



**Ministry of Health and
Long-Term Care**

**Inspection Report under
the Long-Term Care
Homes Act, 2007**

**Ministère de la Santé et des
Soins de longue durée**

**Rapport d'inspection sous la
Loi de 2007 sur les foyers de
soins de longue durée**

**Long-Term Care Homes Division
Long-Term Care Inspections Branch**

**Division des foyers de soins de
longue durée
Inspection de soins de longue durée**

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Report Date(s) / Date(s) du rapport	Inspection No / No de l'inspection	Log # / Registre no	Type of Inspection / Genre d'inspection
Aug 10, 2016	2016_293554_0012	017062-16	Complaint

Licensee/Titulaire de permis

Chartwell Master Care LP
100 Milverton Drive Suite 700 MISSISSAUGA ON L5R 4H1

Long-Term Care Home/Foyer de soins de longue durée

BALLYCLIFFE LODGE NURSING HOME
70 STATION STREET AJAX ON L1S 1R9

Name of Inspector(s)/Nom de l'inspecteur ou des inspecteurs

KELLY BURNS (554)

Inspection Summary/Résumé de l'inspection



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The purpose of this inspection was to conduct a Complaint inspection.

This inspection was conducted on the following date(s): June 20-22, June 24, June 28-30, and July 04-05, 2016

Intake #017062-16

Summary of Intake:

1) #017062-16 - Complaint by the Family Council, that concerns and or recommendations were not being responded to by the licensee; Family Council alleging the licensee is interfering with the operations of the Family Council.

During the course of the inspection, the inspector(s) spoke with Administrator, Director of Care, Director of Operations, Family, Secretary of the Family Council and President of the Family Council.

During the course of the inspection, the inspector, toured the home, reviewed Family Council Meeting Minutes, and correspondence between the Administrator, Licensee, Legal Representative and the Family Council.

**The following Inspection Protocols were used during this inspection:
Family Council
Reporting and Complaints**

During the course of this inspection, Non-Compliances were issued.

3 WN(s)

3 VPC(s)

0 CO(s)

0 DR(s)

0 WAO(s)

NON-COMPLIANCE / NON - RESPECT DES EXIGENCES

<p>Legend</p> <p>WN – Written Notification VPC – Voluntary Plan of Correction DR – Director Referral CO – Compliance Order WAO – Work and Activity Order</p>	<p>Legendé</p> <p>WN – Avis écrit VPC – Plan de redressement volontaire DR – Aiguillage au directeur CO – Ordre de conformité WAO – Ordres : travaux et activités</p>
<p>Non-compliance with requirements under the Long-Term Care Homes Act, 2007 (LTCHA) was found. (a requirement under the LTCHA includes the requirements contained in the items listed in the definition of "requirement under this Act" in subsection 2(1) of the LTCHA).</p> <p>The following constitutes written notification of non-compliance under paragraph 1 of section 152 of the LTCHA.</p>	<p>Le non-respect des exigences de la Loi de 2007 sur les foyers de soins de longue durée (LFSLD) a été constaté. (une exigence de la loi comprend les exigences qui font partie des éléments énumérés dans la définition de « exigence prévue par la présente loi », au paragraphe 2(1) de la LFSLD.</p> <p>Ce qui suit constitue un avis écrit de non-respect aux termes du paragraphe 1 de l'article 152 de la LFSLD.</p>

**WN #1: The Licensee has failed to comply with LTCHA, 2007 S.O. 2007, c.8, s. 60.
Powers of Family Council**
Specifically failed to comply with the following:

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

Findings/Faits saillants :

1. The licensee failed to comply with LTCHA, 2007, s. 60 (2), by not ensuring concerns



or recommendations of the Family Council are responded to in writing within ten days of receiving such.

Family #003, as well as Family #004, both indicated the Administrator has not responded to the concerns of Family Council within ten days. Family Council representatives have further indicated that responses of the licensee if any were not responded to in full or satisfactorily, specifically concerns forwarded to the Administrator, in writing, on two separate occasions.

Letters dated on two separate dates, written by Family #004, on behalf of the Family Council, and forwarded to the Administrator of the long-term care home were reviewed by the inspector.

On an identified date, the Family Council requested information and or raised the following concerns:

Emergency Generator:

- The Family Council has previously requested information regarding the details of the arrangement made with a private company to provide an emergency generator that would be operational within three hours of a power outage. Information has not been received by the Family Council.
- The Family Council's concern is that, in the event of a large scale power outage (as occurred in December 2014), there will be a great demand for a very limited number of generators. What assurances is there that will, in fact, guarantee the installation of a generator within three hours.
- The Family Council would like to know what the required testing schedule is, and how the emergency plan and generator testing is carried out.

