

Proposed Retirement Homes Act, 2010

April 27, 2010

Presentation to Ontario Retirement Communities Association / Ontario Long-Term Care Association Convention and Trade Show

This presentation is an overview of the proposed *Retirement Homes Act* (“Bill 21”) and is provided to you for information purposes only. This presentation reflects the current contents of Bill 21, however Bill 21 may be subject to change and has not been passed by the Legislature. This presentation does not purport to be a complete description of Bill 21 and you should not rely on the contents hereof. A current version of the Bill is publicly available on the Legislative Assembly of Ontario website at http://www.ontla.on.ca/web/bills/bills_current.do?locale=en.



Purpose

- To provide an overview of the proposed Retirement Homes Act, 2010.
- To provide the opportunity to ask questions related to the proposed Act.



Need for Legislation

- Ontario's seniors population is expected to more than double to 4.1 million in 25 years.
- There are approximately 700 retirement homes in Ontario, selling accommodation and care to approximately 40,000 seniors.
- Statistics indicate that the number of seniors choosing to live in retirement homes is increasing.
- There is a need for stronger protections for seniors living in retirement homes to ensure their quality of care, safety and security.
- Proposed legislation was developed from a consumer protection perspective:
 - Ontario Seniors' Secretariat sought advice from: experts, individual stakeholders, comprehensive consultations in 2007, other provincial ministries including the Ministry of Health and Long-Term Care.
 - National best practices were analyzed and applied.

Key Features: Proposed Legislation

- The legislation, if passed, would:
 - Establish an **arm's length Regulatory Authority** to educate, license and inspect retirement homes to ensure they meet prescribed standards.
 - Ensure **government accountability and oversight** of the Regulatory Authority by establishing strong reporting and accountability mechanisms.
 - Establish a **Residents' Bill of Rights** that includes the right to participate fully in making any decision concerning any aspect of his or her care, to be informed about the cost of care services and any increases in charges for these services, and to receive information about and access external care providers, including publicly funded providers.
 - Set province-wide **safety and care standards** appropriate to the services provided in each retirement home.
 - Establish **safeguards for residents** by requiring homes to protect residents against abuse or neglect and defining employee screening and training requirements.



Summary: Proposed Legislation

- **Part I** would outline the fundamental principle of the Act and the regulations: that a retirement home is to be operated in such a manner that residents live with dignity, respect, privacy and autonomy, in security, safety and comfort, while maintaining the ability to make informed choices about their care options.
- It would also define a retirement home as a residential complex or part of a residential complex consisting of rental units:
 - That is primarily occupied by persons who are 65 years of age or older;
 - In which reside at least a prescribed number of persons who are not related to the operator of the home; and,
 - Where the operator of the home makes at least two care services available, directly or indirectly, to the residents.

Summary: Proposed Legislation (cont'd)

- **Part II would establish and give powers to the Retirement Home Regulatory Authority. The provisions in this section would:**
 - Outline the composition of the Board of Directors, remuneration and expenses, qualifications, reappointment;
 - Detail the process for establishing an interim board, their remuneration and expenses and the timeline for the first election of the Board of Directors;
 - Identify the requirements for and the content of the Memorandum of Understanding (MOU) between the Minister and the Regulatory Authority, and the Minister's authority to give policy direction if within the public interest to do so;
 - Provide the Regulatory Authority's ability to set and collect fees and to use the monies collected to carry out the objects of the Regulatory Authority;
 - Set the code of ethics of the Regulatory Authority; and,
 - Specify the emergency power of the Minister to send in an administrator to administer the Regulatory Authority if it is in the public interest to do so.

Summary: Proposed Legislation (cont'd)

- **The foundation of Part III would be that no retirement home is able to operate in Ontario unless the home has been granted a licence by the Registrar.**

- Part III would also set out the:
 - Transitional provisions to ensure that retirement homes remain operational until the Regulatory Authority is established and licensing and inspections have been completed;
 - Criteria and procedures for obtaining a license;
 - Registrar's powers in reviewing applications for licensing, including the ability to make inquiries and conduct investigations, grant or refuse licences, and impose conditions on licences;
 - Licensing process including the right of applicants to make written submissions before the Registrar's final decision to refuse or place conditions on the license; and,
 - Costs - specifies that applicants are responsible for all reasonable costs associated with a Registrar's investigation or inspection.

