

## Notice of the Minister of Health and Long-Term Care

### NOTICE OF PART 2 OF THE PROPOSED INITIAL DRAFT REGULATION

#### *Long-Term Care Homes Act, 2007*

The Minister of Health and Long-Term Care [Minister], on behalf of the Government of Ontario, invites public comments on Part 2 of the proposed initial draft regulation to be made under the *Long-Term Care Homes Act, 2007*.

The *Long-Term Care Homes Act, 2007* received Royal Assent on June 4, 2007 and is the cornerstone of the Ontario government's strategy to improve and strengthen care for residents in long-term care homes. The Act cannot be proclaimed into force until all of the regulations required to operationalize the Act are drafted, consulted on and finalized. When proclaimed into force, this Act would replace the three existing pieces of legislation governing long-term care homes: *Nursing Homes Act*, *Homes for the Aged and Rest Homes Act*, and *Charitable Institutions Act*. In addition, the Long-Term Care Homes Program Manual would cease to apply.

The *Long-Term Care Homes Act, 2007* sets out public consultation requirements related to the proposed initial draft regulation. These requirements include a minimum 30-day period for the public to comment, after which the Minister reports to the Lieutenant Governor in Council, who may then make the Regulation with or without changes.

#### **Content of Proposed Initial Draft Regulation**

Part 1 of the proposed initial draft regulation dealt with the following: Plan of Care, Key high risk areas of resident care (including skin and wound care, continence care and bowel management, falls prevention and management, responsive behaviours and pain management), Abuse and neglect, Minimizing of restraining, Admission of residents and Infection prevention and control program. A copy of the Part 1 proposed draft regulation can be found at:

[http://www.health.gov.on.ca/english/public/legislation/ltc\\_homes/ltc\\_homes.html](http://www.health.gov.on.ca/english/public/legislation/ltc_homes/ltc_homes.html)

Part 2 of the proposed initial draft regulation addresses the following:

- Residents' Rights, Care and Services
- Admission of Residents
- Councils
- Operation of Homes

- Funding
- Licensing
- Municipal Homes and First Nations Homes
- Compliance and Enforcement
- Administration, Miscellaneous and Transition

### **Invitation to Provide Comments on Part 2 of the Proposed Initial Draft Regulation**

Part 2 of the proposed initial draft regulation follows this notice. The public is invited to provide written comments, in either English or French, on the Part 2 proposed initial draft regulation over a 30-day period, commencing on September 15, 2009 and ending on October 15, 2009. Should the decision be made to proceed with the proposed initial draft regulation, the written comments and submissions received during the consultation period will be considered during final preparation of the draft regulation. Comments received by the Ministry after October 15, 2009 will not be considered as part of the public consultation feedback. The content, structure and form of the draft regulation are subject to change as a result of the consultation process, at the discretion of the Lieutenant Governor in Council, who has the final decision on the content, structure and form of any regulation. Once all proposed regulations are finalized and the LTCHA is proclaimed into force, there would be one regulation under the LTCHA.

Comments may be sent electronically to [LTCHAProject@ontario.ca](mailto:LTCHAProject@ontario.ca) or they may be addressed to:

Ms. Colleen Sonnenberg

Ministry of Health and Long-Term Care

Health System Strategy Division – LTCHA Regulation Project

9<sup>th</sup> Floor, 56 Wellesley St. West

Toronto, ON, M7A 2J9

The text and a description of the second set of proposed initial draft regulations are available in English and French. These materials are available for review on the Regulatory Registry's website at [www.ontariocanada.com/registry/](http://www.ontariocanada.com/registry/). The materials may also be accessed through the Ministry web-site at the following address:

[www.health.gov.on.ca/english/public/legislation/ltc\\_homes/ltc\\_homes.html](http://www.health.gov.on.ca/english/public/legislation/ltc_homes/ltc_homes.html)

The *Long-Term Care Homes Act, 2007* is available at [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca).

Please note that unless requested and agreed to otherwise by the Ministry, all materials or comments received from organizations in response to this notice will be considered

public information and may be used and disclosed by the Ministry to assist in the evaluation and revision of the proposed initial draft regulation. This may involve disclosing the materials and comments, or summaries of them, to other interested parties during and after the 30-day public consultation period. **An individual who provides materials or comments and who indicates an affiliation with an organization will be considered to have submitted those comments or materials on behalf of the organization so identified.** Materials or comments received from individuals who do not indicate an affiliation with an organization will not be considered public information unless expressly stated otherwise by these individuals. However, materials or comments provided by such individuals may nevertheless be used and disclosed by the Ministry to assist in evaluating and revising the proposed initial draft regulation. The personal information of individuals who do not specify an organizational affiliation, such as an individual's name and contact details, will not be disclosed by the Ministry without the individual's consent, unless required by law. If you have any questions about the collection of this information, please contact the Manager of the Access and Privacy Office, of the Ministry of Health and Long-Term Care at (416) 327-7040.

## **PROPOSED INITIAL DRAFT REGULATION**

Made under the

### **LONG-TERM CARE HOMES ACT, 2007**

## CONTENT OF PROPOSED INITIAL DRAFT REGULATION

### **PART I INTERPRETATION**

#### DEFINITIONS

#### **Section 1– Definitions**

Section 1 would define a number of terms in the draft Regulation, including,

“accommodation”, in relation to a long-term care home, means basic accommodation in the home or preferred accommodation in the home;

“adverse drug reaction” means a noxious and unintended response by a resident to a drug or combination of drugs which occurs at doses normally used or tested for the diagnosis, treatment or prevention of a disease or the modification of an organic function;

“basic accommodation”, in relation to a long-term care home, means lodging in a standard room in the home, housekeeping services, maintenance and use of the home, dietary services, laundry and linen services, administrative services and raw food;

“controlled substance” means a controlled substance within the meaning of the *Controlled Drugs and Substances Act* (Canada);

“dietitian” means a member of the College of Dietitians of Ontario who holds a general certificate of registration under the *Dietetics Act, 1991*;

“food service worker” means a member of staff in a long-term care home who is routinely involved in the receiving, storage, preparation, cooking, delivery or serving of food, the cleaning of kitchen equipment and utensils or assisting in maintaining the kitchen and serveries in a clean and sanitary condition;

“interim bed” means a bed in a long-term care home under the interim bed short-stay program;

“licensed bed capacity” means the total licensed or approved beds in the home, excluding,

- (a) beds that are not available for occupancy under a written permission of the Director under subsection 104 (3) of the Act,
- (b) beds that are the subject of a temporary emergency licence under clause 112 (1) (b) of the Act, and
- (c) beds that are the subject of a short term authorization under section 113 of the Act;

“medication incident” means a preventable event associated with the prescribing, ordering, dispensing, storing, labelling, administering or distributing of a drug, or the transcribing of a prescription, and includes:

- (a) an act of omission or commission, whether or not it results in harm, injury or death to a resident,
- (b) a near miss event where an incident does not reach a resident but had it done so, harm, injury or death could have resulted,

“preferred accommodation”, in relation to a long-term care home, means private accommodation in the home or semi-private accommodation in the home;

“private room” means,

- (a) in the case of a long-term care home to which the 1999 design manual, 2009 design manual or the retrofit manual applies, a room with one bed that has a private ensuite washroom, other than a room that is designated by a licensee as a standard room, or
- (b) in the case of all other long-term care homes, a room with one bed, other than a room that is designated by a licensee as a standard room;

“registered nursing staff” means those members of staff who are registered nurses including registered nurses in the extended class and registered practical nurses;

“regulated health profession” means a health profession set out in Schedule 1 to the *Regulated Health Professions Act, 1991*.

“semi-private room” means,

- (a) in the case of a long-term care home to which the 1999 design manual, the 2009 design manual or the retrofit manual applies, a room with one bed connected to another room with one bed by ensuite washroom, other than a room that is designated by a licensee as a standard room, or
- (b) in the case of all other long-term care homes, a room with two beds, other than a room that is designated by a licensee as a standard room;

“standard room” means,

- (a) in the case of a long-term care home to which the 1999 design manual, 2009 design manual or the retrofit manual applies, a room with one or two beds that affords privacy to each resident, that has an ensuite washroom, and that is designated as a standard room by a licensee, or
- (b) in the case of all other long-term care homes,
  - (i) a room with three or more beds, or
  - (ii) a room with less than three beds that is designated by a licensee as a standard room.

## **Section 2 – “Regular nursing staff”**

For the purposes of subsection 8 (3) of the Act and this draft Regulation, “regular nursing staff” would mean a member of the nursing staff who works in a long-term care home at fixed or prearranged intervals.

## POLICIES, ETC.

### **Section 3 – Policies, etc to be followed**

Any policy, protocol, procedure or system relating to the home would have to be in compliance with the requirements under the Act and complied with.

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

### PLAN OF CARE

### **Section 4 - Changes in plan of care, regulated document**

If a resident is reassessed and the resident's plan of care is revised under subsection 6 (10) of the Act, any regulated document that would contain a consent or directive that is relevant to the reassessment would have to be reviewed and revised if required.

### SAFE AND SECURE HOMES

### **Section 5 – Doors in a home**

Doors in a home leading to stairways and outside would be kept closed and equipped with a door access control system and audible door alarm. Doors leading to non-residential areas would be equipped with locks. Any locks on bedrooms, bathrooms, toilets or shower rooms would be designed and maintained so they can be readily released from the outside in an emergency. All exit door alarms would be connected to a back-up power supply or be monitored by staff.

### **Section 6 – Elevators**

Any elevators in the home would be equipped to restrict access to areas that are not to be accessed by residents.

### **Section 7 – Privacy screens**

Every resident bedroom occupied by more than one resident would have sufficient privacy curtains and screens to provide privacy.

### **Section 8 – Shower grab bars**

Every resident shower would have at least two easily accessible grab bars.

### **Section 9 – Bed-rails**

The resident would be assessed and his/her bed system evaluated to minimize risk where bed-rails are used. Steps would be taken to prevent resident entrapment and address other safety issues. These requirements would be effective six months after the Act comes into force.

### **Section 10 – Windows**

Every window in the home that opens to the outdoors would have a screen that could not be opened more than 15.25 centimetres.

### **Section 11 – Communication and response system**

The home would be equipped with a resident-staff communication and response system. The system would be easily visible and accessible, available at each bed, toilet, bath and shower location used by residents and available in every area accessible by residents that is not under continuous staff supervision.

### **Section 12 – Lighting**

The lighting requirements set out in this section relating to various areas of the home would have to be maintained.

### **Section 13 – Generators**

The home would have a generator on-site at all times with the capacity to maintain the heating system, emergency lighting, essential services including dietary equipment, the resident-staff communication and response system, and life support, safety and emergency equipment. However, long-term care homes with Class B or C beds that are to be redeveloped would not have to comply with this requirement until the earlier of the completion of the redevelopment and December 31, 2016. These Class B or C homes would have guaranteed access to a generator that could be operational within two hours of a power outage. Homes with Class D beds would have guaranteed access to a generator that could be operational within two hours of a power outage.

### **Section 14 – Cooling requirements**

A written hot weather related illness prevention and management plan for the home would be developed and implemented. There would be at least one separate designated cooling area for every 40 residents and the cooling area would be maintained at a humidex level below 35 at all times.

### **Section 15 – Plumbing**

All plumbing fixtures in the home with hose attachments would be equipped with a back flow device.

## **Section 16– Compliance with manufacturers’ instructions**

Staff would use all equipment, devices and aids in the home in accordance with manufacturers’ instructions.

### GENERAL REQUIREMENTS RE ORGANIZED PROGRAMS

## **Section 17 – General Requirements**

For each of the organized programs required under sections 8 to 16 of the Act, there would be a written description of the program including goals and objectives and an annual written evaluation to identify changes required to improve the program. The changes identified in the evaluation would be implemented and documented.

### NURSING AND PERSONAL SUPPORT SERVICES

## **Section 18 – Nursing and personal support services**

This section would apply to the organized program of nursing services required under clause 8 (1) (a) of the Act and the organized program of personal support services required under clause 8 (1) (b) of the Act.

A written staffing plan would be required for these programs. The staffing plan would provide for a staffing mix consistent with residents’ assessed care and safety needs, set out scheduling of staff shifts and promote continuity of care. The plan would be evaluated to identify changes required to improve the plan, the evaluation would be documented and the changes identified would be implemented and documented.

## **Section 19 – Personal care**

Each resident of the home would receive individualized personal care, including hygiene care and grooming, on a daily basis.

## **Section 20 – Bathing**

Each resident of the home would be bathed, at a minimum, twice a week by the method of his or her choice and more frequently as determined by the resident’s hygiene requirements, unless contraindicated by a medical condition.

## **Section 21 – Oral care**

Each resident of the home would receive oral care including mouth care in the morning and evening, physical assistance or cuing, an annual dental assessment and other preventive dental services.

## **Section 22 – Foot care**

Each resident of the home would receive preventative and basic foot care to ensure comfort and prevent infection.

## **Section 23– Transferring and positioning techniques**

Staff would use safe transferring and positioning techniques when assisting residents and each resident would have his/her weight-bearing capability, endurance and range of motion maintained or improved whenever possible.

## **Section 24 – Personal aids**

Each resident of the home would have his or her personal aids labelled and cleaned as required and receive assistance to use those aids.

## **Section 25 – Mobility devices**

Mobility devices would be available at all times without charge to residents who require them on a short-term basis.

## **Section 26 – Dress**

Each resident of the home would be assisted with getting dressed as required, and would be dressed appropriately, in keeping with his or her preferences.

## **Section 27 – Bedtime routines**

Each resident of the home would have his or her desired bedtime routines supported and individualized to promote comfort, rest and sleep.

## **Section 28 – End-of-life care**

Every resident would receive end-of-life care in a holistic manner, and end-of-life care includes responding to the immediate needs of other residents, family members and staff following the death of a resident.

## **Section 29 – Notification re personal belongings, etc**

Each resident or his/ her substitute decision-maker would be notified when the resident's personal aids and equipment require repair or when the resident requires new personal belongings.

### **Section 30 – Communication methods**

Strategies would be developed and implemented to meet the needs of residents with compromised communication and verbalization skills.

### **Section 31 – Availability of supplies**

Supplies, equipment and devices would be readily available to meet the nursing and personal care needs of residents.

### **Section 32 – 24-hour nursing care - exceptions**

Certain exceptions to the 24-hour nursing care requirement would be allowed for homes with 64 beds or fewer and homes with more than 64 beds and fewer than 129 beds.

### **Section 33– Certification of nurses**

Every member of the registered nursing staff of the home would be required to have a current certificate of registration with the College of Nurses of Ontario.

### **Section 34 – Qualifications of personal support workers**

Persons hired as a personal support worker after March 31, 2011 would have to meet the qualifications set out in this section.

## **RESTORATIVE CARE**

### **Section 35 – Restorative care**

This section would apply to the organized interdisciplinary program with a restorative care philosophy required under subsection 9(1) of the Act.

### **Section 36 – Integrating restorative care into programs**

Restorative care approaches would be integrated into the care that is provided to all residents and would be co-ordinated to ensure that each resident is able to maintain or improve his or her functional and cognitive capacities in all aspects of daily living.

### **Section 37 – Therapy services**

Therapy services for residents in the home would be provided and include on-site physiotherapy on an individualized basis or in a group setting based on residents' assessed care needs , occupational therapy, speech-language therapy services and other therapies.

### **Section 38 – Space and supplies – therapy services**

There would be safe and appropriate space in the home for the provision of therapy services and a sufficient supply of therapy equipment available at all times to meet the needs of residents. This equipment would be made available without charge to residents who require them.

### **Section 39 – Therapy services staff qualifications**

Therapy services would only be provided by persons having the qualifications set out in this section.

### **Section 40 – Social work and social services work**

There would be a written description of the social work and social services work services provided in the home. The services would be required to meet residents' needs.

### **Section 41 – Social work and social services work qualifications**

Social workers or social services workers providing services in a long-term care home would have to be registered under the *Social Work and Social Services Work Act, 1998*.

### **Section 42 – Designated lead**

The home's therapy services and social work and social services work services would be coordinated by a designated lead having the qualifications set out in this section.

## RECREATIONAL AND SOCIAL ACTIVITIES

### **Section 43 – Recreational and social activities program**

This section would apply to the organized recreational and social activities program for the home, required under subsection 10 (1) of the Act. The program would include the provision of supplies and appropriate equipment; the development, implementation and communication to all residents and families of a schedule of programs; a range of indoor and outdoor activities; and assistance and support for residents to attend activities.

### **Section 44 – Designated lead**

There would be a designated lead for the program who would meet the qualifications set out in this section.

## **Section 45 – Recreational and social activities qualifications**

Staff members hired after proclamation of the Act to provide recreational and social activities services would meet the qualifications set out in this section.

### NUTRITION CARE AND HYDRATION PROGRAMS

## **Section 46 – Nutrition care and hydration programs**

This section would apply to the organized programs of nutrition care and dietary services required under clause 11 (1) (a) of the Act and hydration required under clause 11 (1) (b) of the Act. The programs would include the development and implementation of policies and procedures; the identification of any risks and strategies; and a weight monitoring system.

## **Section 47 – Weight changes**

Residents with specific weight changes would be assessed using an interdisciplinary approach.

## **Section 48 – Dietary services program**

The dietary services component of the nutrition care and dietary services program would include menu planning, food production, dining service and availability of supplies and equipment for food production and dining service.

## **Section 49 – Menus and food choices**

The menu cycle would include menus for regular, therapeutic and texture modified diets and alternative food and beverage choices and snacks. The food choices under all menu cycles would provide adequate nutrients, fibre, and energy for the residents based on the current Dietary Reference Intakes and would provide a variety of foods in keeping with Canada's Food Guide.

All menus would be approved by a dietitian for the home and the Residents' Council. Alternative menu choices would be offered and available at each meal and an individualized menu plan would be developed for residents whose needs cannot be met through the home's menu cycle. Food and beverages that are appropriate for the resident's diet would be accessible to staff and available to residents on a 24-hour basis.

## **Section 50 – Food production**

There would be an organized food production system in the home to allow for the preparation, storage and service of resident meals and snacks. All food and fluids in the food production system would be prepared, stored, and served using methods to preserve nutritive value, appearance, food quality and taste as well as to prevent adulteration, contamination and food

borne illness. The home would have sufficient storage capacity and adequate institutional food service equipment.

### **Section 51 – Dining service**

Dining service would include monitoring of all residents during meals, a process to ensure that service staff and staff assisting residents are aware of the resident's diets, special needs and preferences, food and fluids being served at a temperature that is both safe and palatable for the residents and providing residents with any eating aids, assistive devices and personal assistance and encouragement required to safely eat and drink as comfortably and independently as possible.

### **Section 52 – Dietitian**

There would be a least one dietitian for the home. The dietitian would be at the home for a minimum of 30 minutes per resident per month. The dietitian would complete a nutritional assessment for all residents upon admission and whenever there is a significant change in status related to nutrition.

### **Section 53 – Nutrition manager**

There would be at least one nutrition manager for the home, one of whom would lead the dietary services program for the home. A person hired as a nutrition manager after proclamation of the Act would meet the qualifications set out in this section. The nutrition manager would work for the minimum number of hours per week set out in this section. The requirements relating to the number of hours would be effective six months after the Act comes into force.

### **Section 54 – Cooks**

There would be at least one cook present in the home on a daily basis and the cook would have to meet the qualifications set out in this section.

### **Section 55 – Food service workers and cooks, minimums**

There would be sufficient food service workers and cooks for the home to meet the minimum number of hours per week set out in this section. The requirements relating to the number of hours would be effective six months after the Act comes into force.

### **Section 56 – Training and qualifications**

Food service workers hired after this Act comes into force would meet the qualifications set out in this section. Food service workers who were employed before this Act comes into force would meet the qualifications within six months after.

## MEDICAL SERVICES

### **Section 57 – Medical services program**

This section would apply to the organized program of medical services for the home required under section 12 of the Act.

### **Section 58 – Availability of medical services**

There would be access for residents to medical services in the home 24 hours a day.

## ATTENDING PHYSICIANS AND RN(EC)S

### **Section 59 – Attending physician or RN (EC)**

A physician or a registered nurse in the extended class would conduct a physical examination of each resident upon admission and an annual physical examination annually thereafter. They would be required to attend regularly at the home to provide services and participate in after-hours coverage and on-call coverage. The resident or the resident's substitute decision-maker would be able to retain a physician or registered nurse in the extended class to perform these services, or the licensee would retain the person.

### **Section 60 – Agreement with attending physician**

The attending physician would enter into an agreement with the licensee that includes the term of the agreement, the responsibilities of the licensee and the responsibilities or duties of the physician.

### **Section 61 – Agreement with registered nurse in extended class**

The registered nurse in the extended class would enter into an agreement with the licensee that includes the term of the agreement, the responsibilities of the licensee and the responsibilities or duties of the registered nurse in the extended class.

## RELIGIOUS AND SPIRITUAL PRACTICES

### **Section 62 – Religious and spiritual practices**

This section would apply to the organized program for the home, required under section 14 of the Act, which gives residents the opportunity to practise their religious and spiritual beliefs. This program would include arrangements to provide worship services, resources and non-denominational spiritual counselling on a regular basis for all residents who desire them. The designated lead for the program would meet the qualifications set out in this section.

## ACCOMMODATION SERVICES

### **Section 63 – Accommodation services programs**

This section would apply to the organized programs of housekeeping, laundry services and maintenance services required under subsection 15 (1) of the Act. There would be a written agreement where services under any of the programs are provided by a contractor who is not an employee of the licensee.

### **Section 64 – Housekeeping**

Housekeeping services would be provided seven days per week. Procedures would be developed and implemented for cleaning of the home and disinfection.

### **Section 65– Pest control**

An organized preventive pest control program would be in place and immediate action would be taken to deal with pests.

### **Section 66 – Laundry service**

Procedures would be developed and implemented to ensure that residents' clothes and linens are cleaned, there is a sufficient supply of linen and there is a process to report and locate residents' lost clothing and personal items. Industrial washers and dryers would be used for the washing and drying of all laundry.

### **Section 67 – Maintenance services**

Maintenance services in the home would be available seven days per week. There would be schedules and procedures in place for routine, preventive and remedial maintenance of equipment and systems. Water temperature would have to be maintained at the level specified in this section. The ventilation systems would function at all times, except when the home is operating on the emergency generator. All hazardous substances at the home would be labelled properly and are kept away from residents at all times.

### **Section 68– Designated lead**

There would be a designated lead for each of the housekeeping, laundry and maintenance services programs and the lead would meet the qualifications set out in this section.

## VOLUNTEERS

### **Section 69 – Volunteer program**

This section would apply to the organized volunteer program required under subsection 16 (1) of the Act. The program would include a staff member supervising or directing a volunteer whenever it is necessary to ensure the safety of a resident.

### **Section 70 – Designated lead**

There would be a designated lead for the program who is a member of the staff and meets the qualifications set out in this section.

## REPORTING AND COMPLAINTS

### **Section 71 – Complaints procedure - licensee**

Licensees would be required to ensure that the written procedures required under section 21 of the Act include the requirements set out below.

### **Section 72 – Dealing with complaints**

Every written or verbal complaint made to the licensee or a staff member about the care of a resident or operation of the home would be investigated and resolved, where possible. A response would be provided to the person who made the complaint. A documented record would be kept in the home about the complaints received and how they were addressed. The record would be reviewed and analyzed at least quarterly and the results taken into account in determining improvements required in the home.

### **Section 73 – Complaints - transition**

Complaints made but not resolved before this section comes into force would be dealt with as provided for in this draft Regulation.

### **Section 74 – Complaints forwarded to the Director**

Licensees who receive a written complaint with respect to a matter under section 24 of the Act (for example, abuse of a resident by anyone or neglect of a resident by the licensee or staff), would be required to send a copy of the complaint to the Director with a written report documenting the response the licensee made to the complainant under section 72..

### **Section 75 – Licensees who report investigations under s. 23 (2) of Act**

Written reports made to the Director under subsection 23 (2) of the Act would include the information required by this section with respect to the licensee's investigation and response to every alleged, suspected or witnessed incident of abuse of a resident by anyone or neglect of a resident by the licensee or staff that is known by or reported to the licensee. The licensee's report would have to be made within 10 days of the licensee becoming aware of the matter. Where it is not possible to provide a full report within that time, a preliminary report would be made to the Director and a final report provided within the time specified by the Director.

### **Section 76 – Transitional, investigation and reports**

(1) Section 23 of the Act and section 75 of the draft Regulation would apply to incidents that the licensee knew of or that were reported to the licensee after the coming into force of this section, even if the incident occurred before the coming into force unless the incident was investigated and resolved before these sections have come into force.

(2) Section 24 of the Act would only apply to matters that occur or may occur after that section comes into force.

(3) Section 25 of the Act would apply to information the Director received after that section comes into force, even if the information pertains to a matter that occurred before that section came into force.

(4) Section 26 of the Act would apply to retaliation that happens after that section comes into force, even if the retaliation relates to something that was disclosed or given in evidence before that section came into force.

### **Section 77 – Reports re critical incidents**

Licensees would be required to immediately advise the Director of the incidents in the home that are set out in subsection (1). As much information about the incident as is possible in the circumstances would be provided to the Director, followed by the written report described in subsection (4). The licensee would be required to ensure that the Director is informed of the incidents in the home that are set out in subsection (3) no later than one business day after the incident, followed by the written report described in the subsection (4). Written reports about these incidents would be made to the Director within 10 days of becoming aware of the incident, or sooner if required by the Director. The written reports would have to include the information set out in subsection (4).

## MISUSE OF FUNDING

### **Section 78 – Misuse of funding**

Where the Act references the misuse of funding provided to a licensee under this Act or the *Local Health System Integration Act* (i.e. mandatory reporting and inspections or inquiries

where the Director receives information), the term “misuse” would mean the use of funding provided by either the Ministry or a local health integration network for a purpose other than a condition of funding or in a manner that is not allowed under a restriction on the use of the funding.

## ABSENCES

### **Section 79 – Absent residents**

Requirements under this draft Regulation relating to the care and treatment of a resident would not apply to a resident who is on a medical, psychiatric, casual or vacation absence.

### **Section 80- Recording of absences**

Every medical, psychiatric, casual and vacation absence of a resident would be recorded.

### **Section 81 – Licensee to stay in contact**

Licensees would be required to be in contact with a resident or a resident’s health care providers when the resident is on a medical absence or psychiatric absence or when a long-stay resident is on a vacation absence, in order to determine when the resident will be returning to the home.

### **Section 82- Care during absence**

Before a long-stay resident leaves for a casual absence or a vacation absence and before a short-stay resident leaves for a casual absence, the care required to be given to the resident during the absence would be set out in writing. A member of the licensee’s staff would have to advise the resident or the resident’s substitute decision-maker of the need to take reasonable steps to ensure the resident receives the required care, that the person is assuming full responsibility for the care and safety of the resident during the absence and that they need to notify the Administrator of the home if the resident is admitted to hospital or if the date of the resident’s return changes.

## DISCHARGE

### **Section 83 – Restriction on discharge**

A resident would not be discharged unless permitted or required by this draft Regulation.

### **Section 84 – When licensee may discharge**

A licensee would be able to discharge a resident if:

- a) the licensee is informed that the resident’s care requirements have changed, and as a result the home cannot provide a sufficiently secure environment to ensure the safety of the resident or others. In the case of a resident who is at the home, the Director of Nursing and Personal Care, the resident’s physician or a registered nurse in the extended class attending the resident would have to inform the licensee of this information after having consulted

with the interdisciplinary team providing the resident's care. In the case of a resident who is absent from the home, the licensee would have to be informed of this information by the resident's physician or a registered nurse in the extended class who is attending the resident;

- b) the resident decides to leave the home and signs a request to be discharged;
- c) the resident leaves the home and informs the Administrator that he or she will not be returning;
- d) the resident is absent from the home for more than seven days and the resident has not informed the Administrator of his or her whereabouts, and the Administrator has been unable to locate the resident;
- e) for a long-stay resident, the total length of the resident's casual absences during the period between midnight on a Saturday and midnight on the following Saturday is more than 48 hours and the resident does not have any remaining vacation absence days available in the calendar year; or
- f) for a short-stay resident, the total length of the resident's casual absences during the period between midnight on Saturday and midnight on the following Saturday is more than 48 hours.

### **Section 85 – When licensee shall discharge**

A licensee would be required to discharge a short-stay resident under any of the following circumstances:

- a) at the end of the period for which the resident was admitted to the home unless he or she is a resident in the interim bed short-stay program and the placement co-ordinator is authorizing an extension of the admission;
- b) the resident is on a medical absence for more than 14 days; or
- c) the resident is on a psychiatric absence or vacation absence.

A licensee would be required to discharge a long-stay resident under any of the following circumstances:

- a) the resident is on a medical absence for more than 30 days;
- b) the resident is on a psychiatric absence for more than 60 days;
- c) the total length of the resident's vacation absences during the calendar year is more than 21 days; or
- d) the long-term care home is being closed.

A short-stay resident on a medical absence or a long-stay resident on a medical, psychiatric or vacation absence would not be discharged under this section if the resident is unable to return to the home because of an outbreak of disease in the home, an emergency in the home or if the Administrator is notified that the resident intends to return to the home but is unable to do so due to an emergency or natural disaster in the community that prevents the immediate return of the resident. In the case of a long-stay resident on a vacation absence, the resident would also not be discharged if a short-term illness or injury prevented the immediate return of the resident. A licensee would be required to discharge a resident from a specialized unit if a re-assessment

indicated that the resident no longer requires and benefits from the accommodation, care, services, programs and goods provided in the specialized unit and alternative arrangements have been made for the resident.

### **Section 86 – Requirements on licensee before discharging a resident**

Advance notice of a resident's discharge would be provided to the resident and the resident's substitute decision-maker, if any, and to any other person either of them directs. This notice would be given as far in advance of the discharge as possible, or if circumstances do not permit notice to be given before the discharge, as soon as possible after the discharge.

Before discharging a resident because the home can no longer provide a sufficiently secure environment to ensure the safety of the resident and others, the licensee would be required to:

- a) ensure that alternatives to discharge have been considered and, where appropriate, tried;
- b) make alternative arrangements for the secure environment required by the resident in collaboration with the appropriate placement co-ordinator and other health service organizations;
- c) ensure the resident and the resident's substitute decision-maker, if any, and to any other person either of them directs is kept informed and given an opportunity to participate in the discharge planning and that his or her wishes are taken into consideration; and
- d) provide a written notice to the resident, the resident's substitute decision-maker, if any, and any other person either of them directs, setting out a detailed explanation of the supporting facts related to both the home and to the applicant's condition and requirements for care, that justify the licensee's decision to discharge the resident.

Before the discharge of a resident in other circumstances specified in this section, the licensee would be required to offer to assist the resident in planning for discharge by identifying alternative accommodation, service organizations and other resources in the community and to contact or refer the resident to those organizations and resources.

### **Section 87 – Responsibility of placement co-ordinator**

If desired by the resident, the appropriate placement co-ordinator would be required to assist in arranging alternative accommodation, care or services for a resident who is being discharged because the home can no longer provide a sufficiently secure environment to ensure the safety of the resident and others or a resident who is being discharged from a specialized unit.

### **Section 88 – Licensee to assist with alternatives to long-term care home**

In the case of a resident whose condition has improved to the extent that he or she no longer requires the care and services provided by the long-term care home, a licensee would be required to offer to contact the appropriate placement co-ordinator to provide information about alternatives to living in a long-term care home.

## **Section 89 – Final statement of account**

A final statement of the charges made to the resident would be provided to a resident or the resident's substitute decision-maker within 30 days after discharge.

## **Section 90 – Transitional, absences and discharges due to absences**

This section sets out the transitional rules that would apply for the discharge of a resident in the case of absences that occur before this section comes into force.

### **PART III**

#### **ADMISSION OF RESIDENTS**

##### **INTERIM BED SHORT-STAY PROGRAM**

## **Section 91 – Criteria for eligibility, interim bed short-stay program**

An applicant would be eligible for admission to a long-term care home as a resident in the interim bed short-stay program only if the person meets the eligibility criteria for admission as a long-stay resident set out in section 30 of the proposed initial first draft Regulation.

## **Section 92 – Keeping of waiting list, interim beds**

A separate waiting list would be kept for admission to interim beds in a long-term care home.

## **Section 93 – Approval by licensee, interim beds**

Licensees would have to provide a notice approving or withholding approval of the applicant's admission to an interim bed within three business days of receiving the request for approval.

## **Section 94 – Placement on waiting list, interim beds**

An applicant would be placed on the waiting list for admission to interim beds in a long-term care home if,

- a) the applicant occupies a bed in a hospital under the *Public Hospitals Act* and requires an alternate level of care;
- b) a physician has determined that the applicant does not require the acute care services provided by the hospital;
- c) the applicant is determined by a placement co-ordinator to be eligible for admission to a long-term care home as a long-stay resident under section 30 of the proposed initial first draft Regulation;
- d) the applicant is on at least one waiting list for admission to a bed in a long-stay program of a long-term care home;

- e) the applicant applies in accordance with the proposed initial first draft Regulation for authorization of his or her admission to an interim bed in the home; and
- f) the licensee of the home approves the applicant's admission to an interim bed in the home.

### **Section 95 – Ranking on waiting list, interim beds**

Applicants on a waiting list for interim beds for a long-term care home would be ranked for admission according to the time at which they applied for authorization of their admission to an interim bed in that home.

### **Section 96 – Authorization of admission, interim beds**

An applicant's admission to the interim bed short-stay program would be authorized only if the applicant's admission may be authorized under section 59 of the proposed initial first draft Regulation, the applicant applied for authorization of admission to an interim bed in the home and the applicant meets the requirements for placement on a waiting list for interim beds as set out above. Applicants for admission to an interim bed would be recorded to be waiting for the following classes of accommodation:

1. Basic accommodation for a woman in the interim bed short-stay program.
2. Basic accommodation for a man in the interim bed short-stay program.

### **Section 97 - Removal from waiting list, interim beds**

Section 42 of the proposed initial first draft Regulation would apply to waiting lists for interim beds. (Under that section, applicants who occupy a bed in a hospital would not be removed from all long-term care home waiting lists if the placement co-ordinator advises them that a bed is available in one of their selected homes and they refuse to consent to be admitted to the home, refuse to enter into the agreement provided for in clause 59 (1) (f) of the proposed initial first draft Regulation or fail to move into the home on or before the fifth day after being informed of the availability of accommodation.)

### **Section 98 – Authorization of admission, interim beds**

The following would apply when a placement co-ordinator authorizes the admission of an applicant as a resident of an interim bed:

- The length of the stay being authorized and the first day and last day of the stay would be indicated.
- The admission would not be authorized for a period of more than 90 consecutive days for the first period.
- Extensions of the applicant's admission could be authorized for up to 30 consecutive days at a time, if the applicant,
  - a) remains on at least one waiting list for admission to a bed in a long-stay program of a long-term care home, and

b) has not yet received an offer to authorize his or her admission as a long-stay resident of a long-term care home.

The applicant would not be required to make a formal application for an extension and an extension would only be authorized within seven days before the last day of the stay.

### **Section 99 – Removal from every waiting list, interim bed resident**

Where a placement co-ordinator offers to authorize the admission of a resident of an interim bed to a long-term care home as a long-stay resident, and the resident refuses to consent to the admission, refuses to enter into the agreement provided for in clause 59 (1) (f) of the proposed initial first draft Regulation, or fails to move into the home on or before the fifth day following the day on which he or she is informed of the availability of accommodation, the resident would be removed from every waiting list the placement co-ordinator keeps for admission to a long-term care home as a long-stay resident.

### **Section 100 – Transitional, residents in interim beds**

A resident who occupied an interim bed under the *Nursing Homes Act, Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act* (the current legislation) immediately before the coming into force of this section would continue to be a long-stay resident for as long as he or she occupies the bed.

## SPECIALIZED UNITS

### **Section 101 – Designation of specialized units**

This section would apply to the designation of specialized units for the purposes of subsection 39 (3) of the Act. Upon the recommendation of the local health integration network (LHIN) for the geographic area where a long-term care home is located, the Director would be able to designate a specified number of long-stay program beds as a specialized unit in the home. In making the recommendation to the Director, the LHIN would be required to provide the Director with the information set out in this section. A specialized unit would only be designated in a long-term care home if the Director is satisfied with the licensee's compliance with requirements under the Act and the licensee's past history of compliance. The designation would be subject to any terms or conditions specified by the Director and the terms and conditions could be amended by the Director.

### **Section 102 – Agreement with LHIN**

The operation of a specialized unit by a licensee would be subject to the terms and conditions in an agreement between the licensee and the LHIN. This agreement would contain the terms and conditions, if any, specified by the Director.

### **Section 103 – Waiting list criteria for admissions to specialized unit**

A person would be placed on the waiting list for admission to a specialized unit within a long-term care home if,

- a) the person is determined by the placement co-ordinator to be eligible for admission to a long-term care home;
- b) the person applies in accordance with the regulations for authorization of admission to the specialized unit;
- c) the placement co-ordinator is satisfied, based on the assessments and information provided, that the person requires and would likely benefit from the type of accommodation, care, services, programs and goods provided in the specialized unit;
- d) the licensee of the long-term care home approves the person's admission to the specialized unit; and
- e) placing the person on the waiting list for the specialized unit would not result in the person being on more than five waiting lists for long-stay admission, unless the person requires an immediate admission as a result of a crisis arising from his or her condition or circumstances.

### **Section 104 – Waiting list categories and ranking**

A resident of a specialized unit who applies for re-admission to the long-term care home where he or she was a resident immediately before the admission to a specialized unit would be placed in the re-admission category on the waiting list for his or her original home.

A person who was discharged from a specialized unit because of a medical or psychiatric absence and who applies for re-admission to the specialized unit or to the home where he or she was a resident immediately before the admission to a specialized unit, would be placed in the re-admission category on the waiting list for the specialized unit or the waiting list for his or her original home.

Applicants on a waiting list for a specialized unit in a long-term care home would be ranked for admission in the following order of priority:

1. The highest priority would be given to an applicant who is in the re-admission category on the waiting list for the specialized unit. If there is more than one applicant in this category, applicants would be ranked according to the date of their original admission to the specialized unit.
2. The next highest priority would be given to an applicant who requires immediate admission as a result of a crisis arising from his or her condition or circumstances. If there is more than one applicant in this category, applicants would be ranked according to the urgency of their need for admission.
3. All other applicants would be ranked on the waiting list according to the time when they applied for authorization of their admission to the specialized unit.

### **Section 105 – Authorization of admission: specialized unit**

The admission of an applicant to the specialized unit would be authorized only if the applicant meets the requirements for placement on a waiting list for the specialized unit set out in section 103 above and the admission may be authorized under section 59 of the proposed initial first draft Regulation.

### **Section 106 – Re-assessment**

A resident of a specialized unit would be re-assessed at least every three months to determine whether the resident continues to require and is benefiting from the accommodation, care, services, programs and goods provided in the specialized unit.

### **Section 107 – Transfer, specialized units**

Where a resident is being discharged from a specialized unit because the resident no longer requires and benefits from the specialized unit, the licensee would be able to transfer the resident to another area in the home if the resident or the resident's substitute decision-maker consents. The resident would be deemed to have been discharged from the specialized unit and admitted to the home. The licensee would be required to notify the placement co-ordinator of the vacancy in the specialized unit within 24 hours. The licensee would be required to keep a separate transfer list, as described in section 64 of the proposed initial first draft Regulation, with respect to the accommodation in the specialized unit.

### **Section 108 – Revocation of designation of specialized unit**

This section would set out when and how the designation of some or all of the beds in a specialized unit in a long-term care home could be revoked by the Director. Where the LHIN recommends the revocation or where the Director revokes the designation on the Director's own initiative, the LHIN in consultation with the licensee of the specialized unit and the placement co-ordinator would provide a plan to the Director. The plan would include the arrangements that will be made for the accommodation, care and services of the residents of the specialized unit and anticipated timelines for carrying out the plan. The Director would provide the approved plan, with or without amendments made by the Director, to the licensee, the LHIN and the placement co-ordinator. Upon receiving the approved plan, the licensee would contact each resident who will be affected by the revocation and the resident's substitute decision-maker to begin the process of making alternate arrangements. In accordance with the approved plan, the placement co-ordinator would inform applicants on the waiting list for admission to the specialized unit that the designation is being revoked and would stop authorizing admissions to the specialized unit.

## SPECIAL CIRCUMSTANCES

### **Section 109 – Admissions process, special circumstances**

The section sets out exemptions from Part III of the Act, Admissions of Residents, and modifications to the admissions process that would apply when the Director has made a determination that residents of a long-term care home urgently need to be relocated to another home to protect their health or safety. The section sets out the rules that would apply if a resident is being relocated to another home operated by the same licensee as the resident's original home or to a home operated by a different licensee. This section also sets out the rules that would apply if a resident who was relocated under this section applies for re-admission to the original home.

## **PART IV COUNCILS**

### **Section 110 – “Detailed allocation”**

For the purposes of the sections of the Act that give the Residents Councils and Family Councils the power to review the detailed allocation, by the licensee, of funding under the Act or the *Local Health System Integration Act, 2006* (LHSIA) and amounts paid by residents, “detailed allocation” would mean the audited annual reconciliation report required by the Minister under this draft Regulation and by the local health integration network pursuant to regulations made under the *LHSIA*.

## **PART V OPERATION OF HOMES**

### ADMINISTRATOR

### **Section 111 – Administrator**

The Administrator would work the number of hours per week set out in this section, based on the number of beds in the home. The requirements relating to the number of hours would be effective six months after the Act comes into force.

Anyone hired as an Administrator after the Act comes into force would meet the qualifications set out in this section. A person working as an Administrator at the time that this Act comes into force could be hired for another position as an Administrator in a different long term care home if the individual meets the qualifications set out in this section.

