

**Public Inquiry into the Safety
and Security of Residents in the
Long-Term Care Homes System**

The Honourable Eileen E. Gillese
Commissioner



**Commission d'enquête publique
sur la sécurité des résidents des
foyers de soins de longue durée**

L'honorable Eileen E. Gillese
Commissaire

In the matter of the Public Inquiry into the Safety and Security of Residents in the Long-Term Care Homes System, pursuant to the Order in Council 1549/2017 and the *Public Inquiries Act, 2009*

AFFIDAVIT OF PATRICIA MALONE

I, Patricia Malone, of the City of Markham, in the Regional Municipality of York
MAKE OATH AND SAY:

1. I am a witness to the Public Inquiry into the Safety and Security of Residents in the Long-Term Care Homes System (the "Long-Term Care Homes Inquiry"). I have firsthand knowledge of the matters to which I hereinafter depose. Where I do not have firsthand knowledge, I have identified the source of my information and belief and believe it to be true.
2. I am the Corporate Integrity Officer for Saint Elizabeth Health Care ("Saint Elizabeth").
3. Saint Elizabeth is a not-for-profit charitable organization founded in 1908 as the St. Elizabeth Visiting Nurses Association. At the time it had an original staff of 4 nurses. We have now grown to have approximately 9,000 employees across Canada. Saint Elizabeth offers home health care services, including that of Registered Nurses, Registered Practical Nurses, Personal Support Workers, Community Health Workers

and Rehabilitation Therapists. It received its first accreditation from Accreditation Canada in 1998.

4. Saint Elizabeth provides services such as:

- a. Direct Care: ongoing facility-based and home and community-based care to patients on behalf of various funders, including the delivery of: rehabilitation therapies for general patient populations as well as complex /catastrophic cases; nursing; personal care; home support; sitters/companions; recreational therapy; and spiritual care;
- b. Staffing Solutions: short and long-term staff relief to health care facilities, industry, manufacturing, pharma, long term care and insurance across Canada;
- c. Permanent Staffing: customized recruitment process outsourcing and permanent staffing recruitment services to fill those "hard-to fill" roles or undertake volume recruitment;
- d. Integrated Care Solutions: partner with a variety of organizations, hospitals, health authorities and others to design and implement integrated care solutions with practical, tangible results and improved outcomes for individuals, their families and the health system;
- e. Consulting: share our knowledge and wisdom provincially, nationally and internationally to provide customized consulting services to a variety of partners;

- f. Coaching: provide patient and family centred care, partnering with patients and their families in assessing, planning and delivering their care; coaching and a coach approach has been recognized and adopted as a strategy to work collaboratively with patients and their families;
 - g. Education: offer an extensive curriculum of education topics and expert instructors delivering everything from in-services, to upgrading skills, to in-depth learning programs along with our established Health Career College;
 - h. Research: conduct primary research targeting the effectiveness of health care programs, patient safety and overall experience;
 - i. Managed Services: provide finance and accounting, human resources, and information technology services enabling a charity or not for profit to focus its time, energy and money on what matters;
 - j. IntelligentCare™: Our virtual care solutions that focus on engaging and enabling the patient in their care and health outcomes;
 - k. Saint Elizabeth Advisory Services: Our consultancy department works with various health care organizations to develop policies and capacity nationally and internationally.
5. I have been with Saint Elizabeth for approximately 37 years. My practice is rather eclectic. I address the company's ethics and client safety, chair its Quality Council and the Client Quality, Safety and Risk Committee support the development of its policies

and procedures etc. I am also the lead for accreditation. Finally, I support supervisors in the field and address risk management.

6. Among providing other services, Saint Elizabeth has been a "Service Provider" under the *Home Care and Community Services Act, 1994*, S.O. 1994, c. 26 (the "HCCSA") since 1999. Pursuant to the HCCSA, Saint Elizabeth entered into a Services Agreement with the South West Community Care Access Centre ("SWCCAC") in 2012. Under the Services Agreement, Saint Elizabeth commits to providing personnel who provide nursing services that possess the following qualifications:

- a. Duly qualified and registered to practice nursing in Ontario;
- b. Holds a certificate or registration for a Registered Nurse or Registered Practical Nurse from, and is in good standing with, the College of Nurses of Ontario;
- c. Is in compliance with all Applicable Law relating to the practice of nursing in Ontario; and
- d. Is qualified in standard level of First Aid and Cardio-Pulmonary Resuscitation.

