



SENIORS FOR SOCIAL ACTION (ONTARIO)

INFORMATION BULLETIN

August 22, 2022

ONTARIO INTRODUCES A BILL THAT REMOVES INDIVIDUALS' RIGHTS TO CONSENT TO ADMISSION TO A LONG TERM CARE INSTITUTION AND THEIR RIGHT TO CONSENT TO THE TRANSFER OF THEIR PERSONAL HEALTH INFORMATION

Seniors for Social Action Ontario (SSAO) has been getting queries from members and the public about this Bill. This Bulletin explains the areas of most concern.

In coming days, SSAO will be issuing an Open Letter to Provincial Cabinet Ministers, the current Head of the Human Rights Commission, and the Attorney General of Canada concerning this draconian legislation and its violation of the human and constitutional rights of people with disabilities of all ages.

Analysis

The Ontario government has introduced Bill 7, termed An Act to amend the Fixing Long-Term Care Act, 2021, with respect to patients requiring an alternate level of care and other matters and to make a consequential amendment to the Health Care Consent Act, 1996.

This Bill removes the right of anyone admitted to an Ontario hospital who is designated an alternate level of care patient (usually someone not requiring active treatment) to protection of their personal health information, and protection from being arbitrarily admitted to a long-term care facility.

This Bill allows release of their personal health information, without their consent, to the licensee of a long-term care facility, and it allows a placement coordinator to place them in a facility, also without their consent.

Of special note is Section 2 of this Bill:

"A placement co-ordinator may do the following, with or without a request from an attending clinician:

i. Determine the ALC patient's eligibility for admission to a long-term care home.

ii. Select a long-term care home or homes for the ALC patient in accordance with the geographic restrictions that are prescribed by the regulations.

iii. Provide to the licensee of a long-term care home the assessments and information set out in the regulations, which may include personal health information.

iv. Authorize the ALC patient's admission to a home.

v. Transfer responsibility for the placement of the ALC patient to another placement co-ordinator who, for greater certainty, may carry out the actions listed in this paragraph with respect to the ALC patient."

And Section 5:

5. A person with authority to carry out an action listed in paragraph 1, 2, 3 or 4, a hospital within the meaning of the *Public Hospitals Act* or any other person prescribed by the regulations may collect, use or disclose personal health information if it is necessary to carry out an action listed in paragraph 1, 2, 3 or 4.

Limitation, reasonable efforts to obtain consent required

(4) The actions listed in subsection (3) may only be performed without consent if reasonable efforts have been made to obtain the consent of the ALC patient or their substitute decision-maker.

The only protection afforded an ALC patient in this circumstance is found here:

(7) Nothing in this section authorizes any person to restrain an ALC patient to carry out the actions listed in subsection (3) or to physically transfer an ALC patient to a long-term care home without the consent of the ALC patient or their substitute decision-maker.

Read the full Bill here: <https://www.ola.org/en/legislative-business/bills/parliament-43/session-1/bill-7>