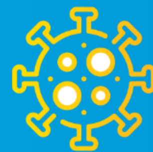
Patient Ombudsman



SPECIAL REPORT – October 2020

Honouring the voices and experiences of Long-Term Care Home residents, caregivers and staff during the first wave of COVID-19 in Ontario

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Land Acknowledgement

Patient Ombudsman acknowledges that, traditionally, Toronto, where our office is located, was a gathering place for many nations including the Anishinabeg, the Haudenosaunee and the Wendat peoples. Patient Ombudsman acknowledges the area covered by Treaty 13, also known as the Toronto Purchase, and we pay respects to the Mississaugas of the Credit. Patient Ombudsman also pays special recognition to the other lands or territory belonging to Indigenous people throughout Ontario and the traditional lands and territories where individuals who contact Patient Ombudsman may be contacting us from.

Dedication

We dedicate this report to the 2803 Ontarians who died from COVID-19 and their loved ones.
We also dedicate this report to the healthcare workers responding to COVID-19 across Ontario's healthcare system.

Foreword from Cathy Fooks, the Patient Ombudsman

The last few months have been exceptionally difficult for Ontario's patients, long-term care home residents, their families and caregivers as they have navigated the COVID-19 pandemic and the significant upheaval in Ontario's healthcare system. Rightly, provincial and local public health authorities, healthcare providers and government put measures in place to prevent the spread of the novel coronavirus in March. This undoubtedly saved many lives.

However, these measures disrupted the normal relationships between healthcare providers and their patients. The measures separated those inside the healthcare system from their supports outside the system. This has been a source of anxiety and confusion for many.

Based on what Patient Ombudsman heard, in the rush to shield our healthcare system from COVID-19, patients and their families were in many instances set adrift, left to navigate shifting policies and public health responses alone without the knowledge, expertise or support to do so successfully. Healthcare providers were also left to develop their own approaches in line with public health directives and guidance, leading to a great deal of inconsistency and uncertainty in any particular situation.

In Ontario, long-term care homes were hardest hit in our healthcare system. .1807 residents have died.[1] On June 2, 2020, Patient Ombudsman launched a systemic investigation of residents and caregivers' experiences in long-term care homes during the COVID-19 pandemic. That investigation is ongoing and specific findings and recommendations will follow at the conclusion of the investigation. As such, what we have heard from complainants to date about long-term care homes and other organizations is the basis of this report. What is clear is that we must prevent what happened from happening again.

There have been a dozen public reports issued in the last six months proposing an overhaul of Canada's long- term care system, enhancing supports for infection control and procurement of protective equipment, and re-introducing families back into facility-based care with appropriate precautions. This report intends to contribute to that reform through a lens of patient and caregiver experience.

Throughout this report, we have provided examples from actual complainants. I ask you to put yourself in their shoes and think about how it would feel if someone you cared about had been in a similar situation. I want to thank all the patients, residents, caregivers, staff and whistleblowers who had the courage to come to Patient Ombudsman. Reliving your experience is not always easy.

No one in Ontario's healthcare system wants a repeat of the scenarios we faced in the spring of 2020. This will take strong leadership locally and provincially, and intense collaboration amongst different health providers and different levels of government.

Cathy Fooks, Patient Ombudsman

1 Ontario Ministry of Health Public Health Data. Data Source: integrated Public Health Information System (iPHIS) database, Coronavirus Rapid Entry System (CORES) database, Middlesex-London COVID-19 case and contact management tool (CCMtool), The COVID-19 Ottawa Database (The COD). Ontario Ministry of Health. https://www.ontario.ca/page/how-ontario-is-responding-covid-19#section-0 (accessed August 27, 2020)

Executive Summary

Patient Ombudsman began receiving complaints related to COVID-19 at the beginning of March 2020. The tone of the complaints shifted markedly in April 2020 as individuals contacted Patient Ombudsman about their serious concerns about COVID-19 outbreaks in long-term care homes. On April 28, 2020, Patient Ombudsman made a public appeal for complaints about COVID-19 outbreaks in long-term care homes and we launched a systemic investigation into this issue on June 2, 2020.

Complaints to Patient Ombudsman

From March to July 2020, Patient Ombudsman received 568 contacts related to COVID-19. Complaints related to COVID-19 made up 48% of all complaints we received. Of these complaints, nearly 44% related to long-term care homes, 35% related to public hospitals and 7% related to LHIN-coordinated home and community care.

The increase was due in significant part to the increase in complaints related to long-term care homes. The number of complaints about hospitals and about LHIN home and community care remained relatively stable; however, the subject matter of the complaints changed during the pandemic.

While Patient Ombudsman heard mostly from family members of patients and residents, we also received a number of complaints from staff working in long-term care homes expressing serious concerns about infection prevention and control, staffing and their ability to provide basic care to residents. Many of the staff complaints we received were of a very serious nature.

Crisis in Long-Term Care Homes

In Ontario, over 1,800 deaths from COVID-19 occurred in long-term care homes. Complaints about long-term care homes to Patient Ombudsman increased by over **370%** when compared to the same period last year. Patient Ombudsman received one or more complaints about 90 distinct long-term care homes that had experienced COVID-19 outbreaks and 29 LTCHs that had not experienced an outbreak. Since March 2020, complaints to Patient Ombudsman about long-term care homes have outpaced complaints about other health sector organizations and have continued to increase.

What Patient Ombudsman heard

The issues that Patient Ombudsman heard about most frequently were: 1) visitation, 2) infection prevention and control, 3) communication, 4) quality of care, 5) staffing, 6) discharges and transfers, 7) testing, 8) access to treatment, 9) personal protective equipment, and 10) delays in care.

Over a third of the complaints related to COVID-19 were about the restrictions on visitation in public hospitals and long-term care homes. Patient Ombudsman heard about many distressing situations about family caregivers denied access to their loved ones in hospitals and long-term care homes and confusion about what an “essential visitor” is.

Many of the complaints we received reflect the crisis in Ontario’s long-term care homes. We received over 100 complaints about infection prevention and control (IPAC) in long-term care homes. Caregivers also expressed concerns about lack of communication from hospitals and long-term care homes. Given their inability to visit, caregivers told us that the lack of communication is particularly distressing.

Patient Ombudsman received many complaints about significant resident safety issues, including failure to meet even basic infection prevention and control measures, severe staffing shortages, complete breakdowns in

communication, and residents potentially at significant risk.

Patient Ombudsman also received complaints about the capacity of the health system during the pandemic, including complications around discharges and transfers; access to COVID-19 tests and coordination of testing; access to healthcare, in particular maintaining LHIN home and community care during the pandemic; access to personal protective equipment; and significant delays in normal treatment, including cancer and other necessary surgeries.

Recommendations

Patient Ombudsman is making preliminary recommendations to the government, health sector organizations and the broader healthcare system to help improve Ontario's response to the ongoing threat of COVID-19 and to prepare for a potential resurgence of the virus this fall.

Recommendation #1: Backstops and contingency plans for all health care providers

Patient Ombudsman feels it is critical that:

- Every long-term care home should have a partner organization to provide support for management, infection prevention and control, and staffing to prevent and respond to any COVID-19 outbreaks. This could be a municipality, a hospital or other organization that can provide resources.
- Every health sector organization in Ontario have a staffing plan in the event a COVID-19 outbreak significantly affects staffing levels.
- Every health sector organization have a plan to manage cases of COVID-19, including plans to transfer residents to hospitals, field hospitals or other options, as appropriate.
- All staff have up-to-date training regarding IPAC and PPE.
- Long-term care homes have resources in place for the ongoing monitoring of IPAC and appropriate PPE use and conservation, especially when there is a COVID-19 outbreak.

Recommendation #2: A change in approach to visitation

Patient Ombudsman recommends that the government and health sector organizations not restrict visitors entirely during any second waves of COVID-19, but rather permit a limited number of essential caregivers to visit patients or residents along with implementing infection control measures.

Visits by essential caregivers can be permitted safely. A number of organizations have developed reports addressing issues related to visitation and providing recommendations on permitting essential caregivers. Any restrictions on visitation should be limited, targeted based on evidence, proportional to the risk a visitor poses, and should provide for exceptions on compassionate grounds. A less restrictive visitation policy may require dedicated resources for health providers from the Ministry of Health and the Ministry of Long-Term Care.

Recommendation #3: Dedicated resources for communication

Communication between patients, residents and their families and caregivers is essential and the government should ensure that the resources needed to effect adequate communication to families and loved ones are in in place.

Recommendation #4: Enhanced whistleblower protection

Patient Ombudsman recommends that, in legislation, the government enhances whistleblower protections for health care workers who bring forward concerns in good faith, especially during an emergency.