7. I am not involved in the hiring of Registered staff. However, I am aware of the hiring process that is required by Saint Elizabeth. The hiring process includes the following steps:

- a. A resume is received, generally electronically;

- b. The applicant is screened by the recruiters who are looking at whether the candidate would be a fit. If so, the recruiter will refer the applicant on;
 - c. A check is completed with the College of Nurses to determine that the candidate is in good standing with no practice restrictions;
 - d. An interview takes place and if the supervisor is satisfied, there is then a written offer of employment made. Interview notes are supposed to be uploaded to the computer system and therefore into the Human Resources file. On occasion the hard copy of the interview notes are sent to Human Resources and Human Resources puts into the computer system.
 - e. Criminal record checks and vulnerable sector checks are obtained.
 - f. References are checked. We ask for two managers for references although that is not always possible. For instance, new graduates may not have two managers to provide as references. On occasion some people do not want to use their current manager as a reference. For instance, the person may not have informed their current employer that they were looking for a new job.
 - g. The reference check is computerized. At the time, the comments delivered by the references were not specifically attributed to them, though it would be noted whether the comments came from a manager or a peer.
8. We are now aware that there was a Report filed by Caressant Care with the College of Nurses in 2014. By 2016 there were no restrictions on Elizabeth Wettlaufer's license.

That could mean that there was no investigation, or there was an investigation which resulted in no discipline, or there was still an ongoing investigation. From our experience, it takes a long time for the College to investigate if we report a situation. We have hired staff that are in good standing with the College of Nurses at the time they are hired, and then we found out six months later that there was an investigation resulting in restrictions on their practice and they should not be working independently in the community.

9. Registered Nurses are also required to complete a Nursing Practice Questionnaire to allow Saint Elizabeth to evaluate the competencies of the Registered Nurse and determine whether additional areas of assessment, learning, and training are necessary.
10. In terms of orientation, new employees are provided with an extensive in-class orientation and then are assigned a preceptor. The preceptor accompanies the new employee who has been given a Preceptee Learning/Development Plan ("PLP") which they take into the field with their preceptor. As their skills are observed or learned in the field, the preceptor signs off. The PLP is normally handed in by the end of the probationary period when all of the skills are expected to have been learned and/or demonstrated.

ELIZABETH WETTLAUFER

11. I did not become aware of Elizabeth Wettlaufer until she had confessed her crimes and a police investigation was underway.

12. Once we learned of her crimes, as an organization, we debriefed the whole hiring process. We were seeking to determine if we had missed anything. It did appear that the process was followed in the hiring of Elizabeth Wettlaufer. However, we did implement a change to the process in that the references are no longer anonymous – i.e. the comments are now directly attributed to the reference. We initially believed that we would get a better response if the comments were not specifically attributed to the reference.
13. During our internal investigation we determined that Tamara Condry's interview notes were missing, either they had not been uploaded into the system by her or she had sent them to Human Resources and they had been misplaced before being uploaded into our system.
14. I am advised by Tamara Condry and do verily believe that Elizabeth Wettlaufer had indicated during her interview that she had made a medication error at Caressant Care, along with a number of other nurses. She had indicated to Tamara that she had to give insulin to a diabetic resident, that the cartridge was empty and that she used a cartridge from another resident.
15. I am advised by Tamara Condry, and do verily believe, that she accepted Elizabeth Wettlaufer's explanation,. As an organization, we try to promote a learning environment and if an employee makes a medication error, we interview the employee, determining learning needs and create a learning plan.
16. Saint Elizabeth did receive references from two individuals who had worked with Elizabeth Wettlaufer at Caressant Care.