### DIRECTOR OF NURSING AND PERSONAL CARE

### **Section 112 – Director of Nursing and Personal Care**

The Director of Nursing and Personal Care would work the number of hours per week set out in this section, based on the number of beds in the home. The requirements relating to the number

of hours would be effective six months after the Act comes into force.

Anyone hired as a Director of Nursing and Personal Care after the Act comes into force would meet the qualifications set out in this section.

## MEDICAL DIRECTOR

### **Section 113 – Medical Director**

The licensee and Medical Director would enter into a written agreement including the term, the responsibilities of the licensee, and the responsibilities or duties of the Medical Director as set out in this section. The Medical Director could not be the licensee of the home, a member of the board of the licensee corporation, or a person having a controlling interest in the licensee corporation.

## TRAINING

### **Section 114 – Training**

A training program for the home would be developed and implemented that provides for training of all staff on all shifts at the home. The training program would include at least annual training for staff on the cleaning and sanitizing of equipment relevant to the person's responsibilities. Written records would be kept of the training program. An annual written evaluation would identify any changes and improvements to the program and the changes would be implemented and documented.

### **Section 115 – Designated lead**

A lead would be designated for the training program.

### **Section 116 – Orientation**

For the purposes of paragraph 11 of 76 (2) of the Act, prior to performing their responsibilities, staff at the home would receive training on the written procedures for handling complaints and the role of staff in dealing with complaints and the safe use and cleaning of equipment relevant to staff members' responsibilities.

### **Section 117 – Retraining**

All persons who have received training under subsection 76 (2) of the Act would receive training in the relevant areas identified in that section at least annually, with some exceptions.

### **Section 118 – Additional training — direct care staff**

All staff that provide direct care to residents would receive training in the additional areas set out in this section. These staff would be required to receive training at least annually on PASDs and on the application, use and potential dangers of physical devices used to restrain residents. Additional training requirements would be based on the criteria set out in this section. Medical Directors, attending physicians and registered nurses in the extended class who attend residents would not be required to receive the additional training provided for in subsection 76 (7) of the Act. The requirements relating to this section would be effective six months after the Act comes into force.

### **Section 119 – Orientation for volunteers**

Volunteers would receive the orientation set out in section 77 of the Act. The orientation would include the information set out in this section. The requirements relating to this section would only apply to individuals who begin volunteering at a long-term care home after the Act comes into force.

## INFORMATION

### **Section 120 – Information for residents, etc.**

For the purposes of clause 78 (2) (r) of the Act, the package of information provided for in section 78 would include the information set out in this section.

### **Section 121 – Posting of information**

For the purposes of clause 79 (3) (q) of the Act, the information required to be posted in the home and communicated to residents under section 79 would include the items set out in this section. Certain items would be posted in a font size of at least 16.

### **Section 122 – Transitional, information and posting**

A licensee of a long-term care home would not be required to comply with clauses 78 (2) (b) and 79 (3) (b) of the Act until one year after section 189 of the Act comes into force.

## QUALITY IMPROVEMENT

### **Section 123 – Continuous quality improvement**

The quality improvement and utilization review system required under section 84 of the Act would include a documented process to identify initiatives for review, the communication of outcomes and the maintenance of certain records.

## EMERGENCY PLANS

### **Section 124 – Emergency plans**

This section would apply to the emergency plans required under subsection 87 (1) of the Act. Emergency plans would be in writing, identify and assess hazards and risks that may give rise to an emergency impacting the home, address the specific components set out in this section and be tested. Written evaluations to identify changes needed to improve the program would be required on an annual basis and the changes would be implemented.

## FLOOR SPACE

### **Section 125 – Floor space**

Each floor of the home would have adequate space for the completion of documentation by staff and secure storage of resident records.

## BEDROOM FURNISHINGS

### **Section 126 – Bedroom furnishings**

Bedroom furnishings, such as beds, bedside tables, easy chairs and clothes closets that meet the requirements set out in this section would have to be provided to residents.

## AIR TEMPERATURE

### **Section 127 – Air temperature**

The home would be maintained at a minimum temperature of 22 degrees Celsius.

## REGULATED DOCUMENTS

### **Section 128 – Regulated documents**

The following are regulated documents for the purposes of section 80 of the Act:

1. Any agreement between the licensee and a resident or a person authorized to enter into such an agreement on the resident's behalf for any of the charges referred to in subsection 91 (1) of the Act.
2. Any document containing a consent or directive with respect to "treatment" as defined in the *Health Care Consent Act, 1996*, including a document containing a consent or directive with respect to a "course of treatment" or a "plan of treatment" under that Act.

When it is signed, the licensee must provide a copy of the document referred to in 1 or 2 above to the resident or to the other person authorized to sign the document on the resident's behalf.

Agreements relating to charges for basic accommodation or preferred accommodation would only be permitted to include the provisions set out in this section.

Agreements for permitted charges, other than accommodation, would have to include the provisions set out in this section, including the description and cost of the goods or services and a requirement that the licensee provide at least 30 days written notice before charging an increase in the cost of the goods and services. This agreement must not include an agreement for accommodation charges.

Any document containing a consent or directive with respect to "treatment" as defined in the *Health Care Consent Act, 1996*, including a document containing a consent or directive with respect to a "course of treatment" or a "plan of treatment" under that Act would have to comply with the requirements of that Act. This would include the requirement for informed consent to treatment under that Act. The document would not contain any provisions dealing with accommodation charges or other financial matters. The document would have to contain a statement indicating that the consent may be withdrawn or revoked at any time and would set out section 83 of the Act. Any document which includes a plan of treatment that contains "level of care" directives about treatment to be provided to a resident in the future, would have to indicate that the resident or substitute decision-maker has the option of varying the level of care and selecting other levels of care.

The licensee would not have to comply with this section until 6 months after it comes into force. This section also provides for transitional requirements. The licensee would have 9 months to ensure that documents that are described as "regulated documents" under this section and that are in use before this section and section 80 of the Act come into force meet the requirements of this section.

## RECORDS

### **Section 129 – Resident records**

Written records would be created, maintained, and kept up to date for each resident of a long-term care home.

### **Section 130 – Records of current residents**

Records of residents would be kept at the home.

### **Section 131 – Retention of resident records**

The record of every former resident of a long-term care home would be retained for a minimum of 10 years after a resident dies or is discharged from the home. These records would be kept in the home for at least the first year after a resident dies or is discharged.

### **Section 132 – Staff records**

A written personnel record would be kept for each staff member of the home. The personnel records would include the information required in this section. Personnel records would not have to be kept for certain staff members who provide services to the home on an infrequent basis and do not provide direct care to residents.

### **Section 133 – Personnel records of current staff**

The personnel records of current staff members would be kept at the home. Where a staff member works at more than one long-term care home operated by a licensee, the personnel records would have to be readily available at each home.

### **Section 134 – Retention of personnel records**

Personnel records for a former staff member would be retained for at least seven years after the staff member ceases working at the home and kept at the home for at least the first year.

### **Section 135 – Records, revocation of licence**

If the Director makes an order to revoke a licence under section 157 of the Act, the licensee would be required to turn over resident records as specified by the Director.

### **Section 136 - Transitional, records**

This section would provide transitional rules for records that were created under the current long-term care home legislation.

## **CRIMINAL REFERENCE CHECKS**

### **Section 137 – Criminal reference check**

Before a licensee hires a staff member or accepts a volunteer a criminal reference check would be conducted by a police force within the six month period before the hiring or acceptance. The criminal reference check would include a vulnerable sector screen. These staff members and volunteers would be required to provide the licensee with a signed declaration every year setting out specified information. These requirements would not apply to certain staff who provide services to the home on an infrequent basis and do not provide direct care to residents or to Medical Directors, attending physicians and registered nurses in the extended class who attend residents.

## DRUGS

### Section 138 – “Drug” defined

For the purposes of the Act and this proposed initial draft Regulation, “drug” would be defined as set out in subsection 1 (1) of the *Drug and Pharmacies Regulation Act*.

### Section 139 – Definitions

This section would define a number of terms for the purpose of sections 140 to 163 of the draft Regulation, including,

“natural health product” means a natural health product set out in the *Natural Health Products Regulations* (Canada) under the *Food and Drugs Act* (Canada), but does not include a product that has been identified as a drug for the purposes of the *Drug and Pharmacies Regulation Act*; (*French*)

“pharmacist” means a member of the Ontario College of Pharmacists; (*French*)

“pharmacy service provider” means the pharmacy service provider retained for the home under section 145;

“prescribed”, when used with reference to a drug or mixture of drugs, means that a prescriber has directed the dispensing of the drug or mixture of drugs to a named person;

“prescriber” means a person who is authorized under a health profession Act to prescribe a drug as defined in the *Drug and Pharmacies Regulation Act*;

“prescription” means a direction from a prescriber directing the dispensing of any drug or mixture of drugs for a designated person;

“topical” means a drug in the form of a liquid, cream, gel, lotion, ointment, spray or powder that is applied to an area of the skin and is intended to affect only the area to which it is applied.

## MEDICATION MANAGEMENT

### Section 140 – Medication management system

A medication management system that provides safe medication management and optimizes effective drug therapy outcomes for residents would be developed. Written policies and protocols for the system would be developed and evaluated and updated based on appropriate evidence-based practices or prevailing practices. These policies and protocols would be reviewed and approved by the Medical Director, the Director of Nursing and Personal Care and the pharmacy service provider.

### **Section 141 – Quarterly evaluation**

An interdisciplinary team would meet at least quarterly to evaluate the effectiveness of the medication management system in the home and to recommend any changes necessary to improve the system. The quarterly evaluation would include reviewing drug utilization trends and patterns in the home, reports of any medication incidents and adverse drug reactions and instances of the restraining of residents by the administration of drugs under the common law duty referred to in section 36 of the Act. Changes to improve the system in keeping with evidence-based or prevailing practices would be implemented. A written record would be kept of the results of the quarterly evaluation and any changes that were implemented.

### **Section 142 – Annual evaluation**

An interdisciplinary team would meet annually to evaluate the effectiveness of the medication management system in the home and to recommend any changes necessary to improve the system. The annual evaluation would include a review of the quarterly evaluations from the previous year and would be undertaken using an assessment instrument designed specifically for this purpose. Changes to improve the system in keeping with evidence-based or prevailing practices would be implemented. A written record would be kept of the results of the annual evaluation and any changes that were implemented.

### **Section 143 – Medical directives and orders**

Medical directives or orders for the administration of a drug to a resident would be reviewed at any time when the resident's condition is assessed or reassessed in developing or revising the resident's plan of care as required under section 6 of the Act. No medical directive or order would be used for the administration of a drug to a resident unless it is individualized to the resident's condition and needs.

### **Section 144 – Information in every resident home area or unit**

Every resident home area or unit in the home would have the following available: recent and relevant drug reference materials, the pharmacy service provider's contact information, antidote information and the contact information for a poison control centre or similar body.

#### PHARMACY SERVICE PROVIDER

### **Section 145 – Retaining of pharmacy service provider**

A pharmacy service provider that is the holder of a certificate of accreditation for the operation of a pharmacy under the *Drug and Pharmacies Regulation Act* would be retained for every home. A written contract would set out the responsibilities of the pharmacy service provider, including the responsibilities specified in this section. Licensees would have three months from

the date this section is proclaimed into force to retain a pharmacy service provider that holds the certificate referred to above.

### **Section 146 – Responsibilities of pharmacy service provider**

The pharmacy service provider would be required to participate in the activities specified in this section, including the development of medication assessments and maintenance of medication profiles, evaluation of therapeutic outcomes of drugs for residents, risk management and quality improvement activities, developing audit protocols to evaluate the medication management system, educational support to the staff of the home in relation to drugs and drug destruction and disposal if required by the licensee's policy under clause 162 (3) (a).

### **Section 147 – System for notifying pharmacy service provider**

A system would be developed for notifying the pharmacy service provider within 24 hours of the admission, medical and psychiatric absences, discharge and death of a resident.

## **OBTAINING AND KEEPING DRUGS**

### **Section 148 – Purchasing and handling of drugs**

A drug would not be acquired, received or stored by or in the home unless (a) the drug has been prescribed for a resident or obtained for the purposes of the home's emergency drug supply and (b) the drug has been provided by the dispensing pharmacy service provider or the Government of Ontario.

### **Section 149 – Emergency drug supply**

If a home maintains an emergency drug supply, only drugs approved by the Medical Director in collaboration with the pharmacy service provider, the Director of Nursing and Personal Care and the Administrator would be kept. A written policy relating to the emergency drug supply would be in place. At least annually, there would be an evaluation of the use of drugs kept in the emergency drug supply in order to determine the need for the drugs. Any recommended changes resulting from the evaluation would be implemented.

### **Section 150 – Drug supply**

Drugs obtained for use in the home, except drugs obtained for any emergency drug supply, would be obtained based on resident usage and no more than a three-month supply of drugs would be kept.

### **Section 151 – Monitored dosage system**

A monitored dosage system would be used for the administration of drugs, to promote the ease and accuracy of the administration of drugs to residents and to support monitoring and drug verification activities.

### **Section 152 – Packaging of drugs**

Drugs would remain in the original labelled container or package provided by the dispensing pharmacy service provider or the Government of Ontario until administered to a resident or destroyed.

### **Section 153 – Changes in directions for administration**

A policy would be developed to govern changes in the administration of a drug due to modifications of directions for use made by a prescriber, including temporary discontinuation of the drug.

### **Section 154 – Transfer of drugs**

A policy would be developed to govern the transfer of a drug that has been prescribed for a resident who leaves the home either on a temporary or permanent basis.

### **Section 155 – Safe storage of drugs**

Drugs would be stored in a secure and locked area that is used exclusively for drugs and drug-related supplies. Drugs would be stored in a manner that maintains their efficacy and complies with manufacturer's instructions. Controlled substances would be stored in a separate, double-locked stationary cupboard within the secure and locked area.

### **Section 156 – Security of drug supply**

Steps would be taken to ensure the security of the drug supply. All areas where drugs are stored and kept would be locked at all times, when not in use. Access to these areas would be restricted to persons who may dispense, prescribe or administer drugs in the home and the Administrator. A monthly audit would be undertaken of the daily count sheets of controlled substances to determine if there are any discrepancies. Immediate action would be taken if any discrepancies are discovered.

### **Section 157 – Administration of drugs**

A drug would not be taken by or administered to a resident in the home unless the drug has been prescribed for the resident. Generally, a drug would only be administered to a resident by a person who is a health professional who is authorized to administer drugs under a health profession Act as defined in the *Regulated Health Professions Act, 1991*. This section sets out

when persons who are not otherwise permitted to administer drugs to residents would be able to administer a topical to a resident. A resident would be able to administer drugs to himself or herself if this is approved by the prescriber in consultation with the resident. Policies would be developed to ensure that residents who administer drugs to themselves understand the use and need for the drug and the need for monitoring, documentation and secure storage of the drug. Residents would not be able to keep drugs on their person or in their rooms except as permitted under this section.

### **Section 158 – Natural health products**

Policies and protocols would be developed to govern the use, administration and storage of any natural health products that licensees permit to be used in the home.

### **Section 159 – Drug record**

A drug record would be kept in the home for at least two years to record information about every drug that is ordered and received in the home.

### **Section 160 – Residents' drug regimes**

When a resident is taking any drug or combination of drugs, including psychotropic drugs, there would be monitoring and documentation of the resident's response and the effectiveness of the drugs appropriate to the risk level of the drug or combination of drugs. The licensee would ensure that appropriate actions are taken in response to any medication incident involving a resident and any adverse drug reaction. There would be a quarterly reassessment of each resident's drug regime by an interdisciplinary team which includes the prescriber and a member of the registered nursing staff.

### **Section 161 – Medication incidents and adverse drug reactions**

Medication incidents involving a resident and adverse drug reactions would be documented in the resident's health records and reported to the resident, the resident's substitute decision-maker, if any, the Director of Nursing and Personal Care, the Medical Director, the resident's attending physician and the pharmacy service provider. All medication incidents and adverse drug reactions would be documented, reviewed and analyzed and corrective actions would be taken as necessary. A quarterly evaluation would be undertaken of medication incidents and adverse drug reactions in order to reduce and prevent their occurrence. Any changes and improvements identified in the evaluation would be implemented. A written record of the matters provided for in this section would be kept.

### **Section 162 – Drug destruction and disposal**

A written policy providing for the destruction and disposal of drugs would be developed as part of the medication management system. The written policy would provide for the ongoing

identification for destruction and disposal of the drugs specified in the section. The policy would also address other matters, including keeping drugs that are to be destroyed separate from drugs that are available for administration to a resident and safe and environmentally appropriate destruction and disposal of drugs. Drugs would have to be destroyed by two persons, as specified in the section. There would be different requirements for the destruction of controlled substances. A drug would be considered to be destroyed when it is altered or denatured to such an extent that its consumption is rendered impossible or improbable. The drug destruction and disposal system would be audited annually to verify that the licensee's procedures are being followed and are effective. Any changes and improvements identified in the audit would be implemented and a record would be kept of the audit and the changes implemented.

### **Section 163 – Restraining by administration of drug, etc under common law duty**

Every administration of a drug to restrain a resident under the common law duty described in section 36 of the Act would be documented in the resident's record. In addition, the circumstances that led to the administration of the drug, the resident's response to the drug, all assessments and monitoring of the resident and discussions with the resident or the resident's substitute decision-maker after the administration of the drug to explain the reasons for the use of the drug would be documented.

#### **REPORTS**

### **Section 164 – Annual reports**

Licensees would be required to submit reports to the Director in every calendar year to confirm that the information the Ministry has on file for a licensee is correct, provide corrected information and provide other information specified in this section.

### **Section 165 – Reports re key personnel**

Licensees would be required to report to the Director the name and contact information of the Medical Director, any registered nurses in the extended class working in the home, the Administrator, the Director of Nursing and Personal Care, the nutrition manager, the registered dietitian and the designated leads for the housekeeping, laundry and maintenance programs.

## **PART VI FUNDING**

### **NON-ARM'S LENGTH TRANSACTIONS**

### **Section 166 - Non-arm's length transactions**

For the purposes of section 93 of the Act and this draft Regulation, "non-arm's length transaction" would be defined as a transaction between two parties where one party is an associate of the other party within the meaning of subsection 2 (4) of the Act.

A licensee would be prohibited from entering into a non-arm's length transactions unless a record of the transaction has been created, at least three unrelated bids have been obtained, and the transaction would provide value for the money spent. A licensee who is unable to obtain three unrelated bids because of insufficient resources where the home is located, would be able to apply to the Director for approval to enter into the non-arm's length transaction.

Reports would be submitted to the Director on all non-arm's length transactions entered into by the home and would have to include the information outlined in this section.

## RECONCILIATION AND RECOVERY

### **Section 167- Reconciliation and recovery**

Reconciliation reports would be provided to the Minister in the form, manner and at the times specified by the Minister.

One of the reconciliation reports would be an audited report covering the period between January 1, 2010 and December 31, 2010, and a separate audited report for each subsequent calendar year.

If a licensee has been paid more than the allowable subsidy for the reconciliation period, the excess money is a debt owing to the Crown in right of Ontario and the debt could be recovered by either the Minister or a Local Health Integration Network deducting the excess from future payments to the licensee.

If the amount paid to a licensee for a long-term care home is less than the allowable subsidy for the reconciliation period, the Minister would pay the difference to the licensee, or direct a Local Health Integration Network to pay the difference.

The "allowable subsidy" would be the amount that is determined by the Minister through reconciliation reports, any funding agreement between the Ministry and the licensee, any conditions attached to the funding and all applicable Ministry policies for the management, payment and use of funds.

The "reconciliation period" would mean the periods between January 1, 2010 and December 31, 2010, and each subsequent calendar year, and include any period within those twelve month periods when a reconciliation is calculated.

### **Section 168- Transitional, reconciliation and recovery**

Reconciliations prior to January 1, 2010 would be governed by the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act*. Where it is determined that the licensee owes a debt to the licensee, the Minister would be able to direct the

local health integration network (LHIN) that funds the licensee to deduct the excess from subsequent payments. Where a debt is owing to the licensee, the Minister would be able to direct the LHIN to pay the licensee.

## RECORDS AND ACCOUNTS

### **Section 169 - Licensee to retain records**

Records must be kept for each long-term care home, including current books of accounts, reconciliation reports, and other reports as described in this section.

### **Section 170 - Requirements for records**

Records would be retained according to the requirements set out in this section. Records would be kept in a readable and useable format that can be provided on request.

### **Section 171 - Transitional, records**

This section would provide transitional rules relating to records.

### **Section 172 - Books of account**

The books of account for a long-term care home would set out all of the home's revenues and expenditures, contain a separate record of money received by the licensee for the home from sources other than under the Act or under the *Local Health System Integration Act, 2006* and would be audited annually according to the requirements of this section.

## NON-ALLOWABLE RESIDENT CHARGES

### **Section 173 - Non-allowable resident charges**

This section would set out all non-allowable resident charges for the purposes of paragraph 4 of subsection 91 (1) of the Act, including charges for services that are insured services under the *Health Insurance Act* and transaction fees for deposits and withdrawals from a trust account maintained by the licensee.

## STATEMENTS

### **Section 174 - Statements**

A licensee would have to provide an itemized statement of the charges made to a resident within 15 days after the end of each month to each resident or their attorney, or person exercising a power of attorney for property or a guardian of property.

## PREFERRED ACCOMMODATION

### **Section 175 - Preferred accommodation maximum**

No more than 60 per cent of the licensed bed capacity in a home could be designated as preferred accommodation.

## CHARGES FOR ACCOMMODATION

### **Section 176 - “Term” defined**

For the purposes of sections 180, 181 and 182, “term” is defined as set out in this section.

### **Section 177 - Interpretation -- interim bed short-stay program**

A licensee would only be able to charge residents in the interim bed short-stay program the amount charged for providing long-stay residents with basic accommodation. Residents in the interim bed short-stay program would be deemed to be long-stay residents for the purposes of sections 179 to 184.

### **Section 178 - Determination of payments**

The maximum amounts that could be demanded or accepted by or on behalf of a licensee under paragraphs 1 and 2 of subsection 91 (1) of the Act would be determined in accordance with sections 179 to 184.

### **Section 179 - Maximum amounts of payments**

Residents could only be charged the maximum daily and monthly amounts for accommodation set out in this section and Table 3.

### **Section 180 - Reduction in basic accommodation charge**

A long-stay resident would be permitted to apply to the Director for a reduction in the basic accommodation fee if the resident’s annual net income meets the requirements set out in this section. A resident’s application for a rate reduction would have to accord with the requirements set out in this section, including the requirement to provide a Notice of Assessment from the Canadian Revenue Agency for the immediately preceding year. Upon request, licensees would be required to provide assistance in completing the application.

Where a resident was admitted to a home within the year before the application was submitted and where a resident does not have a Notice of Assessment for the immediately preceding year, the Director could consider other supporting documentation demonstrating a resident’s income to determine the equivalent of the resident’s annual net income.

Where a long-stay resident is eligible for a reduction under this section, the maximum amount that could be demanded or accepted for providing the resident with basic accommodation during a term would be the amount determined by the Director as follows:

1. Divide the resident's annual net income by 12, and subtract a comfort allowance of \$125.
2. The maximum amount is the amount determined under paragraph 1, unless that determination would result in an amount of less than \$1050.29, in which case the amount is \$1050.29 for a full month or a prorated amount for less than a full month.

The terms "annual net income" and "non-taxable private insurance benefits" would be defined in this section.

### **Section 181 - Further reduction in exceptional circumstances**

The following persons would be permitted to apply to the Director for a further reduction in the basic accommodation:

1. A long-stay resident for whom the maximum monthly amount is determined to be \$1050.29.
2. A long-stay resident for whom the maximum monthly amount is determined to be more than \$1050.29 and whose Notice of Assessment for the immediately preceding year no longer represents current available income.

An application for a further rate reduction would have to meet the requirements set out in this section.

Where the resident was admitted to the home within the year before the application was submitted and where the resident does not have a Notice of Assessment, the Director could consider other supporting documentation to determine the equivalent of the resident's annual net income, current income or both.

The Director would be permitted to retroactively adjust the maximum amount payable for a resident, as set out in this section, and where the Director determines that the resident ought to have paid a higher amount in prior years, the resident would have to repay the difference to the licensee before receiving a further reduction under this section.

In determining the appropriate amount under this section, the Director would be required to consider the resident's annual net income, current income or both as well as any other relevant factors. Nothing in this section would obligate the Director to provide a further reduction.

The terms "annual net income", "current income", and "non-taxable private insurance benefits" would be defined in this section.

## **Section 182 - Reduction in charge, resident with dependants**

A long-stay resident who has one or more dependants living outside of a long-term care home, hospital or any other government funded facility would be permitted to apply for a reduction in the basic accommodation rate if applicant meets the eligibility criteria set out in this section.

An application for a rate reduction for a resident with dependants would have to meet the requirements set out in this section.

Where the resident was admitted to the home within the year before the application was submitted and where the resident does not have a Notice of Assessment, the Director could consider other supporting documentation to determine the equivalent of the resident's annual net income, current income or both.

The Director would not provide a reduction under this section if the Director has provided a reduction under any other section.

In determining the appropriate amount under this section, the Director would consider the family income and any other relevant factors.

The terms "annual net income", "current income", and "non-taxable private insurance benefits" would be defined in this section.

"Dependant" would be defined as a spouse who was living with the resident immediately before the resident was admitted to the long-term care home, or if the resident has been in more than one long-term care home or other institution, including a hospital, continuously, immediately before the resident was first admitted to the long-term care home or other institution, or a child of the resident under 18 years old or who is under 25 years old and who is in full-time attendance at a recognized secondary or post-secondary educational institution and is financially dependant on the resident.

"Family income" would be defined as the total annual income of the resident and each dependant, except for a dependant who is a child under 18 years of age, determined by the Director who may consider the annual net income, current income or both of the resident and each dependant.

### **Section 183 - Restriction, interest charges**

A licensee would be prohibited from charging interest for missed, incomplete or late payments to a resident who has applied for a rate reduction until the resident's maximum amount payable has been determined.

### **Section 184 - Restriction on charge reductions**

A resident would be ineligible for a rate reduction for basic accommodation unless:

- (a) the resident and any dependant have exhausted all benefits, entitlements, supplements, settlements, or other financial assistance from all levels of government in Canada, private policy of insurance, and any entitlements, supplements, settlements or other financial assistance from any foreign country, other than benefits available under the *War Benefits Act* (Canada);
- (b) the resident has exhausted any support payments due and owing to the resident under a court order for support;
- (c) in the case of a resident who is a sponsored immigrant, the resident has exhausted financial support from the resident's sponsor; and
- (d) in the case of a resident and any dependant who must repay an overpayment of a benefit received under the *Old Age Security Act*, the *Ontario Guaranteed Annual Income Act*, the *Ontario Disability Support Program Act, 1997* or the *Ontario Works Act, 1997*, the resident or dependant made the repayment.

The Director would have full discretion to deny an application in any category for a rate reduction, including for the reason that in the Director's opinion the resident has not provided sufficient proof of financial need or has provided false information on an application for a reduction. The Director may deny and make retroactive adjustments to amounts payable, as set out in this section.

### **Section 185 - Transitional, charge reductions**

This section would provide for transitional rules relating to reductions in accommodation charges.

### **Section 186 - Payment for first and last day**

A long-stay resident would be required to pay the amount charged for basic or preferred accommodation, as applicable, for a full day for the day the placement coordination authorizes admission to the home and for the day the resident is discharged from the home.

Despite what is outlined above, a long-stay resident would not be required to pay the amount charged for basic or preferred accommodation for a full day for the day the resident is discharged from the home if the resident is admitted to another home on the same day.

A short-stay resident would pay the amount charged for basic or preferred accommodation for a full day for the day the placement coordinator authorizes the resident’s admission to the home, but would not be required to pay the amount charged for accommodation for the day the resident is discharged from the home.

**Section 187 - Payment for day following discharge**

A licensee could charge a long-stay resident who has been discharged the amount that they would have otherwise been charged for the day following discharge should the person who has been discharged, a family member or a person notified by the licensee of the discharge wish to have access to that room on the day following discharge.

**Section 188 - Interim beds, payments for certain days**

For the purposes of applying sections 186 and 187, a resident occupying a long-stay interim bed immediately before the coming into force of this section would be considered a long-stay resident. A resident occupying a bed in the interim bed short stay program would be considered a short-stay resident.

**Section 189 - Responsibility for payment during absence**

A resident would have to pay the accommodation charges during an absence, as set out by this section.

**Section 190 - Notice of accommodation charge increase**

A minimum of 30 days written notice would have to be provided to residents prior charging any increase to accommodation charges. Failure to provide this notice would void an increase by the licensee.

The provisions outlined above in this section would not apply to an increase in the basic accommodation rate by a resident who has been charged a reduced amount if the increase follows a reapplication by the resident for a reduction or results from the resident’s failure to reapply for a reduction at the end of the term in which the original reduction was in effect.

TABLE 3  
RESIDENT PAYMENTS

Item	Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
	Period	Short-Stay	Long-Stay	Long-Stay	Long-Stay	Long-Stay	Long-Stay	Long-Stay

		Daily Maximum	Basic Monthly Maximum	Basic Daily Maximum	Semi-Private Monthly Maximum	Semi-Private Daily Maximum	Private Monthly Maximum	Private Daily Maximum
15.	From and including July 1, 2009	34.53	1,614.21	53.07	1,857.55	61.07	2,161.71	71.07

## PART VII LICENSING

### Section 191 – Definitions

“Security interest” would be defined to have the same meaning as in section 107 of the Act.

### Section 192 – Premises that do not require licence

The prohibition, under subsection 95(1) of the Act, against operating premises for persons requiring nursing care would not apply to

- a home for special care
- a facility under the *Development Services Act* or residential premises funded under the successor to that Act, the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*
- a residential hospice funded by the Ministry of Health and Long-Term Care
- a retirement home

### Section 193 – Public interest – need

The Minister would take into account a recommendation from the local health integration network when considering, under section 96 of the Act, whether there should be a home in an area or how many beds there should be.

### Section 194 – “Non-profit” and “for-profit”

This section would define “non-profit” and “for-profit” for the purposes of the Act.

A non-profit entity would be

- a corporation without share capital,
- a municipality or board of management for a municipal home, or
- a band council or a board of management for a First Nations home.

A share capital subsidiary of the above would also be a non-profit entity.

A non-profit home would be

- a licensed home whose licensee is a non-profit entity, or
- a home approved under Part VIII of the Act.

A for-profit entity or home would be anything that is not a non-profit entity or home.

### **Section 195 – Limits on eligibility for licence**

Additional reasons would be prescribed that could make a person ineligible to be a licensee under section 98 of the Act. The additional reasons relate to those who have a controlling interest in the person.

### **Section 196 – Non-profit to for-profit circumstances**

Circumstances would be prescribed in which a licence or beds can be transferred from a non-profit entity to a for-profit entity. The circumstances are limited to a default, by the licensee, of obligations secured by a security interest in the licence.

### **Section 197 – Limits on share transfers — non-profit subsidiaries**

Certain restrictions would be imposed on the transfer or issue of shares in a corporation that is a non-profit licensee, where the transfer is from a non-profit shareholder to a for-profit entity or the issue is to a for-profit entity. Such an issue or transfer would be allowed in circumstances that are similar to those in which a licence could be transferred from a non-profit entity to a for-profit entity.

### **Section 198 – Public meetings**

Requirements would be prescribed for public meetings under subsection 106(2) of the Act, which are required before the issue or transfer of licences or before certain amendments are made. The requirements provide for notice for, and the chairing of, such meetings.

### **Section 199 – Person with security interest operating home through management contract**

Certain requirements would be imposed on the management of a home following the exercise of a security interest under section 107 of the Act. The approval of the management contract by the Director under section 110 of the Act would be required. As well such management could not continue for more than one year unless the person exercising the security interest is approved by the Director or the Director extends the one year period.

### **Section 200 – Approval of gaining controlling interest**

The approval required for the gaining of controlling interest in a licensee would be required in advance.

### **Section 201 – Requirements for management contracts**

Management contracts would be required to provide for certain matters, including the following:

- the management of the home may not be subcontracted or assigned,

- that the manager must operate the home in accordance with the requirements under the Act,
- an acknowledgment that funding will go the licensee, not the manager.

The licensee would notify the Director of any amendment of a management contract or of any event that results in the manager no longer managing the home. How subsection 110(4) of the Act applies to an amendment of a management contract that requires the Director's approval would also be clarified.

## **Section 202 – Temporary licences and temporary emergency licences – exemptions**

Certain provisions of the Act would not apply to temporary licences and temporary emergency licences. In addition to the provisions specifically set out, the Director would be authorized to stipulate other provisions that would not apply, subject to certain restrictions set out in this section.

## **Section 203 – Temporary emergency licences**

A temporary emergency licence could be issued if there were circumstances affecting a home that made it necessary to remove one or more residents. Only residents from that home could be admitted to a bed under that licence.

## **Section 204 – Short term authorizations**

A short term authorization could be given if a person required immediate admission to a home as a result of a crisis arising from their condition or circumstances. Only the person could be admitted to the bed under the authorization.

## **Section 205 – Amendments with consent**

A licence could be amended under subsection 114(1) of the Act only if the Director approves the amendment.

## **Section 206 – Licence with beds of different terms**

Special rules would be provided for a licence with beds with different terms, including the following:

- a rule that the licence expires when the term for the last bed expires,
- a rule about how the Director may reduce beds, under clause 104(3)(a) of the Act, if beds have been unoccupied and unavailable without permission,
- a rule that the provisions of section 114 that apply to extensions of the term of a licence apply to extensions of the term of a bed,
- a rule about when the Director must give notice under subsection 103(1) of the Act when a transfer of beds shortens the term of a licence.

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

### **Section 207 – Definition**

“Part VIII home” would be defined to mean a municipal home, joint home or First Nations home approved under Part VIII of the Act.

### **Section 208 – Application of Act to Part VIII homes**

Certain clarifications would be made with respect to the application of provisions of the Act to Part VIII homes, including the following:

- clarifications about the application of sections 97 and 98 of the Act in relation to undertakings to give an approval, management contracts or amendments of an approval,
- a clarification that temporary emergency licences can be issued to a municipality or board of management,
- clarifications about the application of certain provisions with respect to a temporary licence or temporary emergency licence that is issued to a municipality or board of management.

### **Section 209 – Composition of committees of management**

The committee of management of a municipal home would have at least three members and the committee of management of a joint home would have a least two members from each municipality.

### **Section 210 – Application of Part VII of regulation**

Modifications would be made for certain provisions of the draft Regulation with respect to Part VIII homes. The modifications would consist of reading references to “licence” and “Director” as references to “approval” and “Minister”, respectively.

## **PART IX COMPLIANCE AND ENFORCEMENT**

### **Section 211 – Where notice may be given of inspection**

The following would be the limited exceptions to the requirement in section 144 of the Act that inspections be unannounced:

1. Inspections of beds in an existing home that are not yet licensed or approved,
2. Inspections to ensure compliance with a closure plan, and
3. Inspections at the licensee’s request.

### **Sections 212 – Factors to be taken into account**

When determining what action to take or order to make under the Act where there has been a finding of non-compliance, an inspector or the Director would only be able to take into account:

1. The severity of the harm or risk of harm to one or more residents,
2. The scope, defined as pervasiveness throughout the home, of the harm or risk of harm; and
3. The licensee's past history of compliance.

### **Section 213 – Reasonable compensation**

The section would provide the calculation to determine the reasonable compensation that would be payable to a licensee for the use of the licensee's property when the Director has made an order revoking a licence and providing for an interim manager to occupy and operate the home pursuant to section 157 of the Act.

### **Section 214 – Protection of privacy in reports**

Where an inspection report that would have to be posted, provided or published under sections 79, 149 and 173 of the Act contains personal information or personal health information, only the following would have to be posted, provided or published:

1. Where there is a finding of non-compliance, the finding and a summary of the evidence supporting the finding.
2. Where there is no finding of non-compliance, a summary of the report.

Where an order that would have to be posted or published under sections 79 and 173 of the Act contain person information or personal health information, only a summary of the content of the order would have to be posted or published.

### **Section 215 – Transitional, compliance and enforcement**

Except as provided for in the Act or this draft Regulation, anything that occurred prior to this section coming into force would not be governed by the Act or this draft Regulation.

Except as otherwise provided for in this section and despite anything in the Act, Part IX of the Act (Compliance and Enforcement) would apply to a failure to comply with requirements under a previous Act where the failure to comply has not been rectified prior to this section coming into force.

A requirement under a previous Act would mean a requirement under the *Nursing Homes Act*, the *Charitable Institutions Act*, the *Homes for the Aged and Rest Homes Act*, in the regulations under one of those Acts, or in an order or agreement made under one of those Acts or the *Health Facilities Special Orders Act*, and includes a condition of a licence or an approval and a condition to which funding was subject under one of those Acts.

The ability to issue a compliance order or a work and activity order under sections 153 and 154 of the Act would not apply with respect to a requirement under a previous Act.

The Director would be able to make an order revoking a licence under section 157 of the Act for any reason provided for in section 157 with respect to matters that occurred before the coming into force of this section, and for any reason for which a licence or approval could have been revoked under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Health Facilities Special Orders Act*.

The draft Regulation would provide for further transitional regulations related to compliance and enforcement.

## **PART X ADMINISTRATION, MISCELLANEOUS AND TRANSITION**

### **SERVICE AND NOTICE**

#### **Section 216 – Service and Notice**

Where the Act or this draft Regulation requires a document to be served by the Minister, the Director or another employee of the Ministry, it is sufficiently served if it is served personally, sent by registered mail or faxed to the person being served. This rule also applies where the Minister, the Director or another employee of the Ministry must give a notice or a copy of a report, a decision or anything similar.

This section sets out the particulars of how a document could be served personally on an individual and on different types of entities, such as a corporation and a board of management. The person serving a document personally would not have to provide the original document.

Service by registered mail would be effective on the fifth day after the mailing. Service by fax would be effective the next business day after the fax is sent.

In addition to the other methods of service outlined in this section, certain specified documents, such as an order, may be served or provided by delivering a copy personally to the Administrator or to a person apparently in charge of the long-term care home that is the subject of the document being served or provided.

A licensee seeking a review of an inspector's order must serve this request for review on the Director in the manner specified in the order.

This section would not apply to the service of a certificate under subsection 150 (2) of the Act.

Where the Act or this draft Regulation requires a person to serve or notify the Director or the Minister, the methods for effecting service or notification are set out in this section.

## TRUST ACCOUNTS

### **Sections 217 – Trust accounts**

Every licensee of a long-term care home would be required to have at least one non-interest bearing trust account at a financial institution (i.e. bank, trust corporation or credit union) in which the licensee must deposit money received for the benefit of a resident. Licensees would be required to keep petty cash money in the home, withdrawn from a trust account, which would be sufficient to meet the daily needs of the residents for whom money is being held in trust.

Licensees would not be allowed to hold more than \$5000 for any individual resident at any time, commingle resident funds with any other funds or charge any transactions fees for activities relating to a trust account.

Licensees would have to establish a written policy and procedures for the management of the trust account and petty cash trust money that meet the requirements set out in section 217. The licensee would have to provide a copy of the policy and procedures to every resident, and person acting on behalf of a resident, who asks to have money deposited into the trust account.

The licensee would be required to:

- provide a written receipt to a resident, or person acting on behalf of a resident, for all money received for deposit in a trust account;
- make part or all of the money available to the resident or a person acting on behalf of the resident in accordance with instructions, if any are required or provided, and upon receipt of a signed acknowledgement of the receipt of funds;
- maintain a separate ledger for each trust account that meets the requirements of this provision, and a separate book of account for each resident for whom money is deposited in a trust account;
- provide quarterly itemized written statements to a resident, or person acting on behalf of a resident; and
- retain specified records for seven years and make these records and the audit of the trust account available to a resident, or person acting on behalf of a resident, if requested in writing.

A resident, or a person acting on behalf of a resident, would have to provide the licensee with a written authorization to pay for charges under section 91 of the Act with money held in a trust account. Where a written authorization has been provided, the licensee would not be required to

obtain a written acknowledgement of receipt of funds for every withdrawal, but must include these withdrawals in the quarterly itemized statement.

The licensee would be required to have every trust account audited annually and would have to make the results available to the Director on request.

A municipality or board of management would only be able to receive, hold and administer the property of a resident in trust as provided for in this section.

A “person acting on behalf of a resident” would mean a trustee, an attorney under the *Powers of Attorney Act*, and a person exercising a continuing power of attorney for property or a guardian of property under Part I of the *Substitute Decisions Act, 1992*.

### **Section 218 – Transitional, trust accounts**

The draft Regulations would provide for transitional requirements relating to trust accounts.

## CONSTRUCTION, RENOVATION, ETC. OF HOMES

### **Section 219 - Construction, renovation, etc. of homes**

The Director’s approval of the building and equipment would be required before the operation of a newly licensed or approved home began. There would also be certain requirements relating to alterations, additions, renovations, maintenance or repairs to a home or its equipment, including the following:

- such alterations, etc. would have to improve the functional aspects of the home and equipment,
- the Director’s prior approval would be necessary but for maintenance or repairs such approval would only be needed if the work might significantly disturb or inconvenience residents, and
- the Director could require a further approval before the licensee began to use an addition or part of the home on which work was done.

## FEEES

### **Section 220 – Fees**

Fees would be provided for

- a transfer of a licence or beds,
- approval of the gaining of controlling interest in a licensee,
- approval of a management contract or amendment,
- an amendment of a licence.

The amount of the fee would be determined by what needed to be done with amounts set out for different actions.

The section would provide for reductions in the fee in the following cases:

- if something for which an amount was included was not done,
- if the only change was a name change,
- if the fee would be excessive because of certain specified circumstances.

