

**Submission to the Ministry of Long-Term Care
on proposed amendments to Ontario
Regulation 246/22
under the Fixing Long-Term Care Act, 2021**

March 3, 2023



The Registered Nurses' Association of Ontario (RNAO) is the professional association representing registered nurses (RN), nurse practitioners (NP) and nursing students in all roles and sectors across Ontario. Since 1925, RNAO has advocated for healthy public policy, promoted excellence in nursing practice, increased nurses' contributions to shaping the health system and influenced decisions that affect nurses and the public we serve.

Introduction

Thank you for the opportunity to respond to the proposed amendments to Ontario Regulation 246/22 under to the Fixing Long-Term Care Act, 2021 (FLTCA). This submission follows RNAO's previous responses to the [Providing More Care, Protecting Seniors, and Building More Beds Act, 2021](#) and [the proposed phase one regulations to the Fixing Long-Term Care Act](#). RNAO has the following concerns about the new regulatory amendments that have been proposed:

1. resident safety
2. staffing issues
3. the "summary" format of the posting

Commentary and recommendations

1. Resident safety

a. The proposed regulatory amendments include provisions which "provide that a personal support worker who has received training in the administration of drugs and who has been authorized by a member of the registered nursing staff may administer drugs to residents where it is not a controlled act".

RNAO opposes this proposed regulatory change for the following reasons:

- i. Long-term care (LTC) is home to an increasingly acute population of residents with complex health and medication requirements.
 - The percentage of LTC residents with heart disease and dementia has increased by 14.3 per cent and 12.5 per cent, respectively, since 2009 (Office of the Auditor General of Ontario, 2021).
 - Since 2004, the provincial case mix index (CMI) score for LTC residents has increased by 20 per cent (Long-Term Care Staffing Study Advisory Group, 2020).
 - The 89,565 Ontario LTC residents who were assessed in 2021/2022 received the following medications: antipsychotic (30.2 per cent), antianxiety (9.5 per cent), antidepressant (61.1 per cent), hypnotic (3.6 per cent), diuretic (24.6 per cent), analgesic (71.1 per cent) (Canadian Institute for Health Information, 2022b). Such medications should be administered to our LTC residents by a nurse, as they have the potential to elicit adverse reactions, and can require ongoing monitoring and assessments.
- ii. The act of administering medication requires advanced knowledge, skills, judgment, and critical thinking, and should only be performed by regulated nurses in long-term care settings.
 - According to the College of Nurses of Ontario's (CNO) three-factor framework, decision-making related to professional responsibilities when providing client care should be based on the client, nurse and environment (CNO, 2018).

- LTC residents are increasingly acute, while the LTC environment has become progressively more unstable, due to factors such as high client turnover, inadequate nurse staffing, and high resident-to-nurse ratios.

RNAO urges the government to remove the regulatory amendment that would permit personal support workers (PSWs) to administer drugs to residents in long-term care homes.

RNAO posits that RNs and registered practical nurses (RPNs) must take the lead with medication administration in long-term care settings, rather than PSWs, as regulated nurses have the requisite expertise to provide this type of care to this fragile and increasingly acute resident population.

b. RNAO laments the absence of regulatory change in the proposed regulatory amendments that enhances the ability of regulated staff in long-term care to enhance the quality of resident care. Embedding RNAO's best practice guidelines in electronic medical records (Clinical Pathways) – by funding and implementing the RNAO-PointClickCare proposal “Building Capacity and Achieving Excellence in Long-Term Care” – will help to standardize care, measure outcomes consistently, and optimize residents' care experiences and outcomes in all LTC homes (RNAO, 2020a). The clinical evidence-based pathways included in this digital health solution provide key performance indicators for each of the required clinical programs that can be tracked in real time. The proposal has already been piloted and is fully supported by the Ontario Long Term Care Association and AdvantAge Ontario (Levin, 2020).

RNAO recommends that the government fund RNAO to work with LTC homes to embed RNAO's evidence-based “clinical pathways” into their electronic medical records.

