

Ministry of Long-Term Care

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

Hamilton District

119 King Street West, 11th Floor
Hamilton, ON, L8P 4Y7
Telephone: (800) 461-7137

Original Public Report

Report Issue Date: August 26, 2024
Inspection Number: 2024-1567-0003
Inspection Type: Complaint
Licensee: The Regional Municipality of Niagara
Long Term Care Home and City: Linhaven, St Catherines

INSPECTION SUMMARY

The inspection occurred offsite on the following date(s): May 22, 23, 24, 27, 28, 29, 2024, June 3, 4, 7, 10, 11, 12, 13, 14, 20, 24, 2024, July 8, 2024, and August 13, 2024

The following intake(s) were inspected:

- Intake: #00116508 - Complaint related to records required for employment.

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

Safe and Secure Home

INSPECTION RESULTS

COMPLIANCE ORDER CO #001 Orientation

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

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

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

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below:

1. The Residents' Bill of Rights.
2. The long-term care home's mission statement.
3. The long-term care home's policy to promote zero tolerance of abuse and neglect of residents.
4. The duty under section 28 to make mandatory reports.
5. The protections afforded by section 30.
6. The long-term care home's policy to minimize the restraining of residents.
7. Fire prevention and safety.
8. Emergency and evacuation procedures.
9. Infection prevention and control.
10. All Acts, regulations, policies of the Ministry and similar documents, including policies of the licensee, that are relevant to the person's responsibilities.
11. Any other areas provided for in the regulations.

**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 hired pursuant to a contract, receive all required training 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 all required training before they perform their responsibilities. Keep a record of training completed, who participated and dates completed.
- C) Complete an audit of training for all current staff hired pursuant to a contract, to determine if any staff working have not received all required training. 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

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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 staff hired pursuant to a contract with an identified staffing agency received required training before performing their responsibilities. The home was not able to obtain or provide any staff records for any of the identified staffing agency staff, including any training records, and were not able to confirm what training staffing agency staff had received, if any.

Sources: The home's orientation policy, staffing agency schedules, the home's contract with a staffing agency, interviews and email communication. [213]

This order must be complied with by September 23, 2024

COMPLIANCE ORDER CO #002 Infection prevention and control program

NC #002 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:

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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 hired pursuant to a contract are appropriately screened for tuberculosis at time of hire. Keep a record of this review, who participated, the date it occurred, and any changes made.
- B) Implement the reviewed/revised process to ensure that all new staff hired pursuant to a contract have completed a valid negative tuberculosis screening before they perform their duties.
- C) Complete an audit of all current staff hired pursuant to a contract to determine if staff working have a valid negative tuberculosis screening. Keep a record of the audit, date completed, who completed it and results. Ensure that any staff identified in the audit as not having valid negative tuberculosis screening cease working in the home until valid negative screening 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 (TB) and other infectious diseases at time of hire in accordance with evidence-based

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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 (TB). The home was not able to obtain or provide any staff records, including TB screening, for any of the identified staffing agency staff.

Sources: The home's contract with a staffing agency, the home's immunization policy, and interviews. [213]

This order must be complied with by September 23, 2024

COMPLIANCE ORDER CO #003 Staff records

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

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

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experience.

2. Where applicable, a verification of the staff member's current certificate of registration with the College of the regulated health profession of which they are a member, or verification of the staff member's current registration with the regulatory body governing their profession.

3. Where applicable, the results of the staff member's police record check under subsection 81 (2) of the Act.

4. If subsection 81 (4) of the Act applied with respect to a staff member, a record showing that the staff member has not been convicted of an offence prescribed under subsection 255 (1) of this Regulation or found guilty of an act of professional misconduct prescribed under subsection 255 (2).

5. Where applicable, the staff member's declarations under subsection 252 (4) and section 253.

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

The licensee shall:

A) Develop and implement a process to ensure that all contracted staff have a record kept onsite at the home that includes all of the applicable requirements.

B) Review and revise as necessary its process for ensuring that all staff hired pursuant to a contract have a valid Vulnerable Sector Check, including that it was conducted within six months before their date of hire. Keep a record of this review, who participated, the date it occurred, and any changes made.

C) Implement the reviewed/revised process to ensure that all new staff hired pursuant to a contract have a valid Vulnerable Sector Check before they perform their duties.

D) Complete an audit of all current staff hired pursuant to a contract to determine if staff working have a valid Vulnerable Sector Check within six months before the staff member was hired. Keep a record of the audit, date completed, who

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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 (FLTCA), 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 FLTCA, 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 record was kept for each staffing agency staff member including a police record check, which was a vulnerable sector check (VSC). The home was not able to obtain or provide any staff records including VSCs for any of the identified staffing agency staff.

Sources: The home's contract with a staffing agency, staffing agency schedule, the home's screening measures policy, interviews and emails with Administrator. [213]

This order must be complied with by September 23, 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.