

Long-Term Care Homes Act, 2007

S.O. 2007, CHAPTER 8

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Preamble

The people of Ontario and their Government:

Believe in resident-centred care;

Remain committed to the health and well-being of Ontarians living in long-term care homes now and in the future;

Strongly support collaboration and mutual respect amongst residents, their families and friends, long-term care home providers, service providers, caregivers, volunteers, the community and governments to ensure that the care and services provided meet the needs of the resident and the safety needs of all residents;

Recognize the principle of access to long-term care homes that is based on assessed need;

Firmly believe in public accountability and transparency to demonstrate that long-term care homes are governed and operated in a way that reflects the interest of the public, and promotes effective and efficient delivery of high-quality services to all residents;

Firmly believe in clear and consistent standards of care and services, supported by a strong compliance, inspection and enforcement system;

Recognize the responsibility to take action where standards or requirements under this Act are not being met, or where the care, safety, security and rights of residents might be compromised;

Affirm our commitment to preserving and promoting quality accommodation that provides a safe, comfortable, home-like environment and supports a high quality of life for all residents of long-term care homes;

Recognize that long-term care services must respect diversity in communities;

Respect the requirements of the *French Language Services Act* in serving Ontario's Francophone community;

Recognize the importance of fostering the delivery of care and services to residents in an environment that supports continuous quality improvement;

Are committed to the promotion of the delivery of long-term care home services by not-for-profit organizations.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I FUNDAMENTAL PRINCIPLE AND INTERPRETATION

Home: the fundamental principle

1 The fundamental principle to be applied in the interpretation of this Act and anything required or permitted under this Act is that a long-term care home is primarily the home of its residents and is to be operated so that it is a place where they may live with dignity and in security, safety and comfort and have their physical, psychological, social, spiritual and cultural needs adequately met. 2007, c. 8, s. 1.

Interpretation

2 (1) In this Act,

“abuse”, in relation to a resident, means physical, sexual, emotional, verbal or financial abuse, as defined in the regulations in each case; (“mauvais traitement”)

“Administrator”, in relation to a long-term care home, means the Administrator for the home required under section 70; (“administrateur du foyer”)

“Appeal Board” means the Health Services Appeal and Review Board under the *Ministry of Health and Long-Term Care Appeal and Review Boards Act, 1998*; (“Commission d’appel”)

“care” includes treatment and interventions; (“soins”)

“Director” means the person appointed under section 175 as the Director and, where more than one person has been appointed, means the person who is the Director for the purposes of the provision in which the term appears; (“directeur”)

“Director of Nursing and Personal Care”, in relation to a long-term care home, means the Director of Nursing and Personal Care for the home required under section 71; (“directeur des soins infirmiers et des soins personnels”)

“equity share” means a share of a class of shares of a corporation that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing; (“action participante”)

“fundamental principle” means the fundamental principle set out in section 1; (“principe fondamental”)

“incapable” means unable to understand the information that is relevant to making a decision concerning the subject matter or unable to appreciate the reasonably foreseeable consequences of a decision or a lack of decision; (“incapable”)

“intervention” means an action, procedure or activity designed to achieve an outcome to a condition or a diagnosis; (“intervention”)

“licensee” means the holder of a licence issued under this Act, and includes the municipality or municipalities or board of management that maintains a municipal home, joint home or First Nations home approved under Part VIII; (“titulaire de permis”)

“local health integration network” means a local health integration network as defined in section 2 of the *Local Health System Integration Act, 2006*; (“réseau local d’intégration des services de santé”)

“long-term care home” means a place that is licensed as a long-term care home under this Act, and includes a municipal home, joint home or First Nations home approved under Part VIII; (“foyer de soins de longue durée”)

“Minister” means the Minister of Health and Long-Term Care, or, if the responsibility for the administration of this Act has been assigned to another Minister under the *Executive Council Act*, that Minister; (“ministre”)

“Ministry” means the Ministry over which the Minister presides; (“ministère”)

“physician” means a member of the College of Physicians and Surgeons of Ontario; (“médecin”)

“registered nurse” means a member of the College of Nurses of Ontario who holds a certificate of registration as a registered nurse under the *Nursing Act, 1991*; (“infirmière autorisée” or “infirmier autorisé”)

“registered nurse in the extended class” means a registered nurse who holds an extended certificate of registration under the *Nursing Act, 1991*; (“infirmière autorisée ou infirmier autorisé de la catégorie supérieure”)

“registered practical nurse” means a member of the College of Nurses of Ontario who holds a certificate of registration as a registered practical nurse under the *Nursing Act, 1991*; (“infirmière auxiliaire autorisée” or “infirmier auxiliaire autorisé”)

“requirement under this Act” means a requirement contained in this Act, in the regulations, or in an order or agreement made under this Act, and includes a condition of a licence under Part VII or an approval under Part VIII and a condition to which funding is subject under section 90; (“exigence prévue par la présente loi”)

“resident” means a person admitted to and living in a long-term care home; (“résident”)

“Residents’ Bill of Rights” means the list of rights of residents set out in section 3; (“déclaration des droits des résidents”)

“rights adviser” means a person designated by or in accordance with the regulations as a rights adviser; (“conseiller en matière de droits”)

“secure unit” means an area within a long-term care home that is designated as a secure unit by or in accordance with the regulations; (“unité de sécurité”)

“spouse” means,

- (a) a spouse as defined in section 1 of the *Family Law Act*, or
- (b) either of two persons who live together in a conjugal relationship outside marriage; (“conjoint”)

“staff”, in relation to a long-term care home, means persons who work at the home,

- (a) as employees of the licensee,
- (b) pursuant to a contract or agreement with the licensee, or
- (c) pursuant to a contract or agreement between the licensee and an employment agency or other third party; (“personnel”)

“substitute decision-maker” means a person who is authorized under the *Health Care Consent Act, 1996* or the *Substitute Decisions Act, 1992* to give or refuse consent or make a decision, on behalf of another person; (“mandataire spécial”)

“volunteer” means a person who is part of the organized volunteer program of the long-term care home under section 16 and who does not receive a wage or salary for the services or work provided for that program. (“bénévole”) 2007, c. 8, ss. 2 (1), 195 (1); 2009, c. 33, Sched. 18, s. 15 (1).

Controlling interest

(2) Without limiting the meaning of controlling interest, a person shall be deemed to have a controlling interest in a licensee if the person, either alone or with one or more associates, directly or indirectly,

- (a) owns or controls, beneficially or otherwise, with respect to a licensee that is a corporation,
 - (i) 10 per cent or more of the issued and outstanding equity shares, and
 - (ii) voting rights sufficient, if exercised, to direct the management and policies of the licensee; or

- (b) has the direct or indirect right or ability, beneficially or otherwise, to direct the management and policies of a licensee that is not a corporation. 2007, c. 8, s. 2 (2).

Same

- (3) Without restricting the generality of subsection (2), a person shall be deemed to have a controlling interest in a licensee if that person, either alone or with one or more associates, has a controlling interest in a person who has a controlling interest in a licensee, and so on. 2007, c. 8, s. 2 (3).

Associates

- (4) For the purposes of subsection (2), one person shall be deemed to be an associate of another person if,
 - (a) one person is a corporation of which the other person is an officer or director;
 - (b) one person is a partnership of which the other person is a partner;
 - (c) one person is a corporation that is controlled directly or indirectly by the other person;
 - (d) both persons are corporations and one person is controlled directly or indirectly by the same individual or corporation that directly or indirectly controls the other person;
 - (e) both persons are members of a voting trust where the trust relates to shares of a corporation;
 - (f) one person is the father, mother, brother, sister, child or spouse of the other person or is another relative who has the same home as the other person; or
 - (g) both persons are associates within the meaning of clauses (a) to (f) of the same person. 2007, c. 8, s. 2 (4).

Calculating shares

- (5) In calculating the total number of equity shares of a corporation beneficially owned or controlled for the purposes of this Act, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as having the number of shares equal to the total number of votes it carries. 2007, c. 8, s. 2 (5).

Meaning of “explain”

- (6) A rights adviser or other person whom this Act requires to explain a matter directly to a resident or an applicant for admission to a long-term care home satisfies that requirement by explaining the matter to the best of his or her ability and in a manner that addresses the special needs of the person receiving the explanation, whether that person understands it or not. 2007, c. 8, s. 2 (6).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (1) - 01/07/2010

2009, c. 33, Sched. 18, s. 15 (1) - 01/07/2010

**PART II
RESIDENTS: RIGHTS, CARE AND SERVICES**

RESIDENTS’ BILL OF RIGHTS

Residents’ Bill of Rights

3 (1) Every licensee of a long-term care home shall ensure that the following rights of residents are fully respected and promoted:

1. Every resident has the right to be treated with courtesy and respect and in a way that fully recognizes the resident’s individuality and respects the resident’s dignity.
2. Every resident has the right to be protected from abuse.
3. Every resident has the right not to be neglected by the licensee or staff.
4. Every resident has the right to be properly sheltered, fed, clothed, groomed and cared for in a manner consistent with his or her needs.
5. Every resident has the right to live in a safe and clean environment.
6. Every resident has the right to exercise the rights of a citizen.
7. Every resident has the right to be told who is responsible for and who is providing the resident’s direct care.
8. Every resident has the right to be afforded privacy in treatment and in caring for his or her personal needs.
9. Every resident has the right to have his or her participation in decision-making respected.

10. Every resident has the right to keep and display personal possessions, pictures and furnishings in his or her room subject to safety requirements and the rights of other residents.
11. Every resident has the right to,
 - i. participate fully in the development, implementation, review and revision of his or her plan of care,
 - ii. give or refuse consent to any treatment, care or services for which his or her consent is required by law and to be informed of the consequences of giving or refusing consent,
 - iii. participate fully in making any decision concerning any aspect of his or her care, including any decision concerning his or her admission, discharge or transfer to or from a long-term care home or a secure unit and to obtain an independent opinion with regard to any of those matters, and
 - iv. have his or her personal health information within the meaning of the *Personal Health Information Protection Act, 2004* kept confidential in accordance with that Act, and to have access to his or her records of personal health information, including his or her plan of care, in accordance with that Act.
12. Every resident has the right to receive care and assistance towards independence based on a restorative care philosophy to maximize independence to the greatest extent possible.
13. Every resident has the right not to be restrained, except in the limited circumstances provided for under this Act and subject to the requirements provided for under this Act.
14. Every resident has the right to communicate in confidence, receive visitors of his or her choice and consult in private with any person without interference.
15. Every resident who is dying or who is very ill has the right to have family and friends present 24 hours per day.
16. Every resident has the right to designate a person to receive information concerning any transfer or any hospitalization of the resident and to have that person receive that information immediately.
17. Every resident has the right to raise concerns or recommend changes in policies and services on behalf of himself or herself or others to the following persons and organizations without interference and without fear of coercion, discrimination or reprisal, whether directed at the resident or anyone else,
 - i. the Residents' Council,
 - ii. the Family Council,
 - iii. the licensee, and, if the licensee is a corporation, the directors and officers of the corporation, and, in the case of a home approved under Part VIII, a member of the committee of management for the home under section 132 or of the board of management for the home under section 125 or 129,
 - iv. staff members,
 - v. government officials,
 - vi. any other person inside or outside the long-term care home.
18. Every resident has the right to form friendships and relationships and to participate in the life of the long-term care home.
19. Every resident has the right to have his or her lifestyle and choices respected.
20. Every resident has the right to participate in the Residents' Council.
21. Every resident has the right to meet privately with his or her spouse or another person in a room that assures privacy.
22. Every resident has the right to share a room with another resident according to their mutual wishes, if appropriate accommodation is available.
23. Every resident has the right to pursue social, cultural, religious, spiritual and other interests, to develop his or her potential and to be given reasonable assistance by the licensee to pursue these interests and to develop his or her potential.
24. Every resident has the right to be informed in writing of any law, rule or policy affecting services provided to the resident and of the procedures for initiating complaints.
25. Every resident has the right to manage his or her own financial affairs unless the resident lacks the legal capacity to do so.
26. Every resident has the right to be given access to protected outdoor areas in order to enjoy outdoor activity unless the physical setting makes this impossible.

27. Every resident has the right to have any friend, family member, or other person of importance to the resident attend any meeting with the licensee or the staff of the home. 2007, c. 8, s. 3 (1).

Further guide to interpretation

(2) Without restricting the generality of the fundamental principle, the following are to be interpreted so as to advance the objective that a resident's rights set out in subsection (1) are respected:

1. This Act and the regulations.
2. Any agreement entered into between a licensee and the Crown or an agent of the Crown.
3. Any agreement entered into between a licensee and a resident or the resident's substitute decision-maker. 2007, c. 8, s. 3 (2).

Enforcement by the resident

(3) A resident may enforce the Residents' Bill of Rights against the licensee as though the resident and the licensee had entered into a contract under which the licensee had agreed to fully respect and promote all of the rights set out in the Residents' Bill of Rights. 2007, c. 8, s. 3 (3).

Regulations

(4) The Lieutenant Governor in Council may make regulations governing how rights set out in the Residents' Bill of Rights shall be respected and promoted by the licensee. 2007, c. 8, s. 3 (4).

MISSION STATEMENT

Mission statement

4 (1) Every licensee shall ensure that,

- (a) there is a mission statement for each of the licensee's long-term care homes that sets out the principles, purpose and philosophy of care of the home; and
- (b) the principles, purpose and philosophy of care set out in the mission statement are put into practice in the day-to-day operation of the long-term care home. 2007, c. 8, s. 4 (1).

Basic consistency

(2) The licensee shall ensure that the mission statement is consistent with the fundamental principle and the Residents' Bill of Rights. 2007, c. 8, s. 4 (2).

Collaboration

(3) The licensee shall ensure that the mission statement is developed, and revised as necessary, in collaboration with the Residents' Council and the Family Council, if any, and shall invite the staff of the long-term care home and volunteers to participate. 2007, c. 8, s. 4 (3).

Updating

(4) At least once every five years after a mission statement is developed, the licensee shall consult with the Residents' Council and the Family Council, if any, as to whether revisions are required, and shall invite the staff of the long-term care home and volunteers to participate. 2007, c. 8, s. 4 (4).

SAFE AND SECURE HOME

Home to be safe, secure environment

5 Every licensee of a long-term care home shall ensure that the home is a safe and secure environment for its residents. 2007, c. 8, s. 5.

PLAN OF CARE

Plan of care

6 (1) Every licensee of a long-term care home shall ensure that there is a written plan of care for each resident that sets out,

- (a) the planned care for the resident;
- (b) the goals the care is intended to achieve; and
- (c) clear directions to staff and others who provide direct care to the resident. 2007, c. 8, s. 6 (1).

Based on assessment of resident

(2) The licensee shall ensure that the care set out in the plan of care is based on an assessment of the resident and the needs and preferences of that resident. 2007, c. 8, s. 6 (2).

Plan to cover all aspects of care

(3) The licensee shall ensure that the plan of care covers all aspects of care, including medical, nursing, personal support, nutritional, dietary, recreational, social, restorative, religious and spiritual care. 2007, c. 8, s. 6 (3).

Integration of assessments, care

(4) The licensee shall ensure that the staff and others involved in the different aspects of care of the resident collaborate with each other,

- (a) in the assessment of the resident so that their assessments are integrated and are consistent with and complement each other; and
- (b) in the development and implementation of the plan of care so that the different aspects of care are integrated and are consistent with and complement each other. 2007, c. 8, s. 6 (4).

Involvement of resident, etc.

(5) The licensee shall ensure that the resident, the resident's substitute decision-maker, if any, and any other persons designated by the resident or substitute decision-maker are given an opportunity to participate fully in the development and implementation of the resident's plan of care. 2007, c. 8, s. 6 (5).

Development of initial plan of care

(6) When a resident is admitted to a long-term care home, the licensee shall, within the times provided for in the regulations, ensure that the resident is assessed and an initial plan of care developed based on that assessment and on the assessment, reassessments and information provided by the placement co-ordinator under section 44. 2007, c. 8, s. 6 (6).

Duty of licensee to comply with plan

(7) The licensee shall ensure that the care set out in the plan of care is provided to the resident as specified in the plan. 2007, c. 8, s. 6 (7).

Staff and others to be kept aware

(8) The licensee shall ensure that the staff and others who provide direct care to a resident are kept aware of the contents of the resident's plan of care and have convenient and immediate access to it. 2007, c. 8, s. 6 (8).

Documentation

(9) The licensee shall ensure that the following are documented:

- 1. The provision of the care set out in the plan of care.
- 2. The outcomes of the care set out in the plan of care.
- 3. The effectiveness of the plan of care. 2007, c. 8, s. 6 (9).

When reassessment, revision is required

(10) The licensee shall ensure that the resident is reassessed and the plan of care reviewed and revised at least every six months and at any other time when,

- (a) a goal in the plan is met;
- (b) the resident's care needs change or care set out in the plan is no longer necessary; or
- (c) care set out in the plan has not been effective. 2007, c. 8, s. 6 (10).

Reassessment, revision

(11) When a resident is reassessed and the plan of care reviewed and revised,

- (a) subsections (4) and (5) apply, with necessary modifications, with respect to the reassessment and revision; and
- (b) if the plan of care is being revised because care set out in the plan has not been effective, the licensee shall ensure that different approaches are considered in the revision of the plan of care. 2007, c. 8, s. 6 (11).

Explanation of plan

(12) The licensee shall ensure that the resident, the resident's substitute decision-maker, if any, and any other persons designated by the resident or substitute decision-maker are given an explanation of the plan of care. 2007, c. 8, s. 6 (12).

Limitation on disclosure

(13) Subsection (12) does not require the disclosure of information if access to a record of the information could be refused under the *Personal Health Information Protection Act, 2004*. 2007, c. 8, s. 6 (13).

Access to plan

(14) Nothing in this section limits a right of access to a plan of care under the *Personal Health Information Protection Act, 2004*. 2007, c. 8, s. 6 (14).

Consent

7 Nothing in this Act authorizes a licensee to assess a resident's requirements without the resident's consent or to provide care or services to a resident without the resident's consent. 2007, c. 8, s. 7.

CARE AND SERVICES

Nursing and personal support services

8 (1) Every licensee of a long-term care home shall ensure that there is,

- (a) an organized program of nursing services for the home to meet the assessed needs of the residents; and
- (b) an organized program of personal support services for the home to meet the assessed needs of the residents. 2007, c. 8, s. 8 (1).

Personal support services

(2) In clause (1) (b),

“personal support services” means services to assist with the activities of daily living, including personal hygiene services, and includes supervision in carrying out those activities. 2007, c. 8, s. 8 (2).

24-hour nursing care

(3) Every licensee of a long-term care home shall ensure that at least one registered nurse who is both an employee of the licensee and a member of the regular nursing staff of the home is on duty and present in the home at all times, except as provided for in the regulations. 2007, c. 8, s. 8 (3).

Same, Administrator and Director of Nursing and Personal Care

(4) During the hours that an Administrator or Director of Nursing and Personal Care works in that capacity, he or she shall not be considered to be a registered nurse on duty and present in the long-term care home for the purposes of subsection (3), except as provided for in the regulations. 2007, c. 8, s. 8 (4).

Restorative care

9 (1) Every licensee of a long-term care home shall ensure that there is an organized interdisciplinary program with a restorative care philosophy that,

- (a) promotes and maximizes independence; and
- (b) where relevant to the resident's assessed care needs, includes, but is not limited to, physiotherapy and other therapy services which may be either arranged or provided by the licensee. 2007, c. 8, s. 9 (1).

Certain cases

(2) Without restricting the generality of subsection (1), the program shall include services for residents with cognitive impairments and residents who are unable to leave their rooms. 2007, c. 8, s. 9 (2).

Recreational and social activities

10 (1) Every licensee of a long-term care home shall ensure that there is an organized program of recreational and social activities for the home to meet the interests of the residents. 2007, c. 8, s. 10 (1).

Certain cases

(2) Without restricting the generality of subsection (1), the program shall include services for residents with cognitive impairments, and residents who are unable to leave their rooms. 2007, c. 8, s. 10 (2).

Dietary services and hydration

11 (1) Every licensee of a long-term care home shall ensure that there is,

- (a) an organized program of nutrition care and dietary services for the home to meet the daily nutrition needs of the residents; and
- (b) an organized program of hydration for the home to meet the hydration needs of residents. 2007, c. 8, s. 11 (1).

Same

(2) Without restricting the generality of subsection (1), every licensee shall ensure that residents are provided with food and fluids that are safe, adequate in quantity, nutritious and varied. 2007, c. 8, s. 11 (2).

Medical services

12 Every licensee of a long-term care home shall ensure that there is an organized program of medical services for the home. 2007, c. 8, s. 12.

Information and referral assistance

13 (1) Every licensee of a long-term care home shall ensure that residents are provided with information and assistance in obtaining goods, services and equipment that are relevant to the residents' health care needs but are not provided by the licensee. 2007, c. 8, s. 13 (1).

Clarification of extent of assistance

(2) The information and assistance required under subsection (1) does not include financial assistance. 2007, c. 8, s. 13 (2).

Religious and spiritual practices

14 Every licensee of a long-term care home shall ensure that there is an organized program for the home to ensure that residents are given reasonable opportunity to practise their religious and spiritual beliefs, and to observe the requirements of those beliefs. 2007, c. 8, s. 14.

Accommodation services

15 (1) Every licensee of a long-term care home shall ensure that,

- (a) there is an organized program of housekeeping for the home;
- (b) there is an organized program of laundry services for the home to meet the linen and personal clothing needs of the residents; and
- (c) there is an organized program of maintenance services for the home. 2007, c. 8, s. 15 (1).

Specific duties re cleanliness and repair

(2) Every licensee of a long-term care home shall ensure that,

- (a) the home, furnishings and equipment are kept clean and sanitary;
- (b) each resident's linen and personal clothing is collected, sorted, cleaned and delivered; and
- (c) the home, furnishings and equipment are maintained in a safe condition and in a good state of repair. 2007, c. 8, s. 15 (2).

Volunteer program

16 (1) Every licensee of a long-term care home shall ensure that there is an organized volunteer program for the home that encourages and supports the participation of volunteers in the lives and activities of residents. 2007, c. 8, s. 16 (1).

To be included in program

(2) The volunteer program must include measures to encourage and support the participation of volunteers as may be further provided for in the regulations. 2007, c. 8, s. 16 (2).

Staffing and care standards

17 Every licensee of a long-term care home shall ensure that the home meets the staffing and care standards provided for in the regulations. 2007, c. 8, s. 17.

Standards for programs and services

18 (1) Every licensee shall ensure that the programs required under sections 8 to 16, the services provided under those programs and anything else required under those sections comply with any standards or requirements, including outcome measures, provided for in the regulations. 2007, c. 8, s. 18 (1).

Matters included

(2) Without restricting the generality of subsection (1), every licensee shall comply with the regulations made under clause 183 (2) (k). 2007, c. 8, s. 18 (2).

PREVENTION OF ABUSE AND NEGLECT

Duty to protect

19 (1) Every licensee of a long-term care home shall protect residents from abuse by anyone and shall ensure that residents are not neglected by the licensee or staff. 2007, c. 8, s. 19 (1).

If absent from the home

(2) The duties in subsection (1) do not apply where the resident is absent from the home, unless the resident continues to receive care or services from the licensee, staff or volunteers of the home. 2007, c. 8, s. 19 (2).

Policy to promote zero tolerance

20 (1) Without in any way restricting the generality of the duty provided for in section 19, every licensee shall ensure that there is in place a written policy to promote zero tolerance of abuse and neglect of residents, and shall ensure that the policy is complied with. 2007, c. 8, s. 20 (1).

Contents

- (2) At a minimum, the policy to promote zero tolerance of abuse and neglect of residents,
- (a) shall provide that abuse and neglect are not to be tolerated;
 - (b) shall clearly set out what constitutes abuse and neglect;
 - (c) shall provide for a program, that complies with the regulations, for preventing abuse and neglect;
 - (d) shall contain an explanation of the duty under section 24 to make mandatory reports;
 - (e) shall contain procedures for investigating and responding to alleged, suspected or witnessed abuse and neglect of residents;
 - (f) shall set out the consequences for those who abuse or neglect residents;
 - (g) shall comply with any requirements respecting the matters provided for in clauses (a) through (f) that are provided for in the regulations; and
 - (h) shall deal with any additional matters as may be provided for in the regulations. 2007, c. 8, s. 20 (2).

Communication of policy

(3) Every licensee shall ensure that the policy to promote zero tolerance of abuse and neglect of residents is communicated to all staff, residents and residents' substitute decision-makers. 2007, c. 8, s. 20 (3).

REPORTING AND COMPLAINTS

Complaints procedure – licensee

21 Every licensee of a long-term care home shall ensure that there are written procedures that comply with the regulations for initiating complaints to the licensee and for how the licensee deals with complaints. 2007, c. 8, s. 21.

Licensee to forward complaints

22 (1) Every licensee of a long-term care home who receives a written complaint concerning the care of a resident or the operation of the long-term care home shall immediately forward it to the Director. 2007, c. 8, s. 22 (1).

Other documentation

(2) A licensee who is required to forward a complaint under subsection (1) shall also provide the Director with any documentation provided for in the regulations, in a manner that complies with the regulations. 2007, c. 8, s. 22 (2).

Licensee must investigate, respond and act

- 23** (1) Every licensee of a long-term care home shall ensure that,
- (a) every alleged, suspected or witnessed incident of the following that the licensee knows of, or that is reported to the licensee, is immediately investigated:
 - (i) abuse of a resident by anyone,
 - (ii) neglect of a resident by the licensee or staff, or
 - (iii) anything else provided for in the regulations;
 - (b) appropriate action is taken in response to every such incident; and
 - (c) any requirements that are provided for in the regulations for investigating and responding as required under clauses (a) and (b) are complied with. 2007, c. 8, s. 23 (1).

Reports of investigation

(2) A licensee shall report to the Director the results of every investigation undertaken under clause (1) (a), and every action taken under clause (1) (b). 2007, c. 8, s. 23 (2).

Manner of reporting

(3) A licensee who reports under subsection (2) shall do so as is provided for in the regulations, and include all material that is provided for in the regulations. 2007, c. 8, s. 23 (3).

