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Official Report of Debates (Hansard)

Tuesday 18 May 2010

Journal des débats (Hansard)

Mardi 18 mai 2010

**Standing Committee on
Social Policy**

Retirement Homes Act, 2010

**Comité permanent de
la politique sociale**

Loi de 2010 sur les maisons
de retraite

Chair: Shafiq Qadri
Clerk: Katch Koch

Président : Shafiq Qadri
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
SOCIAL POLICY**

**COMITÉ PERMANENT DE
LA POLITIQUE SOCIALE**

Tuesday 18 May 2010

Mardi 18 mai 2010

The committee met at 1635 in committee room 1.

RETIREMENT HOMES ACT, 2010
LOI DE 2010 SUR LES MAISONS
DE RETRAITE

Consideration of Bill 21, An Act to regulate retirement homes / Projet de loi 21, Loi réglementant les maisons de retraite.

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues. We're here once again, as you know, to consider the bill and work through clause-by-clause on Bill 21.

Though we have an NDP motion before us, I'll invite Mr. Dhillon to present government motion 25 in section 51 just to expedite the process. Mr. Dhillon, you have the floor to present government motion 25, and then we'll turn to motion 24.1.

Mr. Vic Dhillon: I move that subsection 51(2) of the bill be amended by adding "if any" after "the regulations."

The reasoning for this is that this amendment clarifies the obligations of a licensee to ensure that the rights set out in the residents' bill of rights are fully respected and promoted. The revised wording makes it clear that this obligation will exist even if regulations have not yet been made.

The Chair (Mr. Shafiq Qaadri): Are there any questions or comments on this particular motion? Seeing none, those in favour of government motion 25? Those opposed? I declare motion 25 carried.

Bienvenue, madame Gélinas.

M^{me} France Gélinas: I'm the petition queen. I couldn't get out of there.

The Chair (Mr. Shafiq Qaadri): S'il vous plaît, présentation de motion 24.1.

By the way, just to let you know, we just passed government motion 25—the one immediately following that, but we welcome you to present motion 24.1.

M^{me} France Gélinas: How come I'm at 37 here? Oh no, no, no.

I'm really sorry. I thought everything was in order, but it's not.

Le Président (M. Shafiq Qaadri): Le plancher est à vous.

M^{me} France Gélinas: I move that paragraph 10 of subsection 51(1) of the bill be amended by striking out "authority" and substituting "minister."

This is in line with the position we have taken since the beginning that creating an authority that will be dominated by the industry is actually dangerous to patient care.

The Chair (Mr. Shafiq Qaadri): Any further comments? Mr. Dhillon.

Mr. Vic Dhillon: We'll be voting against this. The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund. This amendment would reflect a change that we do not support: changing the authority from being an arm's-length regulatory authority to being part of the government.

1640

The Chair (Mr. Shafiq Qaadri): Any further comments from any side? All right, we'll proceed to the vote. Madame Gélinas, do I take it that you'd like a recorded vote on all NDP motions?

M^{me} France Gélinas: Yes, please.

The Chair (Mr. Shafiq Qaadri): Fair enough. Recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Johnson, Lalonde, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 24.1 is defeated.

Shall section 51, as amended, carry? Carried.

Section 52: NDP motion 26.

M^{me} France Gélinas: I move that section 52 of the bill be struck out and the following substituted:

"Application of Residential Tenancies Act, 2006

"52. A retirement home is a care home as defined in the Residential Tenancies Act, 2006."

That clarifies the tenancy position of the people in retirement homes. The bill, as it is in the definition page, introduces the term "resident." I take offence to this because all that will do is muddy the water between people that we call a "resident" in a long-term-care institution, or a long-term-care home, versus "tenants" in a retirement home. I want this bill to be clear, not to bring about confusion and possibilities of developing this

parallel long-term-care system. If, in long-term care, people are residents and in retirement homes are people residents, what's to keep a retirement home from becoming a for-profit, paid-for nursing home, which would allow the government to wash its hands of the responsibility it has to provide care to the most frail, elderly residents of Ontario?

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Dhillon?

Mr. Vic Dhillon: Again, we will not be supporting this. The proposed legislation was written in consultation with the Ministry of Municipal Affairs and Housing, and it has been drafted with their input to eliminate the possibility of conflict with the Residential Tenancies Act. A retirement home is not necessarily a care home under the Residential Tenancies Act. The Residential Tenancies Act expressly excludes certain types of living accommodations that would qualify as a retirement home under the bill—for example, accommodation where certain facilities are shared with the owner.

The Chair (Mr. Shafiq Qaadri): Further comments? We'll proceed to the vote. Those in favour of NDP motion 26? Recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Johnson, Lalonde, McMeekin, Ramal.

1650

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 52 carry? Carried.

Shall section 53 carry? Carried.

Section 54: NDP motion 27.

M^{me} France Gélinas: I move that clause 54(2)(b) of the bill be struck out and the following substituted:

“(b) a statement that the retirement home is a care home as defined in the Residential Tenancies Act, 2006;

“(b.1) the information required that is required to be contained in an information package mentioned in subsection 140(1) of the Residential Tenancies Act, 2006.”

Here again, we have inconsistent language. The Residential Tenancies Act uses the word “tenant” and “care home,” while Bill 21 refers to “resident” and “retirement home.” We believe that an individual living in a retirement home should be referred to as a “tenant” to emphasize the tenancy aspect of the relationship that they have. Section 52 says that if a retirement home is also a care home, the provision of the Residential Tenancies Act continues to apply. So retirement homes satisfy the criteria to be care homes, although not all care homes may be retirement homes. Can you see how this could easily bring confusion to people? If you are not confused by this, then I will ask you to explain it to me.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: Again, we will not be in support of this, for the same reason: The proposed legislation was written in consultation with the Ministry of Municipal Affairs and Housing and it has been drafted with their input to eliminate the possibility of conflict with the Residential Tenancies Act. A retirement home is not necessarily a care home under the Residential Tenancies Act. The information requirement in the retirement home bill goes beyond what is required under the Residential Tenancies Act, but there is no reason why a retirement home couldn't consolidate the information required under both acts and provide it to the resident in one package.

