

Peterborough and the Ontario Retirement Homes Act

(for the complete report go to our website at www.pspc.on.ca)

In 2013, the Peterborough Social Planning Council (PSPC) led a research project aimed at analyzing the impact of the Ontario Retirement Homes Act on the Peterborough retirement community. In partnership with the Trent Centre for Community Based Education, Tina Cumby the research associate conducted semi-structured interviews with retirement home Executive Directors, members of Resident Councils, and seniors' advocates.

The project sought to address the Acts' impact on quality of care and cost of care, as well as the impact of the Retirement Homes Regulatory Authority (RHRA) on Peterborough retirement homes. Through the research, the overall impression of the Act draws positive and negative tones. Provincial regulation is regarded positively, in general, but there are concerns about the quality and costs of care due to the Act and the lack of the RHRA presence in Peterborough thus far. It is the intent of the PSPC to monitor the changes that are set out by the Act and the RHRA and to conduct further research in a year or two, in order to understand the full impact of the Act on local retirement communities.

The research from this project has identified certain issues such as making the Act information more accessible, mandatory implementation of Resident Councils in every retirement home, revising the issue of tenant fee subsidies, and increasing collaboration among all stakeholders.

Ontario Retirement Homes Act :

According to the Act, a "retirement home" is:

"...a residential complex or the part of a residential complex that is occupied primarily by persons who are 65 years of age or older, that is occupied or intended to be occupied by at least the prescribed number of persons who are not related to the operator of the home, and where the operator of the home makes at least two care services available, directly or indirectly, to the residents. "

The following provides an overview of the sections of the Act and its' requirements:

Part 1 (of the Act)

- stipulates that all retirement homes are to be operated in a way that residents can live with “dignity, respect, privacy, and autonomy” in a secure, safe, and comfortable environment, and in a way that residents can make informed choices about their care options.
- sets the definitions for abuse, administrative penalty, authority, care service, Complaints Review Officer, external care provider, fund, incapable, inspector, license, licensee, Minister, neglect, operator, personal health information, personal information, plan of care, prescribed, Registrar, regulations, resident, residential complex, Residents’ Bill of Rights, Residents’ Council, retirement home, rights advisor, Risk Officer, secure unit, staff, substitute decision-maker, Tribunal, volunteer, related person, controlling interest, associate, spouse, requirement under this Act, living quarter, final decision or order, refusal to issue a license, and condition on a license.

Part 11

- establishes the Retirement Homes Regulatory Authority (RHRA) as the official regulatory body of the Retirement Homes Act, and defines such an Authority as a “corporation without share capital.”
- This section also establishes the conditions of the regulatory authority:
 1. only a minority of the members of the Authority are to be appointed by the Lieutenant Governor in Council.
 2. the Authority must appoint a Risk Officer, a Registrar, and a Complaints Review Officer.
 3. the Authority has the power to set and charge fees.
 4. any moneys that are collected by the Authority belong to the Authority and are not public moneys.
 5. there must be a Retirement Homes Regulatory Authority Emergency Fund to be used to pay any claims made by residents under the Act.

Part III

- stipulates the condition that retirement homes must have a license issued by the Registrar in order to continue or begin operating. This section also provides the Registrar with the power to conduct inspections before a license is issued and to enforce conditions on issued licenses. Applicants have the right to make a submission to the Registrar prior to licensing refusal or conditional licensing, and have a right to appeal their licensing issues with the License Appeal Tribunal.

Part IV

- defines the Resident’s Bill of Rights.
- First, licensees are required to submit a written agreement with every single resident prior to the resident taking up occupancy in the home, and are also required to provide every single resident with an information package that details the resident’s rights upon taking up occupancy in the home. This information package is also required to be available in the home.
- Second, residents in the retirement home have the right to name a Residents’ Council, who has the power to inform residents of their rights and obligations, as defined by the Act, as well as to mediate any disputes that arise between the

licensee and the residents.

- Third, under provisions for care and safety in the retirement home, licensees are barred from preventing residents from accessing external care services.
- Furthermore, the licensee must provide information for such services at the behest of the residents, as well as information about alternatives to retirement home living in response to external evaluations. The licensee must also make necessary contacts to alternative options, at the request of the resident.
- The licensee must assess all potential occupants prior to taking up occupancy in the home to ensure a proper plan of care is developed, based on the principles outlined in the Act.
- Fourth, licensees are required to screen all employees and volunteers before they initiate physical contact within the home, including a police background check (unless the individual is under the age of 18 years). All employees and volunteers must also meet minimum standards of skills and qualifications.
- The licensee is required to protect all residents from abuse and neglect. The restraint of residents using a physical device or administration of a drug, or the confinement of residents to secure units of the home is expressly prohibited, except under certain, specified conditions.
- Finally, licensees must make available a written complaint protocol that allows residents to formalize any complaints about the operation of the home, as well as specifications for how the licensee needs to deal with such complaints. When reasonable grounds for wrongdoing have been established, a formal report must be issued to the Registrar.

