Ontario Medical Association

# OMA Submission to the Ontario Ministry of Long-Term Care

## Proposed Phase 1 Regulations under the *Fixing the Long-Term Care Homes Act*

Feb. 17, 2022

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# Introduction

The Ontario Medical Association represents Ontario's 43,000 physicians and advocates for the well-being of our members and the health of Ontarians. We are pleased to provide this written submission in response to the proposed *Phase I Regulations Under the Fixing Long-Term Care Homes Act*.

In the lead up to these proposed regulations, throughout 2020, the OMA was an active participant throughout the Long-Term Care Commission process overseen by Justice Marracco. This included two written submissions and appearing before the commission, to discuss where physicians feel improvements can be made. Most recently, in December 2021, the OMA provided a written submission and presented to the Standing Committee on Legislative Assembly in response to Bill 37, *Providing More Care, Protecting Seniors, and Building More Beds Act, 2021.*

We applaud the government's desire to improve long-term care delivery. The Proposed Phase I Regulations under the *Fixing Long-Term Care Homes Act* are an important first step. More improvements are needed in further regulation and policy. The input of the OMA and other system stakeholders will be critical to define the changes needed to ensure transformation can occur.

With this in mind, we are pleased to offer recommendations in response to the draft regulations under the following areas:

- Medical director Role
- Attending physician role
- Approach to palliative care

# Medical director

The draft regulations include a series of requirements and duties for long-term care medical directors. First, medical directors will be required to participate in the home's continuous quality improvement committee. This requirement is sensible given the knowledge and experience that the medical director role will bring to such a committee. However, it must be noted that this additional requirement will increase physician workload and take away from other clinical duties. Other proposed duties referenced in the draft regulation include:

1. Development, implementation, monitoring and evaluation of medical services
2. Advising on and approving clinical policies and procedures
3. Communication of expectations to attending physicians and registered nurses in the extended class, including communicating relevant medical policies and procedures
4. Addressing issues relating to resident care, after-hours coverage and on-call coverage
5. Attendance and participation in interdisciplinary committees and quality improvement activities
6. Providing oversight of resident clinical care in the home

In the following sections we offer recommendations in response to the duties identified above.

## Clarifying the role of the medical director

The OMA appreciates that the province recognizes how essential the medical director role is in the home's leadership team by outlining the current and proposed additional requirements and responsibilities of the role. That said, the OMA would like to express concern over the increased duties listed as four and six above.

Addressing issues related to overall resident care will require that the medical director work outside of their professional expertise. Further, addressing issues related to resident care will overlap with the responsibilities of the director of care.

As such the OMA would recommend that the term 'medical care' replace the term 'resident care.' In addition, the term medical care should be clearly defined to provide clarity on what is in and out of scope with respect to the role requirements.

Further, physicians are self-regulated and autonomous health professionals. The medical director can act in co-ordinator and advisory positions, which includes assisting to address physician-specific issues as they arise. However, they lack the ability to oversee delivery of day-to-day medical care as an autonomous physician (who are independent contractors).

**Recommendation 1:** The OMA recommends that duty four should be reworded. Specifically, the term 'medical care' should replace the term 'resident care;' and the term 'medical care' should be clearly defined.

**Recommendation 2:** The OMA recommends that duty six should be removed from the regulations as physicians lack the profession-specific expertise needed to oversee all aspects of resident care including nursing and personal support services.

## Enhance professional development and training

Another proposed provision in the draft regulation outlines that medical directors must complete the Ontario Long-Term Care Clinicians (OLTCC) course within 12 months and other training specified in agreement with the home. This is a key step to ensuring that medical directors across the province have the appropriate training for the role and will maintain their proficiency throughout their career as a medical director. The OMA supports the OLTCC course and recognizes its benefits. That said, the OMA would welcome other appropriate courses for inclusion in regulation should they be developed in the future. Therefore, the OMA would encourage the province to consider widening the proposed regulation to include both the OLTCC course and other equivalent courses. The OMA would also encourage the province to confirm that the OLTCC course or future equivalent courses be completed within 12 months of starting the medical director position or from the date the regulation comes into effect. Further, the province should work with the OMA to define what other appropriate training could be made available to physicians and ensure they receive government reimbursement for the required time and registration fees.

**Recommendation 3:** The OMA recommends that government widens the proposed regulation to include both the OLTCC course and other equivalent courses.

**Recommendation 4:** To support the implementation of additional training, the OMA recommends that government reimburse medical directors for the OLTCC course as well as for the time required to take the course.

**Recommendation 5:** The province should confirm that the OLTCC course or future equivalent courses be completed within 12 months of starting the medical director position or from the date the regulation comes into effect.