M^{me} France Gélinas: Could you give me an example where a retirement home would not be a care home?

Mr. Michael Dougherty: It's Mike Dougherty again from the Ontario Seniors' Secretariat. If there's a retirement home that has more than six people living in it and they're sharing a kitchen, then under the care home definition in the Residential Tenancies Act, that wouldn't be part of a care home. It's those little nuances that we're trying to—when we discussed this with municipal affairs and housing, they didn't want it to be a specific thing because there's a small piece that might not be overlapping.

M^{me} France Gélinas: So the tenancy act would still apply to those six people.

Mr. Michael Dougherty: As long as they're a retirement home and as long as—yes. The Residential Tenancies Act will apply to it for that piece, for the tenants and the accommodation portion of where they're at.

M^{me} France Gélinas: Okay. What does the kitchen have to do with anything?

Mr. Michael Dougherty: It's just the way that municipal affairs and housing—the way the Residential Tenancies Act has been set up. So if it's a shared kitchen, they don't call it a care home.

M^{me} France Gélinas: If it's a shared kitchen, they don't call it a care home?

Mr. Michael Dougherty: An excluded premises is a home where a kitchen or bathroom facilities are shared with the owner or the owner's family.

M^{me} France Gélinas: So you could have a retirement home where the owner shares the kitchen and the bathroom with the six residents and that would be considered a retirement home?

Mr. Michael Dougherty: Under our definition, it's a retirement home if it's six or more unrelated—if the proportion is people 65 years or older and if it's two care services being offered. We didn't take into our definition the sharing of the bathroom or the kitchen. We're trying to ensure that the care that's being offered there is looked after as opposed to letting the RTA still cover the accommodation portion.

M^{me} France Gélinas: I don't see the relationship to the definition of a care home.

The Chair (Mr. Shafiq Qaadri): Mr. Dougherty, we'd invite you to take benefit of the microphone there.

Mr. Michael Dougherty: Excuse me. My apologies.

M^{me} France Gélinas: I could hear you fine, but I'm guessing others didn't. So what's the relationship with the care home? Why is it not a care home?

Ms. Bethany Simons: If I can assist. It's Bethany Simons, legal counsel to the Ontario Seniors' Secretariat.

For the most part, retirement homes will be care homes under the RTA. However, there are some that may not meet the definition. I agree with what Mike was saying: The example of something that might qualify as being a retirement home under the retirement homes legislation would be an example of a facility where there is a shared bathroom and kitchen with the owner of the retirement home. That would be excluded from the RTA but would be captured by the retirement homes legislation. The interest is to protect the care and safety of the residents in retirement homes even if they're not protected under the RTA.

M^{me} France Gélinas: It's even worse than I thought.

The Chair (Mr. Shafiq Qaadri): Are there any further points of contention on NDP motion 27? If none, we'll take the recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Johnson, Lalonde, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 27.1.

M^{me} France Gélinas: I move that clause 54(2)(g) of the bill be struck out and the following substituted:

“(g) information about the role of the minister and contact information for the minister.”

This is consistent with trying to give tenants of retirement homes better and safer care by bringing it under the ministry rather than an authority that will be dominated by the industry.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Dhillon?

Mr. Ted McMeekin: Is this in order, given that the previous motion was defeated?

The Chair (Mr. Shafiq Qaadri): A question for the Chair, and the Chair refers it to legislative counsel.

The Chair thanks you for that intricacy.

The Clerk of the Committee (Mr. Katch Koch): The motion is in order.

The Chair (Mr. Shafiq Qaadri): Thank you. Are there any further comments on NDP motion 27.1? Mr. Dhillon.

Mr. Vic Dhillon: We will not be in support of this. The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund. This amendment would reflect a change that we do not support: changing the authority from being an arm's-length regulatory body to being part of the government.

The Chair (Mr. Shafiq Qaadri): Further comments on 27.1? Seeing none, we'll proceed to the vote, recorded.

Ayes

Gélinas.

Nays

Dhillon, Johnson, Lalonde, McMeekin, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

NDP motion 27.2.

M^{me} France Gélinas: I move that section 54 of the bill be amended by adding the following subsection:

“No fee

“(3) The licensee shall not charge any fee for giving or making available the package of information under this section.”

This is self-explanatory, I think. I want to make sure that the retirement home cannot charge the resident a fee for supplying a package of information that they have to supply. From work in the field, I can tell you that this is already the case. Unless it is included in this piece of legislation, it will become the norm.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. The policy intent that informs the legislation throughout is to regulate care and safety in retirement homes. Governing costs associated with the operation of retirement homes is not the subject matter of this act.

M^{me} France Gélinas: So what you're saying is that there's a package of information that has to be provided to the resident, but the resident will only get it if he pays for it.

Mr. Khalil Ramal: We didn't say that.

M^{me} France Gélinas: You've just said that it is not the mandate of the law to regulate this, which means that the landlord may ask the tenant to pay a fee to get this information, which is already the case in Ontario. Part of that information that is already available, the landlord charges the tenants to get it. Now you're saying that this package of information will be mandatory, but you will have to pay to get it because you don't want to legislate against it.

Mr. Vic Dhillon: I'm going to have someone from the ministry clarify that.

Mr. Khalil Ramal: Mr. Chair, can I?

The Chair (Mr. Shafiq Qaadri): Yes, Mr. Ramal?

Mr. Khalil Ramal: I think that this section does not reflect the direction of the bill, and also the intent of this regulation in this bill is not concerned about who's charging whom. The most important thing in this bill is to regulate retirement homes only. We're not dealing with a different subject in this discussion, I believe.

The Chair (Mr. Shafiq Qadri): I thank you for your thoughts, Mr. Ramal. Madame Gélinas, are you satisfied, or do you need further clarification?