### **Section 221 – Fees for audits and financial reviews**

This section would provide for fees for audits and financial reviews done by an expert who is not an employee of the Ministry and who was called upon to assist in an inspection. Such fees would only be payable if the audit or review was necessary because the licensee failed to comply with a requirement under the Act or if the audit or review revealed a failure to comply with such a requirement. A fee would be limited to the Ministry's costs of retaining the expert.

#### **CLOSURE OF HOMES**

### **Section 222 – Closure of a home, notice**

A licensee would give a written notice before closing a home. This would not apply if the licence was expiring or was revoked or if the home was licensed under a temporary emergency licence. The notice would be required at least five years before the intended closure or, if the home was licensed under a temporary licence, at least three years before the intended closure. With the consent of the Director, the licensee would be able to withdraw the notice or change the closure date. On the closure date the licence would be deemed to be surrendered.

### **Section 223 – Closure plans and closure agreements**

This section would impose certain requirements when a home is closed, other than when a licence is revoked under section 157 of the Act or if the home was licensed under a temporary emergency licence. The licensee would develop a closure plan to address certain matters set out in the section, submit the plan to the Director at least 14 months before the closure date and comply with the plan. The licensee would also enter into a closure agreement with the Director six months before the closure date providing for requirements the licensee must meet around or after the home closes.

### **Section 224 – Shorter notice periods and deadlines**

The Director could agree to a shorter notice period or later deadline for anything required under section L20 or L21. A temporary licence could also provide for a shorter notice period or later deadline.

### **Section 225 – Closure of home under temporary emergency licence**

This section would apply to the closure of a home licensed under a temporary emergency licence. The licensee would be allowed to close the home only as provided for in the licence or agreed to by the Director. The licensee would co-operate with the Director, the appropriate

placement co-ordinator and the local health integration network with respect to closing the home and relocating the residents.

### **Section 226 – Special rules re Part VIII homes**

Additional rules would be provided for the closure of certain homes under Part VIII of the Act. A southern municipality would not be allowed to close a home that it must maintain under section 119 of the Act. To close a home under a board of management for a territorial district, a majority of the municipalities in the territorial district would pass by-laws agreeing to the closure.

#### NOTICE OF INDIRECT COLLECTION

### **Section 227 – Notice of indirect collection**

Where the Director provides the licensee of a home with a notice of indirect collection containing the information described in subsection 39 (2) of the *Freedom of Information and Protection of Privacy Act*, the licensee would be required to post the notice in a conspicuous place in the home where it is likely to come to the attention of the staff.

#### TRANSITION

### **Section 228 – One home, one replacement licence**

Existing homes with both a licence under the *Nursing Homes Act* and an approval under the *Charitable Institutions Act* would only get a single replacement licence.

### **Section 229 – Request for classification review**

This section would deal with a request by a licensee for a classification review related to the term of a replacement licence under section 187 of the Act. Such a request would be in writing and would be served on the Director within 28 days after the licensee was served with the documentation evidencing the replacement licence.

### **Section 230 – Development and redevelopment agreements**

This section would deal with existing agreements to develop or redevelop a home under the Acts being replaced by the *Long-Term Care Homes Act, 2007*. This section would provide for the following:

- the term of any licence issued would be in accordance with subsection 187(5) of the Act,
- if the public was consulted before the agreement was entered into, the public would not have to be consulted again before a licence is issued or an approval is granted,
- a redevelopment agreement would be deemed to provide that the existing licence or approval must be surrendered if a new licence is issued or a new approval granted.

### **Section 231 – Licensee obligations under service agreements**

The Director would be able to make an existing obligation under a service agreement a condition of a licence or approval.

### **Section 232 – Transitional, interim beds**

This section would deal with existing temporary beds under a service agreement for interim beds. Such beds would not be included in the replacement licence or approval for the home but would, instead, be licensed under a temporary licence.

### **Section 233 – Transitional, short term authorizations**

This section would deal with existing additional beds authorized at a home to facilitate the admission of a person who required immediate admission as a result of a crisis arising from the person's condition or circumstances. Such beds would not be included in the replacement licence or approval for the home but would, instead, be authorized under a short-term authorization.

### **Section 234 – Transitional, transfer applications**

Applications for the surrender and issue of a licence under the *Nursing Homes Act* that have not yet been dealt with, would be dealt with as they would have been dealt with under that Act.

### **Section 235 – Transitional, share transfers**

Applications for approval of the issue or transfer of shares under the *Nursing Homes Act* that have not yet been dealt with, would be dealt with as they would have been dealt with under that Act. Approvals of such issues or transfers would be deemed to be approvals of the gaining of a controlling interest under the *Long-Term Care Homes Act, 2007*.

### **Section 236 – Transitional, management contracts**

Approvals of existing management contracts would be continued and deemed to be approvals under the Act. Provision would be made for such approvals to be withdrawn in certain circumstances and it would be clarified that such approvals may be withdrawn, without liability, under subsection 110(5) of the Act. Applications for the approval of management contracts that have not yet been dealt with would be dealt with as they would have been previously.

### **Section 237 – Transitional, beds in abeyance**

An existing approval to place beds in abeyance would be deemed to be a permission of the Director for the purposes of subsection 104(3).

### **Section 238 – Transitional, notices to close homes**

This section would apply if there was an outstanding notice of an intention to permanently close all or some of the beds of a home and the beds have not yet closed.

If all the beds are to close, the notice would be deemed to be a notice to close a home under section L20 and the closure of a home provisions relating to closure plans and agreements would apply. However, the Director could waive the requirement to develop a closure plan. The home would be issued with a temporary licence instead of a replacement licence or approval. If some of the beds are to close, the home would be issued with a temporary licence for the beds that are to close. The beds would not be included in the replacement licence or approval.

### **Section 239 – Transitional, certain HARHA agreements**

Certain existing agreements that were entered into with the Minister's approval under the *Homes for the Aged and Rest Homes Act* would be deemed to have been entered into with the Minister's approval under the *Long-Term Care Homes Act, 2007*.

### **Section 240 – Transitional, security interests**

Section 107 of the Act would apply to persons who have exercised a security interest and who are in control of the operation of a long-term care home when that section comes into force. The one-year period during which the person does not have to be approved would begin when this section comes into force.

### **Section 241 – Transitional, notice**

Notifications under section 108 of the Act would only be required for events that occur after section TRANS13 comes into force. An exception would be made if there was a requirement to give notice under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act* and notification was not given.

### **Section 242 – Transitional, committees of management**

Existing committees of management for municipal homes would be continued.

## EXEMPTIONS

### **Section 243 - Exemptions, certain homes**

The draft Regulation would exempt the long-term care homes set out in the Table from Part III of the Act, Admission of Residents with the exception of clause 44 (11) (d) and sections 46 and 50 of the Act. The references in those sections to the placement co-ordinator would be read as references to the licensee of the home.

### **Section 244 - Exemptions, homes with Eldcap beds**

This section would provide for exemptions, with or without conditions, from the Act and proposed draft Regulation for homes with Eldcap beds that are referred to in subsection 187 (18) of the Act.

### **Section 245 - Exemptions, alternative settings**

This section would provide for exemptions from the Act and proposed draft Regulation that would apply where the Director issues a licence for short-stay beds in a place where there are no long-stay beds.

DIRECTOR

### **Section 246 – Director**

The Director of the Performance Improvement and Compliance Branch in the Ministry would be the Director for the purposes of the Act and this draft Regulation.

## **PART XI TERRITORIAL DISTRICT HOMES**

### **Section 247 – Application and interpretation**

This Part would apply with respect to homes under section 125. “board” would be defined to mean a board described in one of the Schedules. “supporting municipality” would have the same meaning as in subsection 128 (5) of the Act.

### **Section 248 – Objects**

The objects of a board would be to operate and maintain one or more municipal homes.

### **Section 249 – Established as corporation**

A board would be a corporation. Section 122 of the *Corporations Act*, which protects members from liabilities of the corporation, would apply.

### **Section 250 – Rights, powers, etc.**

A board would have the rights and powers of a natural person, but a board would be subject to certain restrictions in the *Municipal Act, 2001* which deal with financial matters. A board would be able to make investments that a municipality can make.

### **Section 251 –Requirements for members**

To be qualified to be a member of a board an individual would have to be

- at least 18 years old,

- a resident of the board's district, and
- not employed by the board or a supporting municipality.

A member would cease to be a member if the member

- is convicted of an indictable offence,
- becomes incapacitated,
- is absent, without board authorization, for three consecutive meetings, or
- ceases to be qualified to be a member.

### **Section 252 –Membership -- general**

The district for which a board is established would be divided into areas set out in the Schedules to the draft Regulation. The number of members, the areas they represent and the manner of their appointment would also be set out in the Schedules. A member would be appointed for a term not exceeding four years and could be reappointed. The board would notify the Director and each Administrator of the board's homes of any changes in the membership of the board. If the seat of a municipal appointee became vacant, the appointing municipality or municipalities would be notified.

### **Section 253 –Quorum**

A majority of the board members would constitute a quorum.

### **Section 254 –Chair**

Each year a board would be required to appoint a chair who would hold office until the next year. The chair could be reappointed, but not for more than four consecutive terms. A person would cease to be the chair if he or she ceased to be a member of the board. The board would appoint a new chair if the office became vacant.

### **Section 255 –Apportionments by boards of management**

This section would provide that the amounts supporting municipalities are required to pay a board under sections 126 and 127 of the Act would be apportioned among the supporting municipalities in proportion to their weighted assessments. The amounts would be due at the times established by the board and the board would be able to apportion its borrowing costs among municipalities that have not paid on time.

### **Section 256 –Division of territorial districts**

This section would divide each of the territorial districts of Nipissing, Parry Sound and Algoma into two parts for the purposes of Part VIII of the Act.

## **Section 257 –Transitional, boards of management**

Existing boards described in the Schedules to the draft Regulation would be continued. Boards not described would be deemed to have been dissolved. The members and chairs of continued boards would continue as members and chairs.

### AMENDMENT

## **Section 258**

An amendment would be made to clause 192 (b) regarding a facility under the *Developmental Services Act*. That clause would be amended to refer to a residential premises funded under the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*.

### COMMENCEMENT

## **Section 259 – Commencement**

This draft Regulation would come into force on the day that section 1 of the *Long-Term Care Homes Act, 2007* comes into force. Clause 192 (b) would come into force on the later of the day that section 1 of the *Long-Term Care Homes Act, 2007* comes into force and the day that section 1 of the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008* comes into force.

## **Schedules 1 to 7**

For the following districts, the Schedules would divide the districts into areas and set out the number of board members, the areas they represent and the manner of their appointment:

- The District of Algoma
- The District of Kenora
- The District of Manitoulin
- The District of Nipissing East
- The District of Nipissing West
- The District of Parry Sound East
- The District of Parry Sound West

THIS DRAFT IS INTENDED FOR PUBLIC CONSULTATION ONLY.

## ONTARIO REGULATION

made under the

### LONG-TERM CARE HOMES ACT, 2007

GENERAL

#### [Skip Table of Contents](#)

#### CONTENTS

##### **[PART I](#)** **INTERPRETATION**

###### [DEFINITIONS](#)

- [1.](#) Definitions
- [2.](#) “Regular nursing staff”

###### [POLICIES, ETC.](#)

- [3.](#) Policies, etc. to be followed

##### **[PART II](#)**

##### **RESIDENTS: RIGHTS, CARE AND SERVICES**

###### [PLAN OF CARE](#)

- [4.](#) Changes in plan of care, regulated document  
[SAFE AND SECURE HOMES](#)

- [5.](#) Doors in a home
- [6.](#) Elevators
- [7.](#) Privacy curtains and screens
- [8.](#) Shower grab bars
- [9.](#) Bed-rails
- [10.](#) Windows
- [11.](#) Communication and response system
- [12.](#) Lighting
- [13.](#) Generators
- [14.](#) Cooling requirements
- [15.](#) Plumbing
- [16.](#) Compliance with manufacturers’ instructions

###### [GENERAL REQUIREMENTS RE ORGANIZED PROGRAMS](#)

- [17.](#) General requirements

###### [NURSING AND PERSONAL SUPPORT SERVICES](#)

- [18.](#) Nursing and personal support services
- [19.](#) Personal care
- [20.](#) Bathing
- [21.](#) Oral care
- [22.](#) Foot care
- [23.](#) Transferring and positioning techniques
- [24.](#) Personal aids
- [25.](#) Mobility devices
- [26.](#) Dress
- [27.](#) Bedtime routines
- [28.](#) End-of-life care
- [29.](#) Notification re personal belongings, etc.
- [30.](#) Communication methods
- [31.](#) Availability of supplies
- [32.](#) 24-hour nursing care — exceptions
- [33.](#) Certification of nurses
- [34.](#) Qualifications of personal support workers

###### [RESTORATIVE CARE](#)

<a href="#">35.</a>	Restorative care
<a href="#">36.</a>	Integrating restorative care into programs
<a href="#">37.</a>	Therapy services
<a href="#">38.</a>	Space and supplies — therapy services
<a href="#">39.</a>	Therapy services staff qualifications
<a href="#">40.</a>	Social work and social services work
<a href="#">41.</a>	Social work and social services work qualifications
<a href="#">42.</a>	Designated lead
	<a href="#">RECREATIONAL AND SOCIAL ACTIVITIES</a>
<a href="#">43.</a>	Recreational and social activities program
<a href="#">44.</a>	Designated lead
<a href="#">45.</a>	Recreational and social activities qualifications
	<a href="#">NUTRITION CARE AND HYDRATION PROGRAMS</a>
<a href="#">46.</a>	Nutrition care and hydration programs
<a href="#">47.</a>	Weight changes
<a href="#">48.</a>	Dietary services program
<a href="#">49.</a>	Menus and food choices
<a href="#">50.</a>	Food production
<a href="#">51.</a>	Dining service
<a href="#">52.</a>	Dietitian
<a href="#">53.</a>	Nutrition manager
<a href="#">54.</a>	Cooks
<a href="#">55.</a>	Food service workers and cooks, minimums
<a href="#">56.</a>	Training and qualifications
	<a href="#">MEDICAL SERVICES</a>
<a href="#">57.</a>	Medical services program
<a href="#">58.</a>	Availability of medical services
	<a href="#">ATTENDING PHYSICIANS AND RNs (EC)</a>
<a href="#">59.</a>	Attending physician or RN (EC)
<a href="#">60.</a>	Agreement with attending physician
<a href="#">61.</a>	Agreement with registered nurse in extended class
	<a href="#">RELIGIOUS AND SPIRITUAL PRACTICES</a>
<a href="#">62.</a>	Religious and spiritual practices
	<a href="#">ACCOMMODATION SERVICES</a>
<a href="#">63.</a>	Accommodation services programs
<a href="#">64.</a>	Housekeeping
<a href="#">65.</a>	Pest control
<a href="#">66.</a>	Laundry service
<a href="#">67.</a>	Maintenance services
<a href="#">68.</a>	Designated lead
	<a href="#">VOLUNTEERS</a>
<a href="#">69.</a>	Volunteer program
<a href="#">70.</a>	Designated lead
	<a href="#">REPORTING AND COMPLAINTS</a>
<a href="#">71.</a>	Complaints procedure: licensee
<a href="#">72.</a>	Dealing with complaints
<a href="#">73.</a>	Transitional, complaints
<a href="#">74.</a>	Complaints forwarded to the Director
<a href="#">75.</a>	Licensees who report investigations under s. 23 (2) of Act
<a href="#">76.</a>	Transitional, investigation and reports
<a href="#">77.</a>	Reports re critical incidents
	<a href="#">MISUSE OF FUNDING</a>
<a href="#">78.</a>	Misuse of funding
	<a href="#">ABSENCES</a>
<a href="#">79.</a>	Absent residents
<a href="#">80.</a>	Recording of absences
<a href="#">81.</a>	Licensee to stay in contact
<a href="#">82.</a>	Care during absence
	<a href="#">DISCHARGE</a>
<a href="#">83.</a>	Restriction on discharge
<a href="#">84.</a>	When licensee may discharge
<a href="#">85.</a>	When licensee shall discharge
<a href="#">86.</a>	Requirements on licensee before discharging a resident
<a href="#">87.</a>	Responsibility of placement co-ordinator
<a href="#">88.</a>	Licensee to assist with alternatives to long-term care home
<a href="#">89.</a>	Final statement

<a href="#">90.</a>	Transitional, absences and discharges due to absences	
		<a href="#"><b>PART III</b></a>
		<b>ADMISSION OF RESIDENTS</b>
		<a href="#">INTERIM BED SHORT-STAY PROGRAM</a>
<a href="#">91.</a>	Criteria for eligibility, interim bed short-stay program	
<a href="#">92.</a>	Keeping of waiting list, interim beds	
<a href="#">93.</a>	Approval by licensee, interim beds	
<a href="#">94.</a>	Placement on waiting list, interim beds	
<a href="#">95.</a>	Ranking on waiting list, interim beds	
<a href="#">96.</a>	Authorization of admission, interim beds	
<a href="#">97.</a>	Removal from waiting list, interim beds	
<a href="#">98.</a>	Authorization of admission, interim beds	
<a href="#">99.</a>	Removal from every waiting list, interim bed resident	
<a href="#">100.</a>	Transitional, residents in interim beds	
		<a href="#">SPECIALIZED UNITS</a>
<a href="#">101.</a>	Designation of specialized units	
<a href="#">102.</a>	Agreement with LHIN	
<a href="#">103.</a>	Waiting list criteria for admissions to specialized unit	
<a href="#">104.</a>	Waiting list categories and ranking	
<a href="#">105.</a>	Authorization of admission: specialized unit	
<a href="#">106.</a>	Re-assessment	
<a href="#">107.</a>	Transfer, specialized units	
<a href="#">108.</a>	Revocation of designation of specialized unit	
		<a href="#">SPECIAL CIRCUMSTANCES</a>
<a href="#">109.</a>	Admissions process, special circumstances	
		<a href="#"><b>PART IV</b></a>
		<b>COUNCILS</b>
<a href="#">110.</a>	“Detailed allocation”	
		<a href="#"><b>PART V</b></a>
		<b>OPERATION OF HOMES</b>
		<a href="#">ADMINISTRATOR</a>
<a href="#">111.</a>	Administrator	
		<a href="#">DIRECTOR OF NURSING AND PERSONAL CARE</a>
<a href="#">112.</a>	Director of Nursing and Personal Care	
		<a href="#">MEDICAL DIRECTOR</a>
<a href="#">113.</a>	Medical Director	
		<a href="#">TRAINING</a>
<a href="#">114.</a>	Training	
<a href="#">115.</a>	Designated lead	
<a href="#">116.</a>	Orientation	
<a href="#">117.</a>	Retraining	
<a href="#">118.</a>	Additional training — direct care staff	
<a href="#">119.</a>	Orientation for volunteers	
		<a href="#">INFORMATION</a>
<a href="#">120.</a>	Information for residents, etc.	
<a href="#">121.</a>	Posting of information	
<a href="#">122.</a>	Transitional, information and posting	
		<a href="#">QUALITY IMPROVEMENT</a>
<a href="#">123.</a>	Continuous quality improvement	
		<a href="#">EMERGENCY PLANS</a>
<a href="#">124.</a>	Emergency plans	
		<a href="#">FLOOR SPACE</a>
<a href="#">125.</a>	Floor space	
		<a href="#">BEDROOM FURNISHINGS</a>
<a href="#">126.</a>	Bedroom furnishings	
		<a href="#">AIR TEMPERATURE</a>
<a href="#">127.</a>	Air temperature	
		<a href="#">REGULATED DOCUMENTS</a>
<a href="#">128.</a>	Regulated documents	
		<a href="#">RECORDS</a>
<a href="#">129.</a>	Resident records	
<a href="#">130.</a>	Records of current residents	
<a href="#">131.</a>	Retention of resident records	
<a href="#">132.</a>	Staff records	
<a href="#">133.</a>	Personnel records of current staff	
<a href="#">134.</a>	Retention of personnel records	

<a href="#">135.</a>	Records, revocation of licence	
<a href="#">136.</a>	Transitional, records	<a href="#">CRIMINAL REFERENCE CHECKS</a>
<a href="#">137.</a>	Criminal reference check	<a href="#">DRUGS</a>
<a href="#">138.</a>	“Drug” defined	
<a href="#">139.</a>	Definitions, drugs	<a href="#">MEDICATION MANAGEMENT</a>
<a href="#">140.</a>	Medication management system	
<a href="#">141.</a>	Quarterly evaluation	
<a href="#">142.</a>	Annual evaluation	
<a href="#">143.</a>	Medical directives and orders	
<a href="#">144.</a>	Information in every resident home area or unit	<a href="#">PHARMACY SERVICE PROVIDER</a>
<a href="#">145.</a>	Retaining of pharmacy service provider	
<a href="#">146.</a>	Responsibilities of pharmacy service provider	
<a href="#">147.</a>	System for notifying pharmacy service provider	<a href="#">OBTAINING AND KEEPING DRUGS</a>
<a href="#">148.</a>	Purchasing and handling of drugs	
<a href="#">149.</a>	Emergency drug supply	
<a href="#">150.</a>	Drug supply	
<a href="#">151.</a>	Monitored dosage system	
<a href="#">152.</a>	Packaging of drugs	
<a href="#">153.</a>	Changes in directions for administration	
<a href="#">154.</a>	Transfer of drugs	
<a href="#">155.</a>	Safe storage of drugs	
<a href="#">156.</a>	Security of drug supply	
<a href="#">157.</a>	Administration of drugs	
<a href="#">158.</a>	Natural health products	
<a href="#">159.</a>	Drug record	
<a href="#">160.</a>	Residents’ drug regimes	
<a href="#">161.</a>	Medication incidents and adverse drug reactions	
<a href="#">162.</a>	Drug destruction and disposal	
<a href="#">163.</a>	Restraining by administration of drug, etc., under common law duty	<a href="#">REPORTS</a>
<a href="#">164.</a>	Annual reports	
<a href="#">165.</a>	Reports re key personnel	<b><a href="#">PART VI</a></b> <b><a href="#">FUNDING</a></b>
		<a href="#">NON-ARM’S LENGTH TRANSACTIONS</a>
<a href="#">166.</a>	Non-arm’s length transactions	<a href="#">RECONCILIATION AND RECOVERY</a>
<a href="#">167.</a>	Reconciliation and recovery	
<a href="#">168.</a>	Transitional, reconciliation and recovery	<a href="#">RECORDS AND ACCOUNTS</a>
<a href="#">169.</a>	Licensee to retain records	
<a href="#">170.</a>	Requirements for records	
<a href="#">171.</a>	Transitional, records	
<a href="#">172.</a>	Books of account	<a href="#">NON-ALLOWABLE RESIDENT CHARGES</a>
<a href="#">173.</a>	Non-allowable resident charges	<a href="#">STATEMENTS</a>
<a href="#">174.</a>	Statements	<a href="#">PREFERRED ACCOMMODATION</a>
<a href="#">175.</a>	Preferred accommodation maximum	<a href="#">CHARGES FOR ACCOMMODATION</a>
<a href="#">176.</a>	“Term” defined	
<a href="#">177.</a>	Interpretation: interim bed short-stay program	
<a href="#">178.</a>	Determination of payments	
<a href="#">179.</a>	Maximum amounts of payments	
<a href="#">180.</a>	Reduction in basic accommodation charge	
<a href="#">181.</a>	Further reduction in exceptional circumstances	
<a href="#">182.</a>	Reduction in charge, resident with dependants	
<a href="#">183.</a>	Restriction, interest charges	
<a href="#">184.</a>	Restriction on charge reductions	
<a href="#">185.</a>	Transitional, charge reductions	

- [186.](#) Payment for first and last day
- [187.](#) Payment for day following discharge
- [188.](#) Interim beds, payments for certain days
- [189.](#) Responsibility for payment during absence
- [190.](#) Notice of accommodation charge increase

**PART VII**  
**LICENSING**

- [191.](#) Definitions
- [192.](#) Premises that do not require licence
- [193.](#) Public interest: need
- [194.](#) “Non-profit” and “for-profit”
- [195.](#) Limits on eligibility for licence
- [196.](#) Non-profit to for-profit circumstances
- [197.](#) Limits on share transfers: non-profit subsidiaries
- [198.](#) Public meetings
- [199.](#) Person with security interest operating home through management contract
- [200.](#) Approval of gaining controlling interest
- [201.](#) Requirements for management contracts
- [202.](#) Temporary licences and temporary emergency licences -- exemptions
- [203.](#) Temporary emergency licences
- [204.](#) Short term authorizations
- [205.](#) Amendments with consent
- [206.](#) Licence with beds of different terms

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

- [207.](#) Definition
- [208.](#) Application of Act to Part VIII homes
- [209.](#) Composition of committees of management
- [210.](#) Application of Part VII of Regulation

**PART IX**  
**COMPLIANCE AND ENFORCEMENT**

- [211.](#) Where notice may be given of inspection
- [212.](#) Factors to be taken into account
- [213.](#) Reasonable compensation
- [214.](#) Protection of privacy in reports
- [215.](#) Transitional, compliance and enforcement

**PART X**  
**ADMINISTRATION, MISCELLANEOUS AND TRANSITION**

**SERVICE AND NOTICE**

- [216.](#) Service and notice

**TRUST ACCOUNTS**

- [217.](#) Trust accounts
- [218.](#) Transitional, trust accounts

**CONSTRUCTION, RENOVATION, ETC. OF HOMES**

- [219.](#) Construction, renovation, etc. of homes

**FEES**

- [220.](#) Fees
- [221.](#) Fees for audits and financial reviews

**CLOSURE OF HOMES**

- [222.](#) Closure of a home, notice
- [223.](#) Closure plans and closure agreements
- [224.](#) Shorter notice periods and deadlines
- [225.](#) Closure of home under temporary emergency licence
- [226.](#) Special rules re Part VIII homes

**NOTICE OF INDIRECT COLLECTION**

- [227.](#) Notice of indirect collection

**TRANSITION**

- [228.](#) One home, one replacement licence
- [229.](#) Request for classification review
- [230.](#) Development and redevelopment agreements
- [231.](#) Licensee obligations under service agreements
- [232.](#) Transitional, interim beds
- [233.](#) Transitional, short term authorizations
- [234.](#) Transitional, transfer applications
- [235.](#) Transitional, share transfers
- [236.](#) Transitional, management contracts

<a href="#">237.</a>	Transitional, beds in abeyance	
<a href="#">238.</a>	Transitional, closing of homes and beds	
<a href="#">239.</a>	Transitional, certain HARHA agreements	
<a href="#">240.</a>	Transitional, security interests	
<a href="#">241.</a>	Transitional, notice	
<a href="#">242.</a>	Transitional, committees of management	<a href="#">EXEMPTIONS</a>
<a href="#">243.</a>	Exemptions, certain homes	
<a href="#">244.</a>	Exemptions, homes with Eldcap beds	
<a href="#">245.</a>	Exemptions, alternative settings	<a href="#">DIRECTOR</a>
<a href="#">246.</a>	Director	<a href="#">PART XI</a>
		<b>TERRITORIAL DISTRICT HOMES</b>
<a href="#">247.</a>	Application and interpretation	
<a href="#">248.</a>	Objects	
<a href="#">249.</a>	Established as corporation	
<a href="#">250.</a>	Rights, powers, etc.	
<a href="#">251.</a>	Requirements for members	
<a href="#">252.</a>	Membership — general	
<a href="#">253.</a>	Quorum	
<a href="#">254.</a>	Chair	
<a href="#">255.</a>	Apportionments by boards of management	
<a href="#">256.</a>	Division of territorial districts	
<a href="#">257.</a>	Transitional, boards of management	<a href="#">AMENDMENT</a>
<a href="#">258.</a>	Amendment	<a href="#">COMMENCEMENT</a>
<a href="#">259.</a>	Commencement	
<a href="#">Schedule 1</a>	The board of management for the District of Algoma	
<a href="#">Schedule 2</a>	The board of management for the District of Kenora	
<a href="#">Schedule 3</a>	The board of management for the District of Manitoulin	
<a href="#">Schedule 4</a>	The board of management for the District of Nipissing East	
<a href="#">Schedule 5</a>	The board of management for the District of Nipissing West	
<a href="#">Schedule 6</a>	The board of management for the District of Parry Sound East	
<a href="#">Schedule 7</a>	The board of management for the District of Parry Sound West	

## PART I INTERPRETATION

### DEFINITIONS

#### Definitions

##### 1. In this Regulation,

“1999 design manual” means 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; (“manuel de conception de 1999”)

“2009 design manual” means the document titled “Long-Term Care Home Design Manual, 2009”, published by the Ministry of Health and Long-Term Care, and which is available from the Ministry of Health and Long-Term Care; (“manuel de conception de 2009”)

“accommodation”, in relation to a long-term care home, means basic accommodation in the home or preferred accommodation in the home; (“hébergement”)

“adverse drug reaction” means a noxious and unintended response by a resident to a drug or combination of drugs which occurs at doses normally used or tested for the diagnosis, treatment or prevention of a disease or the modification of an organic function; (“réaction indésirable à un médicament”)

“basic accommodation”, in relation to a long-term care home, means lodging in a standard room in the home, housekeeping services, maintenance and use of the home, dietary services, laundry and linen services, administrative services and raw food; (“hébergement avec services de base”)

“business day” means a day that is not a holiday; (“jour ouvrable”)

“controlled substance” means a controlled substance within the meaning of the *Controlled Drugs and Substances Act* (Canada); (“substance designee”)

“dietitian” means a member of the College of Dietitians of Ontario who holds a general certificate of registration under the *Dietetics Act, 1991*; (“diététiste”)

“food service worker” means a member of staff in a long-term care home who is routinely involved in the storage, preparation, cooking, delivery or serving of food, the cleaning of kitchen equipment and utensils or the assisting in maintaining the kitchen and serveries in a clean and sanitary condition; (“préposé au service d’alimentation”)

“holiday” means,

- (a) Saturday,
- (b) Sunday,
- (c) New Year’s Day,
- (d) Family Day,
- (e) Good Friday,
- (f) Victoria Day,
- (g) Canada Day,
- (h) the first Monday in August,
- (i) Labour Day,
- (j) Thanksgiving Day,

- (k) Christmas Day,
- (l) Boxing Day,
- (m) if New Year's Day or Canada Day falls on a Saturday or Sunday, the following Monday,
- (n) if Christmas Day falls on a Saturday or Sunday, the following Monday and Tuesday,
- (o) if Christmas Day falls on a Friday, the following Monday, and
- (p) any special holiday proclaimed by the Governor General or the Lieutenant Governor; (“jour férié”)

“interim bed” means a bed in a long-term care home under the interim bed short-stay program; (“lit provisoire”)

“licensed bed capacity” means the total licensed or approved beds in the home, excluding,

- (a) beds that are not available for occupancy under a written permission of the Director under subsection 104 (3) of the Act,
- (b) beds that are the subject of a temporary emergency licence under clause 112 (1) (b) of the Act, and
- (c) beds that are the subject of a short term authorization under section 113 of the Act; (“capacité en lits autorisés”)

“medication incident” means a preventable event associated with the prescribing, ordering, dispensing, storing, labelling, administering or distributing of a drug, or the transcribing of a prescription, and includes:

- (a) an act of omission or commission, whether or not it results in harm, injury or death to a resident,
- (b) a near miss event where an incident does not reach a resident but had it done so, harm, injury or death could have resulted; (“incident lié à un médicament”)

“preferred accommodation”, in relation to a long-term care home, means private accommodation in the home or semi-private accommodation in the home; (“hébergement avec services privilégiés”)

“private room” means,

- (a) in the case of a long-term care home to which the 1999 design manual, the 2009 design manual or the retrofit manual applies, a room with one bed that has a private ensuite washroom, other than a room that is designated by a licensee as a standard room, or
- (b) in the case of all other long-term care homes, a room with one bed, other than a room that is designated by a licensee as a standard room; (“chambre individuelle”)

“record” means a record as defined in subsection 147 (8) of the Act; (“dossier”)

“registered nursing staff” means those members of staff who are registered nurses including registered nurses in the extended class and registered practical nurses; (“personnel infirmier autorisé”)

“regulated health profession” means a health profession set out in Schedule 1 to the *Regulated Health Professions Act, 1991*; (“profession de la santé réglementée”)

“retrofit manual” means the document entitled “Long-Term Care ‘D’ Facility Retrofit Design Manual”, 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; (“manuel de réfection”)

“semi-private room” means,

- (a) in the case of a long-term care home to which the 1999 design manual, the 2009 design manual or the retrofit manual applies, a room with one bed connected to another room with one bed by ensuite washroom, other than a room that is designated by a licensee as a standard room, or
- (b) in the case of all other long-term care homes, a room with two beds, other than a room that is designated by a licensee as a standard room; (“chambre à deux lits”)

“standard room” means,

- (a) in the case of a long-term care home to which the 1999 design manual, 2009 design manual or the retrofit manual applies, a room with one or two beds that affords privacy to each resident, that has an ensuite washroom, and that is designated by a licensee as a standard room, or
- (b) in the case of all other long-term care homes,
  - (i) a room with three or more beds, or

- (ii) a room with less than three beds that is designated by a licensee as a standard room. (“chambre standard”)

**“Regular nursing staff”**

2. For the purposes of subsection 8 (3) of the Act and this Regulation,

“regular nursing staff” means a member of the nursing staff who works in a long-term care home at fixed or prearranged intervals.

POLICIES, ETC.

**Policies, etc. to be followed**

3. Where the Act or this Regulation requires the licensee of a long-term care home to have, institute or otherwise put in place any plan, policy, protocol, procedure, strategy or system, the licensee is required to ensure that the plan, policy, protocol, procedure, strategy or system,

- (a) is in compliance with and is implemented in accordance with all applicable requirements under the Act; and
- (b) is complied with.

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

PLAN OF CARE

**Changes in plan of care, regulated document**

4. Every licensee of a long-term care home shall ensure that when a resident is reassessed and the resident’s plan of care is reviewed and revised under subsection 6 (10) of the Act, any regulated document that contains a consent or directive that is relevant to the reassessment is reviewed and, if required, revised.

SAFE AND SECURE HOMES

**Doors in a home**

5. Every licensee of a long-term care home shall ensure that the following rules are complied with:

- 1. All doors leading to stairways and the outside of the home must be,
  - i. kept closed,
  - ii. equipped with a door access control system that is kept on at all times, and

- iii. equipped with an audible door alarm that,
  - A. is connected to the resident-staff communication and response system, and
  - B. allows calls to be cancelled only at the point of activation.
2. All doors leading to non-residential areas must be equipped with locks to restrict unsupervised access to those areas by residents.
3. Any locks on bedrooms, bathrooms, toilet or shower rooms must be designed and maintained so they can be readily released from the outside in an emergency.
4. All exit door alarms must be connected to a back-up power supply, unless the home does not have an on-site generator, in which case the staff of the home shall monitor the exit doors in accordance with the procedures set out in the home's emergency plans.

### **Elevators**

6. Every licensee of a long-term care home shall ensure that any elevators in the home are equipped to restrict access to areas that are not to be accessed by residents.

### **Privacy curtains and screens**

7. Every licensee of a long-term care home shall ensure that every resident bedroom occupied by more than one resident has sufficient privacy curtains and screens to provide privacy.

### **Shower grab bars**

8. Every licensee of a long-term care home shall ensure that every resident shower has at least two easily accessible grab bars, with at least one grab bar being located on the same wall as the faucet and at least one grab bar being located on an adjacent wall.

### **Bed-rails**

9. (1) Every licensee of a long-term care home shall ensure that where bed-rails are used,
  - (a) the resident is assessed and his or her bed system is evaluated in accordance with appropriate evidence-based practices to minimize risk to the resident;
  - (b) steps are taken to prevent resident entrapment, taking into consideration all potential zones of entrapment; and
  - (c) other safety issues related to the use of bed-rails are addressed, including height and latch reliability.

(2) Subsection (1) does not apply to a licensee until six months after the coming into force of this section.

### Windows

**10.** Every licensee of a long-term care home shall ensure that every window in the home that opens to the outdoors has a screen and cannot be opened more than 15.25 centimetres.

### Communication and response system

**11.** (1) Every licensee of a long-term care home shall ensure that the home is equipped with a resident-staff communication and response system that,

- (a) can be easily seen, accessed and used by residents, staff and visitors at all times;
- (b) is on at all times;
- (c) allows calls to be cancelled only at the point of activation;
- (d) is available at each bed, toilet, bath and shower location used by residents;
- (e) is available in every area accessible by residents that is not under continuous staff supervision;
- (f) clearly indicates when activated where the signal is coming from; and
- (g) in the case of a system that uses sound to alert staff, is properly calibrated so that the level of sound is not excessive but is still audible to staff.

(2) A licensee is not required to comply with clause (1) (e) until nine months after this section comes into force.

### Lighting

**12.** Every licensee of a long-term care home shall ensure that the lighting requirements set out in the Table to this section are maintained.

TABLE

<b>Homes built prior to 1999</b>	
<b>Location</b>	<b>Lux</b>
Stairways	Minimum levels of 322.92 lux continuous lighting
All corridors	Minimum levels of 215.28 lux continuous lighting
In all other areas of the home	Minimum levels of 215.84 lux
Each drug cabinet	Minimum levels of 1,076.39 lux
At the bed of each resident when the bed is at the reading position	Minimum levels of 376.73 lux

  

<b>Homes built in 1999 or after</b>	
<b>Location</b>	<b>Lux</b>
Enclosed Stairways	Minimum levels of 322.92 lux continuous lighting
All corridors	Minimum levels of 322.92 lux continuous lighting

In all other areas of the home including resident bedrooms and vestibules, washrooms, and tub and shower rooms.	Minimum levels of 322.92 lux (general lighting levels)
---	--

### **Generators**

**13.** (1) Subject to subsections (2) to (4), every licensee of a long-term care home shall ensure that the home has a generator on-site at all times that has the capacity to maintain, in the event of a power outage,

- (a) the heating system;
- (b) emergency lighting in hallways, corridors, stairways and exits; and
- (c) essential services, including dietary services equipment required to store food at safe temperatures and prepare and deliver the menu, the resident-staff communication and response system, and life support, safety and emergency equipment.

(2) Where a long-term care home with Class B or C beds within the meaning of subsection 187 (18) of the Act is to be redeveloped under the program of the Ministry known as the “Long-Term Care Home Renewal Strategy”, the licensee is not required to comply with subsection (1) until the earlier of,

- (a) the completion of the redevelopment; and
- (b) December 31, 2016.

(3) The licensee of a home with Class D beds within the meaning of subsection 187 (18) of the Act is not required to comply with subsection (1).

(4) The licensee of a home to which subsection (2) or (3) applies shall ensure, not later than three months after the day this section comes into force, that the home has guaranteed access to a generator that will be operational within two hours of a power outage and that can maintain everything required under clauses (1) (a), (b) and (c).

### **Cooling requirements**

**14.** (1) Every licensee of a long-term care home shall ensure that a written hot weather related illness prevention and management plan for the home is developed and is implemented when required to address the adverse effects on residents related to heat.

- (2) The licensee shall ensure that,
  - (a) the home has at least one separate designated cooling area for every 40 residents; and
  - (b) the cooling area is maintained at a humidex level below 35 at all times.

## **Plumbing**

**15.** Every licensee of a long-term care home shall ensure that all plumbing fixtures in the home with hose attachments are equipped with a back flow device.

## **Compliance with manufacturers' instructions**

**16.** Every licensee of a long-term care home shall ensure that staff use all equipment, devices and aids in the home in accordance with manufacturers' instructions.

## GENERAL REQUIREMENTS RE ORGANIZED PROGRAMS

### **General requirements**

**17.** Every licensee of a long-term care home shall ensure that the following is complied with in respect of each of the organized programs required under sections 8 to 16 of the Act:

1. There must be a written description of the program that includes its goals and objectives.
2. There must be an annual written evaluation to identify changes, if any, required to improve the program.
3. The licensee shall implement the changes identified in the evaluation under paragraph 2 and keep a written record of the changes that were implemented.

## NURSING AND PERSONAL SUPPORT SERVICES

### **Nursing and personal support services**

**18.** (1) This section and sections 19 to 34 apply to,

- (a) the organized program of nursing services required under clause 8 (1) (a) of the Act; and
- (b) the organized program of personal support services required under clause 8 (1) (b) of the Act.

(2) Every licensee of a long-term care home shall ensure that there is a written staffing plan for the programs.

(3) The staffing plan must,

- (a) provide for a staffing mix that is consistent with residents' assessed care and safety needs;
- (b) set out the organization and scheduling of staff shifts;

- (c) promote continuity of care by minimizing the number of different staff members who provide nursing and personal support services to each resident; and
- (d) be evaluated, in writing, when necessary to identify changes, if any, required to improve the plan.

(4) The licensee shall implement the changes identified in the evaluation under clause (3) and keep a written record of the changes that were implemented.

### **Personal care**

**19.** Every licensee of a long-term care home shall ensure that each resident of the home receives individualized personal care, including hygiene care and grooming, on a daily basis.

### **Bathing**

**20.** (1) Every licensee of a long-term care home shall ensure that each resident of the home is bathed, at a minimum, twice a week by the method of his or her choice and more frequently as determined by the resident's hygiene requirements, unless contraindicated by a medical condition.

(2) For the purposes of this section, "bathing" includes tub baths, showers, and full body sponge baths.

### **Oral care**

**21.** (1) Every licensee of a long-term care home shall ensure that each resident of the home receives oral care to maintain the integrity of the oral tissue that includes,

- (a) mouth care in the morning and evening;
- (b) physical assistance or cuing to help a resident who cannot, for any reason, brush his or her own teeth; and
- (c) an annual dental assessment and other preventive dental services as approved by the resident or the resident's substitute decision-maker.

(2) The licensee shall ensure that each resident receives assistance, if required, to insert dentures prior to meals and at any other time when requested by the resident.

