

This paper was presented at the 21<sup>st</sup> International Conference on Sustainable Development, held at the Faculty of Social Science and Humanities, University of Ottawa, Ottawa, Canada, on July 15-16, 2025.

# The Paradox of Law: Do Tough Enforcement Activities Neglect Residents' Rights in Long-Term Care Homes?

Denis Bedard<sup>1</sup>, Azar Varahra<sup>2\*</sup>

<sup>1,2</sup> Health and Rehabilitation Sciences, University of Western Ontario  
London, Ontario, Canada

\* Corresponding author: [avarahra@uwo.ca](mailto:avarahra@uwo.ca)

© Authour (s)

OIDA International Journal of Sustainable Development, Ontario International Development Agency, Canada.

ISSN 1923-6654 (print) ISSN 1923-6662 (online) [www.oidajsd.com](http://www.oidajsd.com)

Also available at <https://www.ssm.com/index.cfm/en/oida-intl-journal-sustainable-dev/>

**Abstract:** This policy analysis addresses a critical contradiction in Ontario's long-term care reform. Despite legislative promises to enhance residents' quality of life through the *Fixing Long-Term Care Act, 2021* (FLTCA), enforcement-driven regulatory mechanisms continue to perpetuate institutional models of care that undermine residents' fundamental rights to autonomy, dignity, and choice. The theoretical concern centers on the disconnect between person-centered care principles embedded in legislation and the practical implementation of punitive oversight systems that prioritize operational compliance over individualized, relational care. This concern is situated within the broader literature on healthcare policy implementation, person-centered care theory, and long-term care reform. Following decades of documented failures in institutional care models, scholars have increasingly advocated for culture change approaches that prioritize residents' autonomy and homelike environments. However, policy implementation research reveals persistent gaps between legislative intent and practice, particularly in complex healthcare systems. The COVID-19 pandemic intensified these concerns, with over 81% of Canada's COVID-related deaths occurring in long-term care homes, exposing fundamental systemic deficiencies that transcend regulatory oversight. Recent policy analysis literature emphasizes the need for transformative rather than incremental approaches to long-term care reform. This study employs a critical interpretive policy analysis approach, grounded in person-centered care principles, to examine the FLTCA 2021 and its subsequent amendment, Bill 7. Document analysis was conducted on primary legislative texts, policy documents, and related regulatory materials. The analytical framework examined contradictions between stated policy objectives and implementation mechanisms, with particular attention to how enforcement strategies align with or undermine residents' rights. The analysis considered both the explicit content of legislation, and the implicit assumptions embedded within regulatory approaches, using person-centered care theory as the evaluative lens. The analysis reveals three primary arguments supported by legislative evidence and policy outcomes. First, while the FLTCA positions long-term care homes as residents' personal homes emphasizing dignity and autonomy, the Act's enforcement mechanisms remain rooted in institutional oversight models that prioritize compliance over personalized care. Second, Bill 7's provision for non-consensual transfers directly contradicts the Residents' Bill of Rights, particularly Section 3 guaranteeing full participation in care decisions. This amendment facilitates forced admissions without informed consent, undermining core principles of autonomy and choice. Third, current policy frameworks create systemic barriers to innovative care models, particularly small home models that empirically demonstrate superior outcomes in resident satisfaction, autonomy, and quality of life. The evidence shows that despite legislative rhetoric promoting person-centered approaches, Ontario's regulatory system continues to reinforce outdated institutional paradigms that have repeatedly failed to protect residents' fundamental rights. The analysis concludes that genuine long-term care reform requires a fundamental paradigm shift from punitive oversight toward transformative, relationship-based care models. Small home models emerge as a viable alternative that operationalizes the FLTCA's stated principles while addressing residents expressed preferences for homelike environments. For international audiences, this case study demonstrates how well-intentioned healthcare legislation can inadvertently perpetuate systemic dysfunction when implementation mechanisms conflict with stated objectives. The findings have global relevance as aging populations worldwide grapple with

similar tensions between institutional efficiency and person-centered care. The Ontario experience offers critical lessons for policymakers seeking to balance regulatory oversight with genuine care transformation, highlighting the necessity of aligning enforcement mechanisms with person-centered principles to achieve meaningful reform in long-term care systems internationally.