Intent of this Report

This report is a summary of the complaints Patient Ombudsman heard related to COVID-19 from March 2020 through June 2020. Each individual complaint is followed up on; however, not all complaints will have been addressed to the organization in question at this time. Many of these complaints are open files and are currently part of either Patient Ombudsman's early resolution or investigative process. The information, stories and recommendations we have shared are to inform the province's preparations for potential second and subsequent waves of COVID-19.

Patient Ombudsman hopes to shine a light on the experiences of patients and caregivers in Ontario from the first wave of COVID-19. By highlighting the experiences of the individuals that came to our office, we believe that the government, public health and health providers may work to lessen the consequences of necessary public health measures as they prepare for and respond to any second wave of COVID-19. There is an opportunity now to change how Ontario approaches the COVID-19 epidemic.

The report is not a summary of Patient Ombudsman's investigation into Ontario long-term care homes' responses to COVID-19 outbreaks. While the investigation has begun, much of the information obtained to date requires further analysis and assessment. As such, it is premature to discuss any specific findings of the investigation at this time. Patient Ombudsman's investigative work continues and a public report will be available at the conclusion of the investigation.

Patient, Resident and Caregiver Complaints during the COVID-19 Pandemic

Patient Ombudsman began receiving complaints related to COVID-19 at the beginning of March 2020. At first, many complaints related to issues and services that were outside Patient Ombudsman's jurisdiction as the public grappled with what was required of them, of their employers and of the organizations that they receive services from in the context of the COVID-19 pandemic.

For organizations we oversee, Patient Ombudsman began hearing concerns about visitation restrictions, and caregivers' frustration and fears about not being able to see their loved ones in hospitals and long-term care homes.

The tone of the complaints to our office shifted markedly in April 2020 as individuals began to contact Patient Ombudsman about their serious concerns about COVID-19 outbreaks in Ontario's long-term care homes. Following several very concerning reports from complainants and whistleblowers in mid-April, Patient Ombudsman wrote directly to Minister of Health, Christine Elliott and Minister of Long-Term Care, Merrilee Fullerton to advise them of the types of situations we were hearing about.

On April 28, 2020, Patient Ombudsman made a public appeal for complaints about COVID-19 outbreaks in long-term care homes. On June 2, 2020, we launched a systemic investigation into this issue. A full summary of Patient Ombudsman's response to the COVID-19 outbreak is in Appendix A.

Existing Context and Dynamics of the Pandemic

COVID-19 is a new disease and knowledge of the virus has evolved over the months as the Ontario outbreak advanced. In particular, we did not fully understand how the virus spread in March. We did not know if you could be infected without having symptoms. Similarly, there was still confusion around if you could catch the virus from touching surfaces and from droplets in the air. This meant that the province was forced to shift its practices and priorities as their knowledge evolved.

It is also important to acknowledge that the health system's capacity related to testing, staffing and personal protective equipment (PPE) also changed over the course of the pandemic. In March 2020, the province's COVID-19 lab test capacity was a fraction of what it is now in August 2020. Staff became ill and left the workforce, particularly in long-term care. Worldwide shortages of PPE continue, making both health sector organizations' (HSO) and the province's procurement of PPE challenging. Domestic manufacturing capacity for PPE takes time to increase.

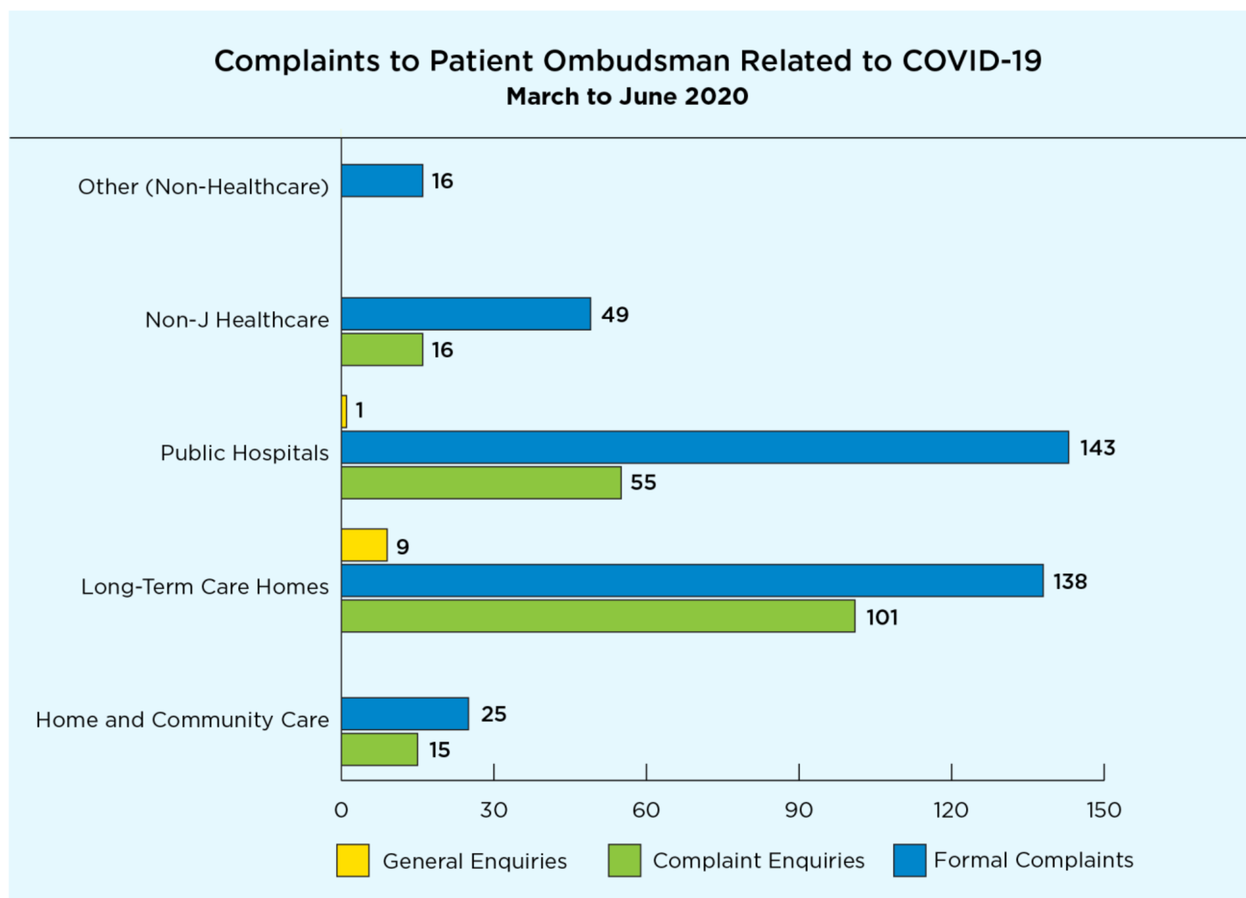
Ontario's experience with COVID-19 evolved in these changing circumstances.

Based on the experiences of China and some European countries, the province's early response to COVID-19 focused on ensuring that hospitals had the capacity to address the needs of seriously ill patients. The availability of intensive care beds and ventilators was a key consideration. This led to patients discharged home and to other care settings, such as long-term care homes, whenever possible to create hospital capacity.

While Patient Ombudsman continued to hear about public hospitals and LHIN home and community care during the pandemic, the most significant change in complaints, both in terms of volume of complaints and in subject matter, related to complaints involving long-term care homes. The crisis in Ontario's long-term care homes did not occur in a vacuum. There are many reports and stories going back decades about concerns related to funding of long-term care, staffing in long-term care, long-term care home infrastructure and the impact of these factors on residents' quality of care and experience. Many people who contacted Patient Ombudsman referenced that they had had these types of concerns even prior to the pandemic.

Overview of Complaints to Patient Ombudsman March to June 2020

The *Excellent Care for All Act, 2010* requires complaints be submitted to Patient Ombudsman in writing. However, Patient Ombudsman makes every effort to resolve complaint enquiries that come into our call centre by telephone. From March to July 2020, Patient Ombudsman received 568 formal written complaints and complaint enquiries to our telephone call centre related to COVID-19. Ten of the complaint enquiries reflected general concerns or comments (general enquiries) and were not specific to a particular incident or HSO. Fifteen people initially made a complaint enquiry and later followed it up with a formal written complaint.



Complaints related to COVID-19 made up almost half of the complaints we received during this period – 48% of all complaints. Of these complaints, nearly 44% related to long-term care homes, 35% related to public hospitals and 7% related to LHIN-coordinated home and community care.

