



**RNAO's Feedback on Strengthening  
Legislation to Enable Correctional Reform**

Submission to Ministry of Community Safety  
and Correctional Services

July 28, 2017



## **Introduction**

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 they serve.

RNAO appreciated the opportunity to participate in the Ministry of Community Safety and Correctional Services' (MCSCS) roundtable engagement on corrections reform legislation held in Toronto on July 19, 2017. Given the short one-week deadline for further feedback, RNAO will focus our responses on a few key themes related to legislative change and recommendations on improving health care in corrections. RNAO and our Ontario Correctional Nurses' Interest Group (OCNIG) remain unwavering in our commitment to continuous engagement with MCSCS and the Ministry of Health and Long-Term Care (MOHLTC) in support of a transformed correctional system that is safer, healthier, and more equitable for inmates, staff, and the larger community. As further context, please see RNAO's extensive list of recommendations to the MCSCS in *Transforming Ontario's Correctional Services: Starting but Not Stopping, with Segregation*.<sup>1</sup>

## **Transformation of the correction system requires a strong legislative foundation**

RNAO strongly urges full implementation of all recommendations proposed by the Sapers Report, including passing a modernized *Ministry of Correctional Services Act* in the current legislative session.<sup>2</sup> Just as the *Commitment to the Future of Medicare Act, 2004* includes a principle-based preamble, RNAO recommends that this revised legislation include the purpose and principles<sup>3</sup> of correctional services, including an ethical framework that respects the inherent dignity of all human beings.<sup>4 5 6</sup>

RNAO fully endorses the MCSCS suggested draft purpose of the Ontario Correctional Service, "to contribute to the maintenance of a just, peaceful and safe society by providing safe and humane supervision and by supporting rehabilitation and reintegration of people into the community." The first basic principle identified by the *United Nations Standard Minimum Rules for the Treatment of Prisons (the Nelson Mandela Rules)* is that "all prisoners shall be treated with the respect due to their inherent dignity and value as human beings."<sup>7</sup> As a preface to his recommendations on segregation, Howard Sapers stressed the need to keep "in mind that incarceration must be used as a last resort and people are sent to a correctional facility as punishment, not for punishment and, that inmates retain all the rights of free persons, other than those necessarily removed by the fact of confinement."<sup>8</sup> RNAO recommends, in the strongest possible terms, using the Mandela Rules as a foundation for legislation, regulations, and policy direction of correctional reform as they will move the province towards meeting its human rights

obligations and help drive needed cultural change within the criminal justice and correctional system.

## **Principles and Practicalities of Health Care in Corrections**

Consistent with international law,<sup>9 10</sup> evolving global best practices,<sup>11 12 13 14</sup> and RNAO's<sup>15 16</sup> ongoing advocacy, the provision of correctional health care should be based on the following principles:

1. Incarcerated individuals in the Province of Ontario share the same right to health and well-being as any other person.
2. The principles of respectful person- and family-centred care are applicable across sectors including corrections. **The inmate must be at the centre of correctional health care and services.**
3. Correctional health services should be at least equivalent to the professional, ethical, and technical standards provided in the community. Ontario has a duty to provide equitable access to quality health care, including in correctional settings.
4. Correctional health services must be provided exclusively to care for prisoners and must never be involved in the punishment of prisoners.
5. Correctional health services should be fully independent of prison administration and yet liaise effectively with them. Correctional health services should be integrated into provincial health systems, including the training and professional development of health care staff.
6. Inmates have a right to quality health services that are appropriate for individual needs, respect individual choice, and are delivered in timely, safe, and effective manner in accordance with most currently available scientific knowledge. Services must be seamless across the continuum of care and be provided in a way that ensures continuity of care pre and post incarceration. More attention needs to be given to ensuring a system-wide approach to quality that encompasses both the processes and outcomes of care.
7. Correctional health care must support inmates in the prevention of illness and the enhancement of their well-being.
8. Correctional health care must be accountable. Good governance with clear roles, responsibilities, and lines of authority is critical. Dedicated funding is needed for correctional health care, including investments in health promotion and disease prevention. Timely, transparent reporting at the system level on both processes and outcome must be accessible and understandable by stakeholders including the public. Long-term strategic planning and mechanisms to enforce accountability are necessary to achieve and sustain quality. The system needs to be responsive and able to adapt based on accurate reporting and actionable analysis.

