Ontario

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

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

Toronto Service Area Office
5700 Yonge Street 5th Floor
TORONTO ON M2M 4K5
Telephone: (416) 325-9660
Facsimile: (416) 327-4486

Bureau régional de services de Toronto
5700, rue Yonge 5e étage
TORONTO ON M2M 4K5
Téléphone: (416) 325-9660
Télécopieur: (416) 327-4486

Public Copy/Copie du public

Report Date(s) / Date(s) du Rapport	Inspection No / No de l'inspection	Log # / No de registre	Type of Inspection / Genre d'inspection
Oct 16, 2019	2019_616722_0020	004136-19	Complaint

Licensee/Titulaire de permis

Elm Grove Living Centre Inc.
35 Elm Grove Avenue TORONTO ON M6K 2J2

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

Elm Grove Living Centre
35 Elm Grove Avenue TORONTO ON M6K 2J2

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

COREY GREEN (722)

Inspection Summary/Résumé de l'inspection

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

This inspection was conducted on the following date(s): October 8 and 9, 2019

Complaint log #004136-19 related to staffing was inspected during this inspection.

During the course of the inspection, the inspector(s) spoke with the Administrator, the Director of Care (DOC), the Resident Quality Care Supervisor (RQCS), Registered Nurses (RNs), Registered Practical Nurses (RPNs), and Personal Support Workers (PSWs).

During the inspection, observations were made, and administrative records were reviewed related to staffing.

The following Inspection Protocols were used during this inspection:
Sufficient Staffing

During the course of this inspection, Non-Compliances were issued.
1 WN(s)
0 VPC(s)
1 CO(s)
0 DR(s)
0 WAO(s)

NON-COMPLIANCE / NON - RESPECT DES EXIGENCES	
Legend WN – Written Notification VPC – Voluntary Plan of Correction DR – Director Referral CO – Compliance Order WAO – Work and Activity Order	Légende WN – Avis écrit VPC – Plan de redressement volontaire DR – Aiguillage au directeur CO – Ordre de conformité WAO – Ordres : travaux et activités
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). The following constitutes written notification of non-compliance under paragraph 1 of section 152 of the LTCHA.	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. Ce qui suit constitue un avis écrit de non-respect aux termes du paragraphe 1 de l'article 152 de la LFSLD.

WN #1: The Licensee has failed to comply with O.Reg 79/10, s. 213. Director of Nursing and Personal Care

Specifically failed to comply with the following:

s. 213. (1) Every licensee of a long-term care home shall ensure that the home’s Director of Nursing and Personal Care works regularly 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. O. Reg. 79/10, s. 213 (1).
2. In a home with a licensed bed capacity of more than 19 but fewer than 30 beds, at least eight hours per week. O. Reg. 79/10, s. 213 (1).
3. In a home with a licensed bed capacity of more than 29 but fewer than 40 beds, at least 16 hours per week. O. Reg. 79/10, s. 213 (1).
4. In a home with a licensed bed capacity of more than 39 but fewer than 65 beds, at least 24 hours per week. O. Reg. 79/10, s. 213 (1).
5. In a home with a licensed bed capacity of 65 beds or more, at least 35 hours per week. O. Reg. 79/10, s. 213 (1).

Findings/Faits saillants :

The licensee has failed to ensure that the home’s Director of Nursing and Personal Care worked regularly in that position on-site at the home for at least 35 hours per week.

A complaint was received by the Ministry of Long-Term Care (MLTC) that the home did not have a Director of Care (DOC) working full-time on-site in the home for specified periods of time. The Complainant expressed concern that there was not a DOC in the building, and that when staff had concerns about resident care, or needed supplies, they were expected to go to another staff person who was covering for the DOC and was not a RN.

The DOC was not observed by Inspector #722 to be present in the home during the inspection.

Inspector #722 separately interviewed two RNs, two RPNs, and two PSWs. All those interviewed confirmed that for specified periods, the DOC was not working on-site in the home any day of the week, and that currently they were working several days each week on-site in the home. They all indicated that they would initially contact an identified RPN in the home for any issues related to staffing or resident care that could not be addressed immediately by staff on the unit. The registered staff referred to the identified RPN as the Assistant Director of Care (ADOC), and said that they had little interaction with the DOC.

