



SENIORS FOR SOCIAL ACTION (ONTARIO)

HOW DID WE GET INTO THIS MESS? THE HISTORY OF LONG-TERM CARE “REFORM” IN ONTARIO

March 4, 2024

Based on Private Interests or the Public Interest? A Critical Examination of the Role of Stakeholder Groups in the Development of a Long-Term Care Policy in Ontario 1989-1994.

A doctoral thesis by Patricia Spindel, University of Toronto, 1996 with updated Prologue and Epilogue, 2024

“It is a measure of what has become important in long term care, considering who those with power are in this system, that representatives of government, the service system, and society at large seem more concerned about "beds", than the people in them, and about "units of labour" and "full time equivalents (FTE's)", than about the people who provide care on a daily basis to those who are old, sick, disabled, and dying. It is also perhaps, a measure of what we all do not want to face as human beings, that we talk about case mix indexes (CMI's) rather than about who lives in long term care facilities, what they need, and what their experiences of their lives are. By medicalizing the natural process of aging, and by institutionalizing it, we may believe that we can somehow control it, or at least if that fails, divorce ourselves from it. As long as we tuck aging, disability, and death into institutions, out of sight, out of mind, we may believe that we can continue to deny its existence in our own lives.” (Pg. 2, 1996)

INTRODUCTION

In response to several requests from members I have made my thesis available digitally for the first time. Information on how to obtain a full digital copy is at the end of this article.

The period 1989-1994 saw one of the most comprehensive and widespread consultations of key stakeholder groups in long-term care in Ontario’s history conducted by Liberal and New Democratic Party governments.

The unequal power relations that influenced the development of this policy are still in place today, and they are what have led to what many consider to be a restrictive, dehumanizing, regressive, and costly approach to long-term care. Then, as now, the private for-profit nursing home industry, supported by the Ministry bureaucracy, and through undue political influence, benefitted from the “reform” process while all other stakeholders – seniors, unions, non-profits, people with disabilities – lost.

The medical and nursing professions fought to maintain their own status quos, and the Ministry of Health bureaucracy repeatedly supported the views of the Ontario Nursing Home Association (today the Ontario Long-Term Care Association).

All of the consultations, all of the appearances before a legislative committee, all of the press exposes led to literally no change, even though the revised Nursing Home Act included a Residents' Bill of Rights and some of the toughest regulations in North America. No law is effective if it cannot be enforced when a very wealthy industry that can afford to pay for good lawyers to face government lawyers in court, and that can employ well-connected lobbyists to influence government in favor of its own private interests rather than the public interest holds the upper hand.

Some legislative gains were made and a prosecution policy introduced in this sector when unions and citizen organizations - Concerned Friends of Ontario Citizens in Care Facilities and what is now Community Living Ontario, and CUPE stood together. But since then, unions have pursued their own agendas, focusing solely on staff wages and working conditions and the protection of union jobs in the institutions. Meanwhile citizen organizations like Seniors for Social Action Ontario, recognizing the futility of trying to change the institutional system given its history, have lobbied for more humane alternatives to it.

In the absence of a powerful coalition today, province-wide systemic change is not possible, and once again, the long-term care system will remain as it is, and likely get worse.

THE HISTORY OF THIS INDUSTRY

Private nursing homes were not licensed or regulated until the passage of the General Welfare Act of 1958 that created a cost sharing arrangement between the municipalities and the Ontario government. Approved beds were licensed and funded through a Federal-Provincial cost sharing arrangement to take the pressure off hospitals under the Hospital Insurance and Diagnostic Services Act of 1957. The non-profit homes for the aged evolved from houses of industry and formally came into being with the passage of the Homes for the Aged Act of 1949 which provided operating subsidies for "elderly indigents".

Throughout the 1970's nursing home care was provided predominantly by smaller "mom and pop" homes across the province. That changed with the introduction of the first Nursing Home Act in Ontario under the Bill Davis government which required that these facilities meet specific physical standards. This made it impossible for most "mom and pops" to continue since they could not afford to meet the new standards. Big companies like Extendicare swooped in and started buying up their beds, creating much larger facilities to meet their economy of scale needs.

Enter the first institutions for old people in the province at a time when institutions were being closed for every other disability group because of the abuse and neglect so widespread in them.

Early concerns were raised by a Chairman of a Select Committee about the expansion of for-profit nursing homes in Ontario. Citing the case of Extendicare, "he pointed out that Extendicare had already received a corporate bailout from the Department of Health, after it built a large nursing home, and could only fill 40% of its beds."

