

# **ONTARIO NURSES' ASSOCIATION**

**SUBMISSION**

**ON**

**Bill 135, Convenient Care at Home Act, 2023**

**TO**

**Ministry of Health**

**November 14, 2023**



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## ***Introduction***

The Ontario Nurses Association (ONA) is the union representing 68,000 registered nurses (RNs) and health-care professionals, and more than 18,000 nursing student affiliates who provide care in hospitals, long-term care facilities, public health units, community, industry, and clinics. Our membership includes thousands of care coordinators and direct care staff working within Home and Community Care Support Services in almost every region. Our ONA members are proud care coordinators, nurse practitioners, clinical care specialists, receptionists, mental health and addictions nurses, palliative nurses, and so much more.

ONA has substantial concerns regarding the *Convenient Care at Home Act, 2023*. The proposed amalgamation of services will cause disruptions to the continuity of care and negatively impact the rights of ONA members to collectively bargain. We are also concerned that the proposed legislation lacks public governance and oversight of home care services in Ontario. Lastly, the legislation introduces a path to privatize home care services and ignores recruitment and retention issues, the most pressing challenges facing our health-care system today.

This legislation should not be passed in its current form. The government should instead prioritize the urgent need to hire more health-care workers and introduce legislation that advances the public delivery of home care. Our message is clear: the way forward must be through building capacity in the public system, not expanding the role of for-profit health service provider companies.

## ***The Wrong Priorities for Home and Community Care***

### ***Retention and Recruitment***

Any proposed restructuring of home and community care is a vacant construct without first addressing substantial retention and recruitment challenges in the sector. While demand for home care is rising, the sector is characterized by high turnover and vacancy rates among workers. Ontario's independent Financial Accountability Office projects that there will be a province-wide shortage of 33,000 nurses and personal support workers (PSWs) by 2028.<sup>i</sup> The province needs to take the necessary steps to address staffing shortages.

Low wages for home and community care workers are the driving force behind retention and recruitment challenges. Traditionally, home and community care workers, who are primarily women and workers of colour, earn less than those who work in hospitals or long-term care facilities. Staffing challenges due to low wages were exacerbated when this government introduced Bill 124 which suppressed wages further. The subsequent government appeal of the court ruling that found Bill 124 unconstitutional contributed to ongoing uncertainty for health-care workers in Ontario. In addition to low wages, unsafe working conditions that include threats and violence resulting in staff injury further contribute to retention issues.

The impact of the pandemic has increased the vacancy rate for RNs by 421%, and the vacancy rate for full-time PSWs has risen by 331%, according to the Ontario Community Support Association.<sup>ii</sup> In communities across Ontario, the retention and recruitment crisis is already having a devastating impact on care. In Atikokan and other northern communities, ParaMed service providers are unable to fill staffing shortages, negatively impacting patients in dire need of home care. As a result, waitlists have grown to more than 60 days for primary home care and other services in some parts of the province.

Not only does the proposed legislation ignore the underlying retention and recruitment issues in home and community care, but new for-profit client providers will also now be competing for the same pool of workers. This will have a destabilizing effect on the sector. We urge the government to address the underlying issues decimating the home and community care. To do so, the government must pay workers fair wages and develop a robust recruitment strategy to bridge the home and community care staffing gap. This must include expanding bridging programs at publicly funded institutions and including tuition support and stipends, so programs are accessible to all qualified applicants.

#### *For-profit Care*

Not only does the proposed legislation fail to protect public home care, but it also establishes the structure where for-profit provider companies can operate and further erode Ontario's public home care system. The proposed legislation lacks specific provisions that guarantee a sufficient standard of care for Ontarians receiving home care. Instead, it establishes two subsidiary agencies, "Ontario Health atHome" and "client providers," which reshape the landscape of home care services. Ontario Health atHome will consolidate existing public entities previously known as Local Health Integration Networks. In doing so, it opens the door for the outsourcing of home care services to for-profit companies.

This Bill rebrands the organizational structure and the delivery of home care services by changing terminology. ONA is concerned that the intention is purely to allow the expansion of for-profit client providers to deliver home care services, regardless of how the Ministry of Health chooses to define these services. Using terms like "client providers" seems to be a deliberate tactic to diminish the current role of home and community care services within the larger health-care framework. The proposed organizational changes could have been made while keeping the public and not-for profit nature of home care services intact.