M^{me} France Gélinas: Absolutely not. How can you say on the one hand that you have a law that says a package of information has to be given to the tenant—it's part of the bill—but then you turn around and say, "But if you don't pay, you don't get it"?

Mr. Alan Ernst: Alan Ernst, from the Ontario Seniors' Secretariat. As we've indicated, the legislation requires that this information be provided to residents, but the object of the bill is not to regulate the costs that retirement homes charge. There will be a register of retirement homes that will provide consumer protection information to consumers, including the care services that they provide.

M^{me} France Gélinas: What will happen when a consumer—I'll call them "a tenant"—does not get this package of information because he or she cannot afford to pay for it?

Mr. Alan Ernst: This isn't a subject of the legislation, but for any contraventions of the act, later in the bill residents will be able to complain, to express their concerns to the retirement home and then to the authority. The authority is empowered to investigate alleged contraventions of the act.

M^{me} France Gélinas: How can you say this? The deck is stacked for the landlord to be able to charge whatever he wants for whatever he wants. You cannot mandate a service that mandates that information be given and allow people to charge for it.

Why is it that you're bound and determined to leave the tenants with nothing to protect them, yet you are so sheepish in putting in any kind of restriction on the landlords to limit the money they're going to be making on the backs of those frail people? What is wrong?

The Chair (Mr. Shafiq Qadri): If there are no replies forthcoming, are we able to proceed to the vote, Madame Gélinas?

M^{me} France Gélinas: Am I going to get an answer to my question? What's wrong with this thinking?

Mr. Vic Dhillon: I've given my answer. We're ready for the vote.

Interjections.

The Chair (Mr. Shafiq Qadri): All right, I think we'd better proceed to the vote, then. A recorded vote on NDP motion 27.2.

Ayes

Gélinas, Martiniuk.

Nays

Dhillon, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qadri): Defeated.

Shall section 54 carry? Carried.

Section 55, NDP motion 27.3: Madame Gélinas.

M^{me} France Gélinas: I move that subsection 55(1) of the bill be amended by adding "at no charge" after "in the home."

Basically, same arguments as before: How can you make something a mandatory action that the landlord has to take but then allow the landlord to charge for it? What are you saying? "This has to be done." If you don't take away the opportunity to charge, you're saying that the tenant will have to do this and will have to pay for it. I want a little bit of balance here. Help out the tenants a little bit. They're frail people, they live in retirement homes, and you are stacking the deck for the landlord to be able to—how can I say?—abuse them financially.

1700

The Chair (Mr. Shafiq Qadri): Are there any further comments? Mr. Dhillon.

Mr. Vic Dhillon: I just want to state that, with respect to the concerns raised, the retirement home must provide the package, or they will not be in compliance with the act. That's our response to the member's concern.

The Chair (Mr. Shafiq Qadri): Madame Gélinas.

M^{me} France Gélinas: But can you not see that the home will answer back, "We have our package ready. We are willing to give it to them if they give us 50 bucks"? How does the tenant argue this?

Mr. Vic Dhillon: That's not going to—

Interjection.

Mr. Vic Dhillon: Yes, exactly. That's not going to happen.

M^{me} France Gélinas: It is happening already.

Mr. Vic Dhillon: Like I said, the package must be provided; otherwise, the retirement home is not in compliance with the act.

M^{me} France Gélinas: Do you know that the landlord has all of the cards? The family is shopping for a safe retirement home for a loved one who is becoming frailer and losing their independence. The home says that the package will be \$20 and that they have to read the information in that package. The government is saying that it is okay for them to charge for something that, in this bill, we make mandatory.

Mr. Vic Dhillon: According to the act, the package must be provided. As far as I can understand, there's no provision for the retirement home owner to force them to pay any cost.

M^{me} France Gélinas: Can you not see the common sense? Those two people—the power is not equal here. You have one who is in need, who is frail, who is needing accommodation, and you have another one who is in full fledge of all of their energy and who wants money. What harm will there be in protecting them and saying, "Mr. Landlord, you will have to give that information, and you cannot charge for it"?

Mr. Vic Dhillon: The act says that it must be provided. It's written clearly in section 54. I don't know what else to tell you. Otherwise, the retirement home will not be in compliance with the act.

M^{me} France Gélinas: And they will add \$20 to the tenant's first month's bill.

Mr. Vic Dhillon: There's nothing that states that in the act.

M^{me} France Gélinas: What harm would be done if you protect the tenant from having to pay?

Mr. Vic Dhillon: There's absolutely nothing that states that a certain dollar amount would be added in the act.

M^{me} France Gélinas: No, that's not what that's about. What this is about is protecting the tenant so that it cannot be done. It is happening already.

Mr. Vic Dhillon: We made it clear in the act that—I'm going to have an official from the ministry elaborate further.

Ms. Diane McArthur: Hi. I'm Diane McArthur. I'm with the Ontario Seniors' Secretariat. There are a couple of provisions in the bill that help with transparency for people deciding when they want to move into a retirement home and/or that they are protected and aware of fees as they're changing when they come up front. First and foremost, the home must make clear the list of fees that they're going to be charging and any change to those fees, so someone has the ability to make an informed decision at the time they move in.

As to putting a limit on a particular component of a fee within the structure of the industry, we were concerned that what would happen is, the fees would just be buried. It's better that it be transparent and available to people to make the decision up front. If they do not provide the information that's listed in the act as mandatory, then they will be in breach of their licence requirement and could be sanctioned thereafter.

M^{me} France Gélinas: Everybody heard that? Not only is it okay to charge people for a mandatory package of information; all you have to do is be transparent about it, and then it is okay to charge for a service that, by law, we're making mandatory. This makes no sense. I don't buy the transparency argument. Come to my riding and try to find a spot in a retirement home. It's not like you can shop around and there are hundreds of them to choose from. You go to the one and only that's available in the village that you live in—if there is one—and the fee that they charge will be whatever they want and whatever the market can bear. That would include fees on information that we have put as mandatory in this bill.

