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Regulating Supportive Housing for Seniors: A Model Comprehensive Statute



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REGULATING SUPPORTIVE HOUSING FOR SENIORS:
A MODEL COMPREHENSIVE STATUTE

FINAL RESEARCH REPORT

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ABSTRACT

An earlier CMHC study, “A Legal Framework for Supportive Housing for Seniors: Options for Canadian Policy Makers,” examined alternative approaches to the regulation of supportive housing for seniors, identified the kinds of issues that effective regulation must address, and set out a range of options for Canadian policy makers for improving and maintaining standards, protecting the rights and interests of residents, and facilitating access to information. One of the options was to develop a comprehensive supportive housing statute that would apply to all kinds of supportive housing for seniors (public, private for-profit, and private not-for-profit), with supportive housing for seniors defined as housing with support services provided specifically for seniors (i.e. people 65 years old or older).

The objective of this study was to develop a framework for a model comprehensive statute that can be useful to supportive housing providers, consumers, advocates, and policy makers. The framework is designed to promote and facilitate discussion across Canada as provinces and territories consider and develop their own approach to the regulation of supportive housing for seniors. The framework addresses three important questions: What are the key issues that must be addressed? What approaches to these issues are possible? What are the benefits and drawbacks of these approaches in this context?

The framework reflects feedback from a range of experts, policy makers, and housing providers from across Canada. The model statute includes provisions relating to definitions, residents’ rights and responsibilities, types of housing tenure, project management and staffing, complaints and dispute resolution, monitoring and assistance, building standards and design features, support services, staffing, and information. The statute also includes a “checklist” of questions for prospective residents of supportive housing.

REGULATING SUPPORTIVE HOUSING FOR SENIORS: A MODEL COMPREHENSIVE STATUTE

EXECUTIVE SUMMARY

INTRODUCTION

An earlier CMHC study, “A Legal Framework for Supportive Housing for Seniors: Options for Canadian Policy Makers,” examined alternative approaches to the regulation of supportive housing for seniors, identified the kinds of issues that effective regulation must address, and set out a range of options for Canadian policy makers for improving and maintaining standards in supportive housing for seniors, protecting the rights and interests of residents, and facilitating access to information about supportive housing for seniors. One of the options was to develop a comprehensive supportive housing statute that would apply to all kinds of supportive housing for seniors (public, private for-profit, and private not-for-profit), with supportive housing for seniors defined as housing with support services provided specifically for seniors (i.e. people 65 years old or older).

Objective

The primary objective of this study is to develop a framework for a model comprehensive statute that would apply to all forms of supportive housing for seniors, providing much-needed clarity for providers, consumers, advocates, and policy makers.

Another important objective of this study and the ensuing report is to promote and facilitate discussion across Canada as provinces and territories consider and develop their own approach to the regulation of supportive housing for seniors. This process is greatly assisted by a common language and frame of reference: What are the key issues that must be addressed? What approaches to these issues are possible? What are the benefits and drawbacks of these approaches in this context? A national dialogue should help to prevent the need to constantly “reinvent the wheel” by enabling the provinces and territories to learn from one another’s experiences.

Methodology

To facilitate national participation in the project, consultation was carried out through a series of group conference calls. Twenty-six people participated in the consultation process. Participants represented provincial and territorial policy makers from across Canada and a small number of non-government stakeholders. The size and scope of the project necessarily limited consultation participation, in terms of absolute number and stakeholder group participation. Participants were provided with a copy of the statutory framework with embedded, specific questions and were asked to comment on those questions. Participants also provided feedback of a more general nature on the statutory framework and the study generally, and on supportive housing for seniors. In addition to participation in the conference-call process, some participants also provided written feedback focusing on specific questions.

Results

A comprehensive statute would include within it, directly or through reference to other legislation, all regulation applying to supportive housing (including legislated mandatory standards, consumer protection provisions, and a mechanism for accreditation) regardless of the type of sector involved (e.g. public, private for-profit, or private not-for profit).

The model set out below reflects and incorporates, as applicable, comments received during the consultation process. It is important to note that consultation participants expressed divergent opinions on several issues; readers may wish to refer to Appendixes A and B to this Report for an account of those discussions.

Part I: Definitions

The definition set out in this section will determine the scope of the statute's application. A broad "umbrella" definition, incorporating a statement of philosophy or general approach, should be adopted here:

"Supportive housing for seniors combines housing health and supportive services to support resident independence and aging in place. Supportive housing must promote resident self-direction and active participation in decision-making while emphasizing individuality, privacy and dignity."

Required minimum features (e.g. a minimum of a private bedroom, private bath, living space, kitchen capacity, and a lockable door) would be overly restrictive and should not be included.

A separate category of supportive housing, for residents with greater or higher service needs, should be provided for specifically within the statute. This category should also be defined in this section, with reference to the kind and level of services provided. Persons who cannot direct their own care (with an exception for persons living with someone with whom they are in a close personal relationship, such as a spouse or sibling) require the higher level of care and regulation that can be provided in a care facility. A dementia-specific category of supportive housing is not appropriate.

Part II: Rights and responsibilities of residents ("Residents' Bill of Rights") and Residents/Family Councils

A Residents' Bill of Rights, to apply in the higher-needs level of supportive housing defined in Part I, is set out in Part II. The Bill of Rights would include the following:

- Freedom of choice
- Freedom from abuse and restraints
- Privacy
- Grievance
- Accommodation of individual needs

- Continued residence except in enumerated circumstances
- Assistance with finding an alternative place if the resident chooses to relocate or in the event of emergency discharge
- Encouragement in exercising rights
- Participation in groups and activities
- Access and visitation (receive visitors at any time)
- Right to be fully informed of survey and inspection reports
- Retain and use personal belongings
- Manage personal financial affairs
- A right to be fully informed of services provided, with a plan of service

A Residents' Bill of Rights, if it is not to be mere "window dressing," needs a mechanism to promote and safeguard the rights listed above. This Part would provide for the creation of Residents/Family Councils in the higher-needs level of supportive housing defined in Part I, as a practical and effective means of realizing the rights listed above.

Part III: Rental accommodations (tenure issues)

For supportive housing generally, residential tenancy legislation of general application applies with the following special provisions:

- Longer notice periods regarding rent increase
- Conditions under which a manager may enter a resident's unit shall refer specifically to concerns regarding safety, health and well-being
- Permitted grounds for being asked to move out (eviction) shall deal specifically with the issue of increased resident need for services and/or deterioration in health or mobility. Increased resident need for services and/or deterioration in health or mobility may only be grounds for a resident being asked to leave if those needs cannot be met through externally supplied support services (costs not to be borne by the residence)

This Part shall include a mechanism for securing alternative accommodations in a suitable setting for an individual who is required to leave a supportive housing residence for reasons relating to increased resident need for services and/or deterioration in health or mobility that cannot be met through externally supplied support services.

Part IV: Supportive housing where purchased as a condominium (tenure issues)

Condominium legislation of general application should apply with the following special provisions in the supportive housing context:

- Longer notice periods regarding maintenance and other fee increases
- Conditions under which a manager may enter a resident's unit shall refer specifically to concerns regarding health and welfare (unlike condominiums generally, supportive housing condominium complexes will involve an on-site building manager with a distinct role)

- A separate body for dispute resolution in the supportive housing context shall be established (to deal also with disputes arising across the supportive housing spectrum, whether rental or purchased)

The building manager's role in a supportive housing condominium will be more like the management role in other supportive housing settings rather than the generic or usual role of a condominium building manager. The special provisions of the comprehensive supportive housing statute that apply to management (Part VII) should therefore apply in the condominium setting.

Note that, as a condominium owners own their unit, the kind of eviction requirements and processes set out in Part III are not applicable. This Part would require that condominium bylaws be supplied to prospective residents; Part XIII (Information to be provided to residents) and the Checklist requirement set out in Part IV would apply to prospective supportive housing condominium purchasers as to renters.

Part V: Supportive housing where provided through a life lease (tenure issues)

Life lease legislation of general application (Manitoba is currently the only province to have enacted legislation specific to life lease housing)¹ should apply in the supportive housing context with the following special provisions:

- Longer notice periods regarding fee increases
- Conditions under which a manager may enter a resident's unit shall refer specifically to concerns regarding health and welfare (unlike condominium's generally, supportive housing condominium complexes will involve an on-site building manager)

Note that, as life lease owners own a life interest in their unit, the kind of eviction requirements and processes set out in Part III are not applicable. This Part would require that life lease bylaws be supplied to prospective residents; Part XIII (Information to be provided to residents) and the Checklist requirement set out in Part IV would apply to prospective supportive housing life lease purchasers as to renters.

Part VI: Hybrid/ "Special" Tenure Situations

A supportive housing development may combine or include different forms of tenure within it: life lease and/or rental apartments may be included on a particular site alongside condominium units for purchase (as opposed to all rentals, all condominiums or all life leases). This flexibility may be particularly useful in smaller population centres. Part VI would state that the tenure regulation applying to a particular unit will depend upon the kind of tenure associated with that unit, and where different kinds of tenure are present within a supportive housing development, they will be treated differently for the purposes of tenure regulation. This is a statement of the law as it would currently apply, and this Part is included for purposes of clarity only.

¹ *Life Leases Act* CCSM c. L130.

Part VII: Management/Role of Manager

All managers in supportive housing settings, at all levels and whether purchased, leased or rented, will be required to have a basic level of training (a Certificate of Management Training). A certificate course will be developed by the Supportive Housing Standards Office (see Part XVI). The legislation itself should not prescribe the specific matters forming the content of that training. Managers of higher-needs level supportive housing (as defined in section 1) should be required to receive additional training, in the form of an “advanced” certificate course to be developed by the Supportive Housing Standards Office.

Part VIII: Complaints procedures/dispute resolution

A separate body for receipt of complaints and dispute resolution in the supportive housing context will be established under this Part to deal with disputes arising across the supportive housing spectrum, including all levels, and whether rented, purchased or leased. That body would deal with the full range of complaints/disputes concerning both tenure and services issues. A complaints/dispute resolution body would be part of a Supportive Housing Standards Office.

Part IX: Monitoring and Assistance Program

The Supportive Housing Standards Office would have responsibility for pro-actively monitoring standards in higher-needs levels of supportive housing. The Office would provide assistance to non-complying residences, with the objective of meeting standards and improving quality. The Office would also provide assistance in requesting supportive housing residences at all levels, with the objective of improving quality. This monitoring and assistance program of the Supportive Housing Standards Office is positioned as a partnership resource for providers.

Part X: Building Standards and Design Features

This Part will apply whether the unit is rented, leased or purchased as a condominium. The content of this Part will be informed by the content of existing building codes of general application in each province. Modern building codes of general application may contain requirements that would meet the needs of residents in supportive housing at the lower-needs level (e.g. limited mobility accessibility, washroom safety features such as grab rails). Where this is the case, the statute will incorporate legislation of general application for lower-needs levels of supportive housing. Where the building code of general application does not meet the requirements of residents in lower-needs supportive housing, the code of general application will be incorporated in this Part with the addition of special requirements (again, dependent on the “gaps” in the existing code).

Special building standards and design features will be set out in this Part for the higher-needs level of supportive housing created in Part I. The content of those standards is a

question that requires further review, and should be informed by the significant body of existing literature connecting design features to aging in place and healthy living.

Part XI: Services and staff: mandatory standards/consumer protection (lower-needs category)

Provisions under this Part will apply whether a unit is rented, leased or purchased as a condominium, to standards required in lower-level needs supportive housing. Standards will refer to:

1. Support services
 - (i) Hospitality services
 - Housekeeping
 - Meals (frequency; quality)
 - (ii) Personal care
 - (iii) Social and recreational
 - (iv) Home healthcare
 - (v) Administration/storage of medication
 - (vi) Assistance with activities of daily living
 - (vii) Transportation
 - (viii) Other services (such as emergency response services)
2. Sufficiency of services available/provided (in terms of aging in place and continuity of care)
3. Costs
4. Quality (general)
5. Staff
 - a) Levels/ratios
 - b) Training
 - c) Qualification

Standards may be enforced through consumer protection provisions (e.g. consumers must be informed of standards regarding the above items, which can be altered only in accordance with the notice period stipulated in the provision) or through mandating minimum legislated standards (e.g. requiring a specific staff/resident ratio set out in the Act).

A greater number of the matters enumerated in this Part (in contrast to Part XII, below, applying to standards in the higher-needs category of supportive housing) will be regulated through a consumer protection approach. The following matters only require mandatory legislated standards in this setting: staff training; quality (general); access to home health care services; emergency response.

Part XII: Services and staff (higher-needs category)

Part XII would regulate services provided in the higher-needs category defined in Part I. Standards will refer to:

1. Support services
 - a. Types of services
 - i) Hospitality services
 - Housekeeping
 - Meals (frequency; quality)
 - ii) Personal care
 - iii) Social and recreational
 - iv) Home health care
 - v) Administration/storage of medication
 - vi) Assistance with activities of daily living
 - vii) Transportation
 - viii) Other services (such as emergency response services)
2. Sufficiency of services available/provided (in terms of aging in place and continuity of care)
3. Costs
4. Quality (general)
5. Staff
 - a. Levels/ratios
 - b. Training
 - c. Qualification

All matters enumerated above require mandatory legislated standards in this setting with the exception of the following (which shall be subject to consumer protection provisions): costs and social and recreational services.

Part XIII: Information to be provided to residents

A prospective resident (tenant, purchaser or lessee in all levels of supportive housing) must be provided with an “information kit” detailing the following:

1. Types of services that must be purchased as a condition of tenancy, leasehold or ownership
2. Types of services that may be purchased as optional services
3. The cost of each service
4. The period of notice required to change the costs or nature of the service provided (minimum three months)

5. Any existing “house rules”
6. Information about staffing policy (number/ratio of staff; training or qualifications required, if any) and period of notice required to reduce staff ratios or training/qualifications requirements (minimum three months)
7. Types and number of meals available daily, period of notice required to alter types and number of meals available daily (minimum three months)
8. Internal complaints procedure
9. How to access the external complaints procedure (if resident is dissatisfied with or feels uncomfortable using the internal complaints procedure)
10. Policy of residence regarding receipt of home care, including level of care; period of notice required to alter policy (minimum one year)
11. Mandatory legislated standards applying to services provided

Part XIV: A checklist of questions to be provided to prospective residents must include the following (at a minimum):

- Have I fully discussed my decision to enter a supportive housing residence with my family, friends, physician, or a public advice body?
- Have other options such as home care, meals-on-wheels, community-based social services been considered?
- What discussions have I had with residents of the supportive housing residence I have chosen? How did they rate the quality of services and accommodations?
- Will the lifestyle of the residence (including social activities and religion) suit me?
- What are the rules with regard to visitors and live-in guests?
- How will I have to adapt and alter my existing lifestyle to comply with the regulations and restrictions of the residence (about smoking or pets, for example)?
- Are the residents actively involved in making “house rules”?
- Have I sought advice on the documents relating to the supportive housing residence I have chosen from an appropriate source (a lawyer or legal advice clinic)?
- Under what circumstances can I be moved to a different part of the residence? Do I know and agree with the procedure?
- How can the provider terminate my occupancy? Do I agree with the procedure, and what are my rights?
- Is my long-term occupancy at the residence secure?

- What protection do I have if the residence is sold to another organization?
- Am I aware of and can I afford to pay all regular costs and any extraordinary costs which can be imposed on me? What arrangements can be made if I can't meet future costs?
- How do the terms and costs of the supportive housing residence I have chosen compare with other assisted-living residences?
- Are the precise services that I require and their cost clearly described and included in the contract?
- Are additional services that I may need in the future clearly described, including their costs, in the contract?
- Is the method for cost increases clearly explained and provided for in the contract?
- What financial and accommodation alternatives do I have if I become too frail to live in the supportive housing residence I have chosen?
- What type of public and/or private transport is available?
- Are pets permitted?
- How accessible are the local shops to my present and future needs?
- [if purchased as a condominium] Are the residents actively involved in decisions concerning the level of maintenance and services provided, their cost, and how costs may vary in the future?
- [if purchased as a condominium] What are the restrictions on the sale of my unit?
- [if provided through a life lease] Do I understand the meaning of "life lease"? Do I understand how a life lease differs from an ordinary condominium purchase?
- Have I sought expert advice about the tenure agreement?
- Have I verified that I will be able to afford the costs involved?

Part XV: Scheme for Accreditation

This section would refer to any scheme for accreditation adopted in the province (an accreditation body would not be required by the legislation), and the body or bodies responsible for implementing it. Accreditation would recognize an “award of excellence” standard and should not be relied on to provide a base or minimum standards level.

PART XVI: Supportive Housing Standards Office

This Part would create a Supportive Housing Standards Office with responsibility for the following: the Certificate of Management Training course; Complaints procedures/dispute resolution; and the Monitoring and Assistance Program.

Conclusion

There was a general consensus among participants that dialogue between provinces on the issue of regulating supportive housing for seniors was important and highly useful. Participants uniformly found their participation in the study to be rewarding and looked forward to the final report as a valuable resource.

Legislation in the area of housing is a provincial and territorial responsibility, and any adoption of the model statutory framework, or any part of that framework, will take place at the provincial or territorial level. Discussion between the provinces and territories about ideas and approaches is one extremely helpful stage of this process; consultation at the provincial and territorial level, involving local stakeholders, is another. This study and report can be considered as stage one in a two-stage process; stage two would involve consultation at the provincial and territorial level, drawing on the exchange of ideas compiled in stage one.

LA RÉGLEMENTATION DU LOGEMENT EN MILIEU DE SOUTIEN POUR LES ÂÎNÉS : UN MODÈLE DE LOI COMPLÈTE

RÉSUMÉ

INTRODUCTION

Dans une étude antérieure de la SCHL intitulée *Cadre juridique du logement en milieu de soutien pour les aînés — Options s’offrant aux décideurs canadiens*, on examinait des façons nouvelles d’aborder la réglementation du logement en milieu de soutien pour les aînés, cernait les types de préoccupations qu’une réglementation efficace devrait résoudre et présentait un éventail d’options à l’intention des décideurs canadiens dans le but d’améliorer et de maintenir les normes applicables à ce type particulier de logement, de protéger les droits et les intérêts des résidents et de faciliter l’accès à l’information sur ce type de logement. Une des options consistait à mettre au point une loi complète sur le logement en milieu de soutien qui s’appliquerait à tous les logements en milieu de soutien pour les aînés, peu importe le secteur qui les produit (public, privé à but lucratif ou privé sans but lucratif), et qui définirait le logement en milieu de soutien pour les aînés comme étant des logements avec services de soutien dispensés à l’intention particulière des aînés (c.-à-d. des personnes de 65 ans et plus).

Objectif

Le principal objectif de cette étude est d’élaborer le cadre d’un modèle de loi complète qui s’appliquerait à toutes les formes de logement en milieu de soutien destiné aux aînés et qui apporterait aux fournisseurs, aux consommateurs, aux défenseurs et aux décideurs une clarté indispensable.

Un autre important objectif de cette étude et du rapport qui en découlera est de promouvoir et de faciliter les discussions dans l’ensemble du Canada alors que les provinces et territoires envisagent et mettent au point leurs propres approches de la réglementation du logement en milieu de soutien pour les aînés. On facilite grandement ce processus en établissant un langage et un cadre de référence communs : quelles sont les principales questions qu’il faut résoudre? De quelles façons peut-on aborder ces questions? Quels sont les avantages et les inconvénients de ces différentes approches dans ce contexte? Un dialogue national devrait aider à éviter qu’on doive constamment « réinventer la roue », en permettant à chaque province et territoire de tirer des leçons des expériences des autres.

