

November 25, 2021

Strengthening the Retirement Homes Act, 2010

Summary of Concerns

The trends are clear, aging residents of retirement homes require a higher level of care than in the past. To protect vulnerable residents and to ensure quality care standards, this reality must be recognized in the legislation. Amendments are needed to address the evolving nature of health care service delivery in retirement homes.

The statistics already speak volumes: an older adult is five times more likely to have multiple emergency visits if they live in a retirement home when compared to a resident living in a long-term care facility. Effective prevention and protection measures for seniors living in retirement homes must clearly be put in place.

Getting this legislation right is critically important. As of March 31, 2020, there were 770 licensed retirement homes in Ontario with the potential capacity to provide care and accommodation for about 80,000 Ontarians. Between 2018-2046, the population of Ontarians aged 75-plus is expected to double to 2.8 million people. Most will live into very old age and at some point, require assisted living support beyond what can be provided in the community. These people are more than the baby boomer bulge. They are us – our grandparents, parents, partners, and adult children. All older Ontarians deserve (as the Act says) to live in a place of “security, safety and comfort, with dignity, respect, privacy and autonomy, where they can make informed choices about their care options.”

The government has an opportunity to deal with key concerns in retirement homes including governance issues; the lack of sector oversight, compliance penalties and transparency; problems related to complaints, dispute resolution and evictions; the affordability gap for housing and care options. One can only say that much more needs to be done to “Strengthen” this Act.

The COA respectfully submits the following preliminary statement of concerns and recommendations regarding revisions to the *Retirement Homes Act 2010*. The COA will continue to monitor and report on the state of the concerns expressed here.

Strengthening the Retirement Homes Act 2010 (Act): Statements of Concerns

1. Recognize changing levels of care needs, to protect vulnerable residents, and to ensure quality care standards

It is estimated that over 50% of older adults living in retirement homes are classified as having chronic conditions and over 25% have complex needs, including mental health issues.

The COA recommends:

- 1.1. The Act should ensure that retirement homes are held to the same legislative standards as LTC homes for those specific areas where care needs and care services are similar. Furthermore, the Minister of Health and Long-Term Care should also have authority in enforcing the Retirement Home Act.
- 1.2. The Retirement Act should clarify the levels of care retirement homes can/do provide, including definitions of memory care, assisted living and end-of-life (palliative) care, the required services for these types of needs, and the commensurate minimum level of care services that are required. Defining the type and level of care requirements should include minimum staffing levels; staffing mix; and minimum qualifications required for the delivery of specialized services such as the development of care plans. The current legislation is silent on these important requirements.
- 1.3. There should be parallel requirements and language to the LTC Act for those areas that intersect. For example, there should be no differences in legislative

Changing Health Care Needs in Retirement Homes

- As of March 31, 2020, 26% of the 38,000 people waiting to be placed in long-term care homes, were waiting in licensed retirement homes (about 10,000 people). (Ontario Ministry of Health)
- Over 4,000 people living in retirement homes were discharged hospital patients designated as alternate level of care (ALC), i.e., they no longer require acute care but are in a condition where it may be suitable for them to be in a long-term-care home. (Ontario Ministry of Health)
- According to the Retirement Homes Regulatory Authority, 101 or 13% of the licensed retirement homes in Ontario share a location with long-term-care homes.

requirements between the two Acts for areas such as Infection Prevention and Control, Prevention of Abuse and Neglect, Restraints, Confinement, etc.

2. Address the governance issues including the composition of the Retirement Homes Regulatory Authority (RHRA) Board of Directors

The COA recommends:

- 2.1. That the RHRA be restructured with a particular focus on governance so that it can fulfill its purpose to ensure residents have a place to live of “security, safety and comfort, with dignity, respect, privacy and autonomy, where they can make informed choices about their care options.”
- 2.2. When residents required long-term care services, all aspects of operation and care should fall under the Fixing Long-Term Care Act, 2021.
- 2.3. To be truly reflective of diverse interests, the board should be appointed by the government with proportional representation from tenants, family members, and the retirement home industry. It should also include a representative of the public health/medical community.