**Keywords:** Innovation; long-term care; person-centered care; policy reform, residents' rights

### Introduction

The devastating effects of the COVID-19 pandemic on long-term care (LTC) homes exposed deep-rooted systemic deficiencies and highlighted the call for legislative reform [1-3]. In response, the Ontario government enacted the *Fixing Long-Term Care Act, 2021* (FLTCA) aiming to address both the crisis revealed during the COVID-19 outbreak, and the chronic issues that have long plagued LTC homes [2]. Building on the *Long-Term Care Home Act 2007*, the new legislation was introduced to improve quality of life and reinforce the rights of residents [4].

The FLTCA came into force on April 11, 2021, positioning itself as a pivotal response to the sector's catastrophic pandemic outcomes. Most notably, over 81% of Canada's COVID-related deaths occurred in LTC homes [3]. The new Act included enhanced standards for care, mechanisms for greater oversight, and a broadened mandate to protect residents' rights. One such mandate requires every LTC home to conduct annual surveys with residents, families, and caregivers to assess satisfaction with care, services, and programming [5]. The FLTCA 2021 mandated that each LTC home conduct an annual survey of residents, their families, and caregivers to gather feedback on their experiences with the home's care, services, programs, and goods [6].

At its core, the FLTCA upholds a guiding principle: "A long-term care home is primarily the home of its residents" where people should live with dignity, security, safety and comfort with their physical, psychological, social, spirituals, and cultural needs are adequately met. The *Act* also include an enforceable *Residents' Bill of Rights*, aligned with the *Ontario Human Rights Code*, reaffirming commitments to individualized care, shared decision-making, and the right to a homelike environment [7]. Despite these promising provisions, the Act failed to make substantive changes to the conditions in LTC homes, and many homes remained outdated, underfunded and understaffed, leaving the sector in a prolonged state of crisis.

Although the FLTCA 2021 was introduced with renewed commitments, many critics argue that it largely restates the earlier Long-Term Care Home Act (LTCA) of 2007. Graham Webb, Executive Director of the Advocacy Centre for the Elderly in Ontario, described the ongoing crisis as a cycle of "misery upon misery" suggesting that the legislation offers symbolic change rather than systemic transformation. Other scholars echo this view, arguing that the Act, while promising on paper, has not translated into meaningful practice, leaving the core structure of Ontario's LTC system untouched [2].

In August 2022, the Ontario government introduced Bill 7: *More Beds, Better Care Act*, as an amendment to the FLTCA. It aimed to address capacity challenges by accelerating transitions from hospitals to LTC homes for patients designated as requiring an alternate level of care (ALC). Under this amendment, placement decisions could be made without the patient's consent, overriding their preferences, including location, cultural fit, and proximity to family [8]. This raised serious concerns about autonomy, equity, and human rights.

The amendment's most controversial feature permits placement coordinators to authorize admission to LTC homes without informed consent. This stands in direct contradiction to Section 3 of the *Act*, which guarantees the right "to participate fully in making any decision about any aspect of his or her care," including admission or transfer [6].

Despite legislative activity, the gap between policy intent and practical outcomes remains wide. This contradiction signals a need to re-evaluate not just how we write policy, but how we imagine LTC itself. In an era increasingly shaped by the movement toward small, homelike models, the failure to align regulation with innovation leaves Ontario at risk of reinforcing outdated, institutional care norms.

This policy analysis employs a critical interpretive approach grounded in the principles of person-centered care (PCC) <sup>10</sup> to examine the legislative changes introduced by the FLTCA 2021 and its subsequent amendment, Bill 7. The uptake of PCC is reflected in the opening statement of the FLTCA which emphasizes the importance of focusing on the individuals' needs and preferences, implying that the system is person-centered.

A critical interpretive approach allows us to situate policy within its broader historical, cultural, and political context. As Browne et al. (2019)[9] argue, such an approach is especially effective in examining how power relations and

structural inequalities are embedded within health policy. This lens is essential for understanding why well-intentioned legislation may fail to produce meaningful change.

## Methods

This policy analysis employed a critical interpretive approach to examine the FLTCA 2021 and Bill 7 amendment. The analysis focused on the extent to which these legislative instruments uphold residents' rights and promote quality of life across physical, emotional, social, and spiritual domains. Particular attention was paid to how legislative mechanisms align or conflict with goals of person-centered care, including autonomy, dignity, and choice. The study also considered whether current reforms support innovative care environments such as small home models, which have shown promise in advancing these goals.

