

Ministère des Soins de longue durée

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

Rapport d'inspection en vertu de la Loi de 2007 sur les foyers de soins de longue durée

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

Division des opérations relatives aux soins de longue durée Inspection de soins de longue durée

Sudbury Service Area Office 159 Cedar Street Suite 403 SUDBURY ON P3E 6A5 Telephone: (705) 564-3130 Facsimile: (705) 564-3133

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Public Copy/Copie du rapport public

Report Date(s) / Date(s) du Rapport No de l'inspection

Inspection No /

Loa #/ No de registre Type of Inspection / **Genre d'inspection**

May 28, 2021

2021 853692 0009 002802-21, 008054-21 Complaint

Licensee/Titulaire de permis

2063412 Ontario Limited as General Partner of 2063412 Investment LP 302 Town Centre Blvd. Suite 300 Markham ON L3R 0E8

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

Muskoka Shores Care Community 200 Kelly Drive Gravenhurst ON P1P 1P3

Name of Inspector(s)/Nom de l'inspecteur ou des inspecteurs SHANNON RUSSELL (692)

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): May 17-21, 2021.

The following intake(s) were inspected upon during this Complaint inspection:
-One log, which was the result of a complaint that had been submitted to the
Director regarding a resident placed in isolation after attending a scheduled
medical appointment; and,

-One log, which was for a complaint that had been submitted to the Director regarding an essential caregiver being denied access to visit the resident.

A Critical Incident System Inspection #2021_853692_0010 was conducted concurrently with this inspection.

During the course of the inspection, the inspector(s) spoke with the Executive Director (ED), Director of Care (DOC), Associate Director of Care (ADOC), Nurse Managers (NMs), Public Health Nurse with the Simcoe Muskoka District Health Unit (SMDHU), Housekeepers, Registered Nurses (RNs), Registered Practical Nurses (RPNs), Personal Support Workers (PSWs), families and residents.

The Inspector(s) also conducted a daily tour of resident care areas, observed the provision of care and services to residents, observed staff to resident and resident to resident interactions, observed infection control practices, reviewed relevant health care records, internal investigation notes, as well as licensee policies, procedures and programs.

The following Inspection Protocols were used during this inspection: Dignity, Choice and Privacy Infection Prevention and Control

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)



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NON-COMPLIANCE / NON - RESPECT DES EXIGENCES	
Legend	Légende
WN – Written Notification VPC – Voluntary Plan of Correction DR – Director Referral CO – Compliance Order WAO – Work and Activity Order	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).	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.
The following constitutes written notification of non-compliance under paragraph 1 of section 152 of the LTCHA.	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 LTCHA, 2007 S.O. 2007, c.8, s. 3. Residents' Bill of Rights



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Specifically failed to comply with the following:

- s. 3. (1) Every licensee of a long-term care home shall ensure that the following rights of residents are fully respected and promoted:
- 11. Every resident has the right to,
- i. participate fully in the development, implementation, review and revision of his or her plan of care,
- ii. give or refuse consent to any treatment, care or services for which his or her consent is required by law and to be informed of the consequences of giving or refusing consent,
- iii. participate fully in making any decision concerning any aspect of his or her care, including any decision concerning his or her admission, discharge or transfer to or from a long-term care home or a secure unit and to obtain an independent opinion with regard to any of those matters, and
- iv. have his or her personal health information within the meaning of the Personal Health Information Protection Act, 2004 kept confidential in accordance with that Act, and to have access to his or her records of personal health information, including his or her plan of care, in accordance with that Act. 2007, c. 8, s. 3 (1).
- s. 3. (1) Every licensee of a long-term care home shall ensure that the following rights of residents are fully respected and promoted:
- 14. Every resident has the right to communicate in confidence, receive visitors of his or her choice and consult in private with any person without interference. 2007, c. 8, s. 3 (1).

Findings/Faits saillants:

1. The licensee has failed to ensure that a resident's right to participate fully in the development, implementation, review and revision of their plan of care was respected and promoted.

As per Directive #3 issued by the Chief Medical Officer of Health, a medical leave was defined as leaving the Long-Term Care Homes (LTCHs) property for medical reasons. The resident was to be provided with a medical mask to be worn (if tolerated) when outside the LTCH, educated on public health measures, and upon return to the LTCH be actively screened but were not required to be tested or self-isolate.

