

**Ministry of Long-Term Care**  
Long-Term Care Operations Division  
Long-Term Care Inspections Branch

**Toronto District**  
5700 Yonge Street, 5th Floor  
Toronto, ON, M2M 4K5  
Telephone: (866) 311-8002

<b>Original Public Report</b>	
<b>Report Issue Date:</b> November 3, 2023	
<b>Inspection Number:</b> 2023-1280-0006	
<b>Inspection Type:</b> Complaint Critical Incident	
<b>Licensee:</b> 2063414 Ontario Limited as General Partner of 2063414 Investment LP	
<b>Long Term Care Home and City:</b> Midland Gardens Community, Scarborough	
<b>Lead Inspector</b> Irish Abecia (000710)	<b>Inspector Digital Signature</b>
<b>Additional Inspector(s)</b>	

<b>INSPECTION SUMMARY</b>
<p>The inspection occurred onsite on the following date(s): October 18-20, 23, 25, 2023 The inspection occurred offsite on the following date(s): October 30, 2023</p> <p>The following intake was inspected in this Critical Incident (CI) inspection:</p> <ul style="list-style-type: none"> <li>Intake: #00097644 [CI: 2789-000032-23] - Unexpected death of a resident</li> </ul> <p>The following intake was inspected in this complaint inspection:</p> <ul style="list-style-type: none"> <li>Intake: #00098120 - Concerns related to resident care</li> </ul>

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

- Resident Care and Support Services
- Food, Nutrition and Hydration
- Infection Prevention and Control
- Falls Prevention and Management

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## INSPECTION RESULTS

### COMPLIANCE ORDER CO #001 Plan of Care

**NC #001 Compliance Order pursuant to FLTCA, 2021, s. 154 (1) 2.**

Non-compliance with: FLTCA, 2021, s. 6 (7)

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

- 1) Educate all nursing department staff, and dietary aides on a specified resident home area on the Home's policies and procedures related to their roles and responsibilities in ensuring that residents are served the correct diet and texture as specified in their plan of care.
- 2) Maintain a record of the education, including the date(s), content of education provided, names of the staff who received the education, and the person(s) responsible for providing the education.
- 3) Conduct weekly audits for four weeks following the service of this order, on all residents on a specified resident home area to ensure that they are served the correct diet and texture as per their plan of care.
- 4) Maintain a record of the audits conducted, including the date of the audit, staff who were audited, the auditor, results of the audit, and any corrective actions taken to address the audit findings.

#### Grounds

The licensee failed to ensure that a resident was served the correct food texture as specified in their plan of care during a dining service.

#### Rationale and Summary

A resident entered the dining room and was served a food item that was not according to their modified texture diet by a Dietary Aide (DA) and Personal Support Worker (PSW). The resident was found unresponsive at the end of the service.

The resident was to receive a modified texture diet. A Registered Dietitian (RD) assessed the resident's request for another texture diet, and indicated that the resident could not safely tolerate this food

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texture diet. Risks were identified and therefore the RD determined that the resident should remain on, the previously ordered, modified texture diet for their safety.

The menu indicated that residents receiving modified texture diets were to be served specific items that are specified for this diet. A Director of Dietary Services (DDS) verified that the resident was served an incorrect texture food item during a dining service. Furthermore, an RD confirmed that the food item that was served to the resident cannot be served to residents receiving a modified food texture diet.

A DA confirmed that despite their awareness of the resident's ordered food texture diet, they prepared and provided a food item that did not align with the resident's diet order for the PSW to serve. The PSW confirmed that they did serve the food item to the resident. The home's policy indicated that PSWs are to follow the resident's plan of care and provide the correct texture to residents to avoid risks and difficulties associated with eating the incorrect texture. The PSW did not follow the specified diet order for the resident and provided the incorrect texture despite their awareness of the resident's diet order.

The home's policy indicated that the nurse is to verify that residents receive the correct meal and texture as part of the meal process. A Registered Practical Nurse (RPN) confirmed that they were not aware that the resident was served an incorrect texture food item. The Director of Care stated that the nurse was expected to ensure that the resident received the correct diet and texture as per the home's policy. However, the home's investigation concluded the resident's meal was not verified by the RPN during the dining service.

Failure to serve a resident with the correct food texture during dining service as specified in their plan of care increased the resident's risk and difficulties associated with eating the incorrect food texture.

**Sources:** A resident's clinical records; Home's Policies and Procedures; Home's investigation notes; Home's menu; Video footage; Interviews with staff.