Publicly delivered health-care is proven to be more cost-effective, reliable, and equitable than for-profit care delivery. Increased for-profit care results in public dollars being funnelled to private companies instead of paying workers fair wages. A 2015 Auditor General's report showed that for-profit home care companies billed the province anywhere from \$58.20-\$70.60 dollars an hour to compensate nurses while nurses only earned around \$30 per hour.<sup>iii</sup> The remaining funds went to bolster the company's profit.

The additional cost to the public that comes with for-profit delivery of care is being seen across Canada with respect to surgical procedures. Data shows that in Quebec, procedures performed in for-profit clinics cost 2.5 times more than the same procedure performed in

public hospitals.<sup>iv</sup> In British Columbia, private clinics charged 375 per cent more for an expedited knee meniscectomy than the costs for the same surgery in a public hospital.<sup>v</sup> Wherever for-profit delivery of care exists we witness increased costs, up-selling, and an expansion of two-tier health care.

Expanding the profit motivation to home care delivery will result in lower wages and increased costs to the government and taxpayers. ONA urges the government not to pass this legislation in its current form. We recommend that the government introduce legislation that ensures home care services and service providers remain entirely not-for-profit, delivered through a publicly funded single source rather than contracted out to service providers.

### ***Role of Care Coordinators***

Home and Community Support Services utilizes highly skilled Care Coordinators to access individual clients' unique needs promptly. They ensure clients' families have the resources and services they need for quality care. The government must clarify how existing Care Coordinators will transition to the newly created entity of "client providers." The proposed legislation does not mention setting clear parameters on the staffing models for "client providers" to ensure that appropriate Care Coordinators are available to respond to the diverse needs of communities. Secondly, who will determine the standard and level of care required under the new system? Thirdly, can clients stay with the same Care Coordinators if they choose to or as their needs increase?

How will the complaints be reviewed, and will the complaint process be consistent across the not-for-profit and for-profit "client providers?" Public accountability is not mentioned through publicly available disclosures of finances, complaints, inspections, or other records. This will hinder transparency, accountability, and public engagement in evaluating complaint-related matters across for-profit "client providers." In its current form, this bill opens the door for the role of care coordination to be converted from not-for-profit into for-profit, allowing private home care companies within the structure of Ontario Health Teams to exist, burdening taxpayers, and diverting public funds to private companies. This is not only unfair to taxpayers but to Ontarians who need care. Home care is a crucial health service for communities and people. ONA urges the government to change course and promote quality, public home care services for all who need them in Ontario. The savings from a publicly funded home care system can be redirected to provide home-care staff with stable job opportunities – full-time jobs with competitive wages and benefits. This is essential for both recruitment and retention in this sector.

### ***Lack of Oversight and Accountability***

ONA opposes the government's approach to policy-making through regulations rather than legislation, as it removes oversight, democratic accountability, and public transparency. The Cabinet can amend regulations without scrutiny, whereas legislation is passed only by the rules established by the Legislative Assembly of Ontario. This bill has no concrete details of the functional and organizational restructuring of Ontario's home and community care; it

leaves the door open to introduce changes via the regulatory process, which is a disservice to the people of Ontario.

Section 3 (b.0.1) of the Act grants the Minister of Health a considerable amount of power regarding policy implementation, quality assurance and resource allocation. However, ONA is concerned that the legislation does not set a minimum standard of service with respect to home care. The legislation must include a regulatory framework, a transparent evaluation, and an accountability process along with a patient-centred approach to understand the full scope of these proposed changes.

Section 5 of the Act amends Section 8 (1.1) so that a director, officer, or an employee of the Service Organization is not eligible to be appointed to or remain a member of the Agency's board of directors. The board of directors of the Service Organization must have diverse voices that further its mandate to provide quality and affordable home care services. Consolidation of home care services at such a large scale poses significant representational challenges for rural and northern communities. The board of directors should have representation from nurses, health-care providers, patients, and family members of patients. Moreover, the board structure must reflect all geographic regions of the province to advocate for local and community-specific services.

