

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: June 28, 2023.	
Inspection Number: 2023-1414-0004	
Inspection Type: Critical Incident System	
Licensee: Rykka Care Centres GP Inc.	
Long Term Care Home and City: Arbour Creek Long-Term Care Centre, Hamilton	
Lead Inspector Cathy Fediash (214)	Inspector Digital Signature
Additional Inspector(s)	

INSPECTION SUMMARY
<p>The inspection occurred onsite on the following date(s): May 29 - 31, 2023 and June 1, 2, 5, 2023</p> <p>The following intake(s) were inspected:</p> <ul style="list-style-type: none"> • Intake: #00088669 - related to reporting and complaints; staffing, training, and care standards; medication management; and prevention of abuse and neglect.

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

- Medication Management
- Infection Prevention and Control
- Prevention of Abuse and Neglect
- Staffing, Training and Care Standards
- Reporting and Complaints

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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.

The licensee has failed to ensure they reported their suspicion of unlawful conduct of an agency staff, immediately to the Director.

Rationale and Summary

A Critical Incident System (CIS) indicated an agency staff member had presented themselves as a nurse. The CIS and interviews confirmed the staff member had not been a registrant with the College of Nurses of Ontario (CNO) and had been listed on the CNO website, as an unregistered practitioner.

Interviews confirmed the home had been trying to determine actions to take and the CIS was submitted late, 10 days following the home becoming aware.

When critical incidents of this nature are not reported immediately, there is the potential for investigative actions to be delayed.

Sources: CIS report, review of agency staff personnel documents, CNO website, and interviews with the ED and DOC. [214]

WRITTEN NOTIFICATION: Security of drug supply

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

Non-compliance with: O. Reg. 246/22, s. 139 2.

The licensee has failed to ensure that steps were taken to ensure the security of the drug supply when an agency staff had access to this supply and was not permitted to administer drugs in the home.

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Rationale and Summary

A CIS and interviews confirmed the home had hired an agency staff to fill registered nursing shifts in the home.

Interviews and record reviews confirmed the staff member had access to medication rooms, medication carts and narcotic and controlled substances when they administered drugs to three residents.

Interviews confirmed the staff member had not been a registrant with the CNO and had been listed on the CNO website, as an unregistered practitioner and was not permitted to administer drugs in the home or have access to the drug supply.

When the drug supply is not restricted to those who can administer drugs, this places the resident's safety and wellbeing at a potential for risk of harm or actual harm and has the potential to compromise the security of the drug supply.

Sources: CIS report, resident's electronic Medication Administration Records, Point Click Care-Medication Audit Report, and interviews with the registered staff, Clinical Director of Care and Director of Care. [214]

WRITTEN NOTIFICATION: Security of drug supply

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

Non-compliance with: O. Reg. 246/22, s. 139 3.

The licensee has failed to ensure that steps were taken to ensure the security of the drug supply, when monthly audits of the daily count sheets for controlled substances to determine any discrepancies, was not conducted.

Rationale and Summary

Record reviews of monthly audits of the daily count sheets for controlled substances were conducted for a specified time period.

Record reviews and interviews confirmed the audits had not been consistently conducted on a

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monthly basis.

When monthly audits of the daily count sheets for controlled substances are not conducted, this has the potential for controlled substances to not be accounted for and places the security of the drug supply at risk.

Sources: monthly controlled substance record audits, and interviews with the DOC and other staff. [214]

WRITTEN NOTIFICATION: Administration of drugs

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

Non-compliance with: O. Reg. 246/22, s. 140 (3)

The licensee has failed to ensure that no person administered a drug to a resident in the home, unless that person was a registered practical nurse.

Rationale and Summary

A CIS and interviews confirmed the home had hired an agency staff to fill registered nursing shifts in the home.

Report and record reviews indicated the staff member had administered drugs to residents.

The CIS and interviews confirmed the staff member had not been a registrant with the CNO and had been listed on the CNO website, as an unregistered practitioner. It was confirmed the agency staff member had not been permitted to administer drugs to residents.

When drugs are administered to residents by a person who is not a nurse and who had not been authorized to act within this scope of practice, this places the resident's safety and wellbeing at a potential for risk of harm or actual harm.

