Submitted by: Helen Lee, Senior's Advocate, Current Honorary Advisor for Family Council Mon Sheong Home for the Aged (DARCY), Past Chair Family Council 2021, Chair, Family Council 2020. Bereaved family member, lost grandmother, Foon Hay Lum at the age of 111 during wave 1 COVID outbreak in April, 2020.

Date: November 25, 2021

Background:

The Darcy home was one of the early homes to have an outbreak. I was the Chair of Family Council during the outbreak. Staffing plunged quickly to 20%, the home was short of PPE and lacked sufficient COVID test kits. Help was slow to come, although the community rallied with PPE and 33 residents died of COVID and 10 "excess deaths" within a span of less than 2 months (41%).

I have been advocating for improvements in the long-term care sector and senior's rights since the pandemic began. The 4020 deaths of beloved residents and 10 staff deaths should not be in vain but propel all levels of government and all parties to work together on transformational changes to long term care.

Families, staff and residents have lived through unspeakable trauma and suffering in nursing homes during the pandemic, particularly in Wave 1 & 2. Family members were not allowed into Homes and residents died alone without family – including Foon Hay Lum, aged 111. She was social activist in her senior years and one of the oldest Canadians to die to COVID. She was my

hero, my grandmother. Some families lost both mother and father within the span of weeks and continue to struggle with their losses 20 months later.

Although I am thankful to be able to submit a written presentation, I object to the expedited consultation process regarding Bill 37. Such an important piece of legislation merits a province -wide public hearing process, not a handful of stakeholders who haven't been given sufficient time to review the Bill and its proposed changes and provide a fulsome assessment. It is unprecedent to be given one day to prepare the oral presentations. The process is highly undemocratic and this rushed process disrespects every resident death in nursing homes, including my 111 year old grandma Foon Hay Lum. One day for our Council to prepare a presentation and 7 minutes to introduced ourselves and articulate our thoughts on a piece of legislation that will impact generations to come is a travesty of justice.

The current Bill 37 is severely inadequate and does not honour the 4020 residents and 10 staff lives lost over the course of the pandemic to date. Bill 37 will continue the mess we find ourselves in as it entrenches in legislation the "for-profit" delivery model of care under the guise of "mission driven". It gives "targets" for hours of direct

care not minimum hours, takes away the unannounced inspections and whistle blowing protections are too weak given our experience through the pandemic. The “for profit” delivery model of care is not in the interest of the public. Bill 37 does not bring around transformative change. Why do we need to make profit off the backs of our most vulnerable seniors? Without substantive revisions, Bill 37 should be voted down in its current state. I urge the government to improve their consultation process and content of the Bill.

Scripture: “If anyone, then, knows the good they ought to do and doesn’t do it, it is sin for them. “ James 4:7

Comments and recommendations on Bill 37:

A. Care for People before profit

The addition of “mission driven” to preamble without a clear definition of what this means is concerning. This enshrines a gap into the legislation and gives a foothold to “for profit” nursing home owners/operators in Ontario and allows them to further expand. Ontario already has the highest proportion of “for profit” nursing homes. With the experience of the pandemic, at least 85% Canadians and Ontarians support a public delivery model of long term care. All “ bad actors” should have been fined and licenses revoked rather than shieldied under Bill 218. In light of the 4020 resident deaths in long term, our government should be a phasing out “for profit” long term care owners/operators not awarding them with 30 year license renewals, bed expansion and crown lands.

From the pandemic, Ontario and Canada did shamefully for a OCED nation. Care should not be associated with

profits. CIHI data shows Canada has 46% publicly owned while Ontario has only 16% publicly owned LTC homes.

The Saskatchewan government is transitioning Extendicare homes back to the province. Ontario needs to take a similar bold step, in light of the horrific deaths in LTC over the pandemic particularly in for profit homes.

Do not let these 4020 resident deaths be in vain, LTC in Ontario needs a complete overhaul, systemic reforms. All the residents who died in LTC homes should not be forgotten.

Lastly, we also see that “for profit” operators/owners of nursing homes will be able to increase their rates – residents died, the government continued to pay for the empty beds to these for profit operators (compensating them for their negligence) and now they are allowed to also increase their rates.