[000710]

**This order must be complied with by** December 11, 2023

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An Administrative Monetary Penalty (AMP) is being issued on this compliance order AMP #001

## NOTICE OF ADMINISTRATIVE MONETARY PENALTY (AMP)

The Licensee has failed to comply with FLTCA, 2021

**Notice of Administrative Monetary Penalty AMP #001**

**Related to Compliance Order CO #001**

Pursuant to section 158 of the Fixing Long-Term Care Act, 2021, the licensee is required to pay an administrative penalty of \$1100.00, to be paid within 30 days from the date of the invoice.

In accordance with s. 349 (6) and (7) of O. Reg. 246/22, this administrative penalty is being issued for the licensee's failure to comply with a requirement, resulting in an order under s. 155 of the Act and during the three years immediately before the date the order under s. 155 was issued, the licensee failed to comply with the same requirement.

### Compliance History:

Written Notification issued August 21, 2023, under inspection report #2023-1280-0005

Written Notification, Voluntary Plan of Correction and Compliance Order issued June 10, 2021, under inspection report #2021-876606-0011

This is the first AMP that has been issued to the licensee for failing to comply with this requirement.

Invoice with payment information will be provided under a separate mailing after service of this notice. Licensees must not pay an AMP from a resident-care funding envelope provided by the Ministry [i.e., Nursing and Personal Care (NPC); Program and Support Services (PSS); and Raw Food (RF)]. By submitting a payment to the Minister of Finance, the licensee is attesting to using funds outside a resident-care funding envelope to pay the AMP.

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## COMPLIANCE ORDER CO #002 Dining and Snack Service

### NC #002 Compliance Order pursuant to FLTCA, 2021, s. 154 (1) 2.

Non-compliance with: O. Reg. 246/22, s. 79 (1) 3.

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

- 1) Educate all nursing department staff on a specified resident home area on the Home's policies and procedures related to monitoring residents during meal service.
- 2) Maintain a record of the education, including the date(s), content of education provided, names of the staff who received the education, and the person(s) responsible for providing the education.
- 3) Conduct weekly audits for four weeks following service of this order, on a specified resident home area to ensure that residents are monitored by a registered staff and a direct care staff for the full duration of dining service for breakfast, lunch and dinner.
- 4) Maintain a record of the audits conducted, including the date of the audit, staff who were audited, the auditor, results of the audit, and any corrective actions taken to address the audit findings.

### Grounds

The licensee failed to ensure that a resident was monitored by a registered staff or direct care staff during a dining service.

### Rationale and Summary

A resident was found unresponsive by a PSW in the dining room. Video footage showed that the resident was not monitored by registered staff or direct care staff while eating for an identified amount of time.

A PSW confirmed that they left the resident in the dining room to assist another resident. The home's policy indicated that the PSW's responsibility included monitoring all residents for identified risks with eating difficulties, and report to the nurse for further assessment. A housekeeping staff confirmed there were no other staff present in the dining room while they performed their duties.

The home's policy indicated that the nurse's responsibility included monitoring all residents for signs of eating difficulties during meals. An RPN confirmed that they were aware of resident's risk while eating.

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Despite being aware, the RPN had went for their rest period and failed to ensure that the resident was monitored by a registered staff or direct care staff while they remained in the dining room.

The home's investigation revealed that no registered staff or direct care staff were present for the full duration of the dining service to monitor the resident. An RD stated that the staff report to the nurse for any potential issues in the dining room, therefore a registered staff should be present during the dining service to supervise residents. The DOC indicated that it is part of the home's policy that the registered staff and direct care staff monitor residents for the full duration of the dining service. Furthermore, the DOC acknowledged that the staff did not follow the policy and procedures related to the monitoring of a resident for the full duration of the dining service.

Failure to monitor a resident for the full duration of the dining service led to the staff's inability to observe the resident for any adverse effects while eating during the dining service.

**Sources:** A resident's clinical records; Home's Policies and Procedures; Home's investigation notes; Video Footage; Interviews with staff.

[000710]

**This order must be complied with by** December 11, 2023

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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, 8<sup>th</sup> floor  
Toronto, ON, M7A 1N3  
e-mail: [MLTC.AppealsCoordinator@ontario.ca](mailto: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

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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:

**Health Services Appeal and Review Board**

Attention Registrar  
151 Bloor Street West, 9<sup>th</sup> Floor  
Toronto, ON, M5S 1S4

**Director**

c/o Appeals Coordinator  
Long-Term Care Inspections Branch  
Ministry of Long-Term Care  
438 University Avenue, 8<sup>th</sup> Floor  
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e-mail: [MLTC.AppealsCoordinator@ontario.ca](mailto: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](http://www.hsarb.on.ca).