17. Following the offences, we contacted all of our clients to whom Elizabeth Wettlaufer had provided services. We cooperated with the police and gave them the contact information for our staff. I sat in with them on their police interviews. Throughout the police investigation I learned that a number of staff were aware of the fact that Elizabeth Wettlaufer had entered a client's home unannounced on August 20, 2016. Some of our nurses bring their own equipment, including pulse oximeters. We do not supply them. I did not view Elizabeth Wettlaufer as having forgotten a piece of equipment as unusual. Her excuse for having returned to the client's home was feasible at the time. However, what was inappropriate was the fact that she had entered a client's house unannounced and unscheduled. That type of behaviour would be in breach of Saint Elizabeth's Therapeutic Relationships Guideline which is attached hereto and marked as Exhibit "A" to this my Affidavit [Doc ID LTCI00067174] published in 2015 and in effect while Elizabeth Wettlaufer was in our employ.
18. I understand that the entrance into the client's home had taken place on August 20, 2016 and that Elizabeth Wettlaufer's last shift worked was August 22, 2016. After that she was not scheduled to work for a few days and then called in sick until she left her resignation letter on Tamara Condy's desk on August 29, 2016. As such the situation was never addressed with Elizabeth Wettlaufer.
19. Nevertheless, in accordance with Saint Elizabeth's Incident Management Procedure, our staff informed their supervisor Tamara Condy, who in my view should have initiated a file in our RL6 software within twenty-four hours of the event. Though we do not know the specific date that Tamara learned of the incident, we do know that the incident was not reported at the time in our RL6 software. Attached hereto and marked as Exhibit

“B” to this my Affidavit is a copy of the Incident Management Procedure [Doc ID LTCI00067068]. No investigation was initiated as Elizabeth Wettlaufer’s last day at Saint Elizabeth was August 22, 2016. Thereafter, she did not return to work and resigned on August 29, 2016.

20. In addition, Saint Elizabeth has Complaints/Complements Procedure that requires a staff member who receives a complaint to enter it into the RL6 system withing 24 hours of learning of the event. In our view, the Complaints/Complements Procedure was also not followed in respect of our staff learning that the client having discovered that Elizabeth Wettlaufer had entered her home unannounced. However by the time Tamara Condly learned of this event Elizabeth Wetlaufer had already resigned and therefore no investigation could be undertaken. Attached hereto and marked as Exhibit “C” to this my Affidavit is a copy of the Compliants/Complements Procedure [Doc ID LTCI00067058].
21. Following the discovery of Elizabeth Wettlaufer’s crimes, we completed a review of expectations with Tamara Condly, and the staff.
22. Generally speaking, client complaints and concerns are raised at the local leadership leadership staff and dealt with at that level. The CCAC was dissolved and moved under The Local Integration Health Network (the “LHIN”) approximately a year ago. The LHIN also has a complaint process. If we receive a complaint, we enter it into our system and into the LHIN’s reporting system. If someone complains directly to the LHIN about our services then we are notified through an online system and we have to respond within certain timeframes. We have to input the complaint into our computer system and into

the LHIN's reporting system. We investigate and respond. The LHIN may come back and say that we have not provided enough information and ask us to clarify. Sometimes they will seek a client record and we will provide same.

23. I am not aware that any complaints were received by the CCAC or the LHIN regarding Elizabeth Wettlaufer while she was within our employ.
24. After Elizabeth Wettlaufer's offences were known, I did call the client into whose home Elizabeth Wettlaufer had entered unannounced, on the pretense that she had left some of her equipment there. The client reiterated what had happened. She said that she was okay. We spoke for about 15 minutes. I apologized for her experience and left my contact information. I advised her to contact me if she needed anything.
25. I also had discussions with the staff who were supporting Beverly Bertram to ensure that she was okay and to ask if there was further support that we could give to her. We began assigning a consistent nurse to her. I did not personally reach out to Ms. Bertram to interview her as to what had occurred because of the stress that we believed that would entail to her. We kept in touch through our staff.
26. Additional steps taken after the offences became known included the following:
 - a. We reviewed all of our hiring processes and developed an online learning module for supervisors on interviewing techniques;
 - b. Additional training has been provided to the recruitment team with respect to probing during the initial interview i.e. reasons for termination, multiple employers, etc;

- c. An escalation model has been created to involve the recruitment manager in a review process of any candidate file that raise questions or concerns.