Méthodologie

Afin de faciliter la participation nationale au projet, on a mené une consultation au moyen d’une série de téléconférences en groupe. Vingt-six personnes ont participé au processus de consultation. Les participants représentaient des décideurs provinciaux et territoriaux de toutes les régions du Canada et un petit nombre de parties intéressées non gouvernementales. L’ampleur et la portée du projet ont forcément limité la participation à

la consultation, au niveau du nombre absolu de participants et de la représentation des groupes intéressés. On a fait parvenir aux participants une copie du cadre législatif comprenant des questions intégrées précises et on leur a demandé de faire des observations sur ces questions. Les participants ont aussi fait des commentaires de nature plus générale sur le cadre législatif et l'étude en général, ainsi que sur le logement en milieu de soutien pour les aînés. En plus de participer aux téléconférences, certains participants ont également fourni des commentaires écrits sur des questions particulières.

Résultats

Une loi complète comprendrait, directement ou par référence à une autre loi, l'ensemble de la réglementation qui s'applique au logement en milieu de soutien (y compris les normes obligatoires imposées par la loi, les dispositions relatives à la protection des consommateurs et un mécanisme d'agrément), quel que soit le genre de secteur concerné (p. ex., public, privé à but lucratif ou privé sans but lucratif).

Le modèle ci-dessous reflète et englobe, le cas échéant, les commentaires reçus pendant le processus de consultation. Il importe de faire remarquer que les participants à la consultation ont exprimé des avis divergents sur plusieurs questions. On invite les lecteurs à consulter les annexes A et B du présent rapport pour voir le compte rendu de ces discussions.

Partie I : Définitions

La définition présentée dans la présente section déterminera la portée de la mise en application de la loi. Une définition « générale » contenant un énoncé de philosophie ou une approche générale doit être adoptée ici :

« Le logement en milieu de soutien pour les aînés combine les services de santé et de soutien offerts à domicile, afin de favoriser l'autonomie et le vieillissement à domicile des résidents. Le logement en milieu de soutien doit favoriser l'autodétermination et la participation active des résidents à la prise de décisions, tout en mettant l'accent sur l'individualité, le respect de la vie privée et la dignité. »

La loi ne doit pas préciser les caractéristiques minimales requises (p. ex., au moins une chambre privée, une salle de bains privée, une salle de séjour, des installations pour cuisiner et une porte verrouillable), car cela la rendrait trop restrictive.

La loi devrait prévoir expressément une catégorie distincte de logement en milieu de soutien destiné aux résidents ayant besoin de plus de services. Elle devrait aussi définir cette catégorie dans cette section, en indiquant le type et le niveau des services fournis. Les personnes incapables de gérer leurs propres soins (sauf les résidents vivant avec un proche, comme un conjoint ou un fils ou une fille) ont besoin du niveau supérieur de soins et de réglementation que peut fournir un établissement de soins. Il ne convient pas d'établir une catégorie particulière de logement en milieu de soutien pour les aînés atteints de démence.

Partie II : Droits et responsabilités des résidents (« déclaration des droits des résidents ») et conseils des résidents ou des familles

Une déclaration des droits des résidents, qui s'appliquerait à la catégorie, définie dans la partie I, des logements en milieu de soutien destinés aux aînés ayant des besoins plus grands figure dans la partie II. La déclaration des droits comprendrait les éléments suivants :

- Liberté de choix
- Absence de mauvais traitements et de restrictions
- Respect de la vie privée
- Procédure de dépôt de plaintes
- Satisfaction des besoins individuels
- Résidence continue, sauf dans des circonstances énumérées
- Aide pour trouver un autre logement si le résident décide de déménager ou en cas de libération d'urgence
- Encouragement à exercer ses droits
- Participation aux activités en groupes et aux autres activités
- Accès et visites (recevoir des visiteurs en tout temps)
- Droit d'être entièrement informé des rapports d'enquête et d'inspection
- Conservation et utilisation des effets personnels
- Gestion des finances personnelles
- Droit d'être entièrement informé des services fournis, avec un plan de service

Afin d'éviter qu'une déclaration des droits des résidents ne soit qu'une « façade », il faut prévoir un mécanisme pour promouvoir et protéger les droits énumérés ci-dessus. Cette partie de la loi prévoirait l'établissement de conseils des résidents ou des familles, dans la catégorie du logement en milieu de soutien pour les aînés ayant des besoins plus grands définie dans la partie I, qui seraient un moyen pratique et efficace d'assurer le respect des droits énumérés ci-dessus.

Partie III : Logement locatif (questions relatives au mode d'occupation)

Pour le logement en milieu de soutien en général, la législation d'application générale sur la location à usage d'habitation s'applique, avec les dispositions spéciales suivantes :

- Des périodes de préavis plus longues pour l'augmentation du loyer.
- Les conditions en vertu desquelles un gérant peut entrer dans le logement d'un résident doivent préciser expressément les préoccupations quant à la sécurité, à la santé et au bien-être.
- Les motifs autorisés pour demander à un résident de s'en aller (éviction) doivent traiter expressément du problème que posent ses plus grands besoins de services ou la détérioration de sa santé ou de sa mobilité. Les plus grands besoins ou la détérioration de la santé ou de la mobilité d'un résident peuvent être des motifs pour lui demander de s'en aller seulement si ces besoins ne peuvent pas être

satisfaits en recourant à des services de soutien fournis par des intervenants de l'extérieur (dont la résidence n'aurait pas à assumer les coûts).

Cette partie doit prévoir un mécanisme pour obtenir un autre logement dans un milieu convenable pour une personne à qui l'on demande de quitter un logement en milieu de soutien pour des raisons liées à ses besoins plus grands de services ou à la détérioration de sa santé ou de sa mobilité, lorsque la résidence ne peut pas satisfaire à ces nouveaux besoins en recourant à des services de soutien fournis par des intervenants de l'extérieur.

Partie IV : Logement en milieu de soutien acheté en copropriété (questions relatives au mode d'occupation)

La législation d'application générale sur la copropriété devrait s'appliquer, avec les dispositions spéciales suivantes applicables au contexte du logement en milieu de soutien :

- Des périodes de préavis plus longues concernant l'augmentation des frais d'entretien et des autres frais
- Les conditions en vertu desquelles un gérant peut entrer dans le logement d'un résident doivent préciser expressément les préoccupations quant à la santé et au bien-être (contrairement aux ensembles en copropriété en général, les ensembles de logements en copropriété en milieu de soutien auront un gérant d'immeuble sur les lieux qui aura un rôle distinct à jouer)
- Un organisme distinct chargé du règlement des différends dans le contexte du logement en milieu de soutien sera établi (pour régler également les différends qui voient le jour dans toute la gamme de logements en milieu de soutien, que ceux-ci soient loués ou achetés)

Le rôle du gérant d'immeuble dans un ensemble de logements en milieu de soutien en copropriété ressemblera davantage au rôle de gestion dans d'autres établissements offrant des logements en milieu de soutien qu'au rôle générique ou habituel d'un gérant d'immeuble en copropriété. Les dispositions spéciales de la loi complète sur le logement en milieu de soutien qui s'appliquent à la gestion (partie VII) devraient donc s'appliquer aux ensembles en copropriété.

Il convient de faire remarquer que, puisque les copropriétaires sont propriétaires de leur logement, les types de dispositions et de processus décrits dans la partie III concernant l'éviction ne s'appliquent pas. Dans cette partie, on exigerait que les règlements de l'association de copropriétaires soient remis aux résidents éventuels, alors que la partie XIII (Renseignements à fournir aux résidents) et les exigences énumérées dans la partie IV s'appliqueraient aux acheteurs éventuels de logements en copropriété en milieu de soutien comme aux locataires.

Partie V : Logement en milieu de soutien fourni en location viagère (questions relatives au mode d'occupation)

La législation d'application générale sur la location viagère (le Manitoba est actuellement la seule province à avoir adopté une loi portant expressément sur le logement fourni en location viagère)² devrait s'appliquer au contexte du logement en milieu de soutien, avec les dispositions spéciales suivantes :

- Des périodes de préavis plus longues pour l'augmentation des frais
- Les conditions en vertu desquelles un gérant peut entrer dans le logement d'un résident doivent préciser expressément les préoccupations quant à la santé et au bien-être (contrairement aux ensembles ordinaires de logements en copropriété, les ensembles de logements en milieu de soutien en copropriété auront un gérant d'immeuble sur les lieux)

Il convient de faire remarquer que les détenteurs d'un bail viager ont un intérêt à vie dans leur logement, de sorte que les types de dispositions et de processus d'éviction prévus dans la partie III ne s'appliquent pas. Dans cette partie, on exigerait que les règlements applicables à la location viagère soient fournis aux résidents éventuels. La partie XIII (Renseignements à fournir aux résidents) et les exigences énumérées dans la partie IV s'appliqueraient aux résidents éventuels de logements en milieu de soutien en location viagère comme elles s'appliqueraient aux locataires.

Partie VI : Mode d'occupation hybride ou « spécial »

Un ensemble de logements en milieu de soutien peut combiner ou comprendre divers modes d'occupation : des logements détenus en location viagère ou des logements locatifs peuvent être construits dans un emplacement particulier à côté de logements en copropriété achetés (par opposition à un ensemble ne comprenant que des logements locatifs, des logements en copropriété ou des logements détenus en location viagère). Cette souplesse peut être particulièrement utile dans les centres à population plus faible. La partie VI stipulerait que la réglementation sur le mode d'occupation s'appliquant à un logement particulier dépendra du mode d'occupation de ce logement, et que lorsque différents types de modes d'occupation coexistent dans un ensemble de logements en milieu de soutien, les logements seront traités différemment aux fins de la réglementation sur les modes d'occupation. Ceci est un énoncé de la loi telle qu'elle s'appliquerait actuellement et cette partie est incluse uniquement à des fins de clarté.

Partie VII : Gestion/rôle du gérant

Tous les gérants d'ensembles de logements en milieu de soutien, quel que soit le niveau des services fournis et que les logements soient achetés, loués ou loués à bail, devront avoir un niveau de formation de base (un certificat de formation en gestion). Le bureau des normes pour le logement en milieu de soutien mettra au point un cours sanctionné par un certificat (voir la partie XVI). La législation ne doit pas prescrire les sujets particuliers

² *Loi sur les baux viagers*, C.P.L.M. c. L130.

à inclure dans cette formation. Les gérants de logements en milieu de soutien pour les aînés ayant des besoins plus grands (tels que définis dans la partie I) devraient être tenus de recevoir une formation supplémentaire sous forme d'un cours sanctionné par un certificat supérieur, qui serait également mise au point par le bureau des normes pour le logement en milieu de soutien.

Partie VIII : Procédures de plaintes et de règlement des différends

Un organisme distinct chargé de recevoir les plaintes et de régler les différends dans le contexte du logement en milieu de soutien sera établi en vertu de cette partie pour régler les différends qui voient le jour dans tout l'éventail des logements en milieu de soutien, quel que soit le niveau des services fournis et que le logement soit loué, acheté ou loué à bail. Cet organisme traiterait la gamme complète des plaintes et des différends concernant les questions de mode d'occupation et de services. Un organisme chargé de régler les plaintes et les différends ferait partie d'un bureau des normes pour le logement en milieu de soutien.

Partie IX : Programme de surveillance et d'aide

Le bureau des normes pour le logement en milieu de soutien serait chargé de surveiller proactivement l'application des normes dans les logements en milieu de soutien destinés aux résidents ayant des besoins plus grands. Le bureau aiderait les résidences non conformes afin qu'elles atteignent les normes et améliorent la qualité de leurs services. Le bureau aiderait aussi, à leur demande, les ensembles de logements en milieu de soutien, quel que soit le niveau des services fournis, à améliorer la qualité de ces services. Ce programme de surveillance et d'aide du bureau des normes pour le logement en milieu de soutien serait présenté comme une ressource axée sur le partenariat à l'intention des fournisseurs.

Partie X : Normes de construction et caractéristiques de conception

Cette partie s'appliquera, que le logement soit loué, loué à bail ou acheté en copropriété. Le contenu de cette partie se fondera sur celui des codes du bâtiment existants d'application générale dans chaque province. Les codes du bâtiment modernes d'application générale peuvent contenir des exigences qui répondraient aux besoins des résidents de logements en milieu de soutien pour les aînés ayant de moins grands besoins (p. ex., accessibilité pour les personnes à mobilité réduite, caractéristiques assurant la sécurité dans la salle de bains, comme des barres d'appui). Si tel est le cas, la loi englobera la législation d'application générale pour les logements en milieu de soutien destinés aux personnes ayant de moins grands besoins. Lorsque le code du bâtiment d'application générale ne répond pas aux besoins des résidents de logements en milieu de soutien ayant de moins grands besoins, le code d'application générale sera intégré dans cette partie avec l'ajout d'exigences spéciales (ici aussi, selon les « lacunes » du code existant).

Les normes de construction et caractéristiques de conception spéciales seront prescrites dans cette partie pour le logement en milieu de soutien destiné aux personnes ayant des besoins plus grands, défini dans la partie I. Le contenu de ces normes devra être établi après des études plus approfondies et se fonder sur l'ensemble considérable de documents existants sur les caractéristiques de conception adaptées au vieillissement chez soi et à une vie saine.

Partie XI : Services et personnel : normes obligatoires et protection des consommateurs (catégorie du logement pour les aînés ayant de moins grands besoins)

Les dispositions dans cette partie s'appliqueront, que le logement soit loué, loué à bail ou acheté en copropriété, aux normes exigées dans les logements en milieu de soutien destinés aux aînés ayant de moins grands besoins. Les normes porteront sur :

1. Les services de soutien
 - (i) Services d'aide à la vie autonome
 - Entretien ménager
 - Repas (fréquence, qualité)
 - (ii) Soins personnels
 - (iii) Activités sociales et récréatives
 - (iv) Soins de santé à domicile
 - (v) Administration et stockage des médicaments
 - (vi) Aide pour les activités de la vie quotidienne
 - (vii) Transport
 - (viii) Autres services (comme les services d'intervention d'urgence)
2. Suffisance des services disponibles et fournis (relativement au vieillissement à domicile et à la continuité des soins)
3. Coûts
4. Qualité (en général)
5. Personnel
 - a) Niveaux et ratios
 - b) Formation
 - c) Qualifications

Les normes peuvent être mises en application au moyen de dispositions relatives à la protection des consommateurs (p. ex., les consommateurs doivent être informés des normes portant sur les questions ci-dessus, qui peuvent être modifiées seulement après que le fournisseur a donné le préavis précisé dans les dispositions) ou au moyen de normes minimales obligatoires imposées par voie législative (p. ex., exigeant le respect du ratio employés-résidents prescrit dans la loi).

Un nombre plus grand des éléments énumérés dans cette partie (comparativement aux éléments indiqués dans la partie XII ci-dessous, qui s'appliquent aux normes pour les logements en milieu de soutien destinés aux aînés ayant des besoins plus grands) sera réglementé au moyen de dispositions sur la protection des consommateurs. Seuls les éléments suivants exigent des normes obligatoires imposées par la loi dans ce contexte : la formation du personnel; la qualité (en général); l'accès aux services de soins de santé à domicile; l'intervention d'urgence.

Partie XII : Services et personnel (catégorie du logement pour les aînés ayant des besoins plus grands)

La partie XII réglementerait les services fournis dans la catégorie du logement pour les aînés ayant des besoins plus grands, définie dans la partie I. Les normes porteront sur :

1. Les services de soutien
 - a. Types de services
 - i) Services d'aide à la vie autonome
 - Entretien ménager
 - Repas (fréquence, qualité)
 - ii) Soins personnels
 - iii) Activités sociales et récréatives
 - iv) Soins de santé à domicile
 - v) Administration et stockage des médicaments
 - vi) Aide pour les activités de la vie quotidienne
 - vii) Transport
 - viii) Autres services (comme les services d'intervention d'urgence)
2. Suffisance des services disponibles et fournis (relativement au vieillissement à domicile et à la continuité des soins)
3. Coûts
4. Qualité (en général)
5. Personnel
 - a. Niveaux et ratios
 - b. Formation
 - c. Qualifications

Tous les éléments énumérés ci-dessus exigent des normes imposées par la loi dans ce contexte, sauf les suivants (qui seront assujettis aux dispositions sur la protection des consommateurs) : coûts et activités sociales et récréatives.

Partie XIII : Renseignements à fournir aux résidents

Un résident éventuel (locataire, acheteur ou locataire à bail de logements en milieu de soutien de l'une ou l'autre catégorie) doit recevoir une « trousse d'information » exposant en détail ce qui suit :

1. Les types de services qui doivent être achetés en tant que condition de la location, de la location à bail ou de la propriété
2. Les types de services susceptibles d'être achetés à titre optionnel
3. Le coût de chaque service
4. La période de préavis requise pour changer le coût ou la nature d'un service fourni (minimum de trois mois)
5. Tout « règlement interne »
6. Des renseignements sur la politique de dotation (nombre d'employés et ratios employés-résidents, formation ou qualifications requises, le cas échéant) et la période de préavis requise pour réduire les ratios employés-résidents et les exigences en matière de formation et de qualifications (minimum de trois mois)
7. Les genres et le nombre de repas disponibles quotidiennement, la période de préavis requise pour les changer (minimum de trois mois)
8. Les procédures internes de règlement des plaintes
9. La façon d'accéder aux procédures externes de règlement des plaintes (si le résident est mécontent des procédures internes de règlement des plaintes ou ne se sent pas suffisamment à l'aise pour les utiliser)
10. La politique de la résidence concernant la réception de soins à domicile, y compris le niveau de soins, la période de préavis requise pour changer la politique (minimum d'un an)
11. Les normes imposées par la loi applicables aux services fournis

Partie XIV : Une liste de contrôle de questions à fournir aux résidents éventuels doit comprendre au moins les points suivants :

- Est-ce que j'ai discuté pleinement de ma décision d'habiter dans un logement en milieu de soutien avec ma famille, mes amis, mon médecin ou un organisme de conseil public?
- Est-ce que j'ai envisagé d'autres options, comme les soins à domicile, le service de repas à domicile et les services sociaux communautaires?
- Quelles discussions ai-je eues avec les résidents du logement en milieu de soutien que j'ai choisi? Quelle évaluation font-ils de la qualité des services et des logements?
- Est-ce que le style de vie de la résidence (y compris les activités sociales et religieuses) me conviendra?

- Quelles sont les règles concernant les visiteurs et les invités?
- De quelle façon me faudra-t-il adapter et modifier mon style de vie actuel pour me conformer aux règlements et aux restrictions de la résidence (sur le tabagisme ou les animaux de compagnie, par exemple)?
- Les résidents participent-ils activement à l'établissement des « règles internes »?
- Est-ce que j'ai demandé des conseils sur les documents relatifs au logement en milieu de soutien que j'ai choisi à une source compétente (avocat ou clinique de conseils juridiques)?
- Dans quelles circonstances peut-on me réinstaller dans une autre aile de la résidence? Est-ce que je connais la procédure et est-ce que je l'accepte?
- De quelle manière le fournisseur peut-il mettre un terme à mon occupation? Est-ce que je suis d'accord sur la procédure et quels sont mes droits?
- Est-ce que je suis sûr de pouvoir occuper la résidence à long terme?
- De quelle protection est-ce que je jouis si ma résidence est vendue à une autre organisation?
- Suis-je au courant de tous les frais et de tous frais exceptionnels qui peuvent m'être imposés, et puis-je les payer? Quels arrangements peuvent être conclus si je ne peux pas payer les frais futurs?
- Comment les conditions et les coûts du logement en milieu de soutien que j'ai choisi se comparent-ils avec ceux d'autres résidences-services?
- Les services précis dont j'ai besoin et leurs coûts sont-ils décrits clairement et énumérés dans le contrat?
- Est-ce que les services supplémentaires dont je pourrais avoir besoin à l'avenir sont clairement décrits, y compris leurs coûts, dans le contrat?
- La méthode d'augmentation des frais est-elle clairement expliquée et prévue dans le contrat?
- De quelles solutions de rechange est-ce que je dispose pour les affaires relatives aux finances et à l'hébergement si je deviens trop frêle pour habiter dans le logement en milieu de soutien que j'ai choisi?
- Quel moyen de transport public ou privé est disponible?
- Les animaux de compagnie sont-ils autorisés?

