

# Terms for Ontario's commission on nursing homes prompt renewed calls for public inquiry

*Rob Ferguson*

Premier Doug Ford's commission into COVID-19's deadly toll in long-term care will be able to hold hearings in private, keep documents confidential and does not have to issue recommendations for improvements.

The commission is shaping up as a secretive "backroom" effort that will fail to shed light on why the provincial government didn't take more serious action sooner to curb the spread of the highly contagious virus, critics charge.

The terms of reference released Wednesday revived calls for a full public inquiry to shine a light on how the highly contagious virus got into long-term-care homes despite Ford's promise to put an "iron ring" of protection around them.

In Ontario, nursing home residents with COVID-19 had an almost one-in-three chance of dying: 1,844 of 5,887 residents who caught the virus as it spread rapidly in the close confines of long-term care lost their lives. Eight staff also died. More than 78,000 Ontarians live in 626 nursing homes, with another 38,000 on waiting lists.

Ford insisted the [three-member commission](#), chaired by Associate Chief Justice Frank Marrocco of the Ontario Superior Court and with a full-time staff of 12, will be "totally independent" and must submit a report by April 30, just over a year before the next provincial election in June 2022.

"They're going to have free rein to summon anyone, to make recommendations, to not make recommendations," he told reporters. "I want to get to the bottom of this.

"If they do put recommendations, we'll take them up on it," Ford added, noting the commission is welcome to call him and any cabinet ministers as witnesses.

"I really want this to be transparent," he said.

Although the premier has repeatedly said families whose loved ones perished or took ill with the virus will be able to tell their stories to the commission, there were no details on how or when that could happen.

New Democrat MPP Gurratan Singh said Ford fell short on what is required to have a fully transparent inquiry because there's a risk information will be controlled and areas of concern left unexplored.

"It's just a backdoor, backroom commission. It needs to be entirely public," urged Singh (Brampton East), who joined the Liberals in raising concerns about terms of reference that allow documents summoned by the commission to remain confidential.

That means cabinet briefing materials, high-level political papers and crucial emails on how the government handled the pandemic in nursing homes may never be subject to public scrutiny, warned Liberal house leader John Fraser.

“Unless cabinet is willing to waive privilege to cabinet minutes, documents, proposals and decisions, this will be a toothless commission,” Fraser said.

Jane Meadus, a lawyer with the Advocacy Centre for the Elderly, agreed it is not clear from the commission's terms of reference whether all the documents and information that lead to its findings will be made public in the final report.

“There seems to be certain types of information that could potentially be not released without the (long-term care) ministry's OK,” she said.

Marrocco did not appear with Ford at a news conference but later issued a statement, saying “we have the power to consider any further areas where the government should take action to help prevent the future spread of disease in long-term-care homes.

“We will be doing this work very quickly as the entire health system prepares for a possible second wave of COVID-19.”

Ford and Long-Term Care Minister Merrilee Fullerton said the government will keep moving forward with improvements to nursing homes while the commission is doing its work. A strategy to deal with a [shortage of long-term-care workers](#) that predated the pandemic and left dozens of homes in dire straits is expected Thursday.

The government is looking at more integration of nursing homes with hospitals to improve infection prevention and control, Fullerton added in comments that raised red flags among seniors' advocates.

Doris Grinspun, CEO of the Registered Nurses' Association of Ontario, said long-term care and hospitals are two very different entities, citing a risk that the government is moving away from a focus on homes toward a more institutional and medicalized system that should instead be more closely aligned with primary care.

“Hospital care is a completely different type of expertise — completely. People stay there for two, three, four or five days,” Grinspun said. “In nursing homes, they live there all the time.”

Laura Tamblyn Watts, CEO of CanAge, a seniors' advocacy group, said the trend in long-term care has been shifting to “a person-centred, [emotion-focused](#) model” of care.

“We hope the appointment of a hospital CEO to the commission does not guide the work back to a medical model of long-term care,” Tamblyn Watts said in reference to commission member Dr. Jack Kitts, the recently retired chief executive of the Ottawa Hospital.

The Ontario Nurses' Association said many solutions to problems posed by the COVID-19 crisis in nursing homes are already known, given how unions representing health-care workers in long-term care were flagging problems like a lack of masks and staff being allowed to work in more than one facility before the government took action on those fronts.

“We are disheartened that possible recommendations the commission makes will be non-binding and that it will not be able to establish civil or criminal liability,” said president Vicki McKenna.

Any criminal or civil liability for deaths or illness will have to go through the police, Fullerton said.

Families of nursing home residents and front-line workers should receive guarantees they can speak to the commission “without fear of reprisal,” recommended Candace Rennick of the Canadian Union of Public Employees.

A man whose mother survived a major COVID outbreak at Isabel and Arthur Meighen Manor, where he is chair of the family council, said Ford should put the government’s focus on preparing nursing homes for a second wave.

“The crisis is not over,” said Tim Seabrook. “The commission is a waste of time.”

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