### **Foot care**

**22.** Every licensee of a long-term care home shall ensure that each resident of the home receives preventative and basic foot care to ensure comfort and prevent infection.

### **Transferring and positioning techniques**

**23.** Every licensee of a long-term care home shall ensure that staff use safe transferring and positioning techniques when assisting residents and that the resident has his or her weight bearing capability, endurance and range of motion maintained or improved whenever possible.

### **Personal aids**

**24.** (1) Every licensee of a long-term care home shall ensure that each resident of the home has his or her personal aids such as dentures, glasses and hearing aids,

- (a) labelled; and
- (b) cleaned as required.

(2) The licensee shall ensure that each resident receives assistance, if required, to use personal aids.

### **Mobility devices**

**25.** Every licensee of a long-term care home shall ensure that mobility devices are available at all times without charge to residents who require them on a short-term basis.

### **Dress**

**26.** Every licensee of a long-term care home shall ensure that each resident of the home is assisted with getting dressed as required, and is dressed appropriately, suitably to the time of day and in keeping with his or her preferences, in his or her own clothing and in appropriate footwear.

### **Bedtime routines**

**27.** Every licensee of a long-term care home shall ensure that each resident of the home has his or her desired bedtime routines supported and individualized to promote comfort, rest and sleep.

### **End-of-life care**

**28.** (1) Every licensee of a long-term care home shall ensure that that every resident receives end-of-life care in a holistic manner when required.

(2) The licensee shall ensure that the end-of-life care responds to the immediate needs of other residents, family members and staff following the death of a resident.

### **Notification re personal belongings, etc.**

**29.** Every licensee of a long-term care home shall ensure that a resident or the resident's substitute decision-maker is notified when,

- (a) the resident's personal aids or equipment are not in good working order or require repair; or

- (b) the resident requires new personal belongings.

### **Communication methods**

**30.** Every licensee of a long-term care home shall ensure that strategies are developed and implemented to meet the needs of residents with compromised communication and verbalization skills.

### **Availability of supplies**

**31.** Every licensee of a long-term care home shall ensure that supplies, equipment and devices are readily available as required to meet the nursing and personal care needs of residents.

### **24-hour nursing care — exceptions**

**32.** The following are the exceptions to the requirement 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, as required under subsection 8 (3) of the Act:

1. For homes with a licensed bed capacity of 64 beds or fewer,
  - i. a registered nurse who works at the home pursuant to a contract or agreement with the licensee may be used,
  - ii. a registered nurse who works at the home pursuant to a contract or agreement between the licensee and an employment agency or other third party may be used if a registered nurse who is both an employee of the licensee and a member of the regular nursing staff is available by telephone,
  - iii. in the case of emergencies or exceptional and unforeseen circumstances, a registered practical nurse who is both an employee of the licensee and a member of the regular nursing staff or works in the home pursuant to a contract or agreement with the licensee may be used if a registered nurse who is both an employee of the licensee and a member of the regular nursing staff is available by telephone.
2. For homes with a licensed bed capacity of more than 64 beds and fewer than 129 beds,
  - i. in the case of a planned or extended leave of absence of an employee of the licensee who is a member of the regular nursing staff or in the case of emergencies or exceptional and unforeseen circumstances, a registered nurse who works at the home pursuant to a contract or agreement with the licensee may be used,

- ii. in the case of emergencies or exceptional and unforeseen circumstances, a registered nurse who works at the home pursuant to a contract or agreement between the licensee and an employment agency or other third party may be used if,
  - A. a registered nurse who is both an employee of the licensee and a member of the regular nursing staff is available by telephone, and
  - B. a registered practical nurse who is both an employee of the licensee and a member of the regular nursing staff is on duty and present in the home.

### **Certification of nurses**

**33.** Every licensee of a long-term care home shall ensure that every member of the registered nursing staff of the home has a current certificate of registration with the College of Nurses of Ontario.

### **Qualifications of personal support workers**

**34.** (1) Every licensee of a long-term care home shall ensure that every person hired as a personal support worker after March 31, 2011 has successfully completed a personal support worker program that meets the requirements in subsection (2).

(2) The personal support worker program,

(a) must meet,

- (i) the vocational standards established by the Ministry of Training, Colleges and Universities,
- (ii) the standards established by the National Association of Career Colleges, or
- (iii) the standards established by the Ontario Community Support Association; and

(b) must be a minimum of 600 hours in duration, counting both class time and practical experience time.

(3) Despite subsection (1), a licensee may hire as a personal support worker,

- (a) a registered nurse or registered practical nurse;
- (b) a student who is enrolled in an educational program for registered nurses or registered practical nurses and who is hired on a seasonal basis; or

- (c) a person enrolled in a program described in subsection (2) and who is completing the practical experience requirements of the program, but such a person must work under the supervision of a member of the registered nursing staff and an instructor from the program.

## RESTORATIVE CARE

### **Restorative care**

**35.** Sections 36 to 42 apply to the organized interdisciplinary program with a restorative care philosophy required under subsection 9 (1) of the Act.

### **Integrating restorative care into programs**

**36.** Every licensee of a long-term care home shall ensure that,

- (a) restorative care approaches are integrated into the care that is provided to all residents; and
- (b) the restorative care approaches are co-ordinated to ensure that each resident is able to maintain or improve his or her functional and cognitive capacities in all aspects of daily living, to the extent of his or her abilities.

### **Therapy services**

**37.** Every licensee of a long-term care home shall ensure that there are therapy services for the home that include,

- (a) on-site physiotherapy provided to residents on an individualized basis or in a group setting based on residents' assessed care needs;
- (b) occupational therapy and speech-language therapy; and
- (c) other therapies.

### **Space and supplies — therapy services**

**38.** (1) Every licensee of a long-term care home shall ensure that there is safe and appropriate space in the home for the provision of therapy services.

(2) The licensee shall ensure that,

- (a) there is a sufficient supply of therapy equipment available at all times to meet the needs of residents; and
- (b) the therapy equipment is available without charge to residents who require it.

### **Therapy services staff qualifications**

**39.** (1) Every licensee of a long-term care home shall ensure that the therapy services described in clauses 37 (a) and (b) are only provided by,

- (a) therapists employed by the licensee or accessed through contractual arrangements who have a current certificate of registration with the appropriate college of a regulated health profession; or
- (b) support personnel who work under the direction of a member of the appropriate regulated health profession and the supervision of the designated lead required under section 42 and who,
  - (i) subject to subsections (2) and (3), have successfully completed a training program in restorative care, or are enrolled in such a program, or
  - (ii) have successfully completed a relevant training course provided by the licensee that is designed and supervised by a qualified therapist who is a member of the appropriate college of a regulated health profession.

(2) The licensee shall cease to employ as support personnel a person who was required to be enrolled in a program described in subclause (1) (b) (i) if the person ceases to be enrolled in the program or fails to successfully complete the program within three years of being hired.

(3) The licensee shall ensure that support personnel who were employed at the home before this section came into force, and who were enrolled in a program described in subclause (1) (b) (i) at the time of the coming into force, successfully complete the program within three years of the coming into force.

### **Social work and social services work**

**40.** Every licensee of a long-term care home shall ensure that there is a written description of the social work and social services work services provided in the home and that the services meet the residents' needs.

### **Social work and social services work qualifications**

**41.** Every licensee of a long-term care home shall ensure that social workers or social services workers who provide services in the home are registered under the *Social Work and Social Service Work Act, 1998*.

### **Designated lead**

**42.** (1) Every licensee of a long-term care home shall ensure that the home's therapy services and social work and social services work services are co-ordinated by a designated lead.

(2) The designated lead,

- (a) must have a current general certificate of registration with the appropriate college of a regulated health profession or the Ontario College of Social Workers and Social Service Workers; or
- (b) must have,
  - (i) a post-secondary diploma or degree in recreation and leisure studies, kinesiology, therapeutic recreation or other related field from a community college or university, and
  - (ii) at least one year of experience in a health care setting.

#### RECREATIONAL AND SOCIAL ACTIVITIES

##### **Recreational and social activities program**

**43.** (1) This section applies to the organized recreational and social activities program for the home required under subsection 10 (1) of the Act.

- (2) Every licensee of a long-term care home shall ensure that the program includes,
  - (a) the provision of supplies and appropriate equipment for the program without charge to the residents;
  - (b) the development, implementation and communication to all residents and families of a schedule of recreation and activity programs that are offered during days, evenings and weekends;
  - (c) a range of indoor and outdoor recreation, leisure, outings and social activities that are of a frequency and type to benefit all residents of the home;
  - (d) opportunities for resident and family input into the development and scheduling of recreation programs and activities; and
  - (e) assistance and support to permit residents to participate in activities that may be of interest to them if they are not able to do so independently.

##### **Designated lead**

**44.** (1) Every licensee of a long-term care home shall ensure that there is a designated lead for the recreational and social activities program.

- (2) The designated lead must have,

- (a) a post-secondary diploma or degree in recreation and leisure studies, therapeutic recreation, kinesiology or other related field from a community college or university; and
- (b) at least one year of experience in a health care setting.

(3) Subsection (2) only applies with respect to designated leads hired after the coming into force of this section.

### **Recreational and social activities qualifications**

**45.** (1) Every licensee of a long-term care home shall ensure that staff members providing recreational and social activities services in the home,

- (a) have a post-secondary diploma or degree in recreation and leisure studies, therapeutic recreation, kinesiology or other related field from a community college or university; or
- (b) are enrolled in a community college or university in a diploma or degree program in such a field.

(2) The licensee shall cease to employ as a recreational and social activities staff member a person who was required to be enrolled in a program described in clause (1) (b) if the person ceases to be enrolled in the program or fails to successfully complete the program within three years of being hired.

(3) Subsections (1) and (2) only apply with respect to staff members hired after the coming into force of this section.

## **NUTRITION CARE AND HYDRATION PROGRAMS**

### **Nutrition care and hydration programs**

**46.** (1) This section and sections 47 to 56 apply to,

- (a) the organized program of nutrition care and dietary services required under clause 11 (1) (a) of the Act; and
- (b) the organized program of hydration required under clause 11 (1) (b) of the Act.

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

- (a) the development and implementation, in consultation with a dietitian of the home, of policies and procedures relating to nutrition care and dietary services and hydration;

- (b) the identification of any risks related to nutrition care and dietary services and hydration and strategies to mitigate and manage those risks; and
- (c) a weight monitoring system to measure and record with respect to each resident,
  - (i) weight on admission and monthly thereafter, and
  - (ii) body mass index and height upon admission and annually thereafter.

### **Weight changes**

**47.** Every licensee of a long-term care home shall ensure that residents with the following weight changes are assessed using an interdisciplinary approach, and that actions are taken and outcomes are evaluated:

1. A change of 5 per cent of body weight, or more, over one month.
2. A change of 7.5 per cent of body weight, or more, over three months.
3. A change of 10 per cent of body weight, or more, over 6 months.
4. Persistent, unanticipated and undesirable weight change.

### **Dietary services program**

**48.** Every licensee of a long-term care home shall ensure that the dietary services component of the nutrition care and dietary services program includes,

- (a) menu planning;
- (b) food production;
- (c) dining service; and
- (d) availability of supplies and equipment for food production and dining service.

### **Menus and food choices**

**49.** (1) Every licensee of a long-term care home shall ensure that all menu cycles,

- (a) are a minimum of three weeks in duration;
- (b) include menus for regular, therapeutic and texture modified diets;
- (c) include alternate food and beverage choices and snacks;
- (d) are approved by a dietitian for the home;

- (e) are approved by the Resident's Council for the home, along with times of meal and snack services; and
  - (f) are reviewed and updated at least annually.
- (2) The licensee shall ensure that each menu,
- (a) provides for adequate nutrients, fibre and energy for the residents based on the current Dietary Reference Intakes (DRIs) established in the reports overseen by the United States National Academies and published by National Academy Press, as they may exist from time to time; and
  - (b) provides for a variety of foods, including fresh seasonal foods, each day from all food groups in keeping with Canada's Food Guide as it exists from time to time.
- (3) The licensee shall ensure that each resident is offered a minimum of,
- (a) three meals daily;
  - (b) a between-meal beverage in the morning, afternoon and evening; and
  - (c) a snack in the afternoon and evening.
- (4) The licensee shall ensure that alternate food and beverage choices are offered and available at each meal.
- (5) The licensee shall ensure that an individualized menu is developed for residents whose needs cannot be met through the home's menu cycle.
- (6) The licensee shall ensure that a full breakfast is available to residents up to at least 8:30 a.m. and that the evening meal is not served before 5:00 p.m.
- (7) The licensee shall ensure that food and beverages that are appropriate for the residents' diets are accessible to staff and available to residents on a 24-hour basis.

### **Food production**

**50.** (1) Every licensee of a long-term care home shall ensure that there is an organized food production system in the home.

- (2) The food production system must, at a minimum, provide for,
- (a) a 24-hour supply of perishable and a three-day supply of non-perishable foods;

- (b) a three-day supply of nutritional supplements, enteral or parenteral foods as applicable;
- (c) standardized recipes and production sheets for all menus;
- (d) preparation of menu choices for entrées, vegetables, and desserts according to the planned menu;
- (e) menu substitutions that are comparable to the planned menu;
- (f) communication to residents and staff of any menu substitutions; and
- (g) documentation on the production sheet of any menu substitutions.

(3) The licensee shall ensure that all food and fluids in the food production system are prepared, stored, and served using methods to,

- (a) preserve taste, nutritive value, appearance and food quality; and
- (b) prevent adulteration, contamination and food borne illness.

(4) The licensee shall maintain, and keep for at least one year, a record of,

- (a) purchases relating to the food production system, including food delivery receipts;
- (b) menu substitutions;
- (c) meals provided to non-residents; and
- (d) revenue as defined in subsection 53 (4).

(5) The licensee shall ensure that the home has,

- (a) sufficient storage capacity to support the home's menu requirements;
- (b) institutional food service equipment with adequate capacity to prepare, transport and hold perishable hot and cold food at safe temperatures; and
- (c) institutional food service equipment with adequate capacity to clean and sanitize all dishes, utensils and equipment related to food production and dining service.

(6) The licensee shall ensure that the home has and that the staff of the home comply with,

- (a) guidelines and training for the safe operation and cleaning of equipment related to the food production system and dining service;
- (b) a cleaning schedule for all the equipment; and
- (c) a cleaning schedule for the food production, servery and dishwashing areas.

### **Dining service**

**51.** (1) Every licensee of a long-term care home shall ensure that the home has a dining service that includes, at a minimum, the following elements:

1. Posting of the weekly menu.
  2. Meal service in a congregate dining setting unless a resident's assessed needs or preferences indicate otherwise.
  3. Monitoring of all residents during meals.
  4. A process to ensure that service staff and staff assisting residents are aware of the residents' diets, special needs and preferences.
  5. Food and fluids being served at a temperature that is both safe and palatable to the residents.
  6. Sufficient time for every resident to eat at his or her own pace.
  7. Course by course service of meals for each resident, unless otherwise indicated by the resident.
  8. Providing residents with any eating aids, assistive devices and personal assistance and encouragement required to safely eat and drink as comfortably and independently as possible.
  9. Appropriate furnishings and equipment in resident dining areas, including comfortable dining room chairs and dining room tables at an appropriate height to meet the needs of all residents.
- (2) The licensee shall ensure that,
- (a) no person simultaneously assists more than two residents who need total assistance with eating or drinking; and
  - (b) no resident who requires assistance with eating or drinking is served a meal until someone is available to provide the assistance required by the resident.

## **Dietitian**

**52.** (1) Every licensee of a long-term care home shall ensure that there is at least one dietitian for the home.

(2) The licensee shall ensure that a dietitian for the home is on-site at the home for a minimum of 30 minutes per resident per month to carry out clinical and nutrition care duties.

(3) Where a dietitian for the home is also a nutrition manager for the home, any time spent working in the capacity of nutrition manager does not count toward the time requirements under subsection (2).

(4) The licensee shall ensure that a dietitian for the home completes a nutritional assessment for all residents on admission and whenever there is a significant change in status related to nutrition.

## **Nutrition manager**

**53.** (1) Every licensee of a long-term care home shall ensure that there is at least one nutrition manager for the home, one of whom shall lead the nutrition care and dietary services program for the home.

(2) A person hired as a nutrition manager after the coming into force of this section must be a member of the Canadian Society of Nutrition Management or a dietitian.

(3) The licensee shall ensure that a nutrition manager is on-site at the home working in the capacity of nutrition manager for the minimum number of hours per week calculated under subsection (4), without including any hours spent fulfilling other responsibilities.

(4) For the purposes of subsection (3), the minimum number of hours per week shall be calculated as follows:

$$M = [A + (B \div 3 \div 7) + (C \div D \div 7)] \times 8 \div 25$$

Where,

“M” is the minimum number of hours per week,

“A” is,

- (a) the number of residents residing in the home for the week, including residents on a leave of absence, or
- (b) if the occupancy of the home is 97 per cent or more, the licensed bed capacity of the home for the week,

“B” is the total number of meals prepared in the home for the week for persons who are not residents of the home,

“C” is the Revenue

“D” is the raw food per diem as set out in the service accountability agreement between the licensee and the local health integration network required under section 20 of the *Local Health System Integration Act, 2006*,

“Revenue” means the revenue received and the internal recoveries made by the licensee for the week relating to the sale or provision of any food and beverage prepared in the home, and without limiting the generality of the foregoing, includes the revenue received and the internal recoveries made from cafeteria sales and catering.

(5) A licensee of a long-term care home who was operating a home under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act* immediately before the coming into force of this section is not required to comply with subsection (3) until six months after the day this section comes into force, but until the licensee is in compliance, the licensee is required to continue to comply with the applicable requirements under,

- (a) sections 61 and 61.1 of Regulation 832 of the Revised Regulations of Ontario, 1990 (General) made under the *Nursing Homes Act*;
- (b) sections 3.1 and 3.2 of Regulation 637 of the Revised Regulations of Ontario, 1990 (General) made under the *Homes for the Aged and Rest Homes Act*; or
- (c) sections 17.1 and 17.2 of Regulation 69 of the Revised Regulations of Ontario, 1990 (General) made under the *Charitable Institutions Act*.

### **Cooks**

**54.** (1) Every licensee of a long-term care home shall ensure that there is at least one cook present in the home on a daily basis.

(2) The cook present in the home on a daily basis must have a certificate of qualification as a Cook, Assistant Cook, or Red Seal Cook issued by the Ministry of Training, Colleges and Universities.

### **Food service workers and cooks, minimums**

**55.** (1) Every licensee of a long-term care home shall ensure that there are sufficient food service workers and cooks for the home to meet the minimum staffing hours as calculated under subsection (2) for,

- (a) the preparation, storage and service of resident meals and snacks;

- (b) the daily cleaning and sanitizing of dishes, utensils and equipment related to food production and dining service; and
- (c) the food production relating to meals for persons who are not residents of the home.

(2) For the purposes of subsection (1), the minimum staffing hours shall be calculated as follows:

$$M = [A \times 7 \times 0.45] + [(B \div 3) \times 0.22]$$

Where,

“M” is the minimum number of staffing hours per week,

“A” is,

- (a) the number of residents residing in the home for the week, including residents on a leave of absence, or
- (b) if the occupancy of the home is 97% or more, the licensed bed capacity in the home for the week,

“B” is the total number of meals prepared in the home for the week for persons who are not residents of the home.

(3) A licensee of a long-term care home who was operating a home under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act* immediately before the coming into force of this section is not required to comply with subsection (1) until six months after the day this section comes into force, but until the licensee is in compliance, the licensee is required to continue to comply with the applicable requirements under,

- (a) sections 61 and 61.1 of Regulation 832 of the Revised Regulations of Ontario, 1990 (General) made under the *Nursing Homes Act*;
- (b) sections 3.1 and 3.2 of Regulation 637 of the Revised Regulations of Ontario, 1990 (General) made under the *Homes for the Aged and Rest Homes Act*; or
- (c) sections 17.1 and 17.2 of Regulation 69 of the Revised Regulations of Ontario, 1990 (General) made under the *Charitable Institutions Act*.

### **Training and qualifications**

**56.** (1) Every licensee of a long-term care home shall ensure that food service workers hired on or after the day this section comes into force have successfully completed or are enrolled in a Food Service Worker training program at an established college as listed in the *Ontario Colleges of Applied Arts and Technology Act, 2002* or a registered private career college in Ontario.

(2) The licensee shall cease to employ as a food services worker a person who was required to be enrolled in a program described in subsection (1) if the person ceases to be enrolled in the program or fails to successfully complete the program within three years of being hired.

(3) The licensee shall ensure that food service workers who were employed at the home before this section came into force, and who do not have the qualifications required under subsection (1), complete a food handler training program within six months after the coming into force of this section, unless they meet the requirements under subsection (1) sooner.

(4) Subsection (1) does not apply with respect to students hired on a seasonal or part-time basis, who have successfully completed a food handler training program.

(5) In this section,

“food handler training program” means the food handler training program offered or approved by the board of health for the public health unit in which the long-term care home is located.

## MEDICAL SERVICES

### **Medical services program**

**57.** Sections 58 to 61 apply to the organized program of medical services for the home required under section 12 of the Act.

### **Availability of medical services**

**58.** Every licensee of a long-term care home shall ensure that residents have access to medical services in the home 24 hours a day.

## ATTENDING PHYSICIANS AND RNS (EC)

### **Attending physician or RN (EC)**

**59.** (1) Every licensee of a long-term care home shall ensure that either a physician or a registered nurse in the extended class,

- (a) conducts a physical examination of each resident upon admission and an annual physical examination annually thereafter, and produces a written report of the findings of the examination;
- (b) attends regularly at the home to provide services; and

(c) participates in the provision of after-hours coverage and on-call coverage.

(2) The resident or the resident's substitute decision-maker may retain a physician or registered nurse in the extended class to perform the services required under subsection (1).

(3) If the resident or substitute decision-maker does not retain a physician or a registered nurse in the extended class, the licensee shall appoint one for the resident, in consultation with the Medical Director, the resident, and the resident's substitute decision-maker, if any.

(4) The licensee shall enter into the appropriate written agreement under section 60 or 61 with every physician or registered nurse in the extended class retained or appointed under subsection (2) or (3).

#### **Agreement with attending physician**

**60.** Where a written agreement between a licensee and a physician is required under subsection 59 (4), the agreement must provide for, at a minimum,

- (a) the term of the agreement;
- (b) the responsibilities of the licensee; and
- (c) the responsibilities or duties of the physician, including,
  - (i) accountability to the Medical Director for meeting the home's policies for medical services,
  - (ii) provision of medical services, and
  - (iii) provision of after-hours coverage and on-call coverage.

#### **Agreement with registered nurse in extended class**

**61.** Where a written agreement between a licensee and a registered nurse in the extended class is required under subsection 59 (4), the agreement must provide for, at a minimum,

- (a) the term of the agreement;
- (b) the responsibilities of the licensee; and
- (c) the responsibilities or duties of the registered nurse in the extended class, including,
  - (i) accountability to the Medical Director for meeting the home's policies for medical services,

- (ii) provision of services within the scope of practice of the registered nurse in the extended class,
- (iii) informing the licensee of the name of the physician with whom the registered nurse in the extended class has a consultative relationship, and
- (iv) provision of after-hours coverage and on-call coverage.

## RELIGIOUS AND SPIRITUAL PRACTICES

### **Religious and spiritual practices**

**62.** (1) This section applies to the organized program for the home to give residents reasonable opportunity to practise their religious and spiritual beliefs required under section 14 of the Act.

(2) Every licensee of a long-term care home shall ensure that the program includes arrangements to provide worship services, resources and non-denominational spiritual counselling on a regular basis for all residents who desire them based on availability within the community.

(3) The licensee shall ensure that there is a designated lead for the program who has at least one year of experience in long-term care or geriatric care.

## ACCOMMODATION SERVICES

### **Accommodation services programs**

**63.** (1) This section and sections 64 to 68 apply to the organized programs required under subsection 15 (1) of the Act.

(2) Where services under any of the programs are provided by a contractor who is not an employee of the licensee, the licensee shall ensure that there is in place a written agreement with the service provider that sets out the service expectations.

### **Housekeeping**

**64.** (1) Every licensee of a long-term care home shall ensure that housekeeping services are provided seven days per week.

(2) The licensee shall ensure that procedures are developed and implemented for,

(a) cleaning of the home including,

(i) resident bedrooms including floors, carpets, furnishings, privacy curtains and screens and wall surfaces, and

- (ii) common areas and staff areas including floors, carpets, furnishings and wall surfaces;
  - (b) cleaning and disinfection of resident care equipment, such as whirlpools, tubs, shower chairs, and lift chairs, contact surfaces, and supplies and devices including PASDs and adaptive aids, using hospital grade disinfectant and in accordance with manufacturer's specifications;
  - (c) removal and safe disposal of dry and wet garbage; and
  - (d) addressing incidents of lingering offensive odours.
- (3) The licensee shall ensure that a sufficient supply of housekeeping equipment and cleaning supplies is readily available to all staff at all times.

### **Pest control**

**65.** (1) Every licensee of a long-term care home shall ensure that immediate action is taken to deal with pests.

(2) The licensee shall ensure that an organized preventive pest control program using the services of a licensed pest controller is in place at the home, including records indicating the dates of visits and actions taken.

### **Laundry service**

**66.** Every licensee of a long-term care home shall ensure that,

- (a) procedures are developed and implemented to ensure that,
  - (i) residents' linens are changed at least once a week and more often as needed,
  - (ii) residents' personal items and clothing are labelled in a dignified manner within 48 hours of admission and of acquiring, in the case of new clothing,
  - (iii) residents' soiled clothes are cleaned and returned to the resident within 48 hours, and
  - (iv) there is a process to report and locate residents' lost clothing and personal items;
- (b) a sufficient supply of clean linen, face cloths and bath towels are always available in the home for use by residents;
- (c) linen, face cloths and bath towels are maintained in a good state of repair, free from stains and odours;

- (d) any residential washers and dryers within the home are,
  - (i) accessible to residents and family members, and
  - (ii) available to address the laundry needs that arise from activity programs and where industrial sanitation is not necessary; and
- (e) industrial washers and dryers are used for the washing and drying of all laundry other than laundry to which clause (d) applies.

### **Maintenance services**

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

- (a) maintenance services in the home are available seven days per week to ensure that the building, including both interior and exterior areas, and its operational systems are maintained in good repair; and
  - (b) there are schedules and procedures in place for routine, preventive and remedial maintenance.
- (2) The licensee shall ensure that procedures are developed and implemented to ensure that,
- (a) electrical and non-electrical equipment is kept in good repair, and maintained and cleaned at a level that meets manufacturer specifications, at a minimum;
  - (b) heating, ventilation and air conditioning systems are cleaned and in good state of repair and inspected at least every six months by a certified individual, and that documentation is kept of the inspection;
  - (c) all plumbing fixtures, toilets, sinks, grab bars and bathroom fixtures and accessories are maintained and kept free of corrosion and cracks;
  - (d) gas or electric fireplaces and heat generating equipment other than the heating system referred to in clause (b) are inspected by a qualified individual at least annually, and that documentation is kept of the inspection;
  - (e) hot water boilers and hot water holding tanks are serviced at least annually, and that documentation is kept of the service;
  - (f) the temperature of the water serving all bathtubs, showers, and hand basins used by residents does not exceed 49 degrees Celsius, and is controlled by a device, inaccessible to residents, that regulates the temperature;

- (g) immediate action is taken to reduce the water temperature in the event that it exceeds 49 degrees Celsius;
- (h) the temperature of the water serving all bathtubs and showers used by residents is maintained at a temperature of at least 40 degrees Celsius;
- (i) if the home is using a computerized system to monitor the water temperature, the system is checked daily to ensure that it is in good working order; and
- (j) if the home is not using a computerized system to monitor the water temperature, the water temperature is monitored once per shift in random locations where residents have access to hot water.

(3) The licensee shall ensure that the home's mechanical ventilation systems are functioning at all times except when the home is operating on power from an emergency generator.

(4) The licensee shall ensure that all hazardous substances at the home are labelled properly and are kept inaccessible to residents at all times.

### **Designated lead**

**68.** (1) The licensee shall ensure that there is a designated lead for each of the housekeeping, laundry services and maintenance services programs.

(2) A person hired as a designated lead for any or all of the programs after the coming into force of this section must have,

- (a) a post-secondary degree or diploma;
- (b) knowledge of appropriate evidence-based practices and if there are none, prevailing practices relating to housekeeping, laundry and maintenance, as applicable; and
- (c) a minimum of two years experience in a managerial or supervisory capacity.

## VOLUNTEERS

### **Volunteer program**

**69.** (1) This section applies to the organized volunteer program required under subsection 16 (1) of the Act.

(2) Every licensee of a long-term care home shall ensure that the program includes a staff member supervising or directing a volunteer whenever it is necessary to ensure the safety of a resident.

### **Designated lead**

**70.** (1) The licensee shall ensure that there is a designated lead for the volunteer program who is a member of the staff.

(2) The designated lead must have,

- (a) at least one year of experience with seniors in an organized program or one year of experience with persons in a health care setting; and
- (b) experience or knowledge in recruitment, selection, orientation, placement and supervision of volunteers.

## REPORTING AND COMPLAINTS

### **Complaints procedure: licensee**

**71.** Every licensee of a long-term care home shall ensure that the written procedures required under section 21 of the Act incorporate the requirements set out in section 72.

### **Dealing with complaints**

**72.** (1) Every licensee shall ensure that every written or verbal complaint made to the licensee or a staff member concerning the care of a resident or operation of the home is dealt with as follows:

1. The complaint shall be investigated and resolved where possible, and a response that complies with paragraph 3 provided within 10 business days of the receipt of the complaint.
  2. For those complaints that cannot be investigated and resolved within 10 business days, an acknowledgement of receipt of the complaint shall be provided within 10 business days of receipt of the complaint including the date by which the complainant can reasonably expect a resolution, and a follow-up response that complies with paragraph 3 shall be provided as soon as possible in the circumstances.
  3. A response shall be made to the person who made the complaint, indicating,
    - i. what the licensee has done to resolve the complaint, or
    - ii. that the licensee believes the complaint to be unfounded and the reasons for the belief.
- (2) The licensee shall ensure that a documented record is kept in the home that includes,
- (a) the nature of each verbal or written complaint;

- (b) the date the complaint was received;
  - (c) the type of action taken to resolve the complaint, including the date of the action, time frames for actions to be taken and any follow-up action required;
  - (d) the final resolution, if any;
  - (e) every date on which any response was provided to the complainant and a description of the response; and
  - (f) any response made in turn by the complainant.
- (3) The licensee shall ensure that,
- (a) the documented record is reviewed and analyzed for trends at least quarterly;
  - (b) the results of the review and analysis are taken into account in determining what improvements are required in the home; and
  - (c) a written record is kept of each review and of the improvements made in response.

### **Transitional, complaints**

**73.** Where a complaint was made before the coming into force of this section, but not finally dealt with, the complaint shall be dealt with as provided for in section 72 to the extent possible.

### **Complaints forwarded to the Director**

**74.** (1) Every licensee of a long-term care home who receives a written complaint with respect to a matter that the licensee reports or reported to the Director under section 24 of the Act shall submit a copy of the complaint to the Director along with a written report documenting the response the licensee made to the complainant under subsection 72 (1).

(2) The licensee shall comply with subsection (1) immediately upon completing the licensee's investigation into the complaint, or at an earlier date if required by the Director.

### **Licensees who report investigations under s. 23 (2) of Act**

**75.** (1) In making a report to the Director under subsection 23 (2) of the Act, the licensee shall include the following material in writing with respect to the alleged, suspected or witnessed incident of abuse of a resident by anyone or neglect of a resident by the licensee or staff that led to the report:

1. A description of the incident, including the type of incident, the area or location of the incident, and the events leading up to the incident.
2. A description of the individuals involved in the incident, including,

- i. names of all residents involved in the incident,
  - ii. names of any staff members or other persons who were present at or discovered the incident, and
  - iii. names of staff members who responded or are responding to the incident.
3. Actions taken in response to the incident, including,
  - i. what care was given or action taken as a result of the incident, and by whom,
  - ii. whether a physician or registered nurse in the extended class was contacted,
  - iii. what other authorities were contacted about the incident, if any,
  - iv. whether a family member, person of importance or a substitute decision-maker of any resident involved in the incident was contacted and the name of such person or persons, and
  - v. the outcome or current status of the individual or individuals who were involved in the incident.
4. Analysis and follow-up action, including,
  - i. the immediate actions that have been taken to prevent recurrence, and
  - ii. the long-term actions planned to correct the situation and prevent recurrence.
5. The name and title of the person making the report to the Director, the date of the report and whether an inspector has been contacted and, if so, the date of the contact and the name of the inspector.

(2) Subject to subsection (3), the licensee shall make the report within 10 days of becoming aware of the alleged, suspected or witnessed incident, or at an earlier date if required by the Director.

(3) If not everything required under subsection (1) can be provided in a report within 10 days, the licensee shall make a preliminary report to the Director within 10 days and provide a final report to the Director within a period of time specified by the Director.

### **Transitional, investigation and reports**

**76.** (1) Section 23 of the Act and section 75 of this Regulation apply with respect to incidents that the licensee knew of or that were reported to the licensee after the coming into

force of this section, even if the incident occurred before the coming into force, unless the incident was investigated and resolved before the coming into force.

(2) Section 24 of the Act applies only with respect to matters that occur or may occur after that section comes into force.

(3) Section 25 of the Act applies with respect to information received by the Director after that section comes into force, even if the information is with regard to a matter that occurred before that section came into force.

(4) Section 26 of the Act applies with respect to retaliation that occurs after the coming into force of that section, even if the retaliation relates to something that was disclosed or given in evidence before the coming into force of that section.

### **Reports re critical incidents**

**77.** (1) Every licensee of a long-term care home shall ensure that the Director is immediately informed, in as much detail as is possible in the circumstance, of each of the following incidents in the home, followed by the report required under subsection (4):

1. An emergency, including loss of essential services, fire, unplanned evacuation, intake of evacuees or flooding.
2. An unexpected or sudden death, including a death resulting from an accident or suicide.
3. A resident who is missing for three hours or more.
4. Any missing resident who returns to the home with an injury or any adverse change in condition regardless of the length of time the resident was missing.
5. An outbreak of a reportable disease or communicable disease as defined in the *Health Protection and Promotion Act*.
6. Contamination of the drinking water supply.

(2) Where a licensee is required to make a report immediately under subsection (1) and it is after normal business hours, the licensee shall make the report using the Ministry's method for after hours emergency contact.

(3) The licensee shall ensure that the Director is informed of the following incidents in the home no later than one business day after the occurrence of the incident, followed by the report required under subsection (4):

1. A resident who is missing for less than three hours and who returns to the home with no injury or adverse change in condition.
2. An environmental hazard, including a breakdown or failure of the security system or a breakdown of major equipment or a system in the home that affects the provision of care or safety, security or well-being of residents for a period greater than six hours.
3. A missing or unaccounted for controlled substance.
4. An injury in respect of which a person is taken to hospital.
5. A medication incident or adverse drug reaction in respect of which a person is taken to hospital.

(4) A licensee who is required to inform the Director of an incident under subsection (1) or (3) shall, within 10 days of becoming aware of the incident, or sooner if required by the Director, make a report in writing to the Director setting out the following with respect to the incident:

1. A description of the incident, including the type of incident, the area or location of the incident, and the events leading up to the incident.
2. A description of the individuals involved in the incident, including,
  - i. names of any residents involved in the incident,
  - ii. names of any staff members or other persons who were present at or discovered the incident, and
  - iii. names of staff members who responded or are responding to the incident.
3. Actions taken in response to the incident, including,
  - i. what care was given or action taken as a result of the incident, and by whom,
  - ii. whether a physician or registered nurse in the extended class was contacted,
  - iii. what other authorities were contacted about the incident, if any,
  - iv. for incidents involving a resident, whether a family member, person of importance or a substitute decision-maker of the resident was contacted and the name of such person or persons, and

- v. the outcome or current status of the individual or individuals who were involved in the incident.
4. Analysis and follow-up action, including
- i. the immediate actions that have been taken to prevent recurrence, and
  - ii. the long-term actions planned to correct the situation and prevent recurrence.
5. The name and title of the person who made the initial report to the Director under subsection (1) or (3), the date of the report and whether an inspector has been contacted and, if so, the date of the contact and the name of the inspector.

## MISUSE OF FUNDING

### **Misuse of funding**

**78.** For the purposes of paragraph 5 of subsection 24 (1) and paragraph 6 of subsection 25 (1) of the Act, “misuse” of funding means the use of funding provided by either the Ministry or a local health integration network,

- (a) for a purpose other than a purpose that was specified as a condition of the funding; or
- (b) in a manner that is not permitted under a restriction that was specified as a condition of the funding.

## ABSENCES

### **Absent residents**

**79.** The requirements under this Regulation respecting the care and treatment of a resident do not apply with respect to a resident who is on a medical absence, a psychiatric absence, a casual absence or a vacation absence, as defined in the first draft Regulation.

### **Recording of absences**

**80.** Every licensee of a long-term care home shall ensure that each medical absence, psychiatric absence, casual absence and vacation absence of a resident of the home is recorded.

### **Licensee to stay in contact**

**81.** (1) Every licensee of a long-term care home shall maintain contact with a resident who is on a medical absence or psychiatric absence or with the resident’s health care provider in order to determine when the resident will be returning to the home.

(2) Every licensee of a long-term care home shall be in contact with a long-stay resident of the home who is on a vacation absence in order to determine when the resident will be returning to the home.

### **Care during absence**

**82.** Every licensee of a long-term care home shall ensure that before a long-stay resident of the home leaves for a casual absence or a vacation absence and before a short-stay resident of the home leaves for a casual absence,

- (a) a physician or a registered nurse in the extended class attending the resident or a member of the registered nursing staff of the home sets out in writing the care required to be given to the resident during the absence; and
- (b) a member of the licensee's staff communicates to the resident, or the resident's substitute decision-maker,
  - (i) the need to take all reasonable steps to ensure that the care required to be given to the resident is received by the resident during the absence,
  - (ii) that the licensee will not be responsible for the care, safety and well-being of the resident during the absence and that the resident, or the resident's substitute decision-maker assumes full responsibility for the care, safety and well-being of the resident during the absence, and
  - (iii) the need to notify the Administrator of the home if the resident is admitted to a hospital during the absence or if the date of the resident's return changes.

### **DISCHARGE**

#### **Restriction on discharge**

**83.** No licensee of a long-term care home shall discharge a resident from the long-term care home unless permitted or required to do so by this Regulation.

#### **When licensee may discharge**

**84.** (1) A licensee of a long-term care home may discharge a resident if the licensee is informed by someone permitted to do so under subsection (2) that the resident's requirements for care have changed and that as a result the home cannot provide a sufficiently secure environment to ensure the safety of the resident or the safety of persons who come into contact with the resident.

(2) For the purposes of subsection (1), the licensee shall be informed by,

- (a) in the case of a resident who is at the home, the Director of Nursing and Personal Care, the resident's physician or a registered nurse in the extended class attending the resident, after consultation with the interdisciplinary team providing the resident's care; or

- (b) in the case of a resident who is absent from the home, the resident's physician or a registered nurse in the extended class attending the resident.
- (3) A licensee of a long-term care home may discharge a resident if,
- (a) the resident decides to leave the home and signs a request to be discharged;
  - (b) the resident leaves the home and informs the Administrator that he or she will not be returning to the home;
  - (c) the resident is absent from the home for a period exceeding seven days and the resident has not informed the Administrator of his or her whereabouts, and the Administrator has been unable to locate the resident;
  - (d) in the case of a long-stay resident, the total length of the resident's casual absences during the period between midnight on a Saturday and midnight on the following Saturday exceeds 48 hours and the resident does not have any remaining vacation absence days available in the calendar year; or
  - (e) in the case of a short-stay resident, the total length of the resident's casual absences during the period between midnight on Saturday and midnight on the following Saturday exceeds 48 hours.

**When licensee shall discharge**

**85.** (1) A licensee of a long-term care home shall discharge a short-stay resident from the home at the end of the period for which the resident was admitted to the home, unless the resident is in the interim bed short-stay program and the placement co-ordinator has authorized, or has advised the licensee that it will be authorizing, an extension of the resident's admission under section 98.

(2) A licensee shall not discharge a resident who is in the interim bed short-stay program without first confirming with the placement co-ordinator whether the placement co-ordinator intends to authorize an extension.

- (3) A licensee shall discharge a short-stay resident if,
- (a) the resident is on a medical absence that exceeds 14 days; or
  - (b) the resident is on a psychiatric absence or vacation absence.
- (4) A licensee shall discharge a long-stay resident if,
- (a) the resident is on a medical absence that exceeds 30 days;

- (b) the resident is on a psychiatric absence that exceeds 60 days;
- (c) the total length of the resident's vacation absences during the calendar year exceeds 21 days; or
- (d) the long-term care home is being closed.

(5) A licensee shall not discharge a resident under clause (3) (a) or (4) (a) or (b),

- (a) if the resident is unable to return to the home because of an outbreak of disease in the home or an emergency in the home; or
- (b) if the resident or the resident's substitute decision-maker or other person acting on the resident's behalf has notified the Administrator that the resident intends to return to the home but the resident is unable to do so due to an emergency or natural disaster in the community that prevents the immediate return of the resident.

(6) A licensee shall not discharge a resident under clause (4) (c),

- (a) if the resident is unable to return to the home because of an outbreak of disease in the home or an emergency in the home; or
- (b) if the resident or the resident's substitute decision-maker or other person acting on the resident's behalf has notified the Administrator that the resident intends to return to the home but the resident is unable to do so due to an emergency or natural disaster in the community or a short-term illness or injury of the resident that prevents the immediate return of the resident.

