



SUBMISSION

BY THE

ONTARIO FEDERATION OF LABOUR

TO THE

STANDING COMMITTEE ON SOCIAL POLICY
CONCERNING THE
LONG-TERM CARE HOMES ACT, 2006

JANUARY 17, 2007

The Ontario Federation of Labour (OFL) welcomes this opportunity of appearing before the Standing Committee on Social Policy to discuss the *Long-Term Care Homes Act, 2006* (Bill 140).

The sad state of long-term care in our province has been noted by many, for example, in the Long-Term Care Facilities section of our October 2005 report, *Understaffed & Under Pressure: A reality check by Ontario health care workers*, which may be found in the appendix of this document. Even the Minister of Health and Long-Term Care, when confronted with the state of the sector in December 2003, promised a “revolution” in long-term care.

For our members, Bill 140 is a flawed piece of legislation reflecting the betrayal of Ontarians by this government. It is a betrayal of the wishes and needs of our seniors. It is a betrayal of Ontarians who provide quality care in facilities across this province. It is a betrayal of Ontario families who have members in these facilities. It is a betrayal of the wider community of Ontarians who believe that quality care for those in need is both desirable and attainable.

This government knows the state of long-term care in our province. Bill 140 reflects the attitudes and actions of a government that does not listen to Ontarians.

Our Vision for Long-Term Care

The Ontario Federation of Labour constitutes the largest provincial labour federation in Canada. The 700,000 members of the OFL are drawn from more than 1500 locals of 40 different unions. Our members work in all economic sectors and live in communities across Ontario, from Kenora to Cornwall and from Moosonee to Windsor.

Since our founding convention in March 1957, the OFL has consistently advocated for our vision of a universally accessible public health care system for all Ontarians.

Our vision for health care draws on the experiences of:

- Dedicated health care workers who provide needed services, and who are profoundly troubled by the

misdirection of public policy and the failures of the institutions which employ them; and

- Workers and their families who in the past used or continue to use the services of Ontario's health care system.

Our vision for health care is outlined in two recent OFL documents. The first of which is a major policy paper entitled *Rebuilding Health Care* (available on the OFL website at www.ofl.ca). It was developed with the valuable assistance of our affiliated unions in health care, discussed and endorsed by delegates at the last OFL convention in November 2005.

The second document is an October 2005 report entitled *Understaffed & Under Pressure: A reality check by Ontario health care workers* (also available on the OFL website at www.ofl.ca). In May and June 2005, the Ontario Federation of Labour, working in conjunction with affiliated health care unions, sponsored meetings in 15 Ontario communities to examine the consequences of understaffing. The report is a record of first ever meetings of health care workers from all sectors and unions. They

came to mutual conclusions that all sectors and workplaces have been hard hit by understaffing; that the problems associated with understaffing, and its consequences are systemic and serious.

On the issues of long-term care we have worked closely with our affiliated unions in health care. These unions have thousands of members who are the dedicated workers who provide quality services in this sector across Ontario. We have also worked closely with our community allies through organizations such as the Ontario Health Coalition.

The OFL November 2005 convention policy paper *Rebuilding Health Care* called for specific actions which the McGuinty government could begin to implement immediately in the long-term care sector:

- A required minimum standard of 3.5 hours per day of nursing and personal care for residents.
- Staffing levels that reflect not only the numbers of staff but also the appropriate classifications and qualifications of

staff to ensure that residents receive the care that is appropriate to their needs.

- Soliciting ongoing input into long-term care policies by workers through their union, residents and their families.
- Increase capacity of workers to have a say in what is happening in their facilities by instituting regular, unannounced inspections and mandate inspectors to speak with residents, family and workers about conditions. Implement whistleblower protection for workers who complain about conditions and for the protection of residents.
- Mandatory reporting and monitoring of staff levels instead of the Liberal “voluntary compliance”. This will ensure that there is proper use of government monies.

There are a number of broad areas of concern that we have with Bill 140. They include:

- 1) The lack of a staffing standard,
- 2) Identification of needs and solutions,
- 3) Undermining of non-profit sector, and
- 4) Geographic differences in standards.