The Acting Chair (Mr. Jean-Marc Lalonde): Okay, we'll proceed with the vote. Recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Jaczek, Johnson, McMeekin.

The Acting Chair (Mr. Jean-Marc Lalonde): The amendment is lost.

Shall section 55 carry? Carried.

Sections 56, 57, 58 and 59: There are no amendments. Are they carried? Carried.

The next one is section 60: government motion 28.

Mr. Vic Dhillon: I move that subsection 60(1) of the bill be amended by striking out "the licensee provides" and substituting "the licensee and the staff of the home provide."

The reason for this is that this amendment clarifies that the staff of a retirement home must meet prescribed care standards. This would ensure that even where a home outsources some of the care services it provides to residents, care standards are still complied with.

The Acting Chair (Mr. Jean-Marc Lalonde): Questions and comments? Seeing none, in favour of amendment number 28? Against? Carried.

Amendment number 29: PC motion.

Mr. Gerry Martiniuk: I move that section 60 of the bill be amended by adding the following subsection:

"Sprinklers

"(3.1) If a retirement home or part of a retirement home is built after the day on which this section comes into force, the licensee of the home shall ensure that the home or the part of the home, as the case may be, is equipped with automatic sprinklers that comply with the prescribed requirements if they offer greater protection than those found in other Ontario laws, if any, requiring the home to be so equipped."

I think that's fairly straightforward and self-explanatory.

The Acting Chair (Mr. Jean-Marc Lalonde): Questions and comments? Seeing none—yes, Mr. Dhillon?

Mr. Vic Dhillon: We will not be supporting this motion, and I want to mention that no door has been closed on the issue of sprinklers in care homes built prior to 1997. Currently, under the building code, any care occupancies built after 1997 will require sprinklers.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you. Other questions or comments?

Mr. Gerry Martiniuk: Yes.

The Acting Chair (Mr. Jean-Marc Lalonde): Yes, Mr. Martiniuk?

Mr. Gerry Martiniuk: I thought this was a bare minimum. I can understand the retirement homes being concerned with retroactive costs, which they would pass on to the residents or tenants, so I carefully drafted this to show that it would not be an additional cost of retrofitting and wouldn't affect any of the present tenants who are residing in these homes.

I'm somewhat disappointed that this cannot be met, because there must be some tenants of these homes who are not up to moving around at a rapid rate, such as some of us, and they have no defence other than sprinklers in many cases. That was the reason for the motion.

The Acting Chair (Mr. Jean-Marc Lalonde): Any other questions or comments? Yes, Mr. Dhillon?

Mr. Vic Dhillon: I just want to mention that the act would require retirement homes to have specific evacuation plans and to train staff in safety; fire prevention posted in the home and an explanation of the measures to

be taken in case of fire; include information packages detailing nighttime staffing levels; and whether the home has sprinklers in each resident's room.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you. Any other—

Mr. Gerry Martiniuk: Recorded vote, please.

The Acting Chair (Mr. Jean-Marc Lalonde): Those in favour of amendment number 29?

Ayes

Martiniuk.

Nays

Dhillon, Gélinas, Jaczek, Johnson, McMeekin.

The Acting Chair (Mr. Jean-Marc Lalonde): The amendment is lost.

1710

NDP motion number 30: Madame Gélinas.

M^{me} France Gélinas: I move that section 60 of the bill be amended by adding the following subsection:

“Sprinklers

“(3.1) The licensee of a retirement home shall ensure that the home is equipped with automatic sprinklers that comply with the prescribed requirements if they offer greater protection than those found in other Ontario laws, if any, requiring the home to be so equipped.”

The Acting Chair (Mr. Jean-Marc Lalonde): Questions and comments? Mr. Dhillon.

Mr. Vic Dhillon: Again, as I stated before, no door has been closed on the issue of sprinklers in care homes built prior to 1997. The issue of fire safety fits under the safety standards in the legislation, and we will be working with stakeholders on the development of regulations in this area.

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Miller.

Mr. Paul Miller: I don't know why the government would hesitate to move ahead with this now. I, personally, would not want to be responsible or in the government's shoes if there's another fatality in this province because of the lack of sprinkler systems.

I don't know how much more information this government requires. We've got the support of the Ontario fire marshal. We've got the support of the Ontario Association of Fire Chiefs. We've got the professional firefighters, who are saying that it's an important tool in the box of tools to fight fires. We've got the coroners' inquests on more than one occasion recommending sprinkler systems for all retirement homes.

I don't know what we have to do—stamp it on someone's forehead? I can't understand why there is resistance to this, but I think I know the resistance to this, and if no one's going to say it, I will. I think it's the fear of losing votes from people who own chains of homes, and support for an individual party financially.

This is a no-brainer. This is the protection of the seniors in our province. This is the protection of our fathers and mothers, our grandparents. What more do you need?

You had a fire, and one of the excuses the government has used is the cost of installation of fire sprinkler systems. Well, let me give you an example of the fire in Mississauga where several people died, several people had brain injuries. This is what happened in Mississauga: The fire cost the insurance company over \$8 million. People died in that fire. They did an investigation: How much would it cost to put a sprinkler system in that building? And it was not that old of a building; I think it was built just before 1996. It would cost \$47,000 for a sprinkler system for that building. The fire chief at the scene of the fire said that the sprinkler systems would have saved lives.

What more does this government need when you've got everyone involved in fighting fires, you've got the coroner's office, you've got all the other organizations coming forward—health organizations and everyone else—saying, “Put the sprinklers in”? The only reason you're not putting the sprinklers in is because you're afraid of losing votes and you're afraid of the people who own these chains coming out against you in the next election. It's absolutely unconscionable that you're not putting in sprinkler systems.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you, Mr. Miller. Any other questions or comments? Yes, Mr. McMeekin.