(7) A licensee of a long-term care home shall discharge a resident from a specialized unit if,

- (a) the interdisciplinary re-assessment required under section 106 indicates that the resident no longer requires and benefits from the accommodation, care, services, programs and goods provided in the specialized unit; and
- (b) alternative arrangements have been made for the accommodation, care, services, programs and goods required by the resident.

(8) A licensee shall discharge a resident when the licensee is aware that the resident has died, and the resident shall be deemed to have been discharged on the date of death.

### **Requirements on licensee before discharging a resident**

**86.** (1) Except in the case of a discharge due to a resident's death, every licensee of a long-term care home shall ensure that, before a resident is discharged, notice of the discharge is given

to the resident, the resident's substitute decision-maker, if any, and to any other person either of them may direct,

- (a) as far in advance of the discharge as possible; or
- (b) if circumstances do not permit notice to be given before the discharge, as soon as possible after the discharge.

(2) Before discharging a resident under subsection 84 (1), the licensee shall,

- (a) ensure that alternatives to discharge have been considered and, where appropriate, tried;
- (b) in collaboration with the appropriate placement co-ordinator and other health service organizations, make alternative arrangements for the accommodation, care and secure environment required by the resident;
- (c) ensure the resident and the resident's substitute decision-maker, if any, and any person either of them may direct is kept informed and given an opportunity to participate in the discharge planning and that his or her wishes are taken into consideration; and
- (d) provide a written notice to the resident, the resident's substitute decision-maker, if any, and any person either of them may direct, setting out a detailed explanation of the supporting facts, as they relate both to the home and to the applicant's condition and requirements for care, that justify the licensee's decision to discharge the resident.

(3) Before discharging a resident from the home under clause 84 (3) (a), (b) or (d), the licensee shall offer to,

- (a) assist the resident in planning for discharge by identifying alternative accommodation, service organizations and other resources in the community; and
- (b) contact appropriate service organizations and other resources in the community or refer the resident to such organizations and resources.

### **Responsibility of placement co-ordinator**

**87.** The appropriate placement co-ordinator shall, if a resident to whom subsection 84 (1) or clause 85 (7) (a) applies so desires, assist in arranging alternative accommodation, care or services for the resident.

### **Licensee to assist with alternatives to long-term care home**

**88.** Every licensee of a long-term care home shall offer to contact the appropriate placement co-ordinator for the purpose of providing information about alternatives to living in a long-term care home to a resident whose condition has improved to the extent that he or she no longer

requires the care and services provided by the long-term care home, as set out in the resident's plan of care.

### **Final statement**

**89.** Despite section 174, every licensee of a long-term care home shall, within 30 days after a resident is discharged from the home, provide the resident or the resident's substitute decision-maker with a final itemized statement of the charges made to the resident.

### **Transitional, absences and discharges due to absences**

**90.** (1) Where, during the calendar year that this section comes into force, a resident of a home under the *Nursing Homes Act*, *Charitable Institutions Act* or *Homes for the Aged and Rest Homes Act* has taken vacation absences or casual absences before the coming into force, the absences shall be counted as if they had been taken while this Regulation was in force.

(2) Where a long-stay resident was on a psychiatric absence from a home under the *Nursing Homes Act*, *Charitable Institutions Act* or *Homes for the Aged and Rest Homes Act* immediately before the coming into force of this section,

- (a) the duration of the absence before the coming into force shall be counted for the purposes of the discharge provisions of this Regulation; and
- (b) no bed-holding amount is payable for the days of the absence after the coming into force of this Regulation.

(3) Where a long-stay resident was on a medical absence from a home under the *Nursing Homes Act*, *Charitable Institutions Act* or *Homes for the Aged and Rest Homes Act* immediately before the coming into force of this section,

- (a) a licensee shall not discharge the resident under clause 85 (4) (a) until the absence exceeds 51 consecutive days; and
- (b) no bed-holding amount is payable for the days of the absence after the coming into force of this Regulation.

(4) Where a short-stay resident was on a medical absence from a home under the *Nursing Homes Act*, *Charitable Institutions Act* or *Homes for the Aged and Rest Homes Act* immediately before the coming into force of this section, the days of the absence before the coming into force shall be counted for the purposes of the discharge provisions of this Regulation.

**PART III  
ADMISSION OF RESIDENTS**

**INTERIM BED SHORT-STAY PROGRAM**

**Criteria for eligibility, interim bed short-stay program**

**91.** An applicant shall be determined to be eligible for admission to a long-term care home as a resident in the interim bed short-stay program only if the person is eligible for admission as a long-stay resident under section 30 of the first draft Regulation.

**Keeping of waiting list, interim beds**

**92.** The appropriate placement co-ordinator for a long-term care home that has interim beds shall keep a waiting list for admission to the interim beds that is in addition to and separate from any waiting list that is required to be kept under section 40 of the first draft Regulation.

**Approval by licensee, interim beds**

**93.** Section 36 of the first draft Regulation applies to an applicant for an interim bed except that the licensee's notice under subsection 36 (2) approving or withholding approval of the applicant's admission must be given within three business days of receiving the request under subsection 36 (1), not five business days.

**Placement on waiting list, interim beds**

**94.** The appropriate placement co-ordinator shall place an applicant on the waiting list for admission to interim beds in a long-term care home if,

- (a) the applicant occupies a bed in a hospital under the *Public Hospitals Act* and requires an alternate level of care;
- (b) a physician has determined that the applicant does not require the acute care services provided by the hospital;
- (c) the applicant is determined by a placement co-ordinator to be eligible for admission to a long-term care home as a long-stay resident under section 30 of the first draft Regulation;
- (d) the applicant is on at least one waiting list for admission to a bed in a long-stay program of a long-term care home;
- (e) the applicant applies in accordance with the first draft Regulation for authorization of his or her admission to an interim bed in the home; and
- (f) the licensee of the home approves the applicant's admission to an interim bed in the home.

### **Ranking on waiting list, interim beds**

**95.** (1) Sections 44 to 56 and subsection 57 (1) of the first draft Regulation do not apply with respect to an application for admission to a long-term care home as a resident in the interim bed short-stay program.

(2) Applicants on a waiting list for interim beds for a long-term care home shall be ranked for admission according to the time at which they applied for authorization of their admission to an interim bed in that home.

(3) Subsections 57 (2) and (3) of the first draft Regulation apply with necessary modifications to the ranking of applicants on a waiting list for interim beds for a long-term care home.

### **Authorization of admission, interim beds**

**96.** (1) The appropriate placement co-ordinator shall authorize the admission of an applicant to the interim bed short-stay program only if,

- (a) the applicant's admission may be authorized under section 59 of the first draft Regulation;
- (b) the applicant applied for authorization of his or her admission to an interim bed in the home; and
- (c) the applicant meets the requirements for placement on a waiting list for interim beds as set out in section 94.

(2) For the purposes of clauses 59 (1) (c), (d) and (e) of the first draft Regulation, the following are the classes of accommodation for which an applicant may be recorded to be waiting:

- 1. Basic accommodation for a woman in the interim bed short-stay program.
- 2. Basic accommodation for a man in the interim bed short-stay program.

### **Removal from waiting list, interim beds**

**97.** Section 42 of the first draft Regulation rather than section 43 applies to the waiting list for interim beds.

### **Authorization of admission, interim beds**

**98.** The following rules apply when a placement co-ordinator authorizes the admission of an applicant to a long-term care home as a resident of an interim bed:

- 1. The placement co-ordinator shall indicate the length of the stay being authorized and the first day and last day of the stay.

2. The placement co-ordinator shall not authorize the admission for a period exceeding 90 consecutive days for the first period.
3. After the initial admission, and whether or not the applicant has made a formal application for an extension, the placement co-ordinator may authorize the extension of the applicant's admission for up to 30 consecutive days at a time, if the applicant,
  - i. remains on at least one waiting list for admission to a bed in a long-stay program of a long-term care home, and
  - ii. has not yet received an offer to authorize his or her admission as a long-stay resident of a long-term care home under section 59 of the first draft Regulation.
4. If the placement co-ordinator is authorizing an extension of the admission, the extension shall only be authorized within seven days before the last day of the stay.

#### **Removal from every waiting list, interim bed resident**

**99.** Where a placement co-ordinator offers to authorize the admission of a resident of an interim bed to a long-term care home as a long-stay resident, and the resident refuses to consent to the admission, refuses to enter into the agreement provided for in clause 59 (1) (f) of the first draft Regulation, or fails to move into the home on or before the fifth day following the day on which he or she is informed of the availability of accommodation, the resident shall be removed from every waiting list the placement co-ordinator keeps for admission to a long-term care home as a long-stay resident.

#### **Transitional, residents in interim beds**

**100.** A resident who occupied an interim bed under the *Nursing Homes Act*, *Charitable Institutions Act* or *Homes for the Aged and Rest Homes Act* immediately before the coming into force of this section continues to be a long-stay resident for as long as he or she occupies the bed.

### SPECIALIZED UNITS

#### **Designation of specialized units**

**101.** (1) This section applies to the designation of specialized units for the purposes of subsection 39 (3) of the Act.

(2) Upon the recommendation of the local health integration network for the geographic area where a long-term care home is located, the Director may designate a specified number of long-stay program beds as a specialized unit in the home, subject to any terms and conditions the Director may specify.

(3) In making a recommendation to the Director to designate a specialized unit, the local health integration network shall provide the Director with the following:

1. An assessment identifying the need for a specialized unit to provide or offer certain types of accommodation, care, services, programs and goods to residents.
2. An analysis of the advantages and disadvantages of designating a specialized unit.
3. A description of the resident population to be served by the specialized unit.
4. A description of the accommodation, care, services, programs and goods to be provided by the specialized unit.
5. A statement that the local health integration network is satisfied that the licensee will be financially capable of providing the types of accommodation, care, services, programs and goods to be provided by the specialized unit.
6. A statement that the licensee has agreed to the proposed designation.
7. A proposal for the monitoring, evaluation and reporting on the utilization and effectiveness of the specialized unit.

(4) The Director shall only designate a specialized unit in a long-term care home if the Director is satisfied with the licensee's current compliance with requirements under the Act and with the licensee's past history of compliance as referred to in paragraph 3 of subsection 212 (1).

(5) The Director shall advise a placement co-ordinator in writing when a specialized unit is designated within a long-term care home for which the placement co-ordinator is the appropriate placement co-ordinator.

(6) The Director may amend the terms and conditions of a designation at any time.

#### **Agreement with LHIN**

**102.** (1) The operation by a licensee of a specialized unit shall be subject to the terms and conditions in an agreement between the licensee and the local health integration network.

(2) The agreement between the licensee and the local health integration network shall also contain the terms and conditions, if any, specified by the Director under subsections 101 (2) and (6).

### **Waiting list criteria for admissions to specialized unit**

**103.** The appropriate placement co-ordinator shall place a person on the waiting list for admission to a specialized unit within a long-term care home under subsection 40 (2) of the first draft Regulation if,

- (a) the person is determined by the placement co-ordinator to be eligible for admission to a long-term care home;
- (b) the person applies in accordance with the regulations for authorization of his or her admission to the specialized unit;
- (c) the placement co-ordinator is satisfied, based on the assessments and information provided, that the person requires and is likely to benefit from the type of accommodation, care, services, programs and goods that are provided in the specialized unit;
- (d) the licensee of the long-term care home approves the person's admission to the specialized unit; and
- (e) placing the person on the waiting list for the specialized unit will not result in the total number of waiting lists on which the person is placed exceeding five waiting lists for long-stay admission, unless the person requires an immediate admission as a result of a crisis arising from his or her condition or circumstances.

### **Waiting list categories and ranking**

**104.** (1) Subject to subsections (2) and (3), sections 44 to 50, 53 to 56 and subsection 57 (1) of the first draft Regulation do not apply to an applicant seeking admission to a specialized unit within a long-term care home.

(2) A resident of a specialized unit who is applying for re-admission to the long-term care home where he or she was a resident immediately prior to his or her admission to a specialized unit shall be placed in the re-admission category on the waiting list for his or her original home.

(3) A person who was discharged from a specialized unit because he or she was absent on a medical or psychiatric absence for a longer time than permitted under section 26 of the first draft Regulation, and is applying for re-admission to the specialized unit or to the home where he or she was a resident immediately prior to his or her admission to a specialized unit, shall be placed in the re-admission category on the waiting list for the specialized unit or for his or her original home.

(4) Applicants on a waiting list for a specialized unit in a long-term care home shall be ranked for admission in the following order of priority:

1. The highest priority shall be given to an applicant who is in the re-admission category on the waiting list for the specialized unit. As among themselves, these applicants shall be ranked according to the date of their original admission to the specialized unit.
2. The next highest priority shall be given to an applicant who requires immediate admission as a result of a crisis arising from his or her condition or circumstances. As among themselves, these applicants shall be ranked according to the urgency of their need for admission.
3. All other applicants shall be ranked on the waiting list according to the time at which they applied for authorization of their admission to the specialized unit.

#### **Authorization of admission: specialized unit**

**105.** The appropriate placement co-ordinator shall authorize the admission of an applicant to the specialized unit only if,

- (a) the applicant's admission may be authorized under section 59 of the first draft Regulation; and
- (b) the applicant meets the requirements for placement on a waiting list for the specialized unit set out in section 103.

#### **Re-assessment**

**106.** The licensee shall ensure that every resident of a specialized unit undergoes an interdisciplinary re-assessment every three months, or sooner if there is a change in the resident's condition or circumstances, to determine whether the resident continues to require and is benefiting from the accommodation, care, services, programs and goods provided in the specialized unit.

#### **Transfer, specialized units**

**107.** (1) The licensee of a long-term care home may transfer a resident who is being discharged from a specialized unit under subsection 85 (7) to another area in the home if the resident or the resident's substitute decision-maker consents.

(2) The licensee shall notify the placement co-ordinator of every transfer under subsection (1) and the vacancy in the specialized unit within 24 hours.

(3) The licensee shall keep a separate transfer list in accordance with section 64 of the first draft Regulation in respect of the accommodation in the specialized unit.

(4) A resident who is transferred under subsection (1) shall be deemed to have been discharged from the specialized unit and admitted to the home.

### **Revocation of designation of specialized unit**

**108.** (1) The Director may revoke the designation of a specialized unit in a long-term care home, or the designation of some of the beds in a specialized unit, in accordance with any terms and conditions the Director may specify,

- (a) upon the recommendation of the local health integration network for the geographic area where the home is located; or
- (b) upon the Director's own initiative.

(2) A local health integration network that recommends a revocation to the Director shall provide the Director with,

- (a) the reason or reasons for recommending the revocation;
- (b) a plan developed by the local health integration network in consultation with the licensee and the appropriate placement co-ordinator that sets out,
  - (i) the arrangements that will be made for the accommodation, care and services of the residents of the specialized unit, and
  - (ii) anticipated timelines for carrying out of the plan; and
- (c) a proposal for what is to occur with respect to the beds that will no longer be designated as part of the specialized unit.

(3) Where the Director revokes a designation on the Director's own initiative, the local health integration network shall provide the Director with the plan referred to in clause (2) (b).

(4) When the Director revokes a designation, the Director shall,

- (a) inform the licensee, the local health integration network, and the appropriate placement co-ordinator of the revocation; and
- (b) provide the approved plan, with or without amendments made by the Director, to the licensee, the local health integration network, and the appropriate placement co-ordinator.

(5) The licensee shall comply with the plan as approved by the Director, and upon receiving the approved plan from the Director, shall,

- (a) advise in writing each resident who will be affected by the revocation and the resident's substitute decision-maker, if any, of the revocation; and

- (b) contact those residents and substitute decision-makers to begin the process of making alternate arrangements.
- (6) In accordance with the approved plan, the appropriate placement co-ordinator shall,
  - (a) inform applicants on the waiting list for admission to the specialized unit that the designation is being revoked;
  - (b) cease the authorization of admissions to the specialized unit in accordance with the approved plan; and
  - (c) cease keeping a separate waiting list for the specialized unit in the long-term care home.

#### SPECIAL CIRCUMSTANCES

##### **Admissions process, special circumstances**

**109.** (1) This section applies when the Director has made a determination that residents of a long-term care home urgently need to be relocated to another home to protect their health or safety.

(2) The Director shall advise the appropriate placement co-ordinator of the determination.

(3) Where a resident of one home is to be relocated to another home operated by the same licensee, the appropriate placement co-ordinator and the licensee are exempt from complying with the requirements under Part III of the Act to the extent necessary to effect the relocation and the following modifications are made respecting the application of Part III of the Act:

1. The resident shall be deemed to be eligible for admission to the second home.
2. An application for authorization of admission is not required with respect to the resident.
3. The licensee shall be deemed to have approved the resident's application for admission under subsection 44 (7) of the Act.
4. Subject to paragraph 5, the resident shall be placed in category 1 of the waiting list referred to in section 46 of the first draft Regulation.
5. Residents who are to be relocated to a second home operated under a temporary emergency licence shall be ranked for admission based on urgency of need.
6. The appropriate placement co-ordinator shall authorize the admission only if the resident consents to the admission.

(4) Where a resident of one home is to be relocated to another home operated by a different licensee, the appropriate placement coordinator and the licensee are exempt from complying with the requirements under Part III of the Act to the extent necessary to effect the relocation and the following modifications are made respecting the application of Part III of the Act:

1. The resident shall be deemed to be eligible for admission to the second home.
2. The resident is not required to make the application for authorization of admission in writing, as long as they have provided consent to the disclosure of all information necessary for the appropriate placement co-ordinator to deal with the application.
3. The appropriate placement coordinator shall coordinate the provision, to the licensee of the home for which authorization of admission is sought, of as much information as is available in the circumstances about the resident's physical and mental health, requirements for medical treatment and health care, functional capacity, requirements for personal care, behaviour and behaviour during the preceding year. This information shall be provided by the licensee of the resident's original home and may be communicated orally.
4. The licensee shall, either orally or in writing, approve or withhold approval of the admission in accordance with subsections 44 (7) to (9) of the Act within 24 hours of receiving the information under paragraph 3.
5. If the licensee withholds approval of the person's admission, the licensee shall provide the appropriate placement co-ordinator with the written notice referred to in subsection 44 (9) of the Act, if requested to do so by the appropriate placement coordinator. The notice shall be provided within five business days of the request of the appropriate placement coordinator and a copy of the notice shall also be provided to the Director.
6. Subject to paragraph 7, the resident shall be placed in category 1 of the waiting list referred to in section 46 of the first draft Regulation.
7. Residents who are to be relocated to a second home operated under a temporary emergency licence shall be ranked for admission based on urgency of need.
8. The appropriate placement co-ordinator shall authorize the admission only if the resident consents to the admission and the licensee approves the admission.

(5) Where a resident who was relocated under this section applies for readmission to the original home, the appropriate placement co-ordinator and the licensee are exempt from complying with the requirements under Part III of the Act to the extent necessary to effect the

readmission and the following modifications are made respecting the application of Part III of the Act:

1. The resident shall be deemed to be eligible for admission to the original home.
2. The resident is not required to make the application for authorization of admission in writing.
3. The licensee shall be deemed to have approved the resident's application for admission under subsection 44 (7) of the Act.
4. The appropriate placement coordinator shall authorize the admission only if the resident consents to the admission.

## **PART IV COUNCILS**

### **“Detailed allocation”**

**110.** For the purposes of subparagraph 9 ii of subsection 57 (1) and subparagraph 7 ii of subsection 60 (1) of the Act,

“detailed allocation” means the audited reconciliation report for each 12-month period required by the Minister under subsection 167 (2) and by the local health integration network for the geographic region in which the long-term care home is located required by regulations made under the *Local Health System Integration Act, 2006*.

## **PART V OPERATION OF HOMES**

### **ADMINISTRATOR**

#### **Administrator**

**111.** (1) Every licensee of a long-term care home shall ensure that the home's Administrator works, on average, in that position on-site at the home for the following amount of time per week:

1. In a home with a licensed bed capacity of 64 beds or fewer, at least 16 hours per week.
2. In a home with a licensed bed capacity of more than 64 but fewer than 97 beds, at least 24 hours per week.
3. In a home with a licensed bed capacity of 97 beds or more, full-time.

(2) A licensee is not required to comply with subsection (1) until six months after this section comes into force, but until the licensee is in compliance, the licensee shall ensure that the home's Administrator works, on average, in that position on-site at the home for the following amount of time per week:

1. In a home with a licensed bed capacity of 64 beds or fewer, at least 16 hours per week.
2. In a home with a licensed bed capacity of more than 64 but fewer than 100 beds, at least 24 hours per week.
3. In a home with a licensed bed capacity of 100 beds or more, full-time.

(3) Subject to subsection (4), the licensee shall ensure that everyone hired as an Administrator after the coming into force of this section,

- (a) has a post-secondary degree from a program that is a minimum of three years in duration, or a post-secondary diploma in health or social services from a program that is a minimum of two years in duration;
- (b) has at least three years working experience in a managerial or supervisory capacity in a health care setting; and
- (c) has successfully completed or, subject to subsection (5), is enrolled in, a program in long-term care home administration or management that is a minimum of 100 hours in duration of instruction time.

(4) A person who was working as an Administrator on the day this section came into force may be hired for another position as an Administrator in a different long-term care home if the person meets the following qualifications:

1. Having worked for three years as a long-term care home Administrator.
2. Having successfully completed or, subject to subsection (5), being enrolled in, a program in long-term care home administration or management that is a minimum of 100 hours in duration of instruction time.

(5) The licensee shall cease to employ as an Administrator a person who was required to be enrolled in a program described in clause (3) (c) or paragraph 2 of subsection (4) if the person ceases to be enrolled in the program or fails to successfully complete the program within the following periods:

1. For a program that includes at least 400 hours of instruction time, the maximum period is five years from the day the person is hired as an Administrator.

2. For a program that includes more than 200 but less than 400 hours of instruction time, the maximum period is three years from the day the person is hired as an Administrator.
3. For a program that includes 200 or less hours of instruction time, the maximum period is two years from the day the person was hired as an Administrator.

#### DIRECTOR OF NURSING AND PERSONAL CARE

##### **Director of Nursing and Personal Care**

**112.** (1) Every licensee of a long-term care home shall ensure that the home's Director of Nursing and Personal Care works, on average, in that position on-site at the home for the following amount of time per week:

1. In a home with a licensed bed capacity of 19 beds or fewer, at least four hours per week.
2. In a home with a licensed bed capacity of more than 19 but fewer than 30 beds, at least eight hours per week.
3. In a home with a licensed bed capacity of more than 29 but fewer than 40 beds, at least 16 hours per week.
4. In a home with a licensed bed capacity of more than 39 but fewer than 65 beds, at least 24 hours per week.
5. In a home with a licensed bed capacity of 65 beds or more, full-time.

(2) A licensee is not required to comply with subsection (1) until six months after this section comes into force, but until the licensee is in compliance, the licensee shall ensure that the home's Director of Nursing and Personal Care works, on average, in that position on-site at the home for the following amount of time per week:

1. In a home with a licensed bed capacity of 19 beds or fewer, at least four hours per week.
2. In a home with a licensed bed capacity of more than 19 but fewer than 30 beds, at least eight hours per week.
3. In a home with a licensed bed capacity of more than 29 but fewer than 40 beds, at least 16 hours per week.

4. In a home with a licensed bed capacity of more than 39 but fewer than 65 beds, at least 24 hours per week.
5. In a home with a licensed bed capacity of more than 64 beds but fewer than 80 beds, 32 hours per week.
6. In a home with a licensed bed capacity of 80 beds or more, full-time.

(3) The licensee shall ensure that everyone hired as a Director of Nursing and Personal Care after the coming into force of this section meets the following qualifications:

1. Having at least one year of experience working as a registered nurse in the long-term care sector.
2. Having at least three years of experience working as a registered nurse in a managerial or supervisory capacity in a health care setting.

#### MEDICAL DIRECTOR

#### **Medical Director**

**113.** (1) Every licensee of a long-term care home shall enter into a written agreement with the Medical Director for the home that provides for at least the following:

1. The term of the agreement.
2. The responsibilities of the licensee.
3. The responsibilities or duties of the Medical Director, which shall include,
  - i. development, implementation, monitoring and evaluation of medical services,
  - ii. advising on clinical policies and procedures,
  - iii. communication of expectations to attending physicians and registered nurses in the extended class,
  - iv. addressing issues relating to resident care, after-hours coverage and on-call coverage, and
  - v. participation in interdisciplinary committees and quality improvement activities.

(2) The Medical Director of a long-term care home may not be,

- (a) the licensee of the home; or
- (b) in the case of a licensee that is a corporation,
  - (i) a member of the board of the corporation, or
  - (ii) a person having a controlling interest in the corporation.

## TRAINING

### **Training**

**114.** (1) Every licensee of a long-term care home shall ensure that a training program for the home is developed and implemented that provides for training for all staff on all shifts at the home.

(2) The licensee shall ensure that the training program provides for at least annual training for staff on the cleaning and sanitizing of equipment relevant to the person's responsibilities.

(3) The licensee shall ensure that a written record is kept of the training program, including the recording of all staff who have received training.

(4) The licensee shall ensure that there is an annual written evaluation to identify changes, if any, required to improve the program.

(5) The licensee shall implement the changes identified in the evaluation under subsection (4) and keep a written record of the changes that were implemented.

### **Designated lead**

**115.** The licensee shall ensure that there is a designated lead for the training program.

### **Orientation**

**116.** For the purposes of paragraph 11 of subsection 76 (2) of the Act, every licensee of a long-term care home shall ensure that staff at the home receive training in the following additional matters before performing their responsibilities:

1. The licensee's written procedures for handling complaints and the role of staff in dealing with complaints.
2. Safe use of equipment, including mechanical lifts, that is relevant to the staff member's responsibilities.
3. Cleaning and sanitizing of equipment relevant to the staff member's responsibilities.

## **Retraining**

**117.** (1) Subject to subsection (2), every licensee of a long-term care home shall ensure that persons who have received training under subsection 76 (2) of the Act receive training in the areas mentioned in that subsection at least annually.

(2) A licensee is only required to ensure that persons receive retraining in the areas mentioned in paragraphs 2 and 10 of subsection 76 (2) of the Act when there is a change in those areas that is relevant to the person's responsibilities.

## **Additional training — direct care staff**

**118.** (1) For the purposes of paragraph 6 of subsection 76 (7) of the Act, every licensee of a long-term care home shall ensure that all staff who provide direct care to residents receive training in the following additional areas:

1. Fall prevention and management.
2. Skin and wound care.
3. Continence care and bowel management.
4. Pain management including pain recognition for specific and non-specific signs of pain.
5. Responsive behaviours including techniques and approaches related to responsive behaviours.
6. Safe and correct use of therapeutic equipment and adaptive aids.
7. The application, use and potential dangers of,
  - i. physical devices used to restrain residents, and
  - ii. PASDs.

(2) The licensee shall ensure that all staff who provide direct care to residents receive the training required under paragraph 7 of subsection (1) at least annually.

(3) The licensee shall ensure that all staff who provide direct care to residents are trained to provide support and assistance to residents to promote independence.

(4) The licensee shall ensure that all staff who provide direct care to residents receive the additional training provided for in subsection 76 (7) of the Act based on the following:

1. The staff shall receive written individual assessments each year to identify the areas where the additional training is required.
2. The staff shall receive additional training annually based on their individual requirements identified under paragraph 1, if any.

(5) Licensees are exempt from ensuring that the following persons receive the additional training provided for in subsection 76 (7) of the Act:

1. Medical Directors.
2. Physicians or registered nurses in the extended class retained or appointed under subsection 59 (2) or (3).

(6) A licensee is not required to comply with this section until six months after the section comes into force.

### **Orientation for volunteers**

**119.** (1) Every licensee of a long-term care home shall ensure that every volunteer receives the orientation provided for in section 77 of the Act.

(2) For the purposes of clause 77 (f) of the Act, the licensee shall ensure that the orientation includes information on the following matters:

1. Resident safety, including information on reporting incidents, accidents and missing residents.
2. The emergency plans under section 87 of the Act.
3. Wheelchair safety.
4. Escorting residents.
5. Mealtime assistance, if the volunteer is to provide such assistance.
6. Communication techniques to meet the needs of the residents.
7. Techniques and approaches to respond to the needs of residents with responsive behaviours.

(3) This section only applies with respect to persons who begin volunteering at the home after the coming into force of this section.

## INFORMATION

### **Information for residents, etc.**

**120.** For the purposes of clause 78 (2) (r) of the Act, every licensee of a long-term care home shall ensure that the package of information provided for in section 78 includes information about the following:

1. The resident's obligation to pay the basic accommodation charge as described in subsection 91 (3) of the Act.
2. The obligation of the resident to pay accommodation charges during a medical, psychiatric, vacation or casual absence as set out in section 189.
3. The method to apply to the Director for a reduction in the charge for basic accommodation that would otherwise be payable under paragraph 1 of subsection 91 (1) of the Act.
4. A list of the charges that a licensee is prohibited from charging a resident.

### **Posting of information**

**121.** (1) For the purposes of clause 79 (3) (q) of the Act, every licensee of a long-term care home shall ensure that the information required to be posted in the home and communicated to residents under section 79 includes the following:

1. The home's licence or approval, including any conditions or amendments, other than conditions that are imposed under the regulations or the conditions under subsection 101 (3) of the Act.
2. The most recent audited report provided for in subsection 167 (2).
3. The Ministry's toll-free telephone number for making complaints about homes and its hours of service.

(2) The licensee shall ensure that the information referred to in clauses 79 (3) (a), (e), (f), (h), (i) and (j) of the Act, as well as the telephone number referred to in paragraph 3 of subsection (1), is posted in print with a font size of at least 16.

### **Transitional, information and posting**

**122.** A licensee of a long-term care home is not required to comply with clauses 78 (2) (b) and 79 (3) (b) of the Act until one year after section 189 of the Act comes into force.

## QUALITY IMPROVEMENT

### **Continuous quality improvement**

**123.** Every licensee of a long-term care home shall ensure that the quality improvement and utilization review system required under section 84 of the Act complies with the following requirements:

1. There must be a documented process to identify continuous quality improvement and utilization review system initiatives for review.
2. The outcomes of the system's activities must be communicated to the Residents' Council, Family Council and staff at least annually.
3. A record must be maintained listing,
  - i. each initiative provided for in paragraph 1 and its outcome,
  - ii. the associated meeting dates and the staff member from each program or service area represented at the meetings, and
  - iii. the communications under paragraph 2.

## EMERGENCY PLANS

### **Emergency plans**

**124.** (1) This section applies to the emergency plans required under subsection 87 (1) of the Act.

(2) Every licensee of a long-term care home shall ensure that the emergency plans for the home are in writing.

(3) In establishing the plans, the licensee shall ensure that hazards and risks that may give rise to an emergency impacting the home are identified and assessed, whether the hazards and risks arise within the home or in the surrounding vicinity or community.

(4) The licensee shall ensure that the emergency plans provide for the following:

1. Dealing with,
  - i. fires,
  - ii. community disasters,
  - iii. violent outbursts,

- iv. bomb threats,
- v. medical emergencies,
- vi. chemical spills,
- vii. situations involving a missing resident,
- viii. loss of essential services, and
- ix. loss of heat in cold weather.

2. Evacuation of the home.

3. Consultation with the relevant community agencies, partner facilities and resources that will be involved in responding to the emergency.

4. Adequate resources, supplies and equipment vital for the emergency response being set aside and readily available in the home.

(5) The licensee shall ensure that the emergency plans address the following components:

1. Plan activation.

2. Lines of authority.

3. Communications plan.

4. Specific staff roles and responsibilities.

(6) As a component of the plans, the licensee shall ensure that there is a system in the home to account for the whereabouts of all residents in the event of an evacuation.

(7) The licensee shall ensure that all emergency contact information is updated at least annually.

(8) The licensee shall,

(a) test the emergency plans related to the loss of essential services, fires, situations involving a missing resident, medical emergencies and violent outbursts on an annual basis;

(b) test all other emergency plans at least once every three years;

(c) conduct a planned evacuation at least once every three years; and

(d) keep a written record of the testing of the emergency plans and planned evacuation.

(9) The licensee shall ensure that there is an annual written evaluation to identify changes, if any, required to improve the program.

(10) The licensee shall implement the changes identified in the evaluation under subsection (9) and keep a written record of the changes that were implemented.

(11) A licensee is not required to comply with paragraph 3 of subsection (4) until one year after the coming into force of this section.

## FLOOR SPACE

### **Floor space**

**125.** Every licensee of a long-term care home shall ensure that each floor of the home has adequate space for,

(a) completion of documentation by staff; and

(b) secure storage of resident records.

## BEDROOM FURNISHINGS

### **Bedroom furnishings**

**126.** Every licensee of a long-term care home shall ensure that,

(a) resident beds have a firm, comfortable mattress that is at least 10.16 centimetres thick unless contraindicated by the resident's plan of care;

(b) resident beds are capable of being elevated at the head and have a headboard and a footboard;

(c) roll-away beds, day beds, double deck beds, or cots are not used as sleeping accommodation for a resident, except in an emergency;

(d) a bedside table is provided for every resident;

(e) a comfortable easy chair is provided for every resident in the resident's bedroom, or that a resident who wishes to provide their own comfortable easy chair is accommodated in doing so; and

(f) a clothes closet is provided for every resident in the resident's bedroom.

## AIR TEMPERATURE

### **Air temperature**

**127.** Every licensee of a long-term care home shall ensure that the home is maintained at a minimum temperature of 22 degrees Celsius.

## REGULATED DOCUMENTS

### **Regulated documents**

**128.** (1) For the purposes of section 80 of the Act, the following are regulated documents:

1. Any agreement between the licensee and a resident or a person authorized to enter into such an agreement on the resident's behalf for any of the charges referred to in subsection 91 (1) of the Act.
2. Any document containing a consent or directive with respect to "treatment" as defined in the *Health Care Consent Act, 1996*, including a document containing a consent or directive with respect to a "course of treatment" or a "plan of treatment" under that Act.

(2) Every licensee of a long-term care home shall provide the resident or the person authorized to enter into the agreement on the resident's behalf with a copy of any agreement referred to in paragraph 1 of subsection (1) when it is signed.

(3) The licensee shall provide the resident or the substitute decision-maker authorized to give a consent or directive with respect to treatment with a copy of any document referred to in paragraph 2 of subsection (1) when it is signed.

(4) An agreement relating to basic accommodation or preferred accommodation under paragraph 1 or 2 of subsection 91 (1) of the Act shall only include provisions relating to the following:

1. The amount of the charge, subject to any reduction in the charge approved by the Director, and the financial obligation of the resident to pay the charge.
2. The licensee's obligation to provide the goods and services included in basic accommodation or preferred accommodation.
3. The licensee's obligation to give the resident at least 30 days written notice of any increases in accommodation charges.
4. If applicable, any reasonable interest charges for missed, incomplete or late payments. This shall include a statement that if a licensee decides to charge interest for missed, incomplete or late payments, the licensee is prohibited from charging interest to a resident who has applied for a rate reduction under 180, 181 or 182 until the Director

has approved the maximum amount that may be charged for accommodation under those sections.

5. The licensee's obligation to provide a monthly statement as set out in section 174.

(5) An agreement under paragraph 3 of subsection 91 (1) of the Act for charges other than for accommodation shall include provisions relating to the following:

1. A description of all goods and services to which the agreement applies, including the quantity, if applicable.
2. The licensee's obligation to provide the goods and services.
3. The cost of the goods and services and the financial obligation of the resident to pay for them.
4. That if the goods and services are not provided to the resident, the licensee is prohibited from charging the fee for them.
5. That the resident or the authorized person entering into the agreement on the resident's behalf must be notified in writing of any increase in the cost of the goods and services at least 30 days before the licensee charges the increased amount.
6. The termination of the agreement, including,
  - i. that if the goods and services have not been provided, the resident may terminate the agreement without penalty,
  - ii. that the resident may terminate the agreement at any time without notice to the licensee, and
  - iii. that the licensee may terminate the agreement on providing at least 30 days written notice to the resident.

(6) An agreement under paragraph 3 of subsection 91 (1) of the Act for charges other than for accommodation shall not include an agreement for accommodation charges under paragraph 1 or 2 of subsection 91 (1).

(7) A document containing a consent or directive with respect to "treatment" as defined in the *Health Care Consent Act, 1996*, including a document containing a consent or directive with respect to a "course of treatment" or a "plan of treatment" under that Act,

- (a) must comply with the requirements of that Act, including the requirement for informed consent to treatment under that Act;

- (b) must not contain any provisions dealing with accommodation charges or other financial matters;
- (c) must contain a statement indicating that the consent may be withdrawn or revoked at any time; and
- (d) must set out the text of section 83 of the Act.

(8) If a document mentioned in subsection (7) is a plan of treatment that contains “level of care” directives about treatment to be provided to a resident in the future, the document must indicate that the resident or substitute decision-maker has the option of varying the levels of care and selecting other levels of care.

(9) A licensee is not required to comply with this section until six months after the section comes into force.

(10) Every licensee shall ensure that the following documents meet the requirements of this section and section 80 of the Act within nine months of the coming into force of this section:

1. Every document that was in force under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act* immediately before the coming into force of this section and that would have been a regulated document if it had been made under the *Long-Term Care Homes Act, 2007*.
2. Every document described in subsection (1) that was made within six months after the coming into force of this section and that did not comply with this section.

## RECORDS

### **Resident records**

**129.** Every licensee of a long-term care home shall ensure that,

- (a) a written record is created and maintained for each resident of the home; and
- (b) the resident’s written record is kept up to date at all times.

### **Records of current residents**

**130.** Every licensee of a long-term care home shall ensure that the records of the residents of the home are kept at the home.

### **Retention of resident records**

**131.** (1) Every licensee of a long-term care home shall ensure that the record of every former resident of the home is retained by the licensee for at least 10 years after the resident dies or is discharged from the home.

(2) A record kept under subsection (1) must be kept at the home for at least the first year after the resident dies or is discharged from the home.

### **Staff records**

**132.** (1) Subject to subsections (2) and (3), every licensee of a long-term care home shall ensure that a written personnel record is kept for each staff member of the home that includes at least the following with respect to the staff member:

1. The staff member's qualifications, previous employment and other relevant experience.
2. Where applicable, a verification of the staff member's current certificate of registration with the College of the regulated health profession of which he or she is a member, or verification of the staff member's current registration with the regulatory body governing his or her profession.
3. Where applicable, the results of the staff member's criminal reference check under section 75 of the Act.
4. Where applicable, the staff member's declarations under subsection 137 (4).

(2) The licensee is not required to keep the record provided for in subsection (1) with respect to a staff member who,

- (a) falls under clause (b) or (c) of the definition of "staff" in subsection 2 (1) of the Act;
- (b) will only provide infrequent services to the home; and
- (c) will not provide direct care to residents.

(3) The licensee is only required to ensure that the record under subsection (1) includes the matters set out in paragraphs 2, 3 and 4 of that subsection with respect to a staff member who falls under clause (c) of the definition of "staff" in subsection 2 (1) of the Act and,

- (a) who will provide direct care to residents; or
- (b) who will not provide direct care to residents but will provide frequent services to the home.

### **Personnel records of current staff**

**133.** (1) Subject to subsection (2), every licensee of a long-term care home shall ensure that the written personnel records of current staff members are kept at the home.

(2) Where a staff member works at more than one long-term care home operated by the licensee, the licensee shall ensure that the personnel record of the staff member is readily available at each home where the staff member works.

### **Retention of personnel records**

**134.** (1) Every licensee of a long-term care home shall ensure that the personnel record of every former staff member of the home is retained by the licensee for at least seven years after the staff member ceases working at the home.

(2) A record kept under subsection (1) must be kept at the home for at least the first year after the staff member ceases working at the home.

(3) Where a staff member referred to in subsection 133 (2) ceases to work at any of the long-term care homes operated by the licensee, the licensee shall ensure that the record is readily available for at least one year at each of the homes where the staff member worked.

### **Records, revocation of licence**

**135.** When the Director makes an order revoking a licence under section 157 of the Act, the licensee shall turn over to the Director or a person designated by the Director, on a date specified by the Director, all the records that are in the possession or control of the licensee and that pertain to the residents of the long-term care home, including all records that are required to be retained under section 131.

### **Transitional, records**

**136.** (1) Subject to subsections (2) to (6), sections 129 to 135 apply, to the extent possible, with respect to records that were originally created under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act* as if they were created under the Act.

(2) Where a portion of a resident's record created under the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act* was not kept at a long-term care home immediately before this section came into force, it is not necessary to keep that portion at the home for the purposes of section 130.

(3) Subsection 131 (1) does not apply with respect to the record of a former resident who died more than five years before the day this section came into force.

(4) Subsection 131 (2) does not apply with respect to the record of a former resident who died or was discharged before the day this section came into force.

(5) Section 134 applies to the records originally created and maintained under the *Nursing Homes Act* of a person who ceased to be a staff member less than two years before the day this section came into force.

(6) Section 134 applies to the extent possible to the records originally created and maintained under the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act* of a person who ceased to be a staff member less than two years before the day this section came into force.

## CRIMINAL REFERENCE CHECKS

### **Criminal reference check**

**137.** (1) This section applies where a criminal reference check is required before a licensee hires a staff member or accepts a volunteer as set out in subsection 75 (2) of the Act.

(2) The criminal reference check must be,

- (a) conducted by a police force; and
- (b) conducted within six months before the staff member is hired or the volunteer is accepted by the licensee.

(3) The criminal reference check must include a vulnerable sector screen to determine the person's suitability to be a staff member or volunteer in a long-term care home.