Based on our data, the increase in the number of complaints Patient Ombudsman received for this period was due in significant part to the increase in complaints related to long-term care homes. This is a substantial shift in the normal pattern of complaints made to Patient Ombudsman. Complaints related to long-term

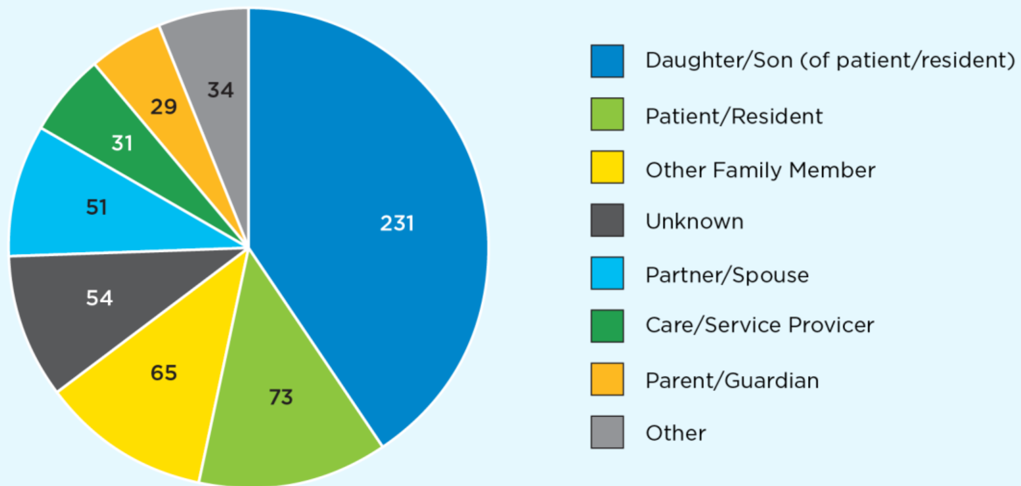
care homes have historically made up less than 10% of all complaints to our office.

While Patient Ombudsman's public appeal at the end of April resulted in a significant spike in complaints, the increase in complaints about long-term care homes began before the appeal. This shift suggests that normal complaint resolution mechanisms, namely resolving complaints directly with long-term care homes and the Ministry of Long-Term Care ACTION line were insufficient to address the issues residents and their families were experiencing, especially as COVID-19 outbreaks increased in number and severity in April 2020 and the public was looking for someone to assist them.

Patient Ombudsman also received complaints about other sectors' responses to COVID-19. In addition to complaints about public hospitals and LHIN-coordinated home and community care, Patient Ombudsman heard concerns about other health care providers and organizations (Non-J Healthcare), as well as non-healthcare entities (Non-Healthcare) such as grocery stores, private businesses, retirement homes and other government agencies. Many of the issues raised were in alignment with what Patient Ombudsman heard about long-term care homes.

The number of complaints about hospitals and about LHIN home and community care remained relatively stable; however, the subject matter of the complaints changed during the pandemic.

Who contacted Patient Ombudsman (All COVID-19 Complaints)



During the pandemic, Patient Ombudsman heard primarily from family members of patients and residents. This reflects the vulnerable status of many of the people infected with COVID-19 or who were in long-term care facilities that experienced COVID-19 outbreaks. Residents in long-term care homes are often unable to go through a full complaints resolution process on their own. This appears to be especially true during the COVID-19 pandemic where normal health sector organization operations and complaint response processes were impacted.

Patient Ombudsman received a number of complaints from staff working in long-term care homes expressing serious concerns about infection prevention and control, staffing and their ability to provide basic care to residents. Patient Ombudsman classified 20 such complaints from long-term care home staff as whistleblowers; however, we received a larger number of anonymous complaints, many of which appear to be from unidentified staff members raising serious concerns. The majority of these staff complainants feared negative impacts to their job or standing at work. Many did not want to be identified to the health sector organization who employed them.

Many of the whistleblower and anonymous staff complaints we received were of a very serious nature. Following the receipt of a number of such complaints in mid-April, Patient Ombudsman chose to contact health system leaders directly to understand what the provincial response was, notify the relevant Ministers directly and realign our internal complaints management process. Following our appeal for complaints, we triaged all complaints about long-term care homes to investigators for follow up.

Crisis in Long-Term Care Homes

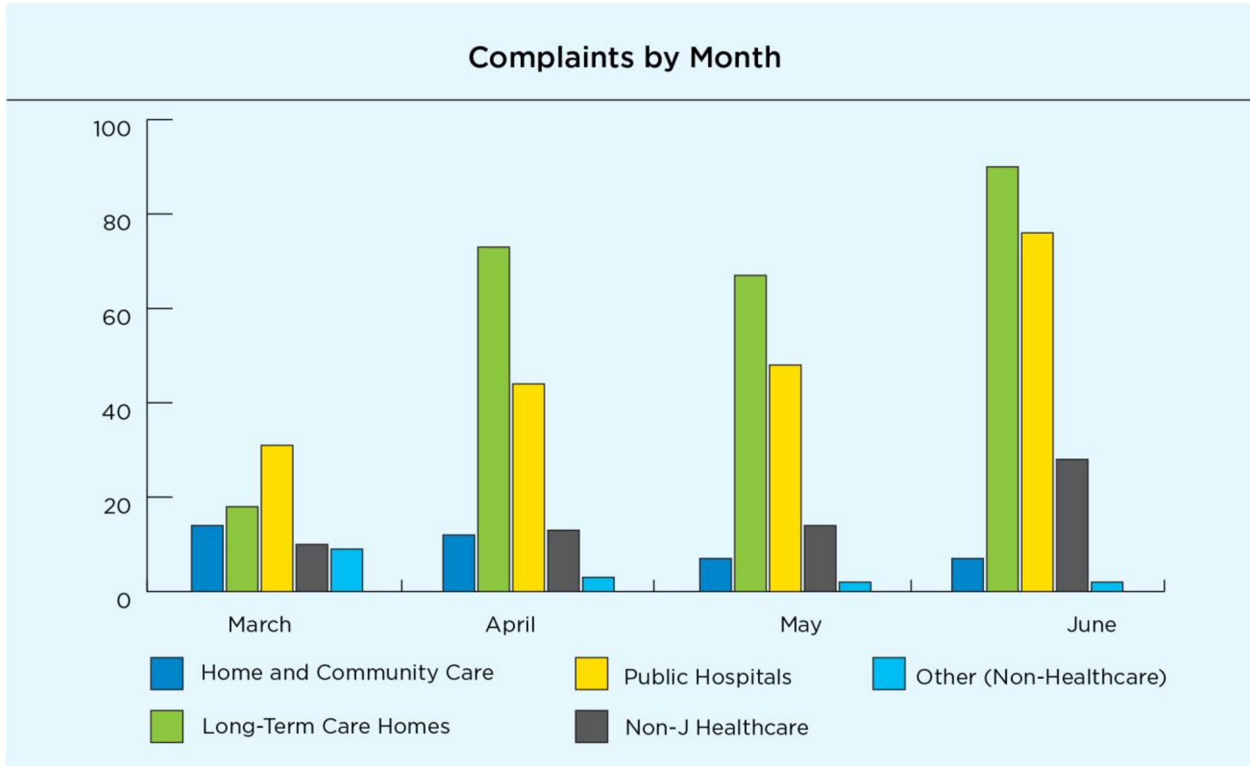
In Ontario, over 1,800 deaths from COVID-19 occurred in long-term care homes.[2] This represents 65% of all COVID-19-related deaths in the province. This may be an under-estimate due to the limited COVID-19 testing occurring in long-term care homes in March and early April 2020. 332 long-term care homes experienced a COVID-19 outbreak and 63 long-term care homes had significant outbreaks where more than 10 residents died.[3]

The pandemic has affected long-term care home residents both directly and indirectly. Even in homes where there were no COVID-19 infections or the homes were able to control COVID-19 infections, residents were unable to go about their normal daily activities, were not able to receive their family or loved ones as visitors, and were exposed to the anxiety that an unknown and deadly disease brought. We received one or more complaints about 90 distinct LTCHs that had experienced COVID-19 outbreaks and 29 LTCHs that had not experienced an outbreak.

