

Summary of Findings

Hello. My name is Poland Lai. I am an associate professor at York University.

The purpose of this video is to provide a summary of my research project about Ontario long-term care homes. They are also called nursing homes. Since the beginning of the COVID-19 pandemic, we become more aware of the challenges in the long-term care sector. One issue that requires further investigation is regulation of long-term care homes.

This research initiative explored why Ontario long-term care homes comply with regulatory requirements (or not) in order to improve the performance of long-term care homes in Ontario and elsewhere. I conducted empirical research between 2021 and 2023 to identify different motivations and factors that explain compliance in long-term care homes. In 2021 and 2022, I completed interviews with two advocacy organizations, four lawyers, three healthcare professionals, one industry association and one union. In 2023, I also conducted an anonymous on-line survey with long-term care residents and their families and friends. The survey explored whether long-term care home residents and their families and friends in Ontario are willing and able to participate in enforcement and compliance by complaining to the Ministry of Long-Term Care. Last but not least, I also reviewed publicly available inspection reports of long-term care homes.

There are two main findings from the interviews and survey responses.

First of all, current inspection and enforcement activities have had little impact on how long-term care homes respond to legal rules. In Ontario, the Ministry of Long-Term Care is the regulator. By way of background, long-term care home inspections may have more than one purpose. For example, an inspection visit to a home may deal with multiple complaints and critical incidents such as fire. Each visit may entail multiple days involving a team of inspectors. All inspection reports are posted on the Ministry of Long-Term Care's website.

The regulator does not change its mix of "persuasion" and "coercion" in order to respond to the motivations and behaviours of homes. The reasons why this approach does not work are multiple. While it is recommended to start with measures that are less punitive, it is evident that the regulator does not hand out progressively more severe measures when problems persist. Also, because the majority of inspections are triggered by complaints from residents and their family members or by critical incidents reported by homes, inspections can only identify a portion of incidents of noncompliance. Residents and family members may not be able to apply much pressure on homes as they lack care options. Without more inspections, the chances of breaches being detected remain low. Long-term care homes know that the imposition of any consequences is extremely unlikely.

The second finding is that relying on complaints to trigger inspections is an ineffective means to expose potential breaches to care standards when the likelihood to complain is low. Monitoring

of LTC homes in the form of complaint-handling and inspection can be deployed to maintain oversight of safety and quality of care.

In general, whether complaints are effective in drawing regulatory attention to deficiencies in care depends in part on users' willingness and capability to complain. Users are less willing to complain if they believe their complaints will not make a difference. The good news from the survey results is that the survey respondents did not lack basic knowledge of complaint mechanisms and did not perceive enforcement processes to be unfair. However, families of residents may not complain about a potentially serious wrongdoing, even if there is a mandatory requirement to report to the regulator. The likelihood to complain is reduced by potential complainants' lack of time and energy. Perception of futility in complaining is key to understanding their decision whether to complain. My aim here is not to critique their reactions or diminish their role in regulatory processes. But it is important to understand why opportunities for user involvement in promoting compliance are restrained by a regulatory system that is not designed, nor operated, to provide individual resolutions.

The findings have now been published. One article was published in the Canadian Journal of Law and Society in 2024. The article is entitled "How enforcement shapes compliance with legal rules: the case of long-term care homes in Ontario". I also published a chapter in Social Policy Review 37 in 2025. The chapter is called "Complaining is futile? Feasibility of using complaints in the regulation of social care". You can find the links to these publications on my website. Or you can send me an email and I will be happy to send you a copy.

Many thanks to the key informant interviewees and the organizations that they represented, as well as the survey respondents. I acknowledge the support of organizations and colleagues who assisted with the promotion of the survey.

I also reviewed inspection reports of long-term care homes in order to gather quantitative results to complement the qualitative results. I want to gain insight into this question: What should the regulator be looking at, and how often should they look? One challenge in the analysis of inspection reports is that there are great variations in terms of location, ownership and size of long-term care homes. Long term care homes are located across the province. There are great variations in terms of intensity of oversight as estimated by the number of inspection reports, number of inspection days and types of inspections. There are also great variations in terms of inspection outcomes such as quantity and severity of sanctions. I try to take into account the underlying differences such as number of beds. Because the size of home (in terms of number of beds) varies across the province, the data of each home is adjusted by the number of beds. All the measures related to intensity and outcomes were re-calculated on a per 100 beds basis.

I have two preliminary observations from the 2024 inspection reports. First of all, the variances in intensity of enforcement (for example, number of inspection days), types of inspections and inspection outcomes can be explained by location, type of homes and size of home. For example, with respect to average number of sanctions per 100 beds, municipal homes had the smallest number. In other words, on average, the municipal homes received fewer sanctions imposed by the Ministry of Long-Term Care even after taking into account their size. This is not surprising as

ownership status is expected to affect quality of care. However, the municipal homes also had the lowest average number of inspection days per 100 beds. Second, the intensity of enforcement varies significantly across Ontario. In the Ministry of Long-Term Care, there are seven service area offices (also called district offices) within the Long-Term Care Operations Division. Each home is assigned to one of the offices (as noted in the inspection reports). For the purpose of this analysis, there are seven regions in Ontario. I calculated the average number of days per home for each region. The average number of inspection days per home varied from 14.4 days per 100 beds to 26.2 days per 100 beds. Why did the number of inspection days vary significantly? This is an important question because if a particular region has a low average number of sanctions per home, is it because their homes provide good care? Or is it because their homes are not inspected as often as homes in other regions? We have to interpret the analysis of inspection report results with caution. A home with few sanctions (in other words punishments) does not necessarily mean a good home. A home with more sanctions is not necessarily providing poor care. It could just be a function of where the home is located or the size.

To conclude, I am going to briefly discuss activities at the Federal level. The onset of the COVID-19 pandemic prompted more federal government actions in long-term care, such as deployment of Canadian Armed Forces to provide direct operational support in some long-term care homes. Under the Trudeau government, the Minister of Health and the Minister of Seniors were mandated to develop national long-term care standards and a Safe Long-Term Care Act. In 2023, the federal government initiated public consultations to support the development of a Safe Long-Term Care Act. In 2024, Health Canada released a report about what the department heard through public consultations on the proposed legislation. As of September 2025, the Federal government has not introduced the Safe Long-Term Care Act. Based on information available to date, I argue that a key shortcoming of the proposed Act is lack of clear mechanism to ensure the spirit and the letter of the law will be followed across all provinces and territories. Please see my short article entitled “Commentary on the proposed federal Safe Long-Term Care Act: Between over-regulation and under-enforcement?” published in The McGill Journal of Law and Health Blog.

This project is supported in part by funding from the Social Sciences and Humanities Research Council (SSHRC).

This project is supported by the Canadian Institutes of Health Research (CIHR).

Finally, I would like to thank my research assistants for their excellent work.

If you have any question, please do not hesitate to contact me.

Thank you for watching this video.