The PSWs explained that their issues were usually resolved by reporting to the nursing staff. The registered staff explained that they were able to resolve most issues related to resident care themselves, or with the assistance of the identified RPN, before escalating to the DOC. All staff interviewed indicated that they thought the identified RPN was covering the duties of the DOC in the home.

Inspector #722 interviewed the DOC by telephone, who confirmed that they were not working on-site in the home for 35 hours per week for prolonged periods over a specified duration of time and for identified reasons. The DOC acknowledged that for two identified periods, they were away from the home on specified leave and unavailable for work. The DOC acknowledged during the interview that they should be working in the home at least 35 hours per week. They were under the impression that being available by phone, email, and with remote access to all required work documents (e.g., clinical records, 24-hour shift reports, etc.) was sufficient. The DOC explained that they corresponded daily with an identified RPN, who provided on-site support when they worked off-site. However, they also confirmed that the identified RPN was not an ADOC, and they were not delegated to act as DOC, as they were not an RN.

Review of the home's monthly Board Meeting Minutes for a specified period showed that the Board was aware of and approved the work arrangements that involved the DOC working off-site either full-time or part-time for prolonged periods. The minutes also indicated that they and the Administrator were aware that the identified RPN was not qualified to act as DOC, as they were not an RN.

The Director of Care – Job Description policies, last revised August 2018 and July 2019, were reviewed, and indicated that the DOC's regular hours of work were 40 hours per week, including occasional weekends, evening, and night shifts, and on-call after hours. The policy did not specify that the hours needed to be worked on-site in the home.

Email correspondence between the Administrator and DOC was reviewed and confirmed that the Administrator was aware of and provided approval for the DOC's work arrangements for specified periods, including working off-site on a full-time basis for prolonged periods of time.

The Administrator was interviewed and acknowledged the above information related to the DOC's work arrangements, and confirmed that they were aware and approved the DOC's absences for specified reasons, as well as gave permission for the DOC to work off-site from home for specified periods. The Administrator confirmed that there was not

an acting DOC on-site in the home on the days that the DOC was either on specified leave or working off-site. They stated that the identified RPN was fulfilling many of the on-site duties of the DOC, and acknowledged that they were not able to be the acting DOC because they were not a RN. The Administrator stated that they had been unable to identify a RN among their staff who was willing to take on an interim DOC role, when the current DOC was unable to be working on-site in the home.

The Administrator was aware that the DOC needed to be a RN, and that they were required to work in the home 35 hours per week, but acknowledged that they thought being accessible by phone, email, and having access to clinical records and other work files remotely was considered “working in the home.” The Administrator explained that this situation arose for specified reasons, and that they were uncertain as to when the DOC would be able to work on-site in the home for their regular hours.

The Administrator acknowledged that the current DOC had not worked for 35 hours per week on-site in the home for any week since November 2018. [s. 213. (1)]

Additional Required Actions:

CO # - 001 will be served on the licensee. Refer to the “Order(s) of the Inspector”.

Issued on this 1st day of November, 2019

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

Original report signed by the inspector.

Ontario

Order(s) of the Inspector

Ordre(s) de l'inspecteur

Pursuant to section 153 and/or section 154 of the *Long-Term Care Homes Act, 2007*, S.O. 2007, c. 8

Aux termes de l'article 153 et/ou de l'article 154 de la *Loi de 2007 sur les foyers de soins de longue durée*, L. O. 2007, chap. 8

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

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

Public Copy/Copie du public

Name of Inspector (ID #) / Nom de l'inspecteur (No) : COREY GREEN (722)

Inspection No. / No de l'inspection : 2019_616722_0020

Log No. / No de registre : 004136-19

Type of Inspection / Genre d'inspection: Complaint

Report Date(s) / Date(s) du Rapport : Oct 16, 2019

Licensee / Titulaire de permis : Elm Grove Living Centre Inc.
35 Elm Grove Avenue, TORONTO, ON, M6K-2J2

