

November 4 2020

Submission: Bill 218, Supporting Ontario's Recovery and Municipal Elections Act, 2020

Dear Influencers of the Legislative Committee:

Please do not fail my grandmother for a third time by supporting Bill 218.

My 102 year old grandmother died in a long term care facility that failed to protect and care for her during a COVID outbreak. The Ford government then failed to take necessary action to properly investigate what occurred in LTC facilities, choosing to form a Commission over a full Public Inquiry. The class action process is the only remaining legal mechanism remaining to ensure accountability in the LTC industry and shine a light on the life of every resident who died during the lockdown. To remove this legal option would be to directly and deliberately discriminate against an entire class of Canadians who should have the same rights as everyone else. You would also be indirectly smothering the voice of front line workers who were also exploited and victimized by their employers. The treatment of front line staff is reflected in the care received by residents – the equity of both groups is inter-related and deserves equal protection under the law.

On the surface, COVID appears to be the commonality among all LTC facilities. However, each company made decisions specific to their facilities. Those decisions were implemented differently depending on the management team working onsite with little to no communication to residents or their families. The LTC facilities that might be the subject of legal action are the worst of the worst, with red flags across many pillars:

- Higher % of resident and staff infection rates,
- Higher % of COVID and non COVID fatalities,
- Higher % of residents presenting with malnutrition, dehydration, bed sores and UTIs,
- Multiple Ministry investigations and violations against the LTC Act,
- No doctors working onsite during the outbreak leaving residents without direct physician care,
- Resistance and sometimes outright refusal to transfer residents to hospital,
- Restrictions or shortages of PPE for all front line staff, with inequity between different positions
- Failure to notify families when a loved one was critically ill and to grant families access to the home before the resident died.

A bill of this nature would never be entertained, by any government, under any circumstance, if 200 children died in a congregate care setting, let alone 2000. You do not consider the lives of the elderly to be as valuable as other lives if you support this bill as it is currently worded. However, those of us who witnessed the excruciating suffering of their spouses, parents, grandparents and long-time friends, will never allow these lives to be dismissed. There are thousands of children, grandchildren and great-grandchildren who have years of voting power in their futures. If you strip away the rights of the elderly, we will still be here to strip MPPs from the legislature.

Instead of taking away the rights of an entire demographic, the government could apply its efforts to increasing protection for front line workers and whistleblowers. Many hospitals have already reported on the absence of physicians from several Sienna Living nursing homes. The military has already documented, with laser precision, the appalling living conditions and reckless operations of other Sienna Living facilities. You already have ample, credible evidence of negligence by the operators of these homes so I'm not clear why there is a need for Bill 218. Premiere Ford deflected questions on this issue by citing the example of corner store owners who take reasonable measures to protect customers. But this Bill is not about protecting business owners who sell milk and cigarettes. There are no class actions pending against Rabba or Beckers or gas stations. This Bill is about shielding an entire industry from its responsibility protect and preserve valued lives. The Ford government had already set the bar very low with its poor regulatory oversight of the LTC industry. Bill 218 will leave that bar lying on the ground for companies, like Sienna Living, to step over and then walk away.

Although the government of BC has enacted similar legislation, that province had under 200 LTC deaths compared to over 2000 in Ontario. Ontario's proposal is not fair and reasonable just because it mirrors BC's approach when these two provinces had such drastic differences in performance during the outbreak. Bill 218 sends a message to LTC operators that they can continue to get away with inhumane care under the Ford government when it comes to profit. Furthermore, by shielding individual homes/companies from legal action, you are not recognizing and rewarding the many facilities that conducted themselves in a professional and ethical manner. These operators should be setting the pace for this industry instead of being lumped in with other bad actors.

My grandmother's first choice for a LTC facility was Kipling Acres, a City of Toronto operation. After waiting five years for a bed, at the age of 100, she was forced to move into Weston Terrace, a Sienna Living operation. My grandmother is three times more likely to be alive today had she secured a spot in Kipling Acres. You can imagine how painful and disturbing this fact is to our family. Even if my grandmother had contracted COVID and died in a municipal facility, her pain and suffering would have been eased by access to comprehensive palliative care, surrounded by the love of family members in her final days. Instead she died alone, gasping for breath and depleted from a lack of water. Bill 218 is an insult to her life and all the people she nurtured through the decades. We are fighting for her rights not just because she died but also because of how she died.

I am asking you to discard this shameful section of Bill 218 and refocus your efforts on actions that elevate the lives of the elderly. You have the opportunity to be remembered as the catalyst behind a transformation in the long-term care industry – positive changes of which you may be a direct benefactor one day. I wish both these things for you and your loved ones in memory of my much loved grandmother.

Tara Barrows, on behalf of the family of Dorritt Paul,

Passed away at Weston Terrace on May 16 2020 at the age of 102