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To: Standing Committee of the Legislative Assembly

Re: Bill 37, Providing More Care, Protecting Seniors and Building More Beds Act, 2021

The Champlain Region Family Council Network (CRFCN) is a volunteer group that supports the Family Councils in the 60 long-term care (LTC) homes in this region of Ontario through education, information sharing and advocacy.

In our meetings with the Ministers of LTC, local politicians, and our presentations before the Standing Committee on Finance and Economic Affairs, and the Minister of Finance, the CRFCN has long advocated for:

- more hours of direct care
- adoption of person-centred care models
- improved safety for residents and staff
- improved physical environments to support person-centred care
- better capacity planning
- more accountability and transparency

We had hoped that the new Act would bring much needed transformational change to the LTC sector, moving from an institutional, task-based model to one which truly focuses on the resident and their needs for both quality care and quality of life. The Act must recognize that staff must be empowered to build relationships with residents and their families. Sadly, in comparing the new Act with the old Act we see few substantial changes that would bring about this transformational change.

We welcome the opportunity to provide our observations and recommendations on the proposed new LTC Act.

Preamble

We were pleased to see the addition of several principles related to diversity and the need to respect and recognize the unique needs of different communities, especially French speaking and Indigenous communities. Especially important to us is the recognition of the role of caregivers in the physical and psycho-social well-being and quality of life of residents.

We believe the continued affirmation of “mission-driven” organizations in the governance and operation of long-term care homes is deeply problematic, however. For-profit, even mission-driven organizations should have no place in the provision of

care for frail seniors. Research studies have repeatedly shown that residents receive more care and have fewer hospitalizations and significantly lower death rates in non-profit and municipal homes. In the non-profit model, all extra funds are returned to resident care, rather than shareholders. We are concerned there will be broad interpretation of the term "mission-driven" if it is not clearly defined, and it will promote further erosion of the non-profit sector in the provision of long-term care.

Part II: Residents' Rights

It is good to see the expanded section on the Residents' Rights, especially item 20 which gives the resident the right to "ongoing and safe support from their caregivers to support their physical, mental, social wellbeing...". Our concern is whether this statement is strong enough to ensure that caregivers are never again prevented from visiting their loved ones, as happened during the first two waves of the pandemic.

We also feel that there should be a specific provision to provide residents with access to technology to facilitate communication with loved ones, as per recommendation 34 in the LTC COVID-19 Commission. Wireless access should be available in residents' rooms and residents allowed access to tablets and other technology-based communication aids as requested.

Care and Services

The single most important part of the new act is the definition of direct hours of care for residents. We have been asking for a minimum care standard for direct care for residents for many years and are pleased that it is included in the new legislation. However, we believe that the four hours of care should be defined as a minimum care standard, not a target. As we recently noted to Rod Phillips, Minister of Long-Term Care, residents, their families and staff cannot wait until 2025 to reach this standard. Residents are suffering daily from neglect because of insufficient staffing levels. Staff are burnt-out and leaving LTC to seek work in less demanding environments.

We are happy to see that there is provision to set additional targets that are higher than those set out in the new Act.

We have serious concerns about item 7, "How average calculated". We believe that all homes must be required to publicly report their staffing levels on a quarterly basis, at a minimum. As it stands, the Section 7 procedures mean that some homes could be substantially below the "target" while other homes could be surpassing the "target". Poor performing homes will be buried in an average of all homes.

There must be real consequences in the Act for homes that fail to achieve the minimum care standard. These consequences though must not impact the quality of care provided to residents.

The provision of targets for allied health care professionals is a positive addition, but we are very concerned that the proposed targets fall far short of the 60 minutes recommended by the LTC COVID-19 Commission. The pandemic clearly demonstrated the essential role played by social workers, physiotherapists, recreational therapists and

dietitians in the emotional and physical well-being of residents. The target of 36 minutes of care per day is inadequate to provide person-centred care and ensure quality of life for LTC residents.

Lastly, we do not see any provision in the Act for improving conditions of work: more full-time work, better salaries and paid sick days which are critical to attracting and retaining committed, engaged staff. As noted by Dr. Pat Armstrong, the conditions of work are the conditions of care.

Nursing and Personal Support Services

Section 11 (3) 24 Hour Nursing Care: we feel that the requirement that there be one nurse on duty at all times is inadequate given the size of many LTC homes and the increasing level of resident acuity. A ratio needs to be specified that ensures resident safety and quality of care, as well as reasonable HR expectations of nursing.

There is no mention of nurse practitioners in the Act despite the clear evidence of their value to resident care. The Ontario Nurses' Association, the Registered Nurses Association of Ontario and the LTC COVID-19 Commission recommend a ratio of 1 nurse practitioner for every 120 residents. As with targets set for other direct care, the Act should set clear targets toward achieving this recommendation.

Section 12 (1): while we welcome a statement on "integrated palliative care philosophy" further clarification should be specified in the Act. Inconsistent and inadequate palliative care has been a long-standing issue in LTC and must be improved.

Section 23 (1-5): the requirements for infection prevention and control program is critical given the recent experiences during the pandemic. We feel that the qualifications of the infection control lead should be spelled out in the Act. There should also be a requirement that the plan be reviewed as part of the annual inspection of the home. As recommended by the LTC COVID-19 Commission, there should be provision that the Board of Directors of the home sign off annually on the IPAC plan and supplies (recommendation 76 (c)).

Section 40: Office of the Long-Term Care Homes Resident and Family Advisor. The new act proposes that the Minister "may establish" such an office. It is critical that the Minister hear directly from residents and their families who know firsthand what needs to improve in long-term care. We would like to see the wording changed from "may" to "shall".