Section 7 amends Section 14, which pertains to the duty of care and indemnification. This requires that the Agency does not give an indemnity under section 46 of the *Not-for-Profit Corporations Act, 2010*, to any person unless the indemnity has been approved as per section 28 of the *Financial Administration Act*. The proposed legislation does not specify the circumstances in which this protection is granted to individuals or who has the power to do so. ONA demands that the Minister of Health outline conditions under which the service organization may indemnify its directors and officers against any liabilities, expenses, or other costs incurred while performing their duties on behalf of the organization. We also want to see what modifications the government sees as necessary to maintain transparency and accountability to the public.

Section 24 (2) amends subsection 9.1 (2) of Section 6 of the *Public Hospitals Act, 1990*, by striking out "5, 6 or 9" and substituting it with "5 or 9." It is unclear why both subsections cannot be applied since both provisions protect patients. Section 5 grants the Minister of Health power to assist a hospital (health-care service provider) if it is considered in the public interest to do so to ensure that the quality of care is being met. Whereas Section 9 references the quality of the management and administration of the hospital, the accessibility to health services in the community and treatment of patients among other protections.

### ***Respect for Bargaining Units***

ONA members working in home and community care have experienced years of instability. The government has restructured and renamed this sector many times. This causes uncertainty for workers who desire stable employment. The proposed legislation includes provisions outlining the transition of executive officers and board members from predecessor

corporations. ONA finds it concerning that the government prioritizes operational support for management positions over support for workers.

Since health service providers are covered by the Public Sector Labour Relations Transition Act, 1997, amalgamation will require the Ontario Labour Relations Board to determine the new bargaining units for existing workers. While labour unions are consulted during this process, it is not clear how the specific bargaining agent will be determined by the Board. The nature of this process does not ensure that the new composite agreement will be as strong as current agreements for ONA members. Specific agreements achieved through the collective bargaining process relating to seniority, recall, non-discrimination in the workplace, etc. may not be protected under the new agreement.

### ***Recommendations***

**Recommendation 1:** Repeal Bill 124 and pay home and community care workers the same wages as those who do the same work in hospitals or long-term care facilities.

**Recommendation 2:** Take immediate measures to reduce violence and fully implement the recommendations from the provincial *Preventing Workplace Violence in the Health Care Sector* report.

**Recommendation 3:** Introduce legislation that requires the delivery of home and community care to be not-for-profit and publicly funded.

**Recommendation 4:** Create a home and community care structure where care is delivered through a single public source, not contracted out.

### ***Conclusion***

This proposed legislation is vague and primarily alters terminology without providing a legislative framework where the newly created service organization is accountable to the public. Ontario's public health-care and home care system is experiencing an unprecedented shortage of nurses and health-care workers. To address this shortage, ONA has repeatedly offered real solutions and recommendations, including repealing Bill 124 so workers are compensated fairly, enacting pay equity for home and community care workers, taking immediate measures to reduce violence against health-care workers and introduce legislation requiring home and community care to be not-for-profit and publicly funded. These recommendations are in addition to bringing back the late-career initiative to provide mentorship to new nurses, increasing hospital base funding, and limiting the use of agency nursing. We need timely investments in health-care and home and community care to meet the rising health-care needs of Ontarians. Privatization of home care is not a solution.

ONA encourages the government to listen to the voices of frontline nurses and health-care professionals who are well-positioned to provide feedback on home and community care. The government must not allow private profits and corporate interests to take precedence over patient safety and care.

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<sup>i</sup> Financial Accountability Office of Ontario. 2023. Ontario Health Sector: Spending Plan Review (fao-on.org)

<sup>ii</sup> Ontario Community Support Association. 2022. Staffing crisis threatens home and community care sector with 421% increase in vacant RN positions and 331% increase in vacant PSW positions (ocsa.on.ca)

<sup>iii</sup> Office of the Auditor General. *Community Care Access Centres-Financial Operations and Service Delivery*, p. 52. 2015. CCACs\_en.pdf (SECURED) (auditor.on.ca)

<sup>iv</sup> Bethany Lindsay. *Critics denounce 'zombie' push for private health care as Quebec data shows higher costs*. CBC News, April 26, 2023. Critics denounce 'zombie' push for private health care as Quebec data shows higher costs | CBC News

<sup>v</sup> Mieke Koehoorn et al. *Do private clinics or expedited fees reduce disability duration for injured workers following knee surgery?* P. 57. Healthcare Policy Vol. 7, No.1. 2011.