Part V

- provides Registrars with several rights.
- First, the Registrar has the right to hire inspectors, without a warrant, in response to complaints of wrongdoing. All complaints must be reviewed by the Registrar. The Complaints Review Officer has the right to review the complaint, on the behalf of the complainant, if the Registrar does not take action.
- Second, the Registrar has the right to act on the basis of reasonable grounds, independent of receiving a complaint, including ordering the licensee to do something, to refrain from doing something, or to pay a penalty, as well as revoking the license altogether.

Part VI

- outlines the licensee's rights to appeal the decisions of the Registrar to the License Appeal Tribunal and, in certain circumstances, to the Divisional Court.
- It includes provisions for when and how to appeal, information on stay on appeals, hearings, rules and procedures, the power of the Tribunal, and penalties, as well as information on how to move dismissed appeals to the Divisional Court.

Part VII

- outlines the requirement of the Registrar to maintain registers of information, the requirement of the licensee to provide this information to the Registrar, restriction of the disclosure of personal information or personal health information, the requirement for confidentiality on the part of the Authority and

all of its members (directors, officers, agents, and employees), and provisions for the protection of whistle-blowers.

- This section also highlights the power of the Lieutenant Governor to create regulations through a process of public consultation.

Part VIII

- provides some amendments to the Retirement Homes Act that will be required when the Long-Term Care Homes Act comes into effect.
- Amendments were made to the definition of retirement home, resident rights in relation to confinement, criteria for determining licensee protocol if alternative care is needed, and employee and volunteer training with regards to resident confinement.

Part IX

- provides consequential amendments to the Long-Term Care Homes Act to add a sub-clause for the Retirement Homes Act, as well as the Personal Health Information Protection Act to change their definition of retirement home to the one provided by the Retirement Homes Act.

Part X

- provides the commencement of the Act, which was stipulated to begin on the day that the Act received Royal Assent, which occurred officially on June 8th, 2010
- This section also provides the short title for the Act, being “Retirement Homes Act, 2010,” as discussed throughout this paper. This is the concluding regulation of the Act, which, as a whole, is claimed to be a product of a specific, and judicial process.

Our Research:

Participants

The participants of this research study included four Executive Directors, two Presidents of the Resident Council, and three tenants, representing seven Peterborough retirement homes, as well as Judith Wahl representing the Advocacy Centre for the Elderly (ACE) in Toronto Ontario.

Data collection procedures

Interviews were conducted face-to-face with most participants. One pen and paper interview was accepted from a President of the Resident Council, because their residence was quarantined due to an influenza outbreak. One phone interview was conducted with Judith Wahl from the ACE. The rest were conducted face-to-face for approximately 15 to 30 minutes.

Main themes	Comments
<p>How the Ontario Retirement Homes Act has impacted quality of care at Peterborough retirement homes.</p> <p><i>Quality of care at some Peterborough retirement homes has not been affected by the Ontario Retirement Homes Act because of previous accreditation with the Ontario Retirement Communities Association (ORCA) and/or previously existing internal policies of the retirement home.</i></p>	<ul style="list-style-type: none">• All of the homes that were interviewed were already voluntarily accredited with the Ontario Retirement Communities Association (ORCA), which previously had policies and procedures in play that were very similar to the ones introduced by the Ontario Retirement Homes Act. Indeed, the President of the Resident Council at one of the interviewed establishments pointed out that the Act was actually fashioned on the basis of ORCA's already existing policies, which is likely why retirement homes that were previously accredited through this trade association found the transition to the Act guidelines to be relatively smooth.• As such, the home operators generally felt that not much had changed for them, with regards to the implementation of the Act, as a result of their voluntary accreditation with ORCA
<p>How the Ontario Retirement Homes Act has impacted cost of care at Peterborough retirement homes.</p> <p><i>The cost of care at some</i></p>	<ul style="list-style-type: none">• it is entirely up to the owners of the retirement homes to decide whether or not they are going to delegate the increased licensing fees of the Act to the tenants.• It was noted that fees do go up every year to reflect the regular increases in the costs of living, but that the Act has not yet affected these homes in this way. Operators are unsure of what will happen in the future, because the