Reporting certain matters to Director

24 (1) A person who has reasonable grounds to suspect that any of the following has occurred or may occur shall immediately report the suspicion and the information upon which it is based to the Director:

1. Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident.
2. Abuse of a resident by anyone or neglect of a resident by the licensee or staff that resulted in harm or a risk of harm to the resident.
3. Unlawful conduct that resulted in harm or a risk of harm to a resident.
4. Misuse or misappropriation of a resident's money.
5. Misuse or misappropriation of funding provided to a licensee under this Act or the *Local Health System Integration Act, 2006*. 2007, c. 8, ss. 24 (1), 195 (2).

False information

(2) Every person is guilty of an offence who includes in a report to the Director under subsection (1) information the person knows to be false. 2007, c. 8, s. 24 (2).

Exceptions for residents

(3) A resident may make a report under subsection (1), but is not required to, and subsection (2) does not apply to residents who are incapable. 2007, c. 8, s. 24 (3).

Duty on practitioners and others

(4) Even if the information on which a report may be based is confidential or privileged, subsection (1) also applies to a person mentioned in paragraph 1, 2 or 3, and no action or other proceeding for making the report shall be commenced against a person who acts in accordance with subsection (1) unless that person acts maliciously or without reasonable grounds for the suspicion:

1. A physician or any other person who is a member of a College as defined in subsection 1 (1) of the *Regulated Health Professions Act, 1991*.
2. A person who is registered as a drugless practitioner under the *Drugless Practitioners Act*.
3. A member of the Ontario College of Social Workers and Social Service Workers. 2007, c. 8, s. 24 (4).

Offence of failure to report

(5) The following persons are guilty of an offence if they fail to make a report required by subsection (1):

1. The licensee of the long-term care home or a person who manages a long-term care home pursuant to a contract described in section 110.
2. If the licensee or person who manages the home is a corporation, an officer or director of the corporation.
3. In the case of a home approved under Part VIII, a member of the committee of management for the home under section 132 or of the board of management for the home under section 125 or 129.
4. A staff member.
5. Any person who provides professional services to a resident in the areas of health, social work or social services work.
6. Any person who provides professional services to a licensee in the areas of health, social work or social services work. 2007, c. 8, s. 24 (5).

Offences re suppressing reports

(6) Every person mentioned in paragraph 1, 2, 3 or 4 of subsection (5) is guilty of an offence if the person,

- (a) coerces or intimidates a person not to make a report required by this section;
- (b) discourages a person from making a report required by this section; or
- (c) authorizes, permits or concurs in a contravention of the duty to make a report required by this section. 2007, c. 8, s. 24 (6).

Solicitor-client privilege

(7) Nothing in this section abrogates any privilege that may exist between a solicitor and the solicitor's client. 2007, c. 8, s. 24 (7).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (2) - 01/07/2010

Inspections or inquiries where information received by Director

25 (1) The Director shall have an inspector conduct an inspection or make inquiries for the purpose of ensuring compliance with the requirements under this Act if the Director receives information from any source indicating that any of the following may have occurred:

1. Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident.
2. Abuse of a resident by anyone or neglect of a resident by the licensee or staff that resulted in harm or a risk of harm to the resident.
3. Unlawful conduct that resulted in harm or a risk of harm to a resident.
4. A violation of section 26.
5. Misuse or misappropriation of a resident's money.
6. Misuse or misappropriation of funding provided to a licensee under this Act or the *Local Health System Integration Act, 2006*.
7. A failure to comply with a requirement under this Act.
8. Any other matter provided for in the regulations. 2007, c. 8, ss. 25 (1), 195 (3).

Immediate visit to home

(2) The inspector acting under subsection (1) shall immediately visit the long-term care home concerned if the information indicates that any of the following may have occurred:

1. Anything described in paragraph 1, 2 or 3 of subsection (1) that resulted in serious harm or a risk of serious harm to a resident.
2. Anything described in paragraph 4 of subsection (1).
3. Any other matter provided for in the regulations. 2007, c. 8, s. 25 (2).

Other matters

(3) If the Director receives information, not provided for in subsection (1), that raises concerns about the operation of a long-term care home, the Director shall have an inspector conduct an inspection or make inquiries into the matter for the purpose of ensuring compliance with the requirements under this Act, if the Director has reasonable grounds to believe that there may be a risk of harm to a resident. 2007, c. 8, s. 25 (3).

Powers of inspector

(4) For greater clarity, an inspector acting under this section may exercise any power of an inspector under section 147, and has the power of an inspector to obtain a warrant under section 148. 2007, c. 8, s. 25 (4).

Other inquiries

(5) If the Director receives information from any source about the operation of a long-term care home, and is not required to have an inspector conduct an inspection or make inquiries into the matter, the Director may disclose the information to another person, including the licensee, or to the Residents' Council or Family Council. 2007, c. 8, s. 25 (5).

Licensee to be notified

(6) If the Director discloses the information to the Residents' Council or Family Council under subsection (5), the Director is required to provide the information to the licensee. 2007, c. 8, s. 25 (6).

Information

(7) Without in any way restricting the generality of the term, for the purposes of this section, "information" includes anything in,

- (a) a complaint forwarded under section 22;
- (b) a report under subsection 23 (2); or
- (c) a report under section 24. 2007, c. 8, s. 25 (7).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (3) - 01/07/2010

Whistle-blowing protection

26 (1) No person shall retaliate against another person, whether by action or omission, or threaten to do so because,

- (a) anything has been disclosed to an inspector;

- (b) anything has been disclosed to the Director including, without limiting the generality of the foregoing,
 - (i) a report has been made under section 24, or the Director has otherwise been advised of anything mentioned in paragraphs 1 to 5 of subsection 24 (1),
 - (ii) the Director has been advised of a breach of a requirement under this Act, or
 - (iii) the Director has been advised of any other matter concerning the care of a resident or the operation of a long-term care home that the person advising believes ought to be reported to the Director; or
- (c) evidence has been or may be given in a proceeding, including a proceeding in respect of the enforcement of this Act or the regulations, or in an inquest under the *Coroners Act*. 2007, c. 8, s. 26 (1).

Interpretation, retaliate

(2) Without in any way restricting the meaning of the word “retaliate”, the following constitute retaliation for the purposes of subsection (1):

1. Dismissing a staff member.
2. Disciplining or suspending a staff member.
3. Imposing a penalty upon any person.
4. Intimidating, coercing or harassing any person. 2007, c. 8, s. 26 (2).

No retaliation against residents

(3) A resident shall not be discharged from a long-term care home, threatened with discharge, or in any way be subjected to discriminatory treatment because of anything mentioned in subsection (1), even if the resident or another person acted maliciously or in bad faith, and no family member of a resident, substitute decision-maker of a resident, or person of importance to a resident shall be threatened with the possibility of any of those being done to the resident. 2007, c. 8, s. 26 (3).

Interpretation, discriminatory treatment

(4) Without in any way restricting the meaning of the term “discriminatory treatment”, discriminatory treatment for the purposes of subsection (3) includes any change or discontinuation of any service to or care of a resident or the threat of any such change or discontinuation. 2007, c. 8, s. 26 (4).

May not discourage reporting

(5) None of the following persons shall do anything that discourages, is aimed at discouraging or that has the effect of discouraging a person from doing anything mentioned in clauses (1) (a) to (c):

1. The licensee of a long-term care home or a person who manages a long-term care home pursuant to a contract described in section 110.
2. If the licensee or the person who manages the home is a corporation, an officer or director of the corporation.
3. In the case of a home approved under Part VIII, a member of the committee of management for the home under section 132 or of the board of management for the home under section 125 or 129.
4. A staff member. 2007, c. 8, s. 26 (5).

May not encourage failure to report

(6) No person mentioned in paragraphs 1 to 4 of subsection (5) shall do anything to encourage a person to fail to do anything mentioned in clauses (1) (a) to (c). 2007, c. 8, s. 26 (6).

Protection from legal action

(7) No action or other proceeding shall be commenced against any person for doing anything mentioned in clauses (1) (a) to (c) unless the person acted maliciously or in bad faith. 2007, c. 8, s. 26 (7).

Offence

(8) Every person is guilty of an offence who does anything prohibited by subsection (1), (3), (5) or (6). 2007, c. 8, s. 26 (8).

Complaint to Ontario Labour Relations Board

27 (1) Where a staff member complains that an employer or person acting on behalf of an employer has contravened subsection 26 (1), the staff member may either have the matter dealt with by final and binding settlement by arbitration under a collective agreement, if any, or file a complaint with the Board in which case any rules governing the practice and procedure of the Board apply with all necessary modifications to the complaint. 2007, c. 8, s. 27 (1).

Inquiry by Board

(2) The Board may inquire into any complaint filed under subsection (1) and section 96 of the *Labour Relations Act, 1995*, except subsection (5), applies with all necessary modifications as if that section, except subsection (5), is enacted in and forms part of this Act. 2007, c. 8, s. 27 (2).

Same

(3) On an inquiry by the Board into a complaint filed under subsection (1), sections 110, 111, 114 and 116 of the *Labour Relations Act, 1995* apply with all necessary modifications. 2007, c. 8, s. 27 (3).

Onus of proof

(4) On an inquiry by the Board into a complaint filed under subsection (1), the burden of proof that an employer or person acting on behalf of an employer did not act contrary to subsection 26 (1) lies upon the employer or the person acting on behalf of the employer. 2007, c. 8, s. 27 (4).

Board may substitute penalty

(5) Where, on an inquiry by the Board into a complaint filed under subsection (1), the Board determines that a staff member has been discharged or otherwise disciplined by an employer for cause and the contract of employment or the collective agreement, as the case may be, does not contain a specific penalty for the infraction, the Board may substitute such other penalty for the discharge or discipline as to the Board seems just and reasonable in all the circumstances. 2007, c. 8, s. 27 (5).

Interpretation

(6) In this section,

“Board” means the Ontario Labour Relations Board; (“Commission”)

“employer”, in relation to a staff member, means,

- (a) where the staff member is an employee of a licensee or a person who works at a long-term care home pursuant to a contract or agreement with a licensee, the licensee, or
- (b) where the staff member works at a long-term care home pursuant to a contract or agreement between the licensee and an employment agency or other third party, the employment agency or third party. (“employeur”) 2007, c. 8, s. 27 (6).

Obstruction – information to inspectors, Director

28 Every person is guilty of an offence who attempts, by any means, to prevent another person from providing information to an inspector or the Director where the provision of the information is required or permitted by this Act or the regulations. 2007, c. 8, s. 28.

MINIMIZING OF RESTRAINING

Policy to minimize restraining of residents, etc.

29 (1) Every licensee of a long-term care home,

- (a) shall ensure that there is a written policy to minimize the restraining of residents and to ensure that any restraining that is necessary is done in accordance with this Act and the regulations; and
- (b) shall ensure that the policy is complied with. 2007, c. 8, s. 29 (1).

Policy to comply with regulations

(2) The policy must comply with such requirements as may be provided for in the regulations. 2007, c. 8, s. 29 (2).

Protection from certain restraining

30 (1) Every licensee of a long-term care home shall ensure that no resident of the home is:

1. Restrained, in any way, for the convenience of the licensee or staff.
2. Restrained, in any way, as a disciplinary measure.
3. Restrained by the use of a physical device, other than in accordance with section 31 or under the common law duty described in section 36.
4. Restrained by the administration of a drug to control the resident, other than under the common law duty described in section 36.
5. Restrained, by the use of barriers, locks or other devices or controls, from leaving a room or any part of a home, including the grounds of the home, or entering parts of the home generally accessible to other residents, other than in accordance with section 32 or under the common law duty described in section 36. 2007, c. 8, s. 30 (1).

Devices that resident can release

(2) The use of a physical device from which a resident is both physically and cognitively able to release himself is not a restraining of the resident. 2007, c. 8, s. 30 (2).

Use of PASD to assist resident

(3) The use of a personal assistance services device (“PASD”), within the meaning of subsection 33 (2), to assist a resident with a routine activity of living is not a restraining of the resident. 2007, c. 8, s. 30 (3).

Administration of drugs, etc., as treatment

(4) The administration of a drug to a resident as a treatment set out in the resident’s plan of care is not a restraining of the resident. 2007, c. 8, s. 30 (4).

Perimeter barriers, etc., of home, grounds

(5) The use of barriers, locks or other devices or controls at entrances and exits to the home or the grounds of the home is not a restraining of a resident unless the resident is prevented from leaving. 2007, c. 8, s. 30 (5).

Safety measures at stairways

(6) The use of barriers, locks or other devices or controls at stairways as a safety measure is not a restraining of a resident. 2007, c. 8, s. 30 (6).

Restraining by physical devices

31 (1) A resident may be restrained by a physical device as described in paragraph 3 of subsection 30 (1) if the restraining of the resident is included in the resident’s plan of care. 2007, c. 8, s. 31 (1).

Provision in plan of care

(2) The restraining of a resident by a physical device may be included in a resident’s plan of care only if all of the following are satisfied:

1. There is a significant risk that the resident or another person would suffer serious bodily harm if the resident were not restrained.
2. Alternatives to restraining the resident have been considered, and tried where appropriate, but would not be, or have not been, effective to address the risk referred to in paragraph 1.
3. The method of restraining is reasonable, in light of the resident’s physical and mental condition and personal history, and is the least restrictive of such reasonable methods that would be effective to address the risk referred to in paragraph 1.
4. A physician, registered nurse in the extended class or other person provided for in the regulations has ordered or approved the restraining.
5. The restraining of the resident has been consented to by the resident or, if the resident is incapable, a substitute decision-maker of the resident with authority to give that consent.
6. The plan of care provides for everything required under subsection (3). 2007, c. 8, s. 31 (2).

Requirement if resident is restrained

(3) If a resident is being restrained by a physical device under subsection (1), the licensee shall ensure that,

- (a) the device is used in accordance with any requirements provided for in the regulations;
- (b) the resident is monitored while restrained, in accordance with the requirements provided for in the regulations;
- (c) the resident is released and repositioned, from time to time, while restrained, in accordance with the requirements provided for in the regulations;
- (d) the resident’s condition is reassessed and the effectiveness of the restraining evaluated, in accordance with the requirements provided for in the regulations;
- (e) the resident is restrained only for as long as is necessary to address the risk referred to in paragraph 1 of subsection (2);
- (f) the method of restraining used is discontinued if, as a result of the reassessment of the resident’s condition, one of the following is identified that would address the risk referred to in paragraph 1 of subsection (2):
 - (i) an alternative to restraining, or
 - (ii) a less restrictive method of restraining that would be reasonable, in light of the resident’s physical and mental condition and personal history; and
- (g) any other requirements provided for in the regulations are satisfied. 2007, c. 8, s. 31 (3).

Note: Section 32 comes into force on a day to be named by proclamation of the Lieutenant Governor. See: 2007, c. 8, s. 232 (2).

Restraining using barriers, locks, etc.

32. (1) A resident may be restrained by the use of barriers, locks or other devices or controls as described in paragraph 5 of subsection 30 (1) if the restraining of the resident is included in the resident's plan of care. 2007, c. 8, s. 32 (1).

Provision in plan of care

(2) The restraining of a resident by the use of barriers, locks or other devices or controls may be included in a resident's plan of care only if all of the following are satisfied:

1. There is a significant risk that the resident or another person would suffer serious bodily harm if the resident were not restrained.
2. Alternatives to restraining the resident have been considered, and tried where appropriate, but would not be, or have not been, effective to address the risk referred to in paragraph 1.
3. The method of restraining is reasonable, in light of the resident's physical and mental condition and personal history, and is the least restrictive of such reasonable methods that would be effective to address the risk referred to in paragraph 1.
4. A physician, registered nurse in the extended class or the Director of Nursing and Personal Care or a registered nurse or other person provided for in the regulations has recommended the restraining.
5. The restraining of the resident has been consented to by the resident or, if the resident is incapable, a substitute decision-maker of the resident with authority to give that consent.
6. The plan of care provides for everything required under subsection (3). 2007, c. 8, s. 32 (2).

Requirements if resident is restrained

(3) If a resident is being restrained by the use of barriers, locks or other devices or controls under subsection (1), the licensee shall ensure that,

- (a) the resident's condition is reassessed and the effectiveness of the restraining evaluated, in accordance with the requirements provided for in the regulations;
- (b) the resident is restrained only for as long as is necessary to address the risk referred to in paragraph 1 of subsection (2);
- (c) the method of restraining used is discontinued if, as a result of the reassessment of the resident's condition, one of the following is identified that would address the risk referred to in paragraph 1 of subsection (2):
 - (i) an alternative to restraining, or
 - (ii) a less restrictive method of restraining that would be reasonable, in light of the resident's physical and mental condition and personal history; and
- (d) any other requirements provided for in the regulations are satisfied. 2007, c. 8, s. 32 (3).

Notice and advice if substitute consent to transfer to a secure unit

(4) The following apply if the substitute decision-maker of a resident of a home has given consent on the resident's behalf to the resident's transfer to a secure unit within the home:

1. The licensee of the home,
 - i. shall promptly give the resident a written notice that complies with subsection (5), and
 - ii. shall promptly notify a rights adviser in accordance with the requirements provided for in the regulations.
2. Unless the resident refuses to meet with the rights adviser, the rights adviser shall promptly meet with the resident and explain,
 - i. the resident's right to apply to the Consent and Capacity Board, under section 53.1 of the *Health Care Consent Act, 1996*, for a determination as to whether the substitute decision-maker complied with section 42 of that Act, and
 - ii. any other matters that may be provided for in the regulations.
3. At the resident's request, the rights adviser shall assist him or her in making an application to the Consent and Capacity Board and in obtaining legal services.
4. The rights adviser shall comply with the regulations providing for how the rights adviser satisfies the requirements of paragraphs 2 and 3.
5. The licensee shall ensure that the resident is not transferred until after,

- i. the requirements of paragraph 1 have been satisfied, and
 - ii. the requirements of paragraph 2 have been satisfied or the licensee is advised by the rights adviser that the resident refuses to meet with the rights adviser.
6. For greater certainty, paragraph 5 does not affect any further restrictions on the licensee under section 46 of the *Health Care Consent Act, 1996*. 2007, c. 8, s. 32 (4).

Contents of notice to resident

(5) The written notice given to the resident under subparagraph 1 i of subsection (4) shall be in accordance with the requirements provided for in the regulations and shall inform the resident,

- (a) of the reasons for the transfer;
- (b) that the resident is entitled to apply to the Consent and Capacity Board, under section 53.1 of the *Health Care Consent Act, 1996*, for a determination as to whether the substitute decision-maker complied with section 42 of that Act;
- (c) that the resident has the right to retain and instruct counsel without delay; and
- (d) of any other matters provided for in the regulations. 2007, c. 8, s. 32 (5).

Initial plan of care when resident admitted to a secure unit, etc.

- (6) If a resident is admitted to a secure unit from outside the home,
- (a) the restraining of the resident by the use of barriers, locks or other devices or controls under subsection (1) that results from the resident being in the secure unit shall be included in the resident's initial plan of care developed under subsection 6 (6); and
 - (b) subsection (2) of this section shall apply subsequently when the resident is reassessed and the resident's plan of care is reviewed and revised under subsection 6 (10). 2007, c. 8, s. 32 (6).

Elements of consent for transfer to secure unit

(7) Section 46 applies, with necessary modifications, with respect to consent to a resident's transfer to a secure unit within a home. 2007, c. 8, s. 32 (7).

PASDs that limit or inhibit movement

33 (1) This section applies to the use of a PASD if the PASD has the effect of limiting or inhibiting a resident's freedom of movement and the resident is not able, either physically or cognitively, to release themselves from the PASD. 2007, c. 8, s. 33 (1).

Definition of PASD

(2) In this section,

"PASD" means personal assistance services device, being a device used to assist a person with a routine activity of living. 2007, c. 8, s. 33 (2).

When PASD may be used

(3) Every licensee of a long-term care home shall ensure that a PASD described in subsection (1) is used to assist a resident with a routine activity of living only if the use of the PASD is included in the resident's plan of care. 2007, c. 8, s. 33 (3).

Inclusion in plan of care

(4) The use of a PASD under subsection (3) to assist a resident with a routine activity of living may be included in a resident's plan of care only if all of the following are satisfied:

1. Alternatives to the use of a PASD have been considered, and tried where appropriate, but would not be, or have not been, effective to assist the resident with the routine activity of living.
2. The use of the PASD is reasonable, in light of the resident's physical and mental condition and personal history, and is the least restrictive of such reasonable PASDs that would be effective to assist the resident with the routine activity of living.
3. The use of the PASD has been approved by,
 - i. a physician,
 - ii. a registered nurse,
 - iii. a registered practical nurse,
 - iv. a member of the College of Occupational Therapists of Ontario,
 - v. a member of the College of Physiotherapists of Ontario, or

- vi. any other person provided for in the regulations.
- 4. The use of the PASD has been consented to by the resident or, if the resident is incapable, a substitute decision-maker of the resident with authority to give that consent.
- 5. The plan of care provides for everything required under subsection (5). 2007, c. 8, s. 33 (4).

Use of PASD

(5) If a PASD is used under subsection (3), the licensee shall ensure that the PASD is used in accordance with any requirements provided for in the regulations. 2007, c. 8, s. 33 (5).

PASD used to restrain

(6) For greater certainty, if a PASD is being used to restrain a resident rather than to assist the resident with a routine activity of living, section 31 applies with respect to that use instead of this section. 2007, c. 8, s. 33 (6).

Records on restraining of residents

34 Every licensee of a long-term care home shall keep records in the home, as provided for in the regulations, in relation to the following:

- 1. The restraining of a resident, other than a restraint permitted under section 32.
- 2. The use of a PASD, within the meaning of section 33. 2007, c. 8, s. 34.

Prohibited devices that limit movement

35 Every licensee of a long-term care home shall ensure that no device provided for in the regulations is used on a resident,

- (a) to restrain the resident; or
- (b) to assist a resident with a routine activity of living, if the device would have the effect of limiting or inhibiting the resident's freedom of movement. 2007, c. 8, s. 35.

Common law duty

36 (1) Nothing in this Act affects the common law duty of a caregiver to restrain or confine a person when immediate action is necessary to prevent serious bodily harm to the person or to others. 2007, c. 8, s. 36 (1).

Restraining by physical device under common law duty

(2) If a resident is being restrained by a physical device pursuant to the common law duty described in subsection (1), the licensee shall ensure that the device is used in accordance with any requirements provided for in the regulations and that any other requirements provided for in the regulations are satisfied. 2007, c. 8, s. 36 (2).

Restraining by administration of drug, etc., under common law duty

(3) A resident may not be restrained by the administration of a drug pursuant to the common law duty described in subsection (1) unless the administration of the drug is ordered by a physician or other person provided for in the regulations. 2007, c. 8, s. 36 (3).

Same

(4) If a resident is being restrained by the administration of a drug pursuant to the common law duty described in subsection (1), the licensee shall ensure that the drug is used in accordance with any requirements provided for in the regulations and that any other requirements provided for in the regulations are satisfied. 2007, c. 8, s. 36 (4).

OFFICE OF THE LONG-TERM CARE HOMES RESIDENT AND FAMILY ADVISER

Office of the Long-Term Care Homes Resident and Family Adviser

37 The Minister may establish an Office of the Long-Term Care Homes Resident and Family Adviser to,

- (a) assist and provide information to residents and their families and others;
- (b) advise the Minister on matters and issues concerning the interests of residents; and
- (c) perform any other functions provided for in the regulations or assigned by the Minister. 2007, c. 8, s. 37.

REGULATIONS

Regulations

38 (1) The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part. 2007, c. 8, s. 38 (1).

Specific inclusions

(2) Without restricting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

- (a) governing anything that a licensee is required to do, ensure or provide under this Part, including establishing standards or outcomes that must be met;
- (b) governing temperature requirements for long-term care homes;
- (c) requiring and governing the assessment and classification of residents for the purpose of determining care requirements and other needs of residents;
- (d) governing the mission statements provided for in section 4 and the requirements under that section;
- (e) governing plans of care, including governing their development and implementation and setting requirements in addition to what is required under section 6;
- (f) defining “regular nursing staff” for the purposes of subsection 8 (3);
- (g) requiring certain classes of long-term care homes to have more registered nurses on duty than are required by subsection 8 (3) and providing for rules governing such a requirement;
- (h) specifying, for the purposes of paragraph 4 of subsection 24 (1) and paragraph 5 of subsection 25 (1), what constitutes misuse or misappropriation of a resident’s money;
- (i) specifying, for the purposes of paragraph 5 of subsection 24 (1) and paragraph 6 of subsection 25 (1), what constitutes misuse or misappropriation of funding provided to a licensee;
- (j) providing for anything that under this Part may or must be provided for in regulations, or that is to be done in compliance with or in accordance with the regulations. 2007, c. 8, s. 38 (2).

**PART III
ADMISSION OF RESIDENTS**

Application of Part

39 (1) This Part applies to the admission of a person to a long-term care home as a resident and any transfer within a home to a specialized unit. 2007, c. 8, s. 39 (1).

Transfer

(2) Where a person is to be transferred to a specialized unit within the long-term care home, this Part applies as though the transfer were an admission of the person to the home, even if the specialized unit is also a secure unit. 2007, c. 8, s. 39 (2).

Definition

(3) In this section,

“specialized unit” means any unit designated by or in accordance with the regulations to provide or offer certain types of accommodation, care, services, programs and goods to residents, but does not include a secure unit unless the secure unit is designated as a specialized unit by regulation. 2007, c. 8, s. 39 (3).

Designation of placement co-ordinators

40 (1) The Minister shall designate one or more persons, classes of persons or other entities as placement co-ordinators for the long-term care homes in specified geographic areas. 2007, c. 8, s. 40 (1).

Ineligible persons and entities

(2) The Minister shall not designate a person or entity if the person or entity is in a class of persons or entities described in the regulations as ineligible for designation as a placement co-ordinator. 2007, c. 8, s. 40 (2).

Changes in designations

(3) The Minister may revoke a designation or make a new designation. 2007, c. 8, s. 40 (3).