- Dans quelle mesure les commerces de la localité sont-ils accessibles compte tenu de mes besoins actuels et futurs?
- [Si le logement est acheté en copropriété] Les résidents participent-ils activement aux décisions concernant le niveau d'entretien et de services fournis, leurs coûts et la façon dont ces coûts varieront à l'avenir?
- [Si le logement est acheté en copropriété] Quelles restrictions sont imposées à la vente de mon logement?
- [Si le logement est obtenu en location viagère] Est-ce que je comprends le sens de l'expression « location viagère »? Est-ce que je comprends la différence entre la location viagère et l'achat d'un logement en copropriété ordinaire?
- Est-ce que j'ai demandé l'avis d'un expert concernant le contrat de mode d'occupation?
- Est-ce que j'ai vérifié si j'ai les moyens de payer les frais?

Partie XV : Programme d'agrément

Cette section traiterait de tout programme d'agrément adopté dans la province (la législation n'exigerait pas la mise sur pied d'un organisme d'agrément) ainsi que de l'organisme ou des organismes chargés de le mettre en œuvre. L'agrément reconnaîtrait un degré d'excellence et il ne faudrait pas compter sur lui pour assurer l'atteinte d'une norme minimale ou de base.

PARTIE XVI : Bureau des normes pour le logement en milieu de soutien

Cette partie créerait un bureau des normes pour le logement en milieu de soutien qui serait chargé de ce qui suit : le cours de formation sanctionné par un certificat; la procédure de plaintes et de règlement des différends; le programme de surveillance et d'aide.

Conclusion

Les participants s'entendaient généralement pour dire que le dialogue entre les provinces sur la question de la réglementation du logement en milieu de soutien pour les aînés était important et extrêmement utile. Tous les participants ont jugé leur participation à l'étude enrichissante et attendaient avec impatience le rapport définitif qu'ils considéraient comme une ressource qui leur serait précieuse.

La législation dans le domaine du logement est une responsabilité provinciale et territoriale et l'adoption de tout modèle de cadre législatif ou de toute partie de ce cadre se fera donc au niveau provincial ou territorial. La discussion entre les provinces et

territoires concernant les idées et les approches est une étape extrêmement utile de ce processus, alors que la consultation à l'échelle provinciale et territoriale, à laquelle participent toutes les parties intéressées, en est une autre. Cette étude et ce rapport peuvent être considérés comme une première étape d'un processus qui en compte deux. La deuxième consisterait à mener une consultation au niveau provincial et territorial en faisant fond sur les idées recueillies pendant les échanges de la première étape.



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TABLE OF CONTENTS

ABSTRACT	1
EXECUTIVE SUMMARY	2
TABLE OF CONTENTS	24
I. INTRODUCTION	25
II. BACKGROUND	26
A. Approaches to Regulation	26
1. Comprehensive Statutes vs Diffuse Regulatory Approach	26
2. Consumer Protection and Accreditation vs Minimum Legislated Standards	30
B. The Comprehensive Statute Approach: Analysis of Selected American Statutes	34
1. Introduction: The Current Canadian Approach	34
2. Analysis of Selected American Statutes	34
III. OBJECTIVE	44
IV. METHODOLOGY	44
V. RESULTS: MODEL COMPREHENSIVE STATUE	45
VI. CONCLUSION	54
BIBLIOGRAPHY	55
APPENDIX A	56
APPENDIX B	70

REGULATING SUPPORTIVE HOUSING FOR SENIORS: A MODEL COMPREHENSIVE STATUTE

I. INTRODUCTION

Supportive housing for seniors was defined in a Report prepared by the current author in 2005 for CMHC (the 2005 Report)³ as follows:

Supportive housing is a term used to describe a range of housing options designed to accommodate the needs of seniors⁴ through design features, housing management, and access to support services. At one end of the range, supportive housing refers to congregate housing with supportive features and services such as monitoring and emergency response, meals, housekeeping, laundry and recreational activities. At the other end of the range (referred to in most North American jurisdictions as “assisted living”) personal care services are also provided for frailer seniors with more significant support needs. Professional services may be provided on a “home-care” basis in a supportive housing setting as they would be if the resident were living in a different kind of (non-supportive) residential setting. Supportive housing may be provided by either the public or the private sector, for profit or not for profit. In some cases, one provider will be responsible for delivering the whole supportive housing package (services plus housing). In other cases services and housing components will be delivered separately, by different sectors. Supportive housing can be rented, purchased as a condominium in fee simple, or obtained through a “life lease.”⁵

The purpose of supportive housing for seniors is to provide them with a variety of options combining housing with different kinds and levels of support. Supportive housing also provides an intermediate alternative for governments in terms of cost; supportive housing will usually cost more than standard accommodations where services are not provided, but much less than institutional care.⁶ Supportive housing will become increasingly important as a housing option that is both appropriate and sustainable as the Canadian population continues to age. It is estimated that by the year 2031 the number of Canadians over 75 will have grown to 4,077,200 from 1,471,100 in 1995, an increase of 277%.⁷

3 M. Hall (2005) *A Legal Framework for Supportive Housing for Seniors: Options for Canadian Policy Makers* (Ottawa: CMHC External Research Program).

4 For the purposes of this report “seniors” are defined as people 65 years of age or older.

5 See CMHC (2000) *Supportive Housing for Seniors* <http://www.cmhc.ca/od/?pid=62023> for a descriptive example of supportive housing purchased as a condominium.

6 See C Murray (1988) *Supportive Housing For Seniors: The Elements and Issues for a Canadian Model* (Ottawa: CMHC External Research Program).

7 Social Data Research Inc. (2000) *Supportive Housing for Seniors* (Ottawa: CMHC External Research Program).

Provinces across Canada are currently considering the need to create a regulatory framework for supportive housing for seniors. The task is complex, and many different approaches are possible. Indeed, there is no consistent or uniform definition of “supportive housing for seniors” and terminology varies significantly from province to province, and internationally. The term “supportive housing for seniors” will be used in this project as defined in the 2005 Report: “a range of housing options designed to accommodate the needs of seniors through design features, housing management, and access to support services.”

Effective regulation of supportive housing for seniors must protect the rights and interests of residents without replicating the maximum legislated standards that apply to care facilities or nursing homes. The appropriate balance is difficult to achieve. A number of different models and approaches to regulation have been developed in Canada and in other jurisdictions such as Australia, the United Kingdom and the United States.

Research carried out pursuant to the 2005 Report, *A Legal Framework for Supportive Housing for Seniors*, included a national and international review of legislation applying to supportive housing for seniors and concluded with several “Options for Canadian Policy Makers.” The first “Option” given was to “Develop a comprehensive supportive housing statute.”

A comprehensive supportive housing statute is not synonymous with comprehensive minimum legislated standards or the care facility/nursing home approach to regulation. Comprehensive supportive housing legislation would include within one statute all regulation applying to supportive housing (including legislated mandatory standards, consumer protection provisions, and a mechanism for accreditation). A comprehensive statute would apply to all supportive housing for seniors, regardless of the type of sector involved (e.g. public, private for-profit, or private not-for-profit). The comprehensive statute approach would provide much needed clarity for providers, consumers, advocates and policy makers.

II. BACKGROUND

A. Approaches to Regulation

1. Comprehensive Statutes vs Diffuse Regulatory Approach

A comprehensive statute approach to regulation is predicated on an understanding of “supportive housing for seniors” as a discrete category or type of housing. A comprehensive statute groups the constituent elements of that category (housing and support services) within a single piece of legislation.

It is possible, however, to unpack the idea of supportive housing into its constituent elements and to regulate those elements separately: housing (raising issues of building code, design features, management and tenancy); hospitality services (meals, housekeeping and transportation, to be regulated through contracts/existing consumer protection provisions); and other support services (ranging from personal care to assistance with activities of daily living, depending on where a particular jurisdiction draws the line between supportive housing and health services to be delivered in a care facility). A diffuse regulatory approach would deal with each of these elements within the applicable regulatory scheme (residential tenancy legislation, for example) as opposed to grouping them together (as in a comprehensive statute). A diffuse regulatory approach means that multiple pieces of legislation will apply to the supportive housing “package” where these elements are delivered together.

a) Diffuse Regulatory Approach

Treating the different elements within supportive housing for seniors differently for the purposes of regulation does allow for flexibility; the regulatory regime that will apply to any particular supportive housing residence may be specific to the combinations of features within that particular residence. A residence that is provided for seniors with greater mobility and lower personal care needs, for example, may not be subject to special regulation dealing with those issues. Another residence may serve a target group of seniors with greater needs, in which case the applicable regulation would follow accordingly. For this reason, the diffuse approach may not be consistent with “aging in place”⁸ as a policy objective.

The regulatory flexibility afforded by this “unpacked” approach is in keeping with the supportive housing philosophy of providing maximum choice for both consumers and providers. A regulatory approach that maximizes flexibility and choice is one that positions supportive housing as a clear alternative to the care facility environment in which regulation is both uniform and detailed.

b) Drawbacks of the Diffuse Regulatory Approach

Despite its conceptual appeal, however, the diffuse regulatory approach has certain practical drawbacks. Coordinated development is difficult where regulations applying to different aspects of supportive housing are located in different places and will therefore be developed and overseen by different organizational units within government. Policy makers with responsibility for residential tenancy legislation, for example, may not be aware of the special implications of generic or general application rules in the supportive housing context. “Eviction” (in the language of residential tenancy legislation) may have different implications in the supportive housing context, for example. The tenant “evicted” from supportive housing for seniors may be experiencing declining health

⁸ The ability of seniors to live in their homes, including supportive housing homes, for as long as possible as compared to having to move between different facilities providing different levels of care as needs change.

(which may in fact be the reason for eviction) and have very few realistic options. The general residential tenancy approach to eviction may need to be modified in this context.

A diffuse regulatory approach can also create information barriers for consumers of supportive housing, for whom it will be more difficult to know and understand the full package of “rules” that apply in a particular residence. Where a diffuse regulatory model is in place, residents and/or potential residents should be provided with an information sheet setting out exactly what regulations apply to that particular residence, and how. This information sheet would need to be compiled and prepared by each individual residence, and accuracy and consistency may be important issues to consider. Even where this information has been accurately provided, a “patchwork” of provisions located in different sources is more difficult to understand and, crucially, to *use* than a single comprehensive statute.

In addition, while the diffuse regulatory model may appear to encourage variety between residences, the practical result may be much larger numbers of residences with minimal regulatory standards for independent seniors with very low needs for services and/or fragility/mobility issues, with correspondingly sparse provision of residences for older individuals with greater needs. The fear is that effectively allowing residences to pick and choose the degree of regulation that will apply to them might result in regulatory “cherry picking” that would have the effect of excluding, or eventually evicting, a significant group of residents. For many older seniors with greater needs, the practical effect may be to exclude supportive housing as a realistic option. The diffuse approach, despite its superficial appearance of flexibility and choice, may be counterproductive in practice if the policy goal is to encourage choice and flexibility in housing for the maximum number of seniors.

c) Comprehensive Statute Approach

A comprehensive supportive housing statute, in contrast to the diffuse approach described above, would place within a single piece of legislation all regulatory provisions applying in and to supportive housing for seniors, including provisions relating to tenancy and support services, and mechanisms for accreditation (see “Consumer Protection vs Legislated Standards,” below). A comprehensive statute would also apply to supportive housing for seniors provided by all sectors (public, private-for-profit, and private not-for-profit).

A comprehensive supportive housing statute would provide relative clarity for providers, consumers, their advocates, and for policy makers. Consumers and potential consumers would be able to recognize and understand “supportive housing for seniors” as a particular category or type of housing, a concept with clear and definite meaning. The 2005 Report, *A Legal Framework for Supportive Housing for Seniors*, concluded that current levels of confusion among potential consumers of supportive housing were a significant barrier to access this type of housing. Individuals taking part in consultation were intrigued, but had little idea of what this new form of housing involved or how to obtain further information. Facilitating resident ability to access and understand “the

rules” applying in a supportive housing setting also facilitates residents’ ability to enforce those rights, increasing the realistic workability of a consumer protection approach (see discussion in Section B below).

Regulation in the area of supportive housing is a provincial/territorial matter, and any regulation would need to be formulated and implemented at that level. There are clear benefits, however, to the general adoption of a comprehensive statutory framework, within which flexibility and variation regarding individual provisions is possible. A generally consistent approach (allowing for variations in the content of particular provisions) can be beneficial for two reasons.

First, seniors within Canada are mobile, and retirement or age-related lifestyle changes may trigger a move closer to family members or to a more hospitable climate. The current widely divergent approaches to the regulation of supportive housing in Canada create a formidable challenge in terms of access to information for an individual moving from Toronto to Vancouver, for example, in addition to existing levels of confusion among potential consumers about supportive housing within their own province.

Second, as provinces across Canada grapple with the difficult task of regulating in this area, a coordinated approach to policy development through an inter-provincial and multi-interest⁹ National Working Group that would develop regulatory and best-practice guidelines would be extremely useful. This Report, and the common language and framework provided by the model comprehensive statute it contains, is intended to facilitate this kind of dialogue.

The Assisted Living Workgroup (ALW) assembled by the United States Special Committee on Aging in 2001 to identify best practices and a “model” legislative approach provides a useful precedent and illustration of a national approach to provincial (or state) matters. It is significant that the United States, although each state has its own distinct legislation in this area, has generally adopted a comprehensive statute approach. That regulatory approach has facilitated the identification of key common issues for stakeholders across the country.

The Workgroup, with members representing 37 national organizations, was composed of policy makers, consumer representatives, and providers. The Report of the Workgroup (Assuring Quality in Assisted Living: Guidelines for Federal and State Policy, State Regulation, and Operations) was published in 2003,¹⁰ resulting in 110 approved recommendations in the following topic groups:

- Definition and Core Principles
- Accountability and Oversight
- Affordability

⁹ Involving providers and “consumer” group representatives, together with policy makers.

¹⁰ <http://www.theceal.org/ALW-report.php>

- Direct Care Services
- Medication Management
- Operations
- Resident Rights
- Staffing

With the following “overarching interests or principles” considered by all topic groups:

- Quality indicators
- Dementia Care
- Outcome Measures
- Accountability
- Regulations and Legislation
- Facility Size
- Research
- Best Practices
- Affordability

Following the ALW Report a (National) “Center for Excellence in Assisted Living” (CEAL)¹¹ was formed as an initiative of the U.S. Senate Special Committee on Aging to follow up and build upon the work of the Assisted Living Workgroup. CEAL serves as a continuing national clearinghouse, bringing together research, practice, and policy related (using the American terminology) to assisted living, including recent developments in regulation in the various States. CEAL, like the ALW, includes representatives from many different interests and organizations.

There has been no comprehensive follow up or status report on the work of the ALW in terms of how many of its recommendations have been incorporated into legislation on the state level; this would be a very useful information, and is perhaps work that the CEAL will consider pursuing in the future. Clearly, the ALW Report is a useful resource for law and policymakers in this area, as it contains a thorough discussion of the issues along the recommendations and best practice guidelines.

A comprehensive regulatory approach to supportive housing for seniors enables these mechanisms for building on existing knowledge and experience and continuing to monitor and provide information about continuing developments.

2. Consumer Protection and Accreditation vs Minimum Legislated Standards

a) Consumer Protection

Consumer protection legislation protects the consumer’s right to receive the type and quality of services promised by the provider without mandating what must be provided.

¹¹ <http://www.theceal.org/>

Minimum legislated standards, in contrast, set out the type and quality of service which must be provided in a particular setting.

The consumer protection approach provides a greater degree of flexibility by leaving it to each provider to decide what kinds of services it will offer; this flexibility should also extend to potential residents who (theoretically) can pick and choose between these options. Consumers are protected through the provision of complete information before entering into an agreement and the necessity of notice before any subsequent changes are made (including price increases). This protection is related to choice: informed consumers can decide whether or not to accept what is being offered, and notice provides the opportunity to leave if the terms of the bargain are no longer acceptable.

The consumer protection approach to regulation is, from one perspective, compatible with the diffuse or “unpacked” approach to the regulation described above. Where the tenancy aspects of supportive housing are governed by residential tenancy legislation, for example, the existing consumer protection-oriented provisions of the residential tenancy legislation will apply. Hospitality services are provided for in the specific contract between the provider and the resident and not dealt with in any “special” legislation (although they will be subject to *general* consumer protection legislation and the law of contract). Personal care services, on the other hand, may be subject to special regulation creating mandatory minimum legislated standards (see, in British Columbia, the *Community Care and Assisted Living Act*).¹²

The consumer protection approach allows for a wide range of choice, and for this reason it is consistent with the supportive housing philosophy. The consumer protection approach raises certain problems in this context, however, as residents may find it difficult in practice to exercise their (theoretical) rights and freedoms. The resident who is faced with a change in price or provision of services may find it difficult to enforce his or her rights independently; it is to be anticipated that few would access legal advice in this kind of circumstance. Where the consumer protection approach is adopted in a supportive housing context, a mechanism for resolving disputes about services and rates should be provided. Realistic notice periods (giving residents the opportunity to respond to impending change) may need to be longer than notice periods that would be adequate in other settings. Seniors are more likely to experience finding a suitable alternative residence (in response to a price increase, for example) significantly more challenging than a person seeking generic or standard rental accommodations. The supportive housing resident is only free to choose whether to accept a change in price or service if he or she has a realistic alternative. This will be the case especially for residents with greater health needs.

One possibility would be to incorporate special provisions relating to notice and dispute resolution within existing (general application) residential tenancy or consumer protection legislation. It would seem less unwieldy and more transparent, however, to include these and other consumer protection provisions (together with minimum legislated standards, where appropriate) in a comprehensive supportive housing statute.

12 SBC 2002 c. 75.

Residents can more successfully exercise their rights if it is relatively easy for them to find and know them, and the method through which they can be enforced.

b) Accreditation

While often considered a non-regulatory approach to maintaining standards, accreditation should be considered under the consumer protection umbrella. Accreditation schemes work by developing standards and then, through a process of evaluation, awarding accreditation status to residences that comply with those standards (awarding a star or a golden rose, for example). Residences may operate that do not comply with accreditation standards; accreditation relies on the marketplace to keep standards generally high, on the theory that consumers will prefer accredited residences, thereby increasing their profitability.

