

Submission to  
**Legislative Committee**  
**Bill 175**  
the Connecting People to Home and Community Care Act, 2020.  
from  
**The Interfaith Social Assistance Reform Coalition (ISARC)**

**Rev. Dr. Susan Eagle - Chair - ISARC**  
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## Summary Recommendations

1. Withdraw the Bill and conduct a broader public consultation process to identify the weaknesses in the current home and community care system and the best practice means to improve the system.
2. In the alternative amend the Bill to mandate:
  - a. a clear right to the home care needed to satisfy the recipient's condition
  - b. full public accountability and transparency by the government and all subordinate or other entities involved in the establishment of policies and delivery of services
  - c. inclusion of the major resident rights and policy provisions in the statute and not leave these matters to regulation.
  - d. no involvement of "for profit" entities in the absence of peer reviewed clear proof that provision of services by "for profit" entities are at least as cost efficient and of at least equal quality as the provision of such services by entities not operated on a "for profit" basis.
  - e. employment standards that encourage workers to go into and/or remain this field of endeavour and labour relations rules that facilitate interests of such workers to unionize and to effectively engage in collective bargaining.

## **Introduction**

The Interfaith Social Assistance Reform Coalition welcomes the opportunity to provide input for your Committee in respect of the content of Bill 175, the "Connecting People to Home and Community Care Act, 2020" dealing with the delivery of home and community care.

Our Coalition represents the broad range of faith communities throughout the Province of Ontario. ISARC has acted as an advocacy organization for over 30 years on behalf of the marginalized in Ontario and in particular to secure for them safe housing and safe employment.

## **Position**

ISARC strongly supports the aim that is found in the title of Bill 175. We want people better connected to Home and Community Care. We fear however that this piece of legislation will result in the very opposite outcome. Bill 175 will significantly impact the ability of persons needing support to continue living in their private homes as well as the employment of those who provide the care and services to those residents. Unfortunately we fear that Bill 175 will lead to a significant deterioration of the

conditions of care and the conditions of employment. Indeed there will still not be a clear unambiguous right to receive home care based upon need.

Our next concern is that the Bill will move key provisions for the provision of home and community care from a statute into regulation. This is an abdication of the responsibilities of the members of provincial parliament and an invalid delegation of legislative power *Credit Foncier Franco-Canadien v. Ross*, 1937 CanLII 239 (AB CA)<https://www.canlii.org/en/ab/abca/doc/1937/1937canlii239/1937canlii239.html?autocompleteSt=r=Credit%20Foncier%20Franco%20-Canadien%20v.%20Ross%2C%20Netherlands%20Investment%20Co.%20v.%20Fife%2C&autocompletePos=1&searchUrlHash=AAAAAQAKYWJkaWNhdGlvbgAAAAAB&offset=0>.

Regulations are legitimate legal instruments in order to allow the government to fine tune general rights and policies tailored to varying circumstances. They are not the route to use to set out basic rights and principles.

The choice of regulations to set out basic rights and principles will allow the Government to change those provisions without coming back to the legislature for debate and approval. The use of regulations for this purpose will deprive the public of notice of such changes and a meaningful opportunity to have their voices heard on the proposed changes. By going this route the Government is inviting a legal challenge which

will impose costs both on the groups launching the challenge as well as on the public purse to defend this unjustified approach of the government.

A further concern which is equally significant is that the Bill indicates that some key protections now in existence will not even appear in the Regulations and that the language used will allow for less accountability and open up the system for even more private enrichment rather than public service.

The Home Care and Community Services Act currently has a Bill of Rights in Section 3 which gives residents of Ontario some basic entitlements in relation to Home and Community Care. The content of that section is found at the end of this Brief. That section makes clear in Subsection 2 that the Act is to be interpreted in a way to respect these rights. Subsection 3 makes it clear that the recipient has deemed to enter into a contract with the service provider obliging the provider to respect and promote the rights in Subsection 1.

Bill 175 not only removes these rights from the new statute but it does not even guarantee that they will be included in the regulations. By excluding the equivalent of Section 3, Courts will no longer automatically be able to oblige the Government to

respect those rights and service recipients will no longer easily be able to oblige service providers to meet their needs by suing to enforce a contract.

The current system has some degree of public accountability and transparency. The regime that will be created by Bill 175 eliminates all such mechanisms. The importance of accountability in the delivery of home care is underscored in the current COVID-19 environment. There are reports that home care workers are entering homes of care recipients without any COVID-19 testing. This practice is not in violation of any LHIN procedures and there doesn't seem to be any effective complaint mechanism. Had Ontario Health (the Super Agency) or the LHINs been accountable to the public, it would have been possible to quickly correct this risk to public health.