Lack of a Staffing Standard

The most fundamental flaw of Bill 140 is that it does not address the chronic and critical understaffing issue in long-term care. We believe that a legislated province-wide staffing standard is a necessity if we (as a society) are serious about addressing the needs of this sector. This is an action we expect our government to take on behalf of all Ontarians whether or not they are now, or will become, residents or workers in long-term care facilities.

There was a staffing standard of 2.25 hours of minimum nursing and personal care per patient per day until it was eliminated by the Conservative government of Mike Harris in 1996. Ontarians became aware of the implications of this action. In 2001, a PriceWaterhouseCoopers study reported that Ontario had the lowest amount of total care hours per nursing home resident per

day in a sample comparing, Canadian provinces, a number of American states and a European country (Netherlands).

The Ontario Liberal Party joined with others who sought the re-introduction of staffing standards. A November 7, 2002, Liberal Party introduced resolution in the legislature stated:

“...that in the opinion of this House, the Ernie Eves government should immediately establish minimum standards of care for nursing homes and homes for the aged, including the reintroduction of minimum hours of nursing care and the requirement for a minimum of at least one bath a week.”

Many of the Liberal MPPs who spoke in favour of this resolution in 2002 are playing a variety of roles in the Liberal government of Dalton McGuinty in 2007.

Dalton McGuinty, in his April 4, 2003 response to a question from the Ontario Federation of Labour stated:

“We have a comprehensive plan to improve the quality of life for residents of long-term care facilities. Our plan includes restoring standards and providing the necessary funding to increase the level of nursing care that long-term care residents receive. Inspectors will be required to audit the staff to resident ratios, the number of nursing hours per patient, the mix of staffing and number of staff who have taken a course in the care of seniors.”

In a December 2003 response to a series of investigative articles into the long-term care sector in *The Toronto Star*, the Minister of Health and Long-Term Care, George Smitherman promised a “revolution” and fixing this problem would be “his top priority”. But by October 5, 2004, in a meeting of the Standing Committee on Estimates, the same Minister had changed his tune and said that he would not be reinstating the 2.25 hours staffing standard.

Even an April 2005 Coroner’s Jury report into the deaths of two residents in a Toronto nursing home in 2001– which made 85 recommendations, including the need for staffing standards, has not moved this government.

Through their Bill 140, the government did not see fit to bring in staffing standards and to implement what had been so recently their party policy.

There is even some talk that while staffing standards were not addressed in Bill 140, a section of this Bill - Section 36 dealing with regulations - could be used to bring in staffing standards.

A standard of 3.5 hours per day of nursing and personal care per day per resident has broad support among Ontarians. It was one of the recommendations that came out of the two OFL documents already cited in this presentation. It is supported by our members who work every day in this sector. They know what human resources must be in place in order to provide for the needs of Ontarians in the long-term care sector.

It is obvious to us that a dedicated, stable workforce, with expertise and experience is vital in providing for the needs of Ontarians in the long-term care sector. This can be attained if the government implements a staffing standard of 3.5 hours per day of nursing and personal care per day per resident.

Identification of Needs and Solutions

As already noted, many Ontarians have been involved in identifying both the problems and the solutions for our long-term care sector.

The government could have used this public interest in order to develop a vision of and legislative framework for an effective long-term care sector in our province. This would have provided the opportunity for Ontarians to see clearly what the government is suggesting as well as giving them the opportunity through public hearings (much expanded from the current schedule) to suggest improvements.

Perhaps, this government lacks a complete vision of what it sees as the role for the long-term care sector. Section 1 of Bill 140 states “the fundamental principle to be applied in the interpretation of the *Act*” is that:

“...a long-term care home is the home of its residents and is to be operated so that it is a place where

residents my live in dignity and in security, safety and comfort.”

A more inclusive and fundamental principle is found in the *Nursing Homes Act*, one of the three pieces of legislation which will be repealed and replaced by Bill 140:

“a nursing home is primarily the home of its residents, and as such, it is to be operated in such a way that the physical, social, cultural and spiritual needs of each of its residents are adequately met and that its residents are given the opportunity to contribute, in accordance with their ability to the physical, psychological, social, cultural and spiritual needs of others.”

This reflects the reality that residents have a wide range of needs and that they are able to make a contribution to their society. It also gives a clearer picture of what should be expected by the resident, their families and the wider community.