Market regulation of this kind is effective only where consumers are able to exercise real and meaningful choice, however, requiring:

- Real alternatives (including considerations of cost and location) and adequate access to information about alternatives; and
- Lack of barriers to moving (where a residence loses accreditation); moving can in itself be a difficult process for older adults

Accreditation schemes are valuable as a compliment to legislation (consumer protection and/or minimum legislated standards) but should not be considered a substitute for legislation. Inclusion in or attachment to comprehensive legislation would be valuable in terms of clarity and accessibility for consumers and would assist policy makers in developing accreditation as a complement to legislation. Accreditation should also be a prerequisite for receipt of government funding (preventing a “race to the bottom”).

c) Minimum legislated standards

Minimum legislated standards are those that must be met by all supportive housing residences to which the law applies (residences falling within the definition of “supportive housing,” or any sub-category, as defined in the legislation). Any residence that does not meet these standards will be in contravention of the law: it may be shut down or given a specified period of time (with or without support, again depending on the legislation) to comply. The standards are considered “minimum” because they set the minimum that a residence must comply with to avoid sanction.

The legislated standards approach is the approach to regulation that has been considered appropriate, and enacted, for care facilities. Given the vulnerability of care facility residents and the medical/health care nature of services provided, detailed legislated standards apply to virtually all aspects of residence, services and care. Supportive housing emerged and is being developed as an alternative to the care facility, and the kind and degree of regulation must reflect that. Reproduction of the institutional kind and

degree of regulation in the supportive housing setting would contravene the philosophy underlying supportive housing for seniors, and the objective of its development as a distinct residential alternative to institutional care.

Subjecting certain core or key issues to minimum legislative standards would ensure a basic level of protection to residents, however. Certain issues may not be appropriately dealt with through a consumer protection approach. Exit criteria, specifying when and under what conditions a resident must leave, is one possible example. Where a consumer protection approach would require only that a would-be resident be informed of exit criteria (choosing whether or not to accept those criteria and thereafter being responsible for finding accommodations on leaving) legislated minimum standards would set out a required mechanism for ensuring that residents needing a higher level of care have an alternative place before being required to leave. Oversight and inspection is a special kind of issue in that it can only be provided for through minimum legislated standards; the key question here is whether oversight and inspection is appropriate in a supportive housing context.

A key objective of the consultation carried out in connection with the 2005 Report, *A Legal Framework for Supportive Housing for Seniors*, was the identification of “core” issues which would appropriately be the subject of minimum legislated standards that would apply, by law, in all supportive housing settings. Beyond those identified as “core,” issues can be regulated through a consumer protection or accreditation approach. This mixed approach, setting out minimum legislated standards only for a limited number of core issues, would avoid replicating the regulatory environment of a care facility within supportive housing while providing adequate protection.

No clear hierarchy of issues emerged from the 2005 Report, *A Legal Framework for Supportive Housing for Seniors*, consultation process, however. All issues were considered significant or core by respondents. Deciding which issues should be subject to minimum legislated standards and which to a consumer protection approach is ultimately a question of policy, to be determined on an issue-by-issue basis. It may also be appropriate to take a different approach (consumer protection or minimum legislated standards) where there are different categories of supportive housing for seniors. Minimum legislated standards may be suitable with regards to meals in a higher-needs setting, while a consumer protection approach to this issue may otherwise be adequate.

Where a different regulatory approach is taken regarding different categories of supportive housing, the impact on aging in place must be considered; should it be possible for a person whose needs have increased to a different level to stay on in his or her current supportive housing setting? A campus style development may be able to accommodate different categories through different areas, each section conforming to the respective standards required. In a smaller residence, the kind of services provided may change accordingly if the individual moves into a different category (and so the standards applying to those services would change) although that individual would remain physically in place. This kind of scheme would require that the housing design elements in place be appropriate for all residents at all need levels.

B. The Comprehensive Statute Approach: Analysis of Selected American Statutes

1. Introduction: The Current Canadian Approach

Comprehensive statutes in some American States specifically address a very wide range of the issues arising in the supportive housing context. No similarly comprehensive statutes currently exist in Canadian jurisdictions, and the approach to regulation varies significantly from province to province. In New Brunswick and Nova Scotia, for example, there are currently no regulations applying specifically to supportive housing. Legislation in some provinces sets mandatory standards for a limited number of issues where supportive housing is provided by a particular sector or sectors (public, private for profit, and private not for profit). The moderately detailed standards set out in Saskatchewan's *Personal Care Homes Regulations*¹³ apply to the (non-subsidised) for-profit private sector only, for example. Alberta's *Social Housing Accommodation Regulations*¹⁴ apply only to public sector/non-profit supportive housing in the province, and standards are restricted to the issues of costs and eligibility. Very detailed legislation applies to "Homes for the Aged and Rest Homes" and "Charitable Institutions" in the public and non-profit sectors in the province of Ontario. Supportive housing services in Ontario's private sector are regulated through the special consumer protection provisions of the *Tenants Protection Act*,¹⁵ which applies to "care homes" and the accreditation scheme created and administered by the providers association ORCA (Ontario Residential Care Association). In all jurisdictions, policy will play an important role in the regulation of supportive housing where the public sector is involved as a provider, in whole or in part, of the supportive housing package.

2. Analysis of Selected American Statutes

Unlike the situation in Canada,¹⁶ many American States have taken the comprehensive statute approach to regulating in this area and it is therefore useful, for this reason, to consider the approach taken in selected American comprehensive statutes. The statutes are not referred to or intended to be taken as models, but are discussed as examples of the comprehensive approach.

"Assisted Living" is the terminology most commonly used in the United States and the American legislation to refer to housing specifically designed for seniors that includes hospitality and personal care services.¹⁷ Colorado's definition of "Assisted Living" as

13 S.S. P-6.01 Reg. 2.

14 Alberta Regulation 244/94.

15 S.O. 1997 c. 24.

16 For a more detailed discussion on this point, see *A Legal Framework for Supportive Housing for Seniors*.

17 This study uses the terminology of "supportive housing" to refer to the broad spectrum of housing types to avoid confusion in the Canadian context; "Assisted Living" refers to a very specific type of high-need supportive housing in British Columbia.

providing personal services, protective oversight, social care due to impaired capacity to live independently, and regular supervision on a 24-hour basis (but not to the extent that 24-hour medical nursing care is required) is typical. Move In/Move Out Requirements generally specify that a residence shall not admit or keep a resident whose needs exceed the level of service they are able to provide or that exceed their definition.

Some States (such as Arizona and Florida) provide for different licensure categories or level of care categories under a general broad Assisted Living umbrella. Special standards set out in regulations pursuant to assisted living legislation will apply at the higher care levels. Florida, which defines “Assisted Living” as providing housing, food service, and one or more personal services (such as assistance with activities of daily living, or ADLs, and self-administered medication), provides for three “special licenses” (of which an assisted living facility may hold one): an extended congregate care license which allows facilities to provide more extensive ADL assistance and nursing services to frail residents; a limited nursing services license allowing certain nursing services, defined in the regulations; and a limited mental health license which allows facilities to serve low-income, chronically mentally ill residents. The effect of this kind of licensing-within-licensing approach is to provide for specific high-needs groups within a broader regulatory umbrella.

Many States provide for a “Resident’s Bill of Rights,” and include provisions setting out items required to be included in contracts. Mandatory contract requirements combine aspects of consumer protection with legislated minimum standards, included within a comprehensive statute. Recognizing the special nature of the supportive housing context and the special characteristics of supportive housing residents as a group, mandatory contract requirements recognize that generic contract/consumer protection law is, in this setting, inadequate.

A number of state statutes also contain special regulations, within the overall assisted living scheme, for residences providing housing, care and support to persons with Alzheimer’s disease or other types of dementia. Provisions include special training, both pre-hire and ongoing, for staff and administrators.

The following is a summary of the comprehensive regulatory approaches in Florida, Maine, Oregon and Vermont.

a) Florida

Definition: Assisted living facilities provide housing, food service, and one or more personal services (such as assistance with activities of daily living, or ADLs, and self-administered medication).

Scope of Care: Facilities may provide assistance with personal services, including medications. Facilities may hold one of three special licenses: extended congregate care, allowing facilities to provide more extensive ADL assistance and nursing services to frail residents; a limited nursing service license, allowing certain nursing services as defined

in regulations; and a limited mental health license, allowing facilities to serve low-income, chronically mentally ill residents.

Disclosure: None specified.

Third Party Scope of Care: Home health agencies may provide services under contract.

Move In/Move Out Requirements: To be admitted, a resident must be capable of performing ADLs with supervision or assistance; not require 24-hour nursing supervision; be free of Stage II, III, or IV pressure sores; be able to participate in social and leisure activities; be ambulatory; and not display violent behaviour. A resident must be discharged if he or she is no longer able to meet the admission criteria or is bedridden for more than seven days.

Resident Assessment: Within 60 days prior to resident's admission, but no later than 30 days after admission, residents shall be examined by a physician or advanced registered nurse practitioner who shall provide the administrator with a report.

Medication Management: Unlicensed staff may provide hands-on assistance with self-administered medications. Staff must have four hours of medication training by a registered nurse or registered pharmacist.

Physical Requirements: For resident bedrooms designated for multiple occupancy, a maximum occupancy of two persons. Shared bathrooms are permitted.

Alzheimer's Unit Requirements: Facilities that advertise special care for person's with Alzheimer's disease or related disorders must have a physical environment that provides for the safety and welfare of residents; offers activities specifically designed for these residents; has 24-hour staffing available; and employs staff who have completed an eight-hour approved training course and four hours of continuing education per year.

Staffing Requirements: Vary depending on the number of residents; must be sufficient to meet residents' needs; at least one employee certified in first aid to be present at all times.

Staff Education/Training: Direct care staff who have not taken the core training program shall receive service training.

Continuing Education Requirements: Administrators must complete 12 hours of continuing education every two years. Staff in special care units must receive four hours of continuing education per year.

Resident Bills of Rights: The statute includes a Resident Bill of Rights, containing the following enumerated rights:

- Freedom of choice
- Freedom from abuse and restraints

- Privacy
- Grievance
- Accommodation of individual needs
- Participation in groups and other activities
- Access and visitation
- Retain and use personal belongings
- Manage personal financial affairs

Contract: A written contract is required, to include:

- Services and accommodations to be provided by the facility and rates or charges
- Notice (a 30-day minimum notice for rate increases)
- Refund policy
- Purpose of any advance payment
- Religious affiliation of facility

Grievance Procedure: The facility is required to have a grievance procedure for resident concerns, to be established by the facility.

b) Maine

Definition: “Assisted living programs” is an umbrella term including independent housing with services, assisted living programs, and residential care facilities. An assisted living program may provide assisted living services to residents in private apartments in buildings that include a common dining area. Services are provided either directly by the assisted living program or indirectly through contracts with persons, entities or agencies. Residential care facilities (a sub-category within the umbrella) may provide assisted living services, including housing and assistance with ADLs and instrumental activities of daily living (IADLs).

Disclosure: Facilities must disclose grievance procedures and tenancy obligations and supply residents with information packages that contain a contract listing rates charged and information about advance directives. If the facility has an Alzheimer’s unit, it must disclose information pertaining to that unit.

Scope of Care: Assisted living services may include personal supervision, protection from environmental hazards, assistance with ADLs and IADLs, administration of medications, and nursing services.

Third Party Scope of Care: Assisted living services may be provided indirectly through written or verbal contracts with persons, entities or agencies.

Move In/Move Out Requirements: Residents may be “discharged”: if the services they require cannot be met by the facility; if the resident’s intentional behaviour results in substantial damage to the property; or for non-payment or if the resident becomes a direct threat to the health or safety of others.

Resident Assessments: Regular assessments with updates must be carried out.

Medication Management: Administration of medication permitted, including reading labels for residents, observing residents taking medications, checking dosage, removing prescribed dosage, and maintaining medication record.

Physical Requirements: Facilities must be designed to meet the special needs of the population. For resident bedrooms designated for multiple occupancy, a maximum occupancy of two persons. Shared bathrooms are permitted. Minimum square footage provided.

Alzheimer's Unit Requirements: Facilities with dementia units must offer special weekly activities such as gross motor, self-care, social, outdoor, spiritual and sensory enhancement activities. Specific physical design for Alzheimer's units is also specified. Information pertaining to unit must be disclosed.

Staffing Requirements: Specific staff/patient ratios, depending on time of day; on-site administrator required.

Staff Education/Training: Pre-service training required for staff working in dementia units. Staff administering medications must complete a medication course; direct care staff in higher level facilities must complete a Personal Support Specialist course.

Continuing Education Requirements: Administrators must complete 12 hours of continuing education.

Resident Bills of Rights: A Bill of Rights is included by regulation, containing the following enumerated rights:

- Freedom of choice
- Freedom from abuse and restraints
- Privacy
- Grievance
- Accommodation of individual needs
- Continued residence except in enumerated circumstances
- Assistance with finding an alternative place if the resident chooses to relocate or in the event of emergency discharge
- Appeal an involuntary transfer or discharge
- To have rights exercised by a legal representative if the resident loses competence
- Be encouraged in exercising rights
- Participation in groups and other activities
- Access and visitation (receive visitors at any time)
- Right to be fully informed of survey and inspection reports
- Retain and use personal belongings
- Manage personal financial affairs
- A right to be fully informed of services provided, with a plan of service

Contract: A written contract is required, to include:

- Services and accommodations to be provided by the facility and rates or charges
- Any related charges not covered by the program's basic rate
- Resident's right
- Notice (a 60-day minimum notice for changes in rates, responsibilities, services provided, or any other item included in the contract or agreement)
- Grievance procedure
- Religious affiliation of facility

Provisions prohibited:

- Any provision for resident discharge inconsistent with state law
- Requiring or implying a lesser standard of care or responsibility than required by state law
- Requiring a deposit or prepayment except for one month's rent (security deposit)
- Providing for costs of collecting payment from the resident
- Requiring or encouraging a person other than the resident to obligate him or her to pay the resident's expenses

Grievance Procedure: The facility is required to have a grievance procedure for resident concerns, to be established by the facility; the grievance procedure *must* include a written request to the grievant describing disposition of the complaint.

c) Oregon

Definition: "Assisted living" means a building, complex or distinct part thereof consisting of fully self-contained individual living units. The facility offers or coordinates a range of supportive services available on a 24-hour basis to meet ADLs, health and social needs of the residents (as described in the regulations). A program approach is used to promote resident self-direction and participation in decisions that emphasize choice, dignity, privacy, individuality, independence and home-like surroundings.

Disclosure: There is a state-designated disclosure statement that must be provided to each person who requests information about a residence and must be provided to all potential residents prior to moving in. Information includes:

- Terms of occupancy, including policy on the possession of firearms
- Payment provisions
- A description of the service planning process and relationship between service plan and costs
- Philosophy of how care and services are provided to the resident
- Criteria, actions, circumstances or conditions that may result in a move-out notification or move within a facility, and the resident's rights pertaining to that notification
- Staffing plan

Information to be provided to individuals and their families prior to admission to an Alzheimer's Care Unit:

- Philosophy of how care and services are provided to the resident
- Admission, discharge, and transfer criteria and procedures
- Training topics, amount of training spent on each topic, and the name and qualifications of the individuals used to train the direct care staff
- Number of direct care staff assigned to the unit during each shift

Scope of Care: Facilities may care for individuals with all levels of care needed.

Third Party Scope of Care: Not specified.

Move In/Move Out Requirements: No entry requirements; resident may be asked to leave only if resident:

- Has needs that exceed the level of services provided
- Exhibits behaviours or actions that repeatedly and substantially interfere with the rights or well-being of other residents
- Is unable to respond to verbal instructions, recognize danger, make basic care decisions, express need, or summon assistance
- Has a medical condition that is complex, unstable, or unpredictable and treatment cannot be appropriately developed and implemented in the facility
- Has not paid for services
- Exhibits behaviour that is an immediate danger to self or others
- Requires 24-hour, seven-day-a-week nursing supervision
- Is unable to evacuate according to the fire safety code

Resident Assessments: Standard form for Medicaid eligibility and service level payment.

Medication Management: May be administered by specially trained personnel. Nurse delegation rules apply. All medications administered must be reviewed every 90 days by the prescriber, registered pharmacist or registered nurse.

Physical Requirements: Minimum square footage provided. Units may only be shared by couples who choose to live together. Private bathrooms required. May include other extensive physical specifications.

Alzheimer's Unit Requirements: Facilities advertising care to residents with Alzheimer's must apply to the State for an Alzheimer's Special Care Unit Endorsement.

Staffing Requirements: Staff must be sufficient to meet 24-hour scheduled and unscheduled needs of each resident and respond in an emergency situation. A staff member on each shift must be trained in the use of the Heimlich manoeuvre, first aid, and CPR. All staff must have sufficient communication and language skills to enable them to perform their duties and interact effectively with residents and other staff. Prior to

providing care, staff must receive documented and approved orientation and training. Administrators are required to have specific experience and/or education and to complete a State-approved training program.

Staff Education/Training: Direct care staff must complete orientation and training in the following:

- Principles of assisted living
- Changes associated with the aging process, including dementia
- Resident's rights
- How to perform direct ADL care
- Location of resident service plans and how to implement them
- Fire safety/emergency procedure
- Response to behaviour issues
- Standard precautions for infection control
- Food preparation, service and storage
- Observation/reporting skills

Continuing Education Requirements: Administrators must complete 20 hours of continuing education per year.

Resident Bills of Rights: Specified in regulation, to include the following enumerated rights:

- Freedom of choice
- Freedom from abuse and restraints
- Privacy
- Grievance
- Accommodation of individual needs
- Continued residence except in accordance with move-out criteria
- Opportunity for informal conference and hearing in the event of an involuntary transfer or discharge
- To have rights exercised by a legal representative if the resident loses competence
- Be encouraged in exercising rights
- Participation in groups and other activities
- Access and visitation
- Manage personal financial affairs

Contract: A written contract is required, to include:

- Services and accommodations to be provided by the facility and rates or charges
- Any related charges not covered by the program's basic rate
- Billing method, payment system, and due dates
- Resident's right
- Notice (a 30-day minimum notice for changes in rates, responsibilities, services provided, or any other item included in the contract or agreement); immediate written notice at the time the facility determines a resident's service rates will increase due to increased service provision

- Move-out criteria
- Medication policy

Provisions prohibited:

- Resident shall not be asked to waive rights, including liability for negligence

Grievance Procedure: The facility is required to have a grievance procedure for resident concerns, to be established by the facility.

d) Vermont

Definition: An assisted-living residence is a program that combines housing, health and supportive services to support resident independence and aging in place. Within a home-like setting, the residence must offer a minimum of a private bedroom, private bath, living space, kitchen capacity, and a lockable door. Assisted living must promote resident self-direction and active participation in decision-making while emphasizing individuality, privacy and dignity.

Disclosure: A uniform disclosure form is required and must be available to residents prior to or at admission and to the public upon request. Information required includes:

- The services the assisted-living residence will provide
- The public programs or benefits that the assisted-living residence accepts or delivers
- The policies that affect a resident's ability to remain in the residence
- If there are specialized programs offered, such as dementia care, a written statement of philosophy and mission and a description of how the assisted-living residence can meet the special needs of residents
- Any physical features that vary from those required by regulation

Scope of Care: The facility must provide services such as, but not limited to:

- 24-hour staff supervision to meet emergencies, scheduled and unscheduled needs
- Assistance with all personal care activities and Activities of Daily Living
- Nursing assessment, health monitoring, routine nursing tasks, and intermittent skilled nursing services
- Appropriate supervision and services for residents with dementia or related issues requiring support and supervision
- Medication management, administration and assistance

Third Party Scope of Care: Facilities must provide access or coordinate access to ancillary services for medical related care, regular maintenance of devices and equipment, barber/beauty services, social/recreational opportunities, hospice, home health, and other services necessary to support the resident. Residents may arrange for third-party services through a provider of their choice.

