



Patient Ombudsman Ombudsman des patients

November 4, 2020

By email

Roman Baber, Chair

Standing Committee on Justice Policy
99 Wellesley Street West
Room 1405, Whitney Block
Queen's Park
Toronto, ON

Re: Impact of Bill 218, *Supporting Ontario's Recovery and Municipal Elections Act, 2020* on Patient Ombudsman's ongoing systemic investigation

Dear Chair Baber,

I am writing to you to raise a concern regarding the recently introduced Bill 218, *Supporting Ontario's Recovery and Municipal Elections Act, 2020*. While Patient Ombudsman takes no position on legislation offering legal protections for individuals and businesses for COVID-19-related causes of action, we are concerned that Bill 218 as drafted will negatively impact Patient Ombudsman's ongoing systemic investigation into long-term care homes that experienced COVID-19 outbreaks.

Specifically, our concern with the bill relates to the proposed subsection 2(4) which bars proceedings. Given the proposed legislation refers to "causes of action" throughout, we know that the government's intent is to limit civil actions and not to impact proceedings like the investigations that the Patient Ombudsman, Ontario Ombudsman and Long-Term Care Commission are undertaking.

However, given the broad drafting of subsection 2(4) and given the pushback that Patient Ombudsman has received from long-term care homes subject to our investigation to date, we are concerned that the legislation as drafted will be used as a tool to stymie our investigation and that long-term care homes will challenge Patient Ombudsman's investigation on the grounds that it has been barred by this legislation.

We ask that the proposed legislation be amended to explicitly exclude the investigations of the Patient Ombudsman, Ontario Ombudsman and Long-Term Care Commission from the application of the bill. This will ensure that our investigative and legal resources are dedicated to where they need to be, finding answers and ensuring accountability for what has occurred in Ontario's long-term care homes during the COVID-19 pandemic. We have included a brief potential amendment for consideration in the appendix to this letter.

Many thanks for your consideration.

Sincerely,

Cathy Fooks
Patient Ombudsman

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Appendix. Potential draft amendment

Add new subsection 2 (4.1)

For greater certainty, subsection (4) does not apply to the proceedings of the Long-Term Care Commission, the Ontario Ombudsman or the Ontario Patient Ombudsman.

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