Scope: CIS report, resident's electronic Medication Administration Records; Medication Audit Report, and interviews with the Executive Director, Director of Care (DOC), and Clinical DOC. [214]

COMPLIANCE ORDER CO #001 Policies, etc., to be followed, and records

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

Non-compliance with: O. Reg. 246/22, s. 11 (1) (b)

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

The licensee shall,

1) Update the homes agency utilization policy to include the following:

Prior to beginning orientation at the home:

i) Identify the person(s) responsible for reviewing agency staff and their personnel documents, prior to orientation at the home.

ii) For registered nursing agency staff, consider the addition of checking their registration using the CNO, Find a Nurse resource tool and the CNO's list of unregistered practitioners.

iii) The policy shall also contain information regarding content requirements for personnel documents, to support the staff responsible for verification of the documents.

Prior to commencing a shift:

i) In addition to the nursing agency staff presenting their photo identification at the beginning of a shift and the DOC or Charge Nurse verifying the agency's staff's entitlement to practice by checking their registration using the CNO, Find a Nurse resource tool, consider the addition to also check the CNO's list of unregistered practitioners.

ii) A process that tracks the above items were completed and by whom.

3) Once updated, the policy is to be implemented through training of all staff who will be

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required to comply with the policy.

4) Maintain the training records that include, the date the training was provided, the content of the training, and the names and designation of the staff who received the training.

Grounds

The licensee has failed to ensure that their Agency Utilization policy, was complied with.

Fixing Long-Term Care Act, 2021, s. 11 (1) (b) required an organized program of nursing services for the home to meet the assessed needs of the residents.

Ontario Regulation 246/22, s. 11 (1) (b), required the licensee to ensure that the plan, policy, protocol, program, procedure, strategy, initiative or system, was complied with.

Specifically, the licensee had not complied with their “Agency Utilization” policy.

The policy indicated agency staff were to present their photo identification to the DOC or Charge Nurse at the beginning of their shift. The DOC or Charge Nurse were to verify the agency staff’s entitlement to practice by checking their registration on the CNO website, using the resource tool, Find a Nurse.

Rationale and Summary

A CIS and interviews confirmed the home had hired an agency staff to fill registered nursing shifts in the home.

The CIS and interviews confirmed, following the completion of shifts in the home, the staff member was identified to have not been a registrant with the College of Nurses of Ontario (CNO) and had been listed on the CNO website, as an unregistered practitioner.

The DOC indicated when hiring agency staff, the home’s process was to request the name and documents of designated staff from the agency and review the documents provided. If applicable, the home would inform the agency to schedule the staff member for orientation.

A review of the agency staff’s personnel documents, identified specific information had not been included. Interviews indicated the home had not been aware.

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It was confirmed that the agency staff's documents had not been reviewed thoroughly or checked as directed in the licensee's policy and that the home had not been aware of the CNO's Unregistered Practitioner's list.

When this policy had not been complied with, a person who was not entitled to practice nursing in Ontario, was permitted to do so, placing the residents under their care, at a potential risk for harm.

Sources: CIS report, the licensee's Agency Utilization policy (review date of July 8, 2022), agency staff personnel documents, and interviews with the ED and DOC. [214]

This order must be complied with by September 25, 2023.

COMPLIANCE ORDER CO #002 Certification of nurses

NC #006 Compliance Order pursuant to FLTCA, 2021, s. 154 (1) 2.

Non-compliance with: O. Reg. 246/22, s. 51

The Inspector is ordering the licensee to prepare, submit and implement a plan to ensure compliance with [FLTCA, 2021, s. 155 (1) (b)]:

The licensee shall prepare, submit and implement a plan to ensure that every member of the staff, including any staff who work at the long-term care home pursuant to a contract between the licensee and an employment agency or other third party and who performs duties in the capacity of registered nurse, registered practical nurse or registered nurse in the extended class has the appropriate current certificate of registration with the College of Nurses of Ontario.

The plan shall include but is not limited to:

- i) Developing and implementing a process that ensures all registered nursing staff have the appropriate current certification of registration with the CNO, upon hire and remain entitled to practice on an annual basis.
- ii) Consider implementing the use of the CNO's, Find a Nurse resource tool and review of the CNO's unregistered practitioners list, for all nursing applicants, into the licensee's plan.

