

Ministry of Long-Term Care

Long-Term Care Operations Division
Long-Term Care Inspections Branch

London District

130 Dufferin Avenue, 4th Floor
London, ON, N6A 5R2
Telephone: (800) 663-3775

Original Public Report

Report Issue Date: June 18, 2024

Inspection Number: 2024-1382-0002

Inspection Type:

Complaint
Critical Incident

Licensee: S & R Nursing Homes Ltd.

Long Term Care Home and City: Heron Terrace Long Term Care Community,
Windsor

INSPECTION SUMMARY

The inspection occurred onsite on the following date(s): May 14, 15, 2024.
The inspection occurred offsite on the following date(s): May 16, 17, 21, 22, 23, 24,
27, 28, 29, 30, 2024.

The following intake(s) were inspected:

- Intake #00115810 - Complaint related to records required for employment.
- Intake #00117085 - Critical Incident related to records required for employment.

The following **Inspection Protocols** were used during this inspection:

Infection Prevention and Control
Safe and Secure Home

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INSPECTION RESULTS

WRITTEN NOTIFICATION: Reporting certain matters to Director

NC #001 Written Notification pursuant to FLTCA, 2021, s. 154 (1) 1.

Non-compliance with: FLTCA, 2021, s. 28 (1) 3.

Reporting certain matters to Director

s. 28 (1) A person who has reasonable grounds to suspect that any of the following has occurred or may occur shall immediately report the suspicion and the information upon which it is based to the Director:

3. Unlawful conduct that resulted in harm or a risk of harm to a resident.

Through interviews, inspectors were informed that the Administrator and the licensee became aware of possible unlawful conduct related to records required for employment from a staffing agency. The licensee did not immediately report the concern, the home management staff reported it to the Director 38 days later.

Sources: A critical incident report, staffing agency staff records, staff interviews and email communications, the VP S&R Nursing Homes Ltd., and RCI PSISB.

WRITTEN NOTIFICATION: Staff records

NC #002 Written Notification pursuant to FLTCA, 2021, s. 154 (1) 1.

Non-compliance with: O. Reg. 246/22, s. 278 (1) 1.

Staff records

s. 278 (1) Subject to subsections (2) and (3), every licensee of a long-term care home shall ensure that a 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.

The Fixing Long Term Care Act, 2021, s. 2 states: "staff", in relation to a long-term

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care home, means persons who work at the home,

(a) as employees of the licensee,

(b) pursuant to a contract or agreement with the licensee, or

(c) pursuant to a contract or agreement between the licensee and an employment agency or other third party; ("personnel")

The licensee has failed to ensure that a record was kept for each staffing agency staff member that included the staff member's qualifications, previous employment and other relevant experience. Inspectors requested and were provided agency staff records, upon reviewing the records, they did not include all of the required documents.

Sources: Staffing agency staff records, staff interviews and email communications.

COMPLIANCE ORDER CO #001 Orientation

NC #003 Compliance Order pursuant to FLTCA, 2021, s. 154 (1) 2.

Non-compliance with: FLTCA, 2021, s. 82 (2) 3.

Training

s. 82 (2) Every licensee shall ensure that no person mentioned in subsection (1) performs their responsibilities before receiving training in the areas mentioned below:

3. The long-term care home's policy to promote zero tolerance of abuse and neglect of residents.

The inspector is ordering the licensee to comply with a Compliance Order [FLTCA, 2021, s. 155 (1) (a)]:

The licensee shall:

- A) Review and revise as necessary, its process for ensuring all staff receive training in the home's policy to promote zero tolerance of abuse and neglect

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of residents before performing their responsibilities. Keep a record of this review, who participated, the date it occurred, and any changes made.

- B) Ensure that all new staff hired pursuant to a contract, receive training in the home's policy to promote zero tolerance of abuse and neglect of residents, before they perform their responsibilities.
- C) Complete an audit of training for all current staff hired pursuant to a contract, to determine if any staff working have not received training in the home's policy to promote zero tolerance of abuse and neglect of residents. Keep a record of the audit, date completed, who completed it, and results. Ensure that for any staff identified in the audit as not having completed the training, the training is provided and keep a record of the training.