Patio and Gardens:

- The Family Council requests that it be advised if the correction action plan was sent to the Ministry of Health and Long-Term Care, specific to repairs of the patio and garden; the Family Council is requesting a copy of the said plan.
- The Family Council stated they have concerns with the yellow tape barrier that is currently being used to restrict most areas of the patio/garden; the Family Council believes it is inadequate to prevent access to dangerous areas. The yellow tape is often sitting on the ground. The unrestricted ground areas of the patio that are currently being used to access the smoking area, is just as dangerous, and equally in need of repair as the restricted areas, which presents an ongoing risk to residents.

On another identified date, eleven days following the first correspondence from the Family Council, the Administrator provided a written response to the Family Council, indicating that representatives from corporate office would be in attendance at the next Family Council Meeting; this meeting was scheduled, by Family Council, to be held on a specific date in early June 2016. The letter, from the Administrator indicated the purpose of attendance, by representatives of corporate office, at the Family Council meeting was to answer questions raised and to further discuss concerns of the Family Council.

On an identified date, the Family Council sent a second letter to the Administrator, indicating that the response received on this same date, did not address the Family Council's concerns or questions raised in their letter eleven days earlier, specifically concerns regarding the emergency generator and or the patio/garden. Family Council once again requested information and raised concerns regarding the following:

Emergency Plan, specifically around power outages and a generator:

- Family Council is requesting that the licensee provide assurances that a generator would be in place and operational within three hours of a power outage. Further requesting details of the emergency generator testing schedule and how testing is to be carried out. The response by the licensee on the identified date, does not address our concerns sent eleven days ago.

Patio and Garden:

-Family Council indicated that areas of the patio/garden that are currently accessible are equally in need of repair as the area that is currently not accessible. Numerous tripping hazards exist. The response by the licensee on the identified date, does not address our concerns forwarded eleven days earlier.

On another date, the Administrator provided a written response to the Family Council's second letter of concern. The Administrator's response was eleven days following receipt of the said letter.

On an identified date, Family #004 responded the Administrator's response and indicated the following:

- Family Council stated that on an identified date, the licensee agreed to provide the Family Council with the home's emergency plan, specifically as such relates to the generator; as of this time, only some sections of the emergency plan have been provided. Family Council indicated that only portions of the emergency plan were



provided, and such did not contain details relevant to testing schedules, how testing is to be carried out and or staff training. Family Council indicated that information received, by the licenses, is far less than what was promised.

Family #003 and Family #004 were interviewed during this inspection, both indicated, to the inspector "that it is their belief, the above concerns and requested information specific to, the emergency plan, generator, and the patio/gardens have not been responded to in full or satisfactorily by the licensee, nor were such responded to within ten days".

The licensee has failed to ensure concerns or recommendations of the Family Council are responded to in writing within ten days of receiving such. [s. 60. (2)]

Additional Required Actions:

VPC - pursuant to the Long-Term Care Homes Act, 2007, S.O. 2007, c.8, s.152(2) the licensee is hereby requested to prepare a written plan of correction for achieving compliance to ensure there is a process in place and monitored ensuring that concerns or recommendations of the Family Council are responded to within ten days, to be implemented voluntarily.



**WN #2: The Licensee has failed to comply with LTCHA, 2007 S.O. 2007, c.8, s. 65.
No interference by licensee**

A licensee of a long-term care home,

(a) shall not interfere with the meetings or operation of the Residents' Council or the Family Council;

(b) shall not prevent a member of the Residents' Council or Family Council from entering the long-term care home to attend a meeting of the Council or to perform any functions as a member of the Council and shall not otherwise hinder, obstruct or interfere with such a member carrying out those functions;

(c) shall not prevent a Residents' Council assistant or a Family Council assistant from entering the long-term care home to carry out his or her duties or otherwise hinder, obstruct or interfere with such an assistant carrying out those duties; and

(d) shall ensure that no staff member, including the Administrator or other person involved in the management or operation of the home, does anything that the licensee is forbidden to do under clauses (a) to (c). 2007, c. 8, s. 65.

Findings/Faits saillants :

1. The licensee failed to comply with LTCHA, 2007, s. 65, by not ensuring that the operations of the Family Council are not interfered with, specifically (a) shall not interfere with the operations of the Family Council; and (d) shall ensure that not staff member, including the Administrator or other person involved in the management or operation of the home, does anything that the licensee if forbidden to do under clauses (a) to (c).

