

HEAT AND SENIORS: A story of Governmental Indifference

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What is ACE?

- In operation since 1984
- Free legal services for low income seniors
- 6 lawyers, 2 paralegals, 1 community development worker, 1 administrative assistant, 1 receptionist
- Provides legal advice and assistance primarily to seniors over the age of 60
- Age-related issues with some flexibility
- Service to seniors anywhere in Ontario although outside greater Toronto area will be limited by what we are able to do at a distance

Heat and Seniors

- Seniors in the community
 - Own home
 - Apartments
 - Retirement homes
 - Other types of congregate living
- Seniors in long-term care homes
- Work of the Coalition

SENIORS IN THE COMMUNITY

Seniors in Their Own Home

- Own home – they would be responsible for installing their own air conditioning system
- Global warming has increased both average temperature and number of high temperature days
- Air conditioning may not have been seen as necessary when purchased home

Solutions

- Purchase own air conditioner
 - May be cost prohibitive for persons on fixed income
 - Sporadic government programs but none specific to seniors and still may be cost prohibitive
 - Vulnerable to scams
 - Cooling centres
 - May be unable to get to them due to transportation, ill health

Retirement Homes

- Rental accommodation where care is purchased – oversight through *Residential Tenancies Act* and *Retirement Homes Act*
- Not required by law to have air conditioning
- Contract with home, often very expensive
- Because many are high end – they are likely to have air conditioning in the unit
- Cheaper retirement homes likely older and unlikely to have air conditioning

Solutions

- As retirement homes are treated more like nursing homes, government could legislate air conditioners
- Otherwise same as any rental unit
- Cooling centres
 - May be unable to get to them due ill health, location, transportation
 - Many retirement homes have “locked units” and do not allow residents on them to leave

Other Types of Congregate Living

- Assisted Living/Attendant Care
- Group Homes
- Transitional Care (patients from hospitals)
- Some may be covered by *Residential Tenancies Act*
- Others may have funding agreements
- Others operate in grey areas of the law
- No requirements for air conditioning

SENIORS IN LONG-TERM CARE

Solutions

- Up to operator to decide whether to install air conditioning
- No legal requirements regarding upper limits of heat
- Same problems regarding accessing of cooling centres as with other types of rental accommodation

Long-Term Care Homes

- Until April 11, 2022, governed by the *Long-Term Care Homes Act*
- *Fixing Long-Term Care Act* enacted on April 11, 2022
- One of major changes was requirement for air conditioning in resident rooms as of June 22, 2022, unless they met certain criteria

Overview of Long-Term Care Homes

RESIDENT CHARACTERISTICS



78,787 LTC residents
across the province
(September 2019)



39,513 people on the LTC
wait list (October 2020)

RESIDENT DEMOGRAPHICS

83 years old is the average age

57% are 85 year or older

69% are female

85% speak primarily English or
French

7% (4,980) are under the age of 65

24% are married at admission

ACTIVE CONDITIONS

64% of residents (65,000) have dementia or
Alzheimer's disease (the most prevalent active
condition amongst LTC home residents)

90% residents with 3 or more active conditions

43% aggressive behaviour

80% bladder incontinence

SECTOR CHARACTERISTICS

12 specialized units (225 beds) targeted to
behaviours, dialysis and veterans' care



321 beds are allocated for respite

3 Centres for Learning, Research and
Innovation



Employs over **52,000** staff who provide interdisciplinary
care to over **100,000** residents annually.

40% of homes have 96 or fewer beds



History of Air Conditioning in LTC

- *Long-Term Care Homes Act, 2007*
 - Enacted July 1, 2010
- No requirement for air conditioning and no maximum temperature
- If home did not have central air conditioning – required one separate cooling area for every 40 residents

2015 LTCH Design Manual

- Older homes were required to rebuild under the *LTCHA*, most by 2020
- New design manual was produced
- Did not require air conditioning in resident rooms
- Required “air tempering” in resident rooms to keep at temperatures consistent with resident needs (not specified)
- Common areas required mechanical system to cool air temperatures
- No temperatures specified

Complaints to ACE

- Every year during heat waves, ACE would receive calls from shocked relatives who expressed surprise that there was no air conditioning in resident rooms
- Complaints to LTCHs and organizations received responses that seniors are often cold” – don’t require air conditioning
- Rooms could be sweltering

New Builds

- As new builds did not require air conditioning – many did not install
- Municipal, not-for-profit/charitable more likely to install as they raised the money elsewhere
- For-profits had no extra funding, would have come out of their profits