Mr. Ted McMeekin: I just want to note that the act will require that the owners comply with all prescribed safety standards, including all standards with respect to fire safety, so let's be clear about that. There's no exclusion from fire safety standards as are currently there, and there is a requirement that homes built after 1997 include sprinklers. So any new homes built are going to include sprinklers. In the meantime, while we're working with the stakeholders to review the most prudent way to move forward, the owners of these homes will have to comply with all existing standards. I think that's reasonable.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you, Mr. McMeekin. Madame Gélinas.

M^{me} France Gélinas: Just a clarification on this 1997 deadline: If a building was built for reasons other than being a retirement home—let's just say it's a big family home—they would not have been required to have a sprinkler system. In small, rural areas you will see a lot of big family homes, as the family moves away, become retirement homes like we were talking about a minute ago where people share a bathroom and where people share a kitchen. They won't be covered by a sprinkler system.

What my colleague had tried to say is that we have an opportunity to protect those people. If you're going to become a retirement home, you'd better have a sprinkler system.

Mr. Vic Dhillon: Becoming a retirement home after 1997, it must have a sprinkler system.

M^{me} France Gélinas: Even if it wasn't built as a retirement home?

Mr. Vic Dhillon: They would be applying for a licence. If it's after 1997, and it's being converted to a retirement home, it would require them to have a sprinkler system.

M^{me} France Gélinas: Can I have legislative counsel confirm this?

The Acting Chair (Mr. Jean-Marc Lalonde): Can we ask legislative counsel?

Mr. Michael Wood: I'm legislative counsel, but I think it's more appropriate for the ministry counsel to answer this because it involves a question, I think, to do with the building code.

The Acting Chair (Mr. Jean-Marc Lalonde): Oh, legislative counsel. That's ministry.

Mr. David Brezer: Good afternoon. I'm David Brezer with the Ontario Seniors' Secretariat.

My understanding of the Ontario building code is that there's a requirement that where a change of use occurs, even where there is not construction—your example of a house being converted into a care occupancy—a building permit would be required, and fire sprinklers would be required.

Second of all, by the time the licence is required, there's a statement that would require that fire and building and health be in compliance prior to the issuance of a licence. This bill creates a second protection or a check to make sure that those are in place.

M^{me} France Gélinas: Okay. On one hand, we have an acknowledgement that sprinklers save lives and sprinklers are a worthwhile investment, but we're not willing to go this extra step to protect everybody. Can you see where it's kind of a dichotomy here?

Mr. Vic Dhillon: No; I think we are going the extra step by ensuring that strict safety standards be met, that there are plans for evacuation, that everyone knows how many staff are on hand and what to do in case of a fire. That will be strictly enforced according to this act. We are ensuring, in the most realistic way, to avoid any fatalities because of fire.

The Acting Chair (Mr. Jean-Marc Lalonde): I believe we did get an answer from the ministry counsel. Yes, Mr. McMeekin?

Mr. Ted McMeekin: Just on that, as a courtesy, because the question was a good one, and I thought the clarification was helpful, I wonder if the member opposite would covenant to share the clarification with her colleague who had raised the question so that he knows about the conversion provision. That would be helpful.

He's unfortunately not here to have heard the clarification of the question he originally asked. It would be helpful not to have clarify it in the House again since it's been clarified here. As a courtesy, I just suggest that to the honourable member opposite.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you. I think we have discussed that.

M^{me} France Gélinas: Will do.

The Acting Chair (Mr. Jean-Marc Lalonde): We'll proceed with the vote on NDP motion 30.

Ayes

Gélinas.

Nays

Dhillon, Jaczek, McMeekin, Ramal.

The Acting Chair (Mr. Jean-Marc Lalonde): Motion defeated.

Shall section 60, as amended, carry? Carried.

Shall section 61 carry? Carried.

Section 62: NDP motion 30.1.

M^{me} France Gélinas: I wish to withdraw this motion.

The Acting Chair (Mr. Jean-Marc Lalonde): It is withdrawn.

PC motion 31: Mr. Martiniuk.

Mr. Gerry Martiniuk: I move that subsection 62(2) of the bill be amended by adding "written" after "resident's."

This is where the individual has to consent to a plan of care that will map out that person's future. There's no mention in the act whether it should be in writing or orally, so it could be left orally. I think it's incumbent on us to ensure that we have evidence that the person has consented. That protects not only the person who is the resident or tenant, but it also protects the staff who of course have received that consent.

1720

As a former lawyer, I prefer to have things in writing than orally. It's much easier to prove.

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. The bill, as drafted, provides authority for the development of regulations governing the form and consent of plans of care, which could include this requirement if it is felt necessary after work on this area.

The Acting Chair (Mr. Jean-Marc Lalonde): Any other questions or comments? Seeing none, those in favour of motion number 31 from the PCs? Opposed? Defeated.

NDP motion 31.1.

M^{me} France Gélinas: I move that subsection 62(3) of the bill be struck out and the following substituted:

"Performance of assessments, etc.

"(3) All assessments, reassessments and plans of care mentioned in this section that a licensee performs shall be completed by a member of a college of a health profession set out in schedule 1 to the Regulated Health Professions Act, 1991 that is appropriate given the needs of the resident for care services and shall be performed in accordance with the prescribed criteria."

All this does is it makes sure that you have somebody from the Regulated Health Professions Act who does those care plans. You are talking about the care of people who could be frail, people who are elderly. The care plan, I'm telling you, could get very complicated, and in order

for this to be done, it needs to be done by a competent, college-regulated health professional.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you, Madame G elinas. Mr. Dhillon.

Mr. Vic Dhillon: We will be voting against this because a retirement home is not a long-term-care home. There is the requirement for greater flexibility in a number of areas, and this is one such area. This requirement may be too onerous for both operators and residents, depending on the care needs of the resident. However, if after consultations on the care regulations it is found that this would be an appropriate requirement, there is the power to prescribe in regulation specific requirements for assessments and approval of plans of care.

