Ontario

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

Central East Service Area Office
33 King Street West, 4th Floor
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Amended Public Report (A1)

Report Issue Date August 19, 2022
Inspection Number 2022_1157_0001
Inspection Type
☒ Critical Incident System ☒ Complaint ☒ Follow-Up ☐ Director Order Follow-up
☐ Proactive Inspection ☐ SAO Initiated ☐ Post-occupancy
☐ Other ______________________________

Licensee
Tendercare Nursing Homes Limited

Long-Term Care Home and City
Tendercare Living Centre, Scarborough

Lead Inspector
Britney Bartley ID # 732787

Inspector Digital Signature

Additional Inspector(s)
Susan Semeredy ID # 501

INSPECTION SUMMARY

The inspection occurred on the following date(s): July 13, 14, 15, 18, 19, 20, 21, 22, 25, 2022

The following intake(s) were inspected:

- Intake # 019240-21 Critical Incident System (CIS) report related to alleged financial abuse
- Intake # 010543-22 (Complaint) related to food production, menu planning, dinning and snack services
- Intake # 009625-22 (Complaint) related to whistle-blowing protection and retaliation, dinning and snack services
- Intake # 001122-22 (Complaint) related to residents' Bill of Rights
- Intake # 018949-21 (Complaint) related to clothing protectors and housekeeping
- Intake # 011213-22 (Complaint) related to isolation rooms
- Intake # 001172-22 (Follow-up) related to the staffing back up plan
- Intake # 001171-22 (Follow-up) related to homes falls prevention policy
- Intake # 001170-22 (Follow-up) related to plan of care for falls prevention

Previously Issued Compliance Order(s)

The following previously issued Compliance Order(s) were found to be in compliance.

Legislative Reference		Inspection #	Order #	Inspector (ID) who complied the order
O. Reg. 79/10	s. 8 (1)	2021_595110_0014	001	732787
LTCHA, 2007	s. 6 (7)	2021_595110_0014	002	732787

O. Reg. 79/10	s. 31 (3)	2021_595110_0015	001	732787

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

- Falls Prevention and Management
- Food, Nutrition and Hydration
- Housekeeping, Laundry and Maintenance Services
- Infection Prevention and Control (IPAC)
- Reporting and Complaints
- Residents' Rights and Choices
- Safe and Secure Home
- Whistle-blowing Protection and Retaliation

INSPECTION RESULTS

During the course of this inspection, the inspector(s) made relevant observations, reviewed records and conducted interviews, as applicable.

WRITTEN NOTIFICATION [RESIDENTS' BILL OF RIGHTS]

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

Non-compliance with: LTCHA, 2007 s. 3 (1) (14)

The licensee has failed to ensure a resident's right to receive visitors of their choice was fully respected and promoted.

Rationale and Summary

The Ministry of Long-Term Care (MLTC) received two separate concerns related to a resident. The first concern was submitted by the home as a Critical Incident System (CIS) report, that alleged financial abuse from the Guardian of Property. The second concern was submitted by a complainant related to Residents' Bill of Rights.

The resident's Power of Attorney (POA), arranged for a registered social worker from an agency to do wellness checks and companionship visits. When a Registered Social Worker attempted to enter the home, they were denied entry by the Executive Director (ED). The ED indicated that they thought these visits were unnecessary.

By the home failing to allow visitation from the Registered Social Worker, arranged by the resident's POA, their right to visitation was not fully respected and promoted.

Sources: CIS report, emails, interviews with a Lawyer, a Registered Social Worker, and the ED.

[732787]

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WRITTEN NOTIFICATION [REPORTING AND COMPLAINTS]

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

Non-compliance with: O. Reg. 79/10 s. 101. (1)(1)

The licensee has failed to ensure that they responded to complainants within 10 business days.

Rationale and Summary

The Ministry of Long-Term Care (MLTC) received two separate concerns related to a resident. The first concern was submitted by the home as a Critical Incident System (CIS) report, that alleged financial abuse from the Guardian of Property. The second concern was submitted by a complainant related to Residents' Bill of Rights.

Complainants emailed the home's ED a formal complaint with concerns of the home not allowing registered social workers to perform wellness checks and companionship visits. The ED did not respond to the emails. However, several months later the POA and the home came to a resolution to allow such visits to continue.

By the home failing to respond to the complainants' emails within 10 business days, the resident's right to visitation was delayed.

Sources: CIS report, emails, interviews with a lawyer and the ED.

[732787]

WRITTEN NOTIFICATION [AIR TEMPERATURE]

NC#003 Written Notification pursuant to FLTCA, 2021, s. 154(1)1

Non-compliance with: O. Reg. 246/22 s. 24 (1) (3)

The licensee has failed to ensure air temperature checks were documented at least once every morning, once every afternoon between 12 p.m. and 5 p.m. and once every evening or night.