A complaint was submitted to the Director, alleging the LTCH had placed a resident in



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isolation for 14 days after attending a scheduled medical appointment, when that was not the guidelines as per Directive #3.

The LTCH's policy defined a medical absence as a resident leaving the care community for an outpatient medical appointment that did not require an overnight stay and that the resident was to be actively screened but did not require to be tested or placed on isolation measures when they returned to the LTCH.

A review of the resident's care plan indicated they had a history of specified responsive behaviours. Progress notes identified that the resident had been placed in isolation when they returned from a medical appointment and that the substitute decision maker (SDM) had indicated that the resident had been isolated prior to this appointment and had concerns with the resident being isolated again, when it was not required.

The Executive Director (ED) indicated to the Inspector that the LTCH's process for residents attending medical appointments was that they did not require to be isolated if all measures were implemented. The ED identified that they had made the decision to isolate the resident when they returned to the LTCH; therefore, they did not follow the guidelines as per Directive #3.

Sources: Complaint intake, COVID-19 Directive #3 for LTCHs, dated December 26, 2020, the home's policy titled Leave of Absence Guidelines during COVID-19 Pandemic, Ministry of Long-Term Care (MLTC) "COVID-19 Visiting Policy", dated December 26, 2020, and Interviews with ED and other staff members. [s. 3. (1) 11. i.]

2. The licensee has failed to ensure that the resident had the right to receive essential caregivers of their choice.

A complaint was submitted to the Director regarding the SDM for a resident not being able to attend the home as an essential caregiver. The complainant indicated that they had requested to be an essential caregiver for the resident, and when they requested to visit on a specified day of the week, they were told that they could not attend the home on that day as the home did not have the staff to complete the required testing.

As per Directive #3 issued by the Chief Medical Officer of Health, the LTCHs were responsible for supporting, implementing and facilitating residents in receiving essential caregivers while mitigating the risk of exposure to COVID-19. The LTCH would allow each resident to designate up to two essential caregivers to provide direct care support



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to the resident, as currently defined in the directive.

Furthermore, as per the MLTC "COVID-19 Visiting policy", it details that homes may not require scheduling, or restrict the length or frequency, of visits by caregivers. As well, "allowing visitors [was] intended to support the emotional well-being of residents by reducing any potential negative impacts related to social isolation".

In an interview with the ED, they indicated that the LTCH was unable to have essential caregivers attend the home on specific days, as they did not have the staff to complete the required testing prior to their entry. The ED identified that they knew they were not following Directive #3 or the MLTC visiting policy, that they would be unable to until they recruited additional staff and that there had not been any additional options reviewed.

Sources: Complaint intake, COVID-19 Directive #3 for LTCHs, dated May 7, 2021, the home's policy titled, Visitors (COVID-19), MLTC "COVID-19 Visiting Policy", and interviews with ED, and other staff members. [s. 3. (1) 14.]

Additional Required Actions:

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

Issued on this 14th day of June, 2021

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

Original report signed by the inspector.



Ministry of Long-Term

Care

Ministère des Soins de longue

durée

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 Operations Division Long-Term Care Inspections Branch

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Public Copy/Copie du rapport public

Name of Inspector (ID #) /

Nom de l'inspecteur (No): SHANNON RUSSELL (692)

Inspection No. /

No de l'inspection : 2021_853692_0009

Log No. /

No de registre : 002802-21, 008054-21

Type of Inspection /

Genre d'inspection: Complaint

Report Date(s) /

Date(s) du Rapport : May 28, 2021

Licensee /

Titulaire de permis: 2063412 Ontario Limited as General Partner of 2063412

Investment LP

302 Town Centre Blvd., Suite 300, Markham, ON,

L3R-0E8

LTC Home /

Foyer de SLD: Muskoka Shores Care Community

200 Kelly Drive, Gravenhurst, ON, P1P-1P3

Name of Administrator / Nom de l'administratrice

ou de l'administrateur : Angela Coutts



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To 2063412 Ontario Limited as General Partner of 2063412 Investment LP, you are hereby required to comply with the following order(s) by the date(s) set out below:



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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

Order # / Order Type /

No d'ordre: 001 Genre d'ordre: Compliance Orders, s. 153. (1) (a)

Pursuant to / Aux termes de :

LTCHA, 2007 S.O. 2007, c.8, s. 3. (1) Every licensee of a long-term care home shall ensure that the following rights of residents are fully respected and promoted:

- 1. Every resident has the right to be treated with courtesy and respect and in a way that fully recognizes the resident's individuality and respects the resident's dignity.
- 2. Every resident has the right to be protected from abuse.
- 3. Every resident has the right not to be neglected by the licensee or staff.
- 4. Every resident has the right to be properly sheltered, fed, clothed, groomed and cared for in a manner consistent with his or her needs.
- 5. Every resident has the right to live in a safe and clean environment.
- 6. Every resident has the right to exercise the rights of a citizen.
- 7. Every resident has the right to be told who is responsible for and who is providing the resident's direct care.
- 8. Every resident has the right to be afforded privacy in treatment and in caring for his or her personal needs.
- 9. Every resident has the right to have his or her participation in decision-making respected.
- 10. Every resident has the right to keep and display personal possessions, pictures and furnishings in his or her room subject to safety requirements and the rights of other residents.
- 11. Every resident has the right to,
- i. participate fully in the development, implementation, review and revision of his or her plan of care,
- ii. give or refuse consent to any treatment, care or services for which his or her consent is required by law and to be informed of the consequences of giving or refusing consent,
- iii. participate fully in making any decision concerning any aspect of his or her care, including any decision concerning his or her admission, discharge or transfer to or from a long-term care home or a secure unit and to obtain an independent opinion with regard to any of those matters, and
- iv. have his or her personal health information within the meaning of the Personal



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Health Information Protection Act, 2004 kept confidential in accordance with that Act, and to have access to his or her records of personal health information, including his or her plan of care, in accordance with that Act.

- 12. Every resident has the right to receive care and assistance towards independence based on a restorative care philosophy to maximize independence to the greatest extent possible.
- 13. Every resident has the right not to be restrained, except in the limited circumstances provided for under this Act and subject to the requirements provided for under this Act.
- 14. Every resident has the right to communicate in confidence, receive visitors of his or her choice and consult in private with any person without interference.
- 15. Every resident who is dying or who is very ill has the right to have family and friends present 24 hours per day.
- 16. Every resident has the right to designate a person to receive information concerning any transfer or any hospitalization of the resident and to have that person receive that information immediately.
- 17. Every resident has the right to raise concerns or recommend changes in policies and services on behalf of himself or herself or others to the following persons and organizations without interference and without fear of coercion, discrimination or reprisal, whether directed at the resident or anyone else,
- i. the Residents' Council.
- ii. the Family Council,
- iii. the licensee, and, if the licensee is a corporation, the directors and officers of the corporation, and, in the case of a home approved under Part VIII, a member of the committee of management for the home under section 132 or of the board of management for the home under section 125 or 129,
- iv. staff members.
- v. government officials,
- vi. any other person inside or outside the long-term care home.
- 18. Every resident has the right to form friendships and relationships and to participate in the life of the long-term care home.
- 19. Every resident has the right to have his or her lifestyle and choices respected.
- 20. Every resident has the right to participate in the Residents' Council.
- 21. Every resident has the right to meet privately with his or her spouse or another person in a room that assures privacy.
- 22. Every resident has the right to share a room with another resident according



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to their mutual wishes, if appropriate accommodation is available.

- 23. Every resident has the right to pursue social, cultural, religious, spiritual and other interests, to develop his or her potential and to be given reasonable assistance by the licensee to pursue these interests and to develop his or her potential.
- 24. Every resident has the right to be informed in writing of any law, rule or policy affecting services provided to the resident and of the procedures for initiating complaints.
- 25. Every resident has the right to manage his or her own financial affairs unless the resident lacks the legal capacity to do so.
- 26. Every resident has the right to be given access to protected outdoor areas in order to enjoy outdoor activity unless the physical setting makes this impossible.
- 27. Every resident has the right to have any friend, family member, or other person of importance to the resident attend any meeting with the licensee or the staff of the home. 2007, c. 8, s. 3 (1).

Order / Ordre:

The licensee must comply with s. 3 (1) of the LTCHA.

Specifically, the licensee must facilitate residents in receiving visitors, including essential caregivers, and ensure the resident/substitute decision maker (SDM) has been provided the opportunity to participate in their plan of care as required, in accordance with

- COVID-19 Directive #3 for Long-Term Care Homes (Directive #3) under the Long-Term Care Homes Act, 2007 (LTCHA) issued by the Chief Medical Officer of Health;
- the Minister of Long-Term Care's Directive: COVID-19: Long-Term Care Home Surveillance Testing and Access to Homes (Minister's Directive); and,
- the COVID-19 Visiting Policy.