It should be noted that during this period officials of the Ministry of Health went to work for the nursing home industry and nursing home industry personnel went to work for the Ministry of Health. Nursing home operators were also making significant contributions to the party in power.

The rest of the sad history of for-profit nursing home expansion is more fully documented in the thesis.

THE PRIMARY STAKEHOLDERS

In 1982 Concerned Friends of Ontario Citizens in Care Facilities became the most influential advocacy organization for residents and families in long-term care. In September of that year it submitted a brief to the Hon. Larry Grossman, Minister of Health entitled Consumer Concerns and Recommendations Related to Nursing Home Care in Ontario (CF). The brief made the front page of the Globe and Mail in an article by Zaheer Kashmiri, and all hell broke loose.

The Ontario Nursing Home Association opened up on Concerned Friends, essentially calling the organization alarmist, and minimizing and trivializing the findings outlined in the brief. Concerned Friends leaders were publicly derided, followed, and threatened until Bruce Land, a leader with the Canadian Union of Public Employees (CUPE) representing nursing home workers, opened up on the nursing home industry, calling the homes they operated “sewers” on national television.

For a while, silence ensued, while the industry regrouped. Then the battle continued to rage on the front pages of newspapers and in TV news documentaries.

Meanwhile, also in 1982, as the current Chair of SSAO was working for what is now Community Living Ontario, over 500 children were found starving to death in Ontario nursing homes – left behind when responsibility for developmental disabilities was transferred from the Ministry of Health to the Ministry of Community and Social Services in 1975. Now, a second provincial organization – the Ontario Association for the Mentally Retarded (now Community Living Ontario) was challenging conditions in Ontario’s nursing homes and demanding change. The PC government of Bill Davis responded with a new Director of the Nursing Homes Branch who introduced a prosecution policy and began revoking nursing home licenses and helping to move children at risk of death out of the institutions. That was also the beginning of the drafting of a proposed Residents’ Bill of Rights in the Act.

It was all short lived. Under intense lobbying by the nursing home industry, the arrival of the new Liberal government in 1985 saw the end of the prosecution policy, ushering in another period of conflict with unions and citizen organizations, and numerous press exposes that ultimately led to some legislative changes in the Nursing Homes Act – changes that would never be able to be enforced.

One of the first blows to hit the new Liberal government was in 1986 when Oxford trained criminologist Dr. Birthe Jorgenson published a research paper Crimes Against the Elderly in Institutional Care based on her review of Concerned Friends site visit reports. Her findings revealed that approximately 46% of 56 detailed complaints received by Concerned Friends held sufficient grounds for the laying of criminal charges of theft, assault or breach of the legal duty to provide the necessities of life or proper medical care established under the Canadian Criminal Code. She concluded that these criminal acts should be prosecuted.

In 1986 Robert Nixon rose in the Ontario Legislature, speaking on behalf of the Solicitor General and said this:

“I have a statement which would normally be made by the Solicitor General (Mr. Keyes), who cannot be present today and who has asked me to present it to the House. The statement is in response to the public concerns raised by a report entitled Crimes Against the Elderly in Institutional Care. The report was prepared by Toronto criminologist Birthe Jorgensen and contains allegations of criminal behaviour directed against elderly residents in Ontario nursing homes.

On Friday, the Minister of Health asked his cabinet colleagues to review the report with a view to determining whether an Ontario Provincial Police investigation was warranted. That review was begun immediately, and I am now able to tell the House an OPP investigation will be launched. A detective inspector of the OPP met with crown law officers and an official of the Ministry of Health earlier today to lay some of the groundwork for the investigation.”

https://www.ola.org/en/legislative-business/house-documents/parliament-33/session-2/1986-11-03/hansard#P43_10432

Charges ranging from criminal negligence causing death to manslaughter were later laid under the leadership of OPP Inspector Ted Rowe. By 1989 Ontario courts were upholding those charges.

It is relevant to note that when SSAO asked that the current Ontario government initiate a similar investigation, it claimed that it was not within its power to do so.

THE GOVERNMENTS – LIBERAL AND NDP

All this was occurring against the backdrop of persistent lobbying by Concerned Friends for additional changes to the Nursing Homes Act. Throughout this period the NDP Opposition led by Bob Rae was also demanding significant changes to better protect residents of nursing homes.

