even greater pressures than when the bill was drafted.

Bill 175 is bare-bones legislation; we are disappointed, however, that there is no statement of purpose or objects that reflect the public interest. In rescinding the *Local Health Systems Integration Act, 2006*, we lose Ontario's "...enduring commitment to the principles of public administration, comprehensiveness, universality, portability, accessibility and accountability as provided in the Canada Health Act"¹ and commitment to "...equity and respect for diversity in communities ..."²

Care Watch recommends that commitment to the principles of public administration, comprehensiveness, universality, portability, accessibility, and accountability, as well as equity and respect for diversity in communities, be included in the Preamble to the *Connecting Care Act, 2019*.

¹ Preamble. *Local Health Systems Integration Act, 2006*.

² Ibid.

Submission: Bill 175 – Connecting People to Home and Community Care Act

Some of our concerns about Bill 175 come not from what it says, but what it doesn't say. A great deal is left to regulation and policy. Unlike legislation, regulations can be passed, repealed, or changed at any time by Cabinet with no public input, thus limiting consultation and informed debate. Our concerns include:

- **Accountability and oversight.** The Ministry's oversight is extended, but only for prescribed home and community care services, and the Minister may no longer approve, disapprove, or remove authorized providers. Unlike the *Home Care and Community Services Act*, Bill 175 provides no clear qualifications for approved provider status or penalties for failing to maintain qualifications. The public, via the Minister, needs to know that a provider is financially able to provide a service and is operating with competence, honesty, integrity, and concern for those who receive service and those who provide it.

Care Watch recommends that the Minister's authority to approve, disapprove, and remove authorized providers be reinstated to the *Ministry of Health and Long-Term Care Act* and that qualifications for approved provider status and penalties for failing to maintain qualifications be inserted in the *Connecting Care Act*.

We also note that, although Ontario Health can be audited by the provincial auditor, providers may use their own auditors, applying generally accepted audit standards. These providers may not necessarily report the consistent and comparable data that support public accountability and sound decisions.

Care Watch recommends requiring that: (a) service providers publicly file key agency records, quality management and assurance processes, and plans for preventing, recognizing, and addressing physical, mental, and financial abuse; and (b) compliance monitoring be enhanced by defining standardized service performance and financial data to be publicly reported.

- **Service categories and settings.** We acknowledge that broad service categories may permit greater flexibility. We also welcome expanding care settings to include supportive housing, adult day programmes, and residential congregate care. However:
 - If each Ontario Health Team determines the services it will provide, without a standard basket of services accessible to all Ontarians, we fear services could be inconsistent and inequitable.
 - There is an absence of programming for services such as assistance with health and personal care for vulnerable seniors in independent living settings.
 - There are no criteria or standards for residential accommodation/congregate care settings or their providers. New, unlicensed settings could result in a resurgence of private, for-profit retirement homes, which have been the sites of some serious (sometimes fatal) incidents.
 - Expansion of hospital-based community care promotes the medicalization of ageing and the potential for funding duplication and competition with non-medical community-based services.

Care Watch recommends that clear standards, including accountability and oversight of both care settings and providers, be built into the proposed regulatory scheme for all residential congregate models and that the Ministry of Health's inspection responsibilities and capacity be enhanced.

- **Placement and care coordination.** Bill 175 transfers responsibility for planning, funding, and delivering home and community care services to Ontario Health Teams and other (unspecified) providers. We regret the fragmentation of regional service planning, especially since we see no provision for funding these necessary functions within health teams. Our understanding is that health team partners must

Submission: Bill 175 – Connecting People to Home and Community Care Act

allocate a portion of their funding for planning. Since those who provide funds tend to dictate how those funds are used, smaller and non-profit partners may have a smaller voice in the planning process.

In addition, despite retaining primary responsibility, health teams may assign care coordination to a for-profit or not-for-profit health organization or to a contracted service provider. An organization that both coordinates and provides care can unilaterally limit numbers and types of visits and resources and then deliver (or not deliver) service, so there is an inherent conflict of interest. Also, a wide array of organizations coordinating and/or providing care will increase the risk that such services will be increasingly privatized and also inconsistent and inequitable.