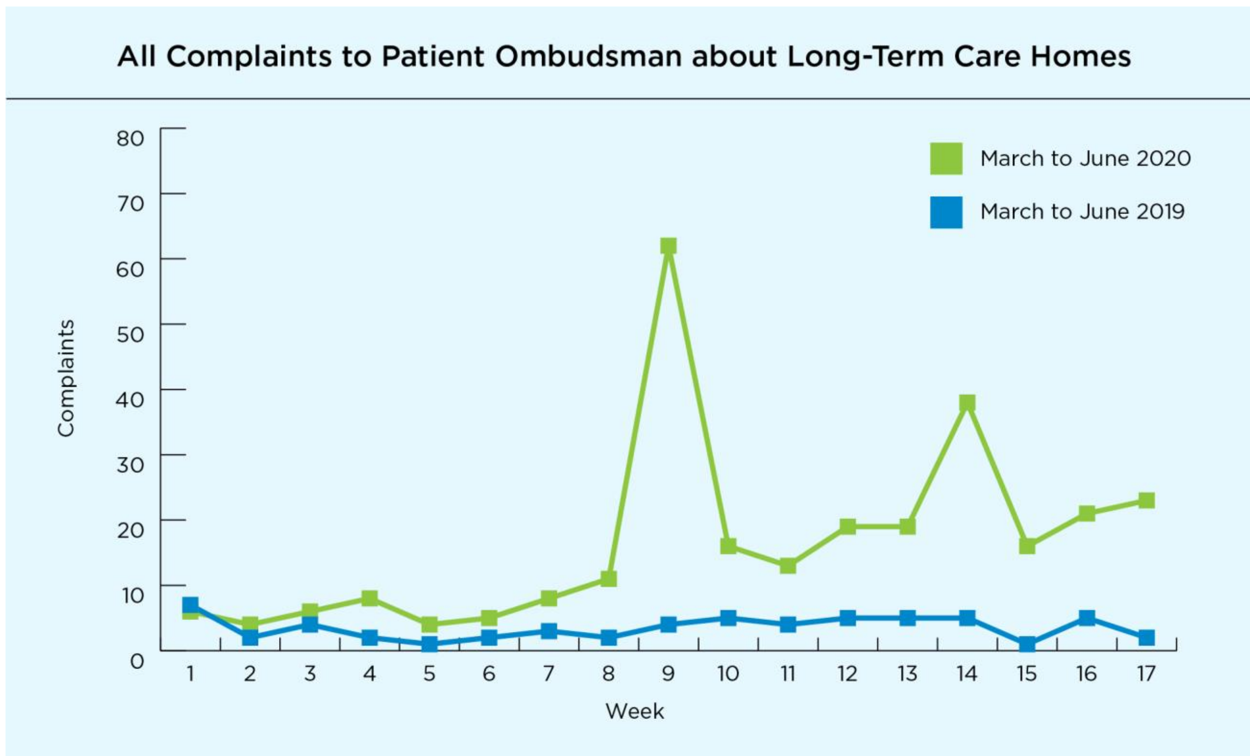
Since March 2020, complaints to Patient Ombudsman about long-term care homes have outpaced complaints about other health sector organizations. Complaints about long-term care homes have also trended up significantly since March 2020.

2 Ontario Ministry of Health Public Health Data. Data Source: integrated Public Health Information System (iPHIS) database, Coronavirus Rapid Entry System (CORES) database, Middlesex-London COVID-19 case and contact management tool (CCMtool), The COVID-19 Ottawa Database (The COD). Ontario Ministry of Health. https://www.ontario.ca/page/how-ontario-is-responding-covid-19#section-0 (accessed August 27, 2020)

3 Ontario Ministry of Health Public Health Data. Data Source: integrated Public Health Information System (iPHIS) database, Coronavirus Rapid Entry System (CORES) database, Middlesex-London COVID-19 case and contact management tool (CCMtool), The COVID-19 Ottawa Database (The COD). Ontario Ministry of Health. https://www.ontario.ca/page/how-ontario-is-responding-covid-19#section-0 (accessed August 27, 2020)



Complaints about long-term care homes to Patient Ombudsman increased by over **370%** when compared to the same period last year.



What Patient Ombudsman heard from patients and caregivers during the COVID-19 pandemic

Top 10 COVID-19-related Complaints

	LHIN Home/ Community Care	Long-Term Care Homes	Public Hospitals	Non-J*	Total**
Visitation	1	93	**97**	10	**201**
IPAC	11	**102**	29	30	172
Communication	6	71	34	5	116
Quality of Care	3	62	22	6	93
Staffing	4	77	2	3	86
Discharge/Transfer	11	22	35	4	72
Testing	2	28	25	11	66
Access to treatment	**13**	5	19	20	57
PPE	4	38	6	5	53
Delay	0	1	11	5	17

*Patient Ombudsman also received complaints outside of our jurisdiction (Non-J)

Visitation

Over a third of the complaints related to COVID-19 that Patient Ombudsman received were about the restrictions on visitation in public hospitals and long-term care homes. Visitor restrictions based on the recommendation and at the direction of the Chief Medical Officer of Health have undeniably been a significant hardship on patients, residents and their families. In addition to restrictions on visitation, a number of family members expressed concern about their inability to accompany and act as support persons for vulnerable patients who needed emotional support and help to communicate when receiving care.

Patient Ombudsman has heard about many distressing situations about family caregivers denied access to their loved ones in hospitals and long-term care homes and patients dying alone without their families there to support them. We heard from family caregivers of vulnerable seniors in long-term care homes who were concerned about the home's ability to provide care and support to loved ones. Many of the people who came to our office reported that they meet the definition of an "essential visitor", and did not understand why they were not able to visit or accompany family members who need support to receive healthcare.

Over the summer of 2020 and as COVID-19 outbreaks in LTCHs were largely resolved, the government provided new direction and guidance to support the resumption of visits by family and caregivers in LTCHs.

Story #1: What is an "Essential Visitor"?

The complainant reported that he went from providing care to his mother every night, including helping her into her nightclothes, brushing her teeth and changing her diaper to getting one 5-minute virtual visit a week. He was concerned that the home did not consider him an essential visitor. His mother has advanced dementia, so is unable to process use of the screen for virtual visits or understand what is happening.

Story #2: Definition of Essential Caregiver

The complaint contacted Patient Ombudsman to express concern about her inability to visit her mother in her LTCH. The daughter reported that she played a significant role in providing stimulation and emotional support to her mother who suffered from dementia. The daughter has asked to be considered an essential visitor, but was declined a visit with her mother because she did not feed or provide personal care to her mother. *"I believe I am a support care partner that my mother needs and relies on to keep her feeling safe in her world. My Mom was all about family and having that support being taken away from her is devastating."*

Story #3: Important Role of Family Caregivers

The complainant called in late May on behalf of her mother who is a resident of a LTCH that has seen a spike in positive cases and deaths due to COVID-19. She reported that her mother was unable to walk or feed herself independently. Prior to the outbreak, her mother was assisted into her wheelchair as part of her regular routine. This no longer happens due staff shortages and her mother has stayed in bed since mid-March.

Visitation Restrictions in Public Hospitals

By far, the most common complaint regarding public hospitals during the COVID-19 pandemic related to the visitation restrictions put in place to prevent COVID-19 outbreaks within hospitals. Nearly half of the complaints Patient Ombudsman received about public hospitals touched on restricted access to loved ones. In several cases that came to our office, hospitals barred visits to very ill and dying patients. In some of these cases, patients died alone in hospital without their families having been able to visit their loved one before they died.

Story #4: Interrupted Family Support

The complainant's young adult son was admitted to hospital for surgery, at which time his doctors discovered that he had late stage cancer. The complainant was deeply concerned about the impact of the diagnosis on their son and the isolation of being in hospital with no family support. After extensive negotiation with the hospital's patient relations office and its ethics committee, the hospital agreed to allow the patient's mother to visit for one hour on the day he received his diagnosis. When the patient was readmitted for pain management and palliative treatment, the family was able to visit for an extended time on one floor but was blocked entirely from visiting when he was transferred to a different floor in the same hospital. The patient has since died from his illness.

Story #5: Limits on Visits and Visitors

The complainant's husband of many decades died after a two-week admission to hospital. For the majority of his stay, the family was denied the opportunity to visit despite support from his family and hospital physicians. On the last day of his life, the complainant (the patient's spouse) was allowed to visit, but his children never had the chance to say goodbye. Minutes after his death, the complainant was asked to provide the name of the funeral home she planned to use. She was told her husband had to be removed to the mortuary within the hour and had to be moved from the hospital no more than two hours later. No condolences were offered and no grief counselling was available. "I don't want anyone else to suffer the anguish of being unable to be with a family member at the end of life."

Infection Prevention and Control

Many of the complaints we received reflect the crisis in Ontario's long-term care homes. Significantly, over 100 complaints we received about long-term care homes raised issues about appropriate infection prevention and control (IPAC) practices. Among others, we heard complaints that:

- COVID positive patients and COVID negative patients were sharing rooms;
- homes were not cohorting (grouping residents based on their risk of infection) residents in particular areas of the homes;
- homes continued to bring residents together or allow them to congregate in communal areas even after cases of COVID-19 had been identified in the home;
- homes did not provide sufficient training and education on IPAC and PPE to staff;
- early in the pandemic, staff were not following full droplet precautions;
- an inability to isolate residents with COVID-19 effectively; and
- challenges managing residents with dementia who wandered.