Document analysis was conducted on the FLTCA 2021, Bill 7 amendment, and related policy documents. The analysis framework was grounded in person-centered care principles and examined contradictions between legislative intent and practical implementation. Key themes explored included residents' rights, enforcement mechanisms, and barriers to innovative care models.

## Results and Discussion

**Fundamental principle: upholding residents' rights.** The FLTCA begins with a powerful assertion that LTC homes are first and foremost the homes of their residents, not institutions, and not places defined by clinical conditions. This foundational principle affirms that individuals should live with dignity and have their physical, emotional, social, spiritual, and cultural needs met. It represents an evolution in the understanding of care, away from task-driven routines and toward respect for personhood.

However, this philosophical commitment is often not reflected in practice. Care delivery in Ontario's LTC homes continues to be shaped by institutional norms that prioritize operational efficiency over individual needs. Rigid schedules, risk-averse protocols, and staff shortages undermine the vision of care that values choice, familiarity, and human connection [10]. This persistent misalignment between the law's stated ideals and everyday realities highlights a systemic failure to operationalize residents' rights.

Innovative models, particularly small home models offer a way forward [11-13]. These models challenge traditional approaches by creating relational, homelike environments where daily life is centered on the resident's routine rather than the facilities. Despite their potential to fulfill the FLTCA's vision, such models receive minimal support in Ontario's policy landscape, revealing a critical gap between innovation and regulation.

**Compromised rights vs. genuine rights.** Bill 7's enactment (i.e., *More Beds, Better Care*) in August 2022 introduced a deeply concerning erosion of residents' rights under the guise of improving hospital flow. By allowing non-consensual replacement into LTC homes, the amendment undermines core principles of the residents' Bill of Rights, including the right to choose where and how one lives [8]. The ability to make informed choices about care settings is not a procedural detail; it is foundational to dignity, autonomy, and psychological well-being.

Forced relocations, often to homes far from families or outside cultural communities, intensify isolation and emotional distress. This approach prioritizes systemic efficiency over individual well-being, reversing decades of advocacy for PCC.

Genuine rights require more than legal acknowledgement; they must be supported by environments that empower residents to exercise those rights. Small home models create precisely such environments: they offer personalized care, continuity of relationships, and flexible routines, making it feasible for residents to shape their daily lives. Bill 7 not only overlooks these models but actively reinforces institutional placements that disempower residents and contradict the FLTCA's fundamental commitments.

Moreover, the amendment exacerbates other existing LTC systemic issues such as inadequate staffing and resources, by potentially increasing the number of residents without a corresponding enhancement in care capacity. This situation could lead to a further decline in the residents' quality of life/care, directly conflicting with the objectives of the FLTCA to improve PCC-related standards.

**FLTCA 2021, fix or failure.** The FLTCA 2021 was positioned as a long-overdue response to the devastating failures exposed during the COVID-19 pandemic. Yet, despite new language and additional regulatory provisions, it has largely failed to deliver meaningful change. For-profit LTC homes, which experienced higher mortality rates during the pandemic, remain entrenched in the system, and continue to receive support under the new Act.

Although the legislation introduces stronger inspection protocols and new penalties for non-compliance, critics argue that these measures represent more of the same, “*a continuation of oversight without transformation*” [1]. Documents released during the pandemic reveal repeated instances where care standards were not enforced, even when violations were evident. This suggests a regulatory system more reactive than proactive.

The Council on Aging of Ottawa (2019) and other observers have condemned the FLTCA for lacking a bold, transformative vision [14]. Rather than restructuring LTC to align with best practices in PCC, it reinforces outdated institutional models that deprioritize human relationships, personal choice, and homelike settings.

A public survey reflects these concerns. In one study, 96% of Canadians aged 65 and older expressed concerns about the current LTC system, and 86% supported the integration of LTC into broader health and community system [15]. These findings reflect a strong public appetite for alternatives, particularly models that replicate the emotional and physical safety of home. Despite policy rhetoric suggesting improvement, the FLTCA has not repaired the broken foundation of Ontario’s LTC system. Until Ontario invests in innovative care environments such as small homes, where the principles of dignity, autonomy, and relational care can be realized, legislative reform will remain unchanged.