Placement co-ordinator to comply with Act, etc.

41 A placement co-ordinator shall act in accordance with this Act and the regulations. 2007, c. 8, s. 41.

Requirements for admission to home

42 The following are required in order for a person to be admitted as a resident of a long-term care home:

- 1. A placement co-ordinator must have determined that the person is eligible for long-term care home admission under section 43.
- 2. The placement co-ordinator for the geographic area where the home is located must have authorized the admission of the person to that specific home under section 44. 2007, c. 8, s. 42.

Eligibility for long-term care home admission

43 (1) A person may apply to a placement co-ordinator for a determination that the person is eligible for long-term care home admission. 2007, c. 8, s. 43 (1).

Criteria for eligibility

(2) The criteria for determining eligibility for long-term care home admission shall be provided for in the regulations. 2007, c. 8, s. 43 (2).

Application in accordance with regulations

(3) An application shall be made in accordance with the regulations. 2007, c. 8, s. 43 (3).

Required assessments

(4) The placement co-ordinator shall determine whether or not the applicant is eligible for long-term care home admission only if the placement co-ordinator has the following:

1. An assessment of the applicant's physical and mental health, and the applicant's requirements for medical treatment and health care.
2. An assessment of the applicant's,
 - i. functional capacity,
 - ii. requirements for personal care,
 - iii. current behaviour, and
 - iv. behaviour during the year preceding the assessment.
3. Any other assessment or information provided for in the regulations. 2007, c. 8, s. 43 (4).

Requirements re assessments

(5) The following apply with respect to the assessments under paragraphs 1 and 2 of subsection (4):

1. The assessment under paragraph 1 of subsection (4) must be in the form provided by the Director and the form provided by the Director must include information explaining,
 - i. the process of determining eligibility and admitting persons into long-term care homes, and
 - ii. what use will be made of the assessment.
2. The assessment under paragraph 1 of subsection (4) must be made by a physician or registered nurse.
3. The assessment under paragraph 2 of subsection (4) must be made by an employee or agent of the placement co-ordinator who is also,
 - i. a registered nurse,
 - ii. a social worker who is registered under the *Social Work and Social Service Work Act, 1998*, or
 - iii. any other person provided for in the regulations.
4. The assessments under paragraphs 1 and 2 of subsection (4) must be made by different individuals. 2007, c. 8, s. 43 (5).

Assessments, etc., to be taken into account

(6) In determining whether or not the applicant is eligible for long-term care home admission, the placement co-ordinator shall take into account all the assessments and information required under subsection (4) and such other information as the placement co-ordinator has that is relevant to the determination of eligibility. 2007, c. 8, s. 43 (6).

Determination of eligibility – information about process

(7) If the placement co-ordinator determines that the applicant is eligible for long-term care home admission, the placement co-ordinator shall, at the time of making the determination, provide information to the applicant about the process for admitting persons into long-term care homes and explain the process, the choices that the applicant has in the process and the implications of those choices. 2007, c. 8, s. 43 (7).

Determination of ineligibility – assistance and notice

- (8) If the placement co-ordinator determines that the applicant is not eligible for long-term care home admission,
- (a) the placement co-ordinator shall suggest alternative services and make appropriate referrals on behalf of the applicant; and
 - (b) the placement co-ordinator shall ensure that the applicant is notified in writing of,

- (i) the determination of ineligibility,
- (ii) the reasons for the determination, and
- (iii) the applicant's right to apply to the Appeal Board for a review of the determination. 2007, c. 8, s. 43 (8).

Review of determination of ineligibility

(9) The applicant may apply to the Appeal Board for a review of the determination of ineligibility made by the placement co-ordinator, and the Appeal Board shall deal with the appeal in accordance with section 53. 2007, c. 8, s. 43 (9).

Authorization for admission to a home

44 (1) A person who has been determined to be eligible for long-term care home admission may apply to a placement co-ordinator for an authorization of admission, by the appropriate placement co-ordinator, to such long-term care home or homes as the person selects. 2007, c. 8, s. 44 (1).

Appropriate placement co-ordinator

(2) In this section,

“appropriate placement co-ordinator” means, in relation to a long-term care home, the placement co-ordinator designated pursuant to subsection 40 (1) for the geographic area where the home is located. 2007, c. 8, s. 44 (2).

Assistance with choosing homes

(3) The placement co-ordinator who determined that the applicant is eligible for long-term care home admission shall, if the applicant wishes, assist the applicant in selecting the long-term care home or homes with respect to which the applicant will apply for authorization of admission. 2007, c. 8, s. 44 (3).

Person's preferences

(4) In assisting the applicant under subsection (3), the placement co-ordinator shall consider the applicant's preferences relating to admission, based on ethnic, religious, spiritual, linguistic, familial and cultural factors. 2007, c. 8, s. 44 (4).

Application in accordance with regulations

(5) An application for authorization of admission shall be made in accordance with the regulations and the applicant shall provide written consent to the disclosure of all information necessary to deal with the application. 2007, c. 8, s. 44 (5).

Co-ordination with appropriate placement co-ordinators

(6) If a home selected by an applicant is not in the geographic area of the placement co-ordinator to whom the application was made, that placement co-ordinator shall co-ordinate with the appropriate placement co-ordinator for that home. 2007, c. 8, s. 44 (6).

Licensee consideration and approval

(7) The appropriate placement co-ordinator shall give the licensee of each selected home copies of the assessments and information that were required to have been taken into account, under subsection 43 (6), and the licensee shall review the assessments and information and shall approve the applicant's admission to the home unless,

- (a) the home lacks the physical facilities necessary to meet the applicant's care requirements;
- (b) the staff of the home lack the nursing expertise necessary to meet the applicant's care requirements; or
- (c) circumstances exist which are provided for in the regulations as being a ground for withholding approval. 2007, c. 8, s. 44 (7).

Notice if licensee gives approval

(8) If the licensee approves the applicant's admission, the licensee shall give the appropriate placement co-ordinator a written notice which shall include an acknowledgement that the licensee has reviewed the assessments and information the licensee is required to review under subsection (7). 2007, c. 8, s. 44 (8).

Written notice if licensee withholds approval

(9) If the licensee withholds approval for admission, the licensee shall give to persons described in subsection (10) a written notice setting out,

- (a) the ground or grounds on which the licensee is withholding approval;
- (b) a detailed explanation of the supporting facts, as they relate both to the home and to the applicant's condition and requirements for care;
- (c) an explanation of how the supporting facts justify the decision to withhold approval; and
- (d) contact information for the Director. 2007, c. 8, s. 44 (9).

Persons to whom notice given

(10) The persons referred to in subsection (9) are the following:

1. The applicant.
2. The Director.
3. The appropriate placement co-ordinator. 2007, c. 8, s. 44 (10).

Conditions of authorization of admission

(11) The appropriate placement co-ordinator may authorize the admission of the applicant to a home only if,

- (a) for each of the assessments required under subsection 43 (4), either the assessment or a reassessment was made within the three months preceding the authorization of admission, or within the preceding three months there was a significant change in the person's condition or circumstances in which case a reassessment was made at that time;
- (b) the applicant is still eligible for long-term care home admission following the review of any reassessment described in clause (a) and any redetermination required under subsection (12);
- (c) the licensee of the home approves the person's admission to the home; and
- (d) the person provides consent to being admitted to the home. 2007, c. 8, s. 44 (11).

Review of reassessments, etc.

(12) The placement co-ordinator who determined the applicant was eligible for long-term care home admission under section 43, or the placement co-ordinator to whom the responsibility has been transferred under section 48 shall,

- (a) review any reassessment required under clause (11) (a); and
- (b) if after that review the placement co-ordinator is of the opinion that the applicant may no longer be eligible for long-term care home admission, make a new determination, under section 43, of the applicant's eligibility. 2007, c. 8, s. 44 (12).

Application, if new determination required

(13) For greater certainty, subsections 43 (4), (5), (6), (8) and (9) apply with respect to the new determination required under clause (12) (b). 2007, c. 8, s. 44 (13).

Reassessment to licensee who has approved admission

(14) If a reassessment required under clause (11) (a) has been done since the licensee approved the applicant's admission to the home, the appropriate placement co-ordinator shall give the licensee a copy of the reassessment and the licensee shall review the reassessment in accordance with the following:

1. The licensee may withdraw the approval only in the circumstances set out in clauses (7) (a) to (c), and such a withdrawal may only be made in accordance with the requirements provided for in the regulations.
2. If the licensee decides not to withdraw the approval, the licensee shall give the appropriate placement co-ordinator a written notice that includes an acknowledgement that the licensee has reviewed the reassessment.
3. If the licensee decides to withdraw the approval, subsections (9) and (10) apply with necessary modifications. 2007, c. 8, s. 44 (14).

Alternative services, referrals

(15) The placement co-ordinator to whom the application was made under subsection (1) shall suggest alternative services and make appropriate referrals on behalf of an applicant under any of the following circumstances:

1. If the admission of the applicant to a home is delayed.
2. If a licensee withholds approval for admission of the applicant or withdraws approval for admission of the applicant. 2007, c. 8, s. 44 (15).

Note: Section 45 comes into force on a day to be named by proclamation of the Lieutenant Governor. See: 2007, c. 8, s. 232 (2).

Admission to a secure unit

45. (1) In authorizing the admission of a person to a home under section 44, the placement co-ordinator for the geographic area where the home is located may authorize the admission of the person to a secure unit within the home only if all of the following are satisfied:

1. There is a significant risk that the person or another person would suffer serious bodily harm if the person were not admitted to a secure unit.

2. Alternatives to admitting the person to a secure unit have been considered but would not be effective to address the risk referred to in paragraph 1.
3. Admitting the person to a secure unit is reasonable, in light of the person's physical and mental condition and personal history.
4. A physician, registered nurse in the extended class or other person provided for in the regulations has recommended the admission to a secure unit.
5. The admission of the person to a secure unit has been consented to by the person or, if the person is incapable, a substitute decision-maker of the person with authority to give that consent. 2007, c. 8, s. 45 (1).

Notice and advice requirements if substitute consent

(2) The placement co-ordinator shall ensure that the person is admitted to a secure unit on the consent of a substitute decision-maker only if,

- (a) the placement co-ordinator has,
 - (i) given the person a written notice that complies with subsection (6), and
 - (ii) notified a rights adviser in accordance with the requirements provided for in the regulations;
- (b) unless the person has refused to meet with the rights adviser, the rights adviser has met with the person and explained,
 - (i) the person's right to apply to the Consent and Capacity Board, under section 53.1 of the *Health Care Consent Act, 1996*, for a determination as to whether the substitute decision-maker complied with section 42 of that Act, and
 - (ii) any other matters that may be provided for in the regulations; and
- (c) if the person has refused to meet with the rights adviser, the rights adviser has notified the placement co-ordinator accordingly. 2007, c. 8, s. 45 (2).

Admission in a crisis

(3) Where a person is admitted to a secure unit pursuant to section 47 of the *Health Care Consent Act, 1996*, this section applies, even though the person has already been admitted. 2007, c. 8, s. 45 (3).

Alternative delivery

(4) The rights adviser shall give the written notice required by subclause (2) (a) (i) on behalf of the placement co-ordinator when requested to do so by the placement co-ordinator, and the giving of the notice by the rights adviser is sufficient compliance with that subclause. 2007, c. 8, s. 45 (4).

Rights adviser to notify placement co-ordinator

(5) The rights adviser shall notify the placement co-ordinator if the rights adviser is aware that the incapable person intends to make an application to the Consent and Capacity Board referred to in section 46 of the *Health Care Consent Act, 1996* or that another person intends to apply to the Consent and Capacity Board to be appointed as the representative to give or refuse consent to the admission on the incapable person's behalf. 2007, c. 8, s. 45 (5).

Contents of notice to person

(6) The written notice given to the person under subclause (2) (a) (i) shall be in accordance with the requirements provided for in the regulations and shall inform the person,

- (a) of the reasons for the admission;
- (b) that the person is entitled to apply to the Consent and Capacity Board, under section 53.1 of the *Health Care Consent Act, 1996*, for a determination as to whether the substitute decision-maker complied with section 42 of that Act,
- (c) that the person has the right to retain and instruct counsel without delay; and
- (d) of any other matters provided for in the regulations. 2007, c. 8, s. 45 (6).

When requirements must be satisfied

(7) The requirements under subsection (2) must be satisfied within the three months prior to the person's admission to the secure unit. 2007, c. 8, s. 45 (7).

Assistance by rights adviser

(8) At the person's request, the rights adviser shall assist him or her in making an application to the Consent and Capacity Board and in obtaining legal services. 2007, c. 8, s. 45 (8).

How rights adviser satisfies requirements

(9) The rights adviser shall comply with the regulations providing for how the rights adviser satisfies the requirements of clause (2) (b) and subsection (8). 2007, c. 8, s. 45 (9).

Further restrictions not affected

(10) For greater certainty, subsection (2) does not affect any further restrictions on the placement co-ordinator under section 46 of the *Health Care Consent Act, 1996*. 2007, c. 8, s. 45 (10).

Elements of consent

46 (1) The following are the elements required for consent to admission to a long-term care home:

1. The consent must relate to the admission.
2. The consent must be informed.
3. The consent must be given voluntarily.
4. The consent must not be obtained through misrepresentation or fraud. 2007, c. 8, s. 46 (1).

Informed consent

(2) A consent to admission is informed if, before giving it,

- (a) the person received the information about the matters set out in subsection (3) that a reasonable person in the same circumstances would require in order to make a decision about the admission; and
- (b) the person received responses to his or her requests for additional information about those matters. 2007, c. 8, s. 46 (2).

Same

(3) The matters referred to in subsection (2) are:

1. What the admission entails.
2. The expected advantages and disadvantages of the admission.
3. Alternatives to the admission.
4. The likely consequences of not being admitted. 2007, c. 8, s. 46 (3).

Substitute decision-maker may apply for person

47 A substitute decision-maker may apply on behalf of a person under section 43 or 44. 2007, c. 8, s. 47.

Transfer of application

48 Responsibility for an application under section 43 or 44 may be transferred, with the consent of the applicant, from one placement co-ordinator to another and, upon such a transfer being made, the new placement co-ordinator shall be deemed, for the purposes of this Part, to be the placement co-ordinator to whom the application was made. 2007, c. 8, s. 48.

Controls on licensee

49 A licensee of a long-term care home shall not admit a person unless the person's admission to the home is authorized by the placement co-ordinator for the geographic area where the home is located, and shall admit a person whose admission is so authorized. 2007, c. 8, s. 49.

Suspension of admissions where risk of harm

50 (1) If the Director believes there is a risk of harm to the health or well-being of residents of a long-term care home or persons who might be admitted as residents, the Director may direct the placement co-ordinator for the geographic area where the home is located to cease authorizing admissions to the home for such period of time and subject to such conditions as the Director specifies. 2007, c. 8, s. 50 (1).

Compliance with direction

(2) A placement co-ordinator who receives a direction under subsection (1) shall comply with it. 2007, c. 8, s. 50 (2).

Preference for veterans

51 The Minister shall ensure that preference is given to veterans for access to beds that,

- (a) are located in long-term care homes for which funding is provided under an agreement between the Government of Ontario and the Government of Canada relating to veterans; and
- (b) are designated by the Minister as veterans' priority access beds. 2007, c. 8, s. 51.

Immunity – placement co-ordinator’s employees and agents

52 (1) No action or other proceeding shall be commenced against an employee or agent of a placement co-ordinator for any act done in good faith in the performance or intended performance of the person’s duty or for any alleged neglect or default in the performance in good faith of the person’s duty. 2007, c. 8, s. 52 (1).

Placement co-ordinator’s liability

(2) Subsection (1) does not relieve a placement co-ordinator of liability for the acts or omissions of its employees or agents. 2007, c. 8, s. 52 (2).

Hearing – ineligibility

53 (1) When the Appeal Board receives an application for a review of a determination of ineligibility, it shall promptly appoint a time and place for a hearing. 2007, c. 8, s. 53 (1).

Same

(2) The hearing shall begin within 21 days after the day the Appeal Board receives the application for the hearing, unless the parties agree to a postponement. 2007, c. 8, s. 53 (2).

Notice to parties

(3) The Appeal Board shall notify each of the parties of the time and place of the hearing at least seven days before the hearing begins. 2007, c. 8, s. 53 (3).

Parties

(4) The parties to the proceeding before the Appeal Board are the applicant who was determined to be ineligible for admission, the placement co-ordinator who made the determination and such other parties as the Appeal Board specifies. 2007, c. 8, s. 53 (4).

Notice to Minister

(5) When a placement co-ordinator is notified by the Appeal Board of a hearing, the placement co-ordinator shall promptly give the Minister written notice of the hearing together with written reasons for the determination of ineligibility made by the placement co-ordinator. 2007, c. 8, s. 53 (5).

Minister entitled to be heard

(6) The Minister is entitled to be heard by counsel or otherwise in a proceeding before the Appeal Board under this section. 2007, c. 8, s. 53 (6).

Evidence of disabled person

(7) If a party to a proceeding before the Appeal Board under this Act wishes to give evidence in the proceeding or wishes to call another person as a witness to give evidence in the proceeding but the party or other person is unable to attend the hearing by reason of age, infirmity or physical disability, the Appeal Board members holding the hearing may, at the request of the party, attend upon the party or the other person, as the case may be, and take his or her evidence. 2007, c. 8, s. 53 (7).

Medical report proves inability

(8) A medical report signed by a physician stating that the physician believes that the person is unable to attend the hearing by reason of age, infirmity or physical disability is proof, in the absence of evidence to the contrary, of the inability of the person to attend the hearing. 2007, c. 8, s. 53 (8).

Opportunity for all parties

(9) No Appeal Board member shall take evidence from a party or other person under subsection (7) unless reasonable notice of the time and place for taking the evidence is given to all parties to the proceeding and each party attending is given an opportunity to examine or cross-examine the party or other person, as the case may be. 2007, c. 8, s. 53 (9).

Recording of evidence

(10) The oral evidence taken before the Appeal Board at a hearing and the oral evidence taken from a party or other person under subsection (7) shall be recorded and, if required, copies of a transcript of the evidence shall be furnished on the same terms as in the Superior Court of Justice. 2007, c. 8, s. 53 (10).

Health Insurance Act

(11) Subsections 23 (1), (2), (4) and (6) of the *Health Insurance Act* apply to the proceedings and decisions of the Appeal Board under this Part. 2007, c. 8, s. 53 (11).

Powers of Appeal Board

(12) After a hearing by the Appeal Board, the Appeal Board may,

- (a) affirm the determination of ineligibility made by the placement co-ordinator;

- (b) rescind the determination of ineligibility made by the placement co-ordinator and refer the matter back to the placement co-ordinator for redetermination in accordance with such directions as the Appeal Board considers proper; or
- (c) rescind the determination of ineligibility made by the placement co-ordinator, substitute its opinion for the opinion of the placement co-ordinator and direct the placement co-ordinator to determine that the applicant is eligible for admission to a long-term care home. 2007, c. 8, s. 53 (12).

Decision and reasons

(13) The Appeal Board shall render its decision within one day after the end of the hearing and shall provide written reasons to the parties within seven days after rendering the decision. 2007, c. 8, s. 53 (13).

Decision to Minister

(14) The placement co-ordinator shall furnish the Minister with a copy of the decision and reasons of the Appeal Board. 2007, c. 8, s. 53 (14).

Appeal to Divisional Court

54 (1) A party to a review of the determination of ineligibility by the Appeal Board may appeal its decision to the Divisional Court on a question of law or fact or both, in accordance with the rules of court. 2007, c. 8, s. 54 (1).

Record

(2) If a party appeals a decision of the Appeal Board to the Divisional Court under this section, the Appeal Board shall promptly file with the Divisional Court the record of the proceeding before the Appeal Board and the transcript of the evidence taken before the Appeal Board, which together constitute the record in the appeal. 2007, c. 8, s. 54 (2).

Minister to be notified

(3) The placement co-ordinator who commences or is given notice of an appeal shall promptly give the Minister written notice of the appeal. 2007, c. 8, s. 54 (3).

Minister to be heard

(4) The Minister is entitled to be heard by counsel or otherwise on the argument of an appeal under this section. 2007, c. 8, s. 54 (4).

Powers of court on appeal

(5) On an appeal under this section, the Divisional Court,

- (a) may affirm or rescind the decision of the Appeal Board;
- (b) may refer the matter back to the Appeal Board for rehearing in whole or in part in accordance with such directions as the court considers proper;
- (c) may refer the matter back to the placement co-ordinator for redetermination in accordance with such directions as the court considers proper;
- (d) may substitute its opinion for that of the placement co-ordinator or the Appeal Board; and
- (e) may direct the placement co-ordinator to determine that the applicant is eligible for admission to a long-term care home. 2007, c. 8, s. 54 (5).

Decision to Minister

(6) The placement co-ordinator shall furnish the Minister with a copy of the decision and reasons of the Divisional Court. 2007, c. 8, s. 54 (6).

Regulations

55 (1) The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part. 2007, c. 8, s. 55 (1).

Specific inclusions

(2) Without restricting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

- (a) governing determinations of eligibility for long-term care home admission;
- (b) governing authorizations of admission to long-term care homes, including, without limiting the generality of the foregoing,
 - (i) providing for priorities for persons in circumstances specified in the regulations or for classes of persons specified in the regulations,
 - (ii) governing the notices to be given by licensees under subsections 44 (8) and (9);

- (c) governing placement co-ordinators, including, without limiting the generality of the foregoing,
 - (i) providing for classes of persons or entities that are ineligible to be designated as placement co-ordinators,
 - (ii) providing for how placement co-ordinators shall co-ordinate with each other,
 - (iii) governing the transfer of responsibility for applications between placement co-ordinators under section 48;
- (d) requiring placement co-ordinators to ensure that persons seeking admission to long-term care homes receive information about their rights and assistance in exercising their rights;
- (e) providing for exemptions from provisions of this Part, subject to any conditions that may be set out in the regulations;
- (f) modifying the application of this Part for emergencies or other special circumstances specified in the regulations;
- (g) providing for applications under section 44 for admission to a long-term care home to be made before the home is licensed or approved;
- (h) defining “veteran” for the purposes of section 51;
- (i) providing for anything that under this Part may or must be provided for in regulations, or that is to be done in compliance with or in accordance with the regulations. 2007, c. 8, s. 55 (2).

Different requirements for programs, groups

- (3) The regulations may provide for different requirements for programs or groups specified in the regulations. 2007, c. 8, s. 55 (3).

**PART IV
COUNCILS**

RESIDENTS’ COUNCIL

Residents’ Council

- 56** (1) Every licensee of a long-term care home shall ensure that a Residents’ Council is established in the home. 2007, c. 8, s. 56 (1).

Only residents

- (2) Only residents of the long-term care home may be members of the Residents’ Council. 2007, c. 8, s. 56 (2).

Powers of Residents’ Council

- 57** (1) A Residents’ Council of a long-term care home has the power to do any or all of the following:
 1. Advise residents respecting their rights and obligations under this Act.
 2. Advise residents respecting the rights and obligations of the licensee under this Act and under any agreement relating to the home.
 3. Attempt to resolve disputes between the licensee and residents.
 4. Sponsor and plan activities for residents.
 5. Collaborate with community groups and volunteers concerning activities for residents.
 6. Advise the licensee of any concerns or recommendations the Council has about the operation of the home.
 7. Provide advice and recommendations to the licensee regarding what the residents would like to see done to improve care or the quality of life in the home.
 8. Report to the Director any concerns and recommendations that in the Council’s opinion ought to be brought to the Director’s attention.
 9. Review,
 - i. inspection reports and summaries received under section 149,
 - ii. the detailed allocation, by the licensee, of funding under this Act and the *Local Health System Integration Act, 2006* and amounts paid by residents,
 - iii. the financial statements relating to the home filed with the Director under the regulations or provided to a local health integration network, and
 - iv. the operation of the home.
 10. Exercise any other powers provided for in the regulations. 2007, c. 8, ss. 57 (1), 195 (4, 5).

Duty to respond

(2) If the Residents' Council has advised the licensee of concerns or recommendations under either paragraph 6 or 8 of subsection (1), the licensee shall, within 10 days of receiving the advice, respond to the Residents' Council in writing. 2007, c. 8, s. 57 (2).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (4, 5) - 01/07/2010

Residents' Council assistant

58 (1) Every licensee of a long-term care home shall appoint a Residents' Council assistant who is acceptable to that Council to assist the Residents' Council. 2007, c. 8, s. 58 (1).

Duties

(2) In carrying out his or her duties, a Residents' Council assistant shall take instructions from the Residents' Council, ensure confidentiality where requested and report to the Residents' Council. 2007, c. 8, s. 58 (2).

FAMILY COUNCIL

Family Council

59 (1) Every long-term care home may have a Family Council. 2007, c. 8, s. 59 (1).

Request for Family Council

(2) If there is no Family Council, a family member of a resident or a person of importance to a resident may request the establishment of a Family Council for a long-term care home. 2007, c. 8, s. 59 (2).

Licensee to assist

(3) The licensee shall assist in the establishment of a Family Council within 30 days of receiving a request from a person mentioned in subsection (2). 2007, c. 8, s. 59 (3).

Notification of Director

(4) When a Family Council is established, the licensee shall notify the Director or anyone else provided for in the regulations of the fact within 30 days of the establishment. 2007, c. 8, s. 59 (4).

Right to be a member

(5) Subject to subsection (6), a family member of a resident or a person of importance to a resident is entitled to be a member of the Family Council of a long-term care home. 2007, c. 8, s. 59 (5).

Who may not be a member

(6) The following persons may not be members of the Family Council:

1. The licensee, and anyone involved in the management of the long-term care home on behalf of the licensee.
2. An officer or director of the licensee or of a corporation that manages the long-term care home on behalf of the licensee or, in the case of a home approved under Part VIII, a member of the committee of management for the home under section 132 or of the board of management for the home under section 125 or 129, as the case may be.
3. A person with a controlling interest in the licensee.
4. The Administrator.
5. Any other staff member.
6. A person who is employed by the Ministry or has a contractual relationship with the Minister or with the Crown regarding matters for which the Minister is responsible and who is involved as part of their responsibilities with long-term care home matters.
7. Any other person provided for in the regulations. 2007, c. 8, s. 59 (6).