LTC Home / Foyer de SLD : Elm Grove Living Centre
35 Elm Grove Avenue, TORONTO, ON, M6K-2J2

Name of Administrator / Nom de l'administratrice ou de l'administrateur : Sandro Perciamontani

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To Elm Grove Living Centre Inc., you are hereby required to comply with the following order(s) by the date(s) set out below:

Order # / Ordre no : 001

Order Type / Genre d'ordre : Compliance Orders, s. 153. (1) (a)

Pursuant to / Aux termes de :

O.Reg 79/10, s. 213. (1) Every licensee of a long-term care home shall ensure that the home's Director of Nursing and Personal Care works regularly 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.
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5. In a home with a licensed bed capacity of 65 beds or more, at least 35 hours per week. O. Reg. 79/10, s. 213 (1).

Order / Ordre :

The licensee must be compliant with O. Reg. 79/10, s. 213 (1).

Specifically, the licensee must ensure that there is a Director of Care who is a registered nurse and works regularly in that position on site at the home for at least 35 hours per week.

Grounds / Motifs :

1. The licensee has failed to ensure that the home's Director of Nursing and Personal Care worked regularly in that position on-site at the home for at least 35 hours per week.

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The Administrator was aware that the DOC needed to be a RN, and that they were required to work in the home 35 hours per week, but acknowledged that they thought being accessible by phone, email, and having access to clinical records and other work files remotely was considered "working in the home." The Administrator explained that this situation arose for specified reasons, and that they were uncertain as to when the DOC would be able to work on-site in the home for their regular hours.

The Administrator acknowledged that the current DOC had not worked for 35 hours per week on-site in the home for any week since November 2018. [s. 213. (1)] (722)

This order must be complied with by /
Vous devez vous conformer à cet ordre d’ici le : Dec 20, 2019

REVIEW/APPEAL INFORMATION

TAKE NOTICE:

The Licensee has the right to request a review by the Director of this (these) Order(s) and to request that the Director stay this (these) Order(s) in accordance with section 163 of the Long-Term Care Homes Act, 2007.

The request for review by the Director must be made in writing and be served on the Director within 28 days from the day the order was served on the Licensee.

The written request for review must include,

(a) the portions of the order in respect of which the review is requested;
(b) any submissions that the Licensee wishes the Director to consider; and
(c) an address for services for the Licensee.

The written request for review must be served personally, by registered mail, commercial courier or by fax upon:

Director
c/o Appeals Coordinator
Long-Term Care Inspections Branch
Ministry of Health and Long-Term Care
1075 Bay Street, 11th Floor
Toronto, ON M5S 2B1
Fax: 416-327-7603

When service is made by registered mail, it is deemed to be made on the fifth day after the day of mailing, when service is made by a commercial courier it is deemed to be made on the second business day after the day the courier receives the document, and when service is made by fax, it is deemed to be made on the first business day after the day the fax is sent. If the Licensee is not served with written notice of the Director's decision within 28 days of receipt of the Licensee's request for review, this(these) Order(s) is(are) deemed to be confirmed by the Director and the Licensee is deemed to have been served with a copy of that decision on the expiry of the 28 day period.

The Licensee has the right to appeal the Director's decision on a request for review of an Inspector's Order(s) to the Health Services Appeal and Review Board (HSARB) in accordance with section 164 of the Long-Term Care Homes Act, 2007. The HSARB is an independent tribunal not connected with the Ministry. They are established by legislation to review matters concerning health care services. If the Licensee decides to request a hearing, the Licensee must, within 28 days of being served with the notice of the Director's decision, give a written notice of appeal to both:

Order(s) of the Inspector

Ordre(s) de l’inspecteur

Pursuant to section 153 and/or section 154 of the *Long-Term Care Homes Act, 2007*, S.O. 2007, c. 8

Aux termes de l’article 153 et/ou de l’article 154 de la *Loi de 2007 sur les foyers de soins de longue durée*, L. O. 2007, chap. 8

Health Services Appeal and Review Board and the Director

Attention Registrar
Health Services Appeal and Review Board
151 Bloor Street West, 9th Floor
Toronto, ON M5S 1S4

Director
c/o Appeals Coordinator
Long-Term Care Inspections Branch
Ministry of Health and Long-Term Care
1075 Bay Street, 11th Floor
Toronto, ON M5S 2B1
Fax: 416-327-7603

Upon receipt, the HSARB will acknowledge your notice of appeal and will provide instructions regarding the appeal process. The Licensee may learn more about the HSARB on the website www.hsarb.on.ca.