**A flawed amendment, not the right answer.** The amendment to the FLTCA, encapsulated in the Bill 7 was introduced to address the critical bed shortages in Ontario hospitals by facilitating faster transitions of seniors, patients with disabilities, and individuals with mental health needs into LTC homes. The intention to improve efficiency perpetuates discrimination against vulnerable populations, particularly, those living with complex, chronic illnesses and disabilities. The amendment unfairly blames patients for occupying hospital beds, and suggests they are blocking access for other deserving individuals.

One of the most contentious aspects of this amendment is its provision to force patients into LTC homes without their consent and without adequately considering their preferences. This practice blatantly violates the legislative right of residents to choose their place of residence, a cornerstone of *Resident’s Bill of Rights*. Historically, hospital patients in need of an ALC were given the opportunity to select from a list of five potential LTC homes and were allocated the first available bed from their choices. The earlier approach, while imperfect, at least attempted to respect patients’ autonomy. However, the new legislation disregards personal choice, reinforcing systemic discrimination within the system.

Moreover, the amendment does not address the underlying causes of the healthcare crisis in Ontario such as under-resourced hospitals and poor care standards in LTC homes. Rather, it exacerbates the issues by forcing patients into LTC homes without their consent which is not aligned with their preferences.

Research indicates that empowering LTC residents to make decisions about their daily lives contributes to their physical and mental health, as well as the overall life satisfaction. McCabe et al (2021) [16] found a positive correlation between residents’ autonomy in decision-making and their perceptions of quality of life, highlighting the role of personal control in promoting self-esteem and well-being. While the FLTCA underscores residents’ right to participate fully in decisions about their care, including admission, discharge, or transfer to or from a home, the authority granted under the new amendment directly contradicts these rights.

The amendment allows placement coordinators to determine a persons’ eligibility for LTC, select a home, and authorize admission without the resident’s consent. This includes assessments and the collection, using and disclosing personal health information through processes that are governed by government regulations rather than the Act’s usual safeguards. These provisions severely undermine residents’ autonomy and compromise their rights to make informed decisions about their care, raising significant ethical and legal concerns.

Transition to an LTC home is a deeply emotional and a significant decision for many individuals and families, requiring collaboration among healthcare providers and based on a shared understanding of patient needs. This collaboration should be guided by transparent roles and responsibilities, as outlined in legislation and policies, to ensure the ALC patients receive appropriate care in suitable settings. Enhancing accountability among healthcare providers is essential to achieving this goal. Offering alternatives like short-stay, respite care, and wait-at-home options could provide more appropriate and dignified solutions than the current approach.

**Breaking the cycle: Innovation or status quo?** The persistence of systemic dysfunction in Ontario’s LTC sector raises a fundamental question: are we genuinely learning from decades of documented failures, or merely repackaging the same institutional approaches under new legislative frameworks? The COVID-19 pandemic exposed what advocates and researchers had long understood that Ontario’s LTC system was fundamentally broken, not simply

under-resourced. Prior to the pandemic, Ontario's LTC sector had struggled with identical challenges for over three decades. From the inception of the LTCHA in 2007 through multiple public inquiries, the cycle of crisis, investigation, and superficial reform has become frustratingly predictable. The introduction of the FLTCA 2021 and Bill 7 represents yet another governmental attempt to address pressing issues without confronting the underlying structural problems that perpetuate institutional care models.

Critics argue that current legislation fails to establish the rigorous standards necessary to address deep-rooted deficiencies in PCC delivery. These regulatory limitations reveal persistent barriers to implementing holistic care that truly meets residents' diverse needs and preferences. The gap between legislative rhetoric and lived experience demonstrates that policy efficacy depends not merely on content, but on implementation frameworks that support genuine transformation.

As Marsh and McConnell (2010) [17] emphasize, policy outcomes ultimately determine whether legislation achieves its intended objectives and addresses underlying systemic issues. The current state of Ontario's LTC system suggests a troubling perpetuation of the *status quo*, a continuation of institutional thinking that prioritizes operational efficiency over human dignity and relational care.

