ONTARIO NURSES' ASSOCIATION

SUBMISSION

ON

Proposed amendments to O. Reg. 246/22 under the Fixing Long-Term Care Act, 2021 titled "General" to advance the plan to fix long-term care in the areas of: staffing, medication management and drug administration, and resident experience.

TO

Ministry of Long-Term Care

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Introduction

The Ontario Nurses Association (ONA) is the union representing 68,000 registered nurses (RNs) and health-care professionals, and more than 18,000 nursing student affiliates, providing care in hospitals, long-term care facilities, public health, community, industry, and clinics.

ONA has significant concerns regarding the proposed amendments under the *Fixing Long-Term Care Act 2021*, which would undermine resident care and increase strain on both nursing staff and unregulated health-care workers.

Personal support workers (PSWs) are unregulated health-care providers. The College of Nurses of Ontario (CNO) requires that unregulated health-care providers be supervised by registered staff. As a result, the delegation of the administration of medication to PSWs will increase the supervisory responsibilities of the registered staff.

Further, PSWs do not receive the appropriate training during their education, required to administer medications in the workplace. Given that the regulations already allow PSWs to work as if they have completed their course while they are doing so, the educational components to prepare for medication administration would require an extensive re-write, which would also lengthen the programs for current and future PSWs. These courses have not been re-written, nor have Colleges revised their programs, thus any current PSWs, studying PSWs and future PSWs will not be prepared for these additional duties.

ONA also has concerns about who will be available to perform the current work of PSWs in order to allow them to take on these additional duties. Given the chronic staffing shortages and high agency use in long-term care, there will not be the consistent staffing which would be required to allow for proper training and supervision.

Long-term care is not a stable setting. The acuity level of residents in long-term care settings requires careful monitoring not only of medication regimes, but also of changing and complex health conditions that can be complicated by medications and must be managed by registered staff who are accountable to their college to check physicians' orders, ensure accurate dosages and times, ensure the appropriate route of administration is used, and that the right patient is receiving the medication. The types of medications administered require monitoring for their efficacy, coupled with a requirement to follow up with physicians on any side effects, over-medication or needed changes to the regime. PSWs do not have the knowledge, skills and judgement at the level necessary to take on medication administration with the required safety precautions in place.

If long-term care homes require additional resources in order to administer medications, they should hire additional regulated staff. Long-term care residents deserve the correct oversight by the appropriate level of care. They do not deserve, and do not pay for, the deregulation of their care.

Areas of Concerns

ONA's significant concerns regarding the proposed amendments to the regulation focus on the impact of these changes to public safety and whether it is in the best interest of Ontarians. Our concerns include the following proposed regulations:

1. **Provide that a personal support worker who has received training in the administration of drugs and who has been authorized by a member of the registered nursing staff may administer drugs to residents where it is not a controlled act.**

   In the accompanying FAQ document, the provision permitting unregulated health-care providers, such as personal support workers (PSWs), to administer tablets to a resident is specifically identified as a COVID-19-related provision. The extension of this provision by six months to October 11, 2023 is of concern.

   It is not clear in this regulation if registered staff will be pouring, preparing or otherwise following the physicians' orders and the checks required by their college, and simply handing the tablets to a PSW to administer, or if the regulation contemplates registered staff authorizing a PSW to pour, check and administer tablets.

   It is deeply concerning that for a period of 18 months unregulated health-care providers are administering tablets to residents without direct supervision by the registered staff. Further, there exist no clear training mechanisms or required competencies to ensure that a modicum of safe medication administration practices are in place. Once the "horse is out of the barn", it will be difficult to impose the necessary training and direct supervision, inclusive of implied undertakings, to ensure competence and compliance for PSWs to assume responsibility for performing interventions delegated to registered health-care professional with regulated accountabilities.