Recommendations:

1. REMOVAL of "MISSION DRIVEN" from preamble as it is not consistent with the public interest. No "for profit" home can be mission driven because their duty is to their shareholders. Duty to shareholders trump "mission driven". Please leave the existing language which is "delivery of long- term care home services by not for profit."
2. Expand municipal and not for profit delivery of long term care. More contracts should be awarded to municipal and non profit organizations with easier processes for them to access capital and apply for licenses.

3. Repeal Bill 218 which shields long term care owners/operators from liability for their negligence.

B. Staffing and Direct Care

The working conditions are the conditions of care. Elevate positions in Long term care to improve staff retention and morale.

Staff need to be paid for the value they bring to the organization. Positions in long term care are traditionally paid less. PSWs are the backbone of the LTC sector, they merit better pay(equivalent to the hospital rates), full time benefits and pension and provided the training for the increasing complex work that they do.

Robust Human Resources Plan is needed as a roadmap to support the retention of the long-term care workforce. Including **training and certification** of PSWs– ministry must lead this, NOT nursing homes. There must be a standard across all nursing home facilities and this requires certification. There is increasing mental health and complex care of long term care residents population. If they are properly training (as outlined in the current regulations), they should also be given authority to do their work and not micro managed.

Happy to see the requirement of RN back in the Act but 1 RN is not enough for larger facilities.

The government's target to increase resident access to allied health professions is insufficient given the increasing complex resident cases. Our nursing home has a physiotherapist 2 days a week – part-time. Totally not enough for residents - that is why resident's mobility decline so swiftly in LTC. Staffing in this area needs to be increased.

Workplace safety – staff must have access to properly fitted PPE in accordance with the precautionary principle for all staff. We cannot have workers put into unsafe/dangerous working conditions as we saw during Wave 1 due the negligence and poor oversight by the government regarding the PPE stockpile. There also needs to be more MOL workplace inspections to ensure safe and healthy workplaces.

We want family councils and resident councils to be consulted and interviewed and acknowledged as key stakeholders, when home is being reviewed/investigated.

Direct care hours – concerns on definition, method of calculating and timing

The Bill refers to “target” vs min. standard/requirement which is required.

We want increased number of hours of direct care fast tracked to immediate, for the residents who survived the pandemic. Many residents suffered through the pandemic in horrible conditions and will not see the government targets ever being met with the current announced timelines. The bill “targets” for 4 hours by end of March 2025. However, this is not a legislative minimum care standard for EACH HOME, it is only a “target” which is a big distinction, usually legislation outlines minimum standards. In addition, the method of calculating this is an average across the industry which is not transparent or informative to the public or families in the nursing homes.

Resident Aids cannot be part of this calculation. In fact we view Resident Aids as a method of further deskilling the workforce and lowering the level of quality care for residents.

Please do not replace PSWs with less trained people. The requirements currently under the Regulations regarding PSWs, should be moved into Act.

Recommendation:

1. Fast tract the standard of 4 hours of direct care so that residents who survived the pandemic can see that in their lifetime. Deadline to reach maximum should be March 2023, not March 2025.
2. The wording should state requirement/standard, not "target": Requirement is an average of 4 hours of direct care **per resident**, **per HOME** with staff mix appropriate to the resident. This standard or minimum requirement must be audited by the LTC inspectors. Families have the right to see how their nursing home is doing regarding this standard.
3. The number of mandatory regular RN to be on duty, on site 24/7 should be appropriate to the size of the facility not just one.
4. Allied health professionals such as dieticians, speech therapist physiotherapists, occupational therapist, recreation therapist, social workers need to be increased for resident care – at least one hour.
5. The requirements currently under the Regulations regarding PSWs, should be brought into Act.

Inspections, infection Prevention and Control program

Recommendations:

1. We want random ANNUAL UNANNOUNCED INSPECTIONS and a reinstatement of RQI s. Through inspections, including auditing minimum hours of care.
2. The Infection Prevention and Control program should be headed by a registered nurse. Someone with medical credentials.
3. Enshrine into Act that staff must have access to properly FIT-TESTED PPE in accordance with the precautionary principle for all staff
4. We want family councils and resident councils to be consulted and interviewed and acknowledged as key stakeholders, when home is being reviewed/investigated.