The Acting Chair (Mr. Jean-Marc Lalonde): Any other questions or comments?

M^{me} France G elinas: This is so dangerous. How many headlines are you guys going to have to read that these regulations have put people at risk and have actually had drastic, negative consequences for those people before you wake up and do the right thing and give some protection? If you are going to sign a care plan, you should be covered by a college that says that you have the knowledge, expertise and experience to sign such a plan.

To give greater flexibility to the owners—do you know what you’re saying? You’re saying that the owner can hire whoever he wants. If you find somebody bold enough who knows nothing about care but is willing to sign for a buck, then they will hire this person, this person will sign the care plan, and he or she will know squat, bummer all about care or has happened to learn it from her mother who used to be a nurse 30 years ago.

This is what we will find in Ontario’s residential and retirement homes. How can you set this up? You are setting yourselves up for failure and you are setting those people up for danger.

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Dhillon.

Mr. Vic Dhillon: There will be further consultation in drafting the regulations. Depending on that, there will be further regulations.

The Acting Chair (Mr. Jean-Marc Lalonde): No other questions or comments? If not, those in favour of NDP motion 31.1? Recorded vote.

Ayes

G elinas.

Nays

Dhillon, Jaczek, Johnson, McMeekin, Ramal.

The Acting Chair (Mr. Jean-Marc Lalonde): Motion defeated.

NDP motion 31.2.

M^{me} France G elinas: I move that subsection 62(5) of the bill be amended by striking out “are given an opportunity.”

Basically, what we are talking about here is that the resident has to participate in the development of his or her care plan, because those people are going to be paying for those services. You have it set up right now that the person will have “an opportunity” to have a say in their care plan. How could this be good?

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Dhillon.

Mr. Vic Dhillon: Again, we will not be supporting this. Resident involvement in the assessment, upon which a care plan is based, and the subsequent development of a care plan is important. However, in both cases residents should have the freedom to choose whether to consent to an assessment or participate in the development, implementation or review of the plan of care.

This legislation is about respecting a senior’s right to choose how they live their lives. It may be that the resident does not want to participate in the actual development, implementation or review of the plan of care.

M^{me} France G elinas: You are giving them the freedom to be abused—abused financially, to provide care that they don’t need at a price that they cannot afford. This is not called freedom; it is called abuse.

If you’re going to be in a retirement home and paying for each and every one of those services and the owner happens to not really want you to participate in your plan of care, he is free to line up the services that make the most money for him and let you pay for it. You maybe were given an opportunity while you were sleeping; they said, “Hey, Joe, do you want to participate?” Joe was sleeping. “We’ll add those services onto his bill.”

This is not right. You are stacking them up to fail.

Mr. Vic Dhillon: I think the assertions you’re making are not right. We’re giving the people the choice; that’s all.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you. We’ll proceed with the vote.

Ayes

G elinas.

Nays

Dhillon, Jaczek, Johnson, McMeekin, Ramal.

The Acting Chair (Mr. Jean-Marc Lalonde): Motion defeated.

NDP motion 31.3: Ms. G elinas.

M^{me} France G elinas: I move that subsection 62(9) of the bill be struck out.

The Acting Chair (Mr. Jean-Marc Lalonde): Any explanation?

M^{me} France G elinas: I’m trying to remember what subsection 62(9) was about.

Mr. Ted McMeekin: You want to strike that out? Currently, the operator has to get the permission of the client. If you strike that out, that would remove that provision. It's called fundamental self-determination, I think.

The Acting Chair (Mr. Jean-Marc Lalonde): Madam Gélinas? No other comments?

M^{me} France Gélinas: No. I'm going to withdraw this. Sorry.

The Acting Chair (Mr. Jean-Marc Lalonde): You'll withdraw this one?

1730

M^{me} France Gélinas: Yes.

Mr. Khalil Ramal: Agreed.

The Acting Chair (Mr. Jean-Marc Lalonde): Okay. Agreed, to withdraw 31.3.

Shall section 62 carry? Carried.

On to 31.A: NDP motion.

Mr. Gerry Martiniuk: I've got 31.4.

The Acting Chair (Mr. Jean-Marc Lalonde): Pardon me, 31.4. Thank you, Mr. Martiniuk.

M^{me} France Gélinas: I move that subsection 63(3) of the bill be amended by striking out "and" at the end of clause (b) and by adding the following clause:

"(b.1) provide a notice, of the results of the assessment to the registrar."

Basically, this has to do with keeping a record of the assessment available to the registrar so that as people are assessed as needing a higher level of care or needing a higher level of acuity, it will be known to a transparent body, and hopefully appropriate action will be taken.

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Dhillon?

Mr. Vic Dhillon: We will not be supporting this. If the bill passes, licensees will be required to document information about what happens when an assessment of a resident indicates they are reaching a prescribed level of care need, and provide the documentation to the registrar. This is a compliance issue. The registrar has the ability to require the licensee to provide the information and, if circumstances warrant, can request so. The requirement to inform a resident or his or her substitute decision-maker about alternatives to living in a retirement home, about admission to a long-term-care home and contacting the local CCAC, where requested, will be a valued tool in monitoring possible movement towards the long-term-care system.

The Acting Chair (Mr. Jean-Marc Lalonde): Madame Gélinas.

M^{me} France Gélinas: Do you want to see how many minutes?

Mr. Ted McMeekin: Thirty minutes.

M^{me} France Gélinas: Thirty? Okay.

The Acting Chair (Mr. Jean-Marc Lalonde): We have time.

M^{me} France Gélinas: We will now have this parallel system of retirement homes where, as long as you have the money to pay, you can buy as much care as you want. It will be in the owner's interest to add onto that bill, to

add onto the level of care that they are providing to make more money on the backs of people requiring care. All I'm asking for is that an independent third party, the registrar, be made aware, because the home owner is in a pecuniary conflict of interest without the amendment.