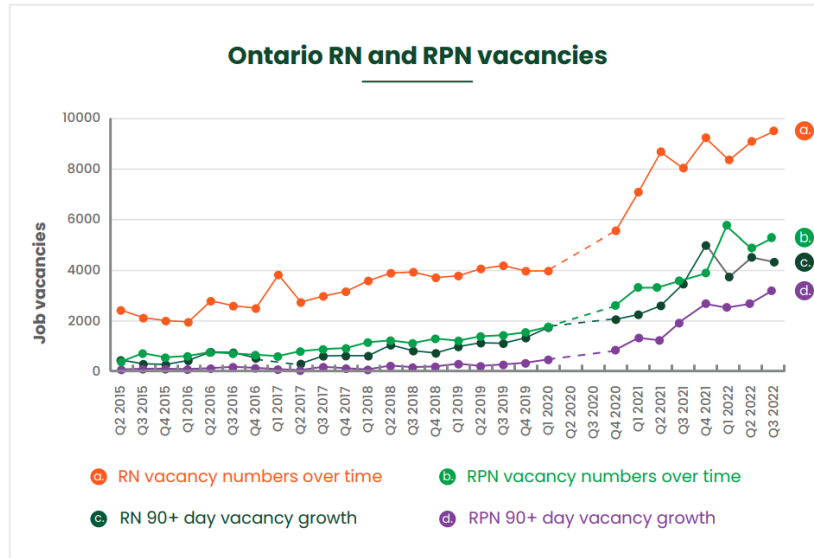
2. Staffing issues

a. The provision in the proposed amendments to Ontario Regulation 246/22 under the FLTC that permits PSWs to administer drugs to LTC residents fails to address staffing issues in Ontario's LTC homes.

RNAO is concerned about this regulatory change as it pertains to staffing issues, for the following reasons:

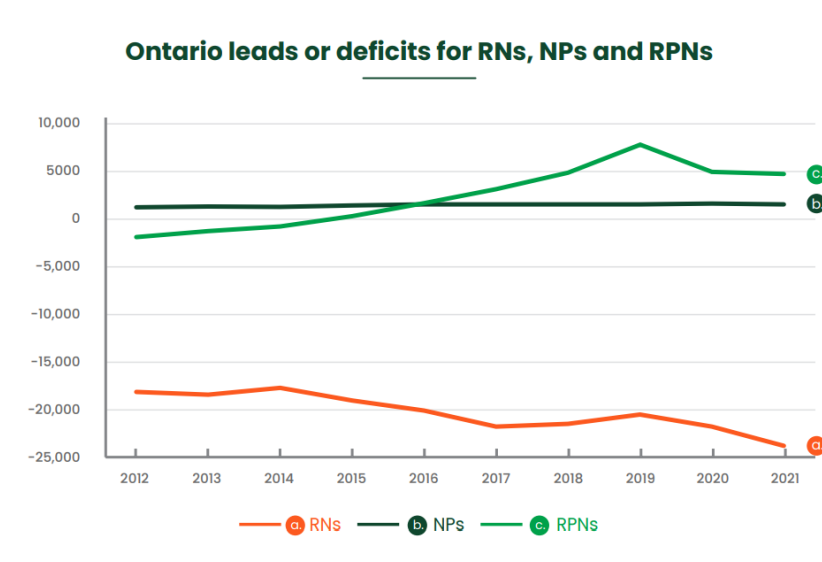
i. The proposed regulatory change is clearly meant to work around the current, acute shortage of nurses in Ontario's workforce generally and in Ontario's LTC homes specifically. In addition to high and stubborn RN and RPN vacancy rates (**Figure 1**), Ontario has a deficit of 24,000 RNs, benchmarked against the rest of Canada (**Figure 2**). That shortage is most acute in LTC. Ontario's nursing homes have more than 30 per cent fewer RNs per population than nursing homes across the rest of Canada (**Figure 3**). Moreover, Ontario's LTC homes are facing immense challenges related to retaining and recruiting directors of care in LTC because of insurmountable workloads, inadequate resources and lack of supports.

Figure 1



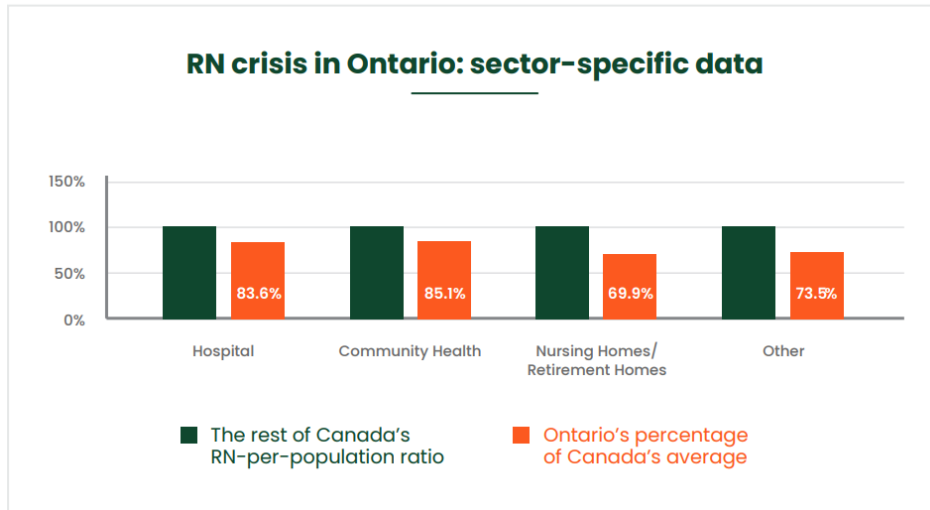
Source: Statistics Canada (2022a).

