

# Regulating Care in Ontario's Retirement Home Industry: The Findings from Written Submissions to the Ontario Seniors' Secretariat

## 1.0 Introduction

In its March 2006 Budget the Ontario government stated: "The government will continue to improve efficiency and accountability by engaging in formal consultations in 2006/07, through the Ontario Seniors' Secretariat, with the goal of establishing a new regulatory framework for strengthening the standards of care in Ontario's retirement homes." This report summarizes the comments made by those who provided written comments to the Ontario Seniors' Secretariat (OSS).

## 2.0 Process

The Ontario Seniors' Secretariat developed a questionnaire to guide those who wished to provide written comments about developing care regulations for Ontario's retirement homes. The questionnaire was available on line at [www.rhconsultations.ca](http://www.rhconsultations.ca) and was provided in hard copy to all those who attended the 13 consultation sessions held throughout the Province in February and March, 2007. The questionnaire was available in English and French. The report below summarizes the comments of those who sent written comments to the Ontario Seniors' Secretariat (OSS).

## 3.0 Participation

251 written submissions were received, either by mail or through the website. Each submission was read and results summarized by category of respondent. The table below presents the categories of respondents and the number of submissions in each category.

Category of Respondent	Number of Submissions	Examples of Organizations in each Category
Advocacy groups	4	Advocacy Centre for the Elderly, Advocacy Centre for Tenants
Industry	43	Chatham Retirement Resort, Ontario Retirement Communities Association
Seniors groups	10	Canadian Pensioners Concerned, Canadian Association of Retired Persons
Municipalities	14	City of Toronto, Peel Region
Professional Organizations	11	Dietitians of Canada Ontario, Health Care Aides and Personal Support Workers of Canada
Employees of Retirement Home	10	
Seniors and Family Members	114	
Health and Social Service Organizations	18	Alzheimer Society of Ontario, Mental Health Program for Older Adults
Other	27	This category consisted of

		submissions from those who did not identify their relationship to the retirement home sector.
Total	251	

## **4.0 Content of the Written Submissions**

### ***Was there a consensus of opinion either for or against regulating the retirement home sector?***

Those who submitted written opinions almost uniformly indicated that care provided by the retirement home sector should be regulated. A small minority of industry respondents (4-5) felt that there should be no care standards for retirement homes.

#### ***Key messages about regulation***

Although there was general consensus that care services should be regulated, several general comments were common to a number of the submissions:

- The sector should not be over-regulated.
- New regulations should not duplicate or conflict with existing provincial and municipal requirements.
- Regulations should recognize the range of care services being provided within the sector.
- The cost of complying with new regulations should be reasonable. Some of the seniors and family members were concerned that care standards would lead to higher costs for them.
- The standards should be outcome-focused, not prescriptive.

## **4.1 Definition of retirement homes and related issues**

The material below presents the questions posed in the questionnaire and the range of responses to each question.

### **4.1.1 For purposes of legislation, how should “retirement home” be defined?**

There was no shared consensus across types of respondents on a specific definition.

Two definitions were presented in the questionnaire. The definition of a care home used in the *Residential Tenancies Act, 2006* (“a 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.”) was supported by more respondents than the working definition developed by the Ontario Seniors’ Secretariat which stated that “a retirement home is a home where eight or more unrelated adults purchase accommodations and care, where such care is not funded or regulated by any level of government.” Others liked the definition used by Ontario Retirement Communities Association (ORCA) which is that a retirement home is “a residence occupied by 10 or more people who are primarily 65 years of age or older for the purposes of receiving care services. Care services include nursing, medication administration and activities of daily living, meals, laundry, housekeeping and recreation.”

Some felt that for the purposes of developing care standards, the definition should include all homes, whether funded by the government or not. Others felt that there should be no age restrictions because retirement homes currently serve those with disabilities who are not age 65 or over. However, the

submissions sent in by seniors and family members called for a reference to age in the definition. Most groups felt that the care home definition needed to accommodate various sizes and level of care.

