



December 8, 2020

Honourable Adrian Dix
Minister of Health
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Victoria BC
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Dr. Bonnie Henry
Provincial Health Officer
PO Box 9648
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RE: Long Term Care and Seniors Assisted Living in British Columbia

Dear Minister Dix and Dr. Henry,

I am writing to you on behalf of the British Columbia Civil Liberties Association (“BCCLA”) about the significant matters outlined in a letter sent to you on December 4, 2020, from Karen L.M. Carteri of Nathanson, Schachter & Thompson LLP. The letter was sent on behalf of a group of individual clients, most of whom are family members of residents in licensed long-term residential care and senior assisted living facilities throughout BC. The letter provides an overview of the complex statutory and policy framework governing long term care and assisted living facilities. The letter highlights how a policy restricting visitation with residents due to the COVID-19 pandemic is causing great harm to both residents and their loved ones, due to their separation from one another.

The mandate of the BCCLA is to promote, defend, sustain, and extend civil liberties and human rights. We recognize that such rights are fundamental and inalienable for the well-being of human society.

We also realize that declarations of emergencies – especially in relation to public health due to infectious diseases – enable governments to take more drastic actions than usual, and that such measures can seriously impact individual rights and liberties. We have therefore been monitoring government measures, and responding as necessary, since the emergence of COVID-19 in our population and the resulting emergency declarations across the nation.

In the context of long-term care and seniors assisted living in this province, the BCCLA is very concerned about the matters outlined in the December 4 letter. We agree with the analysis of the legal and policy frameworks provided by Ms. Cateri; that the rights guaranteed by section 7 of the *Charter of Rights and Freedoms* – security of the person and liberty - of people residing in

long term care and seniors' assisted living facilities, and the rights of their loved ones, are likely being breached due to current restrictions on visitation.

The isolation and confinement of seniors who are suffering under this current approach to visitation, is simply heartbreaking to us as humans. As lawyers and human rights advocates, we perceive these policies and decisions that separate the residents from their loved ones as overly broad and unjustifiable. The situation is also troubling from a due process perspective, as there does not appear to be any mechanism for a confined and isolated senior to challenge or appeal the policy, or to ask for an exception.

As outlined in the December 4 letter, there is immediate relief that can be provided to mitigate the harms that are being caused by the restrictive policy and its inconsistent implementation. The remedies that are outlined require that policy be clarified and/or changed.

If legislation needs to be amended to ensure that the section 7 rights of residents and their loved ones are upheld, we remind you of the extraordinary powers that the government executive and the provincial health officer currently enjoy by virtue of the emergency declarations. We urge you to make these changes without delay to protect the rights of and enhance the well-being of seniors residing in facilities governed by the *Community Care and Assisted Living Act*, and their loved ones.

This is a very serious matter; the human rights and the quality of life of many seniors and their relatives are at stake. We are optimistic that you will recognize the urgency of these concerns and alleviate them without delay.

Sincerely,



Meghan McDermott
Interim Policy Director

Cc: Isobel Mackenzie, Office of the Senior's Advocate
Deputy Minister Stephen Brown, Ministry of Health
Brian Sagar, Senior Director, Population and Public Health
Sue Bedford, Director of Licensing
Terry Lake, CEO, BC Care Providers Association
Kiersten Fisher, Executive Director, Seniors' Services Branch
Dr. Mark Tyndall, Executive Director, BC Centre for Disease Control
Karen L.M. Carteri, Nathanson, Schachter & Thompson LLP