   Residents in long-term care are vulnerable and often medically fragile, and these residents do not deserve to have their wellness negatively impacted by having their medications administered by unregulated health-care providers, who lack, the required knowledge, skills and judgement, nor the adequate training, to safely administer medications.

Further, PSWs already face significant strains on their time and ability to provide care within their scope such as providing direct daily personal hygiene and day-to-day activities of daily living. Given that PSWs are already over-worked in performing the tasks they have been hired to perform, it is inappropriate and unfair to place additional responsibilities on their workload, particularly those for which they have not been trained to safely carry out. To take PSWs from the bedside and task them with the role of medication administration is both unsafe and unnecessary and disadvantages the care and support residents need.

Deskilling the administration of medication administration to residents places the licensee, the caregiver and the resident at risk. While routine drugs are delivered in blister packs created at pharmacies based on physicians' orders, errors can still occur. Registered Nursing staff spend a significant component of their education learning the eight rights of medication administration (right client, right drug, right reason, right dose, right frequency, right route, right site, right time). They also spend a significant degree of time studying drug interactions and side effects, coupled with the impact of drug administration an individuals' anatomy and physiology. As a result of their skills, knowledge, and judgement, it is a registered nursing staff's accountability to administer medications, monitor for effectiveness and reactions, if any, and report such to the ordering physician or nurse practitioner. The College of Nurses of Ontario standards do not permit nurses to abdicate these accountabilities – particularly not to an unregulated health-care provider.

As such, it is inappropriate for the government to pass legislation or regulations that override the accountability of ones' college standards. The CNO does have mechanisms in place to allow an UCP to administer medication in controlled environments as long as the registered nurses have delegated that responsibility to them. However, factors that impact the decision to delegate include having proper policies in place in the workplace, the knowledge, skill and ability of the unregulated health-care provider, and the ability to teach assign, supervise and monitor such administration to ensure that the delegated individual is able to administer medication properly and safely.

The long-term care environment does not always provide for a safe, predictable or stable environment. Residents suffer from dementia, violence and other behavioural problems. Very few residents are able to identify for themselves or monitor their own medication administration. Indeed, inability to ensure they are compliant with taking their medication as prescribed is often one of the reasons residents find themselves in long-term care.

This regulatory change places registered nursing staff at risk of being found to have contravened their standards and could potentially face discipline with their

regulatory college or suspension or loss of their registration. It places residents at risk by imposing a lessor standard of care. The Gillese Inquiry specifically recommended that additional checks and balances needed to be in place around medication administration to protect residents. These proposed amendments are directly opposed to those recommendations.

Long-term care homes continue to suffer from a chronic shortage of both registered and unregistered staff. Agency use is more than 50% in most homes, leaving no registered staff available to train, authorize and supervise PSWs to administer medication. The CNO is clear that the one who teaches and delegates such responsibility is the same registered staff that is accountable for such. Further, licensees that hold a registered staff designation cannot and should not be given the authority to authorize the deregulation of medication administration to PSWs when they are not even in the home to supervise and address any issues that may arise.

2. **Medication Management and Drug Administration: Clarify requirements of the 24-hour admission care plan including adding reference to: clinical use of medications, adverse drug reactions, and medication reconciliation.**

The *Fixing Long-Term Care Act, 2021*, requires that a care plan be put in place within 24 hours of admission to a long-term care home under Section 27. This plan includes a head-to-toe assessment, processing of physicians' orders, and documentation of treatments, behaviours, and routines. Once medication orders have been processed and sent to the pharmacy, a task currently performed by registered nursing staff, the medications are checked against the physicians' orders for accuracy. These duties are solely within the purview of registered health-care professionals.

There have been numerous inspections with orders issued for non-compliance with medication system requirements, poor reconciliation policies and/or destruction policies. Many long-term care licensees do not regularly modernize their policies to reflect current best practices.

It is not a reasonable expectation that such polices will be current and fulsome, nor is there the capacity to confirm such by Ministry Inspectors doing annual compliance at the more than 630 long-term care homes in the province given current capacity.