Move In/Move Out Requirements: No entry requirements; resident may be asked to leave if the resident:

- Has needs that exceed the level of services provided or through supplemental services
- Poses an immediate threat to him- or herself or to others that cannot be managed through a negotiated risk agreement

If able to do so, a facility may retain residents who need 24-hour on-site nursing care, are bedridden for more than 14 consecutive days, are dependent in four or more ADLs, have severe cognitive decline, have stage III or IV pressure sores, or have a medically unstable condition.

Resident Assessments: Assessment within 14 days of moving in.

Medication Management: If residents are unable to self-administer medication, they may receive assistance from trained facility staff.

Physical Requirements: Minimum square footage provided. Units may only be shared by couples who choose to live together. Private bedroom, private bathroom, living and kitchen space, and lockable door required. Adequate storage space also required.

Alzheimer's Unit Requirements: Must meet the requirements of the Residential Care Homes Licensing Regulations (incorporated by reference into the Assisted Living Licensing Regulations). A residence must also obtain approval based on:

- A statement outlining the philosophy, purpose, and scope of the services to be provided
- A definition of the organizational structure of the unit
- A definition of categories of residents to be served
- A description of the physical environment
- Criteria for admission, continued stay and discharge
- Description of unit staffing, including qualifications, orientation, in-service education and specialized training, medical management, and credentializing

Staff with direct care responsibility shall have training in communication skills specific to persons with dementia.

Staffing Requirements: Staff must have access to the administrator at all times. At least one personal care assistant must be on site and available 24 hours a day to meet scheduled and unscheduled needs. On-site trained staff must be sufficient to meet the needs of each resident. A RN or licensed practical nurse must be on site as necessary to oversee service plans.

Staff Education/Training: All staff must be oriented to the principles and philosophy of assisted living and receive training on an annual basis regarding the provision of services in accordance with the resident-driven values of assisted living. All staff providing personal care must receive training in the provision of personal care activities. Staff with direct care responsibility must have training in communications skills specific to persons with dementia.

The director must have specified credentials, education, or experience.

Continuing Education Requirements: Administrators must complete 20 hours of continuing education per year in courses related to assisted living principles and the philosophy and care of the elderly. All personal care service staff must receive 24 hours of continuing education in courses related to Alzheimer’s disease, medication management and administration, behavioural management, infection control, toileting, bathing, etc.

Resident Bills of Rights: The statute does not include or provide for a Resident Bill of Rights.

Contract: The statute does not require a written contract.

Grievance Procedure: A facility is not required to have a grievance procedure in place.

III. OBJECTIVE

The primary objective of this study is to develop a framework for a model comprehensive statute that would apply to all forms of supportive housing for seniors. The purpose is to provide a useful resource for policy makers in all Canadian provinces and territories.

Another important objective of this study and the ensuing report is to promote and facilitate discussion across Canada as provinces and territories consider and develop their own approach to the regulation of supportive housing for seniors. This process is greatly facilitated by a common language and frame of reference. What are the key issues that must be addressed? What approaches to those issues are possible? What are the benefits and drawbacks of these approaches in this context? A national dialogue should help to prevent the need to constantly “reinvent the wheel” by enabling the provinces and territories to learn from one another’s experiences.

IV. METHODOLOGY

The model comprehensive statute framework¹⁸ was distributed to consultation participants. The model framework distributed for consultation was not prescriptive, but set out the issues that should be addressed and provided a series of directed questions about what, in participants’ opinion, was the most effective way to deal with each of the issues (e.g. should staffing levels be regulated through mandatory legislated standards at all levels, a consumer protection approach, or should staffing levels be regulated differently at different levels?). A prescriptive consultation model, in contrast, would

¹⁸ The model is referred to as a “statute framework” as it does not include the level of detail and specificity that would be contained in a statute that would be implemented at the provincial level.

have presented a single approach, without optional approaches set out for comment and asked participants to state their agreement or disagreement with that approach.

Consultation was carried out through a series of group conference calls,¹⁹ to facilitate national participation in the project. Twenty-six people participated in the consultation process. Participants represented provincial and territorial policy makers from across Canada and a small number of non-government stakeholders.²⁰ Participants were provided with a copy of the statutory framework with embedded, specific questions, and were asked to comment on these questions. Participants also provided feedback of a more general nature on the statutory framework and the study generally and on supportive housing for seniors. In addition to participation in the conference call process, some participants also provided written feedback focusing on specific questions. The framework with embedded questions, along with a summary of participant answers, is provided in Appendix A. A more detailed record of the consultation conference call discussions is provided in Appendix B.

The size and scope of the project²¹ necessarily limited consultation participation, in terms of absolute number and stakeholder group participation. The issue of regulating supportive housing involves many groups whose perspective on these questions would have been extremely valuable: industry and consumer groups within each province and territory, including seniors' organizations, and legal drafters (in addition to policy makers). It may be useful for provinces to hold their own in-depth consultations drawing on the model provided in this report (modified to suit the situation as it exists "on the ground" in each province). Consultation carried out at the provincial and territorial level would achieve greater depth, addressing the existing context of legislation, policy, and sector development in each province and territory and involving a wider range of stakeholders within each province and territory.

V. RESULTS: MODEL COMPREHENSIVE STATUE

A comprehensive statute would include within it, directly or through reference to other legislation, all regulation applying to supportive housing (including legislated mandatory standards, consumer protection provisions, and a mechanism for accreditation) regardless of the type of sector involved (e.g. public, private for-profit, or private not-for profit).

The model set out below reflects and incorporates, as applicable, comments received during the consultation process. It is important to note that consultation participants expressed divergent opinions on several issues; readers may wish to refer to Appendixes A and B to this Report for an account of those discussions.

¹⁹ Each call included several participants, creating a discussion or focus group format.

²⁰ Including representatives from academia, seniors' organizations, accreditation organizations, providers, and residents.

²¹ In terms of budget and timeline.

Part I: Definitions

The definition set out in this section will determine the scope of the statute's application. A broad "umbrella" definition, incorporating a statement of philosophy or general approach, should be adopted here:

"Supportive housing for seniors combines housing health and supportive services to support resident independence and aging in place. Supportive housing must promote resident self-direction and active participation in decision-making while emphasizing individuality, privacy and dignity."

Required minimum features (e.g. a minimum of a private bedroom, private bath, living space, kitchen capacity, and a lockable door) would be overly restrictive and should not be included.

A separate category of supportive housing, for residents with greater or higher service needs, should be provided for specifically within the statute. That category should also be defined in this section, with reference to the kind and level of services provided. Persons who cannot direct their own care (with an exception for persons living with someone with whom they are in a close personal relationship, such as a spouse or sibling) require the higher level of care and regulation that can be provided in a care facility. A dementia-specific category of supportive housing is not appropriate.

Part II: Rights and responsibilities of residents ("Residents' Bill of Rights") and Residents/Family Councils

A Residents' Bill of Rights, to apply in the higher-needs level of supportive housing defined in Part I, is set out in Part II. The Bill of Rights would include the following:

- Freedom of choice
- Freedom from abuse and restraints
- Privacy
- Grievance
- Accommodation of individual needs
- Continued residence except in enumerated circumstances
- Assistance with finding an alternative place if the resident chooses to relocate or in the event of emergency discharge
- Be encouraged in exercising rights
- Participation in groups and other activities
- Access and visitation (receive visitors at any time)
- Right to be fully informed of survey and inspection reports
- Retain and use personal belongings
- Manage personal financial affairs
- A right to be fully informed of services provided, with a plan of service

A Residents' Bill of Rights, if it is not to be mere "window dressing," must have a mechanism to promote and safeguard the rights listed above. This Part would provide for the creation of Residents/Family Councils in the higher-needs level of supportive housing defined in Part I, as a practical and effective means of realizing the rights listed above.

Part III: Rental accommodations (tenure issues)

For supportive housing generally, residential tenancy legislation of general application applies with the following special provisions:

- Longer notice periods regarding rent increase
- Conditions under which a manager may enter a resident's unit shall refer specifically to concerns regarding safety, health and well-being
- Permitted grounds for being asked to move out (eviction) shall deal specifically with the issue of increased resident need for services and/or deterioration in health or mobility. Increased resident need for services and/or deterioration in health or mobility may only be grounds for a resident being asked to leave if those needs cannot be met through externally supplied support services (costs not to be borne by the residence)

This Part shall include a mechanism for securing alternative accommodations in a suitable setting for an individual who is required to leave a supportive housing residence for reasons relating to increased resident need for services and/or deterioration in health or mobility that cannot be met through externally supplied support services.

Part IV: Supportive housing where purchased as a condominium (tenure issues)

Condominium legislation of general application should apply with the following special provisions in the supportive housing context:

- Longer notice periods regarding maintenance and other fee increases
- Conditions under which a manager may enter a resident's unit shall refer specifically to concerns regarding health and welfare (unlike condominiums generally, supportive housing condominium complexes will involve an on-site building manager with a distinct role)
- A separate body for dispute resolution in the supportive housing context shall be established (to deal also with disputes arising across the supportive housing spectrum, whether rental or purchased)

The building manager's role in a supportive housing condominium will be more like the management role in other supportive housing settings than the generic or usual role of condominium building managers. The special provisions of the comprehensive supportive housing statute that apply to management (Part VII) should therefore apply in the condominium setting.

Note that, as condominium owners own their unit, the kind of eviction requirements and processes set out in Part III are not applicable. This Part would require that condominium bylaws be supplied to prospective residents; Part XIII (Information to be provided to residents) and the Checklist requirement set out in Part IV would apply to prospective supportive housing condominium purchasers as to renters.

Part V: Supportive housing where provided through a life lease (tenure issues)

Life lease legislation of general application (Manitoba is currently the only province to have enacted legislation specific to life lease housing)²² should apply in the supportive housing context with the following special provisions:

- Longer notice periods regarding fee increases
- Conditions under which a manager may enter a resident's unit shall refer specifically to concerns regarding health and welfare (unlike condominium's generally, supportive housing condominium complexes will involve an on-site building manager)

Note that, as life lease owners own a life interest in their unit, the kind of eviction requirements and processes set out in Part III are not applicable. This Part would require that life lease bylaws be supplied to prospective residents; Part XIII (Information to be provided to residents) and the Checklist requirement set out in Part IV would apply to prospective supportive housing life lease purchasers as to renters.

Part VI: Hybrid/ "Special" Tenure Situations

A supportive housing development may combine or include different forms of tenure within it: life lease and/or rental apartments may be included on a particular site alongside condominium units for purchase (as opposed to all rental, all condominium, or all life leases). This flexibility may be particularly useful in smaller population centres. Part VI would state that the tenure regulation applying to a particular unit will depend upon the kind of tenure associated with that unit, and where different kinds of tenure are present within a supportive housing development, they will be treated differently for the purposes of tenure regulation. This is a statement of the law as it would currently apply, and this Part is included for purposes of clarity only.

Part VII: Management/Role of Manager

All managers in supportive housing settings, at all levels and whether purchased, leased or rented, will be required to have a basic level of training (a Certificate of Management Training). A certificate course will be developed by the Supportive Housing Standards Office (see Part XVI). The legislation itself should not prescribe the specific matters forming the content of that training. Managers of higher-needs level supportive housing (as defined in section 1) should be required to receive additional training in the form of an "advanced" certificate course to be developed by the Supportive Housing Standards Office.

²² *Life Leases Act* CCSM c. L130.

Part VIII: Complaints procedures/dispute resolution

A separate body for receipt of complaints and dispute resolution in the supportive housing context will be established under this Part to deal with disputes arising across the supportive housing spectrum, including all levels, and whether rented, purchased or leased. That body would deal with the full range of complaints/disputes concerning both tenure and services issues. A complaints/dispute resolution body would be part of a Supportive Housing Standards Office.

Part IX: Monitoring and Assistance Program

The Supportive Housing Standards Office would have responsibility for pro-actively monitoring standards in higher-needs levels of supportive housing. The Office would provide assistance to non-complying residences, with the objective of meeting standards and improving quality. The Office would also provide assistance to requesting supportive housing residences at all levels, with the objective of improving quality. This monitoring and assistance program of the Supportive Housing Standards Office is positioned as a partnership resource for providers.

Part X: Building Standards and Design Features

This Part will apply whether the unit is rented, leased or purchased as a condominium. The content of this Part will be informed by the content of existing building codes of general application in each province. Modern building codes of general application may contain requirements that would meet the needs of residents in supportive housing at the lower-needs level (e.g. limited mobility accessibility, washroom safety features such as grab rails). Where this is the case, the statute will incorporate legislation of general application for lower-needs levels of supportive housing. Where the building code of general application does not meet the requirements of residents in lower-needs supportive housing, the code of general application will be incorporated in this Part with the addition of special requirements (again, dependent on the “gaps” in the existing code).

Special building standards and design features will be set out in this Part for the higher-needs level of supportive housing created in Part I. The content of those standards is a question that requires further review, and should be informed by the significant body of existing literature connecting design features to aging in place and healthy living

Part XI: Services and staff: mandatory standards/consumer protection (lower-needs category)

Provisions under this Part will apply whether a unit is rented, leased or purchased as a condominium, to standards required in lower-level needs supportive housing. Standards will refer to:

1. Support services
 - (i) Hospitality services
 - Housekeeping
 - Meals (frequency; quality)
 - (ii) Personal care
 - (iii) Social and recreational
 - (iv) Home healthcare
 - (v) Administration/storage of medication
 - (vi) Assistance with activities of daily living
 - (vii) Transportation
 - (viii) Other services (such as emergency response services)
2. Sufficiency of services available/provided (in terms of aging in place and continuity of care)
3. Costs
4. Quality (general)
5. Staff
 - a. Levels/ratios
 - b. Training
 - c. Qualification

Standards may be enforced through consumer protection provisions (e.g. consumers must be informed of standards regarding the above items, which can be altered only in accordance with the notice period stipulated in the provision) or through mandating minimum legislated standards (e.g. requiring a specific staff/resident ratio set out in the Act).

A greater number of the matters enumerated in this Part (in contrast to Part XII, below, applying to standards in the higher-needs category of supportive housing) will be regulated through a consumer protection approach. The following matters only require mandatory legislated standards in this setting: staff training; quality (general); access to home health care services; and emergency response.

Part XII Services and staff (higher-needs category)

Part XII would regulate services provided in the higher-needs category defined in Part I. Standards will refer to:

1. Support services
 - (i) Hospitality services

- Housekeeping
 - Meals (frequency; quality)
- (ii) Personal care
 - (iii) Social and recreational
 - (iv) Home healthcare
 - (v) Administration/storage of medication
 - (vi) Assistance with activities of daily living
 - (vii) Transportation
 - (viii) Other services (such as emergency response services)
2. Sufficiency of services available/provided (in terms of aging in place and continuity of care)
 3. Costs
 4. Quality (general)
 5. Staff
 - a. Levels/ratios
 - b. Training
 - c. Qualification

All matters enumerated above require mandatory legislated standards in this setting with the exception of the following (which shall be subject to consumer protection provisions): costs; and social and recreational services.

Part XIII. Information to be provided to residents

A prospective resident (tenant, purchaser or lessee in all levels of supportive housing) must be provided with an “information kit” detailing the following:

1. Types of services that must be purchased as a condition of tenancy, leasehold or ownership
2. Types of services that may be purchased as optional services
3. The cost of each service
4. The period of notice required to change the costs or nature of the service provided (minimum three months)
5. Any existing “house rules”
6. Information about staffing policy (number/ratio of staff, training or qualifications required, if any) and period of notice required to reduce staff ratios or training/qualifications requirements (minimum three months)
7. Types and number of meals available daily, period of notice required to alter types and number of meals available daily (minimum three months)
8. Internal complaints procedure
9. How to access the external complaints procedure (if resident is dissatisfied with or feels uncomfortable using the internal complaints procedure)

10. Policy of residence regarding receipt of home care, including level of care, period of notice required to alter policy (minimum one year)
11. Mandatory legislated standards applying to services provided

Part XIV: A checklist of questions to be provided to prospective residents must include the following (at a minimum):

- Have I fully discussed my decision to enter a supportive housing residence with my family, friends, physician, or a public advice body?
- Have other options such as home care, meals-on-wheels, community-based social services been considered?
- What discussions have I had with residents of the supportive housing residence I have chosen? How did they rate the quality of services and accommodation?
- Will the lifestyle of the residence (including social activities and religion) suit me?
- What are the rules with regard to visitors and live-in guests?
- How will I have to adapt and alter my existing lifestyle to comply with the regulations and restrictions of the residence (about smoking or pets, for example)?
- Are the residents actively involved in making “house rules”?
- Have I sought advice on the documents relating to the supportive housing residence I have chosen from an appropriate source (a lawyer or legal advice clinic)?
- Under what circumstances can I be moved to a different part of the residence? Do I know and agree with the procedure?
- How can the provider terminate my occupancy? Do I agree with the procedure and what are my rights?
- Is my long-term occupancy at the residence secure?
- What protection do I have if the residence is sold to another organization?
- Am I aware of and can I afford to pay all regular costs and any extraordinary costs which can be imposed on me? What arrangements can be made if I can't meet future costs?
- How do the terms and costs of the supportive housing residence I have chosen compare with other assisted-living residences?

- Are the precise services that I require and their cost clearly described and included in the contract?
- Are additional services that I may need in the future clearly described, including their costs, in the contract?
- Is the method for cost increases clearly explained and provided for in the contract?
- What financial and accommodation alternatives do I have if I become too frail to live in the supportive housing residence I have chosen?
- What type of public and/or private transport is available?
- Are pets permitted?
- How accessible are the local shops to my present and future needs?
- [if purchased as a condominium] Are the residents actively involved in decisions concerning the level of maintenance and services provided, their cost, and how these costs may vary in the future?
- [if purchased as a condominium] What are the restrictions on the sale of my unit?
- [if purchased as a life lease] What are the restrictions on the sale of my unit?
- [if provided through a life lease] Do I understand the meaning of “life lease”? Do I understand how a life lease differs from an ordinary condominium purchase?
- Have I sought expert advice about the tenure agreement?
- Have I verified that I will be able to afford the costs involved?

Part XV: Scheme for Accreditation

This section would refer to any scheme for accreditation adopted in the province (an accreditation body would not be required by the legislation), and the body or bodies responsible for implementing it. Accreditation would recognize an “award of excellence” standard and should not be relied on to provide a base or minimum standards level.

PART XVI: Supportive Housing Standards Office

This Part would create a Supportive Housing Standards Office with responsibility for the following: the Certificate of Management Training course; Complaints procedures/dispute resolution; and the Monitoring and Assistance Program.

VI. CONCLUSION

There was consensus among the consultation participants that dialogue between provinces on the issue of regulating supportive housing for seniors was useful and important. Participants expressed that they found their participation in the study to be rewarding and that they looked forward to the final report as a valuable resource.

Legislation in the area of housing is a provincial and territorial responsibility, and any adoption of the model statutory framework, or any part of that framework, will take place at the provincial or territorial level. Discussion between the provinces and territories about ideas and approaches is one extremely helpful stage of this process; consultation at the provincial and territorial level, involving local stakeholders, is another. This study and report can be considered as stage one in a two-stage process; stage two would involve consultation at the provincial and territorial level, drawing on the exchange of ideas compiled in stage one.

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APPENDIX A

Summary of Consultation Responses

On the general question of whether a single, comprehensive statute was the best approach to the regulation of supportive housing (as opposed to multiple sites of regulation applying to the sector), opinion was mixed. There was some strong support for this approach and some opinion that legislation would be overly restrictive and unable to adapt. Other respondents took a “wait and see” approach, as policy around supportive housing and other related issues continued to develop in their own provinces.