**What is next for long-term care?** While Ontario's regulatory framework reinforces outdated institutional models, innovative care environments worldwide demonstrate viable alternatives that align with the FLTCA's foundational principles. Globally, small home models represent a paradigm shift from hospital-like facilities toward homelike environments that prioritize resident autonomy, dignity, and well-being [11-13,18]. These innovative models create environments that fundamentally challenge traditional LTC assumptions.

Rather than organizing care around institutional schedules and clinical protocols, small home models center daily life on residents' preferences, routines, and relationships. Research consistently demonstrates that personalized environments focusing on social connections and individual choice foster greater belonging and life satisfaction among residents [16].

The evidence supporting small home innovations is compelling. Studies show that residents in small-scale, homelike facilities experience enhanced psychological and social well-being compared to traditional institutional settings. These models prove particularly beneficial for individuals who require supportive care but not intensive medical intervention, ensuring appropriate, dignified support tailored to unique needs and preferences.

Most significantly, small home models operationalize the PCC principles that the FLTCA espouses but fails to implement. By creating relational environments where residents maintain agency over their daily lives, these innovations bridge the gap between legislative intent and practical outcomes.

**The transformative potential of culture change.** The overwhelming concerns about institutional LTC, particularly amplified during COVID-19, highlight the urgent need for systemic transformation rather than regulatory adjustments. By positioning resident choice at the center of care delivery, small home models align with decades of advocacy for PCC approaches that enhance psychological, social, and spiritual well-being. Living in familiar, homelike surroundings during later life stages preserves comfort, respects personal dignity, and enhances quality of life in ways that institutional facilities cannot replicate. The freedom to make meaningful choices enables individuals to adapt to evolving needs while maintaining autonomy and self-determination. However, despite promising international evidence and growing resident preference for homelike alternatives, Ontario's current system reflects prolonged neglect of innovative care models.

While the Ministry of Long-Term Care asserts that recent legislative measures have improved residents' quality of life, critical elements including dignity, respect, choice, safety, and security remain inadequately addressed within existing institutional frameworks.

## Conclusions

The COVID-19 crisis exposed barriers developed over decades, with recent legislative changes inadvertently reinforcing systemic dysfunction rather than enabling solutions. This analysis underscores that substantive transformation, not merely legislative rhetoric is essential for creating genuinely person-centered care systems. Small home models offer a concrete pathway forward that addresses both the FLTCA's aspirational goals and residents expressed preferences for homelike care.

Ontario stands at a critical juncture: continue reinforcing institutional models that have repeatedly failed residents and families or embrace innovative care environments that honor the FLTCA's foundational commitment to treating LTC

homes as residents' homes. The choice between perpetuating the status quo and embracing transformative innovation will determine whether future LTC reform represents genuine progress or another cycle of unfulfilled promises. Only by supporting small home models and similar innovations can Ontario move beyond the institutional inertia that has characterized decades of failed reform attempts. The evidence is clear: the pathway to meaningful change lies not in strengthening oversight of outdated models, but in embracing care innovations that place residents' humanity, dignity, and autonomy at the center of daily life.

### Acknowledgments

The authors declare no conflict of interest and received no funding for this work.