(4) In every calendar year, the staff member or volunteer shall provide the licensee with a signed declaration disclosing at least the following:

1. In the case of the first declaration, every offence for which the person has been convicted under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada) or the *Food and Drugs Act* (Canada) since the date that the criminal reference check under subsection (2) was conducted and for which a pardon under section 4.1 of the *Criminal Records Act* (Canada) has not been issued or granted, and any outstanding charges and warrants and current judicial orders against the person, including peace bonds, firearms prohibitions and restraining orders under the *Family Law Act* and the *Children's Law Reform Act*.
2. In the case of every subsequent declaration, every offence for which the person has been convicted under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada) or the *Food and Drugs Act* (Canada) since the date of the person's latest declaration and for which a pardon under section 4.1 of the *Criminal Records Act* (Canada) has not been issued or granted and any outstanding charges and warrants and current judicial orders against the person, including peace bonds,

firearms prohibitions and restraining orders under the *Family Law Act* and the *Children's Law Reform Act*.

(5) The requirements of subsection 75 (2) of the Act and of subsections (1) to (4) of this section do not apply if the person who will perform work or provide services at the home,

- (a) falls under clause (b) or (c) of the definition of “staff” in subsection 2 (1) of the Act;
- (b) will only provide infrequent services to the home; and
- (c) will not provide direct care to residents.

(6) The requirements of subsection 75 (2) of the Act and of subsections (1) to (4) of this section do not apply to,

- (a) Medical Directors; and
- (b) physicians or registered nurses in the extended class retained or appointed under subsection 59 (2) or (3).

## DRUGS

### **“Drug” defined**

**138.** For the purposes of the Act and this Regulation,

“drug” means a drug as defined in subsection 1 (1) of the *Drug and Pharmacies Regulation Act*.

### **Definitions, drugs**

**139.** In sections 140 to 163,

“dentist” means a member of the Royal College of Dental Surgeons of Ontario; (“dentiste”)

“natural health product” means a natural health product within the meaning of *Natural Health Products Regulations* (Canada) made under the *Food and Drugs Act* (Canada) but does not include a product that has been identified as a drug for the purposes of the *Drug and Pharmacies Regulation Act*; (“produit de santé naturel”)

“pharmacist” means a member of the Ontario College of Pharmacists; (“pharmacien”)

“pharmacy service provider” means the pharmacy service provider referred to in section 145; (“fournisseur de services pharmaceutiques”)

“prescribed”, when used with reference to a drug or mixture of drugs, means that a prescriber has directed the dispensing of the drug or mixture of drugs to a named person; (“prescrit”)

“prescriber” means a person who is authorized under a health profession Act as defined in the *Regulated Health Professions Act, 1991* to prescribe a drug as defined in the *Drug and Pharmacies Regulation Act*; (“personne autorisée à prescrire des médicaments”)

“prescription” means a direction from a prescriber directing the dispensing of any drug or mixture of drugs for a designated person; (“ordonnance”)

“topical” means a drug in the form of a liquid, cream, gel, lotion, ointment, spray or powder that is applied to an area of the skin and is intended to affect only the area to which it is applied. (“médicament topique”)

## MEDICATION MANAGEMENT

### **Medication management system**

**140.** (1) Every licensee of a long-term care home shall develop an interdisciplinary medication management system that provides safe medication management and optimizes effective drug therapy outcomes for residents.

(2) The licensee shall ensure that written policies and protocols are developed for the medication management system to ensure the accurate acquisition, dispensing, receipt, storage, administration, and destruction and disposal of all drugs used in the home.

(3) The written policies and protocols must be,

- (a) developed, implemented, evaluated and updated in accordance with appropriate evidence-based practices and if there are none, in accordance with prevailing practices; and
- (b) reviewed and approved by the Medical Director, the Director of Nursing and Personal Care and the pharmacy service provider.

### **Quarterly evaluation**

**141.** (1) Every licensee of a long-term care home shall ensure that an interdisciplinary team, which must include the Medical Director, the Administrator, the Director of Nursing and Personal Care and the pharmacy service provider, meets at least quarterly to evaluate the effectiveness of the medication management system in the home and to recommend any changes necessary to improve the system.

(2) The quarterly evaluation of the medication management system must include at least,

- (a) reviewing drug utilization trends and drug utilization patterns in the home, including the use of any drug or combination of drugs, including psychotropic drugs, that could potentially place residents at risk;

- (b) reviewing reports of any medication incidents and adverse drug reactions referred to in subsections 161 (2) and (3) and all instances of the restraining of residents by the administration of a drug pursuant to the common law duty referred to in section 36 of the Act; and
- (c) identifying changes to improve the system, in keeping with evidence-based or prevailing practices.

(3) The licensee shall ensure that the changes identified in the quarterly evaluation are implemented.

(4) The licensee shall ensure that a written record is kept of the results of the quarterly evaluation and of any changes that were implemented.

### **Annual evaluation**

**142.** (1) Every licensee of a long-term care home shall ensure that an interdisciplinary team, which must include the Medical Director, the Administrator, the Director of Nursing and Personal Care, the pharmacy service provider and a dietitian who is a member of staff of the home, meets annually to evaluate the effectiveness of the medication management system in the home and to recommend any changes necessary to improve the system.

(2) The annual evaluation of the medication management system must,

- (a) include a review of the quarterly evaluations in the previous year as referred to in section 141;
- (b) be undertaken using an assessment instrument designed specifically for this purpose; and
- (c) identify changes to improve the system, in keeping with evidence-based or prevailing practices.

(3) The licensee shall ensure that the changes identified in the annual evaluation are implemented.

(4) The licensee shall ensure that a written record is kept of the results of the annual evaluation and of any changes that were implemented.

### **Medical directives and orders**

**143.** Every licensee of a long-term care home shall ensure that,

- (a) all medical directives or orders for the administration of a drug to a resident are reviewed at any time when the resident's condition is assessed or reassessed in

developing or revising the resident's plan of care as required under section 6 of the Act; and

- (b) no medical directive or order for the administration of a drug to a resident is used unless it is individualized to the resident's condition and needs.

**Information in every resident home area or unit**

**144.** Every licensee of a long-term care home shall ensure that the following are available in every resident home area or unit in the home:

1. Recent and relevant drug reference materials.
2. The pharmacy service provider's contact information.
3. Antidote information.
4. The contact information for at least one poison control centre or similar body.

PHARMACY SERVICE PROVIDER

**Retaining of pharmacy service provider**

**145.** (1) Every licensee of a long-term care home shall retain a pharmacy service provider for the home.

(2) The pharmacy service provider must be the holder of a certificate of accreditation for the operation of a pharmacy under section 139 of the *Drug and Pharmacies Regulation Act*.

(3) There must be a written contract between the licensee and the pharmacy service provider setting out the responsibilities of the pharmacy service provider.

(4) The written contract must provide that the pharmacy service provider shall,

- (a) provide drugs and drug products to the home on a 24 hour basis, seven days a week; and
- (b) perform all the other responsibilities of the pharmacy service provider under this Regulation.

(5) If, on the day this section comes into force, a licensee's pharmacy service provider does not meet the requirement in subsection (2), the licensee shall retain a pharmacy service provider that meets the requirement within three months of the coming into force.

### **Responsibilities of pharmacy service provider**

**146.** Every licensee of a long-term care home shall ensure that the pharmacy service provider participates in the following activities:

1. For each resident of the home, the development of medication assessments, medication administration records and records for medication reassessment, and the maintenance of medication profiles.
2. Evaluation of therapeutic outcomes of drugs for residents.
3. Risk management and quality improvement activities including review of medication incidents, adverse drug reactions and drug utilization.
4. Developing audit protocols for the pharmacy service provider to evaluate the medication management system.
5. Educational support to the staff of the home in relation to drugs.
6. Drug destruction and disposal if required by the licensee's policy under clause 162 (3) (a).

### **System for notifying pharmacy service provider**

**147.** Every licensee of a long-term care home shall ensure that a system is developed for notifying the pharmacy service provider within 24 hours of the admission, medical absence, psychiatric absence, discharge, and death of a resident.

## **OBTAINING AND KEEPING DRUGS**

### **Purchasing and handling of drugs**

**148.** Every licensee of a long-term care home shall ensure that no drug is acquired, received or stored by or in the home unless the drug,

- (a) has been prescribed for a resident or obtained for the purposes of the emergency drug supply referred to in section 149; and
- (b) has been provided by the pharmacy service provider or the Government of Ontario.

### **Emergency drug supply**

**149.** Every licensee of a long-term care home who maintains an emergency drug supply for the home shall ensure,

- (a) that only drugs approved for this purpose by the Medical Director in collaboration with the pharmacy service provider, the Director of Nursing and Personal Care and the Administrator are kept;

- (b) that a written policy is in place to address the location of the supply, procedures and timing for reordering drugs, access to the supply, use of drugs in the supply and tracking and documentation with respect to the drugs maintained in the supply;
- (c) that, at least annually, there is an evaluation done by the persons referred to in clause (a) of the utilization of drugs kept in the emergency drug supply in order to determine the need for the drugs; and
- (d) that any recommended changes resulting from the evaluation are implemented.

### **Drug supply**

**150.** Every licensee of a long-term care home shall ensure that drugs obtained for use in the home, except drugs obtained for any emergency drug supply, are obtained based on resident usage, and that no more than a three-month supply is kept in the home at any time.

### **Monitored dosage system**

**151.** (1) Every licensee of a long-term care home shall ensure that a monitored dosage system is used in the home for the administration of drugs.

(2) The monitored dosage system must promote the ease and accuracy of the administration of drugs to residents and support monitoring and drug verification activities.

### **Packaging of drugs**

**152.** Every licensee of a long-term care home shall ensure that drugs remain in the original labelled container or package provided by the pharmacy service provider or the Government of Ontario until administered to a resident or destroyed.

### **Changes in directions for administration**

**153.** Every licensee of a long-term care home shall ensure that a policy is developed and approved by the pharmacy service provider and the Medical Director to govern changes in the administration of a drug due to modifications of directions for use made by a prescriber, including temporary discontinuation.

### **Transfer of drugs**

**154.** Every licensee of a long-term care home shall ensure that a policy is developed and approved by the pharmacy service provider and the Medical Director to govern the transfer of a drug that has been prescribed for a resident who leaves the home either on a temporary or permanent basis.

### **Safe storage of drugs**

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

- (a) drugs are stored in an area or a medication cart,

- (i) that is used exclusively for drugs and drug-related supplies,
  - (ii) that is secure and locked,
  - (iii) that protects the drugs from heat, light, humidity or other environmental conditions in order to maintain efficacy, and
  - (iv) that complies with manufacturer's instructions for the storage of the drugs; and
- (b) controlled substances are stored in a separate, double-locked stationary cupboard in the locked area or stored in a separate locked area within the locked medication cart.

(2) Subsection (1) does not apply with respect to drugs that a resident is permitted to keep on his or her person or in his or her room to administer to himself or herself in accordance with subsection 157 (4).

### **Security of drug supply**

**156.** Every licensee of a long-term care home shall ensure that steps are taken to ensure the security of the drug supply, including the following:

1. All areas where drugs are stored shall be kept locked at all times, when not in use.
2. Access to these areas shall be restricted to,
  - i. persons who may dispense, prescribe or administer drugs in the home, and
  - ii. the Administrator.
3. A monthly audit shall be undertaken of the daily count sheets of controlled substances to determine if there are any discrepancies and that immediate action is taken if any discrepancies are discovered.

### **Administration of drugs**

**157.** (1) Every licensee of a long-term care home shall ensure that no drug is taken by or administered to a resident in the home unless the drug has been prescribed for the resident.

(2) Subject to subsections (3) and (4), the licensee shall ensure that no person administers a drug to a resident in the home unless that person is a health professional who is authorized to administer drugs under a health profession Act as defined in the *Regulated Health Professions Act, 1991*.

(3) A registered nurse in the extended class, registered nurse or registered practical nurse may permit a staff member who is not otherwise permitted to administer a drug to a resident to administer a topical, if,

- (a) the staff member has been trained by a registered nurse in the extended class, registered nurse or registered practical nurse in the administration of topicals;
- (b) the nurse who is permitting the administration is satisfied that the staff member can safely administer the topical; and
- (c) the staff member who administers the topical does so under the supervision of the nurse who permits the administration.

(4) A resident may administer a drug to himself or herself if the administration has been approved by the prescriber in consultation with the resident.

(5) In a home where a resident or residents are permitted under subsection (4) to administer drugs to themselves, the licensee shall ensure that policies are developed to ensure that the resident or those residents understand,

- (a) the use of the drug;
- (b) the need for the drug;
- (c) the need for monitoring and documentation of the use of the drug; and
- (d) the necessity for secure storage of the drug.

(6) The licensee shall ensure that no resident keeps a drug on his or her person or in his or her room except,

- (a) as authorized by either a physician, registered nurse in the extended class or other prescriber who attends to the resident; and
- (b) in accordance with any conditions that are imposed by the physician, the registered nurse in the extended class or other prescriber.

(7) In this section,

“health professional” means a member of the College of a health profession as defined in the *Regulated Health Professions Act, 1991*.

### **Natural health products**

**158.** Every licensee of a long-term care home shall ensure that, if natural health products are permitted to be used in the home, policies and protocols to govern the use of, administration and storage of the natural health products are developed.

### **Drug record**

**159.** Every licensee of a long-term care home shall ensure that a drug record is established, maintained and kept in the home for at least two years, in which is recorded the following information, in respect of every drug that is ordered and received in the home:

1. The date the drug is ordered.
2. The signature of the person placing the order.
3. The name, strength and quantity of the drug.
4. The name of the place from which the drug is ordered.
5. The name of the resident for whom the drug is prescribed, where applicable.
6. The prescription number, where applicable.
7. The date the drug is received in the home.
8. The signature of the person acknowledging receipt of the drug on behalf of the home.
9. Where applicable, the information required under subsection 162 (4).

### **Residents' drug regimes**

**160.** Every licensee of a long-term care home shall ensure that,

- (a) when a resident is taking any drug or combination of drugs, including psychotropic drugs, there is monitoring and documentation of the resident's response and the effectiveness of the drugs appropriate to the risk level of the drugs;
- (b) appropriate actions are taken in response to any medication incident involving a resident and any adverse drug reaction to a drug or combination of drugs, including psychotropic drugs; and
- (c) there is, at least quarterly, a documented reassessment of each resident's drug regime by an interdisciplinary team which must include the prescriber and a member of the registered nursing staff.

### **Medication incidents and adverse drug reactions**

**161.** (1) Every licensee of a long-term care home shall ensure that every medication incident involving a resident and every adverse drug reaction is,

- (a) documented in the resident's health records, together with a record of the immediate actions taken to assess and maintain the resident's health; and
  - (b) reported to the resident, the resident's substitute decision-maker, if any, the Director of Nursing and Personal Care, the Medical Director, the resident's attending physician and the pharmacy service provider.
- (2) In addition to the requirement under clause (1) (a), the licensee shall ensure that,
- (a) all medication incidents and adverse drug reactions are documented, reviewed and analyzed;
  - (b) corrective action is taken as necessary; and
  - (c) a written record is kept of everything required under clauses (a) and (b).
- (3) Every licensee shall ensure,
- (a) that a quarterly review is undertaken of all medication incidents and adverse drug reactions that have occurred in the home since the time of the last review in order to reduce and prevent medication incidents and adverse drug reactions;
  - (b) that any changes and improvements identified in the review are implemented; and
  - (c) that a written record is kept of everything provided for in clauses (a) and (b).

### **Drug destruction and disposal**

**162.** (1) Every licensee of a long-term care home shall ensure, as part of the medication management system, that a written policy is developed in the home that provides for the ongoing identification, destruction and disposal of,

- (a) all expired drugs;
- (b) all drugs with illegible labels;
- (c) all drugs that do not meet standards for marking containers specified under subsection 156 (3) of the *Drug and Pharmacies Regulation Act*; and
- (d) a resident's drugs where,

- (i) the prescriber attending the resident orders that the use of the drug be discontinued,
  - (ii) the resident dies, subject to obtaining the written approval of the person who has signed the medical certificate of death under the *Vital Statistics Act* or the resident's attending physician, or
  - (iii) the resident is discharged and the drugs prescribed for the resident are not sent with the resident under section 154.
- (2) The drug destruction and disposal policy must also provide for the following:
  - 1. That drugs that are to be destroyed and disposed of shall be stored safely and securely within the home until the destruction and disposal occurs.
  - 2. That drugs that are to be destroyed and disposed of shall be stored separately from drugs that are available for administration to a resident.
  - 3. That any controlled substance that is to be destroyed shall be stored in a double-locked storage area, separate from any controlled substance that is available for administration to a resident.
  - 4. That drugs are destroyed and disposed of in a safe and environmentally appropriate manner.
  - 5. That drugs that are to be destroyed are destroyed in accordance with subsection (3).
- (3) The drugs must be destroyed by a team acting together and composed of,
  - (a) in the case of a controlled substance, and subject to any applicable requirements under the *Controlled Drugs and Substances Act* (Canada) or the *Food and Drugs Act* (Canada),
    - (i) one member of the registered nursing staff appointed by the Director of Nursing and Personal Care, and
    - (ii) a physician or a pharmacist; and
  - (b) in every other case,
    - (i) one member of the registered nursing staff appointed by the Director of Nursing and Personal Care, and

- (ii) one other staff member appointed by the Director of Nursing and Personal Care.

(4) Where a drug that is to be destroyed is a controlled substance, the drug destruction and disposal policy must provide that the team composed of the persons referred to in clause (3) (a) shall document the following in the drug record:

1. The date of removal for the drug from the drug storage area.
2. The name of the resident for whom the drug was prescribed, where applicable.
3. The prescription number of the drug, where applicable.
4. The drug's name, strength and quantity.
5. The reason for destruction.
6. The date when the drug was destroyed.

(5) The licensee shall ensure,

- (a) that the drug destruction and disposal system is audited at least annually to verify that the licensee's procedures are being followed and are effective;
- (b) that any changes identified in the audit are implemented; and
- (c) that a written record is kept of everything provided for in clauses (a) and (b).

(6) For the purposes of this section a drug is considered to be destroyed when it is altered or denatured to such an extent that its consumption is rendered impossible or improbable.

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

**163.** (1) Any prescriber may order the administration of a drug for the purposes of subsection 36 (3) of the Act.

(2) Every licensee shall ensure that every administration of a drug to restrain a resident pursuant to the common law duty described in section 36 of the Act is documented in the resident's record, and without limiting the generality of this requirement, the licensee shall ensure that the following are documented:

1. Circumstances precipitating the administration of the drug.

2. Who made the order, what drug was administered, the dosage given, by what means the drug was administered, the time or times when the drug was administered and who administered the drug.
3. The resident's response to the drug.
4. All assessments, reassessments and monitoring of the resident.
5. Discussions with the resident or where the resident is incapable, the resident's substitute decision-maker, following the administration of the drug to explain the reasons for the use of the drug.

## REPORTS

### **Annual reports**

**164.** (1) Every licensee of a long-term care home shall, in every calendar year, submit a report to the Director on or before a date stipulated by the Director, in a form stipulated by the Director.

(2) The report shall include the following:

1. A confirmation that the information the Ministry has on file with respect to the licensee is correct or, if it is not correct, the corrected information.
2. Anything that the licensee was required to have previously notified the Director or Minister of under section 108 of the Act, but did not.
3. Anything that the licensee was required to have previously notified the Director or Minister of under subsection 201 (2) of this Regulation, but did not.
4. Any other information stipulated by the Director that the licensee was required to have previously provided to the Director or the Minister under the Act or the regulations, but did not.

(3) Subsection (1) does not apply until the calendar year after the calendar year in which this section comes into force.

### **Reports re key personnel**

**165.** Every licensee of a long-term care home shall report to the Director the name and contact information of,

- (a) the Medical Director;
- (b) any registered nurses in the extended class working in the home;

- (c) the Administrator;
- (d) the Director of Nursing and Personal Care;
- (e) the nutrition manager;
- (f) every dietitian; and
- (g) the designated lead for each of the housekeeping, laundry and maintenance programs.

## **PART VI FUNDING**

### NON-ARM'S LENGTH TRANSACTIONS

#### **Non-arm's length transactions**

**166.** (1) For the purposes of section 93 of the Act and this Regulation,

“non-arm's length transaction” means a transaction between two parties where one party is an associate of the other party within the meaning of subsection 2 (4) of the Act.

(2) Subject to subsection (3), no licensee of a long-term care home shall enter into a non-arm's length transaction, unless,

- (a) in the case of services or goods, the supplier is the successful bidder in a competitive bidding process where the licensee obtains at least three unrelated bids;
- (b) the licensee has created a record documenting the transaction, including, in cases where a competitive bidding process is required, the particulars of the competitive bidding process; and
- (c) the transaction will provide value for the money spent, in that money will be spent with due regard for economy, efficiency, and effectiveness.

(3) If a licensee is unable to meet the requirement under clause (2) (a) because of insufficient resources in the area where the long-term care home is located, the licensee may enter into the transaction with the prior written approval of the Director.

(4) A licensee may apply to the Director for the written approval under subsection (3) in the form and manner acceptable to the Director.

(5) Every licensee shall submit to the Director by March 31, or at any other time required by the Director, a report that sets out for the previous calendar year or a time stipulated by the Director, the following:

1. Every non-arm's length transaction entered into by the licensee, including a description of the services or goods purchased and the money spent for the goods and services.
2. Confirmation, unless an approval was received by the Director under subsection (3), of compliance with clause (2) (a), or if clause (2) (a) was not complied with, the fact of non-compliance.

## RECONCILIATION AND RECOVERY

### **Reconciliation and recovery**

**167.** (1) Every licensee of a long-term care home shall provide reconciliation reports to the Minister, in the form and manner and at the times specified by the Minister.

(2) One of the reconciliation reports shall be an audited report covering the following, as applicable:

1. The period beginning on January 1, 2010 and ending on December 31, 2010.
2. Each subsequent calendar year.

(3) If the amount paid to the licensee by the Minister in respect of the home exceeds the allowable subsidy for the reconciliation period, the excess is a debt owing by the licensee to the Crown in right of Ontario and, in addition to any other methods available to recover the debt, the Minister may deduct the excess from subsequent payments to the licensee or may direct the local health integration network that provides funding to the licensee under the *Local Health Integration Act, 2006* to deduct it from such payments.

(4) If the amount paid to a licensee by the Minister in respect of the home is less than the allowable subsidy for the reconciliation period, the Minister shall pay the difference to the licensee or direct the local health integration network that provides funding to the licensee under the *Local Health Integration Act, 2006* to pay it to the licensee.

(5) In this section,

“allowable subsidy” means the allowable subsidy as determined by the Minister in accordance with the reconciliation reports, any agreement between the Ministry and the licensee pertaining to the payment of funds, any conditions attached to the funding and all applicable Ministry policies for the management, payment and use of funds; (“subvention autorisée”)

“reconciliation period” means each of the following periods, and includes any period within them when a reconciliation is calculated:

1. The period beginning on January 1, 2010 and ending on December 31, 2010.
2. Each subsequent calendar year. (“période de rapprochement”)

### **Transitional, reconciliation and recovery**

**168.** The following rules apply with regard to reconciliations for periods before January 1, 2010:

1. The relevant rules and procedures under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act* apply to the reconciliation.
2. Where, under the rules and procedures mentioned in paragraph 1, it is determined that there is an excess that is a debt owing by the licensee to the Crown in right of Ontario, the Minister may direct the local health integration network that provides funding to the licensee under the *Local Health System Integration Act, 2006* to deduct the excess from subsequent payments to the licensee.
3. Where, under the rules and procedures mentioned in paragraph 1, it is determined that there is an excess that is a debt owing by the Crown in right of Ontario to the licensee, the Minister may direct the local health integration network that provides funding to the licensee under the *Local Health System Integration Act, 2006* to pay the amount owing to the licensee.

## RECORDS AND ACCOUNTS

### **Licensee to retain records**

**169.** Every licensee of a long-term care home shall keep, for each long-term care home operated by the licensee,

- (a) complete current books of account for all transactions relating to the long-term care home in sufficient detail to support the information required in any reconciliation reports requested by either the Minister or a local health integration network;
- (b) reconciliation reports as required by the Minister or a local health integration network in regulations under this Act or the *Local Health Systems Integration Act, 2006*;
- (c) records to support the information that must be provided by the licensee in any other financial report required by the Director under section 88 of the Act or by a local health integration network under the *Local Health System Integration Act, 2006* or a service accountability agreement required by section 20 of that Act;
- (d) a separate account of all non-arm’s length transactions that relate to the long-term care home;

- (e) complete financial statements for the long-term care home;
- (f) the report of the auditor respecting the audit of the accounts of the long-term care home;
- (g) any written agreement between the licensee and a resident or a person authorized to enter into an agreement on the resident's behalf;
- (h) all applications for a reduction in the amount payable for basic accommodation with the original signature of the resident or a person authorized to enter into an agreement on the resident's behalf;
- (i) records indicating the amounts residents have been charged for accommodation, care, services, programs and goods; and
- (j) records to substantiate that residents have received the accommodation, care, services, programs and goods for which they have been charged.

### **Requirements for records**

**170.** (1) Every licensee of a long-term care home shall ensure that a record required to be kept under section 169 is retained for a period of at least seven years from the last day of the year in which the record was made, except in the case of an agreement mentioned in clause 169 (g), which must be kept for a period of at least seven years from the earlier of the date that the agreement ends or it is terminated by either party to the agreement.

(2) The licensee shall ensure that the record is kept in a readable and useable format where a complete copy of the record can be provided upon request.

### **Transitional, records**

**171.** Where, immediately before the day this section came into force, a licensee of a long-term care home was retaining records under subsection 104 (3) of Regulation 832 of the Revised Regulations of Ontario, 1990 (General) made under the *Nursing Homes Act*, subsection 23 (3) of Regulation 637 of the Revised Regulations of Ontario, 1990 (General) made under the *Homes for the Aged and Rest Homes Act* or subsection 30 (4) of Regulation 69 of the Revised Regulations of Ontario, 1990 (General) made under the *Charitable Institutions Act*, section 170 applies with respect to the records.

### **Books of account**

**172.** Every licensee of a long-term care home shall ensure that the books of account of the home,

- (a) set out all of the revenue and expenditures of the home;

- (b) contain a separate record of money received by the licensee for the home from sources other than under the Act or under the *Local Health System Integration Act, 2006*; and
- (c) are audited annually by a person licensed under the *Public Accounting Act, 2004* or, in the case of a municipal home or a joint home approved under Part VIII of the Act, by the municipal auditor who audits the books of account and ledgers of the home.

#### NON-ALLOWABLE RESIDENT CHARGES

##### **Non-allowable resident charges**

**173.** The following charges are prohibited for the purposes of paragraph 4 of subsection 91 (1) of the Act:

1. Charges for goods and services that a licensee provides to a resident using funding that the licensee receives from,
  - i. a local health integration network under section 19 of the *Local Health System Integration Act, 2006*, including goods and services funded by a local health integration network under a service accountability agreement,
  - ii. the Minister under section 90 of the Act, and
  - iii. the accommodation charge that every resident is required to pay under subsection 91 (1) of the Act.
2. Charges for services that are insured services under the *Health Insurance Act*.
3. Charges for goods and services paid for by the Government of Canada, the Government of Ontario, including a local health integration network, or a municipal government in Ontario.
4. Charges for goods and services that the licensee is required to provide to residents without charge under any funding agreement between the licensee and the Ministry or between the licensee and a local health integration network.
5. Charges for goods and services provided without the resident's consent.
6. Charges, other than the accommodation charge that every resident is required to pay under subsections 91 (1) and (3) of the Act, to hold a bed for a resident during an absence contemplated under section 26 of the first draft Regulation or during the period permitted for a resident to move into a long-term care home once the placement co-ordinator has authorized admission to the home.

7. Charges for accommodation under paragraph 1 or 2 of subsection 91 (1) of the Act for residents in the short stay convalescent care program.
8. Transaction fees for deposits to and withdrawals from a trust account required by section 217, or for anything else related to a trust account.

## STATEMENTS

### Statements

**174.** Every licensee of a long-term care home shall, within 15 days after the end of each month, provide each resident or the resident's attorney under the *Powers of Attorney Act*, or person exercising a continuing power of attorney for property or a guardian of property under Part I of the *Substitute Decisions Act, 1992*, with an itemized statement of the charges made to the resident.

## PREFERRED ACCOMMODATION

### Preferred accommodation maximum

**175.** Every licensee of a long-term care home shall ensure that no more than 60 per cent of the licensed bed capacity of the home is designated as preferred accommodation.

## CHARGES FOR ACCOMMODATION

### “Term” defined

**176.** (1) In section 180,

“term”, subject to subsections (3) and (4), means the period that starts on the latest of,

- (a) the 30th day before the day on which the application for reduction is submitted to the Director,
- (b) the day that the appropriate placement co-ordinator authorized the resident's admission to the long-term care home,
- (c) in the case of an application for a renewal of a reduction, the day after the last term ended, and
- (d) the day this section came into force,

and ends on the earlier of,

- (e) the first June 30 following the day on which the term starts, and
- (f) the 30th day immediately preceding the day in which the resident's next application for reduction is submitted to the Director.

(2) In sections 181 and 182,

“term”, subject to subsections (3) and (4), means the period that starts on the latest of,

- (a) the 30th day before the day on which the application for reduction is submitted to the Director,
- (b) the day that the appropriate placement co-ordinator authorized the resident’s admission to the long-term care home,
- (c) in the case of an application for a renewal of a reduction, the day after the last term ended, and
- (d) the day this section came into force,

and ends on the earliest of,

- (e) the first June 30 following the day on which the term starts,
- (f) the 30th day immediately preceding the day in which the resident’s next application for reduction is submitted to the Director, and
- (g) the termination date, if any, specified by the Director in processing the application.

(3) The Director may change the start of the term if the Director believes there is sufficient proof that a delay in submitting an application for a reduction, a delay in submitting supporting documentation, or both was beyond the control of the resident.

(4) The Director shall not change the start of the term to a time before this section came into force.

(5) A term does not end if the resident transfers to another long-term care home in the middle of a term, so long as the resident occupies basic accommodation in the new home.

**Interpretation: interim bed short-stay program**

**177.** (1) Every licensee of a long-term care home shall charge residents in the interim bed short-stay program the amounts that may be charged for providing long-stay residents with basic accommodation under section 179.

(2) A resident in the interim bed short-stay program is deemed to be a long-stay resident for the purposes of sections 179 to 184.

### **Determination of payments**

**178.** The maximum amounts that may be demanded or accepted by or on behalf of a licensee under paragraphs 1 and 2 of subsection 91 (1) of the Act shall be determined in accordance with sections 179 to 184.

### **Maximum amounts of payments**

**179.** (1) The maximum daily amount that may be demanded or accepted by or on behalf of a licensee for providing a short-stay resident with accommodation during a period in Column 1 of Table 3 is the amount in Column 2 of Table 3 set out opposite the period.

(2) The maximum monthly amount that may be demanded or accepted by or on behalf of a licensee for providing a long-stay resident with basic accommodation for a full month during a period in Column 1 of Table 3 is the amount in Column 3 of Table 3 set out opposite the period.

(3) The maximum daily amount that may be demanded or accepted by or on behalf of a licensee for providing a long-stay resident with basic accommodation for less than a full month during a period in Column 1 of Table 3 is the amount in Column 4 of Table 3 set out opposite the period.

(4) The maximum monthly amount that may be demanded or accepted by or on behalf of a licensee for providing a long-stay resident with semi-private accommodation for a full month during a period in Column 1 of Table 3 is the amount in Column 5 of Table 3 set out opposite the period.

(5) The maximum daily amount that may be demanded or accepted by or on behalf of a licensee for providing a long-stay resident with semi-private accommodation for less than a full month during a period in Column 1 of Table 3 is the amount in Column 6 of Table 3 set out opposite the period.

(6) The maximum monthly amount that may be demanded or accepted by or on behalf of a licensee for providing a long-stay resident with private accommodation for a full month during a period in Column 1 of Table 3 is the amount in Column 7 of Table 3 set out opposite the period.

(7) The maximum daily amount that may be demanded or accepted by or on behalf of a licensee for providing a long-stay resident with private accommodation for less than a full month during a period in Column 1 of Table 3 is the amount in Column 8 of Table 3 set out opposite the period.

### **Reduction in basic accommodation charge**

**180.** (1) A long-stay resident of a long-term care home may apply to the Director for a reduction in the amount payable by the resident for basic accommodation during a term if the resident's annual net income, divided by 12, is less than the amount obtained by adding a comfort allowance of \$125 to the maximum monthly amount under subsection 179 (2).

(2) An application,

- (a) must be in a form and manner acceptable to the Director;
- (b) must include any supporting documentation requested by the Director; and
- (c) must include the Notice of Assessment issued under the *Income Tax Act* (Canada) and sent by the Canada Revenue Agency to the resident for the immediately preceding year.

(3) Despite the requirement to provide a Notice of Assessment for the immediately preceding year, where a resident was admitted to the home within the year before the application was submitted, and the resident does not have a Notice of Assessment for the immediately preceding year, the Director may consider other supporting documentation demonstrating the resident's income to determine the equivalent of the resident's annual net income.

(4) Upon the request of a resident or a resident's attorney under the *Powers of Attorney Act*, or person exercising a continuing power of attorney for property or a guardian of property under Part I of the *Substitute Decisions Act, 1992*, a licensee shall provide assistance in completing the application.

(5) Despite section 179, if a long-stay resident is eligible for a reduction under this section, the maximum amount that may be demanded or accepted by or on behalf of the licensee for providing the resident with basic accommodation during a term is the monthly amount, or a proportionate amount for less than a month, determined by the Director as follows:

1. Divide the resident's annual net income by 12, and subtract a comfort allowance of \$125.
2. The maximum amount is the amount determined under paragraph 1, unless that determination would result in an amount of less than \$1050.29, in which case the amount is \$1050.29.

(6) Despite section 179 and subsection (5), where the resident is receiving income support under the *Ontario Disability Support Program Act, 1997* in the amount equal to the total of the amount set out in clause 32 (2) (a) of Regulation 222/98 (General) made under that Act, plus the amount set out in clause 32 (2) (b), the amount set out in clause 32 (2) (b) of Regulation 222/98 is the maximum amount that may be demanded or accepted by or on behalf of a the licensee for providing the resident with basic accommodation, and the resident is not required to make further application under section 180 for a reduction.

(7) In this section,

“annual net income” means the amount indicated on line 236 of the resident’s Notice of Assessment issued under the *Income Tax Act* (Canada) for the immediately preceding year or, if no Notice of Assessment has been issued, the amount that would appear on that line had the Notice of Assessment been issued, in either case minus,

- (a) the taxes payable that were reported or that should have been reported on line 435 of the Notice of Assessment,
- (b) payments made under the *Universal Child Care Benefit Act* (Canada), and
- (c) payments from a registered disability savings plan, as defined in subsection 146.4 (1) of the *Income Tax Act* (Canada),

plus,

- (d) non-taxable private insurance benefits, and
- (e) payments of insurance made under the *Workplace Safety and Insurance Act, 1997*; (“revenu net annuel”)

“non-taxable private insurance benefits” means the following benefits, other than benefits from a government, that are not taxable under the *Income Tax Act* (Canada):

1. Income replacement benefits.
2. Death benefits.
3. Survivor benefits.
4. Money received in insurance settlements or awarded by the court, including payments received through structured settlements payable through monthly annuity payments and any benefits payable under the Statutory Accident Benefit Schedule under the *Insurance Act*.
5. Benefits of any nature or kind that provide for partial or full reimbursement for the costs of accommodation and food. (“indemnités d’assurance privée non imposables”)

#### **Further reduction in exceptional circumstances**

**181.** (1) An application may be made to the Director for a further reduction in the amount payable by any of the following persons for basic accommodation:

1. A long-stay resident for whom the maximum monthly amount is determined to be \$1050.29 under section 180.

2. A long-stay resident for whom the maximum monthly amount is determined to be more than \$1050.29 under section 180 and whose notice of assessment for the immediately preceding year is not representative of the income available to the resident in the current year.

(2) An application,

(a) must be in a form and manner acceptable to the Director;

(b) must include any supporting documentation requested by the Director; and

(c) must include the Notice of Assessment issued under the *Income Tax Act* (Canada) and sent by the Canada Revenue Agency to the resident for the immediately preceding year.

(3) Despite the requirement to provide a Notice of Assessment for the immediately preceding year, where a resident was admitted to the home within the year before the application was submitted, and the resident does not have a Notice of Assessment for the immediately preceding year, the Director may consider other supporting documentation demonstrating the resident's income to determine the equivalent of the resident's annual net income, current income or both.

(4) The Director may retroactively adjust the maximum amount payable that was determined for the same resident in prior years before determining the maximum monthly amount that the resident may be charged under the current application.

(5) If the Director determines that the resident should have paid a higher maximum amount in the prior years, then the resident shall repay the difference to the licensee before obtaining a reduction under the current application.

(6) Despite sections 179 and 180, if a long-stay resident is eligible for a reduction under this section, the maximum amount that may be demanded or accepted by or on behalf of the licensee for providing the resident with basic accommodation during a term is the amount determined by the Director.

(7) In determining the appropriate amount under this section, the Director shall consider the resident's annual net income, current income or both, as well as any other factors the Director considers relevant.

(8) For greater clarity, nothing in this section places any obligation on the Director to grant a reduction that has been applied for.

(9) In this section,

“annual net income” means the amount indicated on line 236 of the resident’s Notice of Assessment issued under the *Income Tax Act* (Canada) for the immediately preceding year or, if no Notice of Assessment has been issued, the amount that would appear on that line had the Notice of Assessment been issued, in either case minus,

- (a) the taxes payable that were reported or that should have been reported on line 435 of the Notice of Assessment,
- (b) payments made under the *Universal Child Care Benefit Act* (Canada), and
- (c) payments from a registered disability savings plan, as defined in subsection 146.4 (1) of the *Income Tax Act* (Canada),

plus,

- (d) non-taxable private insurance benefits, and
- (e) payments of insurance made under the *Workplace Safety and Insurance Act, 1997*; (revenu net annuel)

“current income” means a resident’s income for each of the components of line 150 of the resident’s Notice of Assessment issued under the *Income Tax Act* (Canada),

plus,

- (a) non-taxable private insurance benefits,

minus,

- (b) payments made under the *Universal Child Care Benefit Act* (Canada), and
- (c) payments from a registered disability savings plan, as defined in subsection 146.4 (1) of the *Income Tax Act* (Canada); (“revenu courant”)

“non-taxable private insurance benefits” means the following benefits, other than benefits from a government, that are not taxable under the *Income Tax Act* (Canada):

1. Income replacement benefits.
2. Death benefits.
3. Survivor benefits.

4. Money received in insurance settlements or awarded by the court including payments received through structured settlements payable through monthly annuity payments and any benefits payable under the Statutory Accident Benefit Schedule under the *Insurance Act*.
5. Benefits of any nature or kind that provide for partial or full reimbursement for the costs of accommodation and food. (“indemnités d’assurance privée non imposables”)

### **Reduction in charge, resident with dependants**

**182.** (1) A long-stay resident who has one or more dependants living outside of a long-term care home, hospital or any other facility that is government funded may apply to the Director for a reduction in the amount payable by the resident for basic accommodation if the amount obtained by performing the following calculations is less than the amount obtained by adding a comfort allowance of \$125 to the maximum monthly amount under subsection 179 (2):

1. Determine the resident’s family income and divide by 12.
2. Deduct,
  - i. \$1404.55 for a dependant who is a spouse, and
  - ii. \$330.74 for each dependant who is a child.

(2) An application,

- (a) must be in a form and manner acceptable to the Director;
- (b) must include any supporting documentation requested by the Director; and
- (c) must include the Notice of Assessment issued under the *Income Tax Act* (Canada) and sent by the Canada Revenue Agency to the resident and dependant for the immediately preceding year.

(3) Despite the requirement to provide a Notice of Assessment for the immediately preceding year, where a resident was admitted to the home within the year before the application was submitted, and the resident does not have a Notice of Assessment for the immediately preceding year, the Director may consider other supporting documentation demonstrating the resident’s income to determine the equivalent of the resident’s annual net income, current income or both.

(4) The Director shall not provide a reduction to a resident under this section if the Director has provided a reduction to the resident under any other section.

(5) Despite sections 179 to 181, if a long-stay resident is eligible for a reduction under this section, the maximum amount that may be demanded or accepted by or on behalf of the licensee for providing the resident with basic accommodation during a term is the amount determined by the Director.

(6) In determining amounts under this section, the Director shall consider the family income, as well as any other factors the Director considers relevant.

(7) For greater clarity, nothing in this section places any obligation on the Director to grant a reduction that has been applied for.

(8) In this section,

“annual net income” means the amount indicated on line 236 of the resident’s Notice of Assessment issued under the *Income Tax Act* (Canada) for the immediately preceding taxation year or, if no Notice of Assessment has been issued, the amount that would appear on that line had the Notice of Assessment been issued, in either case minus,

- (a) the taxes payable that were reported or that should have been reported on line 435 of the Notice of Assessment,
- (b) payments made under the *Universal Child Care Benefit Act* (Canada), and
- (c) payments from a registered disability savings plan, as defined in subsection 146.4 (1) of the *Income Tax Act* (Canada),

plus,

- (d) non-taxable private insurance benefits, and
- (e) payments of insurance made under the *Workplace Safety and Insurance Act, 1997*; (“revenu net annuel”)

“current income” means a resident’s income for each of the components of line 150 of the resident’s Notice of Assessment issued under the *Income Tax Act* (Canada),

plus,

- (a) non-taxable private insurance benefits,

minus,

- (b) payments made under the *Universal Child Care Benefit Act* (Canada), and

- (c) payments from a registered disability savings plan, as defined in subsection 146.4 (1) of the *Income Tax Act* (Canada); (“revenu courant”)

“dependant” means,

- (a) a spouse who was living with the resident immediately before the resident was admitted to the long-term care home, or if the resident has been in more than one long-term care home or other institution, including a hospital, continuously, immediately before the resident was first admitted to the long-term term care home or other institution, or
- (b) a child of the resident who,
  - (i) is under 18 years of age, or
  - (ii) who is under 25 years of age and who is in full-time attendance at a recognized secondary or post-secondary educational institution, and is financially dependant on the resident; (“personne à charge”)

“family income” means the total annual income of the resident and each dependant, except for a dependant who is a child under 18 years of age, as determined by the Director after taking into account the annual net income, current income or both of the resident and of each dependant; (“revenu familial”)

“non-taxable private insurance benefits” means the following benefits, other than benefits from a government, that are not taxable under the *Income Tax Act* (Canada):

1. Income replacement benefits.
2. Death benefits.
3. Survivor benefits.
4. Money received in insurance settlements or awarded by the court including payments received through structured settlements payable through monthly annuity payments and any benefits payable under the Statutory Accident Benefit Schedule under the *Insurance Act*.
5. Benefits of any nature or kind that provide for partial or full reimbursement for the costs of accommodation and food. (“indemnités d’assurance privée non imposables”)

### **Restriction, interest charges**

**183.** Where a resident has applied for a reduction under section 180, 181 or 182, a licensee of a long-term care home may not charge the resident interest for missed, incomplete or late

payments until the Director has made a determination of the maximum amount payable by the resident under those sections.