There was agreement that different levels of supportive housing need to be identified and that a different approach to regulation is appropriate for different levels. Some areas of general (not total) agreement or consensus did emerge; these are identified and discussed below.

Part I: Definitions

The definition set out in this section will determine the scope of the statute’s application. The statutory provisions will apply to residences that are included within this definition. A broad “umbrella” definition should be adopted here; specific sub-categories or types of supportive housing will be provided for within the statute:

“Supportive housing for seniors combines housing, health and services to support resident independence and aging in place. Within a home-like setting, the residence must offer accommodations with a minimum of a private bedroom, private bath, living space, kitchen capacity, and a lockable door. Supportive housing must promote resident self-direction and active participation in decision-making while emphasizing individuality, privacy and dignity.”

Question #1: Is a broad definition of this kind, incorporating a statement of the supportive housing philosophy, appropriate? Why or why not?

Summary of responses: Participants had several views about the question of the broad definition included in the model. Several participants expressed a concern that defining supportive housing in legislation would be restrictive and exclusionary, entrenching a specific definition that might then become obsolete. Other participants were in favour of a definition. There was some agreement that a definition should not include a statement of philosophy; if included in the legislation, a statement of philosophy should appear elsewhere. There was general agreement that a broad definition should refer to privacy; some consultees were concerned with the minimum requirements contained in the model definition on the basis that minimum requirements would impede flexibility.

Question #2: Should a separate category within supportive housing generally be created for individuals with higher needs? If so, should this category be established with reference to higher needs generally (the “assisted living” approach) or should a dementia-

specific category be established? Or, should two separate categories within supportive housing generally be created (an “assisted living” category and a dementia-specific category)?

The answer to question #2 will carry through all subsequent Parts of the Act. Depending on the number of categories of supportive housing created, each Part below may have different sub-parts for the different categories. In Part II, for example, a separate “Bill of Rights” can be created for the different categories.

Summary of responses: There was general agreement that different levels of supportive housing were necessary. Setting the boundaries between the levels would be difficult, but necessary. There was some agreement that categories should be defined with reference to the need for staff support and services; others felt that the need for supervision should be definitive.

Part II: Rights and responsibilities of residents (“Residents’ Bill of Rights”)

Many supportive housing statutes include a residents’ bill of rights:

- Freedom of choice
- Freedom from abuse and restraints
- Privacy
- Grievance
- Accommodation of individual needs
- Continued residence except in enumerated circumstances
- Assistance with finding an alternative place if the resident chooses to relocate or in the event of emergency discharge
- Appeal an involuntary transfer or discharge
- To have rights exercised by a legal representative if the resident loses competence
- Be encouraged in exercising rights
- Participation in groups and other activities
- Access and visitation (receive visitors at any time)
- Right to be fully informed of survey and inspection reports
- Retain and use personal belongings
- Manage personal financial affairs
- A right to be fully informed of services provided, with a plan of service

Question #3: Is a residents’ bill of rights appropriate for the broad range of supportive housing forms or is it appropriate only in a higher-needs setting (generally referred to in Canada as “assisted living”)? If a residents’ bill of rights applied only in a higher-needs setting, the rights enumerated could explicitly address/refer to matters of particular relevance to individuals in that setting (see, for example, the Residents’ Bill of Rights provided in section 2 of Ontario’s *Nursing Home Act*). It can be argued that a residents’ bill of rights is not appropriate in a lower-needs setting or that different versions of a residents’ bill of rights should be articulated for different levels.

Summary of responses: Respondents were generally, with some exceptions, unconvinced that a bill of rights in this context would be useful and that it was of no realistic use to residents and a possible source of mischief for providers. The information contained in a bill of rights would be more usefully contained in and conveyed to residents through the information pack and checklist discussed in a later part of the consultation document. Some participants did feel that a bill of rights would be useful, especially at a higher-needs level.

Part III: Rental accommodations (tenure issues)

For supportive housing generally, residential tenancy legislation of general application should apply with the following special provisions:

- Longer notice periods regarding rent increase, eviction
- Conditions under which a manager may enter a resident's unit shall refer specifically to concerns regarding safety, health and well-being
- Permitted grounds for being asked to move out (eviction) shall deal specifically with the issue of increased resident need for services and/or deterioration in health or mobility. Legislation may provide that increased resident need for services and/or deterioration in health or mobility may only be grounds for a resident being asked to leave if those needs cannot be met through externally supplied support services (costs not to be borne by the residence). This Part shall include a mechanism for securing alternative accommodations in a suitable setting for an individual who is required to leave a supportive housing residence for these reasons
- A separate body for dispute resolution in the supportive housing context shall be established (to deal also with disputes arising across the supportive housing spectrum, whether rental, purchased or life lease)

Special provisions under this Part may apply to special categories created in Part I, for example, longer notice periods. Prohibitions on pets also need to be carefully considered. Pets are important companions for many seniors, and there may be benefits to health and well-being associated with access to pets.

Question #4: Do you agree with this approach to the regulation of tenure issues, the legislation of general application would apply with certain special provisions effective in the supportive housing context? Who should be responsible under this Part for securing alternative accommodations where a resident is required to leave? This Part would refer to legislation of general application, and set out the special provisions. Note that no mandatory legislated standards would apply.

Summary of responses: Respondents had a great deal to say about the residential tenure issues. With some reservations, there was general agreement that the residential tenancy legislation of general application in the province should apply to supportive housing. The issue of eviction planning, a coordinated response regarding next steps when an

individual is evicted from a supportive housing environment (at any level) emerged as a key area of concern.

Part IV: Supportive housing where purchased as a condominium (tenure issues)

Condominium legislation of general application should apply with the following special provisions in the supportive housing context:

- Longer notice periods regarding maintenance and other fee increases
- Conditions under which a manager may enter a resident's unit shall refer specifically to concerns regarding health and welfare (unlike condominiums generally, supportive housing condominium complexes will involve an on-site building manager with a distinct role, described in more detail below)
- A separate body for dispute resolution in the supportive housing context shall be established (to deal also with disputes arising across the supportive housing spectrum, whether rental or purchased)

The issue of the circumstances under which a condominium owner may be asked to leave is more complicated than in the rental context. Restrictions relating to increased need/health or mobility deterioration would, in effect, require residents to sell their unit in a relatively timely fashion, raising issues of fairness. This is a policy issue that requires careful debate: should these kinds of restrictions be permitted where supportive housing is purchased as a condominium? Legislation providing that increased resident need for services and/or deterioration in health or mobility can only be grounds for a resident being asked to leave if those needs cannot be met through externally supplied support services may (at least partially) redress the fairness issue.

Pets raise special issues in the supportive housing context; while condominium strata councils frequently have restrictions on pets, pets are significant for many seniors and there are suggestions that contact with pets is a benefit for health and well-being.

The role of a "building manager" will also be different in the supportive housing context than in condominiums generally. The building manager's role in a supportive housing condominium will be more like the management role in other supportive housing settings than the generic or usual role of condominium building managers. The special provisions of the comprehensive supportive housing statute that apply to management should therefore apply in the condominium setting.

Question #5: Do you agree with this approach to the regulation of tenure issues, the legislation of general application would apply with certain special provisions effective in the supportive housing context? This Part would refer to legislation of general application, and set out the special provisions. Note that no mandatory standards would apply.

Question #6: Are moving-out criteria relating to increased need/health or mobility deterioration appropriate in the context of purchased condominiums? If so, how should

the fairness issues raised be fully addressed? If not (where different categories have been created in Part I), are resident health and safety concerns adequately addressed?

Summary of responses: Respondents did not generally have experience of condominium or life lease supportive housing, and responses to this section were therefore extremely limited. There was some support expressed for the general approach set out in the model, namely, that legislation of general application should apply with certain exceptions. A potentially difficult issue in this context is the question of difficult behaviours, addressed by one respondent. The comment of another respondent regarding eviction in the rental context underlines the particular significance of conduct issues in this context, given the significance of common space in the supportive housing context.

Part V: Supportive housing where provided through a life lease (tenure issues)

As under Part IV, issues of fairness arise around the question of move-out/eviction criteria. Legislation providing that increased resident need for services and/or deterioration in health or mobility can only be grounds for a resident being asked to leave if those needs cannot be met through externally supplied support services may (at least partially) redress the fairness issue, although the matter is even more complicated here than in the condominium purchase context.²³ Does the holder of a life lease retain any interest on being asked to leave (“life” being the duration of a life lease)? If so, it will be of far less value than the interest a condominium owner would have in similar circumstances (even if he or she was forced by the circumstances to sell at a less than optimum price), and it may be very difficult to realize any return on that interest. This question requires special consideration.

Apart from the question referred to above, life lease legislation of general application (Manitoba is currently the only province to have enacted legislation specific to life lease housing)²⁴ should apply in the supportive housing context with the following special provisions:

- Longer notice periods regarding fee increases
- Conditions under which a manager may enter a resident’s unit shall refer specifically to concerns regarding health and welfare (unlike condominium’s generally, supportive housing condominium complexes will involve an on-site building manager)
- A separate body for dispute resolution in the supportive housing context shall be established (to deal also with disputes arising across the supportive housing spectrum, whether rental or purchased)

Pets raise particular issues in this context as in the condominium context.

Question #7: Do you agree with this approach to the regulation of tenure issues, the legislation of general application would apply with certain special provisions effective in

²³ See *An Examination of Life Lease Housing Issues* (2007: CMHC) <http://www.cmhc.ca/od/?pid=65427>

²⁴ *Life Leases Act* CCSM c. L130.

the supportive housing context? This Part would refer to legislation of general application and set out the special provisions. Note that no mandatory standards would apply.

Question #8: Are moving-out criteria relating to increased need/health or mobility deterioration appropriate in the context of life lease? If so, how should the fairness issues raised be fully addressed? If not (where different categories have been created in Part I) are resident health and safety concerns adequately addressed?

Summary of responses: See “summary of responses” provided under Part IV, “Supportive housing where purchased as a condominium (tenure issues).”

Part VI: Hybrid/ “Special” Tenure Situations

A supportive housing development may combine or include different forms of tenure within it: life lease and/or rental apartments may be included on a particular site alongside condominium units for purchase (as opposed to all rental, all condominium, or all life leases). This flexibility may be particularly significant in smaller population centres. Part VI would clarify the question of what form of tenure regulation will apply to a particular unit within this kind of mixed development, and allow for diversity of tenure forms within a single development while clarifying any potential confusion that might otherwise result from this approach.

Question #9: Do any other issues arise from hybrid, mixed or other special tenure circumstances that should be addressed within a comprehensive supportive housing statute?

Summary of responses: Respondents agreed these issues may be important and should be provided for, but no more specific comment was received.

Part VII: Management/Role of Manager

The specific duties of a manager of a supportive housing residence should be set out in this Part. Any education/training requirements should also be provided for here.

Question #10: Should Part VII apply to managers of all supportive housing or only to managers of any higher-needs special categories of supportive housing for seniors that are created under Part I? What specific duties should be enumerated under this Part (for supportive housing generally and for higher-needs categories)? What, if any, training and education requirements should be provided for (for supportive housing generally and for higher-needs categories)?

Summary of responses: There was some support for a training requirement for managers in supportive housing, although there was dissent on whether training should be mandatory (legislated) or voluntary.

Part VIII: Complaints procedures/dispute resolution

A separate body for receipt of complaints and dispute resolution in the supportive housing context shall be established to deal with disputes arising across the supportive housing spectrum, including all and any categories, and whether rented, purchased or leased. This body would deal with the full range of complaints/disputes concerning both tenure and service issues. A complaints/dispute resolution body would be part of a Supportive Housing Standards Office, which would also be responsible for inspections.

Question #11: Do you agree that a stand-alone body for dealing with complaints/disputes in the supportive housing context is necessary? Do you agree that such a body should be constituted as part of a Supportive Housing Standards Office? How should a Supportive Housing Standards Office be constituted? An alternative would be to require each residence to institute its own procedure; this may be cumbersome for smaller independent residences and may raise conflict-of-interest issues.

Summary of responses: The issue of complaints procedures and dispute resolution was the focus of considerable interest and discussion. There was some support for the idea of a supportive housing office that would take responsibility for disputes relating to all issues arising across this sector (as suggested in the model). Other respondents were strongly opposed to the idea, stressing that many avenues for complaint and dispute resolution already existed. There was some discussion of confusion and difficulty for the individual navigating his or her way through these multiple avenues. It was also noted that the expertise located in these multiple sites was valuable. There was some consensus that a director figure would be helpful, to assist the individual in the supporting housing setting in navigating existing avenues for complaint and dispute resolution.

Part IX: Inspection

A system for inspections can be put in place for supportive housing generally or only for any higher-needs categories created under Part I. It may be that, outside of the special categories, an accreditation system (provided for below) is sufficient for the purpose of ensuring quality through outside inspection. It may be that accreditation or other mechanisms apart from inspection are sufficient across the supportive housing spectrum. Inspectors, if provided for, should be associated with the body providing for complaints and dispute resolution within a Supportive Housing Standards Office.

Question #12: Should mandatory inspections be limited to any higher-needs categories of supportive housing or apply to supportive housing generally? Is mandatory inspection unnecessary across the supportive housing spectrum?

Question #13: If inspection is necessary at any or all levels, what matters should inspection apply to? What should the outcome of inspection be? In some jurisdictions (Australia, for example²⁵) inspection failure is followed by support to assist the residence

²⁵ See discussion, *A Legal Framework for Supportive Housing for Seniors*, 2005.

in meeting standards (with the objective of ensuring and improving quality rather than fining or even closing residences that do not meet standards).

Question #14: Should inspection and complaints/dispute resolution services be housed together in a Supportive Housing Standards Office? If not, what body should be responsible for carrying out inspections?

Summary of responses: There was some consensus that the language of “inspection” was unhelpful and that review or monitoring would be more appropriate, with the objective of assisting problem residences to meet standards. Some respondents noted that different aspects of supportive housing were already subject to inspections of general application. There was a diversity of opinion on this issue, with several insightful comments contributed.

Part X: Building Standards and Design Features

Any provisions under this Part will apply whether the unit is rented, leased or purchased as a condominium.

Question #15: For supportive housing generally (as opposed to higher-needs special categories), is it necessary/appropriate to require any building standards and features beyond those required by standard building codes? If so, what features must be provided for? If higher-needs special categories are created under Part I, what building standards and features beyond those required by standard building codes (if any) should be provided for? If no special categories are created by Part I, is it necessary to require special standards and features for *all* supportive housing?

Summary of responses: There was support for the idea that there should be special features to facilitate aging in place and maintaining independence, with particular features required in higher levels of supportive housing. One respondent noted the significant literature connecting design to aging in place and healthy living in this context; building/standard feature requirements should incorporate this knowledge. Another respondent noted that modern building codes of general application may already have requirements that would apply to the needs of residents in supportive housing generally, although further standards may be helpful (contained in supportive housing legislation).

Part XI: Mandatory standards/consumer protection (general)

Provisions to apply whether unit rented, leased or purchased as a condominium.

Could apply to:

- Building standards and design features
- Services (meals, housekeeping)
- Staffing

Question #16: For supportive housing generally (as opposed to higher-needs special categories), is it necessary/appropriate to require any building standards and features beyond those required by standard building codes? If so, what features must be provided for? If no special categories are created by Part I, it will be necessary to require special standards and features for *all* supportive housing.

Question #17: For supportive housing generally, should services such as meals and housekeeping (in terms of content, quality and cost) be regulated through consumer protection provisions? This would require providing full information to residents, with no changes to items described without notice as set out in the legislation.

Question #18: If services are best regulated through a consumer protection approach, what period of notice would be adequate in the supportive housing context?

Question #19: Are minimum legislated standards regarding services required in the supportive housing context to maintain standards?

Question #20: Regarding staff, should the following matters be regulated in the general supportive housing context through consumer protection, accreditation or mandatory legislated standards?

- Staff ratios
- Staff qualifications
- Ongoing training

Whether or not special higher-needs categories of supportive housing have been created will be relevant to these questions.²⁶ For example, different services may be provided in higher-needs settings, and it may be more desirable to require qualification with regard to staff and ongoing training.

Summary of responses: On the issue of regulation of services and staff, respondents were asked to consider whether a consumer protection or mandatory legislated standards approach would be appropriate regarding:

- particular kinds of services or service issues or issues involving staff (i.e. levels, training)
- different levels of supportive housing where different levels have been created

²⁶ See, for example, the categories set out in the discussion of selected American comprehensive statutes. In British Columbia, “assisted living” refers to supportive housing for seniors with greater care needs (requiring services of greater intensity). In the U.K., the categories “sheltered housing” and “very sheltered housing” are used (see discussion, *A Legal Framework for Supportive Housing for Seniors*, 2005.) The key concept is the development of different needs-based categories within supportive housing to which different regulation applies, and not the particular terminology that is used or scope of categories created, which will vary between jurisdictions.

There was a general consensus that a mixture of approaches would be suitable and that the appropriate mixture at each level would be different (at the lower level, most matters can be managed using a consumer protection approach, for example). The fundamental task was to identify, at each level, those matters/issues that should be considered essential or minimal. This identification was not self-evident from the list of issues that was set out in the model statutory framework, but would require a policy discussion in each jurisdiction to identify those essential matters at each level.

Part XII: Mandatory standards/consumer protection (categories within supportive housing)

Part X would regulate services provided in special categories within supportive housing only. It may be that services adequately dealt with as consumer protection issues in supportive housing generally should be subject to mandatory legislated standards in higher-needs settings. Meals may be properly classed as a “hospitality service” for residents of other kinds of supportive housing, but have important health implications for frailer assisted-living residents. Legislative standards may be unnecessary and overly cumbersome in the first context, and a necessary protection in the second.

Question #21: Should services such as meals and housekeeping (in terms of content, quality and cost) be subject to mandatory legislated standards? Is a consumer protection approach sufficient for any/all of these services? For this purpose, should a distinction be drawn between assisted living/dementia categories (if created by Part I)?

Question #22: Regarding staff, should the following matters be regulated through consumer protection, accreditation or mandatory legislated standards?

- Staff ratios
- Staff qualifications
- Ongoing training

For this purpose, should a distinction be drawn between assisted living/dementia categories (if created by Part I)?

Summary of responses: See “summary of responses” provided under Part XI “Mandatory standards/ consumer protection (general).”

Part XIII. Information to be provided to residents

A prospective resident (tenant, purchaser or lessee) must be provided with an “information kit” detailing the following:

1. Types of services that must be purchased as a condition of tenancy, leasehold or ownership
2. Types of services that may be purchased as optional services
3. The cost of each service

4. The period of notice required to change the costs or nature of the service provided (minimum three months)
5. Any existing “house rules”
6. Information about staffing policy (number/ratio of staff, training or qualifications required, if any) and period of notice required to reduce staff ratios or training/qualifications requirements (minimum three months)
7. Types and number of meals available daily, period of notice required to alter types and number of meals available daily (minimum three months)
8. Internal complaints procedure
9. How to access the external complaints procedure (if resident is dissatisfied with or feels uncomfortable using the internal complaints procedure)
10. Policy of residence regarding receipt of home care, including level of care, period of notice required to alter policy (minimum one year)
11. Mandatory legislated standards applying to services provided

The information kit must also include information about any legislated standards applying to services provided (i.e. content and quality of meals, requirements regarding staffing ratios, complaints/dispute resolution procedure established by statute, etc.).