Story #6: Whistleblower/LTCH breakdown

Patient Ombudsman received a whistleblower complaint from an anonymous long-term care home staff member in April, reporting that many residents were at risk of death as a result staffing shortages related to COVID-19. The home was in the midst of a COVID-19 outbreak and one-quarter of the residents and many staff had tested positive for COVID-19. The staff member alleged that the staffing shortages were affecting the homes ability to ensure residents were receiving adequate food and medicine and reported that neither management nor the local public health unit were taking sufficient action to address the crisis. Specifically, the staff member alleged that:

- COVID-19 positive staff were forced to come to work and were working with and taking swabs from residents,
- Staff working in areas with positive residents were also working in areas of the home currently unaffected by COVID-19,
- COVID-19 positive residents were able to mix with other residents, and
- Many COVID-19 residents were in 4-bed rooms.

Story #7: Protecting vulnerable residents from infection

A complainant contacted Patient Ombudsman with a number of concerns about the lack of effective infection prevention and control in her mother's long-term care home. She reported that her mother, who had not yet received the results of her COVID-19 test, was moved from an area of the home with active COVID patients to a "safe" area of the home for healthy residents. When received, her mother's test results indicated that she was in fact COVID-positive. The complainant expressed her concern about the risk to other residents. The complainant also reported that staff were not wearing personal protective equipment in the area of the home with COVID-19 infected residents.

Communication

Caregivers often expressed concerns about lack of communication from hospitals and long-term care homes about their loved ones. Given their inability to visit, caregivers told us that the lack of communication is particularly distressing. Long-term care home staff also reported inadequate or inaccurate internal communication about the situations in their homes.

Story #8

The daughter of a long-term care home resident came to our office with concerns about how the home communicated with families. She told us that she received an e-mail from the home where her mother lived about how the home was responding to COVID-19, including a contact staff member if there were any questions about their family members. She e-mailed the contact person twice, but got no response. She later learned that the contact person was off sick, but the home did not provide an alternate contact.

The daughter was able to contact the nurse on her mother's floor from time to time. As time went on, it was clear things were getting worse at the home, but there was no communication with families nor any information on the home's website. E-mails to the home's director were not answered.

In April, a nurse at the home informed the complainant that her mother had a slight fever and wasn't eating. The daughter called a number of times over the next few days. She requested that her mother be tested for COVID-19 but was told that this would not happen. After trying to contact someone familiar with her mother, she received a call saying her mother was fine but wasn't eating. The next day, the home called to say her mother had passed away. The daughter felt she should have been kept informed about her mother's condition and been given the chance to see her mother before she died.

Quality of Care

Patient Ombudsman received many complaints that raised significant concerns about resident safety and well-being. Resident safety and well-being was a key theme that emerged as our number of complaints continued to increase.

Many of the complaints Patient Ombudsman received were about failure to meet even basic

infection prevention and control measures, severe staffing shortages, complete breakdowns in communication, and residents potentially at significant risk. It is clear that a number of homes suffered organizational breakdowns and were unable to fulfill their basic functions. In situations where we thought the safety of residents was at immediate risk, Patient Ombudsman escalated concerns to entities that could take immediate action to stabilize the homes; in particular, the Regional/LHIN organizations played a critical role in bringing in staffing resources, organizing support from partner hospitals and coordinating amongst many different stakeholders.

Patient Ombudsman made 24 Mandatory Reports to the Ministry of Long-Term Care Inspections Branch under the *Long-Term Care Homes Act, 2007*.[4] Patient Ombudsman typically makes under 10 such referrals in an entire year.

Story #9: No assistance with meals

A family member contacted Patient Ombudsman to express concern about her mother-in-law's significant weight loss over the past month in a long-term home. When the complainant was finally able to talk directly to a care provider in the home, she learned that her mother-in-law was only eating a small portion of her meals. Prior to the COVID-19 outbreak, her mother-in-law received assistance with eating. Now there is no guaranteed assistance with eating after food tray delivery. Her mother-in-law does not have COVID-19, but many other residents of the home are ill or have died. The complainant expressed concern that residents were not just dying from COVID-19, but experiencing levels of neglect, dehydration and starvation, as a result, of staffing shortages.

Story #10: Bed bound

The complainant called in May on behalf of her mother who is a resident of a long-term care home that had a spike in positive cases and deaths due to COVID-19. She reported that her mother was unable to walk or feed herself independently. Prior to the outbreak her mother was helped into her wheelchair as part of her regular routine. This no longer happened as a result of staff shortages and her mother had been kept in bed since mid-March.

Staffing

Related to this crisis, Patient Ombudsman received a number of complaints about critical staffing levels in homes and an inability to meet the basic care needs of residents. This included allegations of abuse, dehydrated residents or those who were under-nourished resulting in significant weight loss, lack of appropriate treatment to wounds and residents being kept in bed for long periods.

4 All organizations and individuals have an obligation to report concerns related to abuse and neglect of a long-term care home resident under section 24 of the Long-Term Care Homes Act, 2007, a mandatory report.

Story #11: Adequate resources

A LTCH staff member contacted Patient Ombudsman to share multiple concerns about the home where she worked. She reported that prior to early April, PPE was not available, and afterwards it was kept locked up by management.

Ultimately, a majority of staff did not report to work as the result of illness or fear of infection. The remaining staff worked 15 to 18 hour shifts and were exhausted. There was no time to contact residents' families to share information, and families were not receiving notification when a resident tested positive. Some replacement staff were hired, but they did not have healthcare experience and had not received IPAC training. Residents did not have a phone, so could not connect with their families and many appeared depressed.

Staff, including management, were not wearing PPE correctly and some were going from room to room without masks. When she raised concern about this, she was told that someone would be coming in to provide training in the next week. Staff were informed that local hospital staff had visited the home to review the situation and had not identified any problems.

Story #12: Concerns about people in her care

A whistleblower contacted Patient Ombudsman to express concern about the safety of residents in the LTCH where she worked as the result of COVID-19. She reported that significant staff shortages and lack of infection prevention and control measures were placing residents at risk. She indicated that the home was in the midst of a significant outbreak and many residents and staff had tested positive for COVID-19. Staffing shortages were making it difficult to ensure that residents were received medication, food and basic support for their daily needs. She reported that the home's management were forcing COVID-19 positive staff to come to work to care for COVID-positive residents and that these staff were also taking swabs from all residents. Staff working with COVID-positive residents were also caring for residents that were currently well. COVID-positive residents were not being isolated and were allowed to smoke with other residents.

Discharges and Transfers

Discharges and transfers were greatly complicated during the first wave of COVID-19. In March, hospitals were told to transfer as many individuals to other settings as possible to create capacity for COVID-19 patients. When long-term care homes began having significant COVID-19 outbreaks in April, discharges to long-term care homes were banned in an effort to protect vulnerable long-term care home residents.

Story #13

Patient Ombudsman received a call late on a Friday afternoon from a distraught complainant who reported that her mother, who was a resident of a long-term care home that was experiencing a COVID-19 outbreak, was about to be discharged from hospital back to the home. After receiving verbal consent, Patient Ombudsman reached out to both the hospital and the long-term care home to ensure they were aware that hospital discharges to long-term care homes in outbreak were prohibited in the Chief Medical Officer of Health's Directive #3 for long-term care homes.

After multiple calls, Patient Ombudsman was able to confirm that while the mother's unit in the home would be out of outbreak as of midnight, the home would still be in outbreak for another day. Patient Ombudsman confirmed with the home that they understood that accepting a re-admission while the home was still in outbreak was inconsistent with the directive. The home advised Patient Ombudsman that the hospital was insistent on discharging the mother, but they would communicate to the hospital that they could not accept the readmission. At that point, the ambulance transfer was scheduled for midnight. After additional calls, the hospital agreed to delay the discharge and investigate the situation. The hospital staff appeared to be unaware of the long-term care home Directive.

The outbreak period at the home expired at midnight on Saturday. The complainant's mother was transferred back to the long-term care home shortly after midnight on Sunday. The complainant remained concerned about the decision to transfer her frail mother back to the home in the middle of the night.

Testing

At the outset of the pandemic in March, large-scale testing for COVID-19 was impossible. Over a number of weeks in March and April the province increased the capacity to conduct and process COVID-19 tests considerably.

Story #14: Testing mix-up

The complainant contacted Patient Ombudsman with concerns about her brother's COVID-19 testing at his long-term care home. Her brother developed a cough and was swabbed in late April. She was informed that his test was inconclusive. The complainant followed up and learned that there was a problem with documentation that led to results not being processed. Her brother was tested again, but his positive result was not communicated to the home until a week later. There was a further delay before the family was advised of the results. She believed a third test had been conducted, but was unable to get confirmation from the home or the results.