Licensee obligations if no Family Council

(7) If there is no Family Council, the licensee shall,

- (a) on an ongoing basis advise residents' families and persons of importance to residents of the right to establish a Family Council; and
- (b) convene semi-annual meetings to advise such persons of the right to establish a Family Council. 2007, c. 8, s. 59 (7).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (6) - no effect - see Bill 140 as amended in Committee

Powers of Family Council

60 (1) A Family Council of a long-term care home has the power to do any or all of the following:

1. Provide assistance, information and advice to residents, family members of residents and persons of importance to residents, including when new residents are admitted to the home.
2. Advise residents, family members of residents and persons of importance to residents respecting their rights and obligations under this Act.
3. Advise residents, family members of residents and persons of importance to residents respecting the rights and obligations of the licensee under this Act and under any agreement relating to the home.
4. Attempt to resolve disputes between the licensee and residents.
5. Sponsor and plan activities for residents.
6. Collaborate with community groups and volunteers concerning activities for residents.
7. Review,
 - i. inspection reports and summaries received under section 149,
 - ii. the detailed allocation, by the licensee, of funding under this Act and the *Local Health System Integration Act, 2006* and amounts paid by residents,
 - iii. the financial statements relating to the home filed with the Director under the regulations and with the local health integration network for the geographic area where the home is located under the *Local Health System Integration Act, 2006*, and
 - iv. the operation of the home.
8. Advise the licensee of any concerns or recommendations the Council has about the operation of the home.
9. Report to the Director any concerns and recommendations that in the Council's opinion ought to be brought to the Director's attention.
10. Exercise any other powers provided for in the regulations. 2007, c. 8, ss. 60 (1), 195 (7, 8).

Duty to respond

(2) If the Family Council has advised the licensee of concerns or recommendations under either paragraph 8 or 9 of subsection (1), the licensee shall, within 10 days of receiving the advice, respond to the Family Council in writing. 2007, c. 8, s. 60 (2).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (7, 8) - 01/07/2010

Family Council assistant

61 (1) If the Family Council so requests, the licensee shall appoint a Family Council assistant who is acceptable to that Council to assist the Family Council. 2007, c. 8, s. 61 (1).

Duties

(2) In carrying out his or her duties, a Family Council assistant shall take instructions from the Family Council, ensure confidentiality where requested and report to the Family Council. 2007, c. 8, s. 61 (2).

GENERAL

Licensee to co-operate with and assist Councils

62 A licensee shall co-operate with the Residents' Council, the Family Council, the Residents' Council assistant and the Family Council assistant and shall provide them with such financial and other information and such assistance as is provided for in the regulations. 2007, c. 8, s. 62.

Licensee duty to meet with Council

63 If invited by the Residents' Council or the Family Council, the licensee shall meet with that Council or, if the licensee is a corporation, ensure that representatives of the licensee meet with that Council. 2007, c. 8, s. 63.

Attendance at meetings – licensees, staff, etc.

64 A licensee of a long-term care home shall attend a meeting of the Residents' Council or the Family Council only if invited, and shall ensure that the staff, including the Administrator, and other persons involved in the management or operation of the home attend a meeting of either Council only if invited. 2007, c. 8, s. 64.

No interference by licensee

65 A licensee of a long-term care home,

- (a) shall not interfere with the meetings or operation of the Residents' Council or the Family Council;
- (b) shall not prevent a member of the Residents' Council or Family Council from entering the long-term care home to attend a meeting of the Council or to perform any functions as a member of the Council and shall not otherwise hinder, obstruct or interfere with such a member carrying out those functions;
- (c) shall not prevent a Residents' Council assistant or a Family Council assistant from entering the long-term care home to carry out his or her duties or otherwise hinder, obstruct or interfere with such an assistant carrying out those duties; and
- (d) shall ensure that no staff member, including the Administrator or other person involved in the management or operation of the home, does anything that the licensee is forbidden to do under clauses (a) to (c). 2007, c. 8, s. 65.

Immunity – Council members, assistants

66 No action or other proceeding shall be commenced against a member of a Residents' Council or Family Council or a Residents' Council assistant or Family Council assistant for anything done or omitted to be done in good faith in the capacity as a member or an assistant. 2007, c. 8, s. 66.

Duty of licensee to consult Councils

67 A licensee has a duty to consult regularly with the Residents' Council, and with the Family Council, if any, and in any case shall consult with them at least every three months. 2007, c. 8, s. 67.

Regulations

68 (1) The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part. 2007, c. 8, s. 68 (1).

Specific inclusions

- (2) Without restricting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,
 - (a) requiring a licensee to assist in the formation of Residents' Councils and Family Councils, and governing the assistance that the licensee is required to provide to those Councils;
 - (b) defining "detailed allocation" for the purpose of subparagraph 9 ii of subsection 57 (1) and subparagraph 7 ii of subsection 60 (1);
 - (c) providing for anything that under this Part may or must be provided for in regulations, or that is to be done in compliance with or in accordance with the regulations. 2007, c. 8, s. 68 (2).

PART V OPERATION OF HOMES

DIRECTORS, OFFICERS AND OTHER STAFF

Duties of directors and officers of a corporation

69 (1) Where a licensee is a corporation, every director and every officer of the corporation shall,

- (a) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances; and
- (b) take such measures as necessary to ensure that the corporation complies with all requirements under this Act. 2007, c. 8, s. 69 (1).

Municipal Homes and First Nations Homes

(2) In the case of a long-term care home approved under Part VIII,

- (a) if there is a committee of management for the home under section 132, the obligation under subsection (1) is an obligation on every member of that committee;
- (b) if there is a board of management for the home under section 125 or 129, the obligation under subsection (1) is an obligation on every member of that board. 2007, c. 8, s. 69 (2).

Offence

(3) Every person who fails to comply with this section is guilty of an offence. 2007, c. 8, s. 69 (3).

Administrator

70 (1) Every licensee of a long-term care home shall ensure that the home has an Administrator. 2007, c. 8, s. 70 (1).

Role

- (2) The Administrator,
- (a) shall be in charge of the long-term care home and be responsible for its management; and
 - (b) shall perform any other duties provided for in the regulations. 2007, c. 8, s. 70 (2).

Time must work in position

- (3) If the number of beds at a long-term care home is,
- (a) equal to or greater than the prescribed number of beds, the licensee of the home shall ensure that the Administrator works full-time in that position;
 - (b) less than the prescribed number of beds, the licensee of the home shall ensure that the Administrator works in that position, on average, at least the number of hours per week that is prescribed for the number of beds at the home. 2007, c. 8, s. 70 (3).

Director of Nursing and Personal Care

71 (1) Every licensee of a long-term care home shall ensure that the long-term care home has a Director of Nursing and Personal Care. 2007, c. 8, s. 71 (1).

Must be R.N.

- (2) The Director of Nursing and Personal Care shall be a registered nurse. 2007, c. 8, s. 71 (2).

Role

- (3) The Director of Nursing and Personal Care,
- (a) shall supervise and direct the nursing staff and personal care staff of the long-term care home and the nursing and personal care provided by them; and
 - (b) shall perform any other duties provided for in the regulations. 2007, c. 8, s. 71 (3).

Time must work in position

- (4) If the number of beds at a long-term care home is,
- (a) equal to or greater than the prescribed number of beds, the licensee of the home shall ensure that the Director of Nursing and Personal Care works full-time in that position;
 - (b) less than the prescribed number of beds, the licensee of the home shall ensure that Director of Nursing and Personal Care works in that position, on average, at least the number of hours per week that is prescribed for the number of beds at the home. 2007, c. 8, s. 71 (4).

Medical Director

72 (1) Every licensee of a long-term care home shall ensure that the home has a Medical Director. 2007, c. 8, s. 72 (1).

Must be physician

- (2) The Medical Director shall be a physician. 2007, c. 8, s. 72 (2).

Role

- (3) The Medical Director,
- (a) shall advise the licensee on matters relating to medical care in the long-term care home; and
 - (b) shall perform any other duties provided for in the regulations. 2007, c. 8, s. 72 (3).

Must consult

(4) In performing his or her duties under clause (3) (a), the Medical Director shall consult with the Director of Nursing and Personal Care and other health professionals working in the long-term care home. 2007, c. 8, s. 72 (4).

Staff qualifications

73 Every licensee of a long-term care home shall ensure that all the staff of the home, including the persons mentioned in sections 70 to 72,

- (a) have the proper skills and qualifications to perform their duties; and
- (b) possess the qualifications provided for in the regulations. 2007, c. 8, s. 73.

Continuity of care – limit on temporary, casual or agency staff

74 (1) In order to provide a stable and consistent workforce and to improve continuity of care to residents, every licensee of a long-term care home shall ensure that the use of temporary, casual or agency staff is limited in accordance with the regulations. 2007, c. 8, s. 74 (1).

Agency staff

(2) In subsection (1),

“agency staff” means staff who work at the long-term care home pursuant to a contract between the licensee and an employment agency or other third party. 2007, c. 8, s. 74 (2).

Screening measures

75 (1) Every licensee of a long-term care home shall ensure that screening measures are conducted in accordance with the regulations before hiring staff and accepting volunteers. 2007, c. 8, s. 75 (1).

Criminal reference checks

(2) The screening measures shall include criminal reference checks, unless the person being screened is under 18 years of age. 2007, c. 8, s. 75 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 75 (2) of the Act is amended by striking out “criminal reference checks” and substituting “police record checks”. (See: 2015, c. 30, s. 24 (1))

When agency staff is hired

(3) For the purposes of subsection (1), a staff member who is agency staff, as that term is defined in subsection 74 (2), is considered to be hired when he or she first works at the home. 2007, c. 8, s. 75 (3).

Section Amendments with date in force (d/m/y)

2015, c. 30, s. 24 (1) - not in force

Training

76 (1) Every licensee of a long-term care home shall ensure that all staff at the home have received training as required by this section. 2007, c. 8, s. 76 (1).

Orientation

(2) Every licensee shall ensure that no person mentioned in subsection (1) performs their responsibilities before receiving training in the areas mentioned below:

1. The Residents’ Bill of Rights.
2. The long-term care home’s mission statement.
3. The long-term care home’s policy to promote zero tolerance of abuse and neglect of residents.
4. The duty under section 24 to make mandatory reports.
5. The protections afforded by section 26.
6. The long-term care home’s policy to minimize the restraining of residents.
7. Fire prevention and safety.
8. Emergency and evacuation procedures.
9. Infection prevention and control.
10. All Acts, regulations, policies of the Ministry and similar documents, including policies of the licensee, that are relevant to the person’s responsibilities.
11. Any other areas provided for in the regulations. 2007, c. 8, s. 76 (2).

Exception

(3) Subsection (2) does not apply in the case of emergencies or exceptional and unforeseen circumstances, in which case the training set out in subsection (2) must be provided within one week of when the person begins performing their responsibilities. 2007, c. 8, s. 76 (3).

Retraining

(4) Every licensee shall ensure that the persons who have received training under subsection (2) receive retraining in the areas mentioned in that subsection at times or at intervals provided for in the regulations. 2007, c. 8, s. 76 (4).

On-going training – other areas

(5) Every licensee of a long-term care home shall ensure that every person mentioned in subsection (1) receives training that is provided for in the regulations in areas other than those provided for in subsection (2), at times or at intervals provided for in the regulations. 2007, c. 8, s. 76 (5).

Further training needs

(6) Every licensee of a long-term care home shall ensure that the following are done:

1. The further training needed by the persons mentioned in subsection (1) is assessed regularly in accordance with the requirements provided for in the regulations.
2. The further training needs identified by the assessments are addressed in accordance with the requirements provided for in the regulations. 2007, c. 8, s. 76 (6).

Additional training – direct care staff

(7) Every licensee shall ensure that all staff who provide direct care to residents receive, as a condition of continuing to have contact with residents, training in the areas set out in the following paragraphs, at times or at intervals provided for in the regulations:

1. Abuse recognition and prevention.
2. Mental health issues, including caring for persons with dementia.
3. Behaviour management.
4. How to minimize the restraining of residents and, where restraining is necessary, how to do so in accordance with this Act and the regulations.
5. Palliative care.
6. Any other areas provided for in the regulations. 2007, c. 8, s. 76 (7).

Orientation for volunteers

77 Every licensee of a long-term care home shall develop an orientation for volunteers that includes information on,

- (a) the Residents' Bill of Rights;
- (b) the long-term care home's mission statement;
- (c) the long-term care home's policy to promote zero tolerance of abuse and neglect of residents;
- (d) the duty under section 24 to make mandatory reports;
- (e) fire safety and universal infection control practices;
- (f) any other areas provided for in the regulations; and
- (g) the protections afforded by section 26. 2007, c. 8, s. 77.

RESIDENTS – INFORMATION, AGREEMENTS, ETC.

Information for residents, etc.

78 (1) Every licensee of a long-term care home shall ensure that,

- (a) a package of information that complies with this section is given to every resident and to the substitute decision-maker of the resident, if any, at the time that the resident is admitted;
- (b) the package of information is made available to family members of residents and persons of importance to residents;
- (c) the package of information is revised as necessary;
- (d) any material revisions to the package of information are provided to any person who has received the original package and who is still a resident or substitute decision-maker of a resident; and
- (e) the contents of the package and of the revisions are explained to the person receiving them. 2007, c. 8, s. 78 (1).

Contents

(2) The package of information shall include, at a minimum,

- (a) the Residents' Bill of Rights;
- (b) the long-term care home's mission statement;
- (c) the long-term care home's policy to promote zero tolerance of abuse and neglect of residents;

- (d) an explanation of the duty under section 24 to make mandatory reports;
- (e) the long-term care home's procedure for initiating complaints to the licensee;
- (f) the written procedure, provided by the Director, for making complaints to the Director, together with the name and telephone number of the Director, or the name and telephone number of a person designated by the Director to receive complaints;
- (g) notification of the long-term care home's policy to minimize the restraining of residents and how a copy of the policy can be obtained;
- (h) the name and telephone number of the licensee;
- (i) a statement of the maximum amount that a resident can be charged under paragraph 1 or 2 of subsection 91 (1) for each type of accommodation offered in the long-term care home;
- (j) a statement of the reductions, available under the regulations, in the amount that qualified residents can be charged for each type of accommodation offered in the long-term care home;
- (k) information about what is paid for by funding under this Act or the *Local Health System Integration Act, 2006* or the payments that residents make for accommodation and for which residents do not have to pay additional charges;
- (l) a list of what is available in the long-term care home for an extra charge, and the amount of the extra charge;
- (m) a statement that residents are not required to purchase care, services, programs or goods from the licensee and may purchase such things from other providers, subject to any restrictions by the licensee, under the regulations, with respect to the supply of drugs;
- (n) a disclosure of any non-arm's length relationships that exist between the licensee and other providers who may offer care, services, programs or goods to residents;
- (o) information about the Residents' Council, including any information that may be provided by the Residents' Council for inclusion in the package;
- (p) information about the Family Council, if any, including any information that may be provided by the Family Council for inclusion in the package, or, if there is no Family Council, any information provided for in the regulations;
- (q) an explanation of the protections afforded by section 26; and
- (r) any other information provided for in the regulations. 2007, c. 8, ss. 78 (2), 195 (9).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (9) - 01/07/2010

Posting of information

79 (1) Every licensee of a long-term care home shall ensure that the required information is posted in the home, in a conspicuous and easily accessible location in a manner that complies with the requirements, if any, established by the regulations. 2007, c. 8, s. 79 (1).

Communication

(2) Every licensee of a long-term care home shall ensure that the required information is communicated, in a manner that complies with any requirements that may be provided for in the regulations, to residents who cannot read the information. 2007, c. 8, s. 79 (2).

Required information

- (3) The required information for the purposes of subsections (1) and (2) is,
 - (a) the Residents' Bill of Rights;
 - (b) the long-term care home's mission statement;
 - (c) the long-term care home's policy to promote zero tolerance of abuse and neglect of residents;
 - (d) an explanation of the duty under section 24 to make mandatory reports;
 - (e) the long-term care home's procedure for initiating complaints to the licensee;
 - (f) the written procedure, provided by the Director, for making complaints to the Director, together with the name and telephone number of the Director, or the name and telephone number of a person designated by the Director to receive complaints;
 - (g) notification of the long-term care home's policy to minimize the restraining of residents, and how a copy of the policy can be obtained;

- (g.1) a copy of the service accountability agreement as defined in section 21 of the *Commitment to the Future of Medicare Act, 2004* entered into between the licensee and a local health integration network;
- (h) the name and telephone number of the licensee;
- (i) an explanation of the measures to be taken in case of fire;
- (j) an explanation of evacuation procedures;
- (k) copies of the inspection reports from the past two years for the long-term care home;
- (l) orders made by an inspector or the Director with respect to the long-term care home that are in effect or that have been made in the last two years;
- (m) decisions of the Appeal Board or Divisional Court that were made under this Act with respect to the long-term care home within the past two years;
- (n) the most recent minutes of the Residents' Council meetings, with the consent of the Residents' Council;
- (o) the most recent minutes of the Family Council meetings, if any, with the consent of the Family Council;
- (p) an explanation of the protections afforded under section 26; and
- (q) any other information provided for in the regulations. 2007, c. 8, ss. 79 (3), 195 (10).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (10) - 01/07/2010

Regulated documents for resident

80 (1) Every licensee of a long-term care home shall ensure that no regulated document is presented for signature to a resident or prospective resident, a substitute decision-maker of a resident or prospective resident or a family member of a resident or prospective resident, unless,

- (a) the regulated document complies with all the requirements of the regulations; and
- (b) the compliance has been certified by a lawyer. 2007, c. 8, s. 80 (1).

Interpretation

(2) For the purposes of this section, a "regulated document" is a document,

- (a) that is required by the regulations to meet certain requirements; and
- (b) that is described as a regulated document in the regulations. 2007, c. 8, s. 80 (2).

Voidable agreements

81 (1) An agreement between a licensee and a resident or prospective resident, a substitute decision-maker of a resident or prospective resident, or a family member of a resident or prospective resident is voidable by the resident, prospective resident, substitute decision-maker or family member for 10 days after it is made. 2007, c. 8, s. 81 (1).

Obligations incurred before voiding

(2) The voiding of an agreement under subsection (1) does not relieve any person from liability for charges that were incurred before the voiding. 2007, c. 8, s. 81 (2).

Preferred accommodation

(3) Subsection (1) does not apply to an agreement under paragraph 2 of subsection 91 (1) except as provided for in the regulations. 2007, c. 8, s. 81 (3).

Agreement cannot prevent withdrawal of consent, etc.

82 An agreement with a licensee cannot prevent a consent or directive with respect to treatment or care from being withdrawn or revoked. 2007, c. 8, s. 82.

Coercion prohibited

83 (1) Every licensee of a long-term care home shall ensure that no person is told or led to believe that a prospective resident will be refused admission or that a resident will be discharged from the home because,

- (a) a document has not been signed;
- (b) an agreement has been voided; or
- (c) a consent or directive with respect to treatment or care has been given, not given, withdrawn or revoked. 2007, c. 8, s. 83 (1).

Saving

(2) Subsection (1) does not apply with respect to a consent that is required by law for admission to a long-term care home or transfer to a secure unit. 2007, c. 8, s. 83 (2).

GENERAL MANAGEMENT

Continuous quality improvement

84 Every licensee of a long-term care home shall develop and implement a quality improvement and utilization review system that monitors, analyzes, evaluates and improves the quality of the accommodation, care, services, programs and goods provided to residents of the long-term care home. 2007, c. 8, s. 84.

Satisfaction survey

85 (1) Every licensee of a long-term care home shall ensure that, at least once in every year, a survey is taken of the residents and their families to measure their satisfaction with the home and the care, services, programs and goods provided at the home. 2007, c. 8, s. 85 (1).

Action

(2) A licensee shall make every reasonable effort to act on the results of the survey and to improve the long-term care home and the care, services, programs and goods accordingly. 2007, c. 8, s. 85 (2).

Advice

(3) The licensee shall seek the advice of the Residents' Council and the Family Council, if any, in developing and carrying out the survey, and in acting on its results. 2007, c. 8, s. 85 (3).

Documentation

(4) The licensee shall ensure that,

- (a) the results of the survey are documented and made available to the Residents' Council and the Family Council, if any, to seek their advice under subsection (3);
- (b) the actions taken to improve the long-term care home, and the care, services, programs and goods based on the results of the survey are documented and made available to the Residents' Council and the Family Council, if any;
- (c) the documentation required by clauses (a) and (b) is made available to residents and their families; and
- (d) the documentation required by clauses (a) and (b) is kept in the long-term care home and is made available during an inspection under Part IX. 2007, c. 8, s. 85 (4).

Infection prevention and control program

86 (1) Every licensee of a long-term care home shall ensure that there is an infection prevention and control program for the home. 2007, c. 8, s. 86 (1).

Requirements of program

(2) The infection prevention and control program must include,

- (a) daily monitoring to detect the presence of infection in residents of the long-term care home; and
- (b) measures to prevent the transmission of infections. 2007, c. 8, s. 86 (2).

Standards and requirements

(3) The licensee shall ensure that the infection prevention and control program and what is provided for under that program, including the matters required under subsection (2), comply with any standards and requirements, including required outcomes, provided for in the regulations. 2007, c. 8, s. 86 (3).

Emergency plans

87 (1) Every licensee of a long-term care home shall ensure that there are emergency plans in place for the home that comply with the regulations, including,

- (a) measures for dealing with emergencies; and
- (b) procedures for evacuating and relocating the residents, and evacuating staff and others in case of an emergency. 2007, c. 8, s. 87 (1).

Testing of plans

(2) Every licensee of a long-term care home shall ensure that the emergency plans are tested, evaluated, updated and reviewed with the staff of the home as provided for in the regulations. 2007, c. 8, s. 87 (2).

Reports

88 (1) Every licensee of a long-term care home shall submit reports to the Director as provided for in the regulations. 2007, c. 8, s. 88 (1).

Same

(2) The Director may at any time request a licensee to submit a report to the Director on any matter, in a form acceptable to the Director, and the licensee shall comply with such a request. 2007, c. 8, s. 88 (2).

REGULATIONS

Regulations

89 (1) The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part. 2007, c. 8, s. 89 (1).

Specific inclusions

- (2) Without restricting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,
- (a) governing how drugs in long-term care homes are dealt with, including, without restricting the generality of the foregoing, governing their administration, handling and storage, requiring their destruction in specified circumstances, allowing licensees to restrict from whom drugs may be supplied and placing restrictions on who may have drugs in their possession;
 - (b) relating to the use of psychotropic drugs in long-term care homes, including requiring a licensee of a home to discuss the use of such drugs with the Medical Director of the home and requiring the Medical Director to prepare reports and advise the licensee on the use of such drugs in the home;
 - (c) prescribing numbers of beds and numbers of hours per week for the purposes of subsection 70 (3);
 - (d) prescribing number of beds and numbers of hours per week for the purposes of subsection 71 (4);
 - (e) providing for the qualifications of staff for the purposes of clause 73 (b);
 - (f) governing duties that the staff of a long-term care home are required to perform;
 - (g) respecting duties that physicians and registered nurses in the extended class who attend on residents are required to perform;
 - (h) governing steps to be taken by licensees to provide a stable and consistent workforce in accordance with section 74, including placing limits on the use of temporary, casual and agency staff by licensees, and limiting the amount of services that can be provided by persons who are not employees;
 - (i) defining “temporary” and “casual” for the purposes of section 74;
 - (j) providing that the use of other classes of staff are restricted as provided for in section 74, and defining those classes of staff;
 - (k) governing screening measures for the purposes of section 75, including specifying the kinds of references checks required under subsection 75 (2);

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 89 (2) (k) of the Act is amended by striking out “references checks” and substituting “police record checks”. (See: 2015, c. 30, s. 24 (2))

- (l) requiring licensees to obtain regular declarations from staff and volunteers, including, and without limiting the generality of the foregoing, requiring declarations about criminal convictions from persons for whom a criminal reference check was required under subsection 75 (2);

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 89 (2) (l) of the Act is amended by striking out “criminal reference check” and substituting “police record check”. (See: 2015, c. 30, s. 24 (3))

- (m) respecting and governing training for the purposes of section 76,
- (n) respecting information that is to be included in the package of information provided to residents under section 78, including the form and content of information that is to be provided and when and how the package must be updated, and defining “non-arm’s length relationship” for the purposes of clause 78 (2) (n);
- (o) governing the posting and communication of information under section 79;
- (p) governing regulated documents for the purposes of section 80, including describing what documents are regulated documents and establishing what requirements must be met by a regulated document, including providing for forms that must be used;
- (q) exempting agreements from the application of section 81;

- (r) governing the requirements for a continuous quality improvement system, including its development and implementation;
- (s) governing the satisfaction survey provided for in section 85 and the requirements of that section;
- (t) providing for anything that under this Part may or must be provided for in regulations, or that is to be done in compliance with or in accordance with the regulations. 2007, c. 8, s. 89 (2).

Section Amendments with date in force (d/m/y)

2015, c. 30, s. 24 (2, 3) - not in force

**PART VI
FUNDING**

Funding

90 (1) The Minister may provide funding for a long-term care home. 2007, c. 8, s. 90 (1).

Conditions

(2) The Minister may attach conditions to funding provided under subsection (1), including how funding may be used. 2007, c. 8, s. 90 (2).

Restrictions

(3) The provision of funding under subsection (1) is subject to any other conditions, rules and restrictions that may be provided for in the regulations, including requirements relating to eligibility to receive funding or how funding may be used. 2007, c. 8, s. 90 (3).