The Acting Chair (Mr. Jean-Marc Lalonde): Any other comments? Seeing none, those in favour of NDP motion 31.4? Recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Johnson, Jaczek, McMeekin, Ramal.

The Acting Chair (Mr. Jean-Marc Lalonde): Motion defeated.

Moving to motion 31.5: NDP motion.

M^{me} France Gélinas: Subsection—

The Acting Chair (Mr. Jean-Marc Lalonde): Sorry, that one is out of order.

Subsection (3) defeated the motion that we just defeated, so we're going to—

M^{me} France Gélinas: So can I not just keep the last part, that no fee can be charged for assessing the notice of assessment?

The Acting Chair (Mr. Jean-Marc Lalonde): You're proposing to move the motion without the first section, subsection (4)? Okay, Mrs. Gélinas, 31.5 with the exception of subsection (4).

Mr. Gerry Martiniuk: Could we have it read into the record?

M^{me} France Gélinas: I'll read it right now.

Subsection 63(5):

"No fee

(5) The licensee shall not charge any fee for providing information under this section."

Basically, what this is all about is that it obligates the registrar to maintain the notice of assessment and that no fee can be charged for accessing information covered. You have said that the owner can send this information to the registrar. If the tenant wants to access that information, there should not be a fee.

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Dhillon?

Mr. Vic Dhillon: We will be opposing this as this is related to 63.3, the previous amendment. Again, we will not be voting in favour of it.

The Acting Chair (Mr. Jean-Marc Lalonde): Any other comments? Madame Gélinas.

M^{me} France Gélinas: In his comments to my previous motion, he did say that the owners can send information to the registrar. All we're asking is that there's no fee.

The Acting Chair (Mr. Jean-Marc Lalonde): We'll have the explanation from the ministry people.

Ms. Diane McArthur: Hi, it's Diane McArthur again from the Ontario Seniors' Secretariat. As with the other

sections where you've raised the issue of the fee, this bill doesn't speak to how fees are charged. It does say that where fees are changed, they are transparent. There is an obligation that information be provided, and if for any reason the information is not provided, then they are in breach and can be sanctioned by the retirement home authority accordingly.

M^{me} France Gélinas: So as the law is written, if an owner decides to charge and the person pays—it's added to their bill—it will be legal in Ontario?

Ms. Diane McArthur: The retirement home must make clear what charges they are levying up front and early on and any charges to those charges, but it does not speak to for which services or how the service structure and fee charges are structured.

M^{me} France Gélinas: Let's try again with a yes or a no answer: The owner puts it up front that there will be a fee. Therefore, it will be legal?

Ms. Diane McArthur: The bill in no way limits or speaks to what the fee structure of the homes shall be.

M^{me} France Gélinas: Thank you.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you. We'll proceed with the vote. Recorded vote: Those in favour of the amendment, 31.5.

M^{me} France Gélinas: J'avais des commentaires à faire.

The Acting Chair (Mr. Jean-Marc Lalonde): You had comments?

M^{me} France Gélinas: Yes.

The Acting Chair (Mr. Jean-Marc Lalonde): Sorry. Commentaires ; madame Gélinas.

M^{me} France Gélinas: Can you not see that by not regulating those types of fees, unscrupulous owners will use them to keep people from having access to information that is pertinent to good-quality care, that is pertinent to the safety of residents? We all know that a fee is a deterrent. A family without much financial means may decide not to access that information when really, it would have been in the best interests of the tenant that they do.

The Acting Chair (Mr. Jean-Marc Lalonde): Other comments? Recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Jaczek, Johnson, McMeekin, Ramal.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you. Defeated.

Shall section 63 carry? Carried.

Going to section 64, NDP motion 31.5.1: Madame Gélinas.

M^{me} France Gélinas: I move that section 64 of the bill be amended by adding the following subsection:

“Workplace Safety and Insurance Act, 1997 coverage

“(3) For greater certainty, the licensee of a retirement home who hires staff or accepts volunteers to work in the home is deemed to be a schedule 1 employer as defined in the Workplace Safety and Insurance Act, 1997.”

This is here, again, to make the bill clearer that the people who will be working or volunteering in retirement homes in Ontario will be covered by the Workplace Safety and Insurance Board if they happen to hurt themselves.

The Acting Chair (Mr. Jean-Marc Lalonde): Comments? Mr. Dhillon.

Mr. Vic Dhillon: We will not be voting for this. The government is committed to workplace health and safety. However, we will not be supporting this motion as it has significant implications for both operators of retirement homes and their staff and volunteers as well as the WSIB, which require further consideration. We will, however, continue to consult with our colleagues at the Ministry of Labour to explore this further in the future.

1740

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Martiniuk?

Mr. Gerry Martiniuk: I have a question. Does that mean that at present, retirement homes are not covered by the WSIB?

The Acting Chair (Mr. Jean-Marc Lalonde): Questions from ministry counsel or staff?

Ms. Bethany Simons: In terms of a schedule 1 employer, a retirement home is not currently listed as an employer, and their employees would not be entitled to the WSIA benefits.

Mr. Gerry Martiniuk: Okay. How about a long-term-care facility?

Ms. Bethany Simons: They are prescribed.

Mr. Gerry Martiniuk: Thank you very much.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you. Madame Gélinas?

M^{me} France Gélinas: By your actions, you are making this parallel system where not only will the tenants not have any rights, but the workers won't have any, either. They will be contract; they will be subcontract; they will come in and do work for the home and leave. This is not a recipe or best practice for quality care. The act is very much balanced so that there will be so much money to be made in retirement homes that they will fall over one another to open up those homes, and that will take the pressure away from your government to fund long-term-care beds.

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. McMeekin?