Rationale and Summary

During the month of July 2022, on various dates the home was not completing the daily air temperature checks appropriately. The July 2022 temperature logs checks were completed regularly in the mornings but were not consistently completed in the afternoon, evening, or night. The ED and the Environmental Manager confirmed the home's daily air temperature checks were not completed at various times during the afternoon, evening, or nights.

Failing to complete air temperature checks put residents at risk for heat related illness.

Sources: July 2022 air temperature logs, interviews with the ED and the Environmental Manager.

[732787]

WRITTEN NOTIFICATION [FOOD PRODUCTION]

NC#004 Written Notification pursuant to FLTCA, 2021, s. 154(1)1

Non-compliance with: O. Reg. 246/22 s.78(3)(a)

The licensee has failed to ensure that all food in the food production system was prepared and served using methods to preserve taste, appearance, and food quality.

Rationale and Summary

Complaints were submitted to the Ministry of Long-Term Care related to areas of dietary services within the home. One of the concerns was related to a resident who was on a therapeutic diet. The Nutrition Manager indicated this resident required specially prepared items at meals. A Personal Support Worker (PSW) stated they witnessed one time when this item was not available, and a dietary aide altered a regular portion to serve the resident. The PSW reported this to the registered staff. The Nutrition Manager stated they were unaware that this was being done and confirmed that this was not an appropriate practice.

Failing to ensure food was prepared and served using methods to preserve taste, appearance and food quality could negatively impact the resident's nutritional status.

Sources: Review of a written letter submitted to the MLTC, a resident's health record and interviews with a PSW and the Nutrition Manager.

[501]

WRITTEN NOTIFICATION [DINING AND SNACK SERVICE]

NC#005 Written Notification pursuant to FLTCA, 2021, s. 154(1)1

Non-compliance with: O. Reg. 246/22 s.79(1)(4)

The licensee has failed to ensure there was a process to ensure that food service workers and other staff assisting residents were aware of the residents' diets, special needs and preferences.

Rationale and Summary

During mealtime it was observed that a Dietary Aide was serving cold beverages to residents without using a dietary list. The Dietary Aide was waiting for residents to point to the beverage container to indicate their preference. If a Dietary Aide was unsure of what to serve the resident, they asked a PSW who was close by in the dining room. The Dietary Aide stated

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there should be a list available. A PSW was observed serving residents hot beverages and thickening some of them. When asked how they knew which residents needed thickened beverages and to what thickness, they stated they knew the residents. A Dietary Aide was also observed serving desserts without knowing the residents' appropriate texture or preferences.

During room-to-room tray service, beverages were on a cart with a diet list attached. Two PSWs were serving beverages without referring to the diet list. When asked, they replied that they knew what the resident liked. The PSWs confirmed that the diet list attached to the cart was of little use because it did not include the residents who they were serving. The PSWs stated it was a list that was meant to be used in the dining room, not meant for room-to-room tray service. Along another corridor during the same meal, a PSW was upset because they did not know what beverages to serve the residents as there was no list attached to the cart.

The Nutrition Manager stated that the above staff members should have had a diet list to refer to when serving residents.

Failing to ensure that there was a process for staff members to use when serving residents put residents at risk for receiving the wrong diet texture and beverage consistency which could lead to aspiration and choking.

Sources: Observations and interviews with the Nutrition Manager and other staff.

[501]

WRITTEN NOTIFICATION [REGISTERED DIETITIAN]

NC#006 Written Notification pursuant to FLTCA, 2021, s. 154(1)1

Non-compliance with: O. Reg. 246/22 s.80 (2)

The licensee has failed to ensure that a Registered Dietitian (RD) who is a member of the staff of the home is on site at the home for a minimum of 30 minutes per resident per month to carry out clinical and nutritional care duties.

Rationale and Summary

A staff member indicated that for a period of time there was no RD conducting assessments for those residents at high nutritional risk. A review of the RD hours for the month of April 2022 indicated they provided services for the home for a total of 14 hours. The home had approximately 190 residents and should have had a RD providing services for 95 hours per month. The ED confirmed the home did not have a RD who was a member of the staff of the home on site for a minimum of 30 minutes per resident for the month of April 2022.

Failing to ensure a registered dietitian was onsite at a home put residents at risk for their nutritional and hydration needs.

Sources: April 2022 invoice detailing registered dietitian hours and interviews with the ED and other staff.

[501]

WRITTEN NOTIFICATION [MENU PLANNING]

NC#007 Written Notification pursuant to FLTCA, 2021, s. 154(1)1

Non-compliance with: O. Reg. 246/22 s.77(1)(f)

The licensee has failed to ensure that the home's menu cycle included a choice of snacks in the afternoon and evening.