Figure 2



Source: Calculation by RNAO. RN statistics from Canadian Institute for Health Information (2022a). Population statistics from Statistics Canada (2022b).

Figure 3



Source: Calculation by RNAO. RN statistics from Canadian Institute for Health Information (2022a). Population statistics from Statistics Canada (2022b).

RNAO has issued [reports](#) making public policy recommendations to the government for addressing Ontario's nursing crisis. Most recently, RNAO released [Nursing Career Pathways: Opportunities and Barriers](#), a report that identifies barriers to nursing careers, opportunities for increasing Ontario's nursing workforce and 24 recommendations to address Ontario's nursing crisis.

The government should remain focused on addressing the nursing crisis directly rather than implementing measures that compromise patient/resident safety due to inadequate nurse staffing. RNAO's recommendations related to retaining and recruiting RNs, NPs and RPNs in Ontario are as follows:

- Withdraw the appeal of Bill 124 and increase compensation for nurses and all other health professionals working in all roles, domains, and sectors, harmonizing compensation upward to address pay disparities affecting, primarily, the long-term care, home care and primary care sectors.
- Increase the supply of nurses by:
 - A. expediting processes for internationally educated nurses (IEN) to become registered to practise in Ontario,
 - B. continuing to increase nursing school enrolments and corresponding funding (Ontario Ministry of Health, 2023),
 - C. compressing RPN-to-BScN bridging programs, and
 - D. supporting nursing faculty retention and recruitment.
- Develop and fund a Return to Nursing Now Program to attract nurses back to the nursing workforce.

- Support nurses through their careers by expanding the Nursing Graduate Guarantee program and reinstating the Late Career Nurse Initiative.
 - implement evidence-based recommendations to retain and recruit nurses by providing full-time employment, mentorship and professional development, occupational health and safety measures and enforcement, as well as safe workloads.
 - Increase the compensation and education allowances for directors of care in nursing homes, and provide supports and resources to ensure safe and healthy workloads for nurses in these roles.
- ii. Safe and dignified care for LTC residents, specifically, requires that Ontario address its nursing shortage by increasing nurse staffing in LTC homes, and not by allowing tasks such as administering medication to be performed by non-nursing staff with lesser skills, experience and competency. RNAO issued evidence-based recommendations with respect to nursing home staffing in its [Nursing Home Basic Care Guarantee](#) (RNAO, 2020b). These recommendations include mandating and funding all Ontario LTC homes to provide a guaranteed minimum of four worked hours of direct nursing and personal care per LTC resident per day, with the following skill mix:

| Role | Skill mix of care per day | Worked hours of care per day |
|----------------------------------|---------------------------|------------------------------|
| Registered nurse (RN) | Minimum of 20% | 0.8 per resident |
| Registered practical nurse (RPN) | Minimum of 25% | 1.0 per resident |
| Personal support worker (PSW) | Maximum of 55% | 2.2 per resident |

- one nurse practitioner (NP) per 120 LTC residents
- one infection prevention and control RN per 120 LTC residents
- an average of one hour of care per day per LTC resident from allied health professionals

The implementation of these direct care and skill mix recommendations will obviate the need for the delegation of duties such as medication administration and attendant risks associated with such staffing shortage work-arounds.

RNAO acknowledges that the province has taken some positive steps to improve the long-term care sector since more than 5,200 residents lost their lives due to COVID-19. We are reassured, for example, by the commitment to increased direct nursing and personal care and the recent funding for NP positions in long-term care homes. However, the proposed regulatory amendments indicate that expired transitional provisions will be removed from existing regulations, which could likely include the following transitional targets:

- An average of three hours of direct care to be provided per resident per day no later than March 31, 2022.

- An average of three hours and 15 minutes of direct care to be provided per resident per day no later than March 31, 2023.