ACE Advocacy

- ACE advocated with Ministry
 - Unsuccessful in convincing them to require air conditioning in rooms, even in new builds
- Media interest during heat waves
 - “Heat wave drives elderly couple from sweltering nursing home”, CBC, July 5, 2018
 - “Sweltering temperatures make life and work in nursing homes even more difficult”, *Globe and Mail*, May 29, 2020

Summer 2020

- Heat wave in summer of 2020 during COVID-19
- Residents were not allowed to leave home, no visitors until recently
- Premier Doug Ford “discovered” there was no air conditioning in many resident rooms in LTCHs
 - says he'd "like to stick them in the rooms for 24 hours at 30 degree heat and see how they like it.
- Vowed to make air conditioners mandatory
- Funding for air conditioning had been announced in March 2020

What Occurred

- No legislative changes
- New homes were being built under quick build – but when asked, Ministry advised they were only required to meet 2015 Design standards
- During pandemic, residents who had window units, floor units, fans, were often prevented from using them based on public health instructions

April 2021

- Regulations amended
- Required heat related illness prevention and management plans
 - Identify and manage heat related illnesses
 - Have interventions and strategies
 - Temperature measurement
 - Had to be implemented when outside or inside home reached temperature 26c or higher
 - Mitigate temperatures including cooling rooms
- Issues: residents had to be brought to cooling rooms, limited space, many bed ridden

Fixing Long-Term Care Act, O. Reg. 246/22

- In addition to previous hot-weather requirements
- Required air conditioning in residents rooms as of June 22, 2022, unless the Director was satisfied:
 - existing structure cannot support it; or
 - licensee made reasonable efforts to enter into an agreement or agreements to purchase install, etc., but were unable to do so for reasons beyond their control; or
 - licensee has entered into an agreement or agreements for the purchase but delivery or installation was delayed for reasons beyond their control

Compliance

- As of July 19, 2022, 537 of 627 long-term care homes were reported to be “fully air-conditioned” (57 for profit; 25 non-profit; 8 municipal)
- Ministry instituted a LTC Home Finder which included information about air-conditioning status
<https://www.ontario.ca/page/long-term-care-ontario>

Non-Compliance

- At least two homes have been found non-compliant and ordered to install air conditioning since June
 - Vision Nursing Home, Sarnia
 - McCormick Home, London
 - Both non-profit
 - Both homes also received Administrative Monetary penalties of \$1100
 - Both believed to be appealing to HSARB
 - Reasons for non-compliance
 - Argued had complied
 - Cost of complying too expensive
 - Reports can be found at <http://publicreporting.ltchomes.net>

WORK OF THE COALITION

Government Action on Heat & Vulnerable Populations

- Despite bringing issue of seniors and heat to government's attention – lack of will to make changes
- Can be seen above in the LTCH sector where despite it being an issue for many years, government only “discovered” it in 2020 during pandemic when LTC was already under a microscope
- Still took 2 years to make any real change

Summer 2018

- Heat wave
- Quebec reported up to 70 people may have died in connection to heat wave, most deaths occurring in Montreal
- Ontario reported possible 3 heat-related deaths – never had a definitive number – but included child being left in an overheated car

Coroner's Office

- Heat related deaths are not reportable under the *Coroner's Act*
- Coroner views most of these deaths as natural due to concurrent illness such as heart disease, cancer, lung disease
- Does not take into consideration of hastening death
- Only deaths that would be unexpected would be reported, despite heat having contributed in some of the “natural” deaths

Coroner & LTCH Deaths

- Mandatory reporting of all deaths, but forms completed by home and rarely investigated
- Request made of Deputy Regional Supervising Coroner Dr. Roger Skinner who chairs the Geriatric & Long-Term Care Committee at Coroner's office re deaths in LTC from heat
- Had no reports, no information

Clinic Coalition

- July 2020 when the issue of no air conditioning arose in long-term care homes, coalition formed between CELA, LIEN, ACTO & ACE
- July 2021 Wrote to Dr. Dirk Huyer, Ontario's Chief Coroner requesting tracking of heat-related deaths in Ontario due to the climate crisis and its effect on vulnerable populations across the province

Response

- Initially not receptive
- Met with Ministry of the Solicitor General in early 2022 to discuss the importance of tracking heat-related deaths – as not knowing means you cannot solve
- Pointed to Quebec, BC, France, etc. as examples of jurisdictions whose coroner's track these deaths

Summer 2022

- August 2022 Coalition sent briefing note to the Chief Coroner of Ontario including research on subject and proposed options for tracking deaths
- Chief Coroner agreed that further analysis was merited
- Asked their Data Analytics for Safety and Health (DASH) unit to evaluate data to obtain further understanding of deaths associated with extreme hot temperatures
- Coroner to follow-up with coalition upon completion of work



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