Question #23: Do you agree that requiring this information to be provided to residents (a requirement set out in legislation) would be helpful? Not helpful? Explain. Is there any additional information that should be required?

Summary of responses: There was a general consensus in all groups that an information pack should be provided to residents, with respondents quite enthusiastic about this idea. Respondents agreed that information provided should include a clear reference to the circumstances under which a resident may be required to leave.

Part XIV: A checklist of questions to be provided to prospective residents must include the following:

- Have I fully discussed my decision to enter a supportive housing residence with my family, friends, physician, or a public advice body?
- Have other options such as home care, meals-on-wheels, community-based social services been considered?
- What discussions have I had with residents of the supportive housing residence I have chosen? How did they rate the quality of services and accommodations?
- Will the lifestyle of this residence (including social activities and religion) suit me?
- What are the rules with regard to visitors and live-in guests?

- How will I have to adapt and alter my existing lifestyle to comply with the regulations and restrictions of the residence (about smoking or pets, for example)?
- What system is in place for the resolution of disputes?
- Are the residents actively involved in making “house rules”?
- Have I sought advice on the documents relating to the supportive housing residence I have chosen from an appropriate source (a lawyer or legal advice clinic)?
- Under what circumstances can I be moved to a different part of the residence? Do I know and agree with the procedure?
- How can the provider terminate my occupancy? Do I agree with the procedure and what are my rights?
- Is my long-term occupancy at the residence secure?
- What protection do I have if the residence is sold to another organization?
- Am I aware of and can I afford to pay all regular costs and any extraordinary costs which can be imposed on me? What arrangements can be made if I can't meet future costs?
- How do the terms and costs of the supportive housing residence I have chosen compare with other assisted-living residences?
- Will the unit, building and site be accessible if I become disabled and need a wheelchair or walking aid? If not, can modifications be made easily?
- What services specially designed for older people does the residence provide, e.g. nursing care, access to nursing care, an emergency call system? Do these services meet my present needs and my expected future needs?
- Are the precise services that I require and their cost clearly described and included in the contract?
- Are additional services that I may need in the future clearly described, including their costs, in the contract?
- Is the method for cost increases clearly explained and provided for in the contract?
- What financial and housing alternatives do I have if I become too frail to live in this supportive housing residence?

- What type of public and/or private transport is available and does it meet my needs?
- Are pets permitted?
- How accessible are the church, local shops and pharmacy to my present and future needs?
- [if purchased as a condominium] Are the residents actively involved in decisions concerning the level of maintenance and services provided, their cost, and how these costs may vary in the future?
- [if purchased as a condominium] What are the restrictions on the sale of my unit?
- [if purchased as a life lease or condominium] Are there any circumstances under which I cannot remain in my unit? What will happen if I no longer choose to remain, or cannot remain, in my unit?
- [if purchased as a life lease or condominium] Have I received professional advice regarding this purchase?
- [if purchased as a life lease] What are the restrictions on the sale of my unit?
- [if provided through a life lease] Do I understand the meaning of “life lease”? Do I understand how a life lease differs from an ordinary condominium purchase?
- [if purchased as a life lease] Are the residents actively involved in decisions concerning the level of maintenance and services provided, their cost, and how these costs may vary in the future?
- Have I verified that I will be able to afford the costs involved?

Question #24: Do you agree that requiring a checklist to be provided to residents (a requirement set out in legislation) would be helpful? Not helpful? Explain. Are there any additional questions that should be included? If so, what should these additional questions be? Is the question format helpful?

Summary of responses: Respondents supported the kind of checklist supplied in the model statutory framework, although the particular checklist in the model needs modification.

Part XV: Scheme for Accreditation

This section would describe any scheme for accreditation adopted and the body or bodies responsible for implementing it. Accreditation should be a prerequisite for receipt of government funding (government funding also becomes an incentive for accreditation) or for the residence to be listed in a community seniors housing directory.

Question #25: What body should administer an accreditation scheme? Would it be appropriate to house this function with the Supportive Housing Standards Office referred to in question 12? If not, what kind of body or organization, in your opinion, would be the most suitable to administer an accreditation scheme (a non-profit or provider organization, for example)?

Question #26: Do you agree that accreditation should be a prerequisite for receipt of government funding?

Summary of responses: Accreditation schemes were generally approved of. A participant representing a voluntary accreditation body strongly believed that accreditation should not be relied on to provide a base or minimum standards level, but should apply to recognize an “award of excellence” level. Respondents generally agreed that accreditation schemes should be administered by an independent (third party), not-for-profit association. There was some discussion about how the particular situation of each province should affect the form of any scheme adopted; regional accreditation may be appropriate for some areas, and it was noted that an accreditation scheme should “piggyback” on any existing scheme.

XVI: Contracts

Question #27: Should supportive housing legislation include a model contract? Should supportive housing contracts set out mandatory terms? Should distinctions for this purpose be drawn between different categories of supportive housing?

Summary of responses: There was little support for providing a model contract in the legislation; a better approach would be to identify a limited number of mandatory terms (items that must be included in the contract) and specify those in the legislation. Identification of what the mandatory standards would *be* would follow on the policy process of identifying essential or minimum standards at each level (the process referred to in the discussion of Part XI and Part XII, Mandatory standards/consumer protection).

APPENDIX B

Detailed Responses Received During Consultation

General

- **The Moderator** explained the objectives of the consultation. There are significant variations on the ground in the systems already in place in the provinces. The objective is not to impose a uniform system on the provinces or require provinces to scrap their existing systems to adopt a uniform regulatory approach. It is hoped that provinces will find the model framework set out here useful as raw material that they can think about modifying or using as appropriate in connection with their own existing systems or policy approaches. It may be useful for provinces to hold their own in-depth consultations using the model provided in this project (modified to suit conditions in each province). Consultation carried out at the provincial level would be more in depth and involve a wider range of stakeholders than the consultation carried out for this project. Ideally, the report resulting from this project will be stage one, with stage two consisting of consultation at the provincial level that draws on the work of stage one. Any legislation resulting from this process will, of course, be provincial and must relate to the systems in place in each province (and there are significant differences between provinces).
- Discussion about whether or not an Act was necessary has been going on since 2003, when the discussion around assisted living started at the provincial level. We believe that there must be an Act that brings together supportive housing more generally and assisted living and that the current Office of the Registrar for Assisted Living is the appropriate body to bring the two together (this comment was not made by any person associated with the Office of the Registrar). There is currently no consumer protection for seniors in supportive housing.
- The industry perspective is extremely important: governments may not always be aware of the range of supportive housing that exists.
- The reason you would not hear from assisted-living residents is that nearly all are lacking in energy and in some cases confused [comment from assisted-living resident]. People do not have mental illness as such.
- Terminology is an issue: the different terminology used in different places and even within the province is bewildering and confusing for consumers. Agreement on this point.
- With regards to terminology, the private/public distinction is very important. Supportive housing is, broadly, housing with services according to needs; adequate provision of services in place is a crucial issue.

- BC’s “assisted living” sounds like New Brunswick’s “special care homes” system. New Brunswick’s special care homes are for profit. New Brunswick has made the policy decision to concentrate public funds on providing in-home services.
- Existing assisted living legislation in BC should be incorporated by reference in any new comprehensive statute; health needs in this setting would be so comprehensive that they would need to be regulated through reference to the assisted living legislation in BC. Given that BC has an assisted living statute, that legislation should be amended to bring in a wider range of supportive housing.
- Aging in place needs to be central to any scheme; if this is a person’s home, he or she should be entitled to 24-hour care, if necessary, as an option.
- Ability to pay is important here and cannot be ignored; the financial reality in each province needs to be taken into account.
- Aging in place is key, as a principle and policy objective. However, it is not realistic to promise to provide 24-hour care, if needed, and not appropriate to raise expectations that it can be provided. Cost is an issue, but so is medical complexity; in some situations aging in place simply won’t be appropriate or safe.
- Existing supportive housing residences were built under different building code requirements; this has great significance for achieving the objective of aging in place with existing building stock (working elevators, for example).
- I am also concerned about the issue of what happens to spouses. Several times I have heard of widows being evicted or moved to smaller quarters because they were now alone in life. The whole issue of bereavement, palliative care, and death somehow need to be covered. Support for people who lack family is another important issue.
- I must mention the importance of ethnicity and the need for translation services among managers, the issue of what to do in an emergency with people who don't speak the language and so on.
- Storage, in a safe clean secure locker, is crucial (for seasonal clothes, sport equipment, albums, treasures and so on) and a major concern.

Part I: Definitions

- The broad definition as provided is good for the purpose of facilitating discussion between provinces. The philosophy should not be stated within the definition, however, but elsewhere. The philosophy within the definition may create problems of application, that is, the question of who the legislation applies to,

- A definition needs to stress the nature of supportive housing as a person's home.
- Agreement that any expression of philosophy needs to emphasize the home. The minimum requirements as expressed in the example provided in the consultation document are too specific and would exclude many existing variations. Minimum requirements need to be more inclusionary. Minimum standards are possible and they should be provided for in a definition, but they need to be more inclusionary. The primary feature that needs to be stressed is privacy.
- I would not incorporate minimum requirements in this Part.
- Privacy may not be a practical reality in all respects (a person may need assistance with bathing, for example; privacy regarding use of the kitchen may not be realistic).
- Regulating money management is an important concern. If there was a requirement that money management be dealt with separately (by persons or a body outside of the supportive housing residence), a worrying area of potential vulnerability would be alleviated. Removing that worry would enable residents to stay longer in supportive housing.
- The broad definition and contextual statement it provides is helpful. Supportive housing is a new concept and a broad definition is useful.
- The statement of intention and philosophy in this part is problematic; statement of philosophy, if included at all, should be included elsewhere. Agreement with this.
- Support for idea of a policy framework for supportive housing, not a legal concept or framework. A legal definition is dangerous, invites contests or lawsuits; a non-legal framework is more appropriate, more workable in this context.
- **Moderator:** What do people think about the large umbrella category of supportive housing? Or should there be several different (and separately defined) categories of housing with supports?
- Alberta has recognized that in several settings (long-term care, for example), a home-like setting should be emphasized; so the lines are being blurred here. What is the distinct category of supportive housing (if long-term care also involves a home-like setting)? Alberta is thinking about defining continuing care as the broad umbrella category, which would include supportive housing types and also long-term care, rather than supportive housing as a broad category. This is the case for both private and public forms of care; many settings have many levels of clients or residents within them.

- It must be possible for higher-needs clients to stay in place; any definition needs to facilitate or accommodate that.
- Manitoba also conceptualizes the appropriate “umbrella” category, for the purposes of policy, as an aging-in-place continuum; home care is the cornerstone of this continuum, delivered in all settings (with the exception of the care home or nursing home).
- Legislation is problematic; it is difficult to amend legislation to reflect the changing realities “on the ground.” Legislation tends to refer backwards to problems and situations that existed at the time the legislation was proposed. Change is constant in this sector at this time, and regulation must be capable of being responsive to these changes.
- There is a tension between aging in place as an objective and entrenching a definition in the legislation; a legislated definition can have the effect of excluding individuals because they fall outside of that legislated definition (even where their needs can be accommodated, realistically, within the current setting).
- I am in favour of including a definition in the legislation.
- I am also in favour of a definition statement in the legislation, but it needs to be broad; the one provided in the model is too detailed (i.e. the reference to 1 bedroom). Also, meals are an essential aspect of supportive housing; a definition must include a reference to meal provision. It is essential to identify key aspects of supportive housing, and reference those in a definition.
- **Moderator:** Other discussants have suggested that the principle of privacy as key in supportive housing should be emphasized in a definition, rather than enumerating specific items relating to privacy (such as lockable single occupancy bedroom, etc.)
- I would agree with that point; that the principle of privacy should be emphasized here.
- I would support reference to and emphasis of the principles of privacy and choice; are certain support services key to the definition of supportive housing? Yes, they are.
- I don't like the reference to “home-like”; supportive housing is not home-like but home; agreement with this point.
- You say that the comprehensive statute would include within it reference to other legislation. I am not aware of an umbrella approach to health that may include attention to ethnocultural issues, family relationships, addictions (drunkenness), grooming needs (hair, nails), laundry, recreation, fluctuating dementia, broken

bones, temporary confusion, falls, mild strokes, TIAs, deafness, blindness, and so on. Probably most are covered somehow, but where? Similarly, the mobility aspect will need detailed coverage, including access, in legislation. Transportation is another issue. I am not sure how these and other issues can be coped with under the umbrella definition.

- In the BC government, there's a resistance to preambles, statements of purpose, etc. The feeling is that courts may interpret them, especially in the context of other sections, in unintended ways.

Levels or sub-categories of supportive housing

- General consensus: categories of higher-needs supportive housing, or levels, are necessary.
- In BC, this question has been answered with the creation of assisted living as a defined category; dementia is an appropriate condition for a care facility setting.
- I think there should be separate categories, as the needs and capacities of the client population can vary significantly. For instance, there is a big difference between residents who are capable of making decisions on their own behalf and those who aren't.
- There is agreement that privacy is key in this Part. For many people living in supportive housing or thinking about living in supportive housing living with dementia suffers is a worry. [**Moderator:** this may be related to privacy concerns; dementia sufferers require more oversight and intervention, which impacts privacy generally.] Because, in part, of the privacy issue, a separate category for severe dementia is necessary (mild dementia is another matter).
- Special fire marshal regulations apply where residents have dementia.
- A higher-needs category should be included within a broad umbrella category of supportive housing, excluding housing for people with extreme dementia (people who can no longer direct their own care).
- Supervision is the key issue setting the boundary between levels of supportive housing.
- General consensus within all consultation participants: setting the boundary is difficult, but a key issue to be grappled with.
- There are 4 levels created by the supported living framework in Alberta; the levels are defined with reference to clients' needs for services (the kinds of hospitality services and services related to health needs). One facility may be able

to accommodate various levels, meaning that if a resident develops higher needs, he or she can stay in place and not have to move to another level.

- The issue of dementia has an important physical aspect. There are many providers who would like to be able to accommodate residents with mild dementia. It is estimated that 40% of supportive housing clients/residents do in fact suffer from mild dementia, that this is in fact a key reason for people to move into supportive housing [a reason for caution on creating a dementia-specific category that would include mild dementia].
- New Brunswick care homes do have higher-needs categories. Private homes are currently pressing to house people in those higher-needs categories. There is a desire on the part of the province not to be too prescriptive in terms of dictating to private providers who they can have living in their residences, but at the same time there are concerns.
- It's important to realize that, in many cases, dementia is not a static state of being; it is fluctuating. Supportive housing for people experiencing mild or fluctuating dementia that can accommodate their needs is extremely helpful; placement at this point in a setting specifically for people with dementia (which will include many with severe dementia) has very detrimental effects, and hastens decline.
- Dementia is the problem of the day; there is a problem with crafting legislation around the problem of the day. I have an issue with entrenching a dementia category within the legislation. The key issue should be the level of services/support that is required by an individual (and not the reason why that support is needed), whether the necessary support can be met in a given setting; that kind of approach can be made individual-specific.
- The ability to self-evacuate is a key, threshold issue.
- Categories within a broad category of supportive housing are a good idea, but categories should be defined with reference to need for staff support and services.

Part II: Rights and responsibilities of residents (“Residents’ Bill of Rights”)

- While a Bill of Rights sounds attractive, I don’t know what the implications are from a legal standpoint.
- A Bill of Rights would be appropriate for all levels of supportive housing.
- It should be necessary to review compliance with the Bill of Rights on a regular basis.

- What would the effect of a Residents' Bill of Rights be? Could it be the basis for litigation?
- A Bill of Rights would be inappropriate in lower levels of supportive housing. It would seem more appropriate in higher levels, where the resident is relatively powerless.
- Agreement in the focus group that they would not embed a Residents' Bill of Rights in legislation; no active purpose achieved by its inclusion, and it could stimulate litigation.
- Why should residents of supportive housing be granted a unique set of rights, if supportive housing is a person's home?
- Regarding some of the items included on the list of rights in the model, the health authority would want to have some input.
- A Bill of Rights may have some educational value; perhaps it is appropriate to provide this information to residents (inclusion in an information package) but not embed it in legislation.

Part III: Rental accommodations (tenure issues)

- The approach [legislation of general application with certain special provisions] seems reasonable.
- The Office of the Assisted Living Registrar (British Columbia) is quite frequently contacted regarding tenure issues. They are directed to the residential tenancy office for advice *as if* the Residential Tenancy Act applied (which it doesn't as supportive housing is explicitly excluded). The Residential Tenancy Amendment Act would bring in supportive housing [under the RTA], but it has not been passed. The situation is not ideal.
- Contracts and agreements should be dealt with in this Part.
- Support for Part 3; participants would support this section as providing necessary protection for tenants. The dispute resolution piece is key.
- Who would address complaints?
- The Assisted Living Registrar is the most suitable office to carry out a dispute resolution function [this position not stated by the Assisted Living Registrar].

- The Registrar does not take a position on this. One positive aspect of having a body like the Registrar carry out this function would be that many disputes in this context would have health-related aspects. A separate body may be suitable; perhaps a sub-body of an existing body.
- **Moderator:** The suitability of a separate body or of a sub-body would depend very much on bodies already existing in the province. The office of the Assisted Living Registrar, for example, in place in BC, may well have no analogue in another province.
- I like the idea of a separate dispute-resolution body, but there needs to be a policy discussion within each province around this question.
- There is a problem with longer notice periods in this context; multiplication of different notice periods is confusing. The residential tenancy legislation of general application provides for 3 months' notice; that's already a lot. Increasing notice periods will make landlords more conservative. The effect would be counterproductive; the same consequence would follow if you had different requirements regarding eviction. If care needs are the reason for eviction, the resident will need to pay more out of his or her own pocket to pay for services while waiting out the eviction period.
- In Alberta, under the current legislation, residential tenancy legislation does not apply to supportive housing. However, providers use the provisions of the RTA as a benchmark.
- Why would eviction be different in this context? One very important factor is that in supportive housing (as opposed to average rental situations) there is significant use of common spaces. For this reason, aggression or abuse causes serious problems for other residents. This common space aspect distinguishes supportive housing.
- Evictions are allowed generally as an exception to restrictive eviction requirements in cases of abuse or aggression; in supportive housing settings, people can definitely be evicted for this reason.
- In BC, the RTA was amended to apply to supportive housing but that amended legislation is not in force, and the Minister has directed that it not be brought into force. The industry is emulating the RTA guidelines, and people seem satisfied with the notice periods as currently set out in the RTA. Providers find the existing notice period work for them. Often death is the reason for people leaving supportive housing, and the estate has to pay out the notice period.