The summary of proposed regulatory amendments does not indicate whether these targets have been met, and RNAO is urging that this information be provided in the amended regulations.

b. The provision permitting PSWs to administer drugs to LTC residents places an added burden on the nursing workforce and raises concerns about professional liability and patient safety. According to the College of Nurses of Ontario (CNO) standard related to working with unregulated care providers (UCP), "nurses who work with UCPs have certain accountabilities related to teaching, delegating, assigning and supervising, depending on the nature of their role" (CNO, 2013). Additional accountabilities, such as overseeing PSWs administering medications, will negatively impact an already stretched nursing workforce in LTC, and likely resident care, due to time constraints and professional liability concerns for nurses.

Delegating the administration of drugs to PSWs also places additional burdens on an already stretched PSW workforce. According to RNAO's analysis, Ontario requires the following additional full-time equivalent positions to fulfill minimum care requirements for Ontario's current LTC residents: 11,047 RNs, 9,000 RPNs, and 6,236 PSWs.

3. The "summary" format of the posting

RNAO objects to the summary format of the posting. The brief summary of proposed amendments that was posted does not provide the level of detail warranted for a regulatory consultation process. More importantly, as evidenced by the devastating impact of the COVID-19 pandemic on Ontario's nursing homes, including the deaths of more than 5,200 nursing home residents, RNAO believes that it is critically important that the proposed language of the regulations impacting the care of high acuity residents be posted for review and comment.

We urge the government to provide the full proposed language of the amendments to Ontario Regulation 246/22 under the Fixing Long-Term Care Act, 2021 and reset the consultation period. We expect that the new posting will include important information and data with respect to levels of care in Ontario's nursing homes so that respondents can provide informed and constructive feedback. It is our operating assumption that we all share a common interest in the provision of quality, safe and dignified care for LTC residents across this province. In that spirit, complete language, full information and transparency would help us all in this important process.

Conclusion

The government must take significant action to promote improved safety, care, and quality of life for Ontario's long-term care residents. This can only be achieved through funding and mandating appropriate staffing and skill mix requirements in LTC homes, as well as implementing best practices to optimize quality of care. The proposed amendments to Ontario Regulation 246/22 under the Fixing Long-Term Care Act, 2021 instead serve to work around staffing issues in LTC, ultimately placing resident safety at risk. RNAO is calling on the Ontario government to implement our recommendations immediately, to ensure that all of Ontario's LTC residents are afforded quality care.

Listing of recommendations

RNAO urges the government to implement the following recommendations, to improve care for LTC residents in Ontario:

1. **Remove the regulatory amendment that would permit PSWs to administer drugs to residents in LTC homes, and ensure that RNs and RPNs continue to take the lead with medication administration in long-term care settings.**
2. **Fund RNAO to work with long-term care homes to embed RNAO’s Best Practice Guidelines evidence-based “clinical pathways” into their electronic medical records.**
3. **Retain and recruit RNs, NPs, and RPNs in Ontario:**
 - Withdraw the appeal of Bill 124 and increase compensation for nurses and all other health-care workers working in all roles, domains, and sectors, harmonizing compensation upward to address pay disparities affecting, primarily, the LTC, home care and primary care sectors.
 - Increase the supply of nurses by:
 - a. expediting processes for internationally educated nurses (IEN) to become registered to practise in Ontario,
 - b. continuing to increase nursing school enrolments and corresponding funding,
 - c. compressing RPN-to-BScN bridging programs, and
 - d. supporting nursing faculty retention and recruitment.
 - Develop and fund a Return to Nursing Now Program to attract nurses back to the nursing workforce.
 - Support nurses through their careers by expanding the Nursing Graduate Guarantee program and reinstating the Late Career Nurse Initiative.
 - Implement evidence-based recommendations to retain and recruit nurses by providing full-time employment, mentorship and professional development, occupational health and safety measures and enforcement, as well as safe workloads.
 - Increase the compensation and education allowances for directors of care in nursing homes, and provide supports and resources to ensure safe and healthy workloads for nurses in these roles.
4. **Mandate and fund all Ontario LTC homes to provide a guaranteed minimum of four worked hours of direct nursing and personal care per LTC resident per day, with the following skill mix:**

| Role | Skill mix of care per day | Worked hours of care per day |
|----------------------------------|---------------------------|------------------------------|
| Registered nurse (RN) | Minimum of 20% | 0.8 per resident |
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| Personal support worker (PSW) | Maximum of 55% | 2.2 per resident |

- a) one nurse practitioner (NP) per 120 LTC residents
 - b) one infection prevention and control RN per 120 LTC residents
 - c) an average of one hour of care per day per LTC resident from allied health professionals
- 5. Report on whether previous transitional targets related to increasing direct nursing and personal care hours in LTC have been met.**
 - 6. Provide the full proposed language of the amendments to Ontario Regulation 246/22 under the Fixing Long-Term Care Act, 2021 and reset the consultation period.**

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