A number of submissions indicated that the definitions above potentially or definitely overlapped with care provided in long-term care homes. This was an area of controversy with some respondents indicating that care in retirement homes should not be at the same level as care provided in long-term care homes while others felt that there is currently an overlap in care levels which should be maintained. One group indicated that if the definition overlaps with Section 93 of Bill 140 (*An Act Respecting Long-Term Care Homes, 2006*), the Minister of Health and Long-Term Care would have to name and define persons permitted to operate residential premises where nursing care is permitted.

At the end of this discussion, many groups stressed the need for the definition to accommodate the diversity within the sector and to be clear, measurable and objective.

#### **4.1.2 Should a definition limit retirement homes to homes with 8 or more occupants?**

As noted above, the ORCA definition refers to homes serving a minimum number of 10 residents. One of the rationales for 10 residents is that local departments of Public Health will not inspect homes with less than 10 residents. Many operators pointed out that it is not cost effective for smaller homes to have to meet certain standards.

In the submissions, a majority of respondents, across the categories, felt that the standards should be the same regardless of the size of the home. The seniors and family member's category of respondents mentioned that the care standards should not be onerous for smaller homes to meet.

#### **4.1.3 If the definition of “retirement home” refers to care services, how should “care services” be defined?**

The *Residential Tenancies Act, 2006* defines care services as including health care services, rehabilitative or therapeutic services, or services that provide assistance with the activities of daily living. Most of the written submissions supported this list of care services. However, a number of groups and individuals mentioned the need for the province to maintain the diversity within the retirement home sector, with homes offering varying levels of service depending on the needs of their residents. Some seniors groups felt that the minimum care services that should be provided in retirement homes included: accommodation, meals, assistance as need in the activities of daily living (ADL) 24 hour supervision, and social/recreational programming. A number of respondents felt that if care services are the same as those provided in long-term care homes, the standards should be the same as those for long-term care homes.

Another issue frequently mentioned by operators was the need to maintain flexibility of operators to choose which care services to provide based on the needs of seniors in their community.

### **4.2 Regulating Care and Related Services**

In this section of the questionnaire a series of areas for possible development of care standards were presented. The areas were based on the care standards developed by the Ontario Retirement Communities Association (ORCA).

Most respondents felt that care standards should be established for the list of topics in the tables below. Some topics generated more discussion than others. The comments below reflect the range of comments in each area. If there are no comments in an area, the respondents did not discuss that area.

## Administration

### 4.2.1 Should there be provincial standards governing the following or other aspects of administration of retirement homes? If so, why and what is particularly important to you?

Area	Additional comments
Employee orientation?	
Employee training and education?	Seniors and Family members highlighted the importance of employee education and training.
Handling of money/trust accounts by the home?	
Complaints procedures?	Seniors and Family members especially noted the need for standards on a complaints procedure.
Resident councils?	Requiring a resident council was felt by a number of groups to be prescriptive. These groups felt that it was important to have standards to ensure that residents have a regular (i.e. monthly) opportunity to discuss issues with managers and administrators. If resident councils are mandated but residents chose not to have one, the home should be required to document how residents were given the opportunity to have a resident council. The point was made that sometimes residents do not want a resident council.
Standard form contract between the home and tenants regarding rent and services?	
Adherence to current governing legislation including <i>Residential Tenancies Act</i> , <i>Health Promotion and Protection Act</i> , the <i>Fire Code</i> , the <i>Building Code</i> , <i>Workplace Hazardous Materials Information System (WHMIS)</i> , <i>Material Safety Data Sheets (MSDS)</i> and applicable municipal by-laws?	

#### Other Comments:

Several groups mentioned the need for standards for maintaining an adequate staffing pattern on a 24/7 basis. A few groups felt that the standards should require a ratio of staff to residents.

Some of the advocacy groups felt that standards should comply with the *Accessibility for Ontarians with Disabilities Act* and the *Ontario Human Rights Code*.

A small minority of industry (4-5) respondents felt that there should be no standards for the administration of retirement homes.

Some groups mentioned that there should be a Charter of Rights or a Bill of Rights for retirement home residents.

Some indicated that there should be background checks for owners, administrators and staff working in retirement homes.

### Resident Services

#### 4.2.2 Should there be provincial standards governing the following or other aspects of resident services in retirement homes? If so, why and what is particularly important to you?