Set-off

(4) Amounts owed to the Crown, including a local health integration network, may be set off against funding that would otherwise be provided under subsection (1). 2007, c. 8, ss. 90 (4), 195 (11).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (11) - 01/07/2010

Resident charges

91 (1) A licensee shall not charge a resident for anything, except in accordance with the following:

1. For basic accommodation, a resident shall not be charged more than the amount provided for in the regulations for the accommodation provided.
2. For preferred accommodation, a resident shall not be charged more than can be charged for basic accommodation in accordance with paragraph 1 unless the preferred accommodation was provided under an agreement, in which case the resident shall not be charged more than the amount provided for in the regulations for the accommodation provided.
3. For anything other than accommodation, a resident shall be charged only if it was provided under an agreement and shall not be charged more than the amount provided for in the regulations, or, if no amount is provided for, more than a reasonable amount.
4. Despite paragraph 3, a resident shall not be charged for anything that the regulations provide is not to be charged for. 2007, c. 8, s. 91 (1).

Requirements for agreements

(2) The agreement referred to in paragraphs 2 and 3 of subsection (1) must be a written agreement with the resident or a person authorized to enter into such an agreement on the resident's behalf. 2007, c. 8, s. 91 (2).

Responsibility for charges where no agreement

(3) Even if the licensee does not have an agreement with the resident, the resident is responsible for the payment of amounts charged by the licensee for basic accommodation in accordance with paragraph 1 or 2 of subsection (1). 2007, c. 8, s. 91 (3).

Acceptance, charging or acceptance by another

(4) A licensee shall not accept payment from or on behalf of a resident for anything that the licensee is prohibited from charging for under subsection (1) and shall not cause or permit anyone to make such a charge or accept such a payment on the licensee's behalf. 2007, c. 8, s. 91 (4).

Statements

(5) The licensee shall, at intervals provided for in the regulations, provide each resident or representative of the resident with an itemized statement of,

- (a) charges made to the resident; and
- (b) money held on behalf of the resident by the licensee or an employee or agent of the licensee. 2007, c. 8, s. 91 (5).

Director to give statements

(6) The Director shall provide, annually and on the request of a resident, a statement setting out how much the resident may be charged for accommodation under subsection (1). 2007, c. 8, s. 91 (6).

Accounts and records

92 Every licensee of a long-term care home shall keep accounts and records with respect to each long-term care home operated by the licensee,

- (a) that are separate from the accounts and records of any other long-term care home operated by the licensee, and from any other business of the licensee; and
- (b) that meet any other requirements that may be provided for in the regulations. 2007, c. 8, s. 92.

Non-arm's length transactions, limitation

93 (1) A licensee shall not enter into a non-arm's length transaction that is prohibited by the regulations. 2007, c. 8, s. 93 (1).

Same

(2) A licensee shall not enter into a non-arm's length transaction without the prior consent of the Director if the regulations require such consent for that type of non-arm's length transaction. 2007, c. 8, s. 93 (2).

Reporting

(3) Every licensee of a long-term care home shall submit reports to the Director, as provided for in the regulations, on every non-arm's length transaction entered into by the licensee. 2007, c. 8, s. 93 (3).

Regulations

94 (1) The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part. 2007, c. 8, s. 94 (1).

Specific inclusions

- (2) Without restricting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,
- (a) respecting and governing rules, conditions and restrictions to which the provision of funding under this Act is subject;
 - (b) governing charges for the purposes of section 91, including prescribing different charges for different kinds of basic and preferred accommodation;
 - (c) providing that a resident may apply to the Director for a reduction in the charges for accommodation that would otherwise be required to be paid by the resident on the condition that the Minister pays the licensee the difference between the reduced amount and the amount that would otherwise be charged, and providing for rules governing such an application and reduction;
 - (d) governing the payment of amounts charged by the licensee under section 91;
 - (e) governing non-arm's length transactions, including defining "non-arm's length transaction" for the purposes of section 93 or for the purposes of the regulations, or both, prohibiting certain types of non-arm's length transactions, and providing that certain types of non-arm's length transactions may only be entered into with the prior consent of the Director;
 - (f) providing for anything that under this Part may or must be provided for in regulations, or that is to be done in compliance with or in accordance with the regulations. 2007, c. 8, s. 94 (2).

PART VII LICENSING

Licence required

95 (1) No person shall operate residential premises for persons requiring nursing care or in which nursing care is provided to two or more unrelated persons except under the authority of a licence under this Part or an approval under Part VIII. 2007, c. 8, s. 95 (1).

Exclusions

- (2) Subsection (1) does not apply to,
- (a) premises falling under the jurisdiction of,

- (i) the *Child and Family Services Act*,

Note: On a day to be named by proclamation of the Lieutenant Governor, subclause 95 (2) (a) (i) of the Act is repealed and the following substituted: (See: 2017, c. 14, Sched. 4, s. 20)

- (i) the *Child, Youth and Family Services Act, 2017*,
 - (ii) REPEALED: 2009, c. 33, Sched. 18, s. 15 (2).
 - (iii) the *Private Hospitals Act*,
 - (iv) the *Public Hospitals Act*, or
 - (v) the *Retirement Homes Act, 2010*; or
- (b) other premises provided for in the regulations. 2007, c. 8, s. 95 (2); 2009, c. 33, Sched. 18, s. 15 (2); 2010, c. 11, s. 127.

Offence

(3) Every person who contravenes subsection (1) is guilty of an offence. 2007, c. 8, s. 95 (3).

Section Amendments with date in force (d/m/y)

2009, c. 33, Sched. 18, s. 15 (2) - 01/07/2010

2010, c. 11, s. 127 - 17/05/2011

2017, c. 14, Sched. 4, s. 20 - not in force

Public interest – need

96 The Minister shall determine whether or not there should be a long-term care home in an area, and how many long-term care home beds there should be in an area, by considering what is in the public interest, having taken into account,

- (a) the long-term care home bed capacity that exists,
 - (i) in the area, or
 - (ii) in the area and any other area;
- (b) the other facilities or services that are available,
 - (i) in the area, or
 - (ii) in the area and any other area;
- (c) the current and predictable continuing demand for long-term care home beds,
 - (i) in the area, or
 - (ii) in the area and any other area;
- (d) the funds available for long-term care homes in Ontario;
- (e) any other matters that may be provided for in the regulations; and
- (f) any other matters that the Minister considers to be relevant. 2007, c. 8, s. 96.

Public interest – who can be issued a licence

97 The Minister may restrict who may be issued a licence based on what the Minister considers to be in the public interest, having taken into account,

- (a) the effect that issuing the licence would have on the concentration of ownership, control or management of long-term care homes,
 - (i) in the area,
 - (ii) in the area and any other area, or
 - (iii) in Ontario;
- (b) the effect that issuing the licence would have on the balance between non-profit and for-profit long-term care homes,
 - (i) in the area,
 - (ii) in the area and any other area, or
 - (iii) in Ontario; and
- (c) any other matters that may be provided for in the regulations. 2007, c. 8, s. 97.

Limitations on eligibility for licence

- 98** (1) A person is only eligible to be issued a licence for a long-term care home if, in the Director's opinion,
- (a) the home and its operation would comply with this Act and the regulations and any other applicable Act, regulation or municipal by-law;
 - (b) the past conduct relating to the operation of a long-term care home or any other matter or business of the following affords reasonable grounds to believe that the home will be operated in accordance with the law and with honesty and integrity:
 - (i) the person,
 - (ii) if the person is a corporation, the officers and directors of the corporation and any other person with a controlling interest in the corporation, and
 - (iii) if the person with a controlling interest referred to in subclause (ii) is a corporation, the officers and directors of the corporation;
 - (c) it has been demonstrated by the person that the person or, where the person is a corporation, its officers and directors and the persons with a controlling interest in it, is competent to operate a long-term care home in a responsible manner in accordance with this Act and the regulations and is in a position to furnish or provide the required services;
 - (d) the past conduct relating to the operation of a long-term care home or any other matter or business of the following affords reasonable grounds to believe that the home will not be operated in a manner that is prejudicial to the health, safety or welfare of its residents:
 - (i) the person,
 - (ii) if the person is a corporation, the officers and directors of the corporation and any other person with a controlling interest in the corporation, and
 - (iii) if the person with a controlling interest referred to in subclause (ii) is a corporation, the officers and directors of the corporation; and
 - (e) the person is not ineligible because of any other reason that may be provided for in the regulations. 2007, c. 8, s. 98 (1).

Service of ineligibility decision

- (2) If the Director decides that a person is not eligible to be issued a licence under subsection (1), the Director shall serve the person with a copy of the Director's decision, including reasons. 2007, c. 8, s. 98 (2).

Appeal of ineligibility decision

- (3) A person who the Director decides is not eligible to be issued a licence may appeal the decision to the Appeal Board and, for that purpose, sections 165 to 170 apply as if references to the licensee were references to the person, and with such other modifications as are necessary. 2007, c. 8, s. 98 (3).

Issue of licence

- 99** (1) Following a determination by the Minister under section 96, the Director may issue a licence for a long-term care home at the location specified in the licence subject to any restrictions by the Minister under section 97 and subject to section 98. 2007, c. 8, s. 99 (1).

Public consultation

- (2) A licence for a long-term care home shall not be issued unless the public has been consulted under section 106. 2007, c. 8, s. 99 (2).

Undertaking to issue licence

- 100** (1) Following a determination by the Minister under section 96, the Director may, subject to any restrictions by the Minister under section 97 and subject to section 98, give an undertaking to issue a licence to a person on condition that the person agrees to satisfy the specified conditions set out in the undertaking. 2007, c. 8, s. 100 (1).

Public consultation before undertaking

- (2) An undertaking shall not be given unless the public has been consulted under section 106. 2007, c. 8, s. 100 (2).

Form of undertaking

- (3) An undertaking shall be in two parts, one to be described as "non-amendable components" and the other to be described as "amendable components". 2007, c. 8, s. 100 (3).

Non-amendable components

- (4) The non-amendable components shall consist of,

- (a) a description of where the long-term care home will be;
- (b) the following aspects of the licence to be issued:
 - (i) the number, class and type of beds,
 - (ii) the term of the licence, and
 - (iii) any conditions the licence is to be subject to;
- (c) other components provided for in the regulations; and
- (d) any other components that the Director considers appropriate. 2007, c. 8, s. 100 (4).

Amendable components

(5) The amendable components shall consist of any matters not provided for in subsection (4). 2007, c. 8, s. 100 (5).

What may be amended

(6) The amendable components may be amended on consent, but the non-amendable components may not be amended under any circumstances. 2007, c. 8, s. 100 (6).

Issue of licence if conditions met

(7) If the Director determines that the person has complied with the specified conditions, the Director shall issue the licence, and is not required to consult the public a second time before issuing it. 2007, c. 8, s. 100 (7).

Cancellation if conditions not met

(8) If the Director determines that the person has not complied with the specified conditions, the Director may cancel the undertaking by serving the person with notice of the cancellation. 2007, c. 8, s. 100 (8).

Review by Minister

(9) Within 15 days of being served with a notice of cancellation, the person may request the Minister to review the cancellation, and the Minister may confirm the cancellation or revoke it and direct the Director to amend any specified conditions that are amendable components. 2007, c. 8, s. 100 (9).

Conditions of licence

101 (1) A licence is subject to the conditions, if any, that are provided for in the regulations. 2007, c. 8, s. 101 (1).

Additional conditions

- (2) The Director may make a licence subject to conditions other than those provided for in the regulations,
 - (a) at the time a licence is issued, with or without the consent of the licensee; or
 - (b) at the time a licence is reissued under section 105, with or without the consent of the new licensee. 2007, c. 8, s. 101 (2).

Conditions of licence

(3) It is a condition of every licence that the licensee shall comply with this Act, the *Local Health System Integration Act, 2006*, the *Commitment to the Future of Medicare Act, 2004*, the regulations, and every order made or agreement entered into under this Act and those Acts. 2007, c. 8, s. 195 (12).

Licensee must comply

(4) Every licensee shall comply with the conditions to which the licence is subject. 2007, c. 8, s. 101 (4).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (12) - 01/07/2010

Term of licence

102 (1) A licence shall be issued for a fixed term, specified in the licence, which shall not exceed 30 years. 2007, c. 8, s. 102 (1); 2014, c. 7, Sched. 19, s. 1.

Expiry at end of term

(2) A licence expires at the end of its fixed term. 2007, c. 8, s. 102 (2).

Revocation for cause

(3) Nothing in this section prevents a licence from being revoked under section 157. 2007, c. 8, s. 102 (3).

Section Amendments with date in force (d/m/y)

2014, c. 7, Sched. 19, s. 1 - 01/01/2015

Notice at end of term

103 (1) At least three years before the date on which the term of a licence is to end, or such shorter time period as may be provided for in the regulations to deal with specified circumstances, the Director shall,

- (a) give notice to the licensee that no new licence will be issued; or
- (b) following a determination by the Minister under section 96, and subject to any restrictions by the Minister under section 97 and subject to section 98, give an undertaking to the licensee to issue a new licence, for a fixed term set out in the undertaking, and subject to the licensee agreeing to satisfy any conditions specified by the Director. 2007, c. 8, s. 103 (1).

Rules re undertaking

(2) Subsections 100 (3) to (9) apply with necessary modifications to an undertaking under clause (1) (b). 2007, c. 8, s. 103 (2).

Duty to consult public

(3) The Director shall not act under subsection (1) unless the public has been consulted under section 106. 2007, c. 8, s. 103 (3).

Not required to give reasons

(4) The Director is not required to provide reasons for deciding whether or not to issue a new licence. 2007, c. 8, s. 103 (4).

Beds allowed under licence

104 (1) A licensee shall not operate more beds in a long-term care home than are allowed under the licence for the home or under the terms of a temporary licence issued under section 111 or than are authorized under section 113. 2007, c. 8, s. 104 (1).

Beds must be available

(2) Every licensee shall ensure that all the beds that are allowed under the licence are occupied or are available for occupation. 2007, c. 8, s. 104 (2).

Reduction of licensed beds

(3) If beds are unoccupied and unavailable for occupancy for 14 consecutive days or more, and the licensee did not obtain written permission from the Director for them not to be available for occupancy, the Director may, by order served on the licensee,

- (a) amend the licence to reduce the number of beds allowed under the licence by the number of unoccupied and unavailable beds; or
- (b) impose any conditions on the licence that are provided for in the regulations. 2007, c. 8, s. 104 (3).

Appeal

(4) A licensee whose licence has been amended or had conditions imposed on it under subsection (3) may appeal the Director's order to the Appeal Board and, for that purpose, sections 165 to 170 apply with any necessary modification. 2007, c. 8, s. 104 (4).

Transfers, limitation

105 (1) A licence, or beds under a licence, may not be transferred except by the Director in accordance with this section. 2007, c. 8, s. 105 (1).

Minister's determination needed if change of location

(2) A transfer that results in a change of the location specified in the licence, including a change of location of beds, may only be made following a determination by the Minister under section 96. 2007, c. 8, s. 105 (2).

Application of Minister's restrictions, etc.

(3) All transfers are subject to any restrictions by the Minister under section 97 and subject to section 98. 2007, c. 8, s. 105 (3).

Public consultation required

(4) A licence or beds may not be transferred unless the public has been consulted under section 106. 2007, c. 8, s. 105 (4).

Request for Director's approval

(5) A request for approval of a proposed transfer may be submitted to the Director for the Director's consideration. 2007, c. 8, s. 105 (5).

Transfer of licences

(6) Where the Director gives approval, a licence may be transferred by being surrendered to the Director for reissue to another person. 2007, c. 8, s. 105 (6).

Change in location of home

(7) A licence reissued under subsection (6) may be for a different location and such a licence may be reissued to the same licensee. 2007, c. 8, s. 105 (7).

Transfer of beds

(8) Where the Director gives approval, beds under a licence may be transferred by,

- (a) licences being surrendered to the Director for reissue with beds transferred from one licence to another; or
- (b) a licence being surrendered to the Director for reissue with beds transferred to a new licence issued by the Director. 2007, c. 8, s. 105 (8).

Restriction, non-profit to for-profit

(9) A non-profit entity may not transfer a licence or beds to a for-profit entity except in the limited circumstances provided for in the regulations. 2007, c. 8, s. 105 (9).

Notice at end of term

(10) A transfer of a licence does not change the applicability of a notice under clause 103 (1) (a) that no new licence will be issued. 2007, c. 8, s. 105 (10).

No transfer of interest

(11) No interest in a licence, including a beneficial interest, may be transferred except in accordance with this section. 2007, c. 8, s. 105 (11).

Exception, security interests

(12) Subsection (11) does not apply to the giving of a security interest in a licence. 2007, c. 8, s. 105 (12).

Public consultation

106 (1) The Director shall consult the public before,

- (a) issuing a licence for a new long-term care home under section 99;
- (b) undertaking to issue a licence under section 100;
- (c) deciding whether or not to issue a new licence under section 103;
- (d) transferring a licence, or beds under a licence, under section 105; or
- (e) amending a licence to increase the number of beds under subsection 114 (4). 2007, c. 8, s. 106 (1).

Written and oral representations

(2) The Director shall ensure that arrangements are made for any person to make written representations, and that at least one public meeting is held where any person may make oral representations. 2007, c. 8, s. 106 (2).

Location of public meeting

(3) A public meeting held under subsection (2) shall be held in the area in which the long-term care home is located or is proposed to be located, but if a transfer is being proposed under section 105 that would result in a change of the location specified in the licence, including a change of location of beds, from one area to another, a meeting shall be held in both areas. 2007, c. 8, s. 106 (3).

Duty to consider

(4) The Director shall ensure that the written and oral representations are considered before a final decision is made. 2007, c. 8, s. 106 (4).

Exercise of security interests

107 (1) No person may acquire control over, or interfere with, the operation of a long-term care home by exercising a security interest except through a contract under section 110 under which another person manages the home. 2007, c. 8, s. 107 (1).

Application of Act if management contract used

(2) If a person exercising a security interest enters into a contract under section 110, this Act applies, with necessary modifications, to that person as though that person were acting as the licensee. 2007, c. 8, s. 107 (2).

No transfer of licence except under s. 105

(3) No exercise of a security interest in a licence results in a transfer of the licence but this subsection does not limit the transfer of the licence under section 105. 2007, c. 8, s. 107 (3).

Section applies to receivers, etc.

(4) This section applies, with necessary modifications, to a receiver or trustee in bankruptcy as though the receiver or trustee was a person exercising a security interest. 2007, c. 8, s. 107 (4).

Security interest

(5) In this section,

“security interest” means an interest in or charge upon a licence or property of the licensee to secure a debt or the performance of some other obligation. 2007, c. 8, s. 107 (5).

Notice

108 (1) A licensee that is a corporation shall notify the Director in writing within 15 days of any change in the officers or directors of the corporation. 2007, c. 8, s. 108 (1).

Same

(2) A licensee shall immediately notify the Director in writing if the licensee has reason to believe that a person has gained a controlling interest in the licensee. 2007, c. 8, s. 108 (2).

Same, management contract

(3) Where a long-term care home is managed by a person under a contract under section 110, the licensee of the home shall immediately notify the Director in writing if the licensee has reason to believe that anything mentioned in subsection (1) or (2) has occurred with respect to the person. 2007, c. 8, s. 108 (3).

Gaining controlling interest

109 (1) A person that by any method gains a controlling interest in a licensee shall obtain the approval of the Director. 2007, c. 8, s. 109 (1).

Director’s approval

(2) The approval by the Director is subject to any restrictions by the Minister under section 97 and subject to section 98 as those sections would apply with respect to the licensee if the person had already gained a controlling interest in the licensee. 2007, c. 8, s. 109 (2).

Attachment of conditions

(3) The Director may attach conditions to an approval. 2007, c. 8, s. 109 (3).

Regulations may provide for timing, process

(4) The regulations may provide for when the approval of the Director must be obtained and for the process for obtaining such approval. 2007, c. 8, s. 109 (4).

Management contracts

110 (1) A licensee of a long-term care home shall not allow anyone else to manage the home except pursuant to a written contract approved by the Director. 2007, c. 8, s. 110 (1).

Does not apply to Administrator

(2) Subsection (1) does not apply to the management of the home by the Administrator. 2007, c. 8, s. 110 (2).

Compliance with regulations

(3) The contract described in subsection (1) must comply with any requirements established by the regulations. 2007, c. 8, s. 110 (3).

Approval by Director

(4) The following apply with respect to the approval by the Director of a contract described in subsection (1):

1. Before approving the contract, the Director shall satisfy himself or herself that the contract complies with any requirements established by the regulations.
2. The approval by the Director is subject to any restrictions by the Minister under section 97 and subject to section 98 as those sections would apply if the person who would manage the long-term care home were to be the licensee. 2007, c. 8, s. 110 (4).

Director may withdraw approval

(5) The Director may withdraw his or her approval of a contract at any time. 2007, c. 8, s. 110 (5).

Amendment of contract

(6) A licensee shall not allow a contract described in subsection (1) to be amended materially without the approval of the Director. 2007, c. 8, s. 110 (6).

Temporary licences

111 (1) The Director may issue a temporary licence,

- (a) authorizing premises to be used as a long-term care home on a temporary basis; or
- (b) authorizing temporary additional beds at a long-term care home. 2007, c. 8, s. 111 (1).

Rules for temporary licence

(2) The following apply with respect to a temporary licence:

- 1. The licence may be revoked by the Director at any time on the giving of the notice provided for in the licence, as well as being revocable under section 157.
- 2. The licence may be issued for a term of no more than five years, and may not be renewed.
- 3. No interest in a temporary licence, including a beneficial interest, may be transferred. 2007, c. 8, s. 111 (2).

Provisions that do not apply

(3) The following provisions do not apply with respect to a temporary licence:

- 1. Section 103.
- 2. Section 105.
- 3. Section 106.
- 4. Any other provisions provided for in the regulations. 2007, c. 8, s. 111 (3).

Temporary emergency licences

112 (1) In circumstances provided for in the regulations where there is a temporary emergency, the Director may issue a temporary emergency licence,

- (a) authorizing premises to be used as a long-term care home on a temporary basis; or
- (b) authorizing temporary additional beds at a long-term care home. 2007, c. 8, s. 112 (1).

Rules for temporary emergency licence

(2) The following apply with respect to a temporary emergency licence:

- 1. The licence may be revoked by the Director at any time on the giving of the notice provided for in the licence, as well as being revocable under section 157.
- 2. The licence may be issued for a term of no more than 60 days, and may not be renewed or reissued.
- 3. No interest in a temporary emergency licence, including a beneficial interest, may be transferred. 2007, c. 8, s. 112 (2).

Provisions that do not apply

(3) The following provisions do not apply with respect to a temporary emergency licence:

- 1. Section 96.
- 2. Section 97.
- 3. Section 103.
- 4. Section 105.
- 5. Section 106.
- 6. Any other provisions provided for in the regulations. 2007, c. 8, s. 112 (3).

Short term authorizations

113 In the circumstances provided for in the regulations, the Director may authorize temporary additional beds at a long-term care home for a single period of not more than 30 consecutive days. 2007, c. 8, s. 113.

Amendments with consent

114 (1) The Director may amend a licence with the consent of the licensee, subject to the restrictions in this section and the regulations. 2007, c. 8, s. 114 (1).

Amendments that are not allowed

- (2) A licence may not be amended under this section to,
- (a) change the licensee or the location of the home;
 - (b) extend the term;
 - (c) increase the preferred accommodation the licensee is allowed to provide; or
 - (d) make any other change provided for in the regulations. 2007, c. 8, s. 114 (2).

Extension in certain cases

- (3) Despite clause (2) (b), a licence may be amended under this section to extend its term where there is,
- (a) a substantial renovation of the home; or
 - (b) a significant addition of beds to the home. 2007, c. 8, s. 114 (3).

Limitations – increase in number of beds

- (4) The amendment of a licence under this section to increase the number of beds or extend the term under subsection (3) is subject to the following:
1. The amendment may only be made following a determination by the Minister under section 96.
 2. The amendment is subject to any restrictions by the Minister under section 97.
 3. The amendment can only be made if the public is consulted under section 106. 2007, c. 8, s. 114 (4).

Amendments of licence conditions

(5) For the purposes of this section, amendments to conditions imposed on a licence under subsection 101 (2) shall be deemed to be amendments to the licence. 2007, c. 8, s. 114 (5).

No application to transfers

(6) This section does not apply to changes to a licence when it is reissued under section 105. 2007, c. 8, s. 114 (6).

Competitive process

115 A competitive process may be used, but is not required, before a licence is issued or amended under this Part or before an approval is granted or amended under Part VIII. 2007, c. 8, s. 115.

No appeal

116 (1) Decisions of the Minister under this Part in respect of sections 96 and 97 are within the sole discretion of the Minister and are not subject to an appeal. 2007, c. 8, s. 116 (1).

Same, Director

- (2) Decisions of the Director under this Part with respect to the following are within the sole discretion of the Director and are not subject to an appeal:
1. A decision to issue or not to issue a licence or an undertaking to issue a licence, including the giving of a notice under clause 103 (1) (a) that no new licence will be issued.
 2. A decision with respect to the term of a licence, number of beds, or any other condition of a licence. 2007, c. 8, s. 116 (2).

Regulations

117 (1) The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part. 2007, c. 8, s. 117 (1).

Specific inclusions

- (2) Without restricting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,
- (a) defining “nursing care” for the purposes of subsection 95 (1);
 - (b) governing and clarifying how clauses 97 (a) and (b) are to be applied;
 - (c) specifying circumstances for the purposes of subsection 103 (1);

- (d) governing the process of consulting the public for the purposes of section 106 and governing public meetings under that section, including the notices for such meetings;
- (e) for the purposes of section 107, requiring a person exercising a security interest to satisfy requirements provided for in the regulations before the person can enter into a contract described in section 110, establishing and respecting limits on how long a long-term care home may be managed pursuant to such a contract once entered into, and governing the management of a home by a person acting under such a contract;
- (f) governing the amending of licences under section 114, including providing for procedures that must be followed and changes that may not be made;
- (g) modifying the application of this Part in respect of licences for a long-term care home in which there are beds that are subject to different terms under the licence;
- (h) providing for anything that under this Part may or must be provided for in regulations, or that is to be done in compliance with or in accordance with the regulations. 2007, c. 8, s. 117 (2).

