

April 28, 2021

MEMORANDUM TO: Public Hospitals
Private Hospitals
Ontario Health
Ontario Hospital Association
Home and Community Care Support Services
The Ontario Long-Term Care Association
AdvantAge Ontario
The Ontario Retirement Communities Association
Retirement Homes Regulatory Authority

FROM: Helen Angus
Deputy Minister
Ministry of Health

RE: **Amendment to Emergency Order (O. Reg. 272/21: Transfer of Hospital Patients) under the *Emergency Management and Civil Protection Act***

Our health care system continues to face unprecedented staffing and capacity pressures due to the COVID-19 pandemic, and a third provincial emergency was declared on April 7, 2021.

The Government of Ontario continues to implement a wide array of measures to protect the health and safety of Ontarians, including enhancing the necessary supports for Ontario public hospitals to focus on delivering patient care and expanding hospital capacity.

Ontario needs to take further action to optimize system capacity by expanding the scope of O. Reg. 272/21 (Transfer of Hospital Patients) under the *Emergency Management and Civil Protection Act*. This temporary, emergency-based transfer protocol allows for the transfer of hospital patients to alternate care settings without having to obtain the consent of the patient or their substitute decision-maker.

In addition to alternate hospital sites, hospitals may now rely upon this emergency order to facilitate the transfer of patients that have been designated as alternate level of care (ALC) with a discharge destination of long-term care to either a long-term care home or a retirement home. The authority conferred on hospitals under this order to transfer patients without consent can be used only when necessary to respond to a major surge event, when the attending clinician is satisfied that the patient can receive the care they require at the receiving home, and where all of the other conditions specified within the order have been met.

This amendment will enable hospitals to safely and respectfully transfer these patients in order to urgently optimize capacity across the system in the face of rising hospitalization rates, and to allocate ICU and high acuity medicine beds as necessary during the third wave. It is anticipated that the order will contribute to better population health outcomes and improve our health care system's ability to provide appropriate care to all patients based on their needs.

Ontario Health and Home and Community Care Support Services placement coordinators will work with patients that have been designated as ALC, their families and homes to find an appropriate discharge destination where their needs can be safely met. Where possible, placement coordinators will place patients in their discharge destination of choice. Where this is not possible, they will work to ensure the patient is set up with the services they require and placed in a long-term care home or retirement home that is appropriate based on their needs.

The implementation guidelines that will be provided by Ontario Health will reflect key ethical considerations, including making all efforts to place individuals as close as possible to their existing choices, transparent communications with families and patients and ensuring the needs of the patient can be adequately met at the receiving home. The patient's background, such as language, culture and religious beliefs will also be taken into account wherever possible when identifying the most appropriate long-term care home or retirement home to which the patient will be transferred. In addition, it is acknowledged that First Nation, Inuit and Métis peoples have experienced systemic racism when accessing mainstream health care services and have a history of trauma, including forced relocation, that may result in a high degree of distrust of patient transfer decision-making and, more broadly, continued anxiety about their interactions with the public health system. With this in mind, we expect that the placement coordination process will be guided by staff members with specialized expertise or local Indigenous partners (e.g., Indigenous healthcare providers, community leadership, Elders or other trusted voices) to provide appropriate cultural supports to Indigenous individuals who are being considered for transfer to other care settings in accordance with this order.

Patients transferred out of hospitals under the authority of this order to long-term care or retirement homes who are not placed in their first choice of long-term care home will retain their Category 1 priority status on the waitlist for their first choice and will be transferred to that home at the earliest available opportunity. Their copayment / accommodation and care costs will also be waived until they can be moved to the long-term care home of their choosing or decline a placement offer from their first choice home. These support measures for emergency transferees will continue beyond the duration of the emergency.

To support homes in meeting the care needs of existing and new residents, as of April 23rd, government amended O. Reg. 158/20 Limiting Work to a Single Retirement Home and O. Reg. 146/20 Limiting Work to a Single Long-Term Care Home to exempt fully immunized long-term care home and retirement home employees from restrictions that prohibit them from working in more than one home, or in another health care setting. The government also amended O. Reg. 271/21 to authorize Ontario Health and Home and Community Care Support Services (also known as the Local Health Integration Networks) to redeploy staff to long-term care homes and retirement homes to care for patients who are transferred to these settings.

As well, to help facilitate arrangements between retirement homes and hospitals, the government has re-established an emergency order that was originally put in place at the beginning of the pandemic (in effect between April 9, 2020 and July 2020), which temporarily suspends the application of the *Hospital Labour Disputes Arbitration Act* and certain provisions of the *Labour Relations Act*, 1995 regarding related employer (subsection 1(4)) and sale of business (section 69) to retirement homes. The order applies to only those retirement homes entering into arrangements with hospitals for hospital capacity expansion purposes throughout the province.

These measures are being taken to protect the health care needs of all Ontarians in response to the rapid increase in COVID-19 transmission, the threat on the province's hospital system capacity, and the increasing risks posed to the public by COVID-19 variants.

Thank you for all that you and your organizations are doing to protect the health and safety of the people of Ontario during the COVID-19 pandemic.

Sincerely,

A handwritten signature in blue ink, appearing to read 'H. Angus', with a stylized flourish at the end.

Helen Angus
Deputy Minister

- c: Mr. Richard Steele, Deputy Minister, Ministry of Long-Term Care
- Ms. Denise Cole, Deputy Minister, Ministry for Seniors and Accessibility
- Mr. Shawn Batisse, Deputy Minister, Indigenous Affairs Ontario
- Ms. Erin Hannah, Associate Deputy Minister, LTC Pandemic Response, Ministry of Long-Term Care
- Ms. Melanie Fraser, Associate Deputy Minister, Health Services, Ministry of Health