



## SENIORS FOR SOCIAL ACTION (ONTARIO)

### VOLUNTARY NATIONAL STANDARDS IN LONG TERM CARE?

#### IS THIS THE FEDERAL GOVERNMENT'S IDEA OF A SICK JOKE?

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Those of us who are in our 70's and 80's have all heard it before dozens of times over the past four decades. This government is going to clean up long-term care. This time, it is the Federal government that is going to clean up long-term care - with VOLUNTARY standards??

#### **Government Created Mental Illness?**

Those who cannot remember the past are doomed to repeat it, but sadly when it comes to long-term care reform even those who do remember the past appear doomed to repeat it. There seems to be a type of government-created mental illness operating here, where the distorted belief is that it is possible to repeat the same actions again and again but reasonably expect a different outcome. Every Minister of Health and Long Term Care in every Ontario government going back over 50 years has said they would raise standards and toughen enforcement, but the reality is that residents of these facilities actually have fewer protections now than they had forty years ago.

#### **What Did Work?**

Forty years ago there was an Inspection Branch with a prosecution policy. Licenses of bad operators were not being renewed or were being revoked. A prosecutor was seconded from the Ministry of the Attorney General to prosecute repeat violators of the Act. There was an OPP investigation of criminal acts in nursing homes after Dr. Birthe Jorgenson's report on Crimes Against the Elderly in Institutional Care hit the newspapers and the Ontario Legislature (Open Library, 1986). For a while things improved a bit, but residents were never truly safe. And then the industry weighed in and got rid of all the policies and processes that actually worked.

#### **Institutions Cannot Be Made Safe**

The problem is that you cannot make institutions safe. With doors that do not lock, unauthorized people can enter residents' rooms at night. Being fed and given water depends on the time and level of kindness of those caring for residents. Whether or not someone is beaten or abused depends on how thorough the hiring and training processes are and whether or not those with criminal backgrounds or bad work histories are weeded out.

Anyone with any experience of long-term care institutions knows that none of these factors are properly addressed in institutional settings and no amount of regulation or enforcement can fix that. Institutions that house large numbers of devalued people are, by their very nature, dehumanizing. We have seen this in every case now for over a hundred years. So why are the provincial and federal governments not getting it that mass institutionalizing elders is a mistake? Why do they keep trying to "improve" institutions? Don't they realize all they are doing is putting fresh lipstick on a pig?

## **What Is The History?**

In 1972 the P.C. government of Leslie Frost passed the Nursing Homes Act. It empowered regional field officers to enforce expanded standards and provided public funding for privatized nursing homes. That Act became part of the problem because it entrenched the notion that public funding could, and should be used to support an outdated, medicalized, institutional model of care run, in part, by private, for-profit operators. The public was supposed to be reassured that the system of “deterrence” and “regulation” the government had set up would force these operators to comply with basic standards (Panos, 2016).

The only operators that had any chance of meeting even the structural requirements of the new Act were big chains. That drove mom and pop operations out of business. And the cost of these unintended consequences was paid for by the unfortunate people who ended up in these bigger, chain-operated institutions.

### **The 1980’s**

Things got worse in the 1980’s. Health Minister Larry Grossman rose in the Ontario Legislature on February 18, 1983 to say: “As I indicated to the social development committee, we have reorganized our inspection service and we simply will not permit conditions in any health care facility in this province which could jeopardize the wellbeing of those it serves” (Hansard, February 18, 1983).

The context? Over 500 children with developmental disabilities were languishing, some starving to death, in Ontario nursing homes. There had been an inquest into the death of Yves Soumelidis in the Ark Eden Nursing Home in Stroud whose findings could not have been clearer about the horrendous conditions in which he lived and died (UPI Archives, February 19, 1983).

### **The 1990’s**

The tragic beat went on into the 1990’s as the Ministry of Health and Long-Term Care (MOHLTC) took over responsibility for the predominantly non-profit homes for the aged operated by municipalities that had, until then, been funded and regulated by the Ministry of Community and Social Services. That moved those facilities towards a medicalized model and further entrenched institutionalization for elders even as institutions were being closed for every other group including large facilities for people with developmental disabilities and the psychiatric “asylums” for people living with psychiatric disabilities. There was a growing recognition that institutions were not places to house vulnerable human beings – except for old people.

In a tragic replay of history, in May, 1993, the MOHLTC returned to its old play book requiring long-term care institutions in Ontario to meet new Design Guidelines (Markhaven, n.d.) - another bonus for the chain operations and more bad news for smaller institutions that lacked the healthy economy of scale-fueled profit margins of the bigger chains.

Then enter Mike Harris and his policies of deregulation, and even more emphasis on for-profit corporate ownership during the mid to late 1990’s. The minimum care standard implemented by the NDP earlier was eliminated on his watch (Darrah, 2020).

Mike Harris has since done quite well for himself earning over \$229,000 a year for a part-time position after becoming Chair of Chartwell (Cohn, 2020), one of the biggest nursing home chain operations in Ontario. That went well for him until the Loretto sisters played an instrumental role in getting him removed from that Board (Swan, 2021).

### **The 2000's**

To his credit "Furious George" Smitherman did introduce an aging at home strategy as Health Minister. But sadly when it came to policing long-term care institutions things did not quite pan out with the CBC (2008) reporting: "Health Minister George Smitherman dismissed criticism Wednesday that the provincial budget is failing seniors in Ontario nursing homes who are forced to wear soiled diapers for hours on end because facilities are so short-staffed." Minister Smitherman added to the problem by offering to test adult diapers for elders in nursing homes to make sure they were getting adequate care. He later decided against that (CBC News, 2008).