3. Focus on sector oversight, compliance penalties and transparency

Based on the recommendations from the *Auditor General's 2020 Value for Money Audit* of the RHRA, **the COA recommends:**

- 3.1. Strengthen the systems and procedures of the RHRA and the Ministry in carrying out complaint responses, inspections, enforcement, and public education in a timely and effective manner (beyond the proposed amendments in this Act).
- 3.2. Change the amendment related to price lists to read “Require that price lists for accommodation and services *be publicly available and distributed* in paper and/or electronic form by a licensee so that consumers can make informed decisions about housing and care options. These prices should be regularly updated and communicated to residents and prospective residents.

4. Address issues related to complaints, dispute resolution, and evictions

In March 2021, the legislature voted unanimously in favour of *Voula's Law* to prevent families being kept out of retirement homes and forbid the use of the Trespass to

Property Act to ban family members and others who are advocating for better care and conditions. However, the RHRA needs to clarify this with retirement homes and to act against operators who use this practice to evict or transfer residents out of the retirement home.

In addition, the pandemic, which has kept families and loved ones in residents apart for months at a time, has underscored how crucial family caregivers are to the health and well-being of older persons living in congregate settings.

The COA recommends:

- 4.1. Make the complaints process more transparent and better communicated.
Ensure that complaints are dealt with in a timely manner.
- 4.2. Make it clear in the Act and its regulations and communications with retirement homes that:
 - 4.2.1. Residents are entitled to visitors without interference by the operator, except for very limited circumstances where there are public health orders issued to all congregate living situations (e.g., during the first and second waves of COVID-19) or life-threatening issues are involved.
 - 4.2.2. The Trespass to Property Act cannot be used to ban family members from visiting.
 - 4.2.3. A retirement home should only be permitted to “transition” a resident when an acceptable alternative becomes available, such as a placement in LTC.

5. Reinvest into affordability housing and care options

With an increasing aging population, there is an urgent need for a reinvestment for affordable housing and care options whether older adults live, from independent in the community to retirement homes, or long-term care. Retirement home residents pay rent and fees to the operators to receive accommodation and a choice of care options, and they live in these homes as tenants. According to CMHC, in retirement homes in Ontario, the median monthly rent for standard care is \$3,921 (less than 1.5 hours of care per day); the median rent for heavy care is \$6,092 (more than 1.5 hours of care per day). This is unaffordable for most older adults.

Therefore, the COA recommends:

- 5.1. Invest in affordable community-based retirement homes owned and managed by not-for-profit organizations.

5.2. Invest in programs and innovative housing options that allows older people to age and live in the community as long as possible, e.g., for home and community care supports such as Naturally Occurring Retirement Communities (NORCs-SSPs), and assisted living homes owned and managed by not-for-profits. This does not supersede the need for high quality LTC spaces when care at home/in the community is no longer possible.

Profile of Retirement Homes in Ottawa

Numbers: 78 retirement residences, 8,704 spaces, 6,912 residents

Vacancy rate: 25.6%, the highest in the province

Monthly median rents: range from \$3,486 (bachelor/studio) to \$5,866 (two bedroom), 2nd highest in the province. Costs quickly elevate when care services are added.

Median income for Ottawa residents over 65: \$39,500, higher when compared to Canada at \$28,910 (Statistics Canada). Yet, as of 2016, 10% of older adults live in the low-income category, and in some neighborhoods over one-quarter of seniors live with low-income.

Food and Shelter Cots on Old Age Security (OAS) and Guaranteed Income Supplement (GIS): \$1,663 per month to cover both shelter and food costs.

Affordable Housing Costs (30% of income): Older adults at the high end with moderate incomes (\$40,000 to \$75,000) would spend approximately 56% of their income on rent in a studio apartment, well beyond affordable.