Resident Rights

Recommendation:

1. In order to really have transparency and accountability, we need to enforce the resident bill of rights we need a mechanism of enforcement. An appropriate avenue for this would be the creation of a tribunal where violations to the Bill of Rights can be addressed/enforced.
2. We want essential caregivers access at all times as they play a key importance role in the care team with providing the emotional and mental wellbeing of the residents. Can never repeat the horror of where caregivers were barred from nursing homes and residents died alone without family or support.
3. Inspectors should gather information from RESIDENTS, FRONT LINE STAFF & FAMILIES who are able to speak freely without fear of retribution /or fear of creative or constructive dismissal (changes to shifts, scheduling, etc).

Stronger whistle blowing protection

We want stronger whistle blowing protection to ensure timely reporting of concerns/issues. We saw this through the pandemic, and the COVID Commission also noted this. Staff work in fear of harassment and retaliation and it was difficult for working PSWs and nursing home staff to provide testimony.

We believe that if staff believe there is immediate risk to the health and safety of residents and staff, and staff have tried to make a complaint and hasn't gotten anywhere, it would be appropriate to them to disclose to the public without retribution.

Recommendation:

1. We want family councils and resident councils to be consulted and interviewed and acknowledged as key stakeholders, when home is being reviewed/investigated.
2. Stronger whistle-blowing protection for resident, staff or family members. In situations where they have filed complaints to the ministry and it was not appropriately addressed, they should be able to go to their MPPs or media, if there is a risk of loss of life or harm to resident(s). The current ministry hotline

is insufficient. There needs to be an expedited process.

3. Under Complaints procedure, clause that person making a complaint (and resident associated with complaint) not subject to harassment or retribution.

Reporting

We want more transparency and sharing of information.

Recommendations:

1. Performance indicators reported and posted publicly in accessible area of Home as well as on government website where currently inspection reports reside.
2. LTC home licenses should be required to post the home's infectious disease outbreak plan and any other related plans on the home's website, easily accessible, and accessible in various formats.

3. There should be consequences for failing to report in timely manner.

1) We want to seek a longer consultation period with public hearings at a minimum.

2) We are also concerned about the for-profit homes who had have terrible outbreaks being rewarded with bed expansions and 30 year renewals of licenses rather than have licenses revoked, expired, fined or criminally charged. While Extendicare LTC homes in Saskatchewan are being transitioned back to the province, Ontario is trying to introduce " mission driven" language into their LTC bill. We are very worried that there is no clear definition of "mission driven". This is a gap to allow "for profit" nursing homes to continue to expand in Ontario. Ontario already has the highest proportion of "for profit" nursing homes. There should be no profit in care of residents and no shell game of giving Crown lands to "for profit" LTC operators. Ontario needs to take a similar bold step as Saskatchewan given that we had almost 4,000 resident deaths. Do not let these lives die in vain, LTC in Ontario needs a complete overhaul, systemic reforms. In our home families lost both mother and father during the pandemic. Foon Hay Lum (aged 111), one of Canada's oldest woman and social activist died at Darcy. All the residents who died in LTC homes should not be forgotten. And should never be repeated yet we see the worst offenders being awarded more beds and renewal licenses.

3) We want random unannounced/surprise inspections and a reinstatement of RQI s.

4) We want essential caregivers access at all times as they play a key importance role in the care team with providing the emotional and mental wellbeing of the residents. Can never repeat the horror of Wave 1 where caregivers were barred from nursing homes and residents died alone without family or support.

5) We want stronger whistle blowing protection to ensure timely reporting of concerns/issues. We saw this through the pandemic, and the COVID Commission also noted this. Staff work in fear of retaliation and it was difficult for working PSWs and nursing home staff to provide testimony. There also needs to be more MOL workplace inspections to ensure safety and healthy workplaces.

6) We want increased number of hours of direct care immediately, for the residents who survived the pandemic. Many residents suffered through the pandemic in horrible conditions and will not see the government targets ever being met with the current announced timelines. The bill "targets" for 4 hours by end of March 2025. However, this is not a legislative minimum care standard , it is a "target" which is a big distinction -usually legislation outlines minimum standards.

7) We want family councils and resident councils to be consulted and interviewed and acknowledged as key stakeholders, when home is being reviewed/investigated.

8) We want more transparency and sharing of information. Performance indicators reported and posted publicly. LTC home licenses should be required to post the home's infectious disease outbreak plan and any other related plans on the home's website, easily accessible, and accessible in various formats.