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iii) Consider implementing hiring and screening processes for registered nursing staff that include thorough reference checking, background checks; actions to take if there are gaps in a resumé.

iv) For agency nursing staff, consider including in the plan, a process that ensures agencies are thoroughly reviewed before entering into contracts to ensure that the agency's management and staff have the knowledge, skill and experience required to provide services effectively and safely to the home's residents and that contracts with agencies set out clear responsibilities and expectations for the agency in terms of its hiring, screening and training of registered staff.

v) Once developed, the plan is to be trained to all staff who are responsible for recruitment of the above disciplines. The plan is to include the type of training involved, including who will receive the training; and who will be responsible for the training, and when it will be completed.

Please submit the written plan for achieving compliance for inspection #2023-1414-0004 to Cathy Fediash, LTC Homes Inspector, MLTC, by email to HamiltonDISTRICT.MLTC@ontario.ca by: July 13, 2023.

Please ensure that the submitted written plan does not contain any PI/PHI.

This plan shall be implemented by the compliance due date: September 25, 2023.

Grounds

The licensee has failed to ensure that an agency staff who performed duties in the capacity of a Registered Practical Nurse, had the appropriate current certificate of registration with the College of Nurses of Ontario.

Rationale and Summary

A CIS and interviews confirmed the home had hired an agency staff to fill registered nursing shifts in the home. The staff member had worked three consecutive shifts in this capacity.

The DOC indicated when hiring agency staff, the home's process was to request the name and documents of designated staff from the agency and review the documents provided. If

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applicable, the home would inform the agency to schedule the staff member for orientation. They indicated there was also a licensee's policy for agency staff to present their photo identification to the DOC or Charge Nurse at the beginning of their shift so that verification could be conducted by checking the staff's registration with the CNO, Find a Nurse resource tool, to ensure the staff member was entitled to practice nursing.

The CIS and interviews confirmed the home had identified the staff member was not listed under the CNO as entitled to practice nursing, when their registration was checked through the Find a Nurse resource tool and also listed on the CNO's website, as an unregistered practitioner.

It was confirmed that the agency staff's documents had not been reviewed thoroughly or checked as directed in the licensee's policy and that the home had not been aware of the CNO's Unregistered Practitioner's list.

An interview with the agency indicated when they hired the staff member, they had checked their registration number through the CNO's Find a Nurse and there were no issues, and they thought their name had been listed. They confirmed when they were informed by the home, they checked the CNO's Find a Nurse, and the staff member's name had not been listed as entitled to practice nursing.

A review of the document, Public Inquiry into the Safety and Security of Resident's in the Long-Term Care System, released on July 31, 2019, contained consolidated recommendations which indicated the following:

- a) Licensees must provide management and registered staff with the following training: Administrators and directors of nursing should receive training on best practices in the screening, hiring, and management and discipline of registered staff.
- b) Licensees should adopt a hiring/screening process that includes robust reference checking, background checks when there are gaps in a resume or if the candidate was terminated from previous employment, and close supervision of the candidate during the probationary period.
- c) If agency nurses must be used, licensee should thoroughly vet agencies before entering into contracts with them to ensure that the agency's management and staff have the knowledge,

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skills, and experience required to provide services effectively and safely to the home's residents, including on the requirements of the Act, and its regulations.

d) Licensees should ensure that their contracts with agencies set out clear responsibilities and expectations for the agency in terms of its hiring, screening, and training of registered staff.

During an interview with the Regional Director of Operations for the home, they indicated they had been aware of these recommendations and would be implementing them into the licensee's practices.

When staff are permitted to perform duties in the capacity of a RPN, without the current certificate of registration with the CNO, this places the resident's safety and wellbeing at a potential for risk of harm or actual harm as the person performing these duties, lacks the certifiable knowledge, skill and experience as required by the CNO.

Sources: CIS report, the licensee's Agency Utilization policy (review date of July 8, 2022), Public Inquiry into the Safety and Security of Resident's in the Long-Term Care System document, and interviews with the ED and DOC. [214]

This order must be complied with by September 25, 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, 8th floor
Toronto, ON, M7A 1N3
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

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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, 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.