### Support for onsite and virtual presence

We know there are often difficulties recruiting and retaining physicians in long-term care homes. A strategy must be developed to attract and retain physicians. It is imperative that long-term care homes can ensure a safe and healthy work environment as part of this strategy.

The proposed regulations set out that the medical director and home outline a mutual agreement. The agreement is to outline the specific onsite duties of the medical director and the set minimum number of hours onsite per month. The OMA welcomes this strategy and is encouraged that physicians will have the opportunity to negotiate with the home to define the number of onsite hours and duties. The OMA supports the flexibility that this option provides but would like to take this opportunity to note that much of the administrative work executed by a medical director can be done virtually and this should be reflected in the agreement between the medical director and long-term care home. In addition, due to the changing number of hours and duties in a home, an appropriate remuneration strategy and a funding envelope specific for the medical director role will be needed. Further, the guarantee of availability of PPE (personal protective equipment) during outbreaks to ensure a safe workplace is critical. Finally, the proposed regulations set out conflict of interest provisions. This requirement objectively appears reasonable and in line with common conflict of interest protections.

**Recommendations 6:** The OMA recommends that the regulation allows for appropriate aspects of the medical director role to be done virtually in addition to the in-person hours.

**Recommendation 7:** To support the additional onsite presence, the OMA recommends that the government ensure the availability of PPE during outbreaks.

## Attending physician role

The proposed regulations include a series of requirements for attending physicians in long-term care homes. The regulations specify the contents of the agreement between the home and the attending physician. Further, the regulations set out requirements regarding restraining and discharging residents.

The OMA would like to take this opportunity to again highlight how imperative it is to recruit and retain attending physicians in long-term care. To achieve this, it will require a safe and healthy work environment that includes adequate PPE, accessible physician-specific (relevant) training and fair remuneration for the work provided.

The OMA cautions the government around specifying the contents of the agreement between physicians and the homes in regulation or legislation. The OMA's Section on Long-Term Care and Care of the Elderly strongly advises that the Ministry of Long-Term Care and the OMA develop an agreement template that can evolve to support recruitment and retention while also ensuring the ongoing provision of high-quality medical care.

**Recommendation 8:** The province must develop and implement a strategy to recruit and retain attending physicians in long-term care. This strategy must include a safe and healthy work environment that includes adequate PPE as well as accessible and physician-specific training.

## Palliative approach to care

Most Ontarians with chronic life-limiting illnesses prefer to be cared for at home, rather than in a hospital. Unfortunately, the current long-term care system is not structured to always support this. As a result, many residents end up in acute care settings, which impacts their quality of life and results in avoidable costs to the system.

A palliative approach to care is well recognized and defined in the palliative community. When implemented, this approach allows the care team to identify and assess treatment of pain and address issues associated with chronic life-limiting illness through prevention and relief of suffering, thus improving quality of life for patients and their families. This includes ensuring certain aspects of palliative care are made available to patients and families at appropriate times throughout the trajectory of the illness, including physical, psychosocial, cultural, and spiritual supports.

The current regulations refer to a palliative philosophy and reference "palliative care options." However, it is important to note that system thinking has shifted from the idea of palliative care (offered in the remaining weeks of a person's life) toward the idea of a palliative approach. It is imperative that this shift is reflected in regulation and that this approach is adopted in all long-term care homes.

Adapting a consistent palliative approach to care across all settings and all providers will allow for greater continuity of care, reduction of unnecessary and potentially disruptive transitions in care, and will make palliative care more equitable and accessible. All long-term care homes must be appropriately resourced to be able to deliver this approach to all residents who need it.

**Recommendation 9:** The OMA recommends that the draft regulation shift the language from a palliative philosophy to a defined palliative approach and that all long-term care homes have access to 24-7 in-house resources to implement this approach through the trajectory of a resident's journey.

**Recommendation 10:** To implement a standardized palliative approach to care, the OMA recommends that the ministry works with the OMA to define what standards of practice need to be in place for this approach to be actualized in long-term care settings.

**Recommendation 11:** To support a comprehensive palliative approach, the OMA recommends that the government ensure a funding model to support long-term care homes in delivering a palliative approach.

## Conclusion

For these recommendations to be successful it is critical that appropriate supports including a modernized funding model, appropriate health human resources and supportive policies are in place. The Ministry of Long-Term Care must develop a physician-specific funding envelope to account for appropriate renumeration for increased workload by medical directors and attending physicians in long-term care homes. The OMA looks forward to working with the province to find solutions to strengthen our long-term care sector.

## Summary of Recommendations

**Recommendation 1:** The OMA recommends that duty four should be re-worded. Specifically, the term 'medical care' should replace the term 'resident care;' and the term 'medical care' should be clearly defined.

**Recommendation 2:** The OMA recommends that duty six should be removed from the regulations as physicians lack the profession-specific expertise needed to oversee all aspects of resident care including nursing and personal support services.

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