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## Health Coalition shocked and disappointed with court rulings in Bill 7 Charter Challenge and Orchard Villa case; vows to continue the fight to protect the rights of the elderly

Toronto – In a press conference this morning, the Ontario Health Coalition responded to court rulings in two cases impacting thousands of elderly hospital patients and long-term care residents in Ontario.

The first case, known as the Bill 7 Charter Challenge, was brought by the Ontario Health Coalition and the Advocacy Centre for the Elderly. The court upheld the constitutionality of the Act (known as Bill 7) euphemistically titled the *More Beds, Better Care Act (2022)*, that requires hospitals to charge elderly patients who are classified by the hospital as “Alternate Level of Care” to be charged \$400 per day or \$12,000 per month if they refuse to go to a long-term care home that is not of their choosing. Patients can be sent up to 70 km away in Southern Ontario, and up to 150 km or even further if there are no beds available in Northern Ontario. The court case was a Charter Challenge, known as a Constitutional Challenge or a Challenge under the Charter of Rights. The case was argued before the Ontario Superior Court on Monday, September 23 and Tuesday, September 24. A backgrounder and links to the court filings, evidence and the court ruling are available [here](#).

In the second case, the Ontario Health Coalition and Cathy Parkes, the daughter of a deceased resident, sought a judicial review of the Ford government’s decision to grant an 88-bed expansion and new 30-year licence for the 233-bed long-term care home owned by Southbridge at Orchard Villa in Pickering. Southbridge has a terrible record of poor care and deaths. The court dismissed the case. The Coalition and the families asked the court to quash the license and require the Ford government live up to their own long-term care legislation. Under the [Fixing Long-Term Care Act \(2021\)](#), the government cannot issue licenses to long-term care home owners when their past conduct offers reasonable grounds to believe that the home will be operated in a manner that is prejudicial to the health, safety and welfare of its residents. The case was argued before a panel of judges at the Ontario Divisional Court on Thursday, October 17. A backgrounder and links to the court filings, evidence, and the court ruling are [here](#).

Bill 7 Charter Challenge:

The Health Coalition announced that it will not be appealing the Bill 7 charter challenge

“We are shocked and disappointed by the court ruling and we are very sorry not to be able to appeal. These cases are enormously costly and take a lot of resources to gather expert evidence,” said Natalie Mehra, executive director of the Ontario Health Coalition noting that even with the support of a law firm willing to do this work at half rates the cases are still very expensive. “The court has told us that we don’t even have the right to be in court, even though the people most affected have no other recourse or access to justice. If we lose on appeal, the court can order us pay the legal fees of the government.”

The ruling in the Bill 7 Charter Challenge states that, “the harms to ALC patients caused by Bill 7 are modest. They do not affect the liberty, human dignity, equality, or autonomy of the ALC patients.” The court ruled that the requirement to pay \$400 per day, “is not coercive” and described it as, “a modest economic consequence” saying, “the consequences of Bill 7 are not serious”.

Ms. Mehra stated, “For the families who provided affidavits to the court, the cost of \$400 per day was absolutely prohibitive. It resulted in their loved ones being forced into long-term care homes that they did not

want to go to. They described the hardship and suffering that resulted, including the increased use of drugs as a restraint, living in a room that is dark all the time, little to no programming, inadequate physiotherapy, inadequate staffing resulting in wait times of an hour-and-a-half to be toileted, and the attendant lack of dignity not to mention health care consequence of these. These are the conditions and consequences that gave rise to our decision to take this matter to court. These issues continue to impact families who are coerced under Bill 7 into long-term care homes that are too far away or that cannot provide decent and humane care.”

Ontario has downsized its hospitals to the most radical extent of any province in Canada, at the same time failing to build long-term care and home care capacity to meet population need. Ontario has the fewest hospital beds staffed and in operation of anywhere in the country, by far.

“In response to the court’s ruling, we will not stop,” Ms. Mehra concluded. “We will ramp up our fight for humane and compassionate care for the elderly who need care and find ways to push for public policy change. We know that the majority of Ontarians believe it is immoral to treat the elderly who are in the last weeks and months of their lives in this way.”

The Advocacy Centre for the Elderly said in a statement that they, “are deeply disappointed that the Ontario Superior Court of Justice has upheld the constitutionality of the *More Beds, Better Care Act* (Bill 7),” and went on to say, “While we acknowledge the court’s decision, we remain steadfast in our commitment to advocating for seniors in hospitals and long-term care homes. The fight for dignity, autonomy, and fair treatment in Ontario’s healthcare system is far from over.”

Orchard Villa case:

The Health Coalition and Cathy Parkes are still considering next steps.

“We will continue to fight for the right to compassionate and humane treatment for the elderly. For the families whose loved ones have suffered and died in Orchard Villa, we are so sorry. We share your heartbreak and frustration that there has been no justice and no accountability, and that the court dismissed this case despite the requirements of the legislation that were supposed to protect the public,” said Ms. Mehra.

“I am gravely disappointed in the court's decision to dismiss our case. It was my hope that the court would review the past conduct of the Orchard Villa and determine that the granting of a 30-year licence was not warranted to a long-term care home with such a horrible track record,” said Cathy Parkes, daughter of Paul Parkes, a resident who died at Orchard Villa. “The court's statement that I do not have any future interest in expansion of Southbridge's Orchard Villa couldn't be further from the truth; the statement would imply that the families who lost their loved ones in Orchard Villa have no care about the fate of other people's lives. Bill 7 also ensures that the statement from the courts can never be true.”

“In regards to the court's statement that I do not have standing to represent the public, who better to represent them than one who paid the ultimate price?” she asked.