



## AN OPEN LETTER TO ONTARIO CABINET MINISTERS RESPONSIBLE FOR LONG-TERM CARE, HEALTH, AND DISABILITY RIGHTS

August 23, 2022.

Dear Ministers,

As co-founders and members of Seniors for Social Action Ontario we are writing to you to express our vehement objections to your government's introduction of regulations forcing older adults and people with disabilities into institutions, especially those not of their choosing.

Disabilities do not come with an expiry date. And your actions are in direct contradiction to a recent decision of the Nova Scotia Court of Appeal (*Disability Rights Coalition v. Nova Scotia (Attorney General)*) as well as many decisions of the Supreme Court of Canada addressing issues of systemic discrimination going back to 1987 concerning the rights of persons with disabilities.

The Nova Scotia decision, in particular, addressed systemic discrimination caused by unjustifiable institutionalization resulting from that provincial government's failure to provide reasonable supports and services to allow the appellants to continue to live in their own homes and communities. This was the finding of the Nova Scotia Court of Appeal: "Applying the law to the Board's findings and the record, we are satisfied that the DRC has established a *prima facie* case of systemic discrimination."

<https://www.canlii.org/en/ns/nsca/doc/2021/2021nsca70/2021nsca70.html>

On April 14, 2022 the Supreme Court of Canada dismissed the government of Nova Scotia's attempt to appeal the systemic discrimination ruling of the lower court. "The application for leave to appeal from the judgment of the Nova Scotia Court of Appeal, Number CA 486952, 2021 NSCA 70, dated October 6, 2021, is dismissed with costs to the Disability Rights Coalition." <https://decisions.scc-csc.ca/scc-csc/news/en/item/7401/index.do>

Furthermore, as you know, Canada is a signatory to the U.N. Convention on the Rights of Persons with Disabilities. Your government's actions are in violation of two articles of that Convention – Articles 14 and 19 which state:

### **Article 14:**

"Parties shall ensure that persons with disabilities, on an equal basis with others:

- a) Enjoy the right to liberty and security of person;
- b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty".

### **Article 19:**

"Parties to the present Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

- a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;
- b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;
- c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs."

Your government's announcement of billions of dollars to fund 30,000 new long-term care beds plus refurbish many others, thereby rewarding the corporations with some of the worst track records during the pandemic, has directed funding exactly where it should not be going. And it is an obvious violation of older adults' constitutional rights and their human rights to be reasonably accommodated with supports and services that allow them to live in their own homes and communities and not be excluded from their communities and segregated in institutions.

If you were truly concerned about the pressure on hospital beds, there are some actions you could have taken immediately to reduce that pressure. These include:

- Directing significantly increased funding to the High Intensity Supports at Home Program so that individuals currently occupying hospital beds who have "high, complex care needs" could return home with the support they require. This funding could be targeted to those areas where pressure on hospitals is greatest;
- Introducing a pilot program to invite paid family caregivers to take people home from hospital and provide care to them with virtual care support. Paying family caregivers would have also eased the staffing shortage by having those who know their loved ones best provide their care;
- Introducing, through OHIP, a Money Follows the Person direct funding program, tying funding to the individual needing care, rather than to service providers. This would empower individuals and their families to obtain the care they require at the right time, in a way that meets their needs, and in the right place;
- Directing Ontario Health Teams to introduce PACE (Program of All-Inclusive Care of the Elderly) programs across Ontario, working with municipalities to introduce them in community housing, especially buildings that have high numbers of older adults and people with disabilities requiring this type of care. PACE has been proven to keep people out of institutions and to facilitate their care once they return from hospital;
- Funding Hub and Spoke models in naturally occurring seniors' communities all across Ontario, employing a consumer-directed case management model. An example of this is the program operated by Peel Senior Link which, through its Assisted Living Services for High Risk Seniors program used this model to serve 399 people through 12 hub and spoke locations in a partnership with Peel Housing Corporation. This program diverted 116 individuals from emergency rooms, and 121 individuals from having to be institutionalized in long-term care facilities.

There are many alternatives like this that would have taken the pressure off hospitals while also addressing what older adults have asked for decades – that they be assisted to age in place, or at least in their own communities. Instead, your government chose the most restrictive, least respectful, and most expensive option – institutionalization - building institutions that no one wants to end up in, and staff do not want to work in. Where was the logic in that when so many other options were available to you?

And now, in an unprecedented move that violates the fundamental rights of individuals to choose their place of residence, you are forcing people, at the most vulnerable time in their lives, to be uprooted and shipped to an institution not of their choosing, and possibly miles away from their natural support systems. You are also infringing on their privacy rights in allowing release of their personal health information to licensees of institutions, without their consent.

This is the most draconian step ever taken against a vulnerable segment of Ontario's population, and it demonstrates utter contempt for the needs, rights, and dignity of older adults. These were the people who paid their taxes, obeyed the law, raised their families, contributed countless volunteer hours in their communities, and your government is treating them abominably. You are seeking to exclude them from their communities, segregate them in institutions, and are showing complete contempt for them by taking away their personal autonomy and right to choose. Your entire government, and especially the Cabinet, should be ashamed of treating older adults this way.

We respectfully request that you withdraw this draconian and arguably reprehensible Bill 7, and focus instead on finally addressing the stated needs of older adults, through the means listed in this letter, to assist them to age in their own homes and communities, close to their natural support systems. Doing this would ease the burden on hospitals, respect older adults' human and constitutional rights, and move Ontario into the 21<sup>st</sup> Century with respect to long-term care provision.

Yours truly,

### **Members and Co-Founders of Seniors for Social Action Ontario**

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### **Response may be directed to:**

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c.c. Hon. David Lametti, Minister of Justice and Attorney General of Canada  
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