3. **Medication Management and Drug Administration: Modernize medication acquisition, storage and destruction requirements**

   Many investigations, inquests and government-funded reports have identified the need for policy-setting and safety mechanisms as it relates to medication acquisition, storage and destruction in LTC facilities. Regrettably, these reports remain on shelves with no enforcement actions taken. While the COVID-19 pandemic highlighted systemic issues with medication administration in long-term care homes, these issues were identified long before the pandemic.

   Requirements to address staffing levels in long-term care homes as well as to implement Insulin Administration safeguards were established in the Gillese Inquiry. While there has been some improvement of the daily hours of direct nursing care per resident embedded in the *Fixing Long-Term Care Act, 20211*, the improvements have been largely focused on PSW staffing.

   The government has taken some steps towards recruitment and retention of PSWs, with funding for a permanent $3/hour wage increase, however there still remains a shortage of PSWs working in long-term care. Addition of the accountability for medication administration to the litany of duties already assigned to PSWs in a day will result in a loss of personal hygiene and activities of daily living care for residents. Fewer residents will receive assistance with toileting and feeding as required, and families and other designated care providers will be required to fill in the gaps – if they are even available to do so. If family or additional care providers are not available, these basic personal needs will not be met. Residents will be left unfed and without the necessary assistance with toileting, which will severely impact their quality of life and personal dignity.

4. **Embed in regulation the Minister's Directive: Glucagon, Severe Hypoglycemia and Unresponsive Hypoglycemia.**

   The Gillese Inquiry issued recommendations to address safety mechanisms related to the safe administration of insulin and other related diabetic reactions. While a cursory training session can be developed and delivered to all staff within a long-term care facility to ensure that hypoglycemic reactions are identified and quickly addressed, this does not mean that all staff are able to understand the reasons for the reactions or manners in which to address/treat the reactions, nor do they possess the clinical knowledge needed to articulate the concerns to the Medical Director or Emergency Responders.

   It is further inappropriate to deskill the identification of these issues to unregulated care providers and to expect them to remedy the identified reactions.

As previously noted, high agency use in long-term care homes does not allow for consistent oversight of PSWs that will be administering medication under a homes' policy.

5. **Additional comments**

ONA supports regulatory requirements for air conditioning in resident rooms, as well as the routine offering of COVID-19 vaccinations to residents.

Regarding the proposed requirement that licensees ensure a post-fall assessment is always completed when a resident falls, ONA recommends that this be part of a registered staff's documentation for a shift.

With regards to the clarification of when a dietitian is required to assess a resident's skin condition(s), ONA recommends triggering through a regular head-to-toe assessment made by registered staff, and not only initiated in the instance of a fall or observation noted by a PSW.

Finally, with regards to the clarification that the medical director has a role in the oversight of medical care (and not all clinical care), ONA is concerned that this could contribute to medication administration errors if there is a directive to delegate administration to a PSW or other unregulated health-care provider.

Conclusion

It is ONA's position that the potential risks associated with the proposed changes are significant and should not be implemented. The administration of medication is a responsibility that registered staff spend significant time preparing for through their education and training. The delegation of the administration of medication to unregulated health-care providers who do not possess the skills, training or judgment to take on the intervention is inappropriate and unfair to the residents and to the workers themselves. Further, these proposed regulatory changes put registered staff at risk of losing their registration with their college should anything go wrong.

The government must fulfill its obligations to residents living in long-term care to ensure that they receive the appropriate care from the appropriate care provider. Allowing unregulated health-care providers to administer medications is not a viable solution to addressing the staffing crisis and will erode resident care and contribute to the unmanageable workloads leading to widespread burnout among all long-term care staff. The appropriate solution is to ensure that long-term care homes are properly funded and resourced to retain essential registered nursing staff and unregulated health-care workers to provide the care residents require and deserve.