

May 29, 2009

Hon. David Caplan  
Minister of Health and Long Term Care  
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By fax: 416-326-1571

To Minister Caplan,

We are writing to request an extension for all Ontarians who wish to provide meaningful input regarding the draft regulations under the Long Term Care Homes Act, released on May 5, 2009 by your Ministry for 30-day consultation.

The 30-day time period is insufficient for organizations to ensure the adequacy of the proposed regulations. Moreover, the timing of the release of these regulations for consultation is inappropriate. The Ontario Ombudsman has not yet released the results of his investigation into the long term care homes sector.

The Office of the Ontario Ombudsman is an office of the Ontario Legislature and its work should be treated with due respect and proper process. It is inappropriate to finalize the regulations prior to the release of the Ombudsman's report and recommendations, particularly given the direct implications of his report for the regulatory process. The extension for input should, at the very least, provide for 30 days for stakeholders to review and prepare our input from the date of the release of the Ombudsman's findings. Indeed, properly, the process should be re-started with a Ministry consultation paper indicating which of the recommendations from the Ombudsman's report it is prepared to adopt and setting out the reasons with supporting facts for any recommendations it is not prepared to adopt. This should be followed by open meetings in which stakeholders can interact with the Ministry senior officials to give feedback as to whether the proposed Ministry response is adequate.

Furthermore, the way that the regulations have been released – incomplete, without any clarity on what parts might be dropped and what might still be coming – is unusual and creates a barrier for meaningful public input. The draft regulations that have been released covers some – but not all - of the regulations the Ministry intends to introduce to cover the Parts I-III of the Act pertaining to: Fundamental Principle and Interpretation; Residents' Rights, Care and Services (including abuse and neglect policies and restraints); and Admission of Residents. Though some subsections under these Parts are apparently complete, others have partial sets of regulations. It is not clear what else might be coming under the subsections for which the draft regulations are currently incomplete. There is no listing of what else is intended to fill the gaps, so it isn't clear if whole sections of regulations, standards and criteria have been dropped, or if they are coming. Ministry staff have been very difficult to reach, and there has been no attempt to provide full clarification in a way that is accessible to everyone interested in providing input. This is a very odd way to consult, and it makes it very difficult for concerned citizens to understand the intentions of the Ministry and to give meaningful input.

The Ministry has openly stated that its intention is to "streamline" the regulations. Any process of "streamlining" carries a very real risk for missing or dropping important criteria or de-regulation that might negatively impact the 75,000 residents, their families and the thousands of staff in this sector. It is in the public interest that a broad and open consultation process is

embraced by your government as a way of ensuring that the regulations will work as planned, and that nothing important has been dropped or missed.

Particularly, given that all the regulations under the three former acts governing for-profit, non-profit and public long term care homes and the entire Long Term Care Facility Programs Manual are to be withdrawn once these regulations are put into effect, there is not sufficient time provided in the 30-day consultation period for those wishing to assess what is there, what has been eliminated, and what the implications of those decisions might be.

Finally, the corporations' lobby groups and some stakeholders have been given opportunity for input and feedback over the last year as the Ministry drafted these regulations. The Ontario Health Coalition – which is the largest and broadest public interest group on health care in the province – and entire classes of organizations were excluded from the process. It is incumbent upon you, now, to take the first step towards redressing this unequal treatment by providing everyone with ample time and appropriate information to review the draft regulations and analyse their implications, understand what other regulations are in process and what is being excluded or dropped from the regulations and review the Ombudsman's recommendations prior to the submission deadline.

We will follow up with your office early next week to hear your response.

Cordially,

Natalie Mehra  
Director

Dora Jeffries  
Chair

cc. Premier Dalton McGuinty  
Andre Marin, Ontario Ombudsman  
OHC membership