Area	Comments
Maintenance of health records?	
Storage and administration of medication?	At least one of the senior's organizations did not feel that retirement homes should store and manage medications.
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)?	Some of the professional organizations and at least one of the senior's organizations did not feel that retirement homes should provide care for those with cognitive impairment. They felt that elders with cognitive impairments should be cared for in long-term care homes. The vast majority of respondents felt that if homes provided care for those with dementia, that care should be regulated.
Reporting and investigating elder abuse?	
Regular assessment of resident care needs and advising residents of full range of care options?	
Relationship between home and external care providers?	
Use of restraints?	This item led to the greatest difference of opinion in the resident care area. A number of groups, including some seniors and family members, did not feel that restraints should be allowed. Most respondents felt that if restraints are permitted there was a need for regulation.

#### Other Comments:

Some of the seniors groups felt that if care was being provided at a level that was beyond what the CCAC provides for community-dwelling elders, then the home should be required to be licensed as a long-term care home.

A small number (4-5) of submissions from industry operators indicated that they did not think any of these resident care areas should be regulated.

### Food Services

**4.2.3 Should there be provincial standards governing the following or other aspects of food services in retirement homes? If so, why and what is particularly important to you?**

Area	Comments
Food safety?	
Nutrition and variety?	A number of respondents indicated that Canada's Food Guide should be followed by retirement homes. Residents should have choice at each meal.
Special Diets?	
Cultural needs?	This area generated a number of comments; there was a concern that retirement homes might be expected to meet all dietary cultural preferences of potential residents.

**Comments:**

Food services should be inspected by Public Health staff.

The contract should specify which dietary cultural preferences can be accommodated by the retirement home.

**Environment**

**4.2.4 Should there be provincial standards governing the following or other aspects of the retirement home environment? If so, why and what is particularly important to you?**

Area	Comments
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 and (d) fire drill record?	
Other emergencies (loss of heat or water, hot weather, natural disasters, supply chain disruption)?	Several respondents mentioned that loss of electricity should be covered in the standards.
Water temperature?	
Missing persons?	
Emergency call bell systems?	
Other building maintenance issues?	

**Other Comments:**

The vast majority of respondents felt that all the areas listed above should be regulated. As noted earlier, there were a small number of operators (4-5) who felt that there should be no regulation of the building environment. One respondent mentioned the need for standards regarding smoking.

**4.3 Enforcing Provincial Care Standards**

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

The written submissions indicated a range of possible options for the enforcement agency; they included the provincial government, a 3rd party agency, the municipalities, or ORCA. The majority of respondents felt that a third party agency was the best option. However a sizable number of respondents felt that it was the role of the government to enforce the standards. A number also felt that ORCA could be the enforcement agency. Very small numbers (less than 10) of respondents felt that the industry should be self regulated or regulated by municipalities.

### 4.3.2 Which of the following activities should regulators be required to do? Are there other functions that you think are important?

Area	Comments
Assist homes to operate according to provincial standards (offer consultative advisory services)?	
Respond to complaints from consumers?	
Inspect homes on a regular, periodic basis?	Several groups indicated that visits should be unannounced.
Enforce care standards?	
Offer dispute resolution/mediation services for operators and residents?	Several groups did not feel that this was an appropriate activity of the enforcement agency.
Produce a public annual report on their year's work and recommend changes to standards/regulations?	

#### Other Comments:

The vast majority of respondents agreed that the enforcement agency should provide the services listed above. Some added that the agency should produce report cards on retirement homes. Others added that the enforcement agency should provide education to operators about the standards.

One of the large senior's organizations felt that the enforcement agency should review the fees being charged to seniors to ensure that they are being taken advantage of.

Several groups called for retirement homes to be licensed. Homes that did not meet the standards would have their license/accreditation withdrawn.

Some felt that the enforcement agency should maintain a registry of retirement homes in Ontario.

A recurrent suggestion was that the enforcement agency should develop a star rating system for homes. The system should be easily understood by consumers.

**4.3.3 What should happen if a retirement home fails to live up to a care standard set in provincial legislation? Should there be authority to do any of the following if a home fails to meet care standards or other requirements of legislation? Do you have any other suggestions?**

Area	Comments
Publication of failure?	
Fines?	One group mentioned that the enforcement agency should set minimum fines.
Closure?	
Supervision by an external body?	
Order specific actions by the home?	
Order training of relevant persons?	
Other?	One group called for video surveillance. Five organizations called for withholding of license or accreditation.