Under LTCHA, 2007, s. 60 (1), a Family Council of a long-term care home has the power to do any or all of the following, specifically, (1) to provide assistance, information and advice to residents, family members of residents and persons of importance to residents, including when new residents are admitted to the home; and (8) to advise the licensee of any concerns or recommendations the Council has about the operations of the home.

A representative of the Family Council posted information on an identified date, regarding the following:

The first poster – Contained information, specific to an announcement made by licensee



during a date in early June 2016, regarding the closure of the long-term care home. The poster, posted by the Family Council advised residents, families and others to contact their local M.P.P and or the Ministry of Health and Long-Term Care if they had any questions regarding the posted information.

- The second poster – Contained information, advising residents, resident families and staff about an upcoming Town Hall Meeting, being held a specific date. The meeting was specific to the proposed closure of Ballycliffe Lodge.

According to Family Council representative (Family #004), the posters were placed in various locations throughout the home.

Family Council representatives, Family #003 and Family #004, both indicated that up until this time, it had been the practice to communicate to residents and their families using the poster/memo format, and further indicated, they had always posted information (e.g. meeting invites) in the past without any concerns voiced by the licensee.

Representatives of the Family Council indicated that the intent of posting the said information on the identified date was to communicate with, advise and inform residents and their families regarding the operations of the Family Council, operations of the home and upcoming events.

Family #004, who is a representative of the Family Council, indicated that he/she arrived to the long-term care home the next day, to find that all of the posters, which had been posted by Family Council, had been removed, including the posters on the Family Council board. Family #004 indicated that he/she asked the Duty Manager about the missing posters, and was informed, by the Duty Manger, that the Administrator had been in earlier, that day, and had removed the posted information/material.

The Administrator acknowledged that she had removed the posted information, as she believed "the information posted by the Family Council was not factual and that the information posted had the potential to cause fear amongst residents, their families and staff". The Administrator indicated that she had consulted with a representative from corporate office, specifically her direct supervisor and that a decision was made to remove the information posted by the Family Council.

The Administrator indicated that there was no discussion with the Family Council prior to the removal of the said posters.



Family #004 indicated, to the inspector, "that according to the Act, Family Council's powers include, providing assistance, information and advice to residents, and their families". Family #004 indicated "the Family Council's intent when posting the said posters was to provide residents and their families' information and advice regarding the announced closure of the home and were to seek additional information". Family #004, who represents the Family Council indicated, to the inspector, "it is the belief of the Family Council that the licensee has interfered with the operations of the Family Council, by removing the posters".

2) Family #004, who is a representative of the Family Council, indicated that three days following the removal of the said posters, he/she received a letter from the Vice President, Legal, for the corporation. The letter received was in response to an email which he/she had sent to the Administrator about the removal of the posters.

The letter, written by the corporations Vice President, Legal, included but was not limited to the following content:

This letter is in response to email sent to the Administrator, from Family #004, regarding the removal of a poster posted in the Residence by Family Council. Removal of the poster was not unlawful. The poster in question was posted on private property without authorization. The Long Term Care Homes Act does not give the Family Council an unfettered right to post material in the Residence.

The corporation fully supports Family Councils in all of its homes and will continue to cooperate with the Residence's Family Council as required by the Act. However, as a result of recent conduct by some members of the Family Council, it is necessary for the Residence to put in place a protocol in order to ensure that Family Council operates within the parameters of the Act without interfering with the operations of the Residence.

Effective immediately, the following applies to the Family Council:

- Family Council will not post anything anywhere in the Residence without the approval of the Administrator. Any unauthorized postings will be removed. As always, notices regarding upcoming Family Council meetings will be permitted to be posted and minutes from the meetings will be available on the main hallway bulletin board for review by families.
- Family Council members are to refrain from speaking to residents about Family Council matters without the authorization from the resident's substitute decision maker or family



member as families have different views regarding the level of information they want their loved one to have.

The Administrator indicated that the intent of the letter, written by Legal for the corporation to Family #004 and copied to the Family Council was to ensure there were protocols in place as it was believed by herself and the corporation, that Family #004 and other members of the Family Council were causing fear amongst residents and families regarding the announcement made to the Council in early June 2016. The Administrator further indicated that Family Council was posting information that was not believed to be factual.

The Administrator commented that any posted information and or materials posted by the Family Council without her approval would be removed as per the letter provided to Family #004. The Administrator indicated the intent of her authorization was to ensure what Family Council was posting was factual.

Family #003 and Family #004 both indicated, to the inspector, “that the Family Council will continue to post information and materials, as they have done prior to the letter from the corporation and will not be obtaining pre-approval or authorization as to posting content from the Administrator”. Family #003 indicated, to the inspector, “that it is Family Council's belief that seeking approval or authorization is corporation's attempt at censoring information and or materials posted by the Family Council”. Both Family Council members indicated “they will continue to communicate to residents, their families and staff, as this is their right, as family members of residents residing in the long-term care home”.

