

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

FIXING LONG-TERM CARE ACT, 2021

Amending O. Reg. 246/22

(GENERAL)

1. Ontario Regulation 246/22 is amended by adding the following section:

Deemed operation of certain homes by the same licensee

10.1 (1) This section applies with respect to every requirement of this Regulation that relates to temporary long-term care homes, replacement long-term care homes or re-opened long-term care homes, other than the requirements set out in section 240.

(2) A related temporary long-term care home, a replacement long-term care home or a re-opened long-term care home is deemed, for the purposes of the requirements described in subsection (1), to be operated by the same licensee as their original long-term care home if the Director grants a request from the licensees of the long-term care homes in accordance with this section.

(3) The licensee of the related temporary long-term care home, replacement long-term care home or re-opened long-term care home and the licensee of the original long-term care home may jointly submit a request to the Director for their long-term care homes to be deemed to be operated by the same licensee for the purposes of the requirements described in subsection (1).

(4) The Director shall grant the licensees' request if,

- (a) the related temporary long-term care home, replacement long-term care home or re-opened long-term care home is operated by a licensee that is related, in the opinion of the Director, to the licensee of the original long-term care home; and
- (b) the Director is satisfied that it is appropriate in the circumstances to grant the request.

(5) If the Director grants the request, the Director shall provide written notice to the licensee operating the related temporary long-term care home, replacement long-term care home or re-opened long-term care home, the licensee operating the original long-term care home and the placement co-ordinator designated for the long-term care homes indicating that the homes shall be deemed to be operated by the same licensee for the purposes of the requirements described in subsection (1).

(6) The licensees shall provide notice of the granting of the request to any affected residents or their representatives, as applicable.

2. Clause 23 (4) (b) of the Regulation is amended by striking out “subsections 24 (2) and (3)” and substituting “subsections 24 (2), (3) and (4)”.

3. Subsection 23.1 (7) of the Regulation is revoked.

4. Section 23.2 of the Regulation is revoked and the following substituted:

Exceptions, portable or window air conditioning

23.2 (1) Despite the requirements of subsections 23.1 (1) and (2), the licensee of a long-term care home,

- (a) shall uninstall or shall not install a portable air conditioning unit or a window air conditioning unit in a resident’s bedroom in the circumstances described in subsection (2) or (3); and
- (b) may uninstall or may choose to not install a portable air conditioning unit or a window air conditioning unit in a resident’s bedroom in the circumstances described in subsection (5).

(2) Subject to the other provisions of this section, the licensee of a long-term care home shall uninstall a portable air conditioning unit or a window air conditioning unit in a resident’s bedroom at any time at the resident’s request if,

- (a) the licensee is satisfied that it is feasible to do so; and
- (b) the other residents in the room consent to the unit being uninstalled.

(3) Subject to the other provisions of this section, the licensee of a long-term care home shall not install a portable air conditioning unit or a window air conditioning unit in a resident’s bedroom at the resident’s request if the other residents in the room consent to the unit not being installed.

(4) A licensee who uninstalls or does not install a portable air conditioning unit or a window air conditioning unit in accordance with a resident's request shall promptly include in the plan of care for each resident in the room,

- (a) any specific risk factors that may lead to heat related illness as a result of the lack of an air conditioning unit; and
- (b) the specific interventions and strategies that staff are to implement to prevent or mitigate the identified risk factors that may lead to heat related illness.

(5) Subject to the other provisions of this section, the licensee of a long-term care home may, on its own initiative, choose to uninstall a portable air conditioning unit or a window air conditioning unit in a resident's bedroom or to not install such a unit if any of the following conditions are met, and shall only leave it uninstalled for so long as the condition continues to apply:

1. When implementing cleaning, maintenance or repair that is required pursuant to section 96.
2. In order to comply with the minimum temperature requirement in subsection 24 (1).

(6) For the purposes of this section, the licensee shall make and keep written records relating to the decision to uninstall the portable air conditioning unit or window air conditioning unit or to not install it, including the circumstances that led to the decision and, where applicable, the date the unit was uninstalled.