RENSEIGNEMENTS RELATIFS AUX RÉEXAMENS DE DÉCISION ET AUX APPELS

PRENEZ AVIS :

Le/la titulaire de permis a le droit de faire une demande de réexamen par le directeur de cet ordre ou de ces ordres, et de demander que le directeur suspende cet ordre ou ces ordres conformément à l'article 163 de la Loi de 2007 sur les foyers de soins de longue durée.

La demande au directeur doit être présentée par écrit et signifiée au directeur dans les 28 jours qui suivent la signification de l'ordre au/à la titulaire de permis.

La demande écrite doit comporter ce qui suit :

a) les parties de l'ordre qui font l'objet de la demande de réexamen;
b) les observations que le/la titulaire de permis souhaite que le directeur examine;
c) l'adresse du/de la titulaire de permis aux fins de signification.

La demande de réexamen présentée par écrit doit être signifiée en personne, par courrier recommandé, par messagerie commerciale ou par télécopieur, au :

Directeur
a/s du coordonnateur/de la coordonnatrice en matière d'appels
Direction de l'inspection des foyers de soins de longue durée
Ministère de la Santé et des Soins de longue durée
1075, rue Bay, 11e étage
Toronto ON M5S 2B1
Télécopieur : 416-327-7603

Quand la signification est faite par courrier recommandé, elle est réputée être faite le cinquième jour qui suit le jour de l'envoi, quand la signification est faite par messagerie commerciale, elle est réputée être faite le deuxième jour ouvrable après le jour où la messagerie reçoit le document, et lorsque la signification est faite par télécopieur, elle est réputée être faite le premier jour ouvrable qui suit le jour de l'envoi de la télécopie. Si un avis écrit de la décision du directeur n'est pas signifié au/à la titulaire de permis dans les 28 jours de la réception de la demande de réexamen présentée par le/la titulaire de permis, cet ordre ou ces ordres sont réputés être confirmés par le directeur, et le/la titulaire de permis est réputé(e) avoir reçu une copie de la décision en question à l'expiration de ce délai.

Le/la titulaire de permis a le droit d'interjeter appel devant la Commission d'appel et de révision des services de santé (CARSS) de la décision du directeur relative à une demande de réexamen d'un ordre ou des ordres d'un inspecteur ou d'une inspectrice conformément à l'article 164 de la Loi de 2007 sur les foyers de soins de longue durée. La CARSS est un tribunal autonome qui n'a pas de lien avec le ministère. Elle est créée par la loi pour examiner les questions relatives aux services de santé. Si le/la titulaire décide de faire une demande d'audience, il ou elle doit, dans les 28 jours de la signification de l'avis de la décision du directeur, donner par écrit un avis d'appel à la fois à :

la Commission d'appel et de révision des services de santé et au directeur

À l'attention du/de la registrateur(e)
Commission d'appel et de revision des services de santé
151, rue Bloor Ouest, 9e étage
Toronto ON M5S 1S4

Directeur
a/s du coordonnateur/de la coordonnatrice en matière d'appels
Direction de l'inspection des foyers de soins de longue durée
Ministère de la Santé et des Soins de longue durée
1075, rue Bay, 11e étage
Toronto ON M5S 2B1
Télécopieur : 416-327-7603

À la réception de votre avis d'appel, la CARSS en accusera réception et fournira des instructions relatives au processus d'appel. Le/la titulaire de permis peut en savoir davantage sur la CARSS sur le site Web www.hsarb.on.ca.

Issued on this 16th day of October, 2019

Signature of Inspector / Signature de l'inspecteur :

Name of Inspector / Nom de l'inspecteur : Corey Green

Service Area Office / Bureau régional de services : Toronto Service Area Office