27. I swear this affidavit for no improper purpose.

SWORN BEFORE ME at the City of
St. Thomas, in the County of Elgin on
June 27, 2018



Commissioner for Taking Affidavits
(or as may be)



Patricia Malone

This is Exhibit "A" referred to in the Affidavit of Patricia Malone,
sworn June 27, 2018

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

Commissioner for Taking Affidavits (or as may be)

 Saint Elizabeth	Document Owner: Robin Hurst	Date Created: 06-02-2015
	Approver(s): Nancy Lefebvre	Date Published: 06-02-2015

Printed copies are for reference only. Please refer to the electronic copy for the latest version.

Purpose

All regulated health professionals and unregulated care providers are expected to establish and maintain relationships with clients/residents within the therapeutic boundaries. The health care provider should encourage and provide opportunities for the client to become a voluntary active participant in his or her care. Our model of care promotes continuity and consistency of care to aid with the development of such relationships. Supervision and coaching regarding therapeutic relationships would be included as part of regular performance appraisals.

This guideline provides assistance for the establishment and maintenance of the therapeutic relationship between the client/resident and the health care provider.

The therapeutic relationship is initiated and maintained when the care provider makes initial contact with the client/resident and throughout the time that the client/resident is on services.

Scope

This guideline applies to all staff.

Equipment & Supplies

- Not applicable.

Consequences

Crossing the therapeutic boundary may result in a breakdown in client/care provider relationship and can bring harm to the client. This is a violation of professional practice and can lead to discipline by the organization and/or professional governing body. Crossing the therapeutic boundary can be a criminal offense.

Precautions

To prevent danger and avoid errors, ensure the following before performing this procedure:

- Knowledge of relevant practice standards of the applicable provincial regulated colleges.

Procedure

Steps

1. Identify yourself to the client and reasons for your visit.
2. Focus on the needs of the client. We are expected and required to place the needs of our clients before our own.
3. Respect the rights, values, religion and self-determination of all clients. We are expected and required to place the needs of our clients before our own.
4. Maintain professional boundaries. Stop any behaviour that is not related to the client/resident's professional care such as discussing your personal/financial problems with clients/residents or involving yourself in the client/resident's personal/business/family affairs.
5. Take time to reflect on your own behaviour, values, and beliefs which might affect your relationship with your client.

TITLE: Therapeutic Relationships - Guideline

6. Establishment of a therapeutic relationship requires reflective practice. This concept includes the capacities of: self-knowledge, awareness of boundaries, limits of the professional role, empathy, use of self and self-disclosure, self-awareness, and the stages of the therapeutic relationship.
7. Immediately report and discuss any behavior, relationship or conflict that you think may contradict the boundaries of the therapeutic relationship with your immediate supervisor.

Tools & Resources

Please refer to the Paper Clip icon in the upper right-hand corner of the window for related tools and resources.

Related Policies & Procedures

- [Client Care and Well-Being - Policy](#)
- [Code of Conduct - Policy](#)
- [Donations and Gifts of Money to Staff](#)
- [Conflict of Interest - Policy](#)
- [Privacy - Policy](#)
- [Solicitation](#)
- [Therapeutic Relationships - Policy](#)

References

Not applicable.

Definitions

Please click on this link to view all of the related Saint Elizabeth [Definitions](#).

This is Exhibit "B" referred to in the Affidavit of Patricia Malone,
sworn June 27, 2018

A handwritten signature in black ink, consisting of several overlapping, fluid strokes that form a cursive or stylized name.

Commissioner for Taking Affidavits (or as may be)

 Saint Elizabeth	Document Owner: Patricia Malone	Date Created: 18-09-2014
	Approver(s): Patricia Malone	Date Published: 29-10-2014

Printed copies are for reference only. Please refer to the electronic copy for the latest version.