The new system will open the door to possibility of greater privatization of both home care and the new non-licensed congregant residential care. There is no evidence that private delivery of services is more cost efficient and delivers services of higher quality. Indeed given the anecdotal evidence that private "for profit" long term care homes provide less hours of hands on front line care and have a higher incidence of COVID-19 outbreaks and deaths than not for profit homes, it is the wrong time to allow for the possible expansion of private delivery of other long term care services

until the outcome of independent reviews to determine if “profit” was one of the contributing causes of these differentials.

There is already a severe shortage of persons willing to work in this sector. The reasons for this are primarily that security of employment is very weak and conditions of employment are poor. Moreover the system is structured in such a way that it deprives the ability of such workers of effectively banding together to address these weaknesses through collective bargaining.

Given the aging of the general population the demand for long term care services whether in regulated long term care homes or through home and community care will grow exponentially. This increased demand will tighten significantly the labour market. The Premier of Quebec is planning to create 10,000 new PSW positions in long term care homes in that province with a starting salary of \$26 an hour plus benefits. If the Home and Community care system in Ontario doesn't become competitive in terms of conditions of employment, we face the prospect of an even greater shortage of long term care workers who will migrate east.

For all these reasons we prefer that Bill 175 be withdrawn and a broader public consultation process be undertaken to identify the weaknesses in the current home and community care system and the best practice means to improve the system. Should the Committee decide that it wishes to enact Bill 175 at this time then we urge you to amend the Bill so it responds positively to the weaknesses that we have identified.

Respectfully submitted.

Rev. Dr. Susan Eagle - Chair - ISARC

Rabbi Shalom Schachter - Lead - ISARC Policy Working Group

ISARC represents Christian, Jewish, Muslim and other faith communities across Ontario, including the Anglican Diocese of Toronto, the Anglican Provincial Synod of Ontario, the Assembly of Catholic Bishops of Ontario, the Canadian Unitarian Council, Catholic Charities of the Archdiocese of Toronto, the Council of Imams, the Council of Canadian Hindus, the Eastern Synod of the Evangelical Lutheran Church in Canada, the Eastern Ontario District of the Pentecostal Assemblies of Canada, the Islamic Humanitarian Service, Mennonite Central Committee Ontario, the Presbyterian Church in Canada, the Society of St. Vincent de Paul, the Toronto Board of Rabbis, and the United Church of Canada.

## **Home Care and Community Services Act**

### **Bill of Rights**

**3 (1)** A service provider shall ensure that the following rights of persons receiving community services from the service provider are fully respected and promoted:

1. A person receiving a community service has the right to be dealt with by the service provider in a courteous and respectful manner and to be free from mental, physical and financial abuse by the service provider.
2. A person receiving a community service has the right to be dealt with by the service provider in a manner that respects the person's dignity and privacy and that promotes the person's autonomy.
3. A person receiving a community service has the right to be dealt with by the service provider in a manner that recognizes the person's individuality and that is sensitive to and responds to the person's needs and preferences, including preferences based on ethnic, spiritual, linguistic, familial and cultural factors.
4. A person receiving a community service has the right to information about the community services provided to him or her and to be told who will be providing the community services.
5. A person applying for a community service has the right to participate in the service provider's assessment of his or her requirements and a person who is determined under this Act to be eligible for a community service has the right to participate in the service provider's development of the person's plan of service, the service provider's review of the person's requirements and the service provider's evaluation and revision of the person's plan of service.
6. A person has the right to give or refuse consent to the provision of any community service.
7. A person receiving a community service has the right to raise concerns or recommend changes in connection with the community service provided to him or her and in connection with policies and decisions that affect his or her interests, to the service provider, government officials or any other person, without fear of interference, coercion, discrimination or reprisal.
8. A person receiving a community service has the right to be informed of the laws, rules and policies affecting the operation of the service provider and to be informed in writing of the procedures for initiating complaints about the service provider.
9. A person receiving a community service has the right to have his or her records kept confidential in accordance with the law. 1994, c. 26, s. 3 (1).

**Guide to interpretation**

(2) This Act and the regulations shall be interpreted so as to advance the objective that the rights set out in subsection (1) be respected. 1994, c. 26, s. 3 (2)

**Deemed contract**

(3) A service provider shall be deemed to have entered into a contract with each person receiving a community service from the service provider, agreeing to respect and promote the rights set out in subsection (1).