



Psychiatric Patient Advocate Office

Bureau de l'intervention en faveur des patients des établissements psychiatriques

May 25, 2007

Hon. Marie Bountrogianni
Minister of Intergovernmental Affairs
Minister Responsible for Democratic Renewal
5th Floor Mowat Block
900 Bay Street
Toronto, ON M7A 1L2

Dear Minister Bountrogianni:

RE: Bill 218 – *An Act to amend the Election Act and the Election Finances Act*

In announcing electoral reform, you advised the legislative assembly that “sometimes people fail to exercise their right to vote because our election laws have not kept pace with the realities of people’s lives.” One of these realities is being hospitalized in a mental health facility on election day. Another reality experienced by many of the mental health consumers we serve are the myriad of barriers they encounter when attempting to exercise their right to vote.

Despite the enshrinement of voting rights for all Canadian citizens in the *Canadian Charter of Rights and Freedoms*, not all individuals with mental illness received the right to vote in federal elections until 1993, after an earlier landmark court case struck down a discrimination provision in the *Canada Elections Act*.¹ It is worthy of note that the struggle for equity in voting rights for individuals with mental illness is a part of relatively recent history. As a rights protection organization, we are committed to assisting our clients in reducing any remaining barriers to exercising their hard won, democratic right to vote. The current submission focuses on needed changes to the provincial *Election Act* and the potential impact of the proposed legislation on the full realization of the right to vote by individuals with mental illness.

Improvements to the Electoral Process

We believe that many of the proposed amendments to the *Election Act* are positive and will improve the electoral process; these include: extending polling hours to 9:00 p.m.; increasing the number of advance polling days; new targeted registration to update the register of electors; access to new voting technologies in future by-elections; and having party affiliation appear on the ballot beside the candidates name.

¹ *Canadian Disability Rights Council v. Canada*, [1988] 3 F.C. 628.

The decision by the government of Ontario to fix the date for general elections on the first Thursday in October, every four years, is also a positive step. Having fixed dates for elections allows sufficient time for the education of electors about the issues, the political process, the political parties and candidates in a specific electoral district. It also allows electors the time necessary to have their names added to the voters list or to vote by proxy in their home riding, if hospitalized outside the electoral district in which they live.

Elector Qualification and Residency Requirements

We are concerned that the qualification of electors and the residency requirements set out in the *Election Act* are too narrow. For example, a patient may be admitted to a tertiary care mental health facility days or weeks in advance of an election and may be required to remain for treatment for an extended period after the election. Under these circumstances, a determination could be made that they do not “reside” in the electoral district and they may be disqualified from voting as a consequence of their hospitalization. In many areas of the province, the tertiary care mental health facility could be several miles or hours travel from the home riding where the individual intends to live following discharge from the hospital. While the *Election Act* stipulates that individuals may have “only one residence at a time,” we do not think that this takes into account the unique circumstances of those hospitalized for mental health care and treatment at election time.

The definition of “residence” needs to be reconsidered in Bill 218 to take into account the special circumstances of hospitalization. This will ensure that qualified voters are allowed to vote in hospital ridings where they temporarily reside. During an election, hospitals, like shelters, should be allowed to provide an affidavit confirming that a person is a “patient” and “resident” of the hospital. This would allow hospitalized individuals to be added to the voters list and to vote at the poll established in that facility.

Poll Locations

The Bill should be amended to require poll locations at all tertiary mental health facilities to enable hospitalized, qualified electors to vote. The proposed legislation should also permit the establishment of “travelling polls,” permitting poll workers to provide voting opportunities on inpatient units for involuntarily detained patients who are qualified voters. Many patients, because of their legal status cannot leave these units without supervision to attend a polling station in a common area of the hospital. Requiring travelling polls in these facilities would allow the most vulnerable and disenfranchised individuals to participate in the electoral process.

Voting Assistance

An elector with disabilities, as defined in Section 55 of the *Election Act*, may require the deputy returning officer or a friend to assist him or her, given the person’s special needs, with completing the ballot and placing it in the ballot box. The legislation specifically states that an individual can only act as the “friend” to one elector. This is a concern

because in some mental health facilities, the practice has been to make available peer support workers or patient council representatives to assist patients in exercising their right to vote. If it remains unchanged, this section will continue to exclude these individuals from assisting many patients with the process. It is also recommended that Elections Ontario employ peer support workers and patient council representatives as deputy returning officers and registration agents as they are most familiar with the specific needs of this group of voters.

Complaint Process

During previous elections, some clients have advised us of their concerns regarding how they have been treated by Elections Ontario staff. Bill 218 should set out a complaints process that is clear, accessible and transparent so that elector concerns can be addressed expeditiously by Elections Ontario. Staff at Elections Ontario must also receive training on responding to the needs of individuals with disabilities, including those with mental illness. Consumer-survivors and consumer-survivor organizations should be involved in the design and delivery of the training program for permanent and temporary Elections Ontario staff in order to better support the distinct needs of individuals with disabilities, including those with mental illness and vulnerable electors.

Alternative Voting Methods

There are alternative ways to vote in an election, including at an advance poll in the electoral district, or by proxy on election day. However, the requirement that the proxy must show identification may become a barrier for some who might wish to vote on behalf of the voter. Any barriers to participation must be examined closely to ensure that they do not prohibit participation. Likewise, any process for an elector to apply to have his or her name added to or removed from the permanent register of electors must be clear and simple and the process must accommodate the special needs of hospitalized individuals who may not be able to attend at an off-site location to have their name added to the voters list.

Elector Identification

In many hospitals, patients must surrender their personal identification on admission and it is held by the facility until the time of discharge. Thus, Bill 218 should require hospitals, by law, to return the individual's identification to them for this purpose or put in place an alternative means of establishing identity. Although Bill 218 seeks to enhance participation and protect election integrity, any move to provide proof of identity and in some cases, proof of residence, could become a barrier for our clients.

Although patients in tertiary mental health facilities can vote on election day, usually at a poll set up within the facility, this opportunity is not afforded to those patients who are admitted under the *Mental Health Act* to Schedule 1 facilities (i.e., mental health units within a general hospitals), or those who have been admitted to a general hospital for other medical reasons. This disparity must be addressed either in this Bill or when further electoral reform is considered to ensure equitable participation in the electoral process.

The Referendum Process and Elector Advisory Committee


We believe the inclusion of a post-election survey and implementation of public education and information programs are useful strategies in supporting the needs of those most likely to experience difficulties in exercising their right to vote. However, we would also recommend the establishment of an advisory committee, which would include stakeholders from the mental health and addictions sector, to assist in identifying and removing barriers to the participation of all citizens in the electoral process.

Respecting the October 2007 referendum, the Chief Electoral Officer has been given the responsibility of providing clear and impartial information about the referendum process, the date of the referendum, the referendum question and the content of the choices in the referendum. We recommend that electors be given the opportunity to review the question in advance of the October 2007 referendum and that special effort be made in providing education and information to vulnerable and disenfranchised individuals to support their full understanding of both the process and question.

We applaud the steps that Elections Ontario has already taken to work collaboratively with consumers and stakeholders from the mental health and addiction sector to address problems arising from past elections. We encourage you to continue to consult with consumers of mental health services to further identify barriers to their participation in the voting process and to address their special and unique needs.

Please do not hesitate to contact me at (416) 327-7004 should you have any questions about this submission.

Sincerely,



David Simpson
Director (A)

- c.c. Ted McMeekin, Chair
Standing Committee on the Legislative Assembly
- c.c. Dawn Ogram, Assistant Deputy Minister
Corporate and Direct Services, MOHLTC