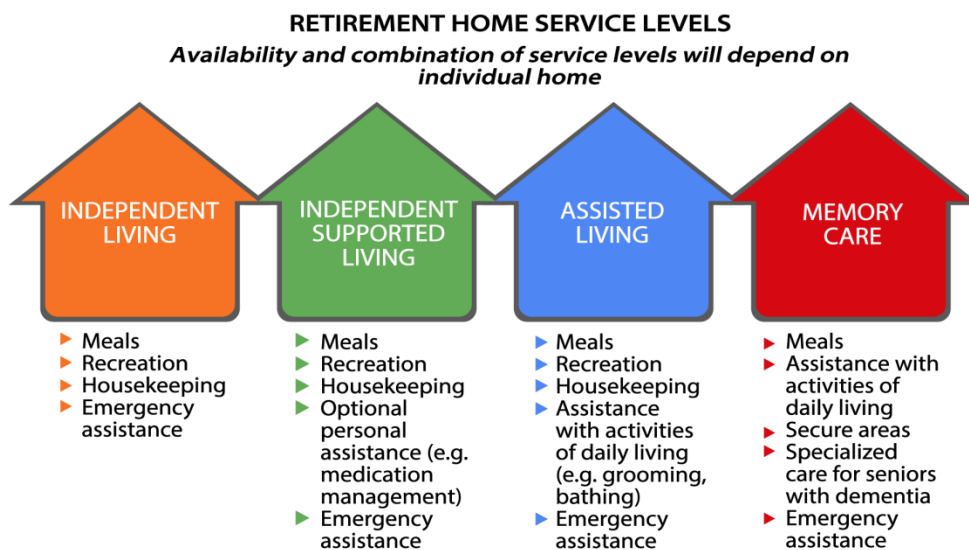


Introduction

The Ontario Retirement Communities Association (ORCA) is a voluntary non-profit association that represents the operators of retirement communities across Ontario. With over 590 members, ORCA represents 93% of the retirement home suites in the province that employ upwards of 28,000 full-time and part-time employees. There are many types of retirement homes available, with varying services depending on the needs and desires of the individual resident. Retirement homes are private pay, can be independently owned or belong to a chain, and vary in size from as few as 6 suites to over 250 suites. Seniors are free to choose which retirement home they wish to live in based on their needs and financial resources.



As you may know, for the first time in history Canada currently has more seniors than children. **Stats Canada projects that there will be over 5 million seniors by 2036.** Currently, the capture rate of the population aged 75+ residing in a licensed retirement home is 5.4%. If the capture rate remains the same, by 2041 Ontario will have 145,800 seniors living in licensed retirement homes. Keeping in mind these demographics and the diversity of the sector and the unique models that exist within it, **it is critical that our sector continues to offer choice, flexibility and innovation for seniors.**

Through review of the *Special Advisors Interim Report*, we found that a number of the proposed amendments could have a negative impact on our members as employers, and the thousands of employees that work within retirement homes. In preparing our submission, we obtained feedback from human resource experts across the sector representing both small and large operators to respond to the recommendations provided in the Interim Report.

Our key areas of concern are the following:

- amendments to the *Labour Relations Act*;

- access to collective bargaining and maintenance of collective bargaining;
- broader based bargaining structures;
- termination of employment in the *Employment Standards Act*;
- scheduling standards;
- part-time and temporary work – wages and benefits; and
- temporary help agencies.

Labour Relations Act

Decertification

The opportunity for employees to review their options and determine representation has effectively been eliminated by unions who file for the appointment of a conciliation officer at the same time as they give notice to bargain, thereby eliminating the opportunity for employees to decertify. If employee's rights and choice are to be respected, this area of the *Labour Relations Act* should be amended to allow a 90-day window for decertification at the end of a contract.

Collective Bargaining and Broader Based Bargaining Structures

We believe that the Ministry should maintain the status quo in regards to accessing collective bargaining and the maintenance of collective bargaining. Employees must be able to exercise their democratic right through a secret ballot to ensure that the employee is free from undue pressure from the Union or pressure from other parties. This will ensure that employees are able to vote their conscience without facing negative repercussions. In terms of broader based bargaining structures, we recommend maintaining the status quo. Broader-based bargaining structures have the potential to eliminate choice and competition and will increase costs to seniors who choose retirement living. The model proposed in the Review would not work in the private sector, as the revenues and services throughout the retirement home sector are not identical.

Employment Standards Act- Section 5.3

Referring to 5.3.8.1 – Termination of Employment from the *Employment Standards Act*, it is our opinion that the section should be amended to exclude notice and severance, where there has been a frustration of the employment contract. When an employment contract has been frustrated, the employer needs to fill the position in a timely manner to continue to provide a high standard of care and services to the seniors living in retirement homes. Additionally, in an aging workforce the cost to the employer can be quite high for both notice and severance payments, which in turn increases costs for the seniors living within the home. Currently the legislation is interpreted by Arbitrators in a fashion that leads to prolonged "precarious" employment, resulting in temporary positions continuing on for many years without a conclusion, which leads to mounting costs for employers.

Scheduling Standards

We believe that the Ministry should maintain the status quo in terms of scheduling standards. Forcing all employers to maintain fixed schedules is unrealistic in all industries and interferes with the employer's ability to run an effective business and to be competitive. Advanced notice of changes may work for some sectors where the work flow is steady and predictable; however this is not the case in the retirement home sector. Retirement homes have fluctuations in hours of work for individual schedules due to supply of replacement staff, outbreak situations and other unpredictable issues. Scheduling for our enhanced care

services in the retirement home is based on resident demand and payment for these services and we currently have the negotiated right in our collective agreements to amend and change these schedules within 48 hours.

Other areas that should maintain the status quo are hours of work and overtime pay, vacation periods of 2 weeks, and paid sick days. Amending these sections would not only create further scheduling barriers, but would have financial impact on the sector. In terms of leaves of absence, we believe option 4 should be explored. Reviewing the ESA leave provisions in an effort to consolidate some of the protected leaves would ultimately allow for better managing of requests.

Part-Time and Temporary Work – Wages and Benefits

The Ministry should maintain the status quo when it comes to part-time and temporary work – wages and benefits. In the retirement home sector, in responding to both employee preferences and seniors' demand for services, part-time, casual, and temporary work is essential. Our sector employs many seasonal employees (particularly for lawn and maintenance) as well as many students who work throughout the summer and holidays. Many of these employees have other coverage for benefits.

Additionally, part-time workers who are employed year round also have their own reasons for choosing to do so. It is necessary for employers to maintain a reasonable contingent of part-time workers in order to provide coverage for replacement of full time staff and for setting up a master schedule that would allow for effective scheduling and management. The *Employment Standards Act* should not require provision of benefit plans to all employees.

Temporary Help Agencies

We believe that the Ministry should maintain the status quo when it comes to temporary help agencies. These agencies are a requirement in the retirement home sector where seniors may contract directly with temporary agencies for services. Any changes here could have a detrimental effect on costs and services to seniors.

Conclusion

As an unfunded sector, retirement homes must meet the needs of an aging population, while providing choice, affordability, and safety in a regulated environment. Our sector's main concern is to protect the safety and wellbeing of our residents, while complying with all necessary regulations to do so. Enacting some of the proposed amendments recommended by the *Special Advisors' Interim Report* will put a significant cost and operational burden on retirement home operators and could negatively affect the delivery of care and services to our residents. We commend the effort to protect employee rights in Ontario, and urge the Special Advisors to consider our recommendations to preserve the pillars of choice, flexibility and innovation that reflect the retirement home sector.

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