Grounds

The Fixing Long Term Care Act, 2021, s. 2 states: "staff", in relation to a long-term care home, means persons who work at the home,

- (a) as employees of the licensee,
- (b) pursuant to a contract or agreement with the licensee, or
- (c) pursuant to a contract or agreement between the licensee and an employment agency or other third party; ("personnel")

The licensee has failed to ensure that all of the staffing agency staff received training in the long-term care home's policy to promote zero tolerance of abuse and neglect of residents, before performing their responsibilities. Inspectors requested and were provided agency staff records. Upon reviewing the records, some of the records included printed copies of training completed. Of those training records, not all of them included the home's policy to promote zero tolerance of abuse and neglect of residents. Home staff confirmed that not all staff received training related to the home's policy to promote zero tolerance of abuse and neglect of residents before performing their responsibilities.

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Sources: Identified staffing agency staff records, staff interviews and email communications.

This order must be complied with by July 16, 2024

COMPLIANCE ORDER CO #002 Infection prevention and control program

NC #004 Compliance Order pursuant to FLTCA, 2021, s. 154 (1) 2.

Non-compliance with: O. Reg. 246/22, s. 102 (12) 4.

Infection prevention and control program

s. 102 (12) The licensee shall ensure that the following immunization and screening measures are in place:

4. Staff is screened for tuberculosis and other infectious diseases in accordance with any standard or protocol issued by the Director under subsection (2).

The inspector is ordering the licensee to comply with a Compliance Order [FLTCA, 2021, s. 155 (1) (a)]:

The licensee shall:

- A) Review and revise as necessary its process for ensuring all staff are appropriately screened for tuberculosis at time of hire.
- B) Implement the reviewed/revised process to ensure that all staff hired pursuant to a contract have completed a valid negative tuberculosis screening, before they perform their duties.
- C) Complete an audit of all staff hired pursuant to a contract to determine if staff working have a valid negative tuberculosis screening, in accordance with evidence-based practices and where there are none, in accordance with prevailing practices, consistent with s. 102 (12) 4 of O. Reg. 246/22. Keep a record of the audit, date completed, who completed it and results. Ensure that any staff identified in the audit as not having a valid negative tuberculosis screening, in accordance with evidence-based practices and where there are none, in accordance with prevailing practices, consistent with s. 102 (12) 4 of

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O. Reg. 246/22, cease working in the home until a valid negative check has been completed.

Grounds

The Fixing Long Term Care Act, 2021, (FLTCA) s. 2 states: "staff", in relation to a long-term care home, means persons who work at the home,

- (a) as employees of the licensee,
- (b) pursuant to a contract or agreement with the licensee, or
- (c) pursuant to a contract or agreement between the licensee and an employment agency or other third party; ("personnel")

According to the Infection Prevention and Control (IPAC) Standard, s. 11.2, the licensee was required to ensure that staff were screened for tuberculosis and other infectious diseases at time of hire in accordance with evidence-based practices and where there are none, in accordance with prevailing practices.

The FLTCA, s. 162 (1) 2 states: The authority to make an order or issue a notice under sections 155 to 161 against a licensee who has not complied with a requirement under this Act applies regardless of the following, and they shall not be considered in deciding whether to exercise the authority whether, at the time of the non-compliance, the licensee had an honest and reasonable belief in a set of facts that, if true, would have resulted in there not being any non-compliance.

The licensee has failed to ensure that staff hired pursuant to a contract with an identified staffing agency were screened for tuberculosis. Inspectors requested, were provided, and reviewed staffing agency staff records. Interviews with medical clinics confirmed that a staffing agency provided falsified tuberculosis screening documents for the staffing agency staff to the home.

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Sources: Identified staffing agency staff records, the home's contract with the identified staffing agency, interviews with medical clinics, former identified staffing agency staff members, and staff interviews.

This order must be complied with by July 16, 2024

COMPLIANCE ORDER CO #003 Hiring staff, accepting volunteers

NC #005 Compliance Order pursuant to FLTCA, 2021, s. 154 (1) 2.

Non-compliance with: O. Reg. 246/22, s. 252 (3)

Hiring staff, accepting volunteers

s. 252 (3) The police record check must be a vulnerable sector check referred to in paragraph 3 of subsection 8 (1) of the Police Record Checks Reform Act, 2015, and be conducted to determine the person's suitability to be a staff member or volunteer in a long-term care home and to protect residents from abuse and neglect.