- **Moderator:** So it sounds as if, although residential tenancy legislation does not currently apply in either Alberta and BC, the provisions in residential tenancy legislation are used as a benchmark by providers. Is that situation satisfactory as is? Does there need to be legislation that applies here?
- Residential tenancy legislation or something like it needs to be applied in supportive housing.
- The current gaps need to be addressed.
- Legislation is inflexible; we need to bear that in mind and be cautious. Residential tenancy legislation should apply, however, especially given the vulnerable population involved. The requirement of an agreement is an important issue here. A combination of approaches is needed. A base line of universal issue needs to be established, and those need to be identified as required elements of an agreement. Other issues can be negotiated.
- I would like the residential tenancy legislation to apply.
- The residential tenancy branch is the appropriate body for legislation applying to non health-related services and tenancy issues in all levels of supportive housing/assisted living. Residential tenancy legislation of general application should apply, amended to include a section dealing specifically with services that takes a consumer protection approach: essential services should be identified and enumerated and made subject to consumer protection. In higher-needs levels, the health authority provides health-related services, and if an individual receives home care services funded by the province, that service will be overseen. Special provisions relating to notice periods and to eviction would be helpful; an eviction plan is needed at all levels (at the higher level, the health authority will control both entry and exit).
- The Residential Services Act (Ontario) applies to all kinds of supportive housing.
- Regarding special provisions: the question of where a person will go upon eviction is significant; it is difficult to secure alternative accommodations. No one wants to take the responsibility for doing this and won't unless required to do so by legislation. This is a big problem; you can't throw a person onto the street!
- There definitely needs to be a coordinated response (for finding alternative accommodations).
- Legislation mandating mediation in this situation (eviction) would be helpful.
- Regarding eviction and finding alternative accommodations: some kind of adult protection legislation or vulnerable adults legislation may be helpful here, relevant to this issue. Too often the responsibility falls back on the landlord

(which may or may not be a public authority) who then has to be a “landlord plus” and take it on themselves to find suitable alternative accommodations before eviction or this person goes on the street. This is particularly inappropriate in the case of a private landlord. Something is needed that will force the other relevant players to the table.

- Regarding eviction and finding alternative accommodations: perhaps there needs to be a focused policy decision at the government level involving all the different involved (or potentially involved) government players, to then establish a procedure that would “kick in” when a person is evicted from supportive housing. When an eviction situation occurs, there would be a procedure in place to find alternative accommodations (and it wouldn’t be left to the landlord).
- Regarding eviction and finding alternative accommodations: I agree that there should be an established policy/procedure in place, before the crisis.
- The contract would to state clearly what the eviction procedure would be.
- There needs to be a public discussion with all of the stakeholders around what will happen when someone can’t stay in a supportive housing setting; it is not appropriate for landlords to be left with this decision. This issue will often have a health aspect; there needs to be a policy discussion and agreement, with health input, on the mechanism in this situation.

Part IV: Supportive housing where purchased as a condominium (tenure issues);

Part V: Supportive housing where provided through a life lease (tenure issues);

Part VI: Hybrid/ “Special” Tenure Situations

Parts IV, V and VI deal with tenure issues in non-rental situations. Part VI would provide for any special tenure issues arising from “hybrid” residences, where different forms of tenure co-exist within a residence. Parts IV and V follow the same basic scheme or approach as Part III: incorporation by reference of provincial legislation of general application applying to condominiums (Part IV) or life lease (Part V), with enumerated special provisions applying to:

- Longer notice periods regarding maintenance and other fee increases
- Conditions under which a manager may enter a resident’s unit shall refer specifically to concerns regarding health and welfare (unlike condominiums generally, supportive housing condominium complexes will involve an on-site building manager with a distinct role)
- A separate body for dispute resolution in the supportive housing context shall be established (to deal also with disputes arising across the supportive housing spectrum, whether rental or purchased)

These special provisions parallel the special provisions provided for and discussed under

Part III, Rental accommodations (tenure issues). Discussion of these issues under Part III is also applicable to this context. Comments pertaining to Part VII: Management/Role of Manager, are also relevant.

There was no disagreement with the general approach (incorporation of general application legislation through reference, with enumerated special provisions). Two particular comments regarding condominiums were received:

- As to condos, I understand that there is some legislation (of general application in the province) that controls some aspects of condo living. When I was the chair of the residence council in a condo ownership situation, we ran into difficulties about smells, smoking and inappropriate behaviour. One man would stand on his balcony naked and call obscenities to the outside world. The health department could not have him evicted and the police were only temporarily helpful. The man owned his own condo and refused to leave it. Eventually, he was fined. This is a rather extreme example but secondhand smoke is very much an issue unless some good ventilation is available, and this applies to rental condos also, in my opinion. Smells too cause much concern, small fires, smoking etc.
- Approach to condominium legislation should parallel residential tenancy legislation; incorporation of legislation of general application by reference, with a consumer protection approach section to apply where services are provided as a package; special provisions helpful.
- Re condominiums: It does seem to be problematic if they have to sell in a low market. Would the owner be able to rent the unit to someone who meets the needs criteria and sell the unit when conditions are right for them? If the life lease has a buy-back clause, it would be less problematic, but if it's sold on a market basis I would have the same concerns as above.

Part VII: Management/Role of Manager

- Requirements for training needs to apply in all forms of supportive housing.
- Qualifications will have to take into account existing legislated requirements, such as where the legislation sets out requirements for strata property managers.
- In Alberta, there is a certification process in place for managers of lodges; this course and training can provide a model. The provincial government has a contract with the Alberta Senior Citizens Housing Association to provide training packages for managers; this is not a legislated requirement. The Assisted Living Centre of Excellence was expected to play a similar role in BC, but it appears to have been discontinued.

- There should not be a role for legislation re training and education requirements. The management role is about good business practice, managing the budget, for example. Perhaps the relative vulnerability of residents requires additional knowledge, but this should be voluntary and not legislated.
- There should not be a requirement for any training, but managers will need to comply with accommodation standards (and so will have basic skills) where accommodation standards are legislated. Regarding the appropriate skills for managers, experience in hospitality services is more necessary than health-related experience or training.
- I support requiring some training and qualification for managers in supportive housing.
- All managers should be required to have a basic level of training, although different training/qualifications may be appropriate at higher levels. Across the board in the supportive housing spectrum, however, there should be some training for managers.

Part VIII: Complaints procedures/dispute resolution

- Dispute resolution would be very expensive: who would pay for it? There is not enough volume to support a special office. A significant proportion of the resident population is sophisticated; they don't need help, and are well-versed in navigating existing complaint systems. Another dispute resolution office may actually stimulate more disputes, complaints, from this group. There is another group of residents who would be unable to use any dispute-resolution procedure; no-one in the middle.
- I would support the idea of a supportive housing office that would take responsibility for disputes relating to all issues arising across this sector (all levels, tenure and services issues).
- Numerous complaint-reporting mechanisms already exist that have application in this context. Setting up a one-stop shop for disputes arising in the supportive housing context cannot adequately replace the expertise of these different complaints bodies; what's necessary is expertise and advocacy to navigate these systems.
- There is a need to coordinate the various investigators and dispute resolvers; sometimes, they are even contradictory. It is important not to step on jurisdictional toes; investigator A should not be dealing with matters that are properly the province of investigator B.

- What's needed is not an advocate (which the government is unlikely to fund) but a director or central figure. Informed people already know to go to the MLA's office for that role.
- Providing information is the key; educational material needs to explain the procedures to be followed regarding disputes or complaints.
- A knowledgeable facilitator or director is what's needed; it is unclear who would perform that role.
- There was some support for a gatekeeper role, with caution that supportive housing may be too complex for a gatekeeper.
- The various bodies [existing dispute resolution/complaints bodies] themselves need to provide information to residents (as opposed to the information being collected and imparted by a gatekeeper); each body must take responsibility for its role re complaints and disputes in the supportive housing context.
- Complaints and dispute-resolution, together with investigation, should be the responsibility of a sub-body within the residential tenancy branch and provided for in residential tenancy legislation. Placing functions in a sub-branch would facilitate the development of expertise within that branch.
- A stand-alone body or a section of an existing body that specializes in tenancy and service issues seems like a good approach.

Part IX: Inspection

- Higher-needs levels are vulnerable; they definitely need mandatory regular inspection (not complaints-driven) and not just at the very highest levels of need. Individual residents may not themselves be able to assess the situation realistically and appropriately.
- An inspection system can be very expensive for operators and may discourage the development of supportive housing. There should be a cost/benefit analysis to determine the value of various levels of regulation, including a risk analysis of cost/consequences for residents. The philosophy of supportive housing is that people are securing services in their own homes, so if inspection was considered, I would want to confine it to the provision of personal care.
- The regulation of the property side should mirror as much as possible that for comparable housing forms where services aren't included. Inspections on the service side should focus on health and safety but should not have the same level of prescriptive standards that apply to care facilities.

- If there were a stand-alone regulatory body as above, it would make sense for it to oversee the inspection/complaint process. It would not be a good idea for a body regulating care facilities to oversee supportive housing, as its culture is a prescriptive medical model.
- In Alberta, all supportive housing residences are inspected to comply with the accommodation standards; the system is working well. If residences do not meet standards, they have 2 weeks to comply. The standards are not onerous.
- Inspection results should be posted on a government website.
- Clarity is needed around the idea of inspection: exactly what should be inspected?
Moderator: The answer to that question would depend, in each province, on the system or systems already in place in that province.
- In BC, the general approach has been complaint-based, rather than inspection-based. Inspections in these settings are carried out by different bodies with regard to different specific items or features (fire and safety, for example). It is necessary to identify any gaps in the applicable inspection standards. There are already multiple players inspecting different matters.
- The language of inspection is problematic; monitoring is more appropriate.
- Mandatory inspection should apply to the “minimum services” as identified across the supportive housing spectrum. This approach is consistent with my conclusions that services identified as “minimum” should be subject to mandatory legislated standards.
- Monitoring or inspection should be tied to tenure; given that owners (of condominiums) will have more control inspection is less appropriate.
- People do know well ahead of time when an evaluation or inspection is coming and prepare accordingly; this does not promote consistency. A spot-check process should also be in place, administered by a not-for-profit body.
- Who would pay for an inspection regime?
- Saskatchewan already has inspection for rental accommodations.
- The inspection language is counter-productive; review or monitoring is better. The review body also needs to provide assistance to help those not meeting standards to measure up. It is extremely counter-productive to be in the business of closing down residences; there needs to be an objective of helping residences to meet standards, the purpose of the review (working together).

- A system that is both mandatory and active is required. Active means that representatives go out to and evaluate residences, rather than apply a purely complaints-responsive or passive system. The system should also be oriented towards and have the objective of working with residences to comply with standards, as opposed to “catching” and closing non-compliers as the primary objective. There will always be rogues who can’t or won’t comply, and they will need to be closed down. But the overall objective should be partnership to work towards improvement and meet standards.

Part X: Building standards and design features

- There should be special features for higher levels; but for all forms of supportive housing across the spectrum, there should be special features to facilitate aging in place and maintaining independence.
- The biggest factor to consider in answering this is the ability of residents to evacuate on their own in an emergency and what staffing levels there are to provide assistance.
- I strongly support the inclusion of building standards and design features in the legislation. Building standards and features are necessary beyond those required by standard building codes are required in the supportive housing context generally (as opposed to higher-needs special categories). There should be special access requirements across the board, and then special needs requirements for higher levels. There is a good body of literature connecting the built environment with quality of life, including social interaction or use of common space. There is a need to connect this knowledge to code requirements in the supportive housing context.
- Residences, facilities being built right now are costly and will be around for a long time. It is important to bear that point in mind. Building design can and should facilitate evacuation.
- Ontario’s Building Code sets out minimum requirements that must be met when a building is constructed, renovated, or undergoes a change of use. The Code addresses the design needs of supportive housing through, among other things, setting requirements for barrier-free design and providing designers with flexibility to innovate. Barrier-free accessibility with respect to buildings is one of the objectives of the Code. Prescriptive and performance requirements for barrier-free accessibility are set out in a dedicated section, and by incorporating universal design principles into other Code requirements. Standards apply by occupancy types (residential buildings) and do not relate specifically to supportive housing. The 2006 edition of the Code includes significant increases in barrier-free requirements; Ontario’s requirements are more stringent than those in the model National Building Code or in force in other jurisdictions. In addition, the

Accessibility for Ontarians with Disabilities Act, 2005 is developing new accessibility standards for, among other things, the built environment.

- Given the special needs of residents in supportive housing, it may be appropriate to establish further requirements, beyond requirements in legislation or codes of general application, through programs or licensing requirements. Examples may include making a higher percentage of units accessible or setting parameters regarding the nature of any supportive facilities that must be provided.

Part XI: Services and staff: mandatory standards/consumer protection (general) and

Part XII: Services and staff (higher-needs categories within supportive housing)

- As the philosophy of supportive housing is independent living, I think regulation of hospitality services should be limited to provisions that need to be in a contract and how the contract can be changed and enforced.
- There should be legislated standards for care-related services, but hospitality services should be through contract regulation (above).
- Some combination [of legislated standards and consumer protection provisions] seems appropriate but the key is that the system must be comprehensible to the resident.
- I think a consumer protection approach is sufficient. Dementia issues should be carefully considered – licensed care may be more appropriate for individuals with dementia.
- The issue of costs and payment should be dealt with in the statute, be regulated through the statute. Costs and payment are dealt with in legislation applying to care facilities, for example.
- Higher levels of care need more mandatory standards in more areas; the consumer protection approach will be sufficient for many matters in lower-needs levels of supportive housing. General agreement in the focus group with this approach.
- An important related issue is whether or not the resident has the *option* of accessing services where services (meals for example) are available [meaning the resident can choose whether or not to access those services at a particular time]. This should be included in the information that must be provided to the prospective resident [**Moderator:** this information is required in the Part of the Model Statute dealing with Information to be Provided to Residents (Part XIII)].
- Ontario's residential tenancy legislation has recently been amended to explicitly allow a supportive housing resident to access an outside provider to provide services not provided by the residence itself; it is intended to remedy the situation

- where a residence might not permit an outside provider and prevent a resident from accessing those services.
- If outside services were brought in, who would pay for them? [**Moderator:** It is not contemplated that the residence or primary provider would be responsible for paying for outside services? Whoever is responsible (the individual or publicly funded program) would pay for them].
 - Question of training and qualifications for staff depends on the kind of staff we're talking about; there should not be legislated standards for people doing housekeeping services, for example. There needs to be an expert evaluation of services to establish which services are "essential" or "minimum" at each level, essential to quality of life. There may be differences at different levels; for example meals may be "essential" at higher levels but not at lower-needs levels. Mandatory legislated standards would apply to essential services; otherwise, it is appropriate to use a consumer protection approach.
 - It is crucial to assess "essential" services for each level of supportive housing; there will be important differences. Training and qualifications for staff should be tied to the identification of services that are essential at each level.
 - There must be a minimum standard, a benchmark for quality throughout this sector, that is mandatory and not voluntary; those standards must be actively measured by someone. This task is best carried out by a third party, not-for-profit body that includes representation, perspectives and knowledge from all stakeholders. [The accreditation body participating in the consultation] would effectively hand over its system to this kind of mechanism, were it to be put in place; the existing accreditation body would then cease to perform its current voluntary accreditation role. Existing voluntary accreditation associations could instead measure for an award of excellence, for providers offering superior standards. But the voluntary accreditation organizations should not be responsible for setting and evaluating basic standards that should apply in all supportive standards – these must be mandatory and made mandatory by legislation. A basic level of security is required; an award of excellence constitutes another level.

Part XIII: Information to be provided to residents

- General consensus in all groups that an information pack should be provided to residents.
- Yes, it would be helpful.
- Clear information about the limits of support and services that can be provided is necessary to answer the question: is my residence secure?

Part XIV: A checklist of questions to be provided to prospective residents must include the following:

- I support this idea; the model that is in the statute is too complicated, but it is something to work with.
- The checklist is helpful.
- Including a verbatim checklist like the one in the model is too prescriptive; I would like to have mandatory items or areas listed, not specific questions. An information session should also be conducted, at which the checklist would be filled out (not just a list to be given to the prospective resident to take away and fill in).
- It is not workable to put the checklist into legislation; legislation can require checklist to be provided, but the checklist should not actually be in the legislation.
- I like the idea of the checklist as a policy document and agree that legislation can require the checklist to be provided, but the checklist should not actually be set out in the legislation.
- Providing a checklist and information package, along with the contract or agreement, is not excessive. A checklist and information package must take into account the fact that needs change over time. The activities that *cannot* be supported need to be specified (such as behaviours associated with dementia and the limits of supportive housing to provide for physical frailty). This information needs to be conveyed really clearly at the outset.
- The clear communication of limits (what *cannot* be supported) goes back to the question of standards and how the different levels are defined; information must be communicated clearly.

Part XV: Scheme for Accreditation

- An accreditation scheme should ideally include a mix of operator and resident representatives; some form of input from government may also be helpful.
- Accreditation for supportive housing at a lower level can be an industry initiative.
- The supportive housing sector is small in the province – growing, but currently small. An accreditation scheme would not be practical where the sector is small.
- **Moderator:** Do you think a regional accreditation system would be an option?

- Yes, the industry should be the driving force for any such scheme.
- An accreditation scheme should be administered by an independent (third party), not-for-profit association.
- Any new accreditation system that would apply in this sector should piggyback on existing systems and accreditation bodies, such as the government system for accreditation of health facilities. Instead of having a new accreditation scheme for supportive housing, it should be a subsidiary body of an existing scheme. A regional accreditation system for provinces with smaller sectors would also be a good idea.
- A National Body setting standards and carrying out accreditations across Canada would be a good idea; would work towards consistency, which is especially important for seniors moving between provinces.
- Expense is a problem with voluntary schemes; smaller operators tend not to seek accreditation through that scheme because of expense. One voluntary scheme charges per unit for accreditation, and providers must pay a fee to belong to the accrediting body. For some, that is a problem.
- Expense does perhaps mean that smaller operations are less likely to be involved; but expense is actually quite minimal (for example, for a 10-15 bed operation, \$250 to join, \$400 per year for evaluation, which happens once every two years). The voluntariness means operators don't have to participate, which makes it less likely that they will incur the extra effort to do so, especially where beds are full (as in smaller towns with few operators).
- Accreditation standards must be measurable and rigorous.
- Under the voluntary accreditation scheme in one province, 60% of residences are accredited. This means 40% are not and are outside the system. Voluntary accreditation will never ensure the necessary level of participation.
- How feasible would a national accreditation body and scheme be, given the existing difference between the provinces? There is no precedent for this kind of body.
- A national accreditation system is used successfully in health care, why not in the supportive housing context?
- **Moderator:** A model accreditation scheme can be appended to the statute; the question of what body was responsible could well vary between province to province and this would not be significant with regards to consistency.

- There must be minimum standards, a benchmark for quality throughout this sector, that is mandatory and not voluntary; those standards must be actively measured by someone. This task is best carried out by a third-party, not-for-profit body that includes representation, perspectives and knowledge from all stakeholders. [The accreditation body participating in the consultation] would effectively hand over its system to this kind of mechanism, were it to be put in place; the existing accreditation body would then cease to perform its current voluntary accreditation role. Existing voluntary accreditation associations can instead measure for an award of excellence, for providers offering superior standards. But the voluntary accreditation organizations should not be responsible for setting and evaluating basic standards that should apply in all supportive standards – these must be mandatory and made mandatory by legislation. A basic level of security is required; an award of excellence constitutes another level. [This comment also applied to the issue of mandatory standards.]
- I would need more information on how the accreditation model would work in to the case of operators who don't comply. If they lose their accreditation, do they have to shut down? I would prefer a market model where accreditation is considered a selling feature but is not necessary for operation.

Part XVI: Contracts

- Mandatory terms are necessary; a model contract can be included in the statute for adoption or adaptation, or operators can write their own contract. There should be a distinction between categories or levels of supportive housing.
- A model contract included in the legislation, even if not mandatory, would be limiting. I think a better approach would be to have certain mandatory items or terms specified in the contract (items that must be included in a contract).
- Where a resident enters a care home, an information package is provided; provision of an information package should be included. The contract alone will not provide sufficient information to a resident.
- **Moderator:** Another Part of the model does provide for an information pack, and for a checklist to be provided to prospective residents. The model contemplates an information pack and checklist of questions to be provided to the resident in addition to the actual legal agreement or contract (the subject of this Part).

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