(7) A licensee shall not uninstall a portable air conditioning unit or a window air conditioning unit pursuant to this section, or shall leave such a unit uninstalled, if it would compromise the licensee's ability to implement the heat related illness prevention and management plan for the home.

(8) In all cases where portable air conditioning units or window air conditioning units are uninstalled or not installed pursuant to this section, the units must remain accessible and available for use,

- (a) at the request of any one or more of the residents who reside in the bedroom; or
- (b) when required to cool and maintain the temperature of the bedroom for the health, safety and comfort of the residents in that bedroom.

(9) Where a circumstance described in clause (8) (a) or (b) exists, the licensee shall install the portable air conditioning unit or a window air conditioning unit promptly, unless subsection (5) applies, in which case the licensee shall install the unit immediately upon the resolution of the issue that led to the unit being uninstalled or not installed.

5. Subsection 24 (4) of the Regulation is revoked and the following substituted:

(4) In addition to the requirements in subsection (2), the licensee shall ensure that, for every resident bedroom in which air conditioning is not installed, operational and in good working order, the temperature is measured and documented in writing once a day in the afternoon between 12 p.m. and 5 p.m. on,

- (a) every day during the period of May 15 to September 15; and
- (b) every other day during which the outside temperature forecasted by Environment and Climate Change Canada for the area in which the home is located is 26 degrees Celsius or above at any point during the day.

6. (1) Clause 67 (2) (a) of the Regulation is amended by striking out “subject to subsection (3)” at the beginning.

(2) Subsection 67 (3) of the Regulation is revoked.

7. Clause 70 (2) (b) of the Regulation is revoked and the following substituted:

- (b) must have experience in a health care setting or other relevant setting and,
 - (i) a post-secondary diploma, degree or certificate in recreation and leisure studies, kinesiology, therapeutic recreation, gerontology or other related field from an Ontario post-secondary institution, or
 - (ii) a post-secondary diploma, degree or certificate granted in another jurisdiction that, in the reasonable opinion of the licensee, is equivalent to the diploma, degree or certificate described in subclause (i).

8. Subsection 101 (2) of the Regulation is revoked and the following substituted:

(2) The designated lead must have,

- (a) experience with seniors in an organized program or with persons in a health care setting or other relevant setting; and
- (b) experience or knowledge in the recruitment, selection, orientation, placement, management or supervision of employees or volunteers.

9. Subsection 244 (1) of the Regulation is amended by striking out “other than a person described in section 242” at the end.

10. Subsections 249 (3), (4) and (5) of the Regulation are revoked and the following substituted:

- (3) The licensee shall ensure that everyone hired as an Administrator,
- (a) has experience in a managerial or supervisory capacity in the health or social services sector or in another relevant setting;
 - (b) has successfully completed a program in long-term care home administration or management, or is enrolled in such a program and successfully completes the program within 12 months of being hired as an Administrator; and
 - (c) has,
 - (i) a post-secondary degree, diploma or certificate from a program that is a minimum of three years in duration from an Ontario post-secondary institution,
 - (ii) a post-secondary degree, diploma or certificate in health or social services or a related field from a program that is a minimum of two years in duration from an Ontario post-secondary institution, or
 - (iii) a post-secondary diploma, degree or certificate granted in another jurisdiction that, in the reasonable opinion of the licensee, is equivalent to a degree, diploma or certificate described in subclause (i) or (ii).

(4) Despite subsection (3), a person who was working or employed as an Administrator before May 1, 2024 may continue in the role without meeting the requirements in that subsection if, in the reasonable opinion of the licensee, the person has the appropriate skills, knowledge and experience to perform the duties required of that position.

11. Item 43 of the Table to subsection 349 (11) of the Regulation is revoked.

12. Section 361.1 of the Regulation is amended by striking out “by the closure date set out in the approved closure plan”.

Commencement

13. [Commencement]