**PART VIII
MUNICIPAL HOMES AND FIRST NATIONS HOMES**

INTERPRETATION

Interpretation

118 In this Part,

“joint home” means a home established pursuant to an agreement made under section 120 or 123; (“foyer commun”)

“municipal home” means a home established under section 119, 122 or 125; (“foyer municipal”)

“northern municipality” means a municipality in a territorial district as set out in regulations under the *Territorial Division Act, 2002*, but does not include The District Municipality of Muskoka; (“municipalité du Nord”)

“southern municipality” means a municipality that is not a northern municipality. (“municipalité du Sud”) 2007, c. 8, s. 118.

SOUTHERN HOMES

Southern municipal homes

119 (1) Every southern municipality that is an upper or single-tier municipality shall establish and maintain a municipal home and may establish and maintain municipal homes in addition to the home that is required. 2007, c. 8, s. 119 (1).

Alternative ways to meet requirement

(2) The requirement in subsection (1) is met if the southern municipality participates in the establishment and maintenance of a joint home or helps maintain a municipal home or joint home under an agreement under section 121. 2007, c. 8, s. 119 (2).

Exception, Township of Pelee

(3) This section does not apply to the Township of Pelee. 2007, c. 8, s. 119 (3).

Joint homes – south

120 (1) Two or more southern municipalities that are required or permitted to establish and maintain a municipal home may, under an agreement with each other, establish and maintain a joint home. 2007, c. 8, s. 120 (1).

Approval required

(2) No agreement may be entered into under subsection (1) without the approval in writing of the Minister. 2007, c. 8, s. 120 (2).

Agreement to help maintain home – south

121 (1) A southern municipality that is required or permitted to establish and maintain a municipal home but that is not maintaining a home or joint home may enter into an agreement with a municipality or municipalities maintaining a home or joint home to help maintain that home or joint home. 2007, c. 8, s. 121 (1).

Approval required

(2) No agreement may be entered into under subsection (1) without the approval in writing of the Minister. 2007, c. 8, s. 121 (2).

NORTHERN HOMES

Northern municipal homes

122 A northern municipality that is an upper or single-tier municipality and that has a population of more than 15,000 may establish and maintain a municipal home. 2007, c. 8, s. 122.

Joint homes – north

123 (1) A northern municipality that is permitted to establish and maintain a municipal home and one or more other northern municipalities may, under an agreement with each other, establish and maintain a joint home. 2007, c. 8, s. 123 (1).

Must be in same district

(2) The northern municipalities that enter into an agreement under subsection (1) must all be in the same territorial district. 2007, c. 8, s. 123 (2).

Approval required

(3) No agreement may be entered into under subsection (1) without the approval in writing of the Minister. 2007, c. 8, s. 123 (3).

Agreement to help maintain home – north

124 (1) A northern municipality that is not maintaining a municipal home or joint home may enter into an agreement with a municipality or municipalities maintaining a home or joint home, or with a board of management maintaining a home, to help maintain that home or joint home. 2007, c. 8, s. 124 (1).

Approval required

(2) No agreement may be entered into under subsection (1) without the approval in writing of the Minister. 2007, c. 8, s. 124 (2).

Territorial district home under board of management

125 (1) If a majority of the municipalities in a single territorial district pass by-laws authorizing the establishment and maintenance of a municipal home under a board of management, the following apply:

1. A certified copy of every by-law passed under this subsection shall be promptly transmitted to the Director.
2. If the Minister gives approval for the establishment of the home under section 130, a board of management shall be established as a corporation, by regulation, for the home.
3. The home shall be vested in the board of management and the board shall have charge of the home.
4. All the municipalities in the territorial district shall contribute to the establishment and maintenance of the municipal home. 2007, c. 8, s. 125 (1).

Non-application of *Corporations Act*

(2) The *Corporations Act* does not apply to a board of management, except as provided for under the regulations. 2007, c. 8, s. 125 (2).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (2) is repealed and the following substituted:

Non-application of *Not-for-Profit Corporations Act, 2010*

(2) The *Not-for-Profit Corporations Act, 2010* does not apply to a board of management, except as provided for under the regulations. 2010, c. 15, s. 233 (1).

See: 2010, c. 15, ss. 233 (1), 249.

Composition

(3) The regulations may provide for the composition of a board of management and the qualifications and term of office of its members. 2007, c. 8, s. 125 (3).

Exception

(4) If a municipality in the territorial district has established and is maintaining a municipal home under section 122 or a joint home under section 123 or helps maintain a home or joint home under an agreement under section 124, it shall be deemed not to be in the territorial district for the purposes of this section and sections 126 and 127. 2007, c. 8, s. 125 (4).

Section Amendments with date in force (d/m/y)

2010, c. 15, s. 233 (1) - not in force

Operating costs – apportionment by board of management

126 (1) A board of management shall determine the amount that it estimates will be required to defray its expenditures for each year and apportion that amount, in accordance with the regulations under section 128, among the municipalities in the district and shall on or before February 25 notify the clerk of each municipality of the amount to be provided by that municipality. 2007, c. 8, s. 126 (1).

Payment by municipality

(2) Each municipality shall pay the amount apportioned to it. 2007, c. 8, s. 126 (2).

Operating reserve

(3) In preparing the estimates, the board may provide for a reserve for working funds, but the amount of the reserve in a year shall not exceed 15 per cent of the total estimates of the board for the year. 2007, c. 8, s. 126 (3).

Power of district homes to borrow for current expenditures

(4) Subject to subsection (5), the board of management may borrow from time to time by way of a promissory note such sums as the board considers necessary to meet the current expenditures of the board until the current revenue is received. 2007, c. 8, s. 126 (4).

Maximum borrowings

(5) The amount that may be borrowed at any one time for the purpose mentioned in subsection (4) together with the total of any similar borrowings that have not been repaid shall not exceed 25 per cent of the estimated current revenue of the board for the year. 2007, c. 8, s. 126 (5).

Same

(6) Until the estimates of the board for the current year under this section have been determined, the limitation upon borrowing prescribed in subsection (5) shall be temporarily calculated upon 25 per cent of the estimates for the board determined for the next preceding year. 2007, c. 8, s. 126 (6).

Capital costs – apportionment by board of management

127 (1) If a municipal home is to be established under a board of management, or an existing municipal home under a board of management is to be renovated, altered or added to, the board of management shall determine the amount that it estimates will be required and apportion that amount, in accordance with the regulations under section 128, among the municipalities in the district and shall notify the clerk of each municipality of the amount to be provided by that municipality. 2007, c. 8, s. 127 (1).

Payment by municipality

(2) Each municipality shall pay the amount apportioned to it. 2007, c. 8, s. 127 (2).

Regulations, apportionments by boards of management

128 (1) Despite any other Act, the Lieutenant Governor in Council may, with respect to a year, make regulations prescribing the basis on which apportionments are to be made by boards of management. 2007, c. 8, s. 128 (1).

Application for review

(2) Where, in respect of any year, the council of a supporting municipality is of the opinion that an apportionment made pursuant to a regulation made under subsection (1) is incorrect because of an error, omission or failure set out in subsection (3), the supporting municipality may apply to the Director, within 30 days after notice of the apportionment was sent to the supporting municipality, for a review to determine the correct proportion of the apportionments that each supporting municipality shall bear in the year. 2007, c. 8, s. 128 (2).

Same

(3) The errors, omissions and failures referred to in subsection (2) are,

- (a) an error or omission in the amount of the assessment of one or more supporting municipalities;
- (b) an error or omission in a calculation; or
- (c) a failure to apply one or more provisions of the regulation made under subsection (1). 2007, c. 8, s. 128 (3).

Appeal to Municipal Board

(4) A supporting municipality may appeal the decision resulting from the Director's review to the Ontario Municipal Board within 30 days after notice of the decision was sent to the municipality. 2007, c. 8, s. 128 (4).

Supporting municipality

(5) In this section,

“supporting municipality” means one of the municipalities among which costs are to be apportioned by a board of management under section 126 or 127. 2007, c. 8, s. 128 (5).

FIRST NATIONS HOMES

First Nations homes

129 (1) A council of a band may establish and maintain a First Nations home under this section. 2007, c. 8, s. 129 (1).

Joint First Nations homes

(2) The councils of two or more bands may, under an agreement with each other, establish and maintain a First Nations home under this section. 2007, c. 8, s. 129 (2).

Approval required

(3) No agreement may be entered into under subsection (2) without the approval in writing of the Minister. 2007, c. 8, s. 129 (3).

Board of management

(4) The following apply with respect to a First Nations home established under this section:

1. If the Minister gives approval for the establishment of the home under section 130, a board of management shall be established as a corporation, by regulation, for the home.
2. The home shall be vested in the board of management and the board shall have charge of the home.
3. The *Corporations Act* does not apply to a board of management, except as provided for under the regulations.

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 3 is amended by striking out “The *Corporations Act*” at the beginning and substituting “The *Not-for-Profit Corporations Act, 2010*”. See: 2010, c. 15, ss. 233 (2), 249.

4. The regulations may provide for the composition of a board of management and the qualifications and term of office of its members. 2007, c. 8, s. 129 (4).

Application of Part VIII provisions

(5) The following sections apply with respect to a First Nations home established under this section as they apply with respect to municipal homes:

1. Section 130.
2. Section 131.
3. Section 133.
4. Sections 135 to 139. 2007, c. 8, s. 129 (5).

Council not prevented from getting licence

(6) Nothing in this section prevents a council of a band from obtaining a licence under Part VII. 2007, c. 8, s. 129 (6).

Council of a band

(7) In this section,

“council of a band” means a council of the band within the meaning of the *Indian Act* (Canada). 2007, c. 8, s. 129 (7).

Section Amendments with date in force (d/m/y)

2010, c. 15, s. 233 (2) - not in force

GENERAL

Approval required

130 (1) No municipal home or joint home shall be established without the approval of the Minister. 2007, c. 8, s. 130 (1).

Same, beds

(2) Where the Minister grants an approval, the Minister shall provide for the number of beds that are to be established under the approval, and the number of beds may not be increased without an amendment of the approval. 2007, c. 8, s. 130 (2).

No expiry

(3) An approval does not expire. 2007, c. 8, s. 130 (3).

No fee

(4) The Minister shall not charge a fee for granting or amending an approval under this Part. 2007, c. 8, s. 130 (4).

Application of Part VII

131 (1) Part VII does not apply with respect to an approval, except as provided under this section. 2007, c. 8, s. 131 (1).

Minister's determination required

(2) An approval shall be granted only following a determination by the Minister under section 96. 2007, c. 8, s. 131 (2).

Provisions that apply

(3) The following provisions of Part VII apply, with necessary modifications, and the modifications specified in this section, with respect to an approval as though the approval were a licence under Part VII:

1. Section 100 (Undertaking to issue licence), other than subsection 100 (9).
2. Section 101 (Conditions of licence), other than clause 101 (2) (b).
3. Section 104 (Beds allowed under licence).
4. Section 106 (Public consultation), other than clauses 106 (1) (c) and (d).
5. Subsection 108 (3) (Notice, management contract).
6. Section 110 (Management contracts).
7. Section 114 (Amendments with consent).
8. Section 115 (Competitive process).
9. Section 116 (No appeal).
10. Section 117 (Regulations). 2007, c. 8, s. 131 (3).

Modifications re Minister rather than Director

(4) For the purposes of this Part, every reference to the Director in a provision that applies by virtue of subsection (3) shall be deemed to be a reference to the Minister, except in the following places:

1. The first reference to the Director in subsection 104 (3).
2. Subsection 106 (2).
3. Section 110. 2007, c. 8, s. 131 (4).

Modifications for grant of approval for required home

(5) The following modification applies with respect to a grant of an approval for a municipal home that is required under subsection 119 (1):

1. The determination by the Minister under section 96 that is mentioned in subsection (2) shall not deal with whether there should be a home in the municipality. 2007, c. 8, s. 131 (5).

Temporary licence provision not affected

(6) Nothing in this section affects the application of sections 111 and 113 and, for greater certainty,

- (a) a temporary licence under section 111 can be issued to a municipality or board of management and can be revoked under section 157; and
- (b) an authorization under section 113 can be given to a municipality or board of management. 2007, c. 8, s. 131 (6).

Committee of management, appointment

132 (1) The council of a municipality establishing and maintaining a municipal home or the councils of the municipalities establishing and maintaining a joint home shall appoint from among the members of the council or councils, as the case may be, a committee of management for the municipal home or joint home. 2007, c. 8, s. 132 (1).

Board of control

(2) Where a municipal home is established and maintained by a municipality having a board of control, the members of the committee of management shall be appointed on the recommendation of the board of control, and section 68 of the *Municipal Act*, as that section read on December 31, 2002, applies in respect of the home except that a reference in subsections (3), (6) and (7) of that section to a two-thirds vote shall be deemed to be a reference to a majority vote. 2007, c. 8, s. 132 (2).

Composition

(3) The regulations may provide for the composition of a committee of management and the qualifications and term of office of its members. 2007, c. 8, s. 132 (3).

Trust funds

133 A municipality or municipalities that maintain a municipal home or joint home or a board of management that maintains a municipal home may receive, hold and administer the property of a resident in trust, subject to any restrictions provided for in the regulations. 2007, c. 8, s. 133.

Personal information, disclosure to inspectors, etc.

134 (1) A head and an institution are authorized to disclose personal information to an inspector or the Director for the purpose of complying with any requirement under this Act or facilitating an inspection or inquiries under this Act. 2007, c. 8, s. 134 (1).

Definitions

(2) In this section,

“head”, “institution” and “personal information” have the same meaning as in the *Municipal Freedom of Information and Protection of Privacy Act*. 2007, c. 8, s. 134 (2).

Director may make orders re renovations, etc.

135 (1) The Director may make an order to a municipality or municipalities or a board of management maintaining a municipal home or joint home respecting renovations, additions or alterations to the home and respecting information, plans and other material that are to be furnished to the Director, and requiring the order to be complied with within a certain time. 2007, c. 8, s. 135 (1).

Appeal

(2) A decision of the Director under subsection (1) may be appealed to the Appeal Board, and sections 162 and 164 to 171 apply to such an appeal with necessary modifications. 2007, c. 8, s. 135 (2).

Director may take control with consent

136 The Director may take control of, operate and manage a municipal home or joint home if the municipality maintaining and operating the home, each of the municipalities maintaining and operating the joint home or the board of management of the municipal home, as the case may be, consents to the Director so acting. 2007, c. 8, s. 136.

Taking control on certain grounds

137 (1) Subject to subsections (2) to (7), the Director may take control of, operate and manage a municipal home or joint home if the Director believes on reasonable grounds that the home is not being or is not likely to be operated with competence, honesty, integrity and concern for the health, safety and well-being of its residents. 2007, c. 8, s. 137 (1).

Hearing

(2) Unless the municipality maintaining and operating the municipal home, each of the municipalities maintaining and operating the joint home or the board of management of the municipal home, as the case may be, has consented to the exercise of the Director’s power under subsection (1), the Minister, before the power is exercised, shall cause a hearing to be held to determine whether it should be exercised. 2007, c. 8, s. 137 (2).

Person conducting hearing

(3) The Minister shall appoint a person who is not an employee of the Ministry to conduct the hearing. 2007, c. 8, s. 137 (3).

Procedure

(4) Sections 17, 18, 19 and 20 of the *Statutory Powers Procedure Act* do not apply to a hearing under this section. 2007, c. 8, s. 137 (4).

Report to Minister

(5) The person conducting the hearing under this section shall give the Minister a report setting out,

- (a) recommendations as to the carrying out of the proposal;
- (b) the findings of fact, the information and the knowledge used in making the recommendations; and
- (c) the conclusions of law arrived at that are relevant to the recommendations. 2007, c. 8, s. 137 (5).

Copy of report

(6) The person conducting the hearing under this section shall give a copy of the report to the municipality maintaining and operating the municipal home, each of the municipalities maintaining and operating the joint home or the board of management of the municipal home, as the case may be. 2007, c. 8, s. 137 (6).

Minister’s decision

(7) After considering a report provided under subsection (5), the Minister may direct the Director to exercise the power under subsection (1) and shall give the municipality maintaining and operating the municipal home, each of the

municipalities maintaining and operating the joint home or the board of management of the municipal home, as the case may be, written notice of his or her decision respecting the exercise of the power together with written reasons for the decision. 2007, c. 8, s. 137 (7).

Provisional exercise of power without hearing

138 (1) Despite section 137, on notice to the municipality maintaining and operating the municipal home, each of the municipalities maintaining and operating the joint home or the board of management of the municipal home, as the case may be, the Director may provisionally exercise the power under subsection 137 (1) without a hearing if, in the Director's opinion, it is necessary to do so to avert an immediate threat to a person's health, safety or well-being. 2007, c. 8, s. 138 (1).

Content of notice

- (2) The notice to the municipality, municipalities or board of management under subsection (1) shall set out,
- (a) the Director's opinion on which the provisional exercise of the power is based; and
 - (b) the reasons for the Director's opinion. 2007, c. 8, s. 138 (2).

Continuation of exercise of power

(3) As soon as possible after a power is exercised under subsection (1), the procedure set out in subsections 137 (2) to (7) shall be followed to determine whether the power should continue to be exercised. 2007, c. 8, s. 138 (3).

Powers where control is taken

139 (1) The following apply when control is taken of a municipal home or joint home under section 136 or 137:

1. The Director has all of the powers of the municipality, municipalities or board of management, as the case may be, to occupy, manage, operate and administer the home.
2. The following provisions apply, with necessary modifications, with respect to the operation and management of the home by the Director,
 - i. paragraphs 2 to 7 of subsection 157 (6), and
 - ii. section 158. 2007, c. 8, s. 139 (1).

Occupation of premises

- (2) Without limiting the generality of subsection (1), the Director,
- (a) despite sections 25 and 39 of the *Expropriations Act*, may immediately occupy, operate and manage the municipal home or joint home or arrange for it to be occupied, operated and managed by a person or entity designated by the Director; and
 - (b) may apply without notice to the Superior Court of Justice for an order directing the sheriff to assist the Director or the person or entity designated by the Director in occupying the home or joint home. 2007, c. 8, s. 139 (2).

Maximum period

(3) The Director shall not occupy, operate or manage a municipal home or joint home, or arrange for it to be occupied, operated or managed by a person or entity designated by the Director, for a period exceeding one year without the consent of the municipality that maintained and operated the home, the municipalities that maintained and operated the joint home or the board of management of the home, as the case may be. 2007, c. 8, s. 139 (3).

Authorization of Minister

(4) Despite subsection (3), the Director may occupy, operate and manage a municipal home or joint home, or arrange for it to be occupied, operated and managed by a person or entity designated by the Director, for a period exceeding one year if the Minister so authorizes, and the Minister may authorize an extension of the period from time to time. 2007, c. 8, s. 139 (4).

Regulations

140 (1) The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part. 2007, c. 8, s. 140 (1).

Specific inclusions

- (2) Without restricting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,
- (a) clarifying the application of Part VII to this Part;
 - (b) providing additional or alternate rules governing approvals under this Part;
 - (c) governing boards of management under sections 125 and 129, including, without limiting the generality of the foregoing,

- (i) establishing a board of management as a corporation and governing the operation of boards of management as corporations, including prescribing provisions of the *Corporations Act* that apply to such boards and modifications to such provisions as they apply to such boards, and

Note: On a day to be named by proclamation of the Lieutenant Governor, subclause (i) is amended by striking out “the *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010*”. See: 2010, c. 15, ss. 233 (3), 249.

- (ii) for boards of management under section 125, providing for the division of each territorial district into areas, the appointment of members of boards of management, representing the areas to each board having regard to the proportionate distribution amongst the areas of population and assessment of rateable property and providing for the further appointment by the Lieutenant Governor in Council of members at large to the boards of management;
- (d) specifying times by which payments required under sections 126 and 127 must be made;
- (e) providing for anything that under this Part may or must be provided for in regulations, or that is to be done in compliance with or in accordance with the regulations. 2007, c. 8, s. 140 (2).

Same

(3) The Lieutenant Governor in Council may make regulations dividing any territorial district into two or more parts for the purposes of this Part and, where the Lieutenant Governor in Council has done so, each of the parts shall be deemed to constitute a territorial district for the purposes of this Part. 2007, c. 8, s. 140 (3).

Section Amendments with date in force (d/m/y)

2010, c. 15, s. 233 (3) - not in force

PART IX COMPLIANCE AND ENFORCEMENT

INSPECTIONS

Appointment of inspectors

141 (1) The Minister may appoint inspectors for the purposes of this Act. 2007, c. 8, s. 141 (1).

Director is an inspector

(2) The Director is, by virtue of his or her office, an inspector. 2007, c. 8, s. 141 (2).

Certificate of appointment

(3) The Minister shall issue to every inspector a certificate of appointment which the inspector shall produce, upon request, when acting in the performance of his or her duties. 2007, c. 8, s. 141 (3).

Purpose of inspection

142 An inspector may conduct inspections for the purpose of ensuring compliance with requirements under this Act. 2007, c. 8, s. 142.

Annual inspection

143 Every long-term care home shall be inspected at least once a year. 2007, c. 8, s. 143.

Inspections unannounced

144 No notice shall be given of,

- (a) any inspection required under section 143; or
- (b) any other inspection of a long-term care home, subject to any exceptions provided for in the regulations. 2007, c. 8, s. 144.

Meeting with councils

145 Where an inspection is required under section 143, the inspector may meet with the Residents’ Council or the Family Council, if requested or permitted to do so by the Council. 2007, c. 8, s. 145.

Powers of entry

146 (1) An inspector may at any reasonable time enter a long-term care home, or place operated in connection with the home and providing services to it, in order to conduct an inspection. 2007, c. 8, s. 146 (1).

Dwellings

(2) No inspector shall enter a place that is not in a long-term care home and that is being used as a dwelling, except with the consent of the occupier of the place or under the authority of a warrant. 2007, c. 8, s. 146 (2).

Powers on inspection

147 (1) An inspector conducting an inspection,

- (a) may inspect,
 - (i) the premises of the long-term care home or the premises of a place operated in connection with the home and providing services to it, and
 - (ii) the operations on the premises;
- (b) may inspect or copy a record or other thing;
- (c) may demand the production of records or other things, including records or other things that are not kept on the premises of the long-term care home;
- (d) may question a person, subject to the person's right to have counsel present during the questioning;
- (e) may photograph, film or make any other kind of recording, but only in a manner that does not intercept any private communications and that is in keeping with reasonable expectations of privacy;
- (f) may conduct examinations or tests;
- (g) may use data storage, processing or retrieval devices or systems at the premises in order to produce a record in readable form;
- (h) may, on providing a receipt, remove a record, a sample of a substance or any other thing or take a specimen; and
- (i) may call upon experts for assistance in carrying out the inspection. 2007, c. 8, s. 147 (1).

Written demand

(2) A demand mentioned in clause (1) (c) must be in writing and must include,

- (a) a statement of the nature of the records and other things required; and
- (b) a statement of when the records and other things are to be produced. 2007, c. 8, s. 147 (2).

Obligation to produce and assist

(3) If an inspector makes a demand under clause (1) (c), the person having custody of the record or other thing shall produce it for the inspector within the times provided for in the demand, and shall, at the inspector's request,

- (a) provide whatever assistance is reasonably necessary to produce the record in a readable form, including using a data storage, processing or retrieval device or system; and
- (b) provide whatever assistance is reasonably necessary to interpret the record for the inspector. 2007, c. 8, s. 147 (3).

Power to exclude persons

(4) An inspector who questions a person under clause (1) (d) may exclude from the questioning any person except counsel for the individual being questioned. 2007, c. 8, s. 147 (4).

Return of things

(5) An inspector shall, within a reasonable time, return the records and other things removed under clause (1) (h). 2007, c. 8, s. 147 (5).

Making things available

(6) At the request of the licensee, an inspector who has removed a record or other thing under clause (1) (h) shall make it available for review, copying, examination or testing by or on behalf of the licensee at a mutually convenient time and place. 2007, c. 8, s. 147 (6).

Samples and specimens

(7) Subsections (5) and (6) do not apply to samples removed or specimens taken by the inspector. 2007, c. 8, s. 147 (7).

Definition of record

(8) In this section,

“record” means any document or record of information, in any form, including a record of personal health information within the meaning of the *Personal Health Information Protection Act, 2004*. 2007, c. 8, s. 147 (8).

Warrant

148 (1) A justice of the peace may issue a warrant authorizing an inspector named in the warrant to enter premises specified in the warrant and to exercise any of the powers mentioned in section 147, if the justice of the peace is satisfied on information under oath that,

- (a) the inspector has been prevented from entering a long-term care home, or place operated in connection with the home and providing services to it, or has been prevented from exercising a power under subsection 147 (1); or
- (b) there are reasonable grounds to believe that the inspector will be prevented from entering a long-term care home, or place operated in connection with the home and providing services to it, or will be prevented from exercising a power under subsection 147 (1). 2007, c. 8, s. 148 (1).

Expiry of warrant

(2) A warrant issued under this section shall name a date on which it expires, which shall not be later than 30 days after the warrant is issued. 2007, c. 8, s. 148 (2).

Extension of time

(3) A justice of the peace may extend the date on which a warrant issued under this section expires for an additional period of no more than 30 days, upon application without notice by the inspector named in the warrant. 2007, c. 8, s. 148 (3).

Use of force

(4) An inspector named in a warrant issued under this section may use whatever force is necessary to execute the warrant and may call upon a police officer for assistance in executing the warrant. 2007, c. 8, s. 148 (4).

Time of execution

(5) A warrant issued under this section may be executed only between 8 a.m. and 8 p.m., unless the warrant specifies otherwise. 2007, c. 8, s. 148 (5).

Other matters

(6) Subsections 147 (2) to (8) apply, with necessary modifications, with respect to the exercise, under a warrant issued under this section, of the powers mentioned in subsection (1). 2007, c. 8, s. 148 (6).

Inspection report

149 (1) After completing an inspection, an inspector shall prepare an inspection report and give a copy of the report to the licensee and to the Residents' Council and the Family Council, if any. 2007, c. 8, s. 149 (1).

Summaries to Councils

(2) Where the inspection is required under section 143, the inspector shall prepare a summary of the inspection report and provide it to the Residents' Council and the Family Council, if any. 2007, c. 8, s. 149 (2).