Main themes	Comments
<p><i>Peterborough retirement homes has not been affected by the Ontario Retirement Homes Act “yet.”</i></p> <p><i>Quality of care at some Peterborough retirement homes has increased slightly due to the Ontario Retirement Homes Act, which “enhanced” some of the already existing policies with the Ontario Retirement Communities Association (ORCA) and/or previously existing internal policies of the retirement home.</i></p>	<p>RHRA has yet to come to Peterborough for inspection.</p> <ul style="list-style-type: none"> • Some retirement home operators felt that, while overall the Act did little to change their particular homes, “[it] is, in some areas, more enhanced,” including more policies around emergency planning, infection control, risk of falling, staff training, fire safety, assessments of resident care needs, respect for independence of residents and resident privacy, as well as more guidelines for posting and reporting instances of resident abuse. • The President of the Resident Council at one of the establishments said, “Extra help is available,” with regards to medical and mental health care, as well as personal care, including physical, emotional, and social care services. All of the interviewed operators said that they always had these policies in effect at their establishments, but that the Act served to “tighten things up a bit” by requiring these things to be done across the province, as well as requiring more documentation and disclosure. • The Act offers more proof that the home is doing what they should be doing, as well as more transparency about what is going on inside of the homes, so that people can make more informed decisions about their living arrangements
<p>How the Retirement Homes Regulatory Authority (RHRA) has impacted Peterborough retirement homes.</p> <p><i>The Retirement Homes Regulatory Authority (RHRA) has not yet inspected in Peterborough and, as such, has had no significant impact yet.</i></p> <p><i>Quality of care at a Peterborough retirement home has decreased significantly in the past six to eight months but</i></p>	<ul style="list-style-type: none"> • All of the interviewed participants of this research project, operators and tenants alike, could not comment on the impact of the Retirement Homes Regulatory Authority (RHRA) on Peterborough retirement homes, at this particular point, because the RHRA has not yet come to Peterborough. • This is the third year of the Act’s implementation, and the RHRA is supposed to conduct inspections at least once every three years, so we should anticipate a visit to Peterborough very soon. • Operators expect that their presence will have a positive impact on the facility. It was suggested in the interviews, that the RHRA is dealing with the unaccredited facilities first, and homes that have issued complaints as well. It was noted that 246 of the over 700 homes have been inspected at this point. • Tenants interviewed at one of the Peterborough retirement homes agreed that, while they do not know much about the Ontario Retirement Homes Act, they do know that the quality of care had gone down significantly in the previous six to eight months, at that particular establishment. For them, the biggest change that they

Main themes	Comments
<p><i>it is unclear if this is due to the Ontario Retirement Homes Act or not.</i></p>	<p>noticed was that there was a lot less staff around, and those staff members that were around were expected to do a whole lot more.</p>
<p>The overall impression of the Ontario retirement Homes Act in the Peterborough retirement community and suggested changes.</p> <p><i>Regulation of retirement homes was necessary and the Act is doing a good job so far, but there are some suggested changes.</i></p> <p><i>Regulation of retirement homes was necessary but the Act is not yet doing what it was designed to do.</i></p>	<ul style="list-style-type: none"> • Regulation of retirement homes is a good and necessary thing. Participants agreed that the Act is doing a good job so far. • Overall agreement that it is important to be legislated and all homes have the same standards and “anything that is better for the residents, that’s a good thing.” • There was consensus that the Act is “very comprehensive” and that, “it is wonderful that we have mandatory regulation.” • It was noted that the documentation required by the Act’s new provisions is really cumbersome for tenants. Whereas tenants once only filled out a couple of forms, now there are over 60 pages of information that the tenants must receive. The operators admit that they do not know whether or not the tenants are even reading, let alone understanding the information in these packages. • The need to have subsidies for residents was raised. The costs of retirement living are increasing every year, and the need for residents to receive some assistance to deal with the growing financial burden that can come with retirement was identified.
<p>The overall impression of the Retirement Homes Regulatory Authority (RHRA) in the Peterborough retirement community.</p> <p><i>Peterborough retirement homes have not dealt with the Retirement Homes Regulatory Authority (RHRA) yet and, so, do not have an overall impression of them, and there are no concerns.</i></p> <p><i>Peterborough retirement homes have not dealt with the Retirement Homes Regulatory Authority (RHRA)</i></p>	<ul style="list-style-type: none"> • One operator noted that other homes in their company have reported that their dealings with the RHRA have been very positive thus far. One operator said, “We are used to third-party regulation... we have no concerns with this.” One President of the Resident Council reported that they also did not have any pressing concerns thus far. • Two Directors admit that they would like to have seen ORCA take on the role of the RHRA, because they are unsure about the background and experience that the RHRA members have had in the retirement home industry. As one Director said, “I think a lot of us would have liked to

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<p><i>yet and, so, do not have an overall impression of them, but there are some minor concerns.</i></p> <p><i>The Retirement Homes Regulatory Authority (RHRA) has not done its job thus far, because it is not set up efficiently to do so, and there are major concerns.</i></p>	<p>see ORCA be the regulating body, just because they have the experience.”</p> <ul style="list-style-type: none"> • Other operators have some minor concerns over possible increasing costs of operation, due to their involvement with the RHRA. • There is still a lot of concern over who the members of the RHRA board are, especially among tenants that have not received any information about the Ontario Retirement Homes Act. There is still some concern over the RHRA being dominated by industry professionals

Questions to consider:

1. In terms of fee subsidies for tenants, if the Act is going to permit the retirement homes to run like long-term care nursing homes, should they be publicly regulated and funded on the basis of financial need, in order to avoid two-tiered health care and unjust treatment of individuals who do require an extended level of care?
2. How can stakeholders (such as the RHRA, ORCA, the Residential Tenancies Act, the government, seniors’ advocates and, especially, seniors living in retirement homes) become more involved to increase collaboration around the development and implementation of the Ontario Retirement Homes Act?

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