Rationale and Summary

During an afternoon snack it was observed that there was not a choice being offered. The home's snack menu indicated that only one choice was planned for the afternoons and not all evenings had a choice. The Nutrition Manager stated they were aware of the new requirements in the regulations but had not received an updated snack menu yet.

Failing to provide a choice of snack put residents at risk for poor intake.

Sources: The home's snack menu, observation, and interview with the Nutrition Manager.

COMPLIANCE ORDER [CO#001] [INFECTION PREVENTION AND CONTROL PROGRAM]

NC#008 Compliance Order pursuant to FLTCA, 2021, s.154(1)2

Non-compliance with: O. Reg. 246/22 s.102 (2) (b)

The Inspector is ordering the licensee to:
FLTCA, 2021, s. 155 (1) (a) do anything, or refrain from doing anything, to achieve compliance with a requirement under this Act.

Compliance Order [FLTCA 2021, s. 155 (1)]
The Licensee has failed to comply with O. Reg 246/22 s.102 (2) (b)

Specifically, the license must:

1. Educate PSWs #107, #110, agency PSWs #125 and #126, Dietary Aides #108, #109, #127, #109, Maintenance Staff #111 and the Nutrition Manager on Infection Prevention and Control (IPAC) practices, specifically on when to don the required personal protective equipment (PPE).
2. The IPAC lead to audit the above listed staffs for two weeks in relation to when they must don the required PPE. Review the audits and ensure the corrective actions are taken.
3. Ensure any resident on additional precautions has the required precaution signage posted on the door and a PPE bin at the resident door.
4. Develop and execute a process on providing education and training to visitors and essential care givers on when to don the required PPE.
5. Keep a documented record of the education and training provided to staff, essential care givers and visitors.

Grounds

Non-compliance with: O. Reg. 246/22 102 s. (2) (b)

The licensee has failed to ensure any standard or protocol issued by the Director with respect to infection prevention and control was complied with.

Rationale and Summary

In the Standard for Long-Term Care Homes issued by the Director, dated April 2022, under section 6.1, stated the licensee shall make PPE available and accessible to staff. This shall include having a PPE bin in place for ensuring adequate access to PPE for additional precautions. In addition, under section 9 (e) and (f), the licensee shall ensure that additional precautions were followed for point-of-care signage indicating that enhanced IPAC control measures were in place, and when additional PPE requirements including appropriate selection and application of PPE.

On July 12, 2022, the Toronto Public Health Unit placed the home on a COVID-19 exposure alert due to some staff testing positive for COVID-19. On July 15, 2022, Toronto Public Health Unit declared an outbreak.

Due to the home being in an outbreak, the ED and DOC indicated that on the outbreak floor all staff were required to wear an N95 face mask and face shield/goggles. In addition, upon entering a room on additional precautions, staff, visitors, and essential care givers were required to apply the required PPE. The required PPE for staff were N95 face mask, gown, gloves, and face shield/goggles. This also applied to essential care givers and visitors with the

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exception of a surgical face mask instead of the N95 face mask. The DOC also stated that any additional precaution signage was to be placed on a resident door indicating the type of precautions and a designated PPE bin at the door for accessibility of PPE.

Observations on a non-outbreak floor:

- PSW #107 and the Nutrition Manager were wearing surgical face masks that were not covering their noses.

Observation of precaution signage and PPE bin on the outbreak floor:

- Two residents who shared the same room were on additional precautions. There was no PPE bin at the residents' door.
- Another two residents had a PPE bin in front of their room and no additional precaution signage was on the door. An RPN indicated these residents were on additional precautions.

Observations of donning the required PPE on the outbreak floor:

- On various dates, Dietary Aides #108, #109, #127, PSW #110, agency PSWs #125, #126 and Maintenance Staff #111 were not wearing the required PPE in the hallways.
- On various dates, essential care givers and visitors were not donning the required PPE in the hallways and when entering a resident room on additional precautions.

By failing to comply with infection prevention and control standards and protocols, residents were at risk for becoming ill with an infectious disease, such as, COVID-19.

Sources: Observations and interviews with the DOC, the ED, and other staff.

This order must be complied with by November 30, 2022

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).

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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. Please include the inspection report # and the order or AMP #;
(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
email: MLTC.AppealsCoordinator@ontario.ca

If service is made by:

- registered mail, is deemed to be made on the fifth day after the day of mailing
- email, is deemed to be made on the following day, if the document was served after 4 p.m.
- 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:

- An order made by the Director under sections 155 to 159 of the Act.
- An AMP issued by the Director under section 158 of the Act.
- 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,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
email: MLTC.AppealsCoordinator@ontario.ca

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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.