Building on this foundation, RNAO continues to urge<sup>17</sup> that the following additional pragmatic steps be taken:

- It is vital that responsibility and accountability for health and health services within correctional services be quickly transferred from the MCSCS to the MOHLTC.<sup>18</sup> This transition will further the Patients First agenda of enabling person-centred, evidence-informed, and equitable health services from pre-conception to death for all Ontarians.
- Under Regulation 778, the Superintendent of each provincial correctional institution has the responsibility for the management of health care, with health-care managers reporting directly or indirectly to the Superintendent.<sup>19</sup> The reporting structure for health services must be transferred as soon as possible from the MCSCS to one overseen by the MOHLTC in order to ensure that clinical health services meet or exceed community equivalence.
- RNAO recommends that the modernized *Correctional Services Act* and any other pertinent legislation such as the *Personal Health Information Protection Act, 2004* be crafted and/or amended to facilitate sharing of pertinent health care information among health-care providers, health-care institutions, and federal/provincial correctional facilities in the best interests of safe, timely individual health care and public health considerations. As an example, when the delivery of health services in provincial correctional institutions in Alberta was transferred to the Alberta Health Services (AHS) on September 10, 2010, the disclosure of all inmate health information became subject to the *Health Information Act*. On October 1, 2011 the *Corrections Amendment Act* was amended to allow AHS to disclose inmate health information to a director of a correctional institution for certain purposes.<sup>20</sup>
- As health services within correctional facilities must be equivalent to the standard of health services available in the community,<sup>21 22</sup> it is imperative that health services are adequately funded with protected, dedicated resources that cannot be usurped for other purposes. Strong accountability measures such as accreditation,<sup>23</sup> and in particular clear health quality performance and health outcome measures<sup>24</sup> must be put in place for quality improvement and to ensure community equivalence.
- Howard Sapers noted that the MCSCS's outdated, labour-intensive, and paper-based information system "creates multiple opportunities for errors, inconsistent data and ultimately prevents timely and cogent analysis and oversight of the state of corrections generally and segregation specifically."<sup>25</sup> There is an urgent need for progress to be made on an Electronic Health Record (EHR)<sup>26</sup> for all Ontarians, including those whose health is often compromised as they enter and reside within correctional settings. EHRs or other technological means for health services in corrections to be integrated into the circle of care will enable timely and accurate health information sharing with other clinical settings such as primary care, acute care, and the federal correctional system.
- We recommend the implementation of recommendations from numerous coroners' inquests in a systematic and transparent fashion, including providing access to 24/7 nursing services. RNAO urges a focus on improving access to registered nurses and nurse practitioners specifically.<sup>27 28</sup>

- As health-care providers, including nurses, have a duty to speak out when public safety is at risk and professional standards are not being met,<sup>29 30</sup> As RNAO has done since 1998, the Association continues to strongly recommend strong whistleblower protection that is applicable across sectors.
- Since 1998, RNAO has been asking urging for provincial legislation to protect whistleblowers from reprisals from their employers. This would enable health-care providers to speak out when safety is being compromised.<sup>31 32</sup> It is also an important safety valve wherever health care and services are being provided, including within the correctional system. Even with whistleblower protection included within the province's *Long-Term Care Act, 2007*,<sup>33</sup> the first case of the MOHLTC charging an employer for punishing a whistleblower came only after a civil lawsuit. This example illustrates the need for strong legislation that must go hand-in-hand with effective monitoring and enforcement.<sup>34 35</sup>

## Conclusion

RNAO appreciates the outstanding work done each day in difficult circumstances by nursing and other correctional staff. Despite these best efforts, the current correctional system causes premature deaths, exacerbates ill-health, instigates despair, and breaks international, constitutional, and statutory human rights obligations. The status quo is not an option. RNAO urges you to implement all of Howard Sapers' recommendations as soon as possible. These transformative changes as well as those proposed by RNAO will improve the lives of inmates, their families, staff, and the broader community.

RNAO thanks you for this opportunity to provide feedback and looks forward to further dialogue and consultation as the transformation process continues.

## References

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<sup>2</sup> Sapers, H. (2017). *Segregation in Ontario: Independent Review of Ontario Corrections*. Toronto: Ministry of Community Safety and Correctional Services, 103-111.

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<sup>5</sup> Coyle, A. (2009). *A Human Rights Approach to Prison: Handbook for Prison Staff*. London: International Centre for Prison Studies, King's College London.

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