Mr. Ted McMeekin: I think it has been quite clear today. Ms. Gélinas makes a couple of good points in regard to this clause. That having been said, she has the government's assurance that, because of the complications, which, in Ms. Gélinas' own words, are potentially so broad, we do need further consultation, specifically with WSIB, as well as the Ministry of Labour. That's the reason why we're not supporting it. It doesn't mean that down the road there won't be an indication that this is appropriate. Were that the case, I'm assuming it would

be, Mr. Parliamentary Assistant, a regulation that would be brought in.

Mr. Vic Dhillon: Yes.

The Acting Chair (Mr. Jean-Marc Lalonde): Other comments? Seeing none, those in favour of NDP motion 31.5.1? Recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Jaczek, Johnson, McMeekin, Ramal.

The Acting Chair (Mr. Jean-Marc Lalonde): Defeated.

Shall section 64 carry? Carried.

Section 65, NDP motion 31.6. Madame Gélinas—yes, Mr. Johnson?

Mr. Rick Johnson: Just for clarification, we've had several motions throughout that we've defeated, that seek to change the word "authority" and substitute the word "minister." If this current one, 31.6, was to pass, would that not mean then that all of the other ones where we changed it would have to pass as well? Is this not redundant?

The Acting Chair (Mr. Jean-Marc Lalonde): We'll ask legislative counsel. Yes, Mr. Dhillon?

Mr. Vic Dhillon: I just want to get on record, with respect to the previous motion, that it would be the Minister of Labour who would be making the decision as to the workers and volunteers being included under the WSIB, and not the minister responsible for seniors. I just wanted to clarify that.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you for the clarification. The question from Mr. Johnson?

The Clerk of the Committee (Mr. Katch Koch): Mr. Johnson, the motion, in the context of the session, is not out of order, but if you look at it in the context of the bill, you may want to rethink it.

The Acting Chair (Mr. Jean-Marc Lalonde): We'll proceed immediately with motion 31.6, NDP motion, Madame Gélinas.

M^{me} France Gélinas: I move that clause 65(2)(i) of the bill be amended by striking out "authority" and substituting "minister."

In response to Mr. Johnson, there's always the faint-hope clause, and at this point this is what I'm hoping for.

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund. This amendment would reflect a change that we do not support, changing the authority from being an arm's-length regulatory authority to being part of the government.

The Acting Chair (Mr. Jean-Marc Lalonde): Other comments? Seeing none, a recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Jaczek, Johnson, McMeekin, Ramal.

The Acting Chair (Mr. Jean-Marc Lalonde): Motion defeated.

Motion 31.7: NDP motion, Madame Gélinas.

M^{me} France Gélinas: I move that subsection 65(5) of the bill be amended by adding the following paragraph:

"4.1 Training in the requirements for consent to treatment under the Health Care Consent Act, 1996."

We have already passed the section in the bill where informed consent needs to be obtained. Informed consent is something that has been legislated and that has been defined. All health care professionals receive training so that they know exactly what constitutes informed consent and what doesn't. Because you have struck down the amendment that would have mandated that you use registered health care professionals, at a minimum those people have to be trained as to what constitutes informed consent and what doesn't; otherwise, trouble will arise.

The Acting Chair (Mr. Jean-Marc Lalonde): Mr. Dhillon.

Mr. Vic Dhillon: The consent-to-treatment part of the Health Care Consent Act, 1996, relates to treatment provided by health care practitioners and thus would not apply to all retirement home staff who may provide direct care to residents, for example, staff who provide meals. The bill already requires staff to be trained in all acts and regulations that are relevant to their duties. This could encompass training in the Health Care Consent Act, 1996, depending on the staff member's duties.

In addition, the bill allows the government to prescribe additional training requirements. After consulting on the regulations, it may be that training is determined to be necessary on consent issues generally, not just the Health Care Consent Act, so it is not appropriate to limit the training to this specific act at this point.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you, Mr. Dhillon. Other comments? Madame Gélinas.

M^{me} France Gélinas: You never need to get consent before you serve a meal, but you do need to get consent if you're going to be providing care. What you are saying is that you will have untrained, non-licensed people providing care and that they won't even need to know what "informed consent" means. To put this into the bill brings a level of assurance that you at least know that before you're going to do something, even if you're not a licensed health care professional—you should know that before you're going to do a delegated act, you need consent. Right now, in retirement homes all over Ontario there are untrained people who, after they finish cutting

hair, start delivering pills to all of the tenants of the retirement home. They have no clue what informed consent is. They have no clue that they're supposed to ask for consent. What you're saying is that those practices are fine.

The Acting Chair (Mr. Jean-Marc Lalonde): Thank you, Madame Gélinas. Mr. Dhillon.

Mr. Vic Dhillon: Absolutely not. That's not what we're saying. We've stated clearly that the staff must be trained in whatever job that they're doing, and if that involves training in the Health Care Consent Act, then that's the appropriate training that will be required, depending on their duties. It's stated clearly.

M^{me} France Gélinas: That is in contradiction with the first statement that he read, that says that the informed consent only applies to registered health professionals.

The Acting Chair (Mr. Jean-Marc Lalonde): We'll proceed with the vote. NDP motion 31.7, a recorded vote.

Ayes

Gélinas.

Nays

Dhillon, Jaczek, Johnson, McMeekin, Ramal.

The Acting Chair (Mr. Jean-Marc Lalonde): Motion defeated.

Shall section 65 carry? Carried.

Seeing no motion for section 66, shall section 66 carry? Carried.

Shall section 67 carry? Carried.

It is 10 minutes to 6 and there's a vote, and the committee can only sit until 6 o'clock, so I would move that the committee adjourn until Monday, May 31, at 2 p.m.

Meeting adjourned.

The committee adjourned at 1750.

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Also taking part / Autres participants et participantes

Mr. Paul Miller (Hamilton East–Stoney Creek / Hamilton-Est–Stoney Creek ND)
Mr. David Brezer,
Mr. Michael Dougherty,
Mr. Alan Ernst,
Ms. Diane McArthur,
Ms. Bethany Simons,
Ontario Seniors' Secretariat

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Mr. Michael Wood, legislative counsel