Access to health services

While the number of complaints about LHIN-coordinated home and community care did not change substantially, many of the home and community care clients that came to our office expressed fear of letting workers into their homes and so they had refused their home and community care services as a result. Many home care workers did not have access to PPE for a substantial period of time at the outset of the epidemic in Ontario. Patient Ombudsman heard from a number of families who received care through the Family Managed Care Program who were particularly concerned about the risk of infection to their vulnerable children and youth, since many of the workers they employed also worked in other healthcare settings.

Story #15

A daughter contacted Patient Ombudsman with concerns about the health and safety of her mother. Her mother is in her late 90s and received personal support services through the LHIN. The daughter was concerned that her mother's personal support workers were not wearing masks or other personal protective equipment in her mother's home. Although the LHIN and the personal support services provider were acting in accordance with the guidance provided by the Chief Medical Officer of Health at the time of the complaint, the daughter remained concerned that workers were moving from home to home without personal protective equipment, and this left her mother at risk. No one had given her any information about any precautions that were in in place to protect her mother. The family chose to stop PSW services in light of COVID-19.

Personal Protective Equipment

Many of the staff members who contacted Patient Ombudsman were concerned about their access to appropriate PPE and the impact that that would have on the people they cared for. Frequently, concerns about access to PPE were paired with other concerns about staffing, infection control and resident safety.

Story #16

A whistleblower reported that the day before her home's first COVID-19 case was confirmed, staff had requested PPE to wear when caring for residents. Staff were informed by management that the home had a limited supply of PPE. When staff asked if they could bring their own PPE, they were told they could not because this would alarm the residents. After the first positive staff case was confirmed, masks were finally provided, but many staff were not wearing them properly and consistently. As the virus began to spread amongst residents, she reported that errors in documenting COVID-positive cases placed staff at risk as they were unknowingly providing care to positive residents without wearing PPE. When she asked to be swabbed as a result of her exposure, she was denied. She reported feeling unsafe and unsupported.

Delay in treatment

Many individuals experienced significant delays in their care during the COVID-19 pandemic as non-emergency procedures were rescheduled or cancelled. This includes procedures for serious ailments like cancer.

Story #17

A person who was diagnosed with a brain tumour in February contacted our office. Two neurosurgeons had not responded to referrals and a third responded that appointments are not being given because of COVID-19.

Practices from other jurisdictions and in the literature

Partnerships

Ontario LTCHs are organized in several different ways, in particular for-profit LTCHs, not-for-profit LTCHs and municipal. Within the for-profit LTCHs, there are homes that operate as parts of chains and homes (generally smaller) that are independent. Early evidence suggests that the organizational structure of a home did have an impact on the extent of COVID-19 outbreaks and the number of deaths.[5]

At the outset of the pandemic, there were limited structures in place for homes to receive external support. However, over March and April, the government put measures into place to leverage external resources through Emergency Orders. This includes: an Emergency Order to permit hospital, agency and other staff to be redeployed to long-term care homes,[6] a Minister's Directive to require monitoring of long-term care homes by Ontario Health,[7] and an Emergency Order to permit external organizations to take over the management of a long-term care homes that is struggling to contain a COVID-19 outbreak and provide care to residents.[8]

Healthcare providers in other jurisdictions have had a much more integrated response to COVID-19 outbreaks in long-term care homes. In British Columbia, Fraser Health has a dedicated regional outbreak response lead for each long-term care home outbreak.[9] This person co-leads the emergency operations at the outbreak facility in partnership with the facility's leadership. Public health collaborates with the facility on a daily basis and if the needs

5 Stall NM et al. For-profit long-term care homes and the risk of COVID-19 outbreaks and resident deaths. CMAJ 2020. doi: 10.1503/cmaj.201197; early-released July 22, 2020.

6 Ontario Regulation 77/20 (Work Deployment Measures in Long-Term Care Homes) under the under Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, S.O. 2020, c. 17 (formerly under Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9); Ontario Regulation 74/20 (Work Redeployment for Certain Health Services Providers) under the under Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, S.O. 2020, c. 17 (formerly under Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9).

7 Ontario. Minister's Directive: COVID-19: Supporting Long-Term Care Homes (Effective April 24, 2020). Ministry of Health. Ontario. http://www.health.gov.on.ca/en/pro/programs/ltc/directive_supporting_ltch_20200424.aspx

8 Ontario Regulation 210/20 (Order Under Subsection 7.0.2(4) of the Act - Management of Long-Term Care Homes in Outbreak) under the Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9.

9 Fraser Health LTC/AL Coordination Centre. (2020) Long-Term Care, Assisted Living COVID19 Resource Toolkit. Fraser Health, British Columbia. https://www.fraserhealth.ca/-/media/Project/FraserHealth/FraserHealth/employees/clinical-resources/coronavirus-information/ltc-al-li/LTC_AL_COVID_Resource_Toolkit_Aug20.pdf (accessed August 27, 2020.)

of the facility are beyond what they are able to offer, these concerns are escalated to the Outbreak Response Lead who has the authority to call in health region resources immediately.

There are also other more collaborative models between providers where health regions and/or local acute care providers leverage their greater resources to support long-term care facilities. The University of Washington Medicine's Post-Acute Care Network has developed a three-stage process that includes ongoing communication, IPAC training and education and surge deployment of IPAC teams within 24-hours following a COVID-19 outbreak.[10]

While the effectiveness of these organizational interventions has yet to be studied, external resources of this kind were generally not implemented regularly until much later in Ontario's COVID-19 epidemic. Based on general observations, it appears that jurisdictions that approached COVID-19 outbreaks in long-term care homes and other congregate settings from a more health system perspective had more success in containing outbreaks and preventing deaths. Similarly, the University of Virginia has developed a collaborative model to manage COVID-19 patients with daily community collaborative rounds, nursing liaisons, infection advisory consultation, telemedicine consultation, and resident phone calls to provide social contact remote connections.[11] This model includes acute care, long-term care facilities and public health, among others.

Visits

Families and caregivers' ability to visit their loved ones during the COVID-19 epidemic has received a large amount of attention from the media and health system stakeholders. Restrictions on visitors in health care facilities was a practice employed in almost all jurisdictions that Patient Ombudsman reviewed.

The Residents' Bill of Rights under the *Long-Term Care Homes Act, 2007* guarantees residents' rights to "*receive visitors of his or her choice*" and "*to have family and friends present 24 hours per day*" if they are dying or are very ill. The LTCHA specifies that these rights can be enforced against long-term care home licensees as if they were contractual rights but provides no other recourse.

A number of organizations have developed reports examining the COVID-19 response, including addressing issues related to visitation.[12] The reports from the National Institute on Aging and from the Canadian Foundation for Healthcare Improvement in particular (and those from other health system advocates) recommend a different approach to visitors going forward. In particular, the reports recommend that there is a need for a distinction to be drawn between family or essential caregivers and general visitors.

Both types of visitors are important for patients and residents health and well-being; however, the family/essential caregivers are important partners to patient and resident care and should not be subject to restrictions. The reports argue that these individuals should have

10 Kim G et al. A Health System Response to COVID-19 in Long-Term Care and Post-Acute Care: A Three-Phase Approach. J Am Geriatr Soc (2020) 68:1155–1161. https://onlinelibrary.wiley.com/doi/full/10.1111/jgs.16513

11 Archbald-Pannone LR et al. COVID-19 Collaborative Model for an Academic Hospital and Long-Term Care Facilities. JAMDA (2020) 21(7): 939-942. https://www.sciencedirect.com/science/article/pii/S1525861020304473#tbl2

12 See National Institute on Ageing. (2020). Finding the Right Balance: An Evidence-Informed Guidance Document to Support the Re-Opening of Canadian Long-Term Care Homes to Family Caregivers and Visitors during the COVID-19 Pandemic. Toronto, ON: National Institute on Ageing Guidance Document; Estabrooks CA, et al. Restoring trust: COVID-19 and the future of long-term care. Royal Society of Canada. 2020; Canadian Foundation for Healthcare Improvement and Canadian Patient Safety Institute. (2020) Reimagining Care for Older Adults: Next Steps in COVID-19 Response in Long-Term Care and Retirement Homes; Canadian Foundation for Healthcare Improvement (2020) Better Together: Re-integration of Family Caregivers as Essential Partners in Care. CFHI Ottawa. 2020.

continued access to their loved ones regardless of the status of the health care facility as long as they are screened, wear appropriate PPE and comply with infection prevent and control practices.

