



**Ministry of Health and
Long-Term Care**

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

**Ministère de la Santé et des
Soins de longue durée**

**Rapport d'inspection sous la
Loi de 2007 sur les foyers de
soins de longue durée**

**Health System Accountability and
Performance Division
Performance Improvement and
Compliance Branch**

**Division de la responsabilisation et de la
performance du système de santé
Direction de l'amélioration de la
performance et de la conformité**

Ottawa Service Area Office
347 Preston St, 4th Floor
OTTAWA, ON, K1S-3J4
Telephone: (613) 569-5602
Facsimile: (613) 569-9670

Bureau régional de services d'Ottawa
347, rue Preston, 4^{ième} étage
OTTAWA, ON, K1S-3J4
Téléphone: (613) 569-5602
Télécopieur: (613) 569-9670

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Report Date(s) / Date(s) du Rapport	Inspection No / No de l'inspection	Log # / Registre no	Type of Inspection / Genre d'inspection
Nov 5, 2013	2013_200148_0037	O-000730- 13	Complaint

Licensee/Titulaire de permis

Kemptville District Hospital
2675 Concession Road, P.O. Bag 2007, KEMPTVILLE, ON, K0G-1J0

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

KEMPTVILLE DISTRICT HOSPITAL
2675 CONCESSION ROAD, P. O. BAG 2007, KEMPTVILLE, ON, K0G-1J0

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

AMANDA NIXON (148)

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): September