### **Restriction on charge reductions**

**184.** (1) A resident is not eligible to have the amount payable for basic accommodation reduced under sections 180 to 182 unless,

- (a) the resident and any dependant have exhausted all benefits, entitlements, supplements, settlements, or other financial assistance that the resident may be entitled to or eligible for from all levels of government, including those available from the Government of Canada, the government of any province or territory in Canada, any municipal government in Canada and any private policy of insurance;
- (b) the resident and any dependant has made reasonable efforts to exhaust all benefits, entitlements, supplements, settlements or other financial assistance that the resident may be entitled to or eligible for from any foreign country;
- (c) the resident has exhausted any support payments due and owing to the resident under a court order for support existing at the time of the application;
- (d) in the case of a resident who is a sponsored immigrant, the resident has exhausted financial support from the resident's sponsor, pursuant to the sponsor's undertaking to support the resident made under the *Immigration and Refugee Protection Act* (Canada); and
- (e) in the case of a resident and any dependant who must repay an overpayment of a benefit received under the *Old Age Security Act* (Canada), the *Ontario Guaranteed Annual Income Act*, the *Ontario Disability Support Program Act, 1997* or the *Ontario Works Act, 1997*, the resident or dependant has made the repayment.

(2) Clause (1) (a) does not apply with respect to benefits under the *War Benefits Act* (Canada).

(3) Without in any way restricting the Director's discretion to deny an application under sections 180 to 182 for any other reason, the Director may deny an application if, in the Director's opinion,

- (a) the resident has not provided sufficient proof of financial need; or
- (b) the resident has provided false information on an application for a reduction.

(4) Where the Director comes to the opinion that a resident has provided false information on an application for reduction after the Director has already determined the maximum amount payable by the resident based on the false information, the Director may,

- (a) retroactively deny the application; and
- (b) retroactively adjust the maximum amount payable that was determined for the resident based on the false information.

(5) Where the Director determines that the resident should have paid a higher maximum amount under subsection (4), the resident shall repay the difference to the licensee before receiving any further reduction.

### **Transitional, charge reductions**

**185.** (1) The following reductions in the amount payable for basic accommodation that were in existence immediately before the coming into force of this section continue to apply until June 30, 2010:

1. Reductions under section 116 and paragraph 1 of subsection 116.1 (1) of Regulation 832 of the Revised Regulations of Ontario, 1990 (General) made under the *Nursing Homes Act*.
2. Reductions under section 39.3 and paragraph 1 of subsection 39.3.1 (1) of Regulation 637 of the Revised Regulations of Ontario, 1990 (General) made under the *Homes for the Aged and Rest Homes Act*.
3. Reductions under section 43 and paragraph 1 of subsection 43.1 (1) of Regulation 69 of the Revised Regulations of Ontario, 1990 (General) made under the *Charitable Institutions Act*.

(2) Every other reduction in the amount payable for basic accommodation that was in existence immediately before the coming into force of this section is terminated upon the coming into force of this section, but without prejudice to the ability to apply for a new reduction under this Regulation where applicable.

### **Payment for first and last day**

**186.** (1) A long-stay resident shall pay the amount charged for accommodation under either paragraph 1 or 2 of subsection 91 (1) of the Act for a full day,

- (a) for the day the placement coordinator authorizes the resident's admission to the home; and
- (b) for the day the resident is discharged from the home.

(2) Despite subsection (1), a long-stay resident shall not pay the amount charged for accommodation under either paragraph 1 or 2 of subsection 91 (1) for a full day for the day the

resident is discharged from the home if the resident is admitted to another long-term care home on the same day.

(3) A short-stay resident shall pay the amount charged for accommodation under either paragraph 1 or 2 of subsection 91 (1) for a full day for the day the placement coordinator authorizes the resident's admission to the home, but shall not pay the amount charged for accommodation under either paragraph 1 or 2 of subsection 91 (1) of the Act for the day the resident is discharged from the home.

#### **Payment for day following discharge**

**187.** If, at the request of a person who has been discharged from a long-term care home as a long-stay resident, at the request of a member of the person's family or at the request of a person notified by the licensee of the discharge, the licensee allows the discharged person, the family member or the notified person to have access, on the day following the day of discharge, to the room in which the discharged person was living before being discharged, the licensee may charge the discharged person the amount that the licensee would have charged him or her for accommodation for the day following the day of discharge had he or she been a long-stay resident living in the room on that day.

#### **Interim beds, payments for certain days**

**188.** For the purposes of applying sections 186 and 187,

- (a) a resident who occupied a long-stay interim bed immediately before the coming into force of this section shall be deemed to be a long-stay resident, and if he or she is in preferred accommodation, shall continue to pay the preferred accommodation charge; and
- (b) a resident who occupies a bed in the interim bed short-stay program is a short-stay resident.

#### **Responsibility for payment during absence**

**189.** During an absence contemplated by section 26 of the first draft Regulation, a resident continues to be responsible for the payment of the maximum amounts that may be charged by the licensee to the resident for the same class of accommodation that was provided to the resident immediately before the absence.

#### **Notice of accommodation charge increase**

**190.** (1) Before increasing the amount payable by a resident for accommodation, the licensee of a long-term care home shall give the resident at least 30 days written notice of the licensee's proposal to increase the amount payable and the amount of the proposed increase.

(2) An increase by a licensee of the amount payable by a resident for accommodation is void if the licensee has not given the notice required by this section.

(3) Subsections (1) and (2) do not apply to an increase in the basic accommodation amount payable by a resident who has been charged a reduced amount under section 180, 181 or 182 if the increase,

- (a) follows a reapplication by the resident for a reduction; or
- (b) results from the resident’s failure to reapply for a reduction at the end of the term for which the original reduction was in effect.

**TABLE 3  
RESIDENT PAYMENTS**

Item	Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8
	Period	Short-Stay Daily Maximum	Long-Stay Basic Monthly Maximum	Long-Stay Basic Daily Maximum	Long-Stay Semi-Private Monthly Maximum	Long-Stay Semi-Private Daily Maximum	Long-Stay Private Monthly Maximum	Long-Stay Private Daily Maximum
15.	From and including July 1, 2009	34.53	1,614.21	53.07	1,857.55	61.07	2,161.71	71.07

**PART VII  
LICENSING**

**Definitions**

**191.** In this Part,

“security interest” has the same meaning as in section 107 of the Act.

**Premises that do not require licence**

**192.** Subsection 95 (1) of the Act does not apply to,

- (a) a home for special care that is licensed under the *Homes for Special Care Act*;
- (b) a facility under the *Developmental Services Act*;
- (c) a residential hospice if the nursing care provided at the hospice for its residents is funded, directly or indirectly, through the Ministry; or
- (d) a retirement home.

**Public interest: need**

**193.** For the purposes of clause 96 (e) of the Act, the Minister shall take into account any recommendation from a local health integration network for the geographic area that covers all or part of the area where the Minister is considering whether there should be a long-term care home, or how many long-term care home beds there should be.

### **“Non-profit” and “for-profit”**

**194.** The following clarifications are made to the meaning of “non-profit” and “for-profit” for the purposes of the Act and this Regulation:

1. A non-profit entity is an entity that meets any of the following criteria:
  - i. being a corporation without share capital,
    - A. to which Part III of the *Corporations Act* applies, or
    - B. that is incorporated under a general or special Act of the Parliament of Canada,
  - ii. being a municipality or a board of management for a municipal home,
  - iii. being a council of a band under the *Indian Act* (Canada) or a board of management for a First Nations home, or
  - iv. being a corporation with share capital whose equity shares are owned by an entity or entities described in subparagraph i, ii or iii.
2. A non-profit long-term care home is,
  - i. a long-term care home whose licensee is a non-profit entity, or
  - ii. a municipal home, joint home or First Nations home approved under Part VIII of the Act.
3. A for-profit entity is an entity that is not a non-profit entity.
4. A for-profit long-term care home is a long-term care home that is not a non-profit long-term care home.

### **Limits on eligibility for licence**

**195.** For the purposes of clause 98 (1) (e) of the Act, a prospective licensee that is not a corporation is ineligible to be issued a licence for a long-term care home if,

- (a) the past conduct relating to the operation of a long-term care home or any other matter or business of anyone who has a controlling interest in the prospective licensee does not afford reasonable grounds to believe that the home will be operated in accordance with the law and with honesty and integrity;

- (b) it has not been demonstrated that those with a controlling interest in the prospective licensee, along with the prospective licensee, are competent to operate a long-term care home in a responsible manner in accordance with the Act and the regulations and are in a position to furnish or provide the required services; or
- (c) the past conduct relating to the operation of a long-term care home or any other matter or business of anyone who has a controlling interest in the prospective licensee does not afford 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.

### **Non-profit to for-profit circumstances**

**196.** For the purposes of subsection 105 (9) of the Act, a non-profit entity may transfer a licence or beds to a for-profit entity where both of the following conditions are met:

1. A debt or the performance of some other obligation of the non-profit entity is secured by a security interest in the licence.
2. The non-profit entity is in default of any obligation secured by the security interest and,
  - i. the non-profit entity made reasonable efforts to avoid the default, or
  - ii. the holder of the security interest compels the transfer by exercising the security interest, whether or not the non-profit entity made reasonable efforts to avoid the default.

### **Limits on share transfers: non-profit subsidiaries**

**197.** (1) It is a condition of a licence held by a non-profit entity that is a share capital corporation described in subparagraph 1iv of section 194 that the corporation shall not,

- (a) allow the transfer of equity shares issued by the corporation from a shareholder that is a non-profit entity to a for-profit entity; or
- (b) issue equity shares to a for-profit entity.

(2) Subsection (1) does not prevent a transfer of equity shares where the following conditions are met:

1. A debt or the performance of some other obligation of the shareholder is secured by a security interest in the equity shares.
2. The shareholder is in default of any obligation secured by the security interest and,
  - i. the shareholder made reasonable efforts to avoid the default, or

- ii. the holder of the security interest compels the transfer by exercising the security interest, whether or not the shareholder made reasonable efforts to avoid the default.

### **Public meetings**

**198.** (1) This section applies to public meetings under subsection 106 (2) of the Act.

(2) The meeting shall be chaired by,

- (a) the Director;
- (b) an individual selected by the Director; or
- (c) where permitted by the Director, an individual selected by the local health integration network for the geographic area where the meeting is to be held.

(3) If the meeting is chaired by an individual other than the Director, the individual shall promptly prepare a written report of the meeting and give it to the Director.

(4) The Director shall ensure that notice is given of a public meeting at least 30 days before it is held, and the following rules apply to the notice:

- 1. The notice shall set out,
  - i. a description of what is proposed,
  - ii. a statement that any person may make written representations, and a description of how to do so,
  - iii. a statement that a public meeting will be held where any person may make oral representations, and a description of where and when the meeting will be held,
  - iv. a statement that all written and oral representations will be considered before a final decision is made.
- 2. The notice shall be,
  - i. published in a newspaper with general circulation in the area in which the meeting is to be held, or
  - ii. published in any other manner that the Director considers will be more effective.

3. If the proposal concerns an existing home, the Director shall ensure that the licensee is provided with a copy of the notice, and the licensee shall ensure that the notice is promptly posted in a prominent place in the home. However, a failure by the licensee to post the notice does not invalidate the notice.

#### **Person with security interest operating home through management contract**

**199.** (1) A long-term care home may not be managed under a contract provided for in subsection 107 (1) of the Act without the approval of the Director under section 110 of the Act.

(2) Subject to subsection (3), a long-term care home may not be managed under a contract provided for in subsection 107 (1) of the Act for more than one year, unless the person exercising the security interest receives the same approval from the Director that would be required if the licence were being transferred to the person under section 105 of the Act.

(3) The Director may extend the one-year period provided for in subsection (2).

#### **Approval of gaining controlling interest**

**200.** The approval that is required under subsection 109 (1) of the Act when a person gains a controlling interest in a licensee must be obtained before the controlling interest is gained.

#### **Requirements for management contracts**

**201.** (1) A contract described in subsection 110 (1) of the Act respecting the management of a long-term care home (a “management contract”) is required to,

- (a) provide that the management of the home managed under the contract cannot be subcontracted or assigned;
- (b) provide that any change in who has a controlling interest in the manager under the contract shall be deemed to be a material amendment to the contract that requires the Director’s approval under subsection 110 (6) of the Act;
- (c) make adequate provision for the transition of the management of the home from the manager to the licensee or another manager upon the termination or expiry of the contract or the withdrawal or expiry of the Director’s approval;
- (d) require the manager to operate the home in accordance with the requirements under the Act;
- (e) require the manager to keep the licensee adequately informed about the operation of the home, including promptly giving the licensee any document served on or notice given to the licensee by being delivered to the home;

- (f) acknowledge that funding under the Act will be paid to the licensee, not to the manager directly; and
- (g) acknowledge that the Director's approval of the contract can be withdrawn under subsection 110 (5) of the Act at any time without liability.

(2) Where a management contract exists with respect to a long-term care home, it is a condition of the licence that the licensee notify the Director in writing, no later than 15 days after the occurrence of the event, of the following events:

1. An amendment to the contract.
2. The termination or expiry of the contract, or any other event that results in the manager ceasing to manage the home.

(3) For greater clarity, if the approval of the Director is required, under subsection 110 (6) of the Act, for the amendment of a management contract,

- (a) paragraph 1 of subsection 110 (4) of the Act applies with respect to approving the amendment; and
- (b) paragraph 2 of subsection 110 (4) of the Act does not apply unless the amendment is a deemed amendment under clause (1) (b).

### **Temporary licences and temporary emergency licences -- exemptions**

**202.** (1) For the purposes of sections 111 and 112 of the Act, the following provisions of the Act do not apply with respect to a temporary licence or a temporary emergency licence:

1. Clause 114 (2) (b).
2. Subsection 114 (3).
3. Subsection 114 (4).

(2) Despite paragraph 1 of subsection (1), a temporary licence may not be amended so that its total term is for more than five years, and a temporary emergency licence may not be amended so that its total term is for more than 60 days.

(3) Subject to subsections (4), (5) and (7), the Director may stipulate, as a condition under subsection 101 (2) of the Act, one or more other provisions of the Act or the regulations that do not apply with respect to a temporary licence or temporary emergency licence, but only if the Director is satisfied,

- (a) that it would be unreasonable, under the circumstances, not to make such a stipulation; and
- (b) that it is preferable, in the interests of the residents, that the licence be issued subject to such a stipulation than that it not be issued at all.

(4) The Director may make a stipulation under subsection (3) only if the licence is a temporary licence under clause 111 (1) (a) of the Act or a temporary emergency licence under clause 112 (1) (a) of the Act.

(5) If the home was a long-term care home immediately before the effective date of the temporary licence or temporary emergency licence, the Director may make a stipulation under subsection (3) only if such a stipulation applied with respect to another licence that applied to the home before that effective date.

(6) A stipulation under subsection (3) may provide for one or more alternative conditions that the licensee is to comply with instead of the provision or provisions of the Act or the regulations set out in the stipulation.

(7) A stipulation under subsection (3) may provide that the provision or provisions of the Act or the regulations set out in the stipulation do not apply with respect to the licence,

- (a) for a time set out in the stipulation that does not exceed six months; or
- (b) for the full term of the licence, but only if the licence is for a term of no more than one year.

### **Temporary emergency licences**

**203.** (1) For the purposes of subsection 112 (1) of the Act, the Director may issue a temporary emergency licence where there are circumstances affecting a long-term care home that make it necessary to remove one or more residents from the home.

(2) It is a condition of a temporary emergency licence that the only persons who may be admitted to a bed under the authority of the licence are residents of the home affected by the circumstances described in subsection (1).

### **Short term authorizations**

**204.** (1) For the purposes of section 113 of the Act, the Director may authorize a temporary additional bed at a long-term care home where a person requires immediate admission to a long-term care home as a result of a crisis arising from the person's condition or circumstances.

(2) It is a condition of the licence for the home for which an authorization is given that the only person who may be admitted to the temporary additional bed is the person described in subsection (1).

### **Amendments with consent**

**205.** A licence may be amended under subsection 114 (1) of the Act only if the Director approves the amendment.

### **Licence with beds of different terms**

**206.** The following rules apply in respect of a licence for a long-term care home in which there are beds that are subject to different terms under the licence:

1. The licence expires when the term of the last bed under the licence expires.
2. Where the Director exercises his or her power under clause 104 (3) (a) of the Act to amend the licence to reduce the number of beds allowed under the licence by the number of unoccupied and unavailable beds, the Director may apply the reduction to either the beds that are actually unoccupied and unavailable, or to the beds that are subject to the shortest terms.
3. The provisions in section 114 of the Act referring to the extension of the term of a licence apply to the extension of the term of any bed under the licence.
4. If the licensee transfers beds subject to longer terms so that the term of the licence is shortened, the last possible date for the Director to give the notice or undertaking under subsection 103 (1) of the Act is the later of the following:
  - i. The day that would have been the last possible date before the transfer.
  - ii. The day that is one year after the transfer.

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

### **Definition**

**207.** In this Part,

“Part VIII home” means a municipal home, joint home or First Nations home approved under Part VIII of the Act.

### **Application of Act to Part VIII homes**

**208.** The following clarifications are made respecting the application of the Act to Part VIII of the Act:

1. Sections 97 and 98 of the Act do not apply to subsection 100 (1) of the Act as it applies to Part VIII homes.

2. Sections 97 and 98 of the Act apply where, under paragraph 2 of subsection 110 (4) of the Act, a municipality or board of management contracts someone else to manage a Part VIII home.
3. Section 97 of the Act does not apply to Part VIII homes by virtue of paragraph 2 of subsection 114 (4) of the Act.
4. A temporary emergency licence under section 112 of the Act may be issued to a municipality or a board of management, and such a licence may be revoked under section 157 of the Act.
5. If a temporary licence or temporary emergency licence is issued under clause 111 (1) (a) or 112 (1) (a) of the Act and the licence is issued to,
  - i. a municipality, sections 132 to 134 of the Act apply with respect to the home operated under the licence,
  - ii. a board of management under section 125 of the Act, sections 133 and 134 of the Act apply with respect to the home operated under the licence, or
  - iii. a board of management under section 129 of the Act, section 133 of the Act applies with respect to the home operated under the licence.
6. Where a temporary licence or temporary emergency licence is issued to a municipality or a board of management, Part VII of the Act applies with respect to the licence subject to the following,
  - i. the municipality or board of management is exempt from subsections 108 (1) and (2) of the Act,
  - ii. the municipality or board of management is exempt from subsection 108 (3) of the Act subject to the condition that it must notify the Minister in writing of anything that it would otherwise be required to notify the Director of under that subsection,
  - iii. the municipality or board of management is exempt from section 109 of the Act.

### **Composition of committees of management**

**209.** A committee of management appointed under section 132 of the Act shall,

- (a) in the case of a municipal home, be composed of not fewer than three members; and

- (b) in the case of a joint home, be composed of not fewer than two members of the council of each of the municipalities maintaining and operating the joint home.

### **Application of Part VII of Regulation**

**210.** The following modifications to Part VII of this Regulation are made with respect to Part VIII homes:

1. In subsections 201 (2) and 204 (2) and section 205, “licence” shall be read as “approval” and “Director” shall be read as “Minister”.

## **PART IX COMPLIANCE AND ENFORCEMENT**

### **Where notice may be given of inspection**

**211.** For the purposes of clause 144 (b) of the Act, notice may be given of the following inspections:

1. Inspections of beds situated in an existing long-term care home that are not yet covered by the home’s licence or approval.
2. Inspections to ensure compliance with a closure plan that has been approved by the Director.
3. Inspections conducted upon the request of a licensee.

### **Factors to be taken into account**

**212.** (1) For the purposes of sections 152 to 157 of the Act, the following are the only factors to be taken into account by an inspector or the Director in determining what actions to take or orders to make where there has been a finding of non-compliance with a requirement under the Act:

1. The severity of the harm or the risk of harm to one or more residents arising from the non-compliance.
2. The scope of the harm or risk of harm arising from the non-compliance.
3. The licensee’s past history of compliance with requirements under the Act and with requirements under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act*, the regulations under those Acts and any service agreement required by any of those Acts.

- (2) In this section,

“scope” means pervasiveness throughout the home.

### **Reasonable compensation**

**213.** (1) For the purposes of paragraph 4 of subsection 157 (6) of the Act, the reasonable compensation that may be provided to a licensee for the use of the licensee’s property where the Director has made an interim management order under subsection 157 (4) of the Act is to be determined by employing the formula:

$$\text{Comp} = A \times B \times C$$

where,

“Comp” is the amount of compensation,

“A” is the prescribed rate of interest multiplied by the long-term care home’s most recent current value assessment under the *Assessment Act*, both as of the date of the interim management order, divided by the number of licensed beds in the long-term care home, divided by the number of days in the year,

“B” is the number of licensed beds in the long-term care home,

“C” is the number of days between the date of the order and the day that revocation of the licence becomes effective and all of the residents of the home are relocated.

(2) In this section,

“number of days in the year” means 365, or, if the interim management order is made in a leap year, 366; (“nombre de jours de l’année”)

“number of licensed beds in the long-term care home” means the number of beds in the home under its licence or its approval under Part VIII of the Act that are occupied or available for occupation as of the date the Director makes the interim management order; (“nombre de lits autorisés du foyer de soins de longue durée”)

“prescribed rate of interest” means the prescribed rate of interest as calculated under paragraph 4.1 of subsection 503 (2) of Regulation 183 of the Revised Regulations of Ontario, 1990 (General) made under the *Corporations Tax Act*. (“taux d’intérêt prescrit”)

### **Protection of privacy in reports**

**214.** (1) This section applies with respect to,

(a) the requirement to post an inspection report under clause 79 (3) (k) of the Act;

- (b) the requirement to post an order under clause 79 (3) (l) of the Act;
- (c) the obligation to give an inspection report to the Residents' Council or, where applicable, the Family Council under section 149 of the Act;
- (d) the requirement to publish an inspection report under clause 173 (a) of the Act; and
- (e) the requirement to publish an order under clause 173 (b) of the Act.

(2) Where an inspection report mentioned in clause (1) (a), (c) or (d) contains personal information or personal health information, only the following shall be posted, given or published, as the case may be:

1. Where there is a finding of non-compliance, a version of the report that has been edited so as to provide only the finding and a summary of the evidence supporting the finding.
2. Where there is no finding of non-compliance, a version of the report that has been edited so as to provide only a summary of the report.

(3) Where an order mentioned in clause (1) (b) or (e) contains personal information or personal health information, only a version of the order that has been edited to provide a summary of the content of the order shall be posted or published, as the case may be.

(4) In this section,

“personal health information” means personal health information within the meaning of the *Personal Health Information Protection Act, 2004*; (“renseignements personnels sur la santé”)

“personal information” means personal information within the meaning of the *Freedom of Information and Protection of Privacy Act*. (“renseignements personnels”)

### **Transitional, compliance and enforcement**

**215.** (1) Except as otherwise provided in the Act or this Regulation, the Act and this Regulation do not apply with respect to anything that occurred before the coming into force of this section.

(2) Except as otherwise provided in this section and despite anything else in the Act, for the purposes of applying Part IX of the Act, a failure to comply with a requirement under a previous Act before the coming into force of this section is a failure to comply with a requirement under the Act, unless an inspector has determined that the failure to comply with the requirement under the previous Act was rectified before the coming into force of this section.

(3) Paragraph 3 of section 152 and sections 153 and 154 of the Act do not apply with respect to a requirement under a previous Act.

(4) For greater clarity, the Director may make an order under section 155 of the Act with respect to a failure to comply with a requirement under a previous Act, except where action had already been taken under subsection 20.13 (3) of the *Nursing Homes Act*, subsection 9 (3) of the *Charitable Institutions Act*, or subsection 28 (3) of the *Homes for the Aged and Rest Homes Act* in respect of the same failure to comply.

(5) Despite anything else in the Act, where a licence has been deemed to be replaced under section 187 of the Act, the Director may make an order under section 157 of the Act with respect to the licence,

- (a) for any reason provided for in section 157 with respect to matters that occurred before the coming into force of this section, including a failure to comply with a requirement under a previous Act; and
- (b) for any reason for which the licensee's licence or approval, as the case may be, could have been revoked under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Health Facilities Special Orders Act*.

(6) Where, immediately before the day this section came into force, there was a direction in effect under one of the following provisions for the placement co-ordinator to cease authorizing admissions to a home, that direction continues until the thirtieth day after the direction was made:

1. Subsection 20.1 (17) of the *Nursing Homes Act*.
2. Subsection 9.6 (17) of the *Charitable Institutions Act*.
3. Subsection 18 (17) of the *Homes for the Aged and Rest Homes Act*.

(7) Where, immediately before the day this section came into force, a provisional suspension of an approval was in effect under subsection 11 (6) of the *Charitable Institutions Act*, the suspension ends on the earlier of the following:

1. The date the Minister decides.
2. 60 days from the day this section comes into force.

(8) Where, immediately before the day this section came into force, the Minister had control of and was operating a charitable home for the aged under section 11.1 of the *Charitable Institutions Act* the Minister shall cease occupying that home on the earlier of the following:

1. One year from the date of occupation.
2. 90 days from the day this section comes into force.
3. An earlier date set by the Minister.

(9) Where, immediately before the day this section came into force, there was a written order by the Minister under section 3, 4 or 7 of the *Health Facilities Special Orders Act* in effect with respect to a home, the order terminates on the earlier of the following, as applicable:

1. In respect of an order under section 7 of that Act, six months from the day the order was issued.
2. In respect of an order under section 7 of that Act, at the end of the term determined pursuant to subsection 7 (5).
3. 90 days from the day this section comes into force.
4. An earlier date set by the Minister.

(10) Where, immediately before the day this section came into force, the Minister had control of and was operating a home under section 30.12, 30.13 or 30.14 of the *Homes for the Aged and Rest Homes Act*, the Minister shall cease controlling the home on the earlier of the following:

1. One year from the day the Minister took control of the home.
2. Ninety days from the day this section comes into force.
3. An earlier date set by the Minister.

(11) When deciding whether to take control of a municipal home or joint home under section 137 or 138 of the Act, the Director may consider the licensee's failure to comply with requirements in the *Homes for the Aged and Rest Homes Act*, the regulations under that Act and a service agreement required under that Act, that arose before this section came into force.

(12) In this section,

“requirement under a previous Act” means a requirement contained in the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act*, in the regulations under one of those Acts, or in an order or agreement made under one of those Acts, or the *Health Facilities Special Orders Act*, and includes a condition of a licence or an approval and a condition to which funding was subject under one of those Acts.

(13) For the purposes of subsection (2), “inspector” means an inspector under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act*, or the Act.

## **PART X**

### **ADMINISTRATION, MISCELLANEOUS AND TRANSITION**

#### SERVICE AND NOTICE

##### **Service and notice**

**216.** (1) Where, under the Act or this Regulation, any document is to be served by the Minister, the Director, an inspector or other employee of the Ministry, it is sufficiently served if it is,

- (a) served personally;
- (b) sent by registered mail addressed to the person who is to be served, at the latest address for the person appearing on the records of the Ministry; or
- (c) sent by fax to the person who is to be served, at the last number for the person appearing on the records of the Ministry.

(2) Where, under the Act or this Regulation, a notice or a copy of a report, a decision or anything similar is to be given by the Minister, the Director, an inspector or other employee of the Ministry, or by a person acting under section 137 of the Act, it may be served as provided for in subsection (1).

(3) For the purposes of clause (1) (a), a document may be served personally in accordance with the following:

1. Where service is on an individual, by delivering a copy of the document personally to the individual.
2. Where service is on a sole proprietorship, by delivering a copy of the document personally to the sole proprietor or to a person apparently authorized to accept the delivery in the office of the sole proprietor.
3. Where service is on a partnership, by delivering a copy of the document personally to a partner or to a person apparently authorized to accept the delivery in an office of the partnership.
4. Where service is on a corporation other than a municipality, board of management or local health integration network, by delivering a copy of the document personally to

an officer of the corporation or to a person apparently authorized to accept the delivery in a branch office of the corporation.

5. Where service is on a municipality, by delivering a copy of the document personally to the mayor, warden, reeve or other chief officer of the municipality, to the clerk of the municipality or to a person apparently authorized to accept the delivery in the head office of the municipality.
6. Where service is on a board of management, by delivering a copy of the document personally to the chair of the board.
7. Where service is on a local health integration network, by delivering a copy of the document personally to the chief executive officer of the local health integration network, to an officer of the local health integration network, or to a person apparently authorized to accept the delivery in the head office of the local health integration network.

(4) A person effecting personal service need not provide the original document or have it in his or her possession.

(5) If service is made by registered mail, the service shall be deemed to be made on the fifth day after the day of mailing.

(6) If service is made by fax, the service shall be deemed to be made on the first business day after the day the fax is sent.

(7) In addition to the other methods of service provided for in this section, service under sections 104, 153, 154, 155, 156, 157, 163 and 187 of the Act, or delivery of a copy of a report or notice under section 137 or 138 of the Act may be effected by delivering a copy of the order, notice or report personally to the Administrator or to a person apparently in charge of the long-term care home that is the subject of the order, decision, report or notice.

(8) A request for review under subsection 163 (2) of the Act shall be served in the manner provided for in the order that is to be reviewed.

(9) This section does not apply to the service of a certificate under subsection 150 (2) of the Act.

(10) Except for subsection (8), where under the Act, or this Regulation, any document is to be served on the Director, it is sufficiently served if it is,

- (a) served personally on the Director to be served;
- (b) sent by registered mail to the address of the Director who is to be served;

- (c) sent by fax to the fax number of the Director who is to be served; or
- (d) served by any other method authorized by the Director.

(11) For the purposes of clause (10) (a), a document may be served personally by delivering a copy to the Director or to a person apparently authorized to accept the delivery in the Director's office.

(12) Where, under the Act or this Regulation, a notice or a copy of a report or anything similar is to be given to the Director, it shall be served as provided for in subsection (10).

(13) Where, under the Act or this Regulation, anything is to be served on or notice is to be provided to the Minister, it is sufficiently served or provided if it is served or provided to the Director as provided for in subsection (10).

## TRUST ACCOUNTS

### **Trust accounts**

**217.** (1) Every licensee of a long-term care home shall establish and maintain at least one non-interest bearing trust account at a financial institution in which the licensee shall deposit all money entrusted to the licensee's care on behalf of a resident.

(2) The licensee shall keep petty cash trust money in the home, composed of money withdrawn from a trust account, that is sufficient to meet the daily cash needs of the residents who have money deposited in a trust account on their behalf.

(3) No licensee shall,

- (a) hold more than \$5,000 in trust for any resident at any time;
- (b) commingle resident funds held in trust with any other funds held by the licensee; or
- (c) charge a resident, or a person acting on behalf of a resident, a transaction fee for withdrawals, deposits, or anything else related to money held in trust.

(4) Every licensee shall establish a written policy and procedures for the management of resident trust accounts and the petty cash trust money, which must include,

- (a) a system to record the written authorizations required under subsection (7); and
- (b) the hours when the resident, or the person acting on behalf of the resident, can make deposits to or withdrawals from the resident's funds in a trust account and make withdrawals from the petty cash trust money.

(5) The licensee shall provide a copy of the written policy and procedures to every resident and person acting on behalf of a resident who asks to have money deposited into a trust account.

(6) The licensee shall,

- (a) provide a resident, or a person acting on behalf of a resident, with a written receipt for all money received by the licensee from the resident, or any other person, for deposit in a trust account on behalf of the resident;
- (b) where the licensee has deposited in a trust account money received from any person on behalf of a resident, make part or all of the money available to the resident or a person acting on behalf of the resident,
  - (i) in accordance with,
    - (A) the instructions, written or oral, of the resident, or if the resident is incapable, a person acting on behalf of the resident who is legally authorized to give the instructions, except where the money was received from a trustee, or
    - (B) the written instructions of the trustee, where the money was received from a trustee, and
  - (ii) upon the resident, or the person acting on behalf of the resident, signing an acknowledgement that the resident, or the person acting on behalf of the resident, received the funds;
- (c) maintain a separate ledger for each trust account showing all deposits to and withdrawals from the trust account, the name of the resident for whom the deposit or withdrawal is made and the date of each deposit or withdrawal;
- (d) maintain a separate book of account for each resident for whom money is deposited in a trust account;
- (e) provide to the resident, or to a person acting on behalf of a resident, a quarterly itemized written statement respecting the money held by the licensee in trust for the resident, including deposits and withdrawals and the balance of the resident's funds as of the date of the statement;
- (f) with respect to each resident for whom money is deposited in a trust account, retain for a period of not less than seven years,

- (i) the books of account, ledgers, deposit books, deposit slips, pass-books, monthly bank statements, cheque books and cancelled cheques applicable to the trust account,
  - (ii) the written instructions and authorizations and acknowledgements of receipt of funds of the resident and the person acting on behalf of the resident, and
  - (iii) the written receipts and statements provided to the resident, or a person acting on behalf of a resident; and
- (g) on the written demand of a resident, or a person acting on behalf of a resident, make the material referred to in this subsection and the audit required by subsection (9) available for inspection by the resident or the person, at reasonable hours during any business day.

(7) A resident, or a person acting on behalf of a resident, who wishes to pay a licensee for charges under section 91 of the Act with money from a trust account shall provide the licensee with a written authorization that specifies what the charge is for, including a description of the goods or services provided, the frequency and timing of the withdrawal and the amount of the charge.

(8) Where a written authorization has been provided under subsection (7), the licensee is not required to obtain a written acknowledgement of receipt of funds for every withdrawal, but must include these withdrawals in the quarterly itemized statement under clause (6) (e).

(9) The licensee shall have every trust account audited annually,

- (a) by a public accountant licensed under the *Public Accounting Act, 2004*; or
- (b) in the case of a municipal home or a joint home approved under Part VIII of the Act, by the municipal auditor who audits the books of account and ledgers of the home.

(10) The licensee shall make the results of the annual audit available to the Director on request.

(11) For greater clarity, section 133 of the Act does not authorize a municipality or board of management to receive, hold and administer the property of a resident in trust other than as provided for in this section.

(12) In this section,

“financial institution” means

- (a) a bank listed in Schedule I or II to the *Bank Act* (Canada),

- (b) a trust corporation registered under the *Trust and Loan Companies Act* (Canada), or
- (c) a credit union incorporated under the *Credit Unions and Caisses Populaires Act, 1994*; (“institution financière”)

“person acting on behalf of a resident” means,

- (a) a trustee,
- (b) an attorney under the *Powers of Attorney Act*, and
- (c) a person exercising a continuing power of attorney for property or a guardian of property under Part I of the *Substitute Decisions Act, 1992*. (“personne agissant pour le compte d’un résident”)

### **Transitional, trust accounts**

**218.** (1) A licensee is not required to comply with subsection 217 (1) and clause 217 (3) (a) until six months after this section comes into force.

(2) A licensee who complies with subsection 217 (1) and clause 217 (3) (a) before the day provided for in subsection (1) shall promptly notify the Director, and those provisions apply to the licensee from the time the Director is notified.

(3) The applicable rules concerning trust funds that applied to the licensee by virtue of the regulations under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act* continue to apply to the licensee until the earlier of the day provided for in subsection (1) and the day that section 217 applies under subsection (2).

(4) Where, immediately before the day this Regulation came into force, a licensee of a long-term care home was retaining records under subsection 104 (3) of Regulation 832 of the Revised Regulations of Ontario, 1990 (General) made under the *Nursing Homes Act*, section 53 of Regulation 637 of the Revised Regulations of Ontario, 1990 (General) made under the *Homes for the Aged and Rest Homes Act* or section 33 of Regulation 69 of the Revised Regulations of Ontario, 1990 (General) made under the *Charitable Institutions Act*, clause 217 (6) (f) applies with respect to the records.

(5) Where, immediately before the day this Regulation came into force, a licensee was maintaining trust accounts under a regulation referred to in subsection (4), the audit required under subsection 217 (9) shall cover the entire period for which an audit had not yet been conducted as required under the applicable provisions of those regulations.

(6) For greater clarity, municipalities that are holding and administering the real or personal property of a resident pursuant to an agreement approved by the Director under section 11 of the

*Homes for the Aged and Rest Homes Act*, other than funds held in a trust account, may continue to hold that property for no more than six months after the day this Regulation comes into force.

## CONSTRUCTION, RENOVATION, ETC. OF HOMES

### **Construction, renovation, etc. of homes**

**219.** (1) A licensee of a long-term care home shall not commence operation of the home under a new licence or approval until the Director has approved the home and its equipment.

(2) A licensee shall not allow alterations, additions, renovations, maintenance or repairs to be made to the home or its equipment that do not maintain or improve upon the functional aspects of the home or equipment.

(3) A licensee may not commence any of the following work without first receiving the approval of the Director:

1. Alterations, additions or renovations to the home or its equipment.
2. Maintenance or repairs to the home or its equipment, if doing the work may significantly disturb or significantly inconvenience residents.

(4) A licensee who is applying for the Director's approval under subsection (3) shall provide the Director with,

- (a) plans or specifications relating to the work to be done; and
- (b) a work plan describing how the work will be carried out, including how residents will be affected and what steps will be taken to address any adverse effects on residents.

(5) A licensee who has received the Director's approval under subsection (3) shall ensure that the work is carried out in accordance with the plan or specifications and work plan provided under subsection (4).

(6) The Director may make it a condition of an approval under subsection (3) that the licensee obtain the Director's further approval before beginning to use any addition to the home or any part of the home on which work was done.

## FEES

### **Fees**

**220.** (1) Fees are payable to the Director for each of the following:

1. The transfer of a licence or beds under a licence under section 105 of the Act.

2. The approval of the gaining of a controlling interest in a licensee under section 109 of the Act.
3. The approval of a management contract under section 110 of the Act, including the approval of a material amendment to a management contract under subsection 110 (6) of the Act.
4. The amendment of a licence under section 114 of the Act.

(2) The fee under this section is payable at the time application is made to the Director for the transfer, approval or amendment.

(3) The fee is not refundable if the Director's approval is not given.

(4) Subject to subsections (5) to (7), the total fee shall be determined by adding each of the following amounts payable:

1. An amount of \$750 for processing the application.
2. An amount of \$750 for making a determination if required under section 96 of the Act.
3. An amount of \$750 for taking anything into account under clause 97 (a) of the Act if the transfer, approval or amendment is subject to any restriction under section 97.
4. An amount of \$750 for taking anything into account under clause 97 (b) of the Act if the transfer, approval or amendment is subject to any restriction under section 97.
5. An amount of \$1,500 if the transfer, approval or amendment is subject to section 98 of the Act.
6. An amount of \$1,800 for each public meeting that is required if public consultation is required under clause 106 (d) or (e) of the Act.
7. An amount of \$75 per licence for each licence to be issued, reissued or amended.
8. An amount of \$3,000 for each pre-sale inspection that the Ministry conducts at the applicant's request.
9. An amount of \$750 for reviewing a management contract if the application is for the approval of the management contract.
10. An amount of \$750 for reviewing an amendment of a licence if the application is for the amendment of a licence.

(5) The Director may reduce a fee if an amount was included in the fee for something that was not done.

(6) The fee for the amendment of a licence shall be reduced by 50 per cent if the only change is a change in the name of the licensee or the long-term care home.

(7) The Director may reduce a fee if, because of the following circumstances listed below, the fee would otherwise be excessive in relation to what is required to process the application or applications:

1. Amounts were included in the fee under paragraph 3 of subsection (4) more than once in respect of the application of clause 97 (a) of the Act to the same person under one application or under two or more applications made at or around the same time.
2. Amounts were included in the fee under paragraph 4 of subsection (4) more than once in respect of the application of clause 97 (b) of the Act to the same person under one application or under two or more applications made at or around the same time.
3. An amount was included in the fee under paragraph 3 or 4 of subsection (4) in respect of the application of clause 97 (a) or (b) of the Act and the application of the clause was, as a result of the particular circumstances involved, very simple.
4. Amounts were included in the fee under paragraph 5 of subsection (4) more than once in respect of the application of section 98 of the Act to the same person under one application or under two or more applications made at or around the same time.

(8) For the purposes of this section,

“application” includes a request for approval of a proposed transfer under subsection 105 (5) of the Act.

### **Fees for audits and financial reviews**

**221.** (1) The Director may require a licensee to pay a fee, in an amount that the Director determines to be reasonable considering all the circumstances, where,

- (a) an inspector has, under clause 147 (1) (i) of the Act, called upon an expert who is not an employee of the Ministry to conduct an audit or a financial review; and
- (b) the audit or review was necessary because of a failure on the part of the licensee to comply with a requirement under the Act, or the audit or review revealed a failure to comply with a requirement under the Act.