The Liberals also played a key role. “In 1984, the Ontario Liberals established a task force, chaired by Sheila Copps, which produced a report entitled Options for Living: Directions for Change, which incorporated many of Concerned Friends' demands for the creation of stronger community support options to keep people out of institutions, more public accountability in nursing homes, a residents' Bill of Rights, an advocacy system, and an independent commission to investigate complaints about nursing homes. It was also Sheila Copps, who in 1983 successfully proposed an amendment to the Nursing Homes Act making nursing home inspection reports public.” (Pg. 36)

Amendments to the Nursing Homes Act in 1987 brought about a legislated Bill of Residents' Rights and other positive changes – changes that could never be enforced. A clear preference was also granted to non-profits in the granting of new licenses and bed expansions.

But it was the nursing home industry that benefited the most. In 1987 the Liberal government succumbed to the Ontario Nursing Home Association's lobbying campaign and gave the industry \$88 million, while allocating only \$11 million for the expansion of home support services (Pg 42). This led to the current imbalance between institutions and in-home and community support that we continue to see today.

Throughout the Liberal government's term, there was an attempt to cooperate with the nursing home industry rather than continue the earlier prosecution policy.

Meanwhile the nursing home industry kept up the pressure launching a \$300 million lawsuit against the government in 1988 seeking funding parity with non-profit homes for the aged. The Ontario government lost – again.

Throughout this period the Toronto Star kept up pressure on the Ontario government in one nursing home expose after another, citing donations from the industry to the Ontario Liberals and undue influence on long-term care policy. Literally nothing changed.

In 1990 the Ontario Nursing Home Association (ONHA) lowered its profile waiting to see what the new New Democratic Party government would do. They did not wait long. Threatening to cut staff, and giving the government a deadline by which to cough up \$20 million, the head of the ONHA drew blood with the new government. On October 5, 1991, ten days before the ONHA's deadline, the NDP government delivered with \$12 million to ease pressures on the industry and prevent layoffs. The head of the ONHA gave the government kudos, but citizen organizations like Concerned Friends were shocked. The worst was yet to come.

“In November of 1992, the [NDP] government showed its hand on long term care, and it was remarkably akin to the "user pay" system which the ONHA had said that it preferred, which was closer to the U.S. model. The Toronto Star reported that "roughly 46,000 Ontario seniors will pay more for nursing home care under the proposed overhaul of the province's massive long term care system" (Pg 51/52).

CONCLUSION

The rest of this thesis documents, in detail, the relative powerlessness of citizens groups to influence government since they lack the financial and lobbying resources to do so. Comments made by interviewees about this are of particular interest.

This has delivered one “win” after another for the for-profit nursing home industry that has received increased funding, bed expansions, government paid construction costs and numerous other benefits to the present day.

The current government's award of over \$6.4 billion dollars to the nursing home industry for bed expansions and redevelopment while only awarding \$1 billion to Home Care, is the latest example of the power of this industry and its undue influence on government policy.

The previous Mike Harris government also provided enormous benefits to the industry and his wife is also in the long-term care business. She and he together own the home care franchise Nurse Next Door. https://www.thestar.com/news/canada/former-premier-mike-harris-and-wife-to-start-home-care-service/article_0e5bbb67-ae2b-5acb-801f-3f83128ef7cf.html

We now know that former Premier Harris also later became the Chair of Chartwell – one of the biggest nursing home chains in Ontario.

This thesis outlines how all of this came about during both the Liberal and NDP governments in Ontario and the governments before them, based on interviews, exhibits, and internal documents.

It is a story of unbridled, embedded corruption that has existed since for-profit nursing home corporations first arrived in Ontario. No government of any political stripe has had the fortitude to end this industry's undue influence and focus instead on the public interest.

Without a coordinated and consolidated coalition of labour, citizens groups, and the professions to match the lobbying power of the nursing home industry, long-term care is likely to remain the disgrace that it is.

Note to members:

This precis of my thesis is provided to you to give you an idea of the backdrop to the current long-term care system in Ontario. The attempts to pretty up or change this institutional system are doomed to failure. History tells us this. This is why SSAO has focused solely on building alternatives to this system so that elders and people with disabilities have real choices, and are not forced to enter it.

It took hours to scan this thesis and prepare it for digital availability. Until now it has only been available at the Robarts Library, University of Toronto, in hard copy. There are few options for making it available digitally without significant cost. I chose Vital Source because it offers the lowest cost option for anyone wishing to read it. I wish it could have been made available for free, but that is not an option.

For those who do wish to read it in its entirety, you can do so by renting it for 60 days for \$10.00 or for thirty days for \$8.75, or permanently for a purchase price of \$25.00. It was the best we could do.

Here is the link: <https://www.vitalsource.com/en-ca/products/private-interests-or-the-public-interest-patricia-spindel-ed-d-v9780980924855?term=9780980924855>

Patricia Spindel, Chair, Seniors for Social Action (Ontario)