### References

- [1] C. Estabrooks, S. Straus, C. Flood, J. Keefe, P. Armstrong, and Donner G, "Restoring trust: COVID-19 and the future of long-term care," 2020.
- [2] D. Oldenburger, A. Baumann, D. Raisa, and M. Crea-arse Nio, "COVID-19 issues in long-term care in Ontario: A document analysis," *Healthcare Policy*, vol. 17, pp. 2022–53, 2022.
- [3] J. Clarke, "Impacts of the COVID-19 pandemic in nursing and residential care facilities in Canada StatCan COVID-19: Data to Insights for a Better Canada," 2021. [Online]. Available: [www.statcan.gc.ca](http://www.statcan.gc.ca)
- [4] T. Hon. R. Phillips, *Bill 37: An Act to enact the Fixing Long-Term Care Act, 2021 and amend or repeal various Act*, vol. 37. 2014.
- [5] P. Lai, "How enforcement shapes compliance with legal rules: the case of long-term care homes in Ontario," *Canadian Journal of Law and Society*, vol. 39, no. 1, p. 22, 2024, doi: 10.1017/cls.2024.4.
- [6] *Fixing Long-Term Care Act, 2021*. 2021. [Online]. Available: <https://www.ontario.ca/laws/statute/21f39>
- [7] H. Kountouros and N. Rees, "Dignity as a theoretical and legal construct in the context of care for older persons and the developing human rights agenda for older persons," *Towards Human Rights in Residential Care for Older Persons: International Perspectives*, no. Macklin 2003, pp. 185–210, 2015, doi: 10.4324/9781315849720.
- [8] R. Assent, "Bill 7," vol. 7, pp. 3–7, 2022.
- [9] J. Browne, B. Coffey, K. Cook, S. Meiklejohn, and C. Palermo, "A guide to policy analysis as a research method," *Health Promot Int*, vol. 34, no. 5, pp. 1032–1044, 2019, doi: 10.1093/heapro/day052.
- [10] P. Maccourt, "Supporting mental health and well-being in community residential care settings," 2021.
- [11] B. de Boer, H. C. Beerens, M. A. Katterbach, M. Viduka, B. M. Willemse, and H. Verbeek, "The physical environment of nursing homes for people with dementia: Traditional nursing homes, small-scale living facilities, and green care farms," *Healthcare (Switzerland)*, vol. 6, no. 4, Dec. 2018, doi: 10.3390/healthcare6040137.
- [12] H. Verbeek, S. M. G. Zwakhalen, E. Van Rossum, T. Ambergen, G. I. J. M. Kempen, and J. P. H. Hamers, "Effects of small-scale, home-like facilities in dementia care on residents' behavior, and use of physical restraints and psychotropic drugs: A quasi-experimental study," *Int Psychogeriatr*, vol. 26, no. 4, pp. 657–668, 2014, doi: 10.1017/S1041610213002512.
- [13] S. Samir and A. Naylor, "There's no place like home: Why Canada must prioritize small care homes in its provision of long-term care," 2025.
- [14] D. Baines and P. Armstrong, "Promising practices in long term care," Canadian Electronic Library, 2019.
- [15] C. Feil, N. Iciaszczyk, and S. Sinha, "Pandemic Perspectives on Long-Term Care: Insights from Canadians in Light of COVID-19," 2021.
- [16] M. McCabe, J. Byers, L. Busija, D. Mellor, M. Bennett, and E. Beattie, "How important are choice, autonomy, and relationships in predicting the quality of life of nursing home residents?," *Journal of Applied Gerontology*, vol. 40, no. 12, pp. 1743–1750, Dec. 2021, doi: 10.1177/0733464820983972.
- [17] D. Marsh and A. McConnell, "Towards a framework for establishing policy success," *Public Adm*, vol. 88, no. 2, pp. 564–583, Jun. 2010, doi: 10.1111/j.1467-9299.2009.01803.x.

- [18]H. Verbeek, S. M. G. Zwakhalen, E. van Rossum, G. I. J. M. Kempen, and J. P. H. Hamers, "Small-scale, homelike facilities in dementia care: A process evaluation into the experiences of family caregivers and nursing staff," *Int J Nurs Stud*, vol. 49, no. 1, pp. 21–29, Jan. 2012, doi: 10.1016/j.ijnurstu.2011.07.008.

### **About the authors**

Denise Bedard is pursuing her PhD in Health Studies from University of Western Ontario with a focus on Person-Centred Care and specializes in aging, leading-edge interventions for early and moderate stages of Alzheimer's and Dementia. With over 40 years of experience in long-term care, she is a healthcare policy advocate who promotes research excellence in senior care and speaks at healthcare, academic, and political events. Readers interested in her work on dementia interventions or healthcare policy may contact her for collaborative research opportunities.

Tel: 905 299 4795

Email: [dbedard4@uwo.ca](mailto:dbedard4@uwo.ca)

Azar Varahra is a health researcher with a PhD in Health and Rehabilitation Sciences from University of Western Ontario, who specializes in social determinants of health and their impact on vulnerable populations. She is passionate about advancing care service delivery through mixed methods research, which allows her to explore complex social and behavioral factors beyond numerical data. Her current research examines how culture change movements in Ontario's long-term care homes can improve residents' quality of life and well-being. Researchers interested in collaborating on social determinants of health, long-term care research, or mixed methods approaches are welcome to connect with her.

Tel: 613 791 1154

Email: [avarahra@uwo.ca](mailto:avarahra@uwo.ca)