(2) The fee under subsection (1) shall not exceed the costs incurred by the Ministry in retaining the expert.

## CLOSURE OF HOMES

### **Closure of a home, notice**

**222.** (1) A licensee of a long-term care home shall not close the home without giving notice as provided for in this section.

(2) This section does not apply,

- (a) if the term of the licence expires;
- (b) if the licence is revoked; or
- (c) if the licence is a temporary emergency licence under clause 112 (1) (a) of the Act.

(3) A licensee who intends to close a home shall give the Director written notice of the intended closure.

(4) The notice must,

- (a) set out the date of the intended closure; and
- (b) be given to the Director at least,
  - (i) five years before the date of the intended closure, or
  - (ii) in the case of a temporary licence under clause 111 (1) (a) of the Act, three years before the intended closure date.

(5) The licensee may withdraw the notice with the written consent of the Director.

(6) The licensee may change the closure date with the written consent of the Director.

(7) The licence is deemed to be surrendered on the closure date.

### **Closure plans and closure agreements**

**223.** (1) This section applies when a home is closed, except,

- (a) when a licence is revoked under section 157 of the Act; and
- (b) in the case of a temporary emergency licence under clause 112 (1) (a) of the Act.

(2) The licensee shall, in consultation with the Director, the appropriate placement coordinator and the local health integration network for the geographic area where the home is located, develop a closure plan for the home that the Director determines is sufficient to adequately provide for,

- (a) the relocation of the residents;
- (b) the closure of the home; and
- (c) the satisfaction of the requirements the licensee is required to meet with regard to the home.

(3) The closure plan must be given to the Director,

- (a) at least 14 months before the closure date; or
- (b) in the case of a temporary licence under clause 111 (1) (a) of the Act that is revoked under paragraph 1 of subsection 111 (2) of the Act, on or before the date set out in the revocation order.

(4) The licensee shall comply with the closure plan.

(5) The licensee shall enter into a closure agreement with the Director providing for requirements the licensee must meet at or around the time the home closes and after.

(6) The licensee shall enter into the closure agreement,

- (a) at least six months before the closure date; or
- (b) in the case of a temporary licence under clause 111 (1) (a) of the Act that is revoked under paragraph 1 of subsection 111 (2) of the Act, on or before the date set out in the revocation order.

### **Shorter notice periods and deadlines**

**224.** (1) Where, under section 222 or 223, a licensee is required to give notice by a certain date, or submit a closure plan or enter into a closure agreement by a certain date, the Director may agree to a shorter notice period or to a plan being submitted or an agreement entered into by a later date.

(2) Without limiting the generality of subsection (1), a temporary licence under clause 111 (1) (a) of the Act may provide for a shorter notice period or to a plan being submitted or an agreement entered into by a later date.

### **Closure of home under temporary emergency licence**

**225.** (1) This section applies to a licensee of a home with a temporary emergency licence under clause 112 (1) (a) of the Act.

(2) The licensee shall not close the home except as provided for in the licence or as agreed to by the Director.

(3) Subsection (2) does not apply if,

(a) the term of the licence expires; or

(b) the licence is revoked.

(4) The licensee shall cooperate with the Director, the appropriate placement co-ordinator and the local health integration network for the geographic area where the home is located with respect to closing the home and relocating its residents.

### **Special rules re Part VIII homes**

**226.** The following additional rules apply respecting the closing of homes established under Part VIII of the Act:

1. A southern municipality shall not close a home that it is required to maintain under section 119 of the Act.
2. The notice of closure under section 222 for a home maintained under section 125 of the Act shall include certified copies of by-laws agreeing to the closure passed by a majority of municipalities in the territorial district.

### NOTICE OF INDIRECT COLLECTION

#### **Notice of indirect collection**

**227.** Where the Director provides the licensee of a home with a notice of indirect collection containing the information described in subsection 39 (2) of the *Freedom of Information and Protection of Privacy Act*, the licensee shall post the notice in a conspicuous place in the home where it is likely to come to the attention of the staff.

### TRANSITION

#### **One home, one replacement licence**

**228.** For the purposes of subsection 187 (2) of the Act, where both a licence under the *Nursing Homes Act* and an approval under the *Charitable Institutions Act* existed for the same home immediately before the coming into force of this section, only one replacement licence shall be deemed to be issued with respect to the home.

### **Request for classification review**

**229.** A request for a review under subsection 187 (13) of the Act,

- (a) must be in writing; and
- (b) must be served on the Director within 28 days after the day the licensee was served with the documentation issued by the Director under subsection 187 (12) of the Act.

### **Development and redevelopment agreements**

**230.** (1) The following applies with respect to development agreements and redevelopment agreements that were in existence immediately before the coming into force of this section:

- 1. If a licence is issued under Part VII of the Act for the home that is the subject of the agreement, the term of the licence shall be in accordance with subsection 187 (5) of the Act and the term shall commence on the day the first resident is admitted to the home.
- 2. If the public was consulted before the development agreement or redevelopment agreement was entered into, the Director is not required to consult the public again under section 106 of the Act before issuing a licence or granting an approval for the home.
- 3. In the case of a redevelopment agreement, the following are deemed to be terms of the agreement,
  - i. that a licence may not be issued or an approval granted for a redeveloped home unless the licence or approval for the home that is being redeveloped is surrendered,
  - ii. where a licence must be surrendered under subparagraph i, no beds may be transferred from that licence.

(2) In this section,

“development agreement” means any of the following agreements, and includes any undertakings associated with the agreement:

- 1. An agreement with the Minister to develop a new nursing home under the *Nursing Homes Act*.
- 2. An agreement with the Minister to develop a new home for the aged under the *Homes for the Aged and Rest Homes Act*.

3. An agreement with the Minister to develop a new charitable home under the *Charitable Institutions Act*.
4. An agreement with the Minister to develop a new long-term care home under the Act; (“accord d’aménagement”)

“redevelopment agreement” means an agreement with the Minister to redevelop an existing home under the *Nursing Homes Act*, the *Homes for the Aged and Rest Homes Act* or the *Charitable Institutions Act*, and includes any undertakings associated with the agreement. (“accord de réaménagement”)

### **Licensee obligations under service agreements**

**231.** Despite section 101 of the Act, where, immediately before the coming into force of this section, a licensee was subject to an obligation under a service agreement between the licensee and the Ministry, the Director may make it a condition of the licensee’s licence or approval that the licensee comply with the obligation.

### **Transitional, interim beds**

**232.** (1) Subject to subsection (3), where, immediately before the coming into force of this section, there were interim beds in a home to which the *Nursing Homes Act* or the *Charitable Institutions Act* applied, the following rules apply:

1. The interim beds shall not be included in the number of beds under the licence that is deemed to exist under section 187 of the Act.
2. A temporary licence under clause 111 (1) (b) of the Act shall be deemed to have been issued to the licensee for the beds. The term of the temporary licence shall be for the remainder of the time for which the interim beds are authorized under the service agreement for the beds.

(2) Subject to subsection (3), where, immediately before the coming into force of this section, there were interim beds in a home to which the *Homes for the Aged and Rest Homes Act* applied, the following rules apply:

1. The interim beds shall not be included in the number of beds under the approval that is deemed to exist under section 191 of the Act.
2. A temporary licence under clause 111 (1) (b) of the Act shall be deemed to have been issued to the licensee for the beds. The term of the temporary licence shall be for the remainder of the time for which the interim beds are authorized under the service agreement for the beds.

(3) Where, immediately before the coming into force of this section, a home existed that consisted only of interim beds, the following rules apply:

1. Despite sections 187 and 191 of the Act, no licence or approval for the home shall be deemed to exist under those sections.
2. A temporary licence under clause 111 (1) (a) of the Act shall be deemed to have been issued to the licensee for the beds. The term of the temporary licence shall be for the remainder of the time for which the interim beds are authorized under the service agreement for the beds.

(4) Nothing in this section prevents a temporary licence that is deemed to have been issued under subsection (1), (2) or (3) from being amended to extend its term but the term may not extend more than five years after the temporary licence was deemed to be issued.

(5) In this section,

“interim beds” mean beds existing in a home for a temporary time under the terms of a service agreement for interim beds.

#### **Transitional, short term authorizations**

**233.** Where, immediately before the coming into force of this section, there was an additional bed authorized at a home to facilitate the admission to the home of a person who required immediate admission as a result of a crisis arising from the person’s condition or circumstances, the following rules apply:

1. The bed shall not be included in the number of beds under the licence or approval that is deemed to exist under section 187 or 191 of the Act.
2. The Director shall be deemed to have authorized the bed as a temporary additional bed under section 113 of the Act. The term of the authorization shall be for the remainder of the time for which the bed was originally authorized, and the 30-day limit on authorizations under section 113 of the Act does not apply.

#### **Transitional, transfer applications**

**234.** Where, at the time of the coming into force of this section, an application for the surrender and issue of a licence under section 7 of the *Nursing Homes Act* had been made and not yet dealt with, the application shall be dealt with as it would have been dealt with under the *Nursing Homes Act*.

#### **Transitional, share transfers**

**235.** (1) Where, at the time of the coming into force of this section, an application for the approval of the issue or transfer of shares has been made under section 8 of the *Nursing Homes Act* had been made and not yet dealt with, the application shall be dealt with as it would have been dealt with under the *Nursing Homes Act*, and any approval that is given shall be deemed to be an approval under section 109 of the *Long-Term Care Homes Act, 2007*.

(2) Where, at the time of the coming into force of this section, an approval had been given for the issue or transfer of shares under section 8 of the *Nursing Homes Act* but the issue or transfer had not yet occurred, the approval shall be deemed to be an approval under section 109 of the *Long-Term Care Homes Act, 2007*.

### **Transitional, management contracts**

**236.** (1) Where, immediately before the coming into force of this section, a written management contract that had been approved by the Director was in effect respecting a home under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act*, the Director's approval continues and is deemed to be an approval under section 110 of the *Long-Term Care Homes Act, 2007*, subject to the following:

1. The approval shall be deemed to have been withdrawn,
  - i. if the management of the home is subcontracted or assigned,
  - ii. if there is a change in who has a controlling interest in the manager unless the Director has approved the change under subsection 110 (6) of the Act as though the change were a deemed amendment under clause 201 (1) (b) of this Regulation, or
  - iii. if the manager does not keep the licensee adequately informed about the operation of the home, including promptly giving the licensee any document served on or notice given to the licensee by being delivered to the home.
2. The approval may be withdrawn under subsection 110 (5) of the Act at any time without liability, despite anything in any agreement under which the initial approval was given.

(2) Where, before the coming into force of this section, an application had been made for the approval of a management contract respecting a home under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act*, and the application had not yet been dealt with, the application shall be dealt with as it would have been before the coming into force of section 110 of the *Long-Term Care Homes Act, 2007*, and subsection (1) applies to any approval that is given.

### **Transitional, beds in abeyance**

**237.** Any written approval to place beds at a home in abeyance that was in force immediately before the coming into force of this section under an agreement with the Ministry shall be deemed to be a written permission of the Director for the purposes of subsection 104 (3) of the Act, subject to any conditions that the approval was subject to.

### **Transitional, closing of homes and beds**

**238.** (1) The following rules apply where a notice of intention to permanently close all of the beds authorized under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act* was given by a licensee before the coming into force of this section but the beds were not yet closed at the time of the coming into force:

1. The notice shall be deemed to be a notice given under section 222 and sections 223, 224 and 226 apply to the closure as may be applicable, except that the Director may waive the requirement under section 223 to develop a closure plan.
2. Despite sections 187 and 191 of the Act, no licence or approval for the home shall be deemed to exist under those sections.
3. A temporary licence under clause 111 (1) (a) of the Act shall be issued to the licensee for the beds.

(2) The following rules apply where a notice of intention to permanently close some of the beds authorized under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act* was given by a licensee before the coming into force of this section but the beds were not yet closed at the time of the coming into force:

1. The beds to be closed shall not be included in the number of beds under the licence that is deemed to exist under section 187 of the Act or the approval that is deemed to exist under section 191 of the Act.
2. A temporary licence under clause 111 (1) (b) of the Act shall be issued to the licensee for the beds.

### **Transitional, certain HARHA agreements**

**239.** The following rules apply concerning certain agreements under the *Homes for the Aged and Rest Homes Act* that were in force immediately before the coming into force of this section:

1. Agreements entered into with the Minister's approval under subsection 3 (2) of the *Homes for the Aged and Rest Homes Act* shall be deemed to have been entered into with the Minister's approval under section 120 of the *Long-Term Care Homes Act, 2007*.
2. Agreements entered into with the Minister's approval under subsection 4 (1) of the *Homes for the Aged and Rest Homes Act* shall be deemed to have been entered into with the Minister's approval under section 123 of the *Long-Term Care Homes Act, 2007*.
3. Agreements entered into with the Minister's approval under section 7 of the *Homes for the Aged and Rest Homes Act* shall be deemed to have been entered into with the

Minister's approval under section 121 or 124 of the *Long-Term Care Homes Act, 2007*, as the case may be.

### **Transitional, security interests**

**240.** (1) Section 107 of the Act applies to a person who, at the time that section came into force, already had control over the operation of a long-term care home through the exercise of a security interest.

(2) 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.

(3) For a person to whom this section applies, the one-year period under subsection 199 (2) of this Regulation commences at the time this section comes into force.

### **Transitional, notice**

**241.** (1) Subject to subsection (2), a licensee is only required to give a notification required under section 108 of the Act with respect to events that occur on or after the day this section comes into force.

(2) A licensee is required to give a notification required under section 108 of the Act with respect to an event that occurred before the day this section comes into force if the licensee was required to give notification with respect to the event under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act* but had not done so.

### **Transitional, committees of management**

**242.** A committee of management appointed under section 8 of the *Homes for the Aged and Rest Homes Act* continues as a committee of management under section 132 of the *Long-Term Care Homes Act, 2007*.

## EXEMPTIONS

### **Exemptions, certain homes**

**243.** (1) Subject to subsection (2), the long-term care homes set out in the Table to this section are exempt from Part III of the Act.

(2) Clause 44 (11) (d) and sections 46 and 50 of the Act apply to the long-term care homes set out in the Table to this section, except that references to the placement co-ordinator shall be read as references to the licensee of the home.

TABLE

Item	Long-Term Care Home
1.	Iroquois Lodge Nursing Home, Ohswegen
2.	Wikwemikong Nursing Home, Wikwemikong
3.	Akwesasne Adult Care Centre, Cornwall

## **Exemptions, homes with Eldcap beds**

**244.** (1) In this section,

“hospital” means,

- (a) the Sioux Lookout Meno Ya Win Health Centre in the case of the home with Eldcap beds within the meaning of clause 187 (18) (o) of the Act,
- (b) the hospital site where the Eldcap beds are located, in the case of homes with Eldcap beds within the meaning of clauses 187 (18) (a), (b), (c), (e), (g), (h), (j), (k), (l), (m) and (n) of the Act.

(2) The following exemptions apply with respect to homes with Eldcap beds within the meaning of clauses 187 (18) (a), (b), (c), (e), (g), (h), (j), (k), (l), (m), (n) and (o) of the Act:

1. The licensee is exempt from sections 4, 16 and 72, clause 92 (a) and section 93 of the Act.
2. The licensee is exempt from subsections 8 (3) and (4) of the Act, as long as a registered nurse is on duty and present anywhere on the site, including the hospital.
3. Section 107, subsection 108 (3) and section 110 of the Act and sections 199 and 201 of this Regulation apply to the licensee except that the references to the long-term care home or home shall be read as references to parts of the hospital site that used by or for residents of the long-term care home but are not used by or for patients of the hospital.
4. The licensee is exempt from the following provisions of this Regulation:
  - i. clauses 11 (1) (c) and (e),
  - ii. section 12,
  - iii. subsection 42 (2),
  - iv. subsection 44 (2),
  - v. section 45,
  - vi. section 53,
  - vii. section 54,
  - viii. section 55,

- ix. section 56, as long as the licensee ensures that all food service workers hired after this section comes into force have completed the food handler training program referred to in subsections 56 (3) and (5) before being hired,
  - x. subsection 62 (3),
  - xi. subsection 68 (2),
  - xii. sections 167 and 168, clauses 169 (a), (b), (d), (e), (f) and (j) and section 172.
5. The licensee is exempt from section 170, except as it applies to clauses 169 (c), (g), (h) and (i).
  6. The licensee is exempt from the requirement that physiotherapy services be on-site under clause 37 (a).
  7. The licensee is exempt from the requirements in subsection 38 (1) unless therapy services are provided in the home or the hospital.
  8. The licensee is exempt from section 39 if the therapy services are not provided in the home or the hospital.
  9. The licensee may meet the requirements or measures provided for in the following provisions through the hospital:
    - i. sections 48, 49, 50, 51, 52, 63, 64, 65, 66 and 67,
    - ii. sections 140, 141, 142, 158 and 162.
  10. The licensee is exempt from subsection 111 (1) but must have an Administrator, who is either a member of staff of the licensee or the hospital and who may be on duty anywhere on the site, including the hospital.
  11. The licensee is exempt from subsection 111 (3) as long as the Administrator meets one of the requirements set out in subsection 111 (3).
  12. In meeting the requirements of section 124, the licensee may use the emergency plan of the hospital.
  13. The licensee is exempt from section 132 as long as personnel records are kept in the hospital and the records contain all the information required under that section and are accessible to an inspector.

14. The licensee is exempt from section 133 as long as the records are kept by the hospital and the records are kept for the period set out in section 134.
15. The licensee is exempt from subsection 219 (2) except that provision shall apply to alterations, additions or renovations to the area or equipment that is used by or for residents on the long-term care home but not patients of the hospital.
16. The licensee is exempt from subsection 219 (3) except that,
  - i. subject to subparagraph ii, paragraphs 1 and 2 of that subsection only apply to the area or equipment that is used by or for residents of the home but not patients of the hospital,
  - ii. the approval of the Director is also required before the licensee commences any alterations, additions, renovations, maintenance or repairs to any part of the hospital if doing the work may significantly disturb or significantly inconvenience residents of the home.
17. The licensee is exempt from sections 222 to 225 except that those provisions apply with respect to the closure of all the Eldcap beds.

(3) The following exemptions apply with respect to homes with Eldcap beds within the meaning of clauses 187 (18) (a), (b), (c), (e), (g), (h), (j), (k), (l), (m) and (n) of the Act:

1. The licensee is exempt from the following provisions of this Regulation:
  - i. subparagraph 1 ii of section 5,
  - ii. paragraph 2 of section 5,
  - iii. section 6.
2. The licensee is exempt from subparagraph 1 iii of section 5 except that the doors shall be equipped with an audible door alarm system.
3. The licensee is exempt from the requirements of section 13 if the hospital has a generator that can maintain everything required under clauses (1) (a), (b) and (c) with respect to the long-term care home.
4. The licensee is exempt from clauses 14 (2) (a) and (b) if there is a cooling area, that meets the requirements under those clauses, in the hospital and the cooling area is used for the residents of the home.

5. The licensee may meet the requirements or measures provided for in sections 155 and 156 through the hospital.

(4) The following exemptions apply with respect to homes with Eldcap beds within the meaning of clauses 187 (18) (d), (f) and (i) of the Act:

1. The licensee is exempt from clause 92 (a) and section 93 of the Act.
2. The licensee is exempt from the following sections of the Act subject to the following conditions,
  - i. the licensee is exempt from section 4 if it relies on the mission statement of the adjoining long-term care home,
  - ii. the licensee is exempt from section 16 if its organized volunteer program is part of the organized volunteer program of the adjoining long-term care home,
  - iii. the licensee is exempt from section 84 if its quality improvement and utilization review system is part of the system of the adjoining long-term care home.
3. The licensee is exempt from the following provisions of this Regulation subject to the following conditions,
  - i. the licensee is exempt from the requirements in section 13 if the adjoining long-term care home has a generator that can maintain everything required under clauses (1) (a), (b) and (c) with respect to the licensee's home,
  - ii. the licensee is exempt from clauses 14 (2) (a) and (b) if there is a cooling area that meets the requirements under those clauses in the adjoining long-term care home and the cooling area is used for the residents of the licensee's home,
  - iii. the licensee is exempt from the requirements under section 17 if it relies on the measures that are in place in the adjoining long-term care home and those measures meet the requirements under section 17,
  - iv. the licensee is exempt from the requirement that physiotherapy services be on-site under clause 37 (a) if the services are on-site in the adjoining long-term care home,
  - v. the licensee is exempt from the requirement under subsection 38 (1) if the therapy services are provided on-site in the adjoining long-term care home,

- vi. The licensee is exempt from the requirements under sections 42, 44, 68 and 70 if the designated lead for the adjoining long-term care home is the designated lead with respect to the licensee's home and the lead meets the requirements under the relevant section.
4. The licensee is exempt from sections 167 and 168, clauses 169 (a), (b), (d), (e), (f) and (j) and section 172.
5. The licensee is exempt from section 170, except as it applies to clauses 169 (c), (g), (h) and (i).
6. The licensee may meet the requirements or measures provided for in the following provisions of this Regulation through the adjoining long-term care home,
  - i. sections 43, 48, 49, 50, 51, 52, subsection 53 (1), sections 54, 55 and 56, subsection 62 (2) and (3) and sections 63, 64, 65, 66, 67 and 69,
  - ii. sections 140, 141, 142, 145, 147, 155, 156, 158, 159, subsection 161 (3) and section 162,
  - iii. sections 114, 115, 116, 117 and 118,
  - iv. section 119.
7. The licensee may meet the requirements provided for in the following provisions of this Regulation if the measures required under those provisions are in place in the adjoining long-term care home and are used for the licensee's home,
  - i. sections 71, 72, 73, 74 and 75,
  - ii. sections 120 and 121.
8. In meeting the requirements of subsection 111 (1), the number of hours worked by the Administrator may be calculated based on the total number of Eldcap beds and the number of beds in the adjoining home, and the Administrator may be on duty on-site either in the home with the Eldcap beds or the adjoining home.
9. In meeting the requirements of section 112, the number of hours worked by the Director of Nursing and Personal Care may be calculated based on the total number of Eldcap beds and the number of beds in the adjoining long-term care home.
10. In meeting the requirements of section 123, the licensee may integrate its quality improvement and utilization review system with that of the adjoining long-term care home.

11. In meeting the requirements of section 124, the licensee may integrate its emergency plan with that of the adjoining long-term care home.
12. The licensee is exempt from the requirements of section 131 if resident records are retained in the adjoining long-term care home and meet the requirements of that section.
13. The licensee is exempt from section 132 if personnel records are kept in the adjoining long-term care home and the records contain all the information required under that section.
14. The licensee is exempt from section 133 if the personnel records are kept by the licensee of the adjoining long-term care home and the records are kept for the period set out in section 134.
15. The licensee may meet the requirements under section 217 through the measures that are in place in the adjoining long-term care home.

(5) The following exemptions apply with respect to homes with Eldcap beds within the meaning of clauses 187 (18) (d) and (f) of the Act:

1. The licensee is exempt from subsections 8 (3) and (4) of the Act, as long as a registered nurse is on duty and present anywhere on the site, including the site of the adjoining long-term care home.
2. The placement co-ordinator is exempt from subsection 40 (1) of the first draft Regulation with respect to the Eldcap beds and shall keep one waiting list for the Eldcap beds and the beds in the adjoining long-term care home.

(6) The following exemption applies with respect to homes with Eldcap beds within the meaning of clause 187 (18) (i) of the Act:

1. The licensee is exempt from subsection 8 (3) of the Act, as long as a registered nurse is on duty and present anywhere on the site, including the site of the adjoining long-term care home.
2. The placement co-ordinator is exempt from subsection 40 (1) of the first draft Regulation with respect to the Eldcap beds and shall keep one waiting list for the Eldcap beds and the beds in the adjoining long-term care home if there is a management contract under section 110 of the Act under which the licensee of the adjoining home manages the Eldcap beds.

### **Exemptions, alternative settings**

**245.** (1) The following exemptions apply where the Director issues a licence authorizing short-stay program beds in a place where there are no long-stay program beds:

1. The licensee is exempt from sections 4, 16 and 84 and subsection 85 (3) of the Act.
2. The licensee is exempt from subsections 8 (3) and (4) of the Act, as long as a registered nurse is on duty and present anywhere on the site where the beds are located.
3. The licensee is exempt from sections 56 and 58 of the Act unless a resident of the home wishes to form a Residents' Council.
4. The licensee is exempt from section 72 of the Act if there are fewer than 23 beds at the site where the beds are located.
5. The licensee is exempt from clause 78 (2) (o) and clause 79 (3) (n) of the Act if there is no Residents' Council at the site where the beds are located.
6. The licensee is exempt from the requirement in subsection 85 (1) of the Act to ensure that at least once in every year the survey mentioned in that subsection is taken but shall ensure that an opportunity is provided to each resident and the resident's family to complete the survey when the resident is being discharged from the home.
7. The licensee is exempt from the requirements in subsection 85 (4) of the Act unless there is a Residents' Council or Family Council in the home.
8. The references in sections 107, 108 (3) and 110 of the Act and sections 199 and 201 of this Regulation shall apply to the licensee except that the references to the long-term care home or home shall be read as references to parts of the site that are only used by or for residents of the long-term care home.
9. The licensee is exempt from the following provisions of this Regulation,
  - i. subparagraph 1 ii of section 5,
  - ii. paragraph 2 of section 5,
  - iii. section 6,
  - iv. clauses 11 (1) (c) and (e),
  - v. section 12,

- vi. subsection 13 (2),
  - vii. subsection 38 (1),
  - viii. subsection 42 (2),
  - ix. subsection 44 (2),
  - x. section 45,
  - xi. section 53,
  - xii. section 54,
  - xiii. section 56, as long as the licensee ensures that all food service workers hired after this section comes into force have completed the food service handler training program referred to in subsections 56 (3) and (5) before being hired,
  - xiv. subsection 68 (2),
  - xv. clause 125 (a).
10. The licensee is exempt from subparagraph 1 iii of section 5 except that the doors shall be equipped with an audible door alarm system.
  11. The licensee is exempt from section 10, except for the requirement to have a screen.
  12. The licensee is exempt from the requirements in subsection 13 (1) if the licensee has guaranteed access to a generator for the home that can be operational within two hours of a power outage and the generator can maintain everything required under clauses (1) (a), (b) and (c).
  13. The licensee is exempt from the requirement that physiotherapy services be on-site in under clause 37 (a).
  14. The licensee is exempt from section 39 if the therapy services are not provided on the site where the beds are located.
  15. The licensee is exempt from clause 49 (1) (e) unless there is a Residents' Council for the home.
  16. The licensee is exempt from the requirement in subsection 62 (3) that the designated lead shall have at least one year of experience in long-term care or geriatric care.

17. The licensee is exempt from subsection 111 (3) as long as the Administrator meets one of the requirements set out in that subsection.
18. The licensee is exempt from subsection 219 (2) except that provision shall apply to alterations, additions or renovations to the area or equipment that is used only by or for residents of the long-term care home.
19. The licensee is exempt from subsection 219 (3) except that,
  - i. subject to subparagraph ii, paragraphs 1 and 2 of that subsection only apply to the area or equipment that is used only by or for residents of the long-term care home.
  - ii. the approval of the Director is also required before the licensee commences any alterations, additions, renovations, maintenance or repairs to any part of the site if doing the work may significantly disturb or significantly inconvenience residents of the home.
20. The licensee is exempt from sections 222 to 225 except that those provisions apply with respect to the closure of all the long-term care home beds.

(2) Despite subsection 44 (7) of the Act, the licensee shall not approve for admission an applicant who requires the safety and security features from which the licensee is exempt under this section.

## DIRECTOR

### **Director**

**246.** The person holding the title of “Director of the Performance Improvement and Compliance Branch” in the Ministry is the Director for the purposes of the Act and this Regulation.

## **PART XI TERRITORIAL DISTRICT HOMES**

### **Application and interpretation**

**247.** (1) This Part applies with respect to homes under section 125 of the Act.

(2) In this Part,

“board” means a board of management described in Schedules 1 to 7 to this Regulation;  
 (“conseil”)

“supporting municipality” has the same meaning as in subsection 128 (5) of the Act.  
 (“municipalité participante”)

## **Objects**

**248.** The objects of a board are to operate and maintain one or more municipal homes.

## **Established as corporation**

**249.** (1) Every board is a corporation.

(2) Section 122 of the *Corporations Act* applies with respect to a board.

## **Rights, powers, etc.**

**250.** (1) Every board has the capacity, rights, powers and privileges of a natural person for carrying out its objects, except as limited by subsection (2).

(2) The powers of a board under subsection (1) are subject to the same restrictions that would apply by virtue of subsection 17 (1) of the *Municipal Act, 2001* if the board were a municipality.

(3) For greater clarity, a board may make those investments that a municipality is permitted to make under the *Municipal Act, 2001*.

## **Requirements for members**

**251.** (1) An individual is qualified to be a member of a board if he or she,

- (a) is at least 18 years of age;
- (b) is a resident of the district for which the board is the board of management; and
- (c) is not employed by the board of management or any of the supporting municipalities.

(2) An individual ceases to be a member if he or she,

- (a) is convicted of an indictable offence;
- (b) becomes incapacitated;
- (c) is absent from three consecutive board meetings unless the absence is authorized by a resolution of the board; or
- (d) ceases to be qualified under subsection (1).

## **Membership — general**

**252.** (1) For the purpose of determining the membership of a board, the districts for which the boards have been established are divided into the areas set out in the Schedules.

(2) For each board described in the heading of a Schedule, the number of members, the areas in a district that they represent and the manner of their appointment shall be that set out in the Schedule.

(3) A member shall be appointed for a term not exceeding four years.

(4) A member may be reappointed.

(5) After any change in the membership of the board, the board shall promptly give written notice of the change to the Director and to the Administrator of each municipal home for which the board is responsible.

(6) If a change in the membership of the board results in the seat of a member appointed by a municipality or municipalities being vacant, the board shall also promptly give written notice to the municipality or municipalities.

### **Quorum**

**253.** A majority of members constitutes a quorum for a board.

### **Chair**

**254.** (1) Each board shall, at its first meeting in each year, appoint one of its members as chair.

(2) The chair holds office until the first meeting of the board in the next year.

(3) The chair may be reappointed.

(4) No member shall serve as chair for more than four consecutive terms.

(5) Despite subsection (2), the chair ceases to be chair if he or she ceases to be a member.

(6) If the office of chair becomes vacant, the board shall appoint another member as chair.

### **Apportionments by boards of management**

**255.** (1) Amounts that supporting municipalities are required to pay to a board under sections 126 and 127 of the Act shall be apportioned, correct to three decimal places, among the supporting municipalities in the proportion of the amount of the total weighted assessment of each municipality to the total weighted assessment of all the supporting municipalities.

(2) The amounts that supporting municipalities are required to pay to a board under section 126 or 127 of the Act are due at the times established by the board.

(3) A board that borrows under subsection 126 (4) of the Act may apportion its borrowing costs among supporting municipalities that have not made their payments when due.

(4) This section applies to apportionments made under section 126 or 127 of the Act on and after the day this section comes into force.

(5) In this section,

“equivalent assessment” means the amount determined by dividing the compensation a municipality is entitled to be paid by the Minister of Finance for a hydro-electric generating station located in the municipality in respect to revenues foregone as a result of the enactment of paragraph 28 of subsection 3 (1) of the *Assessment Act* by the tax rate for the industrial property class for the year prior to the previous year; (“évaluation équivalente”)

“weighted assessment” means,

- (a) with respect to a property that is in a subclass to which section 313 of the *Municipal Act, 2001* applies, the taxable assessment or exempt assessment subject to a payment in lieu for the property, according to the annual return for the year prior to the previous year provided to the Minister under section 294 of the *Municipal Act, 2001*, reduced by the percentage reduction that applies to the tax rate for properties of that subclass and multiplied by the tax ratio of the property class that the property is in established under section 308 of the *Municipal Act, 2001* for that year, and
- (b) with respect to any other property, the taxable assessment or exempt assessment subject to a payment in lieu, according to the annual return for the year prior to the previous year provided to the Minister under section 294 of the *Municipal Act, 2001* or equivalent assessment for a property, multiplied by the tax ratio of the property class that the property is in established under section 308 of the *Municipal Act, 2001* for that year. (“évaluation pondérée”)

### **Division of territorial districts**

**256.** (1) For the purposes of Part VIII of the Act, the Territorial District of Nipissing is divided into two parts as follows:

1. Nipissing East composed of that part of the Territorial District of Nipissing lying east of the easterly boundary of the geographic Townships of Commanda, Blyth, Notman, Hammel, Gooderham, Flett, Hartle and Eldridge, or its projection.
2. Nipissing West composed of that part of the Territorial District of Nipissing lying west of the line described in paragraph 1.

(2) For the purposes of Part VIII of the Act, the Territorial District of Parry Sound is divided into two parts as follows:

1. Parry Sound East composed of that part of the Territorial District of Parry Sound lying within the boundaries of the geographic Townships of Armour, Bethune, Chapman, Croft, Gurd, Hardy, Himsforth North, Himsforth South, Joly, Laurier, Lount, Machar, McConkey, Mills, Nipissing, Patterson, Perry, Pringle, Proudfoot, Ryerson, Spence, Strong and Wilson.
2. Parry Sound West composed of that part of the Territorial District of Parry Sound lying within the boundaries of the geographic Townships of Blair, Brown, Burpee, Burton, Carling, Christie, Conger, Cowper, Ferguson, Ferrie, Foley, Harrison, Hagerman, Henvey, Humphrey, McDougall, McKellar, McMurrich, Monteith, Mowatt, Shawanaga and Wallbridge.

(3) For the purposes of Part VIII of the Act, the Territorial District of Algoma is divided into two parts as follows:

1. Algoma comprising all of the Territorial District of Algoma, except for the territory described in paragraph 2.
2. Sault Ste. Marie comprising the parts of the Territorial District of Algoma within the boundaries of the City of Sault Ste. Marie and the territory without municipal organization that is within the planning area for the Sault North Planning Board.

### **Transitional, boards of management**

**257.** (1) A board of management that existed under the *Homes for the Aged and Rest Homes Act* and that is described in the heading to a Schedule to this Regulation continues as a board of management under section 125 of the Act.

(2) A board of management that existed under the *Homes for the Aged and Rest Homes Act* and that is not continued under subsection (1) shall be deemed to have been dissolved under section 216 of the *Municipal Act, 2001*.

(3) A member of a board of management to which subsection (1) applies continues in office until his or her term would have otherwise ended.

(4) The chair of a board of management to which subsection (1) applies continues in office until the first meeting of the board in the year following the year this section comes into force.

### AMENDMENT

#### **Amendment**

**258. Clause 192 (b) is revoked and the following substituted:**

- (b) a residential premises funded under the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*;

## COMMENCEMENT

### Commencement

**259. (1) Subject to subsection (2), this Regulation comes into force on the day that section 1 of the *Long-Term Care Homes Act, 2007* comes into force.**

**(2) Section 258 comes into force on the later of the day that section 1 of the *Long-Term Care Homes Act, 2007* comes into force and the day that section 1 of the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008* comes into force.**

SCHEDULE 1  
THE BOARD OF MANAGEMENT FOR THE DISTRICT OF ALGOMA

The board of management for the District of Algoma shall consist of six members and the areas they represent and the manner of their appointment shall be as follows:

1. Two members at large to be appointed by the Lieutenant Governor in Council.
2. Area 1, represented by one member to be appointed jointly by the municipal councils of,
  - i. the City of Elliot Lake,
  - ii. the Township of the North Shore, and
  - iii. the Town of Spanish.
3. Area 2, represented by one member to be appointed jointly by the municipal councils of,
  - i. the Town of Blind River, and
  - ii. the Municipality of Huron Shores.
4. Area 3, represented by one member to be appointed jointly by the municipal councils of,
  - i. the Municipality of Wawa,
  - ii. the Township of White River,
  - iii. the Township of Hornepayne, and
  - iv. the Township of Dubreuilville.
5. Area 4, represented by one member to be appointed jointly by the municipal councils of,
  - i. the Town of Bruce Mines,
  - ii. the Town of Thessalon,
  - iii. the Village of Hilton Beach,

- iv. the Township of Jocelyn,
- v. the Township of Johnson,
- vi. the Township of Laird,
- vii. the Township of Macdonald, Meredith, and Aberdeen Additional,
- viii. the Township of Plummer Additional,
- ix. the Township of Prince,
- x. the Township of St. Joseph,
- xi. the Township of Tarbutt and Tarbutt Additional, and
- xii. the Township of Hilton.

**SCHEDULE 2**  
**THE BOARD OF MANAGEMENT FOR THE DISTRICT OF KENORA**

The board of management for the District of Kenora shall consist of nine members and the areas they represent and the manner of their appointment shall be as follows:

1. Three members at large to be appointed by the Lieutenant Governor in Council.
2. Area 1, represented by three members to be appointed jointly by the municipal councils of,
  - i. the City of Kenora, and
  - ii. the Township of Sioux Narrows-Nestor Falls.
3. Area 2, represented by two members to be appointed jointly by the municipal councils of,
  - i. the City of Dryden,
  - ii. the Township of Machin,
  - iii. the Township of Ignace,
  - iv. the Municipality of Sioux Lookout, and

- v. the Township of Pickle Lake.
4. Area 3, represented by one member to be appointed jointly by the municipal councils of,
    - i. the Township of Ear Falls, and
    - ii. the Municipality of Red Lake.

**SCHEDULE 3**  
**THE BOARD OF MANAGEMENT FOR THE DISTRICT OF MANITOULIN**

The board of management for the District of Manitoulin shall consist of seven members and the areas they represent and the manner of their appointment shall be as follows:

1. Two members at large to be appointed by the Lieutenant Governor in Council.
2. Area 1, represented by two members to be appointed jointly by the municipal councils of,
  - i. the Town of Northeastern Manitoulin and The Islands, and
  - ii. the Township of Assiginack.
3. Area 2, represented by one member to be appointed jointly by the municipal councils of,
  - i. the Municipality of Central Manitoulin, and
  - ii. the Township of Tehkummah.
4. Area 3, represented by one member to be appointed jointly by the municipal councils of,
  - i. the Town of Gore Bay, and
  - ii. the Township of Billings.
5. Area 4, represented by one member to be appointed jointly by the municipal councils of,
  - i. the Township of Gordon/Barrie Island,

- ii. the Township of Burpee and Mills, and
- iii. the Township of Cockburn Island.

#### SCHEDULE 4

##### THE BOARD OF MANAGEMENT FOR THE DISTRICT OF NIPISSING EAST

The board of management for the District of Nipissing East shall consist of seven members and the areas they represent and the manner of their appointment shall be as follows:

1. Two members at large to be appointed by the Lieutenant Governor in Council.
2. Area 1, represented by three members to be appointed by the municipal council of the City of North Bay.
3. Area 2, represented by one member to be appointed jointly by the municipal councils of,
  - i. the Town of Mattawa,
  - ii. the Township of South Algonguin,
  - iii. the Township of Calvin, and
  - iv. the Township of Papineau-Cameron.
4. Area 3, represented by one member to be appointed jointly by the municipal councils of,
  - i. the Township of Bonfield,
  - ii. the Township of Chisholm,
  - iii. the Township of East Ferris, and
  - iv. the Township of Mattawan.

#### SCHEDULE 5

##### THE BOARD OF MANAGEMENT FOR THE DISTRICT OF NIPISSING WEST

The board of management for the District of Nipissing West shall consist of seven members and the areas they represent and the manner of their appointment shall be as follows:

1. Two members at large to be appointed by the Lieutenant Governor in Council.
2. Area 1, represented by four members to be appointed by the municipal council of the Municipality of West Nipissing.
3. Area 2, represented by one member to be appointed by the municipal council of the Municipality of Temagami.

#### SCHEDULE 6

#### THE BOARD OF MANAGEMENT FOR THE DISTRICT OF PARRY SOUND EAST

The board of management for the District of Parry Sound East shall consist of seven members and the areas they represent and the manner of their appointment shall be as follows:

1. Two members at large to be appointed by the Lieutenant Governor in Council.
2. Area 1, represented by two members to be appointed jointly by the municipal councils of,
  - i. the Municipality of Powassan,
  - ii. the Township of Nipissing,
  - iii. the Municipality of Callander, and
  - iv. the Township of South Himsworth.
3. Area 2, represented by one member to be appointed jointly by the municipal councils of,
  - i. the Village of South River,
  - ii. the Village of Sundridge, and
  - iii. the Township of Machar.
4. Area 3, represented by one member to be appointed jointly by the municipal councils of,
  - i. the Municipality of Magnetawan,
  - ii. the Township of Joly,
  - iii. the Township of Strong, and

- iv. the Village of Burk's Falls.
5. Area 4, represented by one member to be appointed jointly by the municipal councils of,
- i. the Township of Armour,
  - ii. the Town of Kearney,
  - iii. the Township of Perry, and
  - iv. the Township of Ryerson.

#### SCHEDULE 7

#### THE BOARD OF MANAGEMENT FOR THE DISTRICT OF PARRY SOUND WEST

The board of management for the District of Parry Sound West shall consist of seven members and the areas they represent and the manner of their appointment shall be as follows:

1. Two members at large to be appointed by the Lieutenant Governor in Council.
2. Area 1, represented by two members to be appointed by the municipal council of the Town of Parry Sound.
3. Area 2, represented by one member to be appointed jointly by the municipal councils of,
  - i. the Township of The Archipelago,
  - ii. the Township of Carling, and
  - iii. the Municipality of McDougall.
4. Area 3, represented by one member to be appointed by the municipal council of the Township of Seguin.
5. Area 4, represented by one member to be appointed jointly by the municipal councils of,
  - i. the Municipality of Whitestone,
  - ii. the Township of McKellar, and

iii. the Township of McMurrich/Monteith.