

Notice of the Minister of Health and Long-Term Care

NOTICE OF PROPOSED INITIAL DRAFT REGULATIONS

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 proposed initial draft regulations to be made under the *Long-Term Care Homes Act, 2007* (LTCHA).

The LTCHA is the cornerstone of the Ontario government's strategy to improve and strengthen care for residents in long-term care homes enhancing the quality of care, and augment the accountability of long-term care homes for the care, treatment and well-being of over 78,000 residents.

The LTCHA sets out public consultation requirements related to proposed initial draft regulations with respect to any matter. 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 Regulations

The proposed draft initial regulations address the following:

- Administrative Monetary Penalties
- Re-inspection Fee

The Ministry is proposing that the proposed amendments, if approved, would come into effect on July 1, 2018.

Invitation to Provide Comments on Proposed Initial Draft Regulations

The proposed initial draft regulations follow this notice. The public is invited to provide written comments, in either English or French, on the proposed initial draft regulations over a 30-day period, commencing on February 28, 2018 and ending on March 29, 2018. Should the decision be made to proceed with the proposed draft regulations, the written comments and submissions received during the consultation period will be considered during final preparation of the draft regulations and amendments. Comments received by the Ministry after March 29, 2018 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.

Comments may be sent electronically to Reg79.10PostingComments@ontario.ca or they may be addressed to:

Karen Simpson

Ministry of Health and Long-Term Care

Long-Term Care Homes Division

11th Floor, 1075 Bay Street

Toronto, ON, M5S 2B1

The text and a description of the proposed draft regulations are available in English and French. These materials are also available for review on the Regulatory Registry's website at www.ontariocanada.com/registry/.

The materials may also be accessed through the Ministry web-site at the following address: http://www.health.gov.on.ca/en/public/programs/ltc/regulations/reg_admin_monetary_penalty.spx

The *Long-Term Care Homes Act, 2007* is available at www.ontario.ca/laws.

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 regulations. 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 regulations.

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 Access and Privacy Office of the Ministry of Health and Long-Term Care at 416-327-7040.

Proposed Amendments to Ontario Regulation 79/10 (Regulation) under the *Long-Term Care Homes Act, 2007* (LTCHA)

The Ministry is proposing the following amendments to the Regulation under the LTCHA and that the proposed amendments, if approved, would come into effect on July 1, 2018.

1. Administrative Monetary Penalty (AMP): An AMP would be issued against a licensee for each non-compliance with a requirement under the LTCHA, which results in an order, and where on any subsequent follow-up inspection(s), the licensee continues to be in non-compliance with the same requirement, which results in a further order. When a licensee returns to compliance, an AMP would not be issued.
2. Re-inspection fee: The re-inspection fee would be issued for a second, and subsequent, follow-up inspections with respect to an order(s).

PROPOSED INITIAL DRAFT REGULATIONS

To be made under the

Long-Term Care Homes Act, 2007

Content of Proposed Initial Draft Regulation

Caution:

This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

CONSULTATION DRAFT

ONTARIO REGULATION

to be made under the

LONG-TERM CARE HOMES ACT, 2007

Amending O. Reg. 79/10

(GENERAL)

1. Ontario Regulation 79/10 is amended by adding the following sections:

Re-inspection fees

299.1 Where an inspector conducts an inspection to determine compliance with an order made under section 153 or 154 of the Act,

- (a) the fee for the first inspection is nil; and
- (b) the fee for each subsequent inspection to determine compliance with that order or with a subsequent order under one of those sections is \$500.

Administrative monetary penalties

299.2 (1) This section applies where there has been an initial failure by a licensee to comply with a requirement under the Act, resulting in an order under section 153 or 154 of the Act, followed by a second or subsequent failure by the licensee to comply with the same requirement that also results in an order under section 153 or 154 of the Act.

(2) The administrative penalty for a second failure to comply with a requirement under the Act set out in Column 1 of the Table to this section is the amount set out for that item in Column 3 of the Table.

(3) If a subsequent failure occurs, the administrative penalty is,

(a) for the third failure, twice the amount set out for that item in Column 3 of the Table;

(b) for the fourth failure, three times the amount set out for that item in Column 3 of the Table;

(c) for the fifth failure, four times the amount set out for that item in Column 3 of the Table; and

(d) for each subsequent failure, five times the amount set out for that item in Column 3 of the Table.

