

CONSULTATION ON REGULATING THE RETIREMENT HOME INDUSTRY

Presentation to the Ontario Senior Secretariat

BY

**CANADIAN PENSIONERS CONCERNED, INC.,
ONTARIO DIVISION**

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the
Retirement Home Industry**

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Canadian Pensioners Concerned (CPC) believes that all Retirement homes should be regulated. We believe that the Province should set the standards and the enforcement mechanisms with the necessary level of funding to guarantee that the enforcement is carried out.

Over the years CPC has expressed to the provincial government in power our ongoing concern at the lack of legislation for the regulation and inspection of Retirement Homes. We know that self regulation does not really work since all retirement homes cannot be forced to join a supervisory organization. Also industry controlled help lines do not really make a difference to those who are in a vulnerable situation. The fact that the retirement home sector is largely unregulated has led to untenable situations for vulnerable seniors.

CPC is pleased that the provincial government is finally taking some definite action that, hopefully, will lead to legislation that sets the standards and enforcement mechanisms for retirement homes.

At the same time it is essential that the provincial government address the problem of the lack of knowledge among the general public about the differences between Retirement Homes and Long Term Care Homes. CPC believes that the provincial government needs to begin an educational campaign to educate the general public, particularly older adults, about these differences. This information, such as that

provided in the Consultation backgrounder, needs to be disseminated across the province.

CPC is using the government's questionnaire as a basis for our responses in the consultation process.

DEFINITION OF RETIREMENT HOME AND GENERAL ISSUES

1. For purposes of legislation, how should “retirement home” be defined?

A retirement home is a licensed residential complex that is occupied or intended to be occupied by persons for the purpose of receiving care services, whether or not receiving the services is the primary purpose of the occupancy.

2. Should a definition limit retirement homes to homes with 8 or more occupants?

There should be no minimum size limit on where provincial authority is enacted. Any facility where care is offered for a fee should be included i.e. licensed and accredited. Municipal authorities vary in their regulations and in enforcing compliance therefore CPC is apprehensive that a number of unregulated 7 bed or less retirement homes will be set up by negligent operators if the provincial government does not include them in legislation. A minimum bed number size limit on provincial jurisdiction will put vulnerable seniors and other vulnerable persons at risk of mal treatment.

3. If the definition of “retirement home” refers to care services, how should “care services” be defined?

CPC agrees with the Residential Tenancies Act, 2006 definition of care services as including health care services, rehabilitative or therapeutic services, or services that provide assistance with the activities of daily living.

We suggest that a menu of services be offered and that the retirement home tenant pays for the services selected. The retirement home operator can determine with consultation and guidance from the regulatory body the services appropriate to each specific retirement home. This may mean that a person will have to change his/her location if the available services are not adequate to his/her increasing needs. Or the tenant may obtain additional care services from an external care provider as per the Residential Tenancies Act, 2006.

When provincial standards for each level of care are established they can be enforced by the granting of a licence and the accreditation for the services provided. Accreditation for each service provided and the licence must be up-dated every two years.

Administration

4. Should there be provincial standards governing the administration of retirement homes?

CPC believes that provincial standards and compliance legislation are necessary for all the following aspects of administration of retirement homes:

- Employee orientation
- Employee training and education
- Handling of money/trust accounts by the home
- Complaints procedures through a government (not industry) hotline
- Resident councils
- Standard form contract between home and tenants regarding rent and services?
- Adherence to current governing legislation including Residential Tenancies Act, Health Promotion and Protection Act, the Fire Code, the Building Code, Workplace Hazardous Materials Information System (WHMIS), Material Safety Data Sheets (MSDS) and applicable municipal by-laws
- Family Councils

CPC has added Family Councils to the list in the questionnaire. We consider Family Councils, modeled on those in Long Term Care legislation, an important addition to the list. Family Councils and Resident councils have a significant role to play in the administration function. Employee training and education are essential to the provision of all care needs. An easily understood standard form contract detailing the responsibilities and liabilities of the retirement home and the tenants is also particularly important. Complaints procedures should include a province-wide 1-800 hot line staffed by provincial employees, similar to Long Term Care.

Resident Services

5. Should there be provincial standards governing resident services in retirement homes?

CPC believes that provincial standards and compliance legislation are necessary for all the following resident services:

- Maintenance of health records
- Storage and administration of medication
- Assistance with activities of daily living (bathing, dressing, eating, personal hygiene, assistance with mobility or transfer)
- Continence care management
- Caring for persons with cognitive impairments (safety, resident rights, and quality of life concerns)
- Reporting and investigating abuse
- Regular assessment of resident care needs and advising residents of full range of care options
- Relationships between home and external care providers
- Use of restraints
- Locked Units

CPC has added Locked Units to the list in the questionnaire. We believe that Long Term Care legislation should be incorporated into retirement home regulations where applicable e.g. in the use of restraints and locked units. The privacy issue related to health records needs clarification. Speedy communication regarding health records including information about medication between retirement homes, hospitals and long term care facilities is also of particular importance.

Food Services

6. Should there be provincial standards governing food services?

CPC believes that provincial standards and compliance legislation are necessary for all food services. Long term care standards are applicable in all these areas:

- Food safety
- Nutrition and variety
- Special diets
- Cultural needs and preferences

Environment

7. Should there be provincial standards governing the retirement home environment?

CPC believes that provincial standards and compliance legislation are necessary for all the following aspects of the retirement home environment:

- Infection control including: (a) procedures with respect to dietary, housekeeping, and laundry, and (b) outbreak control
- Fire including (a) fire safety plan, (b) emergency procedures, (c) staff training, (d) fire drill record
- Other emergencies (loss of heat or water, hot weather, natural disasters, supply chain disruption)
- Water temperature
- Missing persons
- Emergency call bell systems
- Other building maintenance issues – yearly inspections

CPC believes that there should be yearly inspections of the building maintenance by provincial inspectors. Also Public Health Departments and other Municipal Government departments need to be involved in areas of their expertise e.g. outbreak control and fire safety.

ENFORCING PROVINCIAL CARE STANDARDS

8. Who should be responsible for ensuring that care standards are met in retirement homes? What kind of a regulatory body should be responsible for this?

CPC rejects a third party regulatory agency model. CPC believes that the Province should set the standards and the enforcement mechanisms with the necessary level of funding to guarantee that the enforcement is carried out. This Agency would be within a government Ministry.

If resident councils and family councils (question # 4) are to have any meaningful significance it would be appropriate for them to have representation on a government regulatory agency.

9. Which activities should regulators be required to do?

The activities that CPC would require of the regulators are:

- Require homes to operate according to provincial standards
- Respond to complaints from consumers
- Inspect homes every year
- Enforce care standards according to Long Term Care legislation
- The Ministry should report annually and recommend changes to standards/regulations

CPC believes that the above functions are necessary for regulators within a Ministry of the government. Operating according to Provincial standards must be a requirement in the operation of a retirement home. Yearly inspections are essential to prevent deterioration in care standards which should be enforced according to Long Term Care legislation. An annual report from the government could recommend any changes to standards/regulations.

10. What should happen if a retirement home fails to live up to a care standard set in provincial legislation? Should there be authority to take action if a home fails to meet care standards or other requirements of legislation?

If a retirement home fails to live up to standards of care set in provincial legislation the government Ministry responsible for retirement homes should have authority to carry out the following:

- Publication of failure
- Fines – a meaningful recommended minimum fine
- Closure
- Supervision by an external body
- Order specific actions by the home
- Order training of relevant persons

CPC believes that fines can be pointless unless a meaningful recommended minimum is established.

11. What's your advice on the qualifications necessary for staff who will monitor retirement homes' compliance with standards, and respond to consumer complaints?

The qualifications for staff who will monitor retirement homes' compliance can be modeled on the Long Term Care legislation's requirements.

12. Do you think that a third-party regulatory agency, similar to those that have been established in Ontario for other non-funded industries, would be an appropriate and effective way to regulate retirement homes?

CPC rejects a third party regulatory agency. As stated previously Canadian Pensioners Concerned (CPC) believes that all Retirement homes should be regulated. We believe that the Province should set the standards and the enforcement mechanisms with the necessary level of funding to guarantee that the enforcement is carried out. This regulatory agency would be within a government Ministry.

13. If you think that a third-party regulatory agency is appropriate, who do you think should be represented on the agency's board or directors? Who should appoint the board members? Should the government specify a certain number of consumer and industry representatives to ensure a balance of perspectives?

CPC rejects the third party regulatory agency. CPC believes that the Province should set the standards and the enforcement mechanisms with the necessary level of funding to guarantee that the enforcement is carried out. This regulatory agency would be within a Ministry of the government.

14 Do you have any additional comments or suggestions on anything pertaining to regulating the retirement home industry?

1. The legislation must include whistleblower protection for tenants, staff and concerned members of the public.
2. CPC is pleased with the listed offences in The Residential Tenancies Act 2006. The inclusion of the fact that operators will not be allowed to stop a tenant from contracting external care services is very important but there needs to be a regulation controlling increases to the cost of mandatory care services. Care service cost control, similar to rent control, needs to be in the legislation.
3. Education of the public regarding the differences between Retirement Homes and Long Term Care Homes needs to be a priority of the government.

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