**Other Comments:**

Several respondents felt that a progressive series of enforcement sanctions should be taken beginning with the least punitive.

The advocacy groups felt that tenancy issues should be referred to the Landlord and Tenant Board and health care issues should be addressed by the Ministry of Health and Long-Term Care.

Some respondents mentioned the need for whistle-blower protection for those who file complaints about retirement homes.

**4.3.4 What is your advice on the qualifications necessary for staff that will monitor retirement homes' compliance with standards and respond to consumer complaints?**

There was relatively little discussion of this area. The comments that were received indicated that all staff should have previous experience in the retirement industry and that they be trained about the standards and their roles as inspectors or surveyors. Some respondents felt that staff should have the same training and experience as compliance officers of the Ministry of Health and Long-Term Care who inspect long-term care homes.

Some groups mentioned that staff should have clear guidelines to follow to ensure that standards are being monitored consistently across the province. Seniors and family members as well as professional organizations indicated that staff should be familiar with health and safety, food handling, dietary, nursing care, and infection control. Families and seniors felt that the staff should work together as a team.

#### **4.3.5 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?**

Almost all groups agreed that a 3rd party agency would be appropriate. But there were groups who felt that enforcement was a role of government.

#### **4.3.6 If you think that a third-party regulatory agency is appropriate, who do you think should be represented on the agency's board of 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?**

Almost all respondents felt that the Board should be representative of consumers (including family members), industry, and government. Some groups added other stakeholders such as seniors' advocacy groups, front-line staff, and ORCA. Some groups felt that the Board should be comprised of only industry and consumer representatives on an equal basis.

There was some disagreement about the distribution of votes among Board members. Most groups felt that the each of the main groups (consumers, industry and government) should have equal numbers of votes. Several groups felt that a majority of members should be from industry. Others felt that a majority of votes should be held by consumers.

Most respondents felt that the Board members could be appointed by the government but there were a number of suggestions that there be elections or appointments for Board members by each sector.

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

There was great concern that the affordability and flexibility of the retirement home sector not be negatively impacted by the imposition of standards of care. Some respondents mentioned that the cost of complying with standards would be passed along to residents which could make retirement home living unaffordable for some seniors. As well, some respondents were concerned about the ability of smaller homes to comply with standards, with the result that they might have to close.

Several respondents felt that the government should fund enforcement of standards because the care being delivered is already very close that being delivered in Long-Term Care Homes, where compliance with standards is paid for the by the government.

Several respondents mentioned that there should be an ombudsman overseeing the sector.

### **5.0 OTHER ISSUES THAT WERE MENTIONED IN THE SUBMISSIONS**

The term 'other issues' refers to topics that arose that were not directly related to the issue of regulating the retirement home sector.

- There is a need to educate the public about the role of the retirement home sector in the continuum of care for older people.
- The submission from the francophone community indicated that there is a shortage of retirement homes for French-speaking seniors.
- Many groups mentioned that because of shortages of Long-Term Care beds, retirement homes are providing care for those who would otherwise be in a Long-Term Care Home. Some felt that the government should help fund care that meets the level of care provided in Long-Term Care Homes or that government should subsidize low income residents in retirement homes.
- The submissions sometimes mentioned that there were shortages of long-term care home beds, supportive housing and/or Community Care Access Centre services.
- The advocacy organizations did not feel that people with disabilities had been consulted about the need for care standards in retirement homes.
- Some respondents indicated that retirement homes should be considered part of the long-term care continuum.

## **6.0 SUMMARY**

Although all categories of respondents agreed that the retirement home sector should be regulated (including the vast majority of operators), there was little agreement on the specific features that could be included in a definition of a retirement home (such as size and care services). There was widespread agreement about which administrative, resident care, food services and environment areas should be covered by standards. While the enforcement activities of a monitoring entity were generally agreed by all respondents, there was disagreement about the enforcement body. While the majority of respondents felt that a third party agency was appropriate, a fairly significant number felt that enforcement was a government responsibility.