The reintroduction of visitors can be done safely. Dutch authorities and long-term care facilities implemented a guideline to permit visitors and did not see any new COVID-19 infections.[13]

Preconditions for visitors were:

- an agreement with the home,
- one designated visitor,
- follow IPAC measures (hand sanitizer, temperature check, masking, etc.),
- scheduled visits throughout day and week,
- physical distancing, and
- screening for COVID-19 symptoms.

Organizations had to observe regulations and directives, have sufficient PPE, have strict IPAC protocols, have sufficient staffing and that there is sufficient public health testing capacity.

Communication

Communication between homes and families and loved ones was compromised in many homes during the course of the pandemic. The long-term care home staff we heard from also reported inadequate and inconsistent internal communication in their homes. The Residents' Bill of Rights under the *Long-Term Care Homes Act, 2007* guarantees residents' rights to communicate in confidence without interference but does not include any specific rights for family members or substitute decision makers. The government has recommended that LTCHs have a policy related to ongoing and effective communication with residents, families of residents, staff and the media in the event of an outbreak.[14]

Whistleblowing in LTC

The *Long-Term Care Homes Act, 2007* includes anti-reprisal protections to facilitate the government's licensing and inspection framework. It protects LTCH residents and staff from reprisal for raising issues to Ministry of Long-Term Care inspectors or to a coroner during an inquest. This is similar to worker anti-reprisal protections under the *Occupational Health and Safety Act*. There is no general legal whistleblower protection for healthcare workers or others, who raise safety concerns about patients, residents or other members of the public.

In a recent article, scholars have argued in favour of expanding whistleblowing protections in relation to the COVID-19 epidemic.[15] In particular, they recommended a comprehensive framework to protect whistleblowers from retaliation; encourage disclosure of unsafe, unethical and illegal practices; and address workers fear of raising issues.

[13] Verbeek H et al. Allowing Visitors Back in the Nursing Home During the COVID-19 Crisis: A Dutch National Study Into First Experiences and Impact on Well-Being. JAMDA (2020)21: 900e904.

[14] Ontario Ministry of Health and Long-Term Care. Control of Respiratory Infection Outbreaks in Long-Term Care Homes, 2018. Toronto: Queen's Printer of Ontario, 2018.

[15] Gruben V and Bélanger-Hardy L. "Risking It All: Providing Patient Care and Whistleblowing during a Pandemic" in Vulnerable: The Law, Policy and Ethics of COVID-19. Flood C et al. eds. Ottawa. University of Ottawa Press, 2020. 487-500.

Provincial Policy Recommendations

Patient Ombudsman bases the following recommendations on our initial analysis of the complaints to our office about the experiences of patients, residents, family members and long-term care home staff. Patient Ombudsman felt it was important to share these preliminary recommendations as soon as possible to help improve Ontario's response to the ongoing threat of COVID-19 and to prepare for a potential resurgence of the virus this fall. Additional recommendations will be forthcoming based on the results of our investigation and may address issues not covered in this report.

It is important to note that Patient Ombudsman has heard a great deal about appropriate IPAC and staffing in long-term care homes during the COVID-19 pandemic. There appear to be a number of factors that affected this including physical layout of homes, existing stocks of PPE, ability to procure PPE, existing staffing arrangements, and knowledge of and expertise in IPAC practices, among others. There are a number of reports and recommendations for managing COVID-19 outbreaks in long-term care homes. It is important that IPAC practices receive increasing support and sufficient resources are in place for any future outbreaks of COVID-19.

Similarly, with staffing, Patient Ombudsman has heard about a number of challenges in staffing in long-term care homes. The government just released its *Long-Term Care Staffing Study*.[16] The report acknowledges significant staffing challenges in long-term care homes even outside the context of a pandemic and makes a number of recommendations to increase staffing and improve working conditions in long-term care homes. Work to increase staffing levels in long-term care is critical and it will be important to mitigate any knock-on effects to staffing to other sectors as staffing incentives change.

Based on information released publicly, it is clear that both IPAC measures and staffing have had a great impact on residents and caregivers' experiences in long-term care homes during the COVID-19 epidemic in the first half of 2020. Patient Ombudsman will be reviewing IPAC and staffing in homes affected by COVID-19 outbreaks in detail as part of our systemic investigation.

Recommendation #1: Backstops and contingency plans for all health care providers

Ontario appears to have made significant strides in responding to the COVID-19 pandemic. The government has significantly improved its testing capacity and has steadily expanded its supply of PPE. The crisis in long-term care seems to have stabilized for the time being and Ontario Health has been working to identify hospital partners for Ontario's long-term care homes.

However, many of the key public health risks remain the same for a second wave and Ontarians should not expect a different result under the same conditions. Based on what Patient Ombudsman has heard, there is a strong need for advance planning and greater coordination in how health care providers respond to COVID-19 outbreaks.

16 Long-Term Care Staffing Study Advisory Group. Long-Term Care Staffing Study. Ministry of Long-Term Care. Ontario. 2020. https://www.ontario.ca/page/long-term-care-staffing-study

Patient Ombudsman feels it is critical that:

- Every long-term care home should have a partner organization that is appropriate and knowledgeable about COVID-19 response to provide support for management, infection prevention and control, and staffing to prevent and respond to any COVID-19 outbreaks. This could be a municipality, a hospital or other organization that can provide additional resources.
- Every health sector organization in Ontario have a staffing plan in the event a COVID-19 outbreak significantly affects staffing levels.
- Every health sector organization have a plan to manage cases of COVID-19, including plans to transfer residents to hospitals, field hospitals or other options, as appropriate. In line with clinical directions, such transfers should occur as soon as a COVID-19 case is suspected to ensure isolation and appropriate infection control.
- All staff have up-to-date training regarding IPAC and PPE.

LTCHs have resources in place for the ongoing monitoring of IPAC and appropriate PPE use and conservation, especially when there is a COVID-19 outbreak.

Recommendation #2: A change in approach to visitation

The initial restrictions on visitation protected vulnerable patients and long-term care home residents and likely saved lives. However, such restrictions are an emergency response and not a sustainable long-term solution. The extended restrictions have been inhumane and have real impacts on the health and well-being of patients and long-term care home residents. The province and providers should consider alternatives during a second wave of COVID-19.[17]

At this stage, it is unclear how COVID-19 was introduced in long-term care homes that experienced COVID-19 outbreaks. While some outbreaks at the beginning of the COVID-19 pandemic may have been caused by visitors, following the visitor restrictions, visitors could not have been the source of COVID-19 infection. Staff working in the homes or suppliers or vendors servicing the homes, along with gaps in public health practice, were likely the sources of long-term care home outbreaks after April 1, 2020. As such, it is not clear that properly screened, educated and equipped visitors pose a larger risk to patients and residents than would similarly screened, educated and equipped staff. It is important to emphasize that the lower the community infection rate for COVID-19, the safer long-term care home residents will be.

Patient Ombudsman recommends that the government and health sector organizations not restrict visitors entirely during any second waves of COVID-19, but rather permit a limited number of essential caregivers to visit for each patient or resident along with implementing infection control measures like:

- personal protective equipment,
- physical barriers, and
- rigorous screening and education for caregivers.

Such practices, along with sufficient testing, contact tracing and oversight should help to protect patients and long-term care homes residents from infection. As noted above, a number of organizations have encouraged this approach.

Patient Ombudsman believes that, in normal circumstances, visitors should have direct

[17] Note that, in June 2020, the Chief Medical Officer of Health issued an update to Directive #3, which has allowed for the gradual resumption of visits to long-term care homes.

access to their loved ones. Any restrictions on visitation should be limited, targeted based on evidence, proportional to the risk a visitor poses, and should provide for exceptions on compassionate grounds.

A less restrictive visitation policy may require dedicated resources for health providers from the Ministry of Health and the Ministry of Long-Term Care. Many health sector organizations face issues with staffing, equipment and PPE shortages and may not be able to support expanded access by caregivers without support. However, these visits are necessary to maintain patients and residents, care, autonomy and dignity.

Recommendation #3: Dedicated resources for communication

As we heard, many caregivers were often in the dark about the status of their loved ones. While some families were able to have window visits or were successful with video calls, many were not. Many families and caregivers did not see their loved ones for months and they told us that the lack of information and communication increased their anxiety. Over the last four years of operation, Patient Ombudsman has consistently identified poor communications at the root of many complaints. In a public health crisis, communication concerns are magnified.

Over the course of the pandemic, health sector organizations devoted the majority of their resources to responding to COVID-19 infections and outbreaks. In many long-term care homes, there appears to have been simply not enough staff or other resources to manage adequate communication. Indeed, we are aware of a number of situations where external staff lead communication efforts to families and loved ones.

Such communication is essential and the government should ensure that the resources needed to effect adequate communication to families and loved ones are in in place.