All non-compliance to be documented

(3) If the inspector finds that the licensee has not complied with a requirement under this Act, the inspector shall document the non-compliance in the inspection report. 2007, c. 8, s. 149 (3).

Admissibility of certain documents

150 (1) A copy made under clause 147 (1) (b) that purports to be certified by the inspector as being a true copy of the original is admissible in evidence in any proceeding to the same extent as, and has the same evidentiary value as, the original. 2007, c. 8, s. 150 (1).

Same

(2) A certificate as to the result of an examination or test conducted under clause 147 (1) (f) that states the name and qualifications of the person who conducted the examination or test and purports to be signed by that person is, without proof of the office or signature of that person, admissible in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in the certificate, if the certificate has been served on the other parties to the proceeding within a reasonable time before the certificate is adduced. 2007, c. 8, s. 150 (2).

Obstruction, etc.

151 Every person is guilty of an offence who,

- (a) hinders, obstructs or interferes with an inspector conducting an inspection, or otherwise impedes an inspector in carrying out his or her duties;
- (b) destroys or alters a record or other thing that has been demanded under clause 147 (1) (c); or
- (c) fails to do anything required under subsection 147 (3). 2007, c. 8, s. 151.

ENFORCEMENT

Actions by inspector if non-compliance found

152 If an inspector finds that a licensee has not complied with a requirement under this Act, the inspector shall do at least one of the following as the inspector considers appropriate:

1. Issue a written notification to the licensee.
2. Issue a written request to the licensee to prepare a written plan of correction for achieving compliance, to be implemented voluntarily.
3. Make an order under section 153 or 154.
4. Issue a written notification to the licensee and refer the matter to the Director for further action by the Director. 2007, c. 8, s. 152.

Compliance orders

153 (1) An inspector or the Director may order a licensee to,

- (a) do anything, or refrain from doing anything, to achieve compliance with a requirement under this Act; or
- (b) prepare, submit and implement a plan for achieving compliance with a requirement under this Act. 2007, c. 8, s. 153 (1).

Grounds

(2) An order may be made under this section if the licensee has not complied with a requirement under this Act. 2007, c. 8, s. 153 (2).

Work and activity orders

154 (1) An inspector or the Director may order a licensee,

- (a) to allow employees of the Ministry, or agents or contractors acting under the authority of the Ministry, to perform any work or activity at the long-term care home that is necessary, in the opinion of the person making the order, to achieve compliance with a requirement under this Act; and
- (b) to pay the reasonable costs of the work or activity. 2007, c. 8, s. 154 (1).

Grounds

(2) An order may be made under this section if,

- (a) the licensee has not complied with a requirement under this Act; and
- (b) there are reasonable grounds to believe that the licensee will not or cannot perform the work or activity necessary to achieve compliance. 2007, c. 8, s. 154 (2).

Licensee must co-operate

(3) If an order is made under this section respecting work or an activity to be performed at a long-term care home, the licensee shall co-operate with and give reasonable assistance to the persons performing the work or activity. 2007, c. 8, s. 154 (3).

Recovery of costs

(4) The Minister may,

- (a) recover the reasonable costs of any work or activity performed under this section by withholding an amount from the funding that would otherwise be provided to the licensee under this Act; or
- (b) direct the local health integration network that provides funding under the *Local Health System Integration Act, 2006* to the licensee to withhold from such funding an amount equal to the reasonable costs of any work or activity performed under this section. 2007, c. 8, s. 195 (13).

Compliance by LHIN

(5) A local health integration network shall comply with a direction of the Minister under clause (4) (b). 2007, c. 8, s. 195 (13).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (13) - 01/07/2010

Order that funding be returned or withheld

155 (1) The Director may order,

- (a) that a specified amount of funding provided to the licensee under this Act be returned by the licensee;
- (b) that a specified amount of funding be withheld from the funding that would otherwise be provided to the licensee under this Act;

- (c) that a specified amount of funding provided by a local health integration network under the *Local Health System Integration Act, 2006* to the licensee be returned by the licensee; or
- (d) that the local health integration network that provides funding under the *Local Health System Integration Act, 2006* to the licensee withhold a specified amount from funding. 2007, c. 8, ss. 155 (1), 195 (14).

Grounds

(2) An order may be made under this section if a licensee has not complied with a requirement under this Act. 2007, c. 8, s. 155 (2).

Limit on amount

(3) The amount of funding to be returned or withheld shall not exceed, for each day on which the non-compliance continues, \$50 for each bed at the home. 2007, c. 8, s. 155 (3).

Determination of amount

(4) In determining the amount of funding to be returned or withheld, the Director shall take into account the following principles:

- 1. The licensee should not gain from the non-compliance.
- 2. If the non-compliance reduces the value of the care and services provided by the licensee, the amount of funding returned or withheld should be at least equal to the reduction in value.
- 3. The amount of funding returned or withheld should be sufficient to encourage compliance with the requirement under this Act.
- 4. Any other principles that may be provided for in the regulations. 2007, c. 8, s. 155 (4).

Agreements

(5) Subject to any limitations provided for in the regulations, the Director and a licensee against whom an order has been or may be made under this section may enter into an agreement that,

- (a) identifies the non-compliance in respect of which the order has been or may be made;
- (b) requires the licensee to take steps specified in the agreement within the time specified in the agreement; and
- (c) subject to any limitations provided for in the regulations, provides that the order be cancelled or not be made or the amount of funding to be returned or withheld be reduced. 2007, c. 8, s. 155 (5).

Compliance by LHIN

(6) A local health integration network shall comply with an order of the Director under clause (1) (d). 2007, c. 8, s. 195 (15).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (14, 15) - 01/07/2010

Mandatory management orders

156 (1) The Director may order a licensee to retain, at the licensee's expense, one or more persons acceptable to the Director to manage or assist in managing the long-term care home. 2007, c. 8, s. 156 (1).

Grounds

- (2) An order may be made under this section if,
- (a) the licensee has not complied with a requirement under this Act; and
 - (b) there are reasonable grounds to believe that the licensee cannot or will not properly manage the long-term care home, or cannot do so without assistance. 2007, c. 8, s. 156 (2).

Revocation

157 (1) The Director may make an order revoking a licence. 2007, c. 8, s. 157 (1).

Grounds

- (2) A licence may be revoked under this section if,
- (a) the licensee has not complied with a requirement under this Act;
 - (b) any person has made a false statement in the application for the licence, or the licensee or any person acting on behalf of the licensee has made a false statement in any report, document or other information required to be furnished under this Act or under any other legislation in relation to the long-term care home;

- (c) the conduct of the licensee, a person with a controlling interest in the licensee or, where the licensee is a corporation, the conduct of the officers or directors, affords reasonable grounds to believe,
 - (i) that the home is not being or will not be operated in accordance with the law and with honesty and integrity,
 - (ii) that the licensee, officers, directors or persons are not competent to operate a home in a responsible manner in accordance with this Act and the regulations or are not in a position to furnish or provide the required services, or
 - (iii) that the home is being operated or will be operated in a manner that is prejudicial to the health, safety or welfare of its residents;
- (d) a person has acquired control over, or interfered with, the operation of the long-term care home by exercising a security interest contrary to section 107; or
- (e) a person has gained a controlling interest in the licensee without the approval of the Director, contrary to section 109, or a condition of such an approval has been breached. 2007, c. 8, s. 157 (2).

When order effective

- (3) An order revoking a licence takes effect upon the expiry of the period for appealing the order under section 165, subject to section 25 of the *Statutory Powers Procedure Act* if the order is appealed. 2007, c. 8, s. 157 (3).

Interim management

- (4) If the Director has made an order revoking a licence, the Director may also make an order providing for the long-term care home to be occupied and operated by an interim manager until the revocation of the licence becomes effective and the residents of the home are relocated. 2007, c. 8, s. 157 (4).

Who may be interim manager

- (5) The interim manager referred to in subsection (4) may be an employee of the Ministry, or an agent or contractor acting under the authority of the Ministry. 2007, c. 8, s. 157 (5).

Provisions re interim management

- (6) The following apply when an order has been made under subsection (4):
 1. The interim manager has all of the powers of the licensee to occupy, manage, operate and administer the home.
 2. The interim manager may have any repairs made to the home that the interim manager considers necessary to prevent, eliminate or reduce harm to or an adverse effect upon the health of any person or impairment of the safety of any person.
 3. The cost of repairs under paragraph 2 are a debt owed by the licensee to the Crown and may be set off against the compensation mentioned in paragraph 4 and against any other funding that would otherwise be provided to the licensee under this Act or the *Local Health System Integration Act, 2006*.
 4. The licensee is not entitled to funding under this Act or the *Local Health System Integration Act, 2006* or payment for any service provided at the home, including a payment by a resident for accommodation, while the home is under the control of the interim manager, other than reasonable compensation for use of the licensee’s property.
 5. Any other amount owed by the licensee to the Crown may be set off against the compensation mentioned in paragraph 4.
 6. The Crown and the interim manager shall not, by reason of the appointment of the interim manager, the occupation or operation of the home by the interim manager or the continuation of an employee’s employment under subsection 158 (2), be responsible for a liability or a portion of a liability incurred or attributable to a period before the interim manager began occupying and operating the home.
 7. If the Crown or the interim manager pays any amount, a portion of which is attributable to anything that arose or occurred before the interim manager began occupying and operating the home, the licensee shall owe the Crown a debt equal to that portion. 2007, c. 8, ss. 157 (6), 195 (16, 17).

Occupation of premises

- (7) Without limiting the generality of subsection (6), the interim manager,
 - (a) despite sections 25 and 39 of the *Expropriations Act*, may immediately occupy, operate and manage the long-term care home; and
 - (b) may apply without notice to the Superior Court of Justice for an order directing the sheriff to assist the interim manager in occupying the home. 2007, c. 8, s. 157 (7).

Does not apply to approvals

- (8) This section does not apply to an approval under Part VIII. 2007, c. 8, s. 157 (8).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (16, 17) - 01/07/2010

Interim manager, rules relating to employees

158 (1) This section applies if an interim manager occupies and operates a long-term care home pursuant to an order under subsection 157 (4). 2007, c. 8, s. 158 (1).

Continuation of employment

(2) The interim manager may continue the employment of some or all of the employees of the licensee at the home. 2007, c. 8, s. 158 (2).

Employees not continued by interim manager

(3) The non-continuation of an employee's employment under subsection (2) does not affect the employment relationship between the employee and the licensee or their respective rights against, and obligations to, each other, including under any contract of employment or collective agreement. 2007, c. 8, s. 158 (3).

Interim manager directs continued employees

(4) An employee whose employment is continued under subsection (2) remains the employee of the licensee, but during the period during which the interim manager occupies and operates the home, the interim manager is solely responsible for the direction of the employee and has the rights, obligations and authority that the interim manager would have if the interim manager were the employer. 2007, c. 8, s. 158 (4).

Certain termination and severance pay

(5) The following apply with respect to all employees of the licensee at the home:

1. If the employee's employment is terminated by the licensee during the period during which the interim manager occupies and operates the home, the Crown shall pay the employee any termination pay, severance pay and entitlements owing under subsections 61 (1) and 64 (1) of the *Employment Standards Act, 2000* that the licensee fails to pay.
2. The obligation to pay under paragraph 1 is limited to the portion of the pay and entitlements attributable to periods before the interim manager began occupying and operating the home.
3. For greater certainty, paragraph 6 of subsection 157 (6) does not apply with respect to any amount the Crown pays under paragraph 1 but paragraph 7 of subsection 157 (6) does apply to such an amount. 2007, c. 8, s. 158 (5).

Other termination pay, etc., for continued employees

(6) In addition to any amounts paid under paragraph 1 of subsection (5), the interim manager may pay an employee whose employment is continued under subsection (2) any other termination pay or severance pay and entitlements the employee may be entitled to if the interim manager lays the employee off or if the interim manager ceases to occupy and operate the home and, for greater certainty, paragraph 7 of subsection 157 (6) applies with respect to the portion of such a payment attributable to a period before the interim manager began occupying and operating the home. 2007, c. 8, s. 158 (6).

Limit on changes to terms and conditions

(7) Changes to terms and conditions of employment or provisions of a collective agreement agreed to by the interim manager apply only with respect to the period during which the interim manager occupies and operates the home. 2007, c. 8, s. 158 (7).

Employment of other staff, etc.

(8) Without limiting what else the interim manager may do in operating and managing the home, the interim manager may, if the interim manager considers it necessary to avoid harm or a risk of harm to any resident, employ or contract for persons to work in the home or contract for the delivery of services to the home. 2007, c. 8, s. 158 (8).

Not successor employer

(9) The making of an order under subsection 157 (4), the occupation and operation of the home by the interim manager or the ceasing of that occupation and operation is not a sale of a business for the purposes of section 9 of the *Employment Standards Act, 2000*, section 69 of the *Labour Relations Act, 1995* or section 13.1 of the *Pay Equity Act*. 2007, c. 8, s. 158 (9).

Related employers

(10) No person is entitled to make an application under subsection 1 (4) of the *Labour Relations Act, 1995* with respect to the interim manager and the interim manager and the licensee shall not be treated as one employer under section 4 of the *Employment Standards Act, 2000*. 2007, c. 8, s. 158 (10).

Due diligence, mistake do not prevent order

159 The authority to make an order under sections 153 to 157 against a licensee who has not complied with a requirement under this Act may be exercised whether or not,

- (a) the licensee took all reasonable steps to prevent the non-compliance; or
- (b) at the time of the non-compliance, the licensee had an honest and reasonable belief in a set of facts that, if true, would have resulted in there not being any non-compliance. 2007, c. 8, s. 159.

More than one order

160 More than one order under sections 153 to 157 may be made in respect of the same instance of non-compliance with a requirement under this Act. 2007, c. 8, s. 160.

Enforcement under other Acts

160.1 An order under sections 153 to 157 may be made despite any other measures taken, under the *Local Health System Integration Act, 2006* or the *Commitment to the Future of Medicare Act, 2004*, in respect of the same instance of non-compliance with a requirement under this Act. 2007, c. 8, s. 195 (18).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (18) - 01/07/2010

Order not a bar to conviction

161 An order under sections 153 to 157 in respect of non-compliance with a requirement under this Act does not affect the liability of any person to conviction for an offence arising from the non-compliance. 2007, c. 8, s. 161.

Form and service of orders

162 An order under sections 153 to 157,

- (a) must be in writing;
- (b) must set out the grounds upon which it is made;
- (c) must set out, if there is a right under section 163 to have the order reviewed, a statement of that right and an explanation of how to exercise that right, including the deadline for requesting a review;
- (d) must set out, if there is a right under section 164 to appeal the order, a statement of that right and an explanation of how to exercise that right, including the deadline for appealing the order; and
- (e) must be served on the licensee against whom it is made. 2007, c. 8, s. 162.

REVIEW AND APPEALS

Review of inspector's order

163 (1) A licensee against whom an order is made by an inspector under section 153 or 154 may request the Director to review the order. 2007, c. 8, s. 163 (1).

When and how request to be made

(2) The request for review must be in writing and shall be served on the Director within 28 days from the day the order was served on the licensee. 2007, c. 8, s. 163 (2).

Contents of request for review

(3) The request for review must include,

- (a) the portions of the order in respect of which the review is requested;
- (b) any submissions that the licensee wishes the Director to consider; and
- (c) an address for service for the licensee. 2007, c. 8, s. 163 (3).

No automatic stay pending review

(4) Despite section 25 of the *Statutory Powers Procedure Act*, a request for a review does not stay an order unless the Director orders otherwise in writing upon being satisfied that a stay will not cause harm or a risk of harm to a resident. 2007, c. 8, s. 163 (4).

Director's decision

(5) On a review of an order, the Director may rescind, confirm or alter the order, and the Director may substitute his or her own order for that of the inspector. 2007, c. 8, s. 163 (5).

Notice of decision

(6) The Director shall serve the following with notice of the Director's decision, which shall include reasons if the order is confirmed or altered:

1. The licensee.
2. The local health integration network that provides funding under the *Local Health System Integration Act, 2006* to the licensee, in respect of a decision that relates to an order made under section 154. 2007, c. 8, s. 195 (19).

Automatic confirmation of order

(7) If the Director does not serve the licensee with a copy of the Director's decision within 28 days of receiving the request for review, the Director shall be deemed to have confirmed the order and, for the purposes of an appeal to the Appeal Board by the licensee, the Director shall be deemed to have served the licensee with a copy of that decision on the expiry of the 28-day period. 2007, c. 8, s. 163 (7).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (19) - 01/07/2010

Appeal from Director's order, decision

164 A licensee may appeal any of the following to the Appeal Board:

1. An order by the Director under sections 153 to 157.
2. A decision of the Director under section 163. 2007, c. 8, s. 164.

When and how appeal to be made

165 To appeal to the Appeal Board, the licensee shall give the Appeal Board and the Director a notice of appeal within 28 days from the day the licensee was served with a copy of the order or decision that is being appealed from. 2007, c. 8, s. 165.

No automatic stay of order or decision

166 (1) Despite section 25 of the *Statutory Powers Procedure Act*, an appeal to the Appeal Board does not stay an order or decision unless the Appeal Board orders otherwise in writing upon being satisfied that a stay will not cause harm or a risk of harm to a resident. 2007, c. 8, s. 166 (1).

Exception

(2) Subsection (1) does not apply with respect to an order to revoke a licence under subsection 157 (1), but does apply with respect to an order under subsection 157 (4). 2007, c. 8, s. 166 (2).

Applying to remove stay – new circumstances

(3) The Director may apply for the removal of a stay ordered by the Appeal Board under subsection (1) on the grounds that the circumstances have changed since the order was made. 2007, c. 8, s. 166 (3).

Removal of stay

(4) Where the Director has applied under subsection (3) and the Appeal Board is satisfied that the circumstances have changed, it shall remove the stay unless it is satisfied that continuing the stay will not cause harm or a risk of harm to a resident. 2007, c. 8, s. 166 (4).

Parties

167 The parties to an appeal are,

- (a) the licensee;
- (b) the Director; and
- (c) in the case of an appeal from an order made under section 155, the local health integration network that provides funding under the *Local Health System Integration Act, 2006* to the licensee. 2007, c. 8, s. 195 (20).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (20) - 01/07/2010

Hearing

168 (1) After receiving a notice of appeal, the Appeal Board shall promptly appoint a time and place for a hearing. 2007, c. 8, s. 168 (1).

When hearing to begin if licence revoked

(2) In the case of an appeal of an order to revoke a licence under section 157, the hearing shall begin within 90 days after the day the Appeal Board receives the notice unless the parties agree to a postponement. 2007, c. 8, s. 168 (2).

Notice of hearing

(3) The Appeal Board shall give each of the parties at least seven days notice of the time and place of the hearing. 2007, c. 8, s. 168 (3).

Recording of evidence

(4) The oral evidence taken before the Appeal Board at a hearing shall be recorded and, if required, copies of a transcript of the evidence shall be furnished on the same terms as in the Superior Court of Justice. 2007, c. 8, s. 168 (4).

Health Insurance Act

(5) Subsections 23 (1), (2), (4) and (6) of the *Health Insurance Act* apply to the proceedings and decisions of the Appeal Board under this Part. 2007, c. 8, s. 168 (5).

Decision of Appeal Board

169 After a hearing, the Appeal Board may rescind, confirm or alter the order or decision of the Director, and may substitute its own opinion for that of the Director, and may direct the Director to take any action that the Appeal Board considers that the Director ought to take in accordance with this Act and the regulations. 2007, c. 8, s. 169.

Appeal to court

170 (1) Any party to the proceedings before the Appeal Board may appeal from its decision to the Divisional Court in accordance with the rules of court. 2007, c. 8, s. 170 (1).

No automatic stay on appeal to court

(2) Despite section 25 of the *Statutory Powers Procedure Act*, an appeal to the Divisional Court does not stay the decision appealed from unless the Divisional Court orders otherwise upon being satisfied that a stay will not cause harm or a risk of harm to a resident. 2007, c. 8, s. 170 (2).

Applying to remove stay – new circumstances

(3) The Director may apply for the removal of a stay ordered by the Divisional Court under subsection (2) on the grounds that the circumstances have changed since the order was made. 2007, c. 8, s. 170 (3).

Removal of stay

(4) Where the Director has applied under subsection (3) and the Divisional Court is satisfied that the circumstances have changed, it shall remove the stay unless it is satisfied that continuing the stay will not cause harm or a risk of harm to a resident. 2007, c. 8, s. 170 (4).

Record to be filed in court

(5) Where any party appeals from a decision of the Appeal Board, the Appeal Board shall forthwith file in the Divisional Court the record of the proceedings before it in which the decision was made which, together with the transcript of evidence if it is not part of the Appeal Board's record, shall constitute the record in the appeal. 2007, c. 8, s. 170 (5).

Powers of court on appeal

(6) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the Appeal Board and may exercise all powers of the Appeal Board to direct the Director to take any action which the Appeal Board may direct him or her to take and as the court considers proper and for such purposes the court may substitute its opinion for that of the Director or of the Appeal Board, or the court may refer the matter back to the Appeal Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper. 2007, c. 8, s. 170 (6).

Funding not to be considered

171 The sufficiency of the funding provided to a licensee from any source shall not be considered in any review or appeal under this Part. 2007, c. 8, s. 171.

MISCELLANEOUS

Recognition

172 The Director may, in accordance with the regulations, recognize long-term care homes with an excellent record of compliance with the requirements under this Act. 2007, c. 8, s. 172.

Reports, etc., to be public

173 The Director shall publish, in any format or manner the Director considers appropriate,

- (a) every inspection report under section 149;
- (b) every order under this Part; and

(c) every written notification or request under section 152. 2007, c. 8, s. 173.

Regulations

174 (1) The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part. 2007, c. 8, s. 174 (1).

Specific inclusions

- (2) Without restricting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,
- (a) governing the actions to be taken by an inspector under section 152 and the orders to be made by an inspector or Director under sections 153 to 157, including, without limiting the generality of the foregoing, specifying factors to be taken into account in determining what actions to take or orders to make, and specifying how such factors are to be taken into account;
 - (b) governing the occupation and operation of a long-term care home by an interim manager pursuant to an order under subsection 157 (4), including, without limiting the generality of the foregoing,
 - (i) governing the continuation or non-continuation of the employment of employees under subsection 158 (2),
 - (ii) providing for any matters arising from the change in occupation and operation by the licensee to the occupation and operation by the interim manager or from the cessation of the occupation and operation by the interim manager, including matters relating to employees of the licensee or the interim manager,
 - (iii) clarifying what “attributable” means for the purposes of sections 157 and 158;
 - (c) governing the reasonable compensation that may be provided under paragraph 4 of subsection 157 (6);
 - (d) providing for anything that under this Part may or must be provided for in regulations, or that is to be done in compliance with or in accordance with the regulations. 2007, c. 8, s. 174 (2).

PART X ADMINISTRATION, MISCELLANEOUS AND TRANSITION

Director – appointment

175 (1) The Minister may appoint one or more persons as the Director. 2007, c. 8, s. 175 (1).

Regulations

(2) The regulations may provide for which Director is the Director for the purposes of any provision of this Act or of the regulations. 2007, c. 8, s. 175 (2).

Altering or revoking orders

176 The power to make orders under this Act includes the power to alter or revoke such orders from time to time and make others. 2007, c. 8, s. 176.

Personal information, collection

177 (1) The Minister and the Director may directly or indirectly collect personal information, subject to any conditions provided for in the regulations, for purposes related to the administration of this Act or for such other purposes as may be provided for in the regulations. 2007, c. 8, s. 177 (1).

Use of personal information

(2) The Minister and the Director may use personal information, subject to any conditions provided for in the regulations, for purposes related to the administration of this Act or for such other purposes as may be provided for in the regulations. 2007, c. 8, s. 177 (2).

Disclosure

(3) The Minister and the Director shall disclose personal information subject to any conditions provided for in the regulations for purposes related to the administration of this Act or for such other purposes as may be provided for in the regulations, but the Minister or the Director shall not disclose the information if, in his or her opinion, the disclosure is not related to those purposes. 2007, c. 8, s. 177 (3).

Agreements

(4) Subject to any conditions provided for in the regulations, the Minister may enter into agreements to collect, use or disclose personal information for purposes related to the administration of this Act or for such other purposes as may be provided for in the regulations. 2007, c. 8, s. 177 (4).

Confidentiality

(5) An agreement under subsection (4) shall provide that personal information collected, used or disclosed under it is confidential and shall require mechanisms for maintaining the confidentiality of the information. 2007, c. 8, s. 177 (5).

Restriction on terms

178 (1) A person who owns or operates a place that is not a long-term care home shall not describe the place as a “long-term care home”, “nursing home”, “home for the aged” or by a term that may cause confusion with one of those terms. 2007, c. 8, s. 178 (1).

Offence

(2) Every person who contravenes subsection (1) is guilty of an offence. 2007, c. 8, s. 178 (2).

Affidavits

179 A person or a member of a class of persons designated by the Minister as a commissioner or commissioners for taking affidavits for the purposes of this Act is a commissioner for taking affidavits within the meaning of the *Commissioners for taking Affidavits Act* with power to take affidavits and statutory declarations for the purposes of this Act. 2007, c. 8, s. 179.

Service

180 Anything that is required to be served under this Act may be served personally or by a method provided for under the regulations. 2007, c. 8, s. 180.

Immunity

181 No action or other proceeding, other than an application for judicial review under the *Judicial Review Procedure Act* or any right of appeal or review that is permitted under this Act, shall be commenced against the Crown, the Minister, the Director or any employee or agent of the Crown, including a local health integration network, or any officer, director or employee of a local health integration network, for anything done or omitted to be done in good faith in the execution or intended execution of a power or duty under this Act. 2007, c. 8, s. 195 (21).

Section Amendments with date in force (d/m/y)

2007, c. 8, s. 195 (21) - 01/07/2010

Penalties

182 (1) Except where subsection (2) applies, every individual who is convicted of an offence under this Act is liable,

- (a) for a first offence, to a fine of not more than \$25,000 or to imprisonment for a term of not more than 12 months, or to both; and
- (b) for a subsequent offence, to a fine of not more than \$50,000 or to imprisonment for a term of not more than 12 months, or to both. 2007, c. 8, s. 182 (1).