Care Watch recommends that clear, consistent qualifications and accountability be established for organizations permitted to coordinate care and that adherence to established criteria be monitored.

- **Electronic service delivery.** COVID-19 has demonstrated the value and potential of helping people connect with care providers through secure electronic means and remote monitoring. While we are generally supportive of these initiatives, is there assurance that patients' rights and preferences will be listened to? Will virtual services be accessible to all, regardless of location, cost, language, or culture? Will there be protocols for responding to injuries or other emergencies? Will privacy and security be protected? We also note that private telehealth/virtual health providers are entering the market at increased rates, with no clear provision for accuracy and quality control.

Care Watch recommends that the Ministry provide cybersecurity and privacy protections in accordance with privacy legislation. We also recommend that clear and enforceable standards for accountability, quality control, and accessibility be established for all telehealth and virtual health services and providers, regardless of whether such services are publicly funded, subsidized, or for-profit.

- **Eligibility for home and community care.** We understand that basic eligibility to receive service continues to be based on OHIP coverage and that additional service-specific qualifying criteria now articulated in Ontario Regulation 386/99 will be continued. Already, the myriad of additional qualifying criteria creates a confusing array of hurdles for clients. With more possible inconsistency in applying criteria, as each health team determines which clients will receive which service, equity can be challenged. Service rationing based on funding, already a concern, is likely to increase.

Care Watch recommends that the additional qualifying eligibility criteria for home and community care services be clarified and based more directly on standard assessments of need.

- **Client rights and protections.** We understand that the current Bill of Rights in the *Home Care and Community Services Act, 1994 (HCCSA)* will be repealed and an updated Bill of Rights (not yet available) established by regulation rather than legislation. Given that Bill 175 will also eliminate the current ability of the Minister to approve or disapprove agencies depending on compliance with the Bill of Rights, we question how such a Bill of Rights will be enforced.

Care Watch recommends that: (1) compliance with the (updated) Bill of Rights be an enforceable criterion for all service providers; (2) processes be put in place to monitor and enforce compliance; and (3) the Minister's authority to approve, disapprove, or remove agencies based on compliance with the Bill of Rights be restored.

Submission: Bill 175 – Connecting People to Home and Community Care Act

Ontario Health Teams will be establishing processes for complaints about home and community care service eligibility and conditions, quality, and alleged violations of rights. We understand that decisions about these complaints can be appealed to the Health Services Appeal and Review Board (HSARB), although the HSARB advises that complaints about service quality and lack of respect for rights under the Bill of Rights are not appealable.

With each health team establishing its own procedures, how are fairness and procedural consistency guaranteed within and across health teams? Further, although not mandatory, HSARB appeals generally require legal advice and/or representation. Community legal services are already decimated, so accessibility to appeals may be limited. Additionally, the HSARB will need more resources to increase its capacity to render timely decisions.

Care Watch recommends that all Ontario Health Teams be given clear, standardized guidelines on complaints procedures and standards for administrative fairness and that the proposed regulation clarify issues that are and are not appealable to the Health Services Appeal and Review Board.

- **Not-for-profit service delivery.** Previous practice favouring non-profit community service delivery was established through LHIN service agreements and not regulation. Without those agreements, despite public statements favouring not-for-profit service providers, there is currently no obvious protection for non-profit service delivery. For example, without consistent qualifications, prospective providers are not on equal ground. Large corporations can engage in predatory pricing and business strategies that undercut non-profit service providers and eliminate them as competitors.

Care Watch recommends that protections for not-for-profit service providers be built into selection criteria and processes.

Care Watch appreciates the opportunity to submit comments and questions about Bill 175. We look forward to receiving information on the amended Bill before its further passage through the House.

Respectfully submitted,



Michèle Harding
Chair, Care Watch Ontario

Copy:

Minister Christine Elliott MPP, Ministry of Health

Minister Raymond Cho MPP, Ministry of Seniors and Accessibility

Amy Olmstead, Director, Home & Community Care, MOH

Jaqueline Cureton, Assistant Deputy Minister, Policy, Programs and Strategic Partnerships Division, MSAA