The inspector is ordering the licensee to comply with a Compliance Order [FLTCA, 2021, s. 155 (1) (a)]:

The licensee shall:

- A) Review and revise as necessary its process for ensuring that all staff have a valid Vulnerable Sector Check including that it was conducted within six months before their date of hire.
- B) Implement the reviewed/revised process to ensure that all staff hired pursuant to a contract have a valid Vulnerable Sector Check conducted by a police record check provider before they perform their duties.
- C) Complete an audit of all staff hired pursuant to a contract to determine if staff working have a valid Vulnerable Sector Check conducted by a police record check provider within the meaning of the Police Record Checks Reform Act, 2015, and conducted within six months before the staff member was hired.

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Keep a record of the audit, date completed, who completed it and results.
Ensure that any staff identified in the audit as not having a valid Vulnerable Sector Check cease working in the home until a valid negative check has been completed.

Grounds

The Fixing Long Term Care Act, 2021, s. 2 states: "staff", in relation to a long-term care home, means persons who work at the home,

- (a) as employees of the licensee,
- (b) pursuant to a contract or agreement with the licensee, or
- (c) pursuant to a contract or agreement between the licensee and an employment agency or other third party; ("personnel")

The Fixing Long Term Care Act, 2021, s. 162 (1) 2 states: The authority to make an order or issue a notice under sections 155 to 161 against a licensee who has not complied with a requirement under this Act applies regardless of the following, and they shall not be considered in deciding whether to exercise the authority whether, at the time of the non-compliance, the licensee had an honest and reasonable belief in a set of facts that, if true, would have resulted in there not being any non-compliance.

The licensee has failed to ensure that a police record check, which was a vulnerable sector check, was conducted before hiring staffing agency staff members. Inspectors requested, were provided, and reviewed staffing agency staff records. Communication with police forces confirmed that a staffing agency provided falsified Vulnerable Sector Check documents for the staffing agency staff to the home.

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Sources: Email records with a Police Service, identified staffing agency staff records, contract between the identified staffing agency and the licensee, and interviews with RCI, and two former identified staffing agency staff members.

This order must be complied with by July 16, 2024

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REVIEW/APPEAL INFORMATION

TAKE NOTICE

The Licensee has the right to request a review by the Director of this (these) Order(s) and/or this Notice of Administrative Penalty (AMP) in accordance with section 169 of the Fixing Long-Term Care Act, 2021 (Act). The licensee can request that the Director stay this (these) Order(s) pending the review. If a licensee requests a review of an AMP, the requirement to pay is stayed until the disposition of the review.

Note: Under the Act, a re-inspection fee is not subject to a review by the Director or an appeal to the Health Services Appeal and Review Board (HSARB). 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 or AMP was served on the licensee.

The written request for review must include:

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

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

Director

c/o Appeals Coordinator
Long-Term Care Inspections Branch
Ministry of Long-Term Care
438 University Avenue, 8th floor
Toronto, ON, M7A 1N3

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e-mail: MLTC.AppealsCoordinator@ontario.ca

If service is made by:

- (a) registered mail, is deemed to be made on the fifth day after the day of mailing
- (b) email, is deemed to be made on the following day, if the document was served after 4 p.m.
- (c) commercial courier, is deemed to be made on the second business day after the commercial courier received the document

If the licensee is not served with a copy of the Director's decision within 28 days of receipt of the licensee's request for review, this(these) Order(s) is(are) and/or this AMP is deemed to be confirmed by the Director and, for the purposes of an appeal to HSARB, the Director is deemed to have served the licensee with a copy of that decision on the expiry of the 28-day period.

Pursuant to s. 170 of the Act, the licensee has the right to appeal any of the following to HSARB:

- (a) An order made by the Director under sections 155 to 159 of the Act.
- (b) An AMP issued by the Director under section 158 of the Act.
- (c) The Director's review decision, issued under section 169 of the Act, with respect to an inspector's compliance order (s. 155) or AMP (s. 158).

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 an appeal, the licensee must give a written notice of appeal within 28 days from the day the licensee was served with a copy of the order, AMP or Director's decision that is being appealed from. The appeal notice must be given to both HSARB and the Director:

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Health Services Appeal and Review Board

Attention Registrar
151 Bloor Street West, 9th Floor
Toronto, ON, M5S 1S4

Director

c/o Appeals Coordinator
Long-Term Care Inspections Branch
Ministry of Long-Term Care
438 University Avenue, 8th Floor
Toronto, ON, M7A 1N3
e-mail: MLTC.AppealsCoordinator@ontario.ca

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