No you can't make these things up.

### **The 2010's**

The provincial auditor was certainly unimpressed by conditions in long-term care facilities in Ontario, pointing out that there was a backlog of inspections triggered by complaints and critical incidents doubling in these facilities between December, 2013 and March 2015 (Postmedia News, 2016). Not a good sign that even legislated standards backed up with inspections were working all that well.

In 2016 the Liberal government confused things further. It had vowed in 2013 to do more to protect nursing home residents, but that seemed to change three years later as it appeared poised to stop yearly inspections at more than 500 nursing homes - no doubt after heavy lobbying by the long-term care industry which had never been a big fan of government regulation or oversight. It was reported that 84% of Ontario's 630 long-term care institutions would only get full, comprehensive inspections once every three years and "light inspections" every two years (Postmedia News, 2016).

Either newly minted Health Minister Dr. Eric Hoskins did not get that memo or chose, in a rare display of ethics in politics, to ignore it. His comment was that the government was committed to both safe and accountable long-term care institutions, pointing out that the government had recently mandated annual resident quality inspections in every facility and had added 100 additional inspectors. He promised all facilities would continue to receive annual inspections and that consultations were taking part on strengthening that program (Postmedia, 2016).

Apparently Health Minister Hoskins was as good as his word. Most facilities did receive comprehensive annual inspections from 2015 through 2017, but that number dropped abruptly with the election of the Ford government. "CBC News reviewed inspection reports from the last five years for all long-term care homes in the province and found that while most received a comprehensive resident quality inspection in 2015, 2016, and 2017, the number dropped to just over half in 2018 and just nine last year" (Pedersen et al, 2020). By 2019 "only nine out of 626 homes in Ontario actually received so-called resident quality inspections (RQIs)." (Pedersen et al, 2020).

And there is the see saw of what happens in long-term care. One government tries to tighten standards, quality and inspections, then another government is elected and dismantles them, or the nursing home industry makes its lobbying presence felt and governments fold like houses of cards.

## **2020 and the Pandemic**

Barely two years after the Ford government cut comprehensive annual Resident Quality Inspections, in 2020, the pandemic hit. Over 4500 residents in Ontario died – often in horrendous conditions as reported by the military, the press, and anguished relatives – most of whom were barred from entering the facilities to help their loved ones (Akhtar-Danesh et al, 2022; MacLean's, 2020; Chu et al, 2022) . They stood outside watching them die from behind windows. Tragedy upon tragedy. Trauma for old and young alike - one of the darkest periods in Ontario's history.

Fisman et al (2020) were, meanwhile, making Seniors for Social Action Ontario's case that institutions are not the way to care for elders. “..the incidence rate for COVID-19 deaths among LTC residents in Ontario was 13 times higher than the rate for adults 69 years of age or older living in the community” according to these researchers. Seniors for Social Action Ontario could have told them that – and in fact, were telling them that.

## **Massive COVID Deaths Brought Government Action, Right?**

One might believe that in light of one of the worst tragedies in Ontario history, the Ford government would be forced to act – to rethink the whole way that long-term care is provided in Ontario. To realize that congregating so many vulnerable people together might not be a good idea? The deaths of so many would be seen as a travesty that demanded immediate action by the provincial and federal levels of government, right?

If the provincial government failed to act, one might have thought that the federal government would step in and change the whole direction of long-term care, moving away from institutions and all of the overspending on them and from the underspending on Home Care, right?

WRONG.

## **The Provincial Government Acts – To Protect The Long-term Care Industry**

The government of Doug Ford decided that the iron ring it had promised would actually be melted down and turned into gold for long-term care companies with some of the worst track records in the province during COVID (Katawazi, 2021). The government's answer was not to eliminate dangerous institutions but to build many more of them and give the licenses to the companies where most of the deaths had occurred (Gerber, 2021).

Its other answer was to raise the bar against law suits filed by the families of the dead (Arthur, 2020). And after a judge allowed a class action lawsuit by families to proceed, the Ford government filed an appeal of that decision (DeClerq, 2023).

It also cut short the deliberations and ability to fully report of its own appointed COVID-19 Commission that was looking into the high death rates in the institutions, and the reasons for them. The government refused the Commission's request for an extension to complete its work (CBC News, 2021).

### **The Federal Government Acts – With VOLUNTARY Standards**

And what did the Federal government do? It introduced VOLUNTARY standards (Roman, 2023). If legislated standards have not been enforceable in Ontario for over 40 years, what would have possessed the Federal government to believe that VOLUNTARY standards would help?

### **What Should Have Happened?**

Here's an idea. The institutional long-term care sector has had its chance and has blown it for over 40 years. Maybe replace it?

- With redirected funding into Home Care?
- By paying family caregivers what the facilities are paid?
- By bringing care to where older adults actually live through Hub and Spoke and PACE (Program of All Inclusive Care of the Elderly) programs in naturally occurring retirement and seniors' communities?
- By directly funding individuals and their caregivers so that they can obtain their own supports and services how and when they need them?
- By tying funding to individuals requiring care rather than to the institutions?
- By investing in small homes, fully staffed and operated by municipalities as happens in Denmark which had a much lower elder death rate than Canada? (Sepulveda & Stall, 2020)

There are so many alternatives to mass institutionalization of elders but the Federal government chose to simply rearrange the deck chairs on a long-term care Titanic that has already sunk.

A sick joke. But no one is laughing.

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