Same

(2) Every individual who is convicted of an offence under section 24 of this Act is liable to a fine of not more than \$25,000. 2007, c. 8, s. 182 (2).

Directors, etc.

(3) Despite subsection (1), the following rules apply if an individual is convicted of an offence under this Act by virtue of section 69:

1. If the individual is a member mentioned in subsection 69 (2), or a director or officer of a corporation that is the licensee of a non-profit long-term care home, the individual is liable to a fine of not less than \$50 and not more than \$1,000.
2. In every other case, the individual is liable to a fine of not more than \$25,000 for a first offence, and not more than \$50,000 for a second or subsequent offence. 2007, c. 8, s. 182 (3).

Same, corporations

(4) Every corporation that is convicted of an offence under this Act is liable to a fine of not more than \$50,000 for a first offence and to a fine of not more than \$200,000 for a subsequent offence. 2007, c. 8, s. 182 (4).

Compensation or restitution

(5) The court that convicts a person of an offence under this Act may, in addition to any other penalty, order that the person pay compensation or make restitution to any person who suffered a loss as a result of the offence. 2007, c. 8, s. 182 (5).

No limitation

(6) Section 76 of the *Provincial Offences Act* does not apply to a prosecution under this Act. 2007, c. 8, s. 182 (6).

Regulations

183 (1) The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Act. 2007, c. 8, s. 183 (1).

Specific inclusions

- (2) Without restricting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,
- (a) respecting the management and operation of long-term care homes;
 - (b) defining physical, sexual, emotional, verbal and financial abuse for the purposes of the definition of “abuse” in subsection 2 (1);
 - (c) providing for exceptions to the definition of “staff” in subsection 2 (1);
 - (d) providing that provisions of this Act specified in the regulation do not apply with respect to,
 - (i) all persons falling within the definition of “staff” in subsection 2 (1),
 - (ii) specified persons or classes of persons falling within that definition;
 - (e) defining “accommodation”, “basic accommodation” and “preferred accommodation” for the purposes of any provision of this Act;
 - (f) defining “neglect” for the purposes of any provision of this Act;
 - (g) governing the manner of responding to complaints and reports;
 - (h) defining “drug” for the purposes of this Act or for the purposes of any provision of this Act;
 - (i) designating rights advisers or providing for the designation of rights advisers;
 - (j) clarifying the meaning of “non-profit” and “for-profit” for the purposes of any provision of this Act;
 - (k) requiring licensees to provide or offer certain types of accommodation, care, services, programs and goods to residents, and governing the accommodation, care, services, programs and goods that must be provided or offered, including establishing standards or outcomes to be met;
 - (l) governing the records, including health records, kept by licensees with respect to residents, including requiring specified records to be kept;
 - (m) requiring that parts of the licensed bed capacity of long-term care homes be set aside for various classes of accommodation, and regulating the amount of bed capacity that must be set aside for each class;
 - (n) governing the construction, establishment, location, safety, equipment, maintenance and repair of and additions or alterations to long-term care homes, including, without limiting the generality of the foregoing,
 - (i) requiring the approval of the Director before work is begun or at specified stages of the work,
 - (ii) requiring the approval of the Director before beginning to use a newly constructed home or the parts of a home that have been repaired, added or altered, and
 - (iii) requiring information, plans and other material to be furnished to the Director;
 - (o) requiring licensees to establish trust accounts for residents, and governing the administration of the trust accounts, including, without limiting the generality of the foregoing, setting limits on the amount that may be held in a trust account;
 - (p) for the purposes of protecting the privacy of any individual, limiting,
 - (i) the requirement to post an inspection report or order under clause 79 (3) (k),
 - (ii) the obligation to give an inspection report to the Residents’ Council or Family Council under section 149, and
 - (iii) the requirement to publish an inspection report or order under section 173;
 - (q) requiring licensees to file financial statements with the Director, and governing the content of those statements;
 - (r) governing methods of service for the purposes of section 180, and providing for when anything is deemed to have been served;
 - (s) requiring any report required under this Act to be provided in the form and manner provided for in the regulations, including requiring any report to be made under oath;
 - (t) requiring the payment of a fee for the following, and governing the amount of a fee or how the amount of a fee is determined, including providing for costs incurred in the course of deciding the matter:
 - (i) the issuance of a licence or the transfer of a licence or beds under a licence,
 - (ii) any approval of the Director, or any decision of the Director as to whether or not to give an approval, or any inspection of a home conducted because the Director considers an inspection desirable in deciding whether or not to give an approval, unless this Act specifically provides that no fee is payable,

- (iii) an audit or financial review, including an audit or financial review done as part of an inspection;
- (u) requiring licensees of long-term care homes to pay annual or other periodic licence fees, and governing the amounts of those fees, or how the amounts of those fees are determined;
- (v) governing the closing of a long-term care home, including, without restricting the generality of the foregoing, imposing requirements that must be satisfied before the surrender of a licence or approval;
- (w) providing for exemptions from this Act or any provision of this Act, subject to any conditions that may be set out in the regulation;
- (x) providing for any transitional matters the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of this Act;
- (y) providing for anything that under this Act may or must be provided for or designated in regulations, or that is to be done in compliance with or in accordance with the regulations. 2007, c. 8, s. 183 (2).

Transitional regulations

(3) A regulation under clause (2) (x) may provide that it applies despite this or any other general or special Act. 2007, c. 8, s. 183 (3).

Public consultation before making initial regulations

184 (1) The Lieutenant Governor in Council shall not make the initial regulation with respect to any matter about which the Lieutenant Governor in Council may make regulations under this Act unless,

- (a) the Minister has published a notice of the proposed regulation on the website of the Ministry and in any other format the Minister considers advisable;
- (b) the notice complies with the requirements of this section;
- (c) the time periods specified in the notice, during which members of the public may exercise a right described in clause (2) (b) or (c), have expired; and
- (d) the Minister has considered whatever comments and submissions that members of the public have made on the proposed regulation in accordance with clause (2) (b) or (c) and has reported to the Lieutenant Governor in Council on what, if any, changes to the proposed regulation the Minister considers appropriate. 2007, c. 8, s. 184 (1).

Contents of notice

(2) The notice mentioned in clause (1) (a) shall contain,

- (a) a description of the proposed regulation and the text of it;
- (b) a statement of the time period during which members of the public may submit written comments on the proposed regulation to the Minister and the manner in which and the address to which the comments must be submitted;
- (c) a description of whatever other rights, in addition to the right described in clause (b), that members of the public have to make submissions on the proposed regulation and the manner in which and the time period during which those rights must be exercised;
- (d) a statement of where and when members of the public may review written information about the proposed regulation; and
- (e) all other information that the Minister considers appropriate. 2007, c. 8, s. 184 (2).

Time period for comments

(3) The time period mentioned in clauses (2) (b) and (c) shall be at least 30 days after the Minister gives the notice mentioned in clause (1) (a) unless the Minister shortens the time period in accordance with subsection (4). 2007, c. 8, s. 184 (3).

Shorter time period for comments

(4) The Minister may shorten the time period if, in the Minister's opinion,

- (a) the urgency of the situation requires it;
- (b) the proposed regulation clarifies the intent or operation of this Act or the regulations; or
- (c) the proposed regulation is of a minor or technical nature. 2007, c. 8, s. 184 (4).

Discretion to make regulations

(5) Upon receiving the Minister's report mentioned in clause (1) (d), the Lieutenant Governor in Council, without further notice under subsection (1), may make the proposed regulation with the changes that the Lieutenant Governor in Council considers appropriate, whether or not those changes are mentioned in the Minister's report. 2007, c. 8, s. 184 (5).

No public consultation

(6) The Minister may decide that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under this Act if, in the Minister's opinion,

- (a) the urgency of the situation requires it;
- (b) the proposed regulation clarifies the intent or operation of this Act or the regulations; or
- (c) the proposed regulation is of a minor or technical nature. 2007, c. 8, s. 184 (6).

Same

(7) If the Minister decides that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under this Act,

- (a) those subsections do not apply to the power of the Lieutenant Governor in Council to make the regulation; and
- (b) the Minister shall give notice of the decision to the public as soon as is reasonably possible after making the decision. 2007, c. 8, s. 184 (7).

Contents of notice

(8) The notice mentioned in clause (7) (b) shall include a statement of the Minister's reasons for making the decision and all other information that the Minister considers appropriate. 2007, c. 8, s. 184 (8).

Publication of notice

(9) The Minister shall publish the notice mentioned in clause (7) (b) on the website of the Ministry and give the notice by all other means that the Minister considers appropriate. 2007, c. 8, s. 184 (9).

No review

(10) Subject to subsection (11), a court shall not review any action, decision, failure to take action or failure to make a decision by the Lieutenant Governor in Council or the Minister under this section. 2007, c. 8, s. 184 (10).

Exception

(11) Any person resident in Ontario may make an application for judicial review under the *Judicial Review Procedure Act* on the grounds that the Minister has not taken a step required by this section. 2007, c. 8, s. 184 (11).

Time for application

(12) No person shall make an application under subsection (11) with respect to a regulation later than 21 days after the day on which the Minister publishes a notice with respect to the regulation under clause (1) (a) or subsection (9), if applicable. 2007, c. 8, s. 184 (12).

Amendments

185 (1) The Minister may decide that the procedures set out in section 184 shall apply to a regulation that is not the initial regulation with respect to a matter if the Minister decides that it is advisable in the public interest to do so, and in such a case section 184 applies with necessary modification. 2007, c. 8, s. 185 (1).

No review

(2) A court shall not review any decision by the Minister under this section as to whether or not to make the procedures set out in section 184 apply to a regulation. 2007, c. 8, s. 185 (2).

General provisions re regulations

186 (1) A regulation under this Act is, if it so provides, effective with reference to a period before it is filed. 2007, c. 8, s. 186 (1).

Same

(2) A regulation under this Act may be general or particular in its application. 2007, c. 8, s. 186 (2).

Incorporation by reference

(3) A regulation under this Act may adopt by reference, in whole or in part and with such changes as are considered necessary, any code, standard, guideline or similar document and may require compliance with the code, standard or guideline. 2007, c. 8, s. 186 (3).

Rolling incorporation by reference

(4) Where a regulation has adopted by reference any code, standard, guideline or similar document that is made by a body that is not part of the Government of Ontario, the regulation may require compliance with the code, standard or guideline as amended from time to time, whether the amendment was made before or after the regulation was made. 2007, c. 8, s. 186 (4).

TRANSITIONAL

Transition, nursing homes and charitable homes

187 (1) On the day this section comes into operation, the following shall be deemed to have been replaced with a licence under this Act:

1. Each existing licence under the *Nursing Homes Act*.
2. Each existing approval of an approved charitable home for the aged under the *Charitable Institutions Act*. 2007, c. 8, s. 187 (1).

Same home, same number of beds

(2) A replacement licence under subsection (1) shall be for the same home and the same number of beds as was licensed under the *Nursing Homes Act* or approved under the *Charitable Institutions Act*. 2007, c. 8, s. 187 (2).

Term of replacement licence

(3) The term of a replacement licence under subsection (1) shall be determined as follows:

1. For a home with new beds, the term shall be 25 years starting on the day the first resident was admitted to a new bed or, for one of the following homes, the term shall be 25 years starting on the day the first resident was admitted to the home, but in no event shall the term be less than 20 years from the date this paragraph comes into operation:
 - i. Billings Court Manor (Burlington),
 - ii. Millennium Trail Manor (Niagara Falls),
 - iii. St. Joseph's Health Centre (Guelph),
 - iv. St. Joseph's Mother House (Martha Wing) (Hamilton).
2. For a home with class A beds, the term shall be 20 years starting on the day this section comes into operation.
3. For a home with class B beds, the term shall be 15 years starting on the day this section comes into operation.
4. For a home with class C beds, the term shall be 15 years starting on the day this section comes into operation.
5. For a home with class D beds that were upgraded in accordance with the Upgrade Option Guidelines, the term shall be 10 years starting on the day this section comes into operation.
6. For a home with class D beds that were not upgraded in accordance with the Upgrade Option Guidelines, the term shall be four years starting on the day this section comes into operation.
7. For a home with EldCap beds, the term shall be 25 years starting on the day its first resident was admitted, or 10 years starting on the day this section comes into operation, whichever is greater. 2007, c. 8, s. 187 (3).

Special rule for homes that have provided notice

(4) Despite subsection (3) or anything else in this section to the contrary, if an approved corporation operating an approved charitable home for the aged under the *Charitable Institutions Act* has provided notice to the Ministry on or before February 1, 2007 of its intention to close the home, the approved corporation shall receive a temporary licence under section 111. 2007, c. 8, s. 187 (4).

Special rule for homes under development at the time of proclamation

(5) Despite subsection (3) or anything else in this section to the contrary, any long-term care home that is being developed and has not yet opened as of the date this section comes into operation shall be deemed to receive a term equal in duration to such term the home would have received had it been developed and opened on the date subsection (3) comes into operation. 2007, c. 8, s. 187 (5).

Special rule for homes with different classes of beds

(6) If more than one paragraph in subsection (3) would apply to a home, the term for that home shall be the longest term provided for under those applicable paragraphs, unless,

- (a) paragraphs 1 and 4 of subsection (3) apply to a home, in which case the term for that home shall be 20 years starting on the day described in paragraph 1 of subsection (3);
- (b) paragraph 6 and any other paragraph of subsection (3) apply to a home, in which case the term for the home is the term provided for under paragraph 6;
- (c) paragraphs 2 and 3 of subsection (3) apply to a home, in which case the term for that home shall be 15 years or such other term as one of the homes would be entitled to under paragraph 2 or 3, whichever is shorter, and shall start on the day this section comes into operation; or

- (d) paragraphs 2 and 4 of subsection (3) apply to a home, in which case the term for that home shall be 15 years or such other term as one of the homes would be entitled to under paragraph 2 or 4, whichever is shorter, and shall start on the day this section comes into operation. 2007, c. 8, s. 187 (6).

Special rule for homes with class D beds that were not upgraded, if agreement

(7) If the licensee of a home described in paragraph 6 of subsection (3) agrees, during the first year of the four-year term set out in that paragraph, to redevelop the home to the current standards to the satisfaction of the Director, the Director shall give an undertaking under section 100 that he or she will issue a new licence under section 99 to the licensee after the redevelopment is completed, and the Director may, despite clause 114 (2) (b), extend the four-year term for such additional time that the Director considers sufficient to complete the redevelopment. 2007, c. 8, s. 187 (7).

Rules where redevelopment agreed to

(8) The following apply where a licensee has agreed under subsection (7):

1. No determination by the Minister under section 96 is necessary and restrictions by the Minister under section 97 and the requirements of section 98 do not apply to the undertaking or to either the new licence or the interim licence mentioned in subsection (7).
2. In giving the undertaking, the Director may specify conditions under subsection 100 (1).
3. Both the new licence and the interim licence may be issued subject to conditions.
4. No public consultation is necessary under section 106 with respect to the undertaking, the new licence or the interim licence. 2007, c. 8, s. 187 (8).

Special rule for homes with Class D beds that were not upgraded, if no agreement

(9) If the licensee of a home described in paragraph 6 of subsection (3) does not agree, during the first year of the four-year term, to redevelop the home to the current standards and to the satisfaction of the Director, the Director shall be deemed to have given notice to the licensee under clause 103 (1) (a) that no new licence will be issued. 2007, c. 8, s. 187 (9).

Same, no public consultation

(10) No public consultation is necessary under section 106 where the Director acts under subsection (7). 2007, c. 8, s. 187 (10).

Application of s. 103

(11) Section 103 applies with respect to the term of a replacement licence under this section. 2007, c. 8, s. 187 (11).

Director to issue documentation

(12) The Director shall issue documentation to evidence each replacement licence under subsection (1). 2007, c. 8, s. 187 (12).

Review of classification

(13) A licensee may request the Director to review the appropriate classification of the long-term home for the purpose of determining the appropriate term of a replacement licence under this section. 2007, c. 8, s. 187 (13).

Requirements re request for review

(14) A request for a review under subsection (13) must be made within a time provided for in the regulations and must include,

- (a) any submissions that the licensee wishes the Director to consider; and
- (b) an address for service for the licensee. 2007, c. 8, s. 187 (14).

What to be considered

(15) The only issue to be considered by the Director on a review is whether the home is appropriately classified having regard to improvements that were made, with the approval of the Director or an official of the Ministry, since the last time the home was classified. 2007, c. 8, s. 187 (15).

Notice of decision

(16) The Director shall serve the licensee with notice of the Director's decision, together with reasons. 2007, c. 8, s. 187 (16).

If new classification

(17) If the Director decides that a new classification is appropriate, the term of the replacement licence under this section shall be determined based on that classification. 2007, c. 8, s. 187 (17).

Interpretation

(18) In this section,

“class A beds” means beds that, as of January 1, 2005, were identified by the Ministry as structural category “A” beds for the purposes of calculating funding; (“lits de catégorie A”)

“class B beds” means beds that, as of January 1, 2005, were identified by the Ministry as structural category “B” beds for the purposes of calculating funding; (“lits de catégorie B”)

“class C beds” means beds that, as of January 1, 2005, were identified by the Ministry as structural category “C” beds for the purposes of calculating funding; (“lits de catégorie C”)

“class D beds” means beds that, as of January 1, 2005, were identified by the Ministry as structural category “D” beds for the purposes of calculating funding; (“lits de catégorie D”)

“home with EldCap beds” means one of the following homes:

- (a) Atikokan General Hospital (Atikokan),
- (b) Bignucolo Residence (The) (Chapleau),
- (c) Emo Health Centre (Emo),
- (d) Espanola Nursing Home (Espanola),
- (e) Geraldton District Hospital (Geraldton),
- (f) Blind River District Health Centre (Blind River),
- (g) Hornepayne Community Hospital (Hornepayne),
- (h) Lady Dunn Health Centre (Wawa),
- (i) Lakeland Long Term Care (Parry Sound),
- (j) Manitouwadge General Hospital (Manitouwadge),
- (k) Nipigon District Memorial Hospital (Nipigon),
- (l) Rainy River Health Centre (Rainy River),
- (m) Rosedale Centre (Matheson),
- (n) Smooth Rock Falls Hospital (Smooth Rock Falls),
- (o) William A. “Bill” George Extended Care Facility (Sioux Lookout); (“foyer ayant des lits du programme EldCap”)

“new bed” means a bed that was reviewed and approved by the Ministry as meeting,

- (a) the criteria set out in the document entitled “Long-Term Care Facility Design Manual”, published by the Ministry of Health and Long-Term Care and dated May, 1999, and which is available from the Ministry of Health and Long-Term Care, or
- (b) the Retrofit option criteria set out in the Long-Term Care “D” Facility Retrofit Design Manual in section 5.2 of the document entitled “2002 “D” Bed Program”, published by the Ministry of Health and Long-Term Care and dated January, 2002 and which is available from the Ministry of Health and Long-Term Care; (“nouveau lit”)

“Upgrade Option Guidelines” means the Upgrade Option Guidelines in section 6 of the document entitled “2002 “D” Bed Program”, published by the Ministry of Health and Long-Term Care and dated January, 2002 and which is available from the Ministry of Health and Long-Term Care. (“lignes directrices de l’option de modernisation”) 2007, c. 8, s. 187 (18).

Section Amendments with date in force (d/m/y)

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Existing overbeds

188 (1) Any authority or permission, express or implied, to operate more beds than were licensed under the *Nursing Homes Act* or approved under the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act* is extinguished on the day this section comes into operation. 2007, c. 8, s. 188 (1).

Temporary licence

(2) The Director shall issue a temporary licence under section 111 for each home identified in the following Table for the number of beds provided for in the Table:

TABLE

Home	Beds
Elm Grove Living Centre Inc. (Toronto)	3
Extendicare Bayview (Toronto)	8
Regency Park Nursing/Retirement Centre (Windsor)	12
Senior's Health Centre (Toronto)	10
Versa-Care Centre, Etobicoke (Toronto)	64
Yorkview Lifecare Centre (Toronto)	7

2007, c. 8, s. 188 (2).

Term of temporary licence

(3) The term of each temporary licence shall be three years starting on the day this section comes into operation. 2007, c. 8, s. 188 (3).

Clarification of certain powers

(4) For greater certainty,

- (a) the Director may impose conditions on a temporary licence under clause 101 (2) (a); and
- (b) a temporary licence may provide for notice to revoke the licence under paragraph 1 of subsection 111 (2) before the end of the term under subsection (3). 2007, c. 8, s. 188 (4).

Transitional, mission statement

189 (1) Where there is a mission statement in place for a long-term care home immediately before the day section 4 comes into force, the licensee shall ensure that a new mission statement is developed in accordance with section 4 within one year from that day. 2007, c. 8, s. 189 (1).

Same, no mission statement in place

(2) Where there is no mission statement in place for a long-term care home immediately before the day section 4 comes into force, the licensee shall ensure that a mission statement is developed in accordance with section 4 within one year from that day. 2007, c. 8, s. 189 (2).

Further transitional, *Charitable Institutions Act*

190 Despite its repeal, clause 5 (1) (d) of the *Charitable Institutions Act* shall continue to apply with respect to a change in the use of, or sale or other disposition of, a long-term care home that was an approved charitable home for the aged under that Act before it was repealed. 2007, c. 8, s. 190.

Transition, municipal homes

191 (1) On the day this section comes into force, every home for the aged established and maintained under the *Homes for the Aged and Rest Homes Act* shall be deemed to have been established under an approval granted under Part VIII. 2007, c. 8, s. 191 (1).

Same

(2) In the case of a home being maintained by one or more municipalities, the approval shall be deemed to have been granted to the municipality or municipalities. 2007, c. 8, s. 191 (2).

Same

(3) In the case of a home being maintained by a board of management, the approval shall be deemed to have been granted to the board of management. 2007, c. 8, s. 191 (3).

Further transitional, *Homes for the Aged and Rest Homes Act*

192 Despite its repeal, subsection 14 (2) of the *Homes for the Aged and Rest Homes Act* shall continue to apply with respect to a sale or other disposition of a long-term care home that was a home or joint home under that Act before it was repealed. 2007, c. 8, s. 192.

No cause of action for enactment of Act

193 (1) No cause of action arises as a direct or indirect result of the enactment of this Act including, without limiting the generality of the foregoing, the deemed replacement of a licence or approval under section 187 or the extinguishment of any authority or permission under section 188. 2007, c. 8, s. 193 (1).

No remedy

(2) No costs, compensation or damages are owing or payable to any person and no remedy, including but not limited to a remedy in contract, restitution, tort or trust, is available to any person in connection with the enactment of this Act, including,

without limiting the generality of the foregoing, the deemed replacement of a licence or approval under section 187 or the extinguishment of any authority or permission under section 188. 2007, c. 8, s. 193 (2).

Transition, licence term extension

193.1 (1) On the day this section comes into force, the term of a licence is extended by five years if,

- (a) the licence is not a temporary licence or a temporary emergency licence;
- (b) the licence was issued under section 99 or 100, or issued or reissued under section 105, or the licence is a replacement licence under subsection 187 (1);
- (c) the licence was issued or reissued before the day this section comes into force;
- (d) the licence is in effect on the day this section comes into force; and
- (e) on the day this section comes into force, the only beds under the licence are,
 - (i) class A beds as referred to in subsection 187 (18),
 - (ii) beds that have been reviewed and approved by the Ministry as meeting,
 - (A) the criteria set out in the document entitled “Long-Term Care Facility Design Manual”, published by the Ministry of Health and Long-Term Care and dated May, 1999, and which is available from the Ministry of Health and Long-Term Care,
 - (B) the Retrofit option criteria set out in the Long-Term Care “D” Facility Retrofit Design Manual in section 5.2 of the document entitled “2002 “D” Bed Program”, published by the Ministry of Health and Long-Term Care and dated January, 2002, and which is available from the Ministry of Health and Long-Term Care, or
 - (C) the criteria set out in the document entitled “Long-Term Care Home Design Manual, 2009”, published by the Ministry of Health and Long-Term Care and dated 2009, and which is available from the Ministry of Health and Long-Term Care, or
 - (iii) any combination of beds mentioned in subclauses (i) and (ii). 2014, c. 7, Sched. 19, s. 2.

Director’s undertaking

(2) Despite subsection 100 (6), if the Director has given an undertaking before the day this section comes into force to issue a licence for a term of 25 years under section 100 or clause 103 (1) (b), the Director may amend the undertaking by extending the term of the licence by up to five years. 2014, c. 7, Sched. 19, s. 2.

Public consultation

(3) If the Director has consulted the public under section 106 before or within 90 days after the day this section comes into force with respect to issuing, undertaking to issue or deciding to issue a licence that has a term of 25 years, the Director may issue, undertake to issue or decide to issue the licence, as the case may be, for a term of up to 30 years without consulting the public a second time. 2014, c. 7, Sched. 19, s. 2.

Same

(4) If the Director has consulted the public under section 106 before or within 90 days after the day this section comes into force with respect to transferring a licence, or beds under a licence, whose term is extended by subsection (1), the Director may transfer the licence or beds, as the case may be, by issuing or reissuing a licence under subsection 105 (6) or (8) for up to the full remainder of the extended term without consulting the public a second time. 2014, c. 7, Sched. 19, s. 2.

Same

(5) If the Director has consulted the public under section 106 before or within 90 days after the day this section comes into force with respect to amending a licence whose term is extended by subsection (1), the Director may amend the licence without consulting the public a second time. 2014, c. 7, Sched. 19, s. 2.

Section Amendments with date in force (d/m/y)

2014, c. 7, Sched. 19, s. 2 - 01/01/2015

194 OMITTED (AMENDS OR REPEALS OTHER ACTS). 2007, c. 8, s. 194.

195 OMITTED (PROVIDES FOR AMENDMENTS TO THIS ACT). 2007, c. 8, s. 195.

196-231 OMITTED (AMENDS OR REPEALS OTHER ACTS). 2007, c. 8, ss. 196-231.

232 OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 2007, c. 8, s. 232.

233 OMITTED (ENACTS SHORT TITLE OF THIS ACT). 2007, c. 8, s. 233.

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