Throughout Bill 140, issues are raised and then dealt with only in part. Some examples would include:

- Reporting and Complaints (Sections 19-22) – A process is outlined but does not include a mandate for inspectors to talk to residents, families and staff - not just administrators. Nor is there a provision for a complaints process to a third party. The need for the establishment of an elder care ombudsman has been put forward by many including Liberal MPP Monique Smith in her 2004 report *Commitment to Care: A Plan for Long-Term Care in Ontario*.
- Whistle-blowing Protection (Section 24) – A process is outlined but without a strategy to educate people that:
 - They have this right; and
 - How to use this right.

A whistle-blower will very often lose their job and then have to fight to get it back. If a worker is covered by a collective agreement they can work with their union to try to get their job back. If they are not covered by a collective agreement then their best hope is probably some kind of small financial settlement.

Workers are more likely to work with their union to challenge activities in the workplace rather than engaging in whistle-blowing.

Training (Section 74) – A process is outlined for different kinds of training. However, what is also needed is a tripartite structure at the provincial level to ensure that appropriate training and skills development material is developed and available across Ontario. There may be a need for training in such areas as equity issues and the special needs of residents. Models such as the Workers Health and Safety Centre with its long history in developing and offering generic and sector specific training could prove to be useful in addressing the needs of this sector.

Bill 140 touches on issues and then says that the issue will be more fully dealt with by regulation (Section 36) at a future date. A fundamental problem with this approach is that Bill 140 provides no provision for public input into the development of these regulations. An alternative model may be found in the *Local Health Integration Act, 2005* (Bill 36) which outlines a consultation process for the developing of regulations (Section 37).

Undermining of Non-Profit Sector

The Ontario Federation of Labour believes in a universally accessible public health care system. We believe that this kind of system - rather than a for-profit model - better serves the diverse needs of Ontarians now and in the future. A component of such a system is long-term care. A public and non-profit provision of long-term care is better suited to identify and serve the needs of Ontarians than a for-profit system geared to serve the needs of corporations who seek to improve their financial bottom lines.

The current mix of for-profit and non-profit operators in long-term care in our province reflects political decisions by previous governments. For example, in 1998 the Conservative government - reflecting its ideological agenda - announced 20,000 new long-term beds over the next eight years. Two-thirds of these beds were awarded to for-profit corporations. We thought then, and still think, that was a wrong-headed decision.

The Liberal government could have used the opportunity of Bill 140 to put forward a different policy position advocating a strong

and visible position in support of non-profits but they did not. Instead Bill 140 further undermines the non-profit component of long-term care.

Provisions of Bill 140 such as Section 103(9) allow for the transfer from non-profit to for-profit under circumstances to be determined by regulations. There is no requirement that homes be rolled back into non-profit or public control.

Bill 140 continues the undermining of the non-profit sector of long term care. The Liberal government is carrying on the tradition of its Conservative predecessors.

Geographic Differences

As a provincial organization we find it odd that northern municipalities are no longer required to maintain a municipal home (Section 120 states they “may establish and maintain”) while southern municipalities are required to do so. (Section 117 “shall establish and maintain”). This will have an impact on our members who are providing needed services in these communities and on the wider communities. We believe that

there should be one level of quality service for Ontarians regardless of what part of the province they live in.

Conclusion

The sad state of long-term care in our province is of concern to Ontarians. We believe that the provincial Liberal government has an obligation to show leadership in dealing with this situation.

Our members believe that you cannot have quality care without people. To this end a staffing standard is a necessary first step. A necessary second step is for the provincial government to commit itself to the non-profit model for long-term care. Taken together this will ensure that Ontarians will have access in their communities to the kinds of services they need now and in the future. Services provided for them by dedicated, qualified staff who themselves are members of these same communities.

If Bill 140 is not amended by this government to deal with staffing standards and the non-profit model then the state of long-term care in our province will not improve. We urge the

McGunity government to address the issues we have raised in our presentation. We further urge them to listen to the concerns of Ontarians and act upon them

Thank you for the opportunity of appearing before the Select Committee on Social Policy to share our thoughts regarding the Long-Term Care Homes Act, 2006 (Bill 140).

cope343
January 17, 2007