Grounds / Motifs:

1. The licensee has failed to ensure that a resident's right to participate fully in the development, implementation, review and revision of their plan of care was respected and promoted.

As per Directive #3 issued by the Chief Medical Officer of Health, a medical



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leave was defined as leaving the Long-Term Care Homes (LTCHs) property for medical reasons. The resident was to be provided with a medical mask to be worn (if tolerated) when outside the LTCH, educated on public health measures, and upon return to the LTCH be actively screened but were not required to be tested or self-isolate.

A complaint was submitted to the Director, alleging the LTCH had placed a resident in isolation for 14 days after attending a scheduled medical appointment, when that was not the guidelines as per Directive #3.

The LTCH's policy defined a medical absence as a resident leaving the care community for an outpatient medical appointment that did not require an overnight stay and that the resident was to be actively screened but did not require to be tested or placed on isolation measures when they returned to the LTCH.

A review of the resident's care plan indicated they had a history of specified responsive behaviours. Progress notes identified that the resident had been placed in isolation when they returned from a medical appointment and that the substitute decision maker (SDM) had indicated that the resident had been isolated prior to this appointment and had concerns with the resident being isolated again, when it was not required.

The Executive Director (ED) indicated to the Inspector that the LTCH's process for residents attending medical appointments was that they did not require to be isolated if all measures were implemented. The ED identified that they had made the decision to isolate the resident when they returned to the LTCH; therefore, they did not follow the guidelines as per Directive #3.

Sources: Complaint intake, COVID-19 Directive #3 for LTCHs, dated December 26, 2020, the home's policy titled Leave of Absence Guidelines during COVID-19 Pandemic, Ministry of Long-Term Care (MLTC) "COVID-19 Visiting Policy", dated December 26, 2020, and Interviews with ED and other staff members. [s. 3. (1) 11. i.] (692)

2. The licensee has failed to ensure that the resident had the right to receive essential caregivers of their choice.



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A complaint was submitted to the Director regarding the SDM for a resident not being able to attend the home as an essential caregiver. The complainant indicated that they had requested to be an essential caregiver for the resident, and when they requested to visit on a specified day of the week, they were told that they could not attend the home on that day as the home did not have the staff to complete the required testing.

As per Directive #3 issued by the Chief Medical Officer of Health, the LTCHs were responsible for supporting, implementing and facilitating residents in receiving essential caregivers while mitigating the risk of exposure to COVID-19. The LTCH would allow each resident to designate up to two essential caregivers to provide direct care support to the resident, as currently defined in the directive.

Furthermore, as per the MLTC "COVID-19 Visiting policy", it details that homes may not require scheduling, or restrict the length or frequency, of visits by caregivers. As well, "allowing visitors [was] intended to support the emotional well-being of residents by reducing any potential negative impacts related to social isolation".

In an interview with the ED, they indicated that the LTCH was unable to have essential caregivers attend the home on specific days, as they did not have the staff to complete the required testing prior to their entry. The ED identified that they knew they were not following Directive #3 or the MLTC visiting policy, that they would be unable to until they recruited additional staff and that there had not been any additional options reviewed.

Sources: Complaint intake, COVID-19 Directive #3 for LTCHs, dated May 7, 2021, the home's policy titled, Visitors (COVID-19), MLTC "COVID-19 Visiting Policy", and interviews with ED, and other staff members. [s. 3. (1) 14.]

An order was made by taking the following factors into account:

Severity: There was actual risk of harm to two residents, as they were not able to receive essential visitors and were isolated when not required, as per Directive #3.



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Scope: This non-compliance was a pattern as there were two out of four residents reviewed.

Compliance History: In the last 36 months, the licensee was found to be non-compliant with LTCHA s. 3. (1) and two Voluntary Plan of Correction were issued to the home. (692)

This order must be complied with by / Vous devez vous conformer à cet ordre d'ici le :



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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 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 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:



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

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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 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.



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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 des Soins de longue durée 1075, rue Bay, 11e étage Toronto ON M5S 2B1

Télécopieur : 416-327-7603



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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

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 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 28th day of May, 2021

Signature of Inspector / Signature de l'inspecteur :

Name of Inspector /

Nom de l'inspecteur : Shannon Russell

Service Area Office /

Bureau régional de services : Sudbury Service Area Office