Family #003 and Family #004, both, indicated, to the inspector, “it is their belief, that the letter, and the actions of the Administrator, is clearly contrary to the Act, which states that Family Council has the power to, provide assistance, information and advice to residents, family members and persons of importance to residents”.

The licensee has failed to ensure that the operations of the Family Council are not interfered with, specifically as such relates to the powers of the Family Council, under LTCHA, 2007, s. 60 (1). [s. 65.]



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Additional Required Actions:

VPC - pursuant to the Long-Term Care Homes Act, 2007, S.O. 2007, c.8, s.152(2) the licensee is hereby requested to prepare a written plan of correction for achieving compliance ensuring that meetings and the operation of the Family Council is not interfered with, to be implemented voluntarily.

**WN #3: The Licensee has failed to comply with LTCHA, 2007 S.O. 2007, c.8, s. 79.
Posting of information**



Specifically failed to comply with the following:

- s. 79. (3) The required information for the purposes of subsections (1) and (2) is,
- (a) the Residents' Bill of Rights; 2007, c. 8, s. 79 (3)
 - (b) the long-term care home's mission statement; 2007, c. 8, s. 79 (3)
 - (c) the long-term care home's policy to promote zero tolerance of abuse and neglect of residents; 2007, c. 8, s. 79 (3)
 - (d) an explanation of the duty under section 24 to make mandatory reports; 2007, c. 8, s. 79 (3)
 - (e) the long-term care home's procedure for initiating complaints to the licensee; 2007, c. 8, s. 79 (3)
 - (f) the written procedure, provided by the Director, for making complaints to the Director, together with the name and telephone number of the Director, or the name and telephone number of a person designated by the Director to receive complaints; 2007, c. 8, s. 79 (3)
 - (g) notification of the long-term care home's policy to minimize the restraining of residents, and how a copy of the policy can be obtained; 2007, c. 8, s. 79 (3)
 - (h) the name and telephone number of the licensee; 2007, c. 8, s. 79 (3)
 - (i) an explanation of the measures to be taken in case of fire; 2007, c. 8, s. 79 (3)
 - (j) an explanation of evacuation procedures; 2007, c. 8, s. 79 (3)
 - (k) copies of the inspection reports from the past two years for the long-term care home; 2007, c. 8, s. 79 (3)
 - (l) orders made by an inspector or the Director with respect to the long-term care home that are in effect or that have been made in the last two years; 2007, c. 8, s. 79 (3)
 - (m) decisions of the Appeal Board or Divisional Court that were made under this Act with respect to the long-term care home within the past two years; 2007, c. 8, s. 79 (3)
 - (n) the most recent minutes of the Residents' Council meetings, with the consent of the Residents' Council; 2007, c. 8, s. 79 (3)
 - (o) the most recent minutes of the Family Council meetings, if any, with the consent of the Family Council; 2007, c. 8, s. 79 (3)
 - (p) an explanation of the protections afforded under section 26; 2007, c. 8, s. 79 (3)
 - (q) any other information provided for in the regulations. 2007, c. 8, s. 79 (3)

Findings/Faits saillants :



1. The licensee failed to comply with LTCHA, 2007, s. 79 (3), by not ensuring that required information is posted in the home, in a conspicuous and easily accessible location in a manner that complies with the requirements, if any, established by the regulations, specifically failed to post, copies of inspection reports from the past two years for the long term care home, and orders made by the inspector or the Director with respect to the long term care home that are in effect or that have been made in the last two years.

Inspection Report #2016_293554_0001 and the associated order, specific to this report, were not posted within the home or contained with the home's Inspection Reports binder.

The Administrator indicated that she had returned to her role on an identified date and had not reviewed the Inspection Report binder, and thus, was not aware that the binder had not been updated by the individual who was covering during her absence.

The Administrator indicated that it is an expectation that inspection reports and orders are posted for public viewing, as per the legislative requirement. [s. 79. (3)]

Additional Required Actions:

VPC - pursuant to the Long-Term Care Homes Act, 2007, S.O. 2007, c.8, s.152(2) the licensee is hereby requested to prepare a written plan of correction for achieving compliance to ensure there is a process in place and monitored ensuring that required information is posted in the home, to be implemented voluntarily.



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Issued on this 12th day of August, 2016

Signature of Inspector(s)/Signature de l'inspecteur ou des inspecteurs

Original report signed by the inspector.