TABLE

Item	Column 1 Requirement under the Act	Column 2 Description of Failure to Comply	Column 3 Amount of Administrative Penalty, in dollars
1.	Act, s. 3 (1)	Residents' Bill of Rights	5,000
2.	Act, s. 8 (1)	Nursing and personal support services	5,000
3.	Act, s. 8 (3)	24-hour nursing care	5,000
4.	Act, s. 11	Dietary services and hydration	5,000
5.	Act, s. 19	Duty to protect	5,000
6.	Act, s. 20	Policy to promote zero tolerance	5,000
7.	Act, s. 23	Licensee must investigate, respond and act	5,000
8.	Act, s. 24	Reporting certain matters to Director	5,000
9.	Act, s. 29	Policy to minimize restraining of residents, etc.	5,000
10.	Act, s. 30 (1)	Protection from certain restraining	5,000
11.	Act, s. 31	Restraining by physical devices	5,000
12.	Act, s. 70	Administrator	10,000
13.	Act, s. 71	Director of Nursing and Personal Care	10,000
14.	Act, s. 72	Medical Director	10,000
15.	Act, s. 86	Infection prevention and control program	5,000

Item	Column 1 Requirement under the Act	Column 2 Description of Failure to Comply	Column 3 Amount of Administrative Penalty, in dollars
16.	O. Reg. 79/10, s. 9	Doors in a home	5,000
17.	O. Reg. 79/10, s. 15	Bed rails	5,000
18.	O. Reg. 79/10, s. 16	Windows	5,000
19.	O. Reg. 79/10, s. 31 (2)	Nursing and personal support services	5,000
20.	O. Reg. 79/10, s. 31 (3)	Nursing and personal support services, staffing plan	5,000
21.	O. Reg. 79/10, s. 48	Required programs	5,000
22.	O. Reg. 79/10, s. 49	Falls prevention and management	5,000
23.	O. Reg. 79/10, s. 50	Skin and wound care	5,000
24.	O. Reg. 79/10, s. 51	Continence care and bowel management	5,000
25.	O. Reg. 79/10, s. 52	Pain management	5,000
26.	O. Reg. 79/10, s. 53	Responsive behaviours	5,000
27.	O. Reg. 79/10, s. 68	Nutrition care and hydration programs	5,000
28.	O. Reg. 79/10, s. 69	Weight changes	5,000
29.	O. Reg. 79/10, s. 74	Registered dietitian	5,000
30.	O. Reg. 79/10, s. 75	Nutrition manager	5,000
31.	O. Reg. 79/10, s. 91	Hazardous substances	5,000
32.	O. Reg. 79/10, s. 98	Police notification	5,000
33.	O. Reg. 79/10, s. 107	Reports re critical incidents	5,000
34.	O. Reg. 79/10, s. 110	Requirements relating to restraining by a physical device	5,000
35.	O. Reg. 79/10, s. 112	Prohibited devices that limit movement	5,000
36.	O. Reg. 79/10, s.129 (1)	Safe storage of drugs	5,000
37.	O. Reg. 79/10, s.131	Administration of drugs	5,000
38.	O. Reg. 79/10, s.135	Medication incidents and adverse drug reactions	5,000
39.	O. Reg. 79/10, s. 212 (1)	Administrator	10,000
40.	O. Reg. 79/10, s. 212 (4)	Administrator, qualifications	10,000
41.	O. Reg. 79/10, s. 212 (5)	Administrator, qualifications exception	10,000
42.	O. Reg. 79/10, s. 212 (6)	Administrator, program enrolment	10,000
43.	O. Reg. 79/10, s. 213 (1)	Director of Nursing and Personal Care	10,000
44.	O. Reg. 79/10, s. 213 (4)	Director of Nursing and Personal Care, qualifications	10,000
45.	O. Reg. 79/10, s. 213 (5)	Director of Nursing and Personal Care, qualifications exception	10,000
46.	O. Reg. 79/10, s. 229	Infection prevention and control program	5,000
47.	O. Reg. 79/10, s. 230	Emergency plans	5,000
48.	Any requirement under the Act not otherwise provided for in this Table.	Failure to comply with any other requirement under the Act	1,000

Commencement

2. [commencement]