ACE
Advocacy Centre for the Elderly

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1984 to 2024

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VIA REGULATORY REGISTRY SUBMISSIONS

Honourable Natalia Kusendova-Bashta
Minister of Long-Term Care
438 University Avenue, Floor 8
Toronto, ON M5G 2K8

Dear Minister:

RE: Proposal Number 25-HLTC011
Publication Period for Long-Term Care Inspection Reports

The Advocacy Centre for the Elderly ("ACE") welcomes the opportunity to provide feedback on the proposed amendments to the *Fixing Long-Term Care Act ("FLTCA").*

ACE is a specialty legal clinic that was established to provide a range of legal services to low-income seniors in Ontario. Its mission is to uphold the rights of low-income seniors, and its purpose is to improve the quality of life of seniors by providing legal services which include direct client assistance, public legal education, law reform, community development and community organizing. ACE has been operating since 1984 and was the first legal clinic in Canada with a specific mandate to serve older adults and with expertise in elder-law issues.

Given ACE's experience in legal issues affecting the rights and interests of older adults in Ontario and throughout Canada, we trust that our feedback concerning the proposed changes will be of assistance.

PROPOSAL

The Ministry of Long-Term Care ("The Ministry"), proposes to establish a three (3) year publication period of inspection reports published on-line. It states that it would continue to retain reports outside the three-year publication limit and would provide those reports upon request.

The purpose is stated to be to allow the public to more easily navigate and find relevant and current history about potential long-term care homes, and to stay updated on the safety and quality of the long term care homes.

We oppose this amendment.

Inspection Reports

Availability of Reports for Only Three Years

We utilize this website on a daily basis, as do our clients and callers. We have never heard a complaint about the fact that the Ministry posts inspection reports back to 2010, when the *Long-Term Care Homes Act*, *2007* came into force. The reports are listed in chronological order, with the most recent first. This allows the reader to go back as far as they believe is necessary to meet their needs. In some cases, this will only be a short time; in others, if the history is problematic, it could be more.

Having a lengthy history is useful. It allows the reader to see changes in compliance, for better or worse, and to enable them to ask questions. For example, changes in ownership, which can be seen on the reports, may help explain why there was a sudden change in these reports, allowing the reader to ask further questions. It also allows the reader to determine whether there have been major or minor issues in the past. For example, if a home has been under a mandatory management order for a lengthy period of time, had cease admission orders, or has had a lengthy history of problems in certain areas, this may be important information to a potential applicant, even if it happened years ago.

Having the entire history available not only benefits the reader, but could also benefit the home. Members of the public are generally looking at the inspection reports when considering a home for themselves or a member of their family. They may be aware of a home in their community having had issues in the past – which could be 10 or 15 years ago. By looking at the history of the inspection reports for a specific home, they can see whether this has continued over the long-term, or if it was limited to only a short time but now has a history of compliance. This information is crucial to the informed choice that is required by the *Health Care Consent Act* (“HCCA”) and the *FLTCA* when choosing long-term care homes.

Our office often reviews reports many years back to assist applicants and residents of long-term care homes to determine whether or not issues have been dealt with in the past, what the overall history of the home is, etc. Limiting the reports to only three years would severely impact the rights of both applicants and residents of long-term care homes, as important information about the history of the home would no longer be easily accessible.

While there may be over 30,000 reports in the current database, this is not what the public is looking at. The public looks at discreet homes in their area or wherever the

home they are interested is located. Having access to the entire history of a home back to 2010 is not a burden on the public, who have the choice to look back at as few or as many as they wish.

Availability of Reports on Request

In the analysis of the regulatory impact in the proposal, it states that there is no direct compliance cost to regulated entities as a result of the proposal.

What it does not analyse is the effect on the public to access reports.

While the proposal indicates that the older reports would be available "upon request", this is putting an extra burden on the public to access information which should be readily available.

We currently already have issues in obtaining copies of current inspection reports to which the person is the complainant on the issue which was inspected. Adding more bureaucracy to access public information is the opposite of what is required in this situation.

Currently, the public can see the reports and access them if they so choose. Under this proposal, they will have an added step. This will discourage many of them from accessing this important information.

We are also concerned that this will now require a request to be made under the *Freedom of Information and Protection of Privacy Act* ("*FIPPA").* Again, this would create an added bureaucratic step which is not necessary, as well as prevent many people from accessing these reports. Residents in long-term care homes, especially those who are low income, will find it very difficult to comply with the requirements of a request under the act, including the provision of the nominal $5 fee. Residents do not generally have access to paper, envelopes, stamps, or cheques, which would be required to make such a request. To do so, they may have to request the assistance of the home, which they may not wish to do, given the context. This would therefore abrogate their rights under the *FLTCA*.

We are also concerned about length of time that it would take to get this information. If the request must be made through *FIPPA*, the reply is to be within 30 days, which will be too long, especially if the person wishes to view the reports to make long-term care home choices. If the application is for a patient in hospital, huge amounts of pressure are put on applicants/substitute decision-makers to choose very quickly: not being able to easily access this information and being required to request the information will be a burden to them. It is likely that they will have to choose, and possibly a bed be offered, for a home that they are unable to get timely information about. This would contravene the requirements of informed consent under the *HCCA* and s. 52(2) of the *FLTCA*.

Needed Changes Regarding Inspection Reports

We have noted that in the past few years, there have been changes to public reports of inspections in long-term care that do affect the public, and for which we have encountered numerous complaints.

In the past, under “Document”, reports were identified by the type of inspection: for example, complaint, critical incident, proactive inspection, cease admissions, whether there were orders, etc. Currently, the document is simply labeled as “Inspection” with the date, and indication of whether it is in English or French. This is actually more confusing for the public, and does not give you any information at all about the contents of the report. This information was very helpful to the public, and it should be reinstituted.

The reports themselves have now become so sanitized that the general reader gains little to no understanding about what has occurred to bring about a finding of non-compliance. Older reports contained more information about the incident, which enabled people to understand them. We frequently receive complaints about inspection reports from the public about the lack of information actually contained in them.

We would be pleased to discuss our concerns and those of our callers with you.

CONCLUSION

We oppose the amendment and encourage the Ministry to continue to publish all long-term care reports on a publicly available website.

Should you have any questions or wish to discuss our concerns, please do not hesitate to contact the undersigned.

Yours truly,

ADVOCACY CENTRE FOR THE ELDERLY

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