Summary: Proposed Legislation (cont'd)

- **Part IV would establish resident rights and consumer protections and set care and safety standards for each home**
- **The cornerstone of Part IV would be the establishment of a Residents' Bill of Rights that licensees would be obligated to fully respect and promote within the home. These rights would include the right to:**
 - Clear information about the care service options available from the home and their prices, and to be notified in advance of price increases;
 - Access needs assessments or care services from other providers of the resident's choosing, including publicly funded providers;
 - Participate fully in the making of any decision concerning his or her care; and,
 - Raise concerns or recommend changes in policies or services to the Regulatory Authority or any other person without interference or fear of coercion, discrimination or reprisal.
- **Part IV would also require homes to:**
 - Provide residents with a regularly updated information package on the home, the rights of residents, and the Regulatory Authority.
 - Permit residents to form a Residents' Council; provide support to the Council, not interfere with the Councils' operations, and respond to items raised by the Council; and,
 - Meet screening and training requirements for staff and volunteers.

Summary: Proposed Legislation (cont'd)

- **Part IV would also protect residents through specific requirements that homes:**
 - Meet care and safety standards defined in the proposed Act and to be prescribed by regulation.
 - Assess and plan for meeting the care needs of residents, with their full participation and consent;
 - Protect residents against:
 - Abuse and Neglect – including a requirement for licensees to develop a written policy to promote zero tolerance of abuse and neglect;
 - Confinement – licensees would need to ensure that staff do not confine a resident to a secure unit unless they have complied with all requirements set out in the proposed Act which includes a requirement that it be contained in the resident's Plan of Care with the resident's or the resident's substitute decision-maker's consent. Residents would also have the right to meet with a rights advisor and to challenge confinement decisions; and,
 - Use of Restraints – general prohibition against use of restraints, but would allow use of personal assistance services devices if requirements set out in the proposed Act are met, and preserves the common law duty of operators to restrain a resident when necessary to prevent serious bodily harm to the resident or others.
 - Provide information to residents to assist them in accessing publicly-funded services or in transitioning to a long-term care home or other place of residence, if the resident so wishes.

Summary: Proposed Legislation (cont'd)

- **Part V would outline the enforcement powers of the Regulatory Authority including inspections, the complaints process, the different orders that can be made by the Registrar, and offences under the proposed Act. Specifically this section would:**
 - Establish the timing of inspections, the powers of the inspector, and the circumstances under which a warrant is required.
 - Outline the process for complaints to the Registrar, the powers available to the Registrar to deal with the complaint, the emergency circumstances that trigger an immediate visit to a retirement home by an inspector, and review process of the Registrar's disposition of a complaint by the Complaints Review Officer.
 - Establish the Registrar's power to use the following:
 - Orders for a person suspected of operating a retirement home without a licence;
 - Compliance orders for when a licensee has contravened a requirement under the Act;
 - Management orders to employ or retain at the licensee's expense, one or more people to manage or assist in managing the retirement home;
 - Orders to pay an administrative penalty; and,
 - Orders revoking the licence of the retirement home operator.



Summary: Proposed Legislation (cont'd)

- **Part VI would set out the appeal process for anyone served with a licensing decision or an order of the Registrar. Provisions relating to the following would be included:**
 - Process for appealing a decision or order of the Registrar to License Appeal Tribunal (LAT);
 - Process for applying for a stay of the Registrar's decision or order;
 - Right to appeal the LAT decision to Divisional Court on questions of law; and,
 - Process for applying for a stay of the LAT's decision.

Summary: Proposed Legislation (cont'd)

- **Part VII would set out a number of general provisions including:**
 - The requirement that the Regulatory Authority establish a public register containing mandatory information relating to applicants for a license and licensees.
 - Confidentiality clauses and protection for whistle-blowing.
 - The requirement of the Minister to complete a review of the legislation within 5 years of proclamation and for the review to be tabled in the Legislature.
 - The authority for the Lieutenant Governor in Council to prescribe regulations on a variety of matters, including, but not limited to:
 - Defining care services;
 - Governing classes of licenses;
 - Governing the issuance of licenses to retirement homes;
 - Governing administrative monetary penalties, and
 - Defining what constitutes physical, financial, verbal, emotional or sexual abuse.

Next Steps

Legislative Process:

- Bill 21 received Second Reading on April 22 and was referred to the Legislative Assembly's Standing Committee on Social Policy
- Public hearings are scheduled for May 10 and May 11 in Toronto
- Deadlines:
 - To make presentation: Noon May 6
 - Written submission: 5pm May 14
- For more information, contact Katch Koch, Legislative Assembly Committee Clerk at (416) 325-3526 or katch_koch@ontla.ola.org. Or visit www.ontla.on.ca follow the link to the Standing Committee on Social Policy

If passed and proclaimed, next steps would include:

- Establishing the Retirement Homes Regulatory Authority (RHRA)
- Developing Care and Safety Standards, including consulting with stakeholders
- Phased Implementation of RHRA's powers including:
 - Establishment of retirement homes registry
 - Education and training for retirement home operators