*Correspondence to the Premier and Ministers Elliott and Fullerton regarding Long-Term Care*

Hon Premier Doug Ford

Deputy Premier Christine Elliott

Hon Minister of Long-Term Care Dr. Merrilee Fullerton

August 7, 2020.

I am writing to you regarding your governments announcement of an independent commission into COVID-19 and long-term care on behalf of the members of the Hamilton, Burlington and Oakville Chapter of the Congress of Union Retirees of Canada (HBO CURC).

Many CURC members and their partners are of an age where they will be requiring long-term-care services, including home care services. Some are already using long-term care and home care services and are greatly concerned about the standard of care being provided in Ontario's long-term care system, especially in for-profit long-term facilities.

Given that Cathy Fooks, Ontario Patient Ombudsman, has received disturbing complaints about long-term care homes regarding severe staffing shortages, inadequate infection control measures, inability to meet the basic needs for some residents, and poor to no communication to family members during the lock down of care homes.

Given that Paul Dube, Ontario Ombudsman, has initiated an investigation into how the government handled COVID-19 outbreaks in long-term homes and will look into as to why more than 1,800 residents have died and how deaths can be prevented in future, including on site improved inspections.

Given that a number of coroners are investigating the deaths of residents of Ontario nursing homes who passed away during the COVID-19 pandemic.

Given that a class action lawsuit has been filed in Ontario's Superior Court of Justice accusing the Ontario government of lax oversight of long-term care homes and failure to protect vulnerable residents from the corona virus led to widespread preventable illness, suffering and death.

Given the Canadian Military report released in May, 2020, that chronicled horrific conditions at five long-term care homes in Ontario, ranging from poor infection control practices to the neglect and abuse of residents.

Given that a research study released on July 22, 2020, published in the Canadian Medical Association Journal showed that for-profit long-term care homes saw significantly worse outbreaks of COVID-19 and more related deaths than their non-profit or municipal run counterparts. The research looked at all 623 long-term care homes in Ontario, from March 29 until May 20. In all, more than 5,200 residents contracted COVID-19 during the study period. More than one-quarter of those infected -1450-died.

Given that prior to the COVID-19 pandemic there have been well documents cases provided by care givers, family members and long-term care homes staff of seniors and people with disabilities dying and mistreated as a result of dehydration, infected bed sores and urinary tract infections. There have also been numerous reports of resident-on-resident assaults and homicides in long-term facilities.

The premier has correctly stated numerous times that the "long-term care system is broken" and that he wants solutions as to how to fix the system.

The recently government's announced "Independent Long-Term Care COVID-19 Commission" is not mandated to rigorously investigate Ontario's pandemic ravaged long-term care homes. The proposed commission is not good enough to address the premiers concerns that the current long-term care system is broken and that he needs solutions to fix the problems.

**HBO CURC urges the Ontario government to establish a formal Judicial Inquiry of Ontario's Long-Term Care System established under the *Public Inquires Act* and led by a sitting or retired senior member of the judiciary to investigate Ontario's long-term care system's handling of the COVID-19 pandemic.**

A formal Judicial Inquiry is the only appropriate mechanism given the magnitude of the systemic failure of the long-term care system to protect residents from the COVID-19 pandemic cries out for a rigorous inquiry. The public demands it.

The government's proposed commission has some key differences from a judicial inquiry. For example, the commission's hearings are not required to be public, they can be held in private. If private meetings were to be held there is no guarantee that what was discussed would ever be made public. While the proposed commission has the authority to call witnesses, but can't compel them to testify. The commission may request and review and consider any existing records or reports relevant to the mandate, including medical, professional and business records. However these documents, records and reports may be kept secret and not made public.

A judicial inquiry would have the ability to require access to documents and compel testimony on the part of essential individuals such as owners and operators of long-term care homes, government officials, public health officials and politicians. Affected family members and other interest parties would also have the opportunity to testify at public hearings of the judicial inquiry.

The governments commission as currently designed is too restrictive and lacks transparency. For example, given the disproportionately high number of deaths in Ontario's private for-profit long-term homes we need to know if they are inferior to long-term care homes operated by non-profit and municipalities. The commissions mandate will not be permitted to study this issue.

Item 4 of the commissions mandate states: **"*The Commissioners shall conduct the investigation and make the report without expressing any conclusion or recommendation regarding the civil or criminal responsibility of any person or organization".***

A judicial inquiry established under the provisions of the ***Public Inquires Act*** would permit these and other issues to be rigorously investigated.

*Given the restrictions of the commissions mandate raises a number of troubling issues:*

\*\*\*The recommendations, if any, will be timid.

\*\*\*Politicians and corporate executives of for-profit long-term care homes will not be held criminally accountable.

\*\*\*The commissions mandate as currently designed is not in the public interest.

Judicial inquiries have been held for the following: SARS: 44 deceased; Walkerton: 6 deceased; Ipperwash: 1 deceased and Elizabeth Wettlaufer: 8 deceased.

Ontario Long-Term Care homes deaths resulting from COVID-19: 1,900 approximately and no judicial inquiry.

By not establishing a judicial inquiry gives rise to the perception that the government has something to hide. Does the government really mean what it said about an "iron ring of protection" around the long-term care sector or not?

Mr Premier, Minister Fullerton, Ontario deserves a full formal judicial inquiry. The public demands it.

Yes, a judicial inquiry will take time but there are things that your government can do right away such as:

**More financial assistance for long-term care homes; ensure that there is better infection control practices, including better access to PPE; ensure that there are frequent in person inspections, with no prior warnings; ensure that all front-line staff have access to full-time hours and are assigned to one long-term facility; ensure that front-line staffing in long-term homes is addressed; ensure that all front-line staff are well paid, including sick leave and other benefits commensurate with their respective responsibilities; ensure that a minimum care standard is implemented: move to a four hour average minimum care level for residents in long-term care; ensure that there is on-going COVID-19 testing and contact tracing for all residents and staff of long-term care homes and that all visitors are screened at the entrance prior to entering the facility; and ensure that existing long-term care homes are remodeled with the purpose of maintaining the dignity and respect for all residents by having private rooms that include air conditioning, toilet and bathing facilities and privacy for personal care services.**

Thank you for considering the Hamilton, Burlington and Oakville Chapter of the Congress of Union Retirees of Canada's request that a formal Judicial Inquiry established under the ***Public Inquiries Act*** and led by a sitting or retired member of the judiciary to investigate Ontario's Long-Term Care system handling of the COVID-19 pandemic.

Sincerely,

Malcolm Buchanan, President

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