Recommendation #4: Enhanced whistleblower protection

Patient Ombudsman commends the courage of those health care workers that spoke out about what they saw, heard and experienced in Ontario’s long-term care homes. The information these individuals provided brought needed attention to the appalling circumstances in a number of Ontario’s long-term care homes and likely spurred the government to take significant action, including calling in the Canadian Armed Forces. This saved lives.

Many of the whistleblowers Patient Ombudsman spoke with were very fearful of retaliation and the impact speaking to our office would have on their jobs. The *Excellent Care for All Act, 2010* contains no whistleblower protections; neither does the *Health Promotion and Protection Act*. The *Long-Term Care Homes Act, 2007* only provides protections from reprisals for disclosures to the Ministry of Long-Term Care or the Coroner during an inquest.

There has been discussion of legislation to protect businesses and employers from liability resulting from the pandemic. Healthcare workers who are at risk of infection and choose to raise alarms when patients and residents in their care are at risk are no less deserving of protection.

Patient Ombudsman recommends that, in legislation, the government enhances whistleblower protections for health care workers who bring forward concerns in good faith, especially during an emergency.

Conclusion

Patient Ombudsman would like to recognize the ongoing work within long-term care homes, public hospitals, LHINs, public health, Ontario Health and the Ministries of Health and Long-Term Care, among others, to prepare Ontario's healthcare system for a potential second wave of COVID-19. We know that the changes and planning underway may go a long way to addressing the recommendations we have made.

In particular, we know that each long-term care home is working with Ontario Health to assess its preparedness and plan for a potential second wave this fall. This assessment includes:

- Addressing human resources issues including leadership and management capacity, addressing staffing levels, addressing occupational health and safety, ensuring medical services are available on-site, and reuniting residents and their loved ones;
- IPAC practices including IPAC oversight and accountability, having IPAC protocols and policies in place, an appropriate supply of PPE, on-site IPAC assessments, IPAC and PPE training, cleaning practices, updating physical infrastructure, plans for enhanced precautions for isolation and resident co-horting, surveillance testing, resources to manage an outbreak, and plans to alternatively house residents if needed; and
- Partnerships allowing effective and timely communication between resident, staff and their loved ones, support relationships with other health system partners including public health, hospital and Ontario Health, response plans for responding to a major outbreak, and robust governance structures.

It is our hope that this ongoing work protects vulnerable long-term care home residents and other Ontarians going forward.

Next Steps in Patient Ombudsman's Systemic Investigation

Patient Ombudsman has initiated a systemic investigation into the resident and caregiver experience at Ontario's Long-term Care Homes with outbreaks of COVID-19. This investigation continues and formal findings and recommendations will be made public at the conclusion of the investigation.

The general steps in our investigation process are:

- Initiation and Planning
- Evidence Collection and Witness Interviews
- Evidence Analysis
- Vetting Findings and Analysis
- Making Recommendations and Concluding the Investigation

As of September 2020, Patient Ombudsman has reached out to specific individual long-term care homes and is reviewing all evidence collected. Patient Ombudsman may contact other individual homes in the time ahead. Patient Ombudsman will also be doing more general outreach to a larger number of homes to understand the more system-wide response to the COVID-19 pandemic and will continue to connect with stakeholders in Ontario's long-term care sector.

Appendix A. How Patient Ombudsman has responded to the COVID-19 Pandemic

Our objectives:

- To ensure Patient Ombudsman could continue to respond effectively to complaints during the pandemic
- To monitor the impact of COVID-19 on patient care and experience
- When serious complaints arose, to ensure that responsible organizations were aware of our concerns
- To gather information for an investigation, recognizing that an investigation could not begin in the midst of a public health crisis

Month	Actions
March 2020	• Business continuity planning and starting of virtual operations • Began special tracking of complaints related to COVID-19 and regular monitoring of reports of COVID-19 outbreaks in long-term care homes in the media and local public health units • Outreach to key stakeholders and government
April 2020	• Identified an increase in the number and serious nature of the complaints received about long-term care homes • Contacted Ontario Health leadership to discuss the complaints we were receiving and the provincial response • Sent a letter to the Deputy Premier and Minister of Health, Christine Elliott and the Minister of Long-Term Care, Dr. Merrilee Fullerton alerting them to the increasingly serious complaints Patient Ombudsman was receiving about long-term care homes • Realigned complaint handing processes and reassigned Patient Ombudsman Investigator Team to focus on serious complaints about long-term care homes • Launched a public campaign to encourage residents and caregivers to share complaints about long-term care homes with Patient Ombudsman
May 2020	• Contacted Ministry of Long-Term Care to discuss complaints received by Patient Ombudsman • Received a large influx of complaints related to COVID-19 outbreaks in long-term care homes
June 2020	• Announced a systemic investigation into experience of residents and caregivers in long-term care homes that experienced a COVID-19 outbreak

References

1. Archbald-Pannone LR et al. COVID-19 Collaborative Model for an Academic Hospital and Long-Term Care Facilities. JAMDA (2020) 21(7): 939-942. https://www.sciencedirect.com/science/article/pii/S1525861020304473#tbl2

2. Canadian Foundation for Healthcare Improvement (2020) Better Together: Re-integration of Family Caregivers as Essential Partners in Care. CFHI, Ottawa.

3. Canadian Foundation for Healthcare Improvement and Canadian Patient Safety Institute. (2020) Reimagining Care for Older Adults: Next Steps in COVID-19 Response in Long-Term Care and Retirement Homes.

4. Estabrooks CA, et al. (2020) Restoring trust: COVID-19 and the future of long-term care. Royal Society of Canada.

5. Fraser Health LTC/AL Coordination Centre. (2020) Long-Term Care, Assisted Living COVID19 Resource Toolkit. Fraser Health, British Columbia. https://www.fraserhealth.ca/-/media/Project/FraserHealth/FraserHealth/employees/clinical-resources/coronavirus-information/ltc-al-li/LTC_AL_COVID_Resource_Toolkit_Aug20.pdf (accessed August 27, 2020.)

6. Gruben V and Bélanger-Hardy L. “Risking It All: Providing Patient Care and Whistleblowing during a Pandemic” in Vulnerable: The Law, Policy and Ethics of COVID-19. Flood C et al. eds. Ottawa. University of Ottawa Press, 2020. 487-500.

7. Kim G et al. A Health System Response to COVID-19 in Long-Term Care and Post-Acute Care: A Three-Phase Approach. J Am Geriatr Soc (2020) 68:1155–1161. https://onlinelibrary.wiley.com/doi/full/10.1111/jgs.16513

8. Long-Term Care Staffing Study Advisory Group (2020) Long-Term Care Staffing Study. Ministry of Long-Term Care. Ontario. https://www.ontario.ca/page/long-term-care-staffing-study

9. National Institute on Ageing. (2020). Finding the Right Balance: An Evidence-Informed Guidance Document to Support the Re-Opening of Canadian Long-Term Care Homes to Family Caregivers and Visitors during the COVID-19 Pandemic. Toronto, ON: National Institute on Ageing Guidance Document.

10. Ontario. Minister's Directive: COVID-19: Supporting Long-Term Care Homes (Effective April 24, 2020). Ministry of Health. Ontario. http://www.health.gov.on.ca/en/pro/programs/ltc/directive_supporting_ltch_20200424.aspx

11. Ontario Ministry of Health Public Health Data. Data Source: integrated Public Health Information System (iPHIS) database, Coronavirus Rapid Entry System (CORES) database, Middlesex-London COVID-19 case and contact management tool (CCMtool), The COVID-19 Ottawa Database (The COD). Ontario Ministry of Health. https://www.ontario.ca/page/how-ontario-is-responding-covid-19#section-0

12. Ontario Ministry of Health and Long-Term Care (2018) Control of Respiratory Infection Outbreaks in Long-Term Care Homes, 2018. Toronto: Queen’s Printer of Ontario.

13. Ontario Regulation 74/20 (Work Redeployment for Certain Health Services Providers) under the under Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, S.O. 2020, c. 17 (formerly under Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9)

14. Ontario Regulation 77/20 (Work Deployment Measures in Long-Term Care Homes) under the under Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, S.O. 2020, c. 17 (formerly under Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9)

15. Ontario Regulation 210/20 (Order Under Subsection 7.0.2(4) of the Act - Management of Long-Term Care Homes in Outbreak) under the Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9

16. Stall NM et al. For-profit long-term care homes and the risk of COVID-19 outbreaks and resident deaths. CMAJ 2020. doi: 10.1503/cmaj.201197; early-released July 22, 2020.

17. Verbeek H et al. Allowing Visitors Back in the Nursing Home During the COVID-19 Crisis: A Dutch National Study Into First Experiences and Impact on Well-Being. JAMDA (2020)21: 900e904.