Part III: Continuous quality improvement

Section 43: We support the resident and family caregiver experience survey but we believe they should be standardized with some scope for home-specific questions. Questions must clearly capture quality of life indicators. These surveys should be publicly available for use by potential residents and their families as an assessment tool. We are pleased to see the requirement for consultation with Resident and Family Councils in conducting the survey and reviewing action plans based on the results.

Section 44: We believe that it is critical that the Minister establish a Long-Term Care Quality Centre to promote innovation in the sector and share best practices related to person-centred models of care. This is something we have frequently requested in our letters and submissions to the Minister and other elected officials. Therefore, we ask that in item 44(1), the "may" be changed to "shall". LTC in Ontario needs to be transformed based on evidence informed by person-centred care, rather than merely "fixed." This transformation cannot be achieved without the sharing of successes and best practices. Provision should be made for financial incentives or awards for those that implement person-centred care models. We wonder why there is a requirement in part (2) that the Centre is to support mission-driven organizations. Why is that qualifier needed? Shouldn't the Centre support all LTC homes?

Part V: Councils

There must be stronger provisions to encourage homes to establish and support Family Councils. Families are the voice for residents who cannot speak for themselves and for those residents who may not have any family or friends to represent their interests. Many family members visit daily and know firsthand what needs to be improved to ensure residents get the best possible care. These councils permit families and persons of importance to the resident to have a platform to express concerns and work with the administration on solutions.

Section 7: Licensee obligations if no Family Council. We would like this statement strengthened. We suggest the following wording for 7 (a): on an ongoing basis advise residents' families and persons of importance to residents of the right to establish a Family Council and "draw on the support of Family Councils Ontario and and/or a regional Family Council Network to help them in this endeavor".

We are pleased that there is provision that the Minister consult annually with organizations that represent the interests of Family Councils (section 66, item 4). We believe that this consultation should be broad and regionally based so the diverse concerns of families can be heard directly by the Minister.

Part VI: Operations of Homes

Directors, Officers and Other Staff: 78 (1) Medical Director

As noted in the LTC COVID-19 Commission report, many medical directors were completely absent from the homes for much of Wave One of the pandemic. There should be provisions in the Act requiring that the Medical Director be present in the home, especially during crises. The Act should also include reference to the need for oversight of LTC medical directors as recommended in the LTC COVID-19 Commission report.

Section 80(1): Continuity of Care – limit on temporary, casual or agency staff
This provision is no different from the previous act. This is too vague to have any meaning. The Act must be more specific in terms of when agency and casual staff can be used and specify a limit on agency staff as a total percentage of all worked hours in a home. Key elements of person-centred care involve consistency in staffing and

building relationships between the residents and staff. This cannot be accomplished with continued reliance on agency staff.

Section 82, Training (7): training on person-centred care is missing from this section and is extremely critical for achieving the objective of improving care in LTC homes.

Section 83, Orientation for volunteers: training on person-centred care needs to be part of orientation programs for volunteers.

Part VII: Funding

Section 93 (1): The Act should say "shall" rather than "may". The Minister must be positioned and authorized to provide adequate funding to allow LTC homes to meet the requirements of the Act and provide for quality of care and quality of life for residents.

Section 93 (2): The Act should say "shall" rather than "may". We believe that conditions need to be attached to funding to ensure accountability.

Part VIII: Licensing

Section 100 (1b) states that the Minister has the right to restrict a license based on the "effect that issuing the license would have on the balance between non-profit and for-profit long-term care homes". We suggest that this statement should be expanded to state: "effect that issuing the license would have on the current balance between non-profit and for-profit long-term care homes and the need to meet the specific cultural and linguistic needs within communities". We believe that the current balance between the two types of homes has reached its limit and that no further for-profit long-term care homes should be considered. The general public have a clear preference for non-profit delivery of LTC; there must be restrictions identified on further development of the for-profit sector.

Section 101 (e): We are concerned that past performance is not taken into account when issuing a license. A statement should be included in the Act stating that homes that have consistently performed poorly in the past and put residents' lives at risk do not receive licenses.

Section 109 (3): We would like this section eliminated. We believe that the issuing of new licenses should all be subject to public consultation.

Part IX: Municipal Homes and First Nations Homes

Section 122 (1): Municipalities should be encouraged to have more than one home. We would like to see this strengthened. There should be a requirement for x number of LTC beds/per population over 75 in each Ontario municipality. This ratio should apply to all municipalities above a certain minimum population, regardless of whether they are located in Southern or Northern Ontario.

Part X: Compliance and Enforcement

We are pleased that this section has been strengthened but note that significant fines were identified in the previous Act but never applied. Penalties for violations and non-compliance must be assessed against homes in order to ensure compliance.

Section 148: We believe that Residents' Councils and Family Councils should always be consulted during annual inspections. The wording should say the inspector "shall" meet with Residents' Councils or the Family Council instead of "may" meet.

Section 155: We are pleased to see the inclusion of (c) and (d) under Compliance orders.

We did not see any requirement in this section on the inspection of IPAC program as per recommendation 76b from the LTC COVID-19 Commission. This requirement must be part of the Act.

We would also like to see provision in the Act for coaching homes for compliance.

Conclusion

We sincerely hope that you will carefully consider our suggestions (and those of other organizations representing family members of LTC residents) to improve the Act so that the Act can be a catalyst for much-needed transformational change in long-term care, not just words on paper. We owe it to the nearly 4,000 frail seniors who died from COVID in long-term care, existing residents and their families and the 100,000 staff who provide their care, to create a long-term care system that would make Ontarians proud.

Respectfully submitted by:

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