

# Consumer Attendant Support Services Protection Act

Explanatory Note:

The Consumer Attendant Support Services Protection Act will amend the *Home Care and Community Services Act, 1994*

The purpose of this legislation is to ensure that Consumers of attendant support services are protected and have the right to be involved with decisions regarding their own attendant support services. Consumers need to be directly involved in how policies and procedures are developed with the Service Providers, which provide attendant support services for them.

The people of Ontario support the right of persons of all ages with disabilities to enjoy equal opportunity and to participate fully in the life of the Province. Also, this legislation recognizes and understands that persons with disabilities are to be treated equally and without discrimination in accordance with the *Human Rights Code* of Ontario.

The Government of Ontario is committed to working with persons with disabilities and attendant support services providers to build on what has already been achieved by ensuring that all persons with disabilities have the opportunity to participate in the day-to-day operations and policy development of their attendant support services.

Section 1 establishes definitions.

Section 2 provides for rights and obligations of Consumers and attendant support services.

Section 3 provides for the creation of a Consumer Advocate Office. This agency will advocate on behalf of all Consumers who receive attendant support services within Ontario.

Section 4 outlines governance obligations for attendant support services within Ontario.

Section 5 outlines the Executive Director's role with the Board of Directors of all providers of attendant support services within Ontario.

Section 6 establishes regulation making authority for the Minister under the Act.

Section 7 establishes the Solutions Committee to address wait times and emergency shelter attendant support services for persons with disabilities who require attendant support services.

Section 8 sets out obligations after Royal Assent.

Draft regulations follow Section 7 and pertain to specific areas of attendant support services. Draft regulations are as follows:

**Funding for Consumer Advocate Office**

**Wait Times and emergency shelter for Potential Consumers to Receive Attendant Support Services**

**Dispute Resolution Process**

## **Section 1**

### **Definitions:**

1.1 Service Provider is an organization receiving provincial funding to provide attendant support services to persons living in their own homes whether or not these homes are rented, owned, cooperatively, communally shared or with family members within Ontario.

1.2 Board of Directors is the governing body for the attendant support services provider recognized by the Ministry of Health and Long-Term Care (or other ministries) for funding purposes. They are accountable to the Ministry for operating within the established policies and procedures for attendant support services within Ontario.

1.3 Executive Director is the individual who is responsible for the overall day-to-day operations of a Service Provider, and who reports to the Board of Directors.

1.4 Attendant is a person who is paid or volunteers to provide personal attendant support services to a Consumer on behalf of a Service Provider.

1.5 Provincial cross-disability non-profit advocacy organization will be responsible for hiring adequate staff to operate the Consumer Advocate Office. The Provincial cross-disability non-profit advocacy organization will be selected by a tendering process to operate the Consumer Advocate Office.

1.6 The Consumer Advocate Office advocates for the Consumer during disputes with their Service Provider. The Consumer Advocate Office provides advice and recommendations to Consumers on how to deal with disputes between themselves, Attendants and their Service Provider.

1.7 A Consumer is the person who receives attendant support services from a Service Provider within Ontario . For the purpose of this legislation, receiving services from a specific Service Provider does not constitute a conflict of interest in serving on the Board of Directors of that Service Provider.

1.8 A Potential Consumer is a person who is eligible to receive attendant support services from a Service Provider within Ontario, but has not chosen an organization to provide these services.

1.9 Community Care Access Centre (CCAC) is the provincial government organization currently evaluating and qualifying a potential Consumer's need for attendant support services. They form contractual relations with regional Service Providers to provide attendant support services to the Consumer in accordance to CCAC assessment evaluations, for time and care tasks.

1.10: Attendant Support Services include personal care and light home care services. These are services that affect the Consumer's well being in acquiring or maintaining personal health, and their independent living goals, which promote their autonomy and inclusion in society.

## **Section 2**

### **Rights and Obligations:**

2.1 Every Consumer has the right to control how their attendant support services are provided to them.

2.1.1 Every Consumer has the right to declare the type and level of support required to meet their independent living goals, and promote their autonomy and inclusion in society.

2.1.2 Every Consumer has the right to assist in the selection and evaluation of Attendants who will be providing services in the Consumer's home.

2.1.3. Every Consumer has the right to report concerns to the Service Provider. Consumers have a right to expect these concerns to be responded to in a timely manner, and in a way that effectively works to resolve the issue. The Minister shall establish in consultation with Service Providers and the Consumer Advocate Office a regulation to spell out specific time frames and obligations to formulate an effective resolution process.

2.2 Every Consumer may participate in a training session designed to resolve conflicts between them, their Service Provider and Attendants.

2.3 Service Providers are obligated to ensure that any corrective measures taken by them, which may impact a Consumer, has a fair process that allows the Consumer the opportunity to appeal decisions that impact their services.

2.3.1 Every Service Provider will develop policies and procedures to deal with disputes between Consumers and Attendants. The Service Provider's Board of Directors will approve these procedures.

2.3.2. All Service Providers must adopt these procedures within 30 days of this legislation receiving Royal Assent.

2.4 Every Attendant hired by a Service Provider must be trained in conflict resolution. The Minister shall establish in consultation with Service Providers and the Consumer Advocate Office a regulation that will establish Ontario guidelines for staff to be trained in conflict resolution procedures.

2.4.1 Under this legislation no Attendant will be allowed to deliver services to any Consumer without supervision unless this training is completed to the satisfaction of the Service Provider and the Consumer Advocate Office Representative.

2.4.2 Service Providers are required under this legislation to fund training in conflict resolution for Consumers and Attendants.

2.4.2.1 Service Providers may share the cost of such training programs with other Service Providers. All Organizations involved in joint training programs must have the approval of each individual organization's Board of Directors.

2.5 Once CCAC has qualified the Consumer's eligibility, the Consumer then has complete control to direct their attendant support services with the Service Provider until their eligibility changes.

## **Section 3**

### **Consumer Advocate Office:**

3.1 The Consumer Advocate Office will be established on the day that this legislation receives royal assent.

3.2 A Provincial cross-disability non-profit advocacy organization will have the responsibility under this legislation to hire appropriate staff to manage the Consumer Advocate Office.

3.2.1 Service Providers will have the right to be involved with the hiring of staff for the Consumer Advocate Office.

3.2.1.1 Despite the previous subsection the Provincial cross-disability non-profit advocacy organization will have the ultimate responsibility for staffing this agency.

3.3 All Service Providers equally under regulation will provide funding for the office. The Minister shall establish in consultation with Service Providers and the Consumer Advocate Office a regulation that will establish Ontario guidelines regarding sustainable funding on an annual basis.

3.4 The Ministry of Health and Long-Term Care will seek out a provincial body that has the following characteristics to operate the Consumer Advocate Office:

Incorporated organization  
Cross disability membership throughout Ontario  
Non-profit advocacy capabilities

## **Section 4**

### **Governance:**

4.1 Every Service Provider must have a Board of Directors elected through a democratic process by the membership of the organization.

4.1.1 All Consumers who receive services from the Service Provider are automatically members of the organization with associated rights and privileges.

4.2 The Board of Directors for the Service Provider shall make every effort on an annual basis to recruit Consumers receiving attendant support services to serve on the Board.

4.2.1 This effort may include remuneration for expenses, provision of attendant support services to participate on the Board and per diems.

4.2.2 Service Provider by-laws must direct that the majority of Board Members must be Consumers receiving attendant support services from a Service Provider.

4.2.3 Despite any existing By-law of any Service Provider, Consumers must be represented on the Board of Directors.

4.3 No Board of Directors may operate legally under this legislation without representation from the Consumer population of their own Organization.

4.4 If a Service Provider cannot find Consumers willing to serve on the Board of Directors, the Service Provider must inform the Minister of Health and Long-term Care in writing detailing the search process used to contact Consumers regarding membership on the Board of Directors. If the Minister is satisfied that the Service Provider has attempted to ensure Consumer membership on the Board of Directors, the Service Provider will be allowed to operate for one year without Consumer participation on the Board.

4.4.1 Service Providers may also seek out disability organizations to augment their boards with appropriate members of persons with disabilities.

4.5 Service Providers that do not have Consumers on the Board must annually seek them out to ensure proper representation on the Board of Directors.

## **Section 5**

Executive Director

5.1 Despite any existing By-law of any Service Provider, the Executive Director is not eligible to be a Board Member in any capacity.

5.2 Executive Directors may be present at all Board meetings or subcommittee meetings. They are not eligible to vote on any matter for Board consideration.

5.3 Despite Section 5.2 the Executive Director of a Service Provider may not be present during discussions at the Board regarding his/her performance, compensation or employment status unless invited by the Board.

## **Section 6**

6.1 The Minister shall establish regulations for specific purposes under this legislation.

## **Section 7**

7.1 The Ministry of Health and Long-Term Care will establish a Wait Times and Emergency Shelter Solutions Committee on the day the legislation receives royal assent to examine wait times and emergency shelter support for individuals seeking attendant support services.

7.1.1 The committee will be established by regulation under this legislation.

7.2 The committee established will provide a draft report to the Minister within six months.

7.2.1 The committee will be made up of Consumers, Potential Consumers, a member of the Consumer Advocate Office and Service Providers.

## **Section 8**

Royal Assent:

8.1 This Act comes into force on the day it receives third reading approval in the Ontario Legislature.

-

-

## **Draft Regulation: Funding for Consumer Advocate Office**

1.1 All Service Providers as defined in Section 1 shall dedicate ten per cent of their annual budgets to create the Consumer Advocate Office as defined in Section 3. The Consumer Advocate Office's Budget will be reviewed every two years to ensure that adequate long-term funding is secure for the Office to conduct its work.

1.2 Service Providers may not decrease operational budgets to fund the Consumer Advocate Office.

1.3 Service Providers must hand over their dedicated funds to the Consumer Advocate Office on the day the legislation receives royal assent.

1.3.1 The Consumer Advocate Office will report any Service Provider that does not provide these funds in accordance with this regulation to the Ministry.

1.3.2 The Ministry will immediately transfer the appropriate funds to the Consumer Advocate Office and deduct that amount from the Service Provider's Provincial grant allocation.

1.3.3 After Royal Assent the Ministry will allocate ten percent of the next year's Provincial grant allocation to be paid to the Provincial cross-disability non-profit advocacy organization directly. The Ministry will continue to be responsible for financing the Provincial cross-disability non-profit advocacy organization directly.

-

# **Draft Regulation: Wait Times and Emergency Shelter Solutions Committee for Consumers and Potential Consumers to Receive Attendant Support Services and Emergency Attendant Support when Necessary**

1. Pursuant to section 7 of the legislation the Minister shall appoint a committee made up of:
  1. Representatives of the Consumer Advocate Office
  2. Representatives from all Service Providers
  3. Representatives from Consumers and Potential Consumers
  4. The Consumer Advocate Office in consultation with all representatives and the Minister will appoint the Chair of the committee.
  5. Committee membership will be voluntary and appointed by Minister's Order.

1.2 The primary mandate of the committee will be to examine attendant support services in Ontario and recommend options to the government on how to best service Consumers and potential Consumers to ensure they have access to this community resource.

1.3 The committee will be given a broad mandate to examine all aspects of attendant support services.

1.4 The committee will also examine attendant support services provided to individuals seeking emergency shelter.

1.4.1 The committee has the authority under this regulation to invite any individual organization to address the committee.

1.4.2 Any individual or organization has the right to address the committee.

1.5 Pursuant to section 7.2 the committee will present a draft report of their findings to the Minister for review within six months of the committee be established.

1.6 The draft report will have a timetable and a work plan outlining the final report.

1.7 The committee will also provide an action plan on attendant support services for the Minister's consideration.

1.8 The committee will establish guidelines and best practices for attendant support services.



## Draft Regulation: Dispute Resolution Process

1. Pursuant to Section 2.3.1 all Service Providers within Ontario will develop and approve a comprehensive dispute resolution mechanism.
  - 1.2 Each Service Provider must develop their own dispute resolution mechanism to deal with issues and conflicts between Consumers and Attendants.
    - 1.2.1 Each Service Provider must provide for the following within their dispute resolution mechanism:
      1. Consumer participation throughout the process.
      2. Consumer Advocacy Office participation throughout the process. The Office must be given the authority to question Attendants and other staff regarding disputes involving Consumers.
      3. Once the process is finalized and approved by the Board of Directors, the Service Provider must communicate this dispute resolution mechanism to all Consumers and send a copy to the Consumer Advocacy Office.
      4. When a Consumer is sent a notice from the Service Provider warning that their services are being terminated the Consumer shall be able to direct that the Consumer Advocate Office investigate. No termination of services can come into effect until the Office has investigated the directive of termination.
  - 1.3 Service Providers must have approved dispute resolution mechanisms in place seven days after the Act receives Royal Assent.
  - 1.4 Failure to comply with section 1.3 of this regulation will result in the Ministry of Health and Long-Term Care in conjunction with the Provincial cross-disability non-profit advocacy organization developing a dispute resolution process to be imposed on the Service Provider
  - 1.5 Continued failure to comply will result in the Ministry of Health and Long - Term Care sending an official letter to the Service Provider that further non-compliance will result in the Minister seeking out another Service Provider, and suspending all operations of the current Service Provider. The suspension will not come into effect until another Service Provider is appointed. If no Service Provider volunteers to come forward and accept this responsibility, the Minister will appoint a Service Provider within one month of official notice of the previous Service Provider's termination to take on this role.
  - 1.6 This Regulation if passed will amend Sections 39 to 48 in the Home Care and Community Services Act