Purpose

Any employee of Saint Elizabeth (SE) who performs, witnesses, discovers or becomes aware of situations, known as an incident or near miss incident, that may impact the routine operation of SE or the expected care or safety of the client will notify their immediate manager and will ensure that a new incident file is initiated in the RL6 software within twenty-four hours of the event.

The Incident Monitoring process provides a prompt and accurate account of the unusual event and provides a method for discovery and investigation of causes, resulting in corrective actions and sometimes implementation of quality improvements for future prevention.

This procedure gives direction to all employees at SE on the steps to be taken when incidents occur. The outcome and investigation of the process is to achieve the following objectives:

1. To establish a systematic, standardized process for reporting, documenting and trending all incidents and near misses at SE;
2. To identify and document actions taken for addressing individual incidents and near misses;
3. To provide the organization with a database, to trend incidents and near misses and root cause and to institute appropriate measures in order to promote prevention through continuous quality improvement.

Scope

This procedure applies to all SE staff.

Equipment & Supplies

- Not Applicable.

Consequences

Not following this procedure could result in increased risk for SE's clients, staff and the organization itself.

Precautions

To prevent danger and avoid errors, ensure the following before performing this procedure:

- Not applicable.

Procedure

1. An incident or near miss is reported to the immediate supervisor or Director by the person most informed about the event.
 - a. Employees will contact their manager/supervisor via telephone, voicemail or email immediately following the identification of any incident or near miss. This information is communicated to the funder if applicable.

2. The supervisor or Director assesses and judges the degree of risk to the organization using the Risk Management Decision Tree.
 - a. An incident or near miss that places the client or staff at risk, or places the organization at risk of losing business and having a serious negative impact on the image of the organization in the media qualify as a high risk events. All high risk incidents are to be reported to the Corporate Integrity Officer.
3. The supervisor or Director will complete the on-line incident form in the RL6 system, if the employee is unable to do so.
 - a. Complete the on-line incident form within 24 hours of the incident or near miss. It is preferred that the employee reporting the incident or near miss meet with the manager personally to have the on-line form completed, however, when that is not feasible the manager or delegate may do so.
 - b. If the incident or near miss is client related, charting the incident on the client's record must be consistent with usual charting standards, and documented at least at the same time as the on-line incident form, if not sooner.
4. The supervisor or Director initiates an investigation within 24 hours of the incident or near miss, being respectful of the need to act more quickly in high risk situations.
 - a. The supervisor, manager or Director will interview all parties involved in the incident or near miss to determine the sequence of events and add information to the RL6 form.
 - b. The manager or supervisor is responsible for electronically reviewing the incident report and entering a review date into the system once the investigation has been completed.
 - c. All higher risk incidents entered as severity level 2 or 3 must be reviewed and a review date entered into RL6 by the Corporate Manager or Director. All other incidents will be reviewed and a review date entered by the appropriate supervisor.
5. The Director or supervisor will complete the Funder Significant Event Tool as per contract standards.
 - a. When you receive the incident information on an incident directly, ensure that it is inputted in RL6 and appropriate scheduling software within 24 hours.
 - b. Confirm receipt of the incident report within 24 hours to client/family/funder/other.
 - c. Fully investigate incident.
 - d. Corrective actions to be reviewed and approved with Regional Director/Manager within 3 days for a high risk incident and within 7 days for a low risk incident.
 - e. Update information in RL6 and scheduling software as appropriate.
 - f. Contact client/family/funder/other regarding resolution within 3 days for a high risk incident and within 7 days for low risk.
 - g. Provide funder with all required documentation.
6. The Director/Corporate Leaders/Managers will analyze incident reports for the purposes of identifying trends and the identification of quality improvement initiatives.
7. The Corporate Integrity Officer will provide support in the identification of actions required and will facilitate the need for resources to mitigate risk to the client, staff, community or the organization.
8. The Director/Corporate Leader will ensure that corrective actions are undertaken and documented.
9. The Director will report incident analysis and preventative action to their respective Vice President as a component of the SDC/facility report.
10. The Corporate Integrity Officer will prepare a quarterly report for the President and CEO on corporate risk trends and quality improvement activities.
11. The President and CEO informs the Board of Directors of corporate risk issues and quality improvement activities.

Tools & Resources

Please refer to the Paper Clip icon in the upper right-hand corner of the window for related tools and resources.

Related Policies & Procedures

- [Corporate Performance Management - Policy - Policy](#)

- Risk Management - Policy - Policy

References

Not applicable.

Definitions

Please click on this link to view all of the related Saint Elizabeth [Definitions](#).

This is Exhibit "C" referred to in the Affidavit of Patricia Malone,
sworn June 27, 2018

A handwritten signature in black ink, consisting of several overlapping loops and strokes, positioned above a horizontal line.

Commissioner for Taking Affidavits (or as may be)

 Saint Elizabeth	Document Owner: Patricia Malone	Date Created: 05-08-2015
	Approver(s): Patricia Malone	Date Published: 05-08-2015

Printed copies are for reference only. Please refer to the electronic copy for the latest version.

Purpose

Saint Elizabeth (SE) is committed to providing an environment that is customer focused and quality driven. Feedback from clients, employees and community partners provides valuable information and learning for the organization and will receive satisfactory and timely follow-up from the appropriate personnel.

The procedure provides prompt and accurate information on comments, complaints and compliments for the purpose of follow up which may result in recognition of the employee(s), corrective action or the initiation of a quality improvement activity.

This procedure gives direction to all employees at SE on the steps to be taken when feedback is received. The outcome of the process is to achieve the following objectives:

- to establish a systematic, standardized process for reporting, documenting and trending of all types of feedback;
- to identify and document actions taken when feedback is received;
- to provide the organization with a database, to trend feedback (both compliments and complaints) and to institute appropriate measures in order to support continuous quality improvement;
- to enable the organization to recognize outstanding performance or service provided by staff.

Scope

This procedure applies to all staff of SE.

Equipment & Supplies

- Not Applicable.

Consequences

Lack of documenting feedback will result in the inability to identify what we are doing well and what requires improvement.

Precautions

To prevent danger and avoid errors, ensure the following before performing this procedure:

- Not applicable.

Procedure

Steps

Complaints

1. The staff member who receives the original complaint will make an entry in RL6 within 24 hours of learning of the concern. If this is not possible the supervisor/manager will enter.
2. The manager or delegate will make initial contact with the person submitting the complaint and initiate an investigation within 24hrs.
 - a. The manager or delegate initiates an investigation to identify causes of the complaint.

TITLE: Complaints/Compliments - Procedure

- b. All employees/clients/residents/family members/funders involved are to be contacted as part of the investigation.
 - c. The resolution must be communicated to the complainant within one week of receipt of complaint.
 - d. If the complaint was received in writing (either in hard copy or e-mail) then the resolution shall be communicated in writing. The Corporate Integrity Officer or delegate is to review written communication before it is finalized.
3. Verbal communication with the complainant is to be documented in the RL6 system, indicating dates and outcomes of conversation.

Compliments

1. The SDC or Corporate staff member who receives the original compliment will make an entry in RL6 within 24 hours of learning of the feedback. Full names of the specific staff members involved must be identified in the entry. If the compliment received was generic, every effort should be made to identify and document the specific staff.
2. The manager or delegate will contact the person submitting the compliment to acknowledge receipt of the information. If the compliment was received in writing then the acknowledgement shall be in writing.
 - a. The manager or delegate will forward the information to the individual or group identified.
 - b. An HR designate will place a copy of the RL6 entry into the employee(s)'s file.
 - c. Correspondence from the CEO will be sent to the recognized employee to acknowledge their performance.

Tools & Resources

Please refer to the Paper Clip icon in the upper right-hand corner of the window for related tools and resources.

Related Policies & Procedures

- [Incident Management - Procedure](#) - Procedure

References

Not applicable.

Definitions

Please click on this link to view all of the related Saint Elizabeth [Definitions](#).