

Response to Proposed *Initial Draft Regulations* Made under the *Retirement Homes Act 2010*

Canadian Pensioners Concerned, Ontario Division, founded in 1969, as part of a national voluntary organization of seniors committed to promoting issues such as pensions, health care, housing and transportation. We are concerned not only about those matters which involve older citizens but about all of the factors which make for a just, caring, compassionate, civil society for all age groups. Over the years, CPC has continued to advocate on the needs and rights of older people and others, who, by virtue of illness, physical or psychological impairments, age and economic need, are especially vulnerable in a society driven by economically determined values, often to the exclusion of other social values that enhance a fair, just and inclusive social order.

We are pleased to have an opportunity to respond to the Minister Responsible for Seniors' request to comment on the *Initial Draft Regulations* put forward under the *Retirement Homes Act 2010*. We recognize that these *Draft Regulations* are incomplete so our capacity to provide a full response will depend upon what is to follow from the government. We argue that when the complete set of proposed *Regulations* is released, the public must have the right to review and comment on them.

To begin our response we would like to draw attention to one of our former criticisms of the *Act* itself. We objected then, and continue to object, to the limitation of the applicability of the *Act* to homes serving six or more residents. **The *Act* itself, and all the *Regulations* that follow, should protect all people living in retirement/care or rest homes whatever the size.** Vulnerable people are potentially at risk in homes of five or less. It is shameful that the government has refused to protect all persons living in such situations. Rural and remote communities in particular are more likely to have smaller retirement/care/rest homes and these homes are **not** covered. This is wrong, and we will continue to protest against this discrimination.

Given the great diversity in retirement homes from perhaps a few that are strictly residential facilities to care facilities combined with residential options, **we argue that there should be a scheme of graduated licenses to recognize those differences.** This would mean that facilities that provide increasing levels or degrees of care should have more demanding license requirements, supervision and regulation. This is an obvious lack in the proposed *Regulations*.

The fact that the *Regulations* require a care plan for each resident entering a retirement home clearly establishes that these are in fact care homes and thus, we argue, should come under the same care regulations as those covering long-term care homes. This comment leads us to our next general criticism of the proposed *Regulations*. When a retirement home is offering essentially the same services as a regulated long-term care home, that activity of the retirement home should come under the *Regulations* established for long-term care homes. Both sets of residents need the same protection and should be covered by the same *Act*. **Thus, if residents of retirement homes are receiving the same care services as those living in long term care homes, the licensee should be accountable to the Ministry of Health and Long-Term Care for the provision of those services.**

The *Regulations* set out a complaints procedure for the residents, a procedure that is limited to dealing with the licensee. There isn't a procedure that enables the resident to go beyond the licensee to an **independent complaints tribunal office**. We see this clearly as an imbalanced process, and call for a process that enables the resident to carry their complaint beyond their landlord, the licensee. **We also believe that, not only must there be a written record of all complaints registered against a licensee, as required under the *Regulations*, but also a public record of all complaints – their nature and resolution/outcome.**

Retirement homes and their residents are in a landlord and tenant relationship, thus we question why a care plan should be required in the first place. **However, if care is expected and required, then this is creating a two-tiered system** – one for those needing care in a long-term care facility significantly funded and regulated by the government, the second for those who purchase care from a differently “regulated” (less regulated) and non-government funded, non-fee regulated system. We find this to be unacceptable. Furthermore, we believe that **care services for a resident should be available through the CCAC. This would permit the resident to get the care he/she needs provided to all eligible citizens at potentially no cost or at a lower cost.**

The draft *Regulations* lack the clarity and regulatory protections for residents suffering from dementia. **Dementia care is explicitly dealt with in the *Regulations* under the *Long-Term Care Act*. If retirement homes are providing care to residents suffering from dementia, then the same regulations and protections should apply.** The use of restraints, medication, and the whole range of services needed by dementia sufferers must be covered by the same rules, regulations and protections. However, residents of a retirement home are in a landlord/tenant relationship but the landlord potentially becomes involved in a very different role, that of medical service provider. **The reliance on the protection under “Common Law” is not good enough.**

Residents of a retirement home who become “difficult” to manage need to be protected from eviction without provision of an acceptable alternative residency facility that has the capacity to serve their needs. Retirement homes must not be able to evict a resident without ensuring they have provided alternative appropriate and acceptable care provision – acceptable to the resident

or their responsible decision maker or the resident themselves if they are capable. **Protection from eviction without alternative care provision being provided through the services of the CCAC must be assured by the *Regulations*.**

The *Regulations* are rather limited in dealing with the role of the professional colleges. Physicians and nurses are mentioned but there are other regulated health professionals that provide services to residents - dental hygienists are one example. **Accountability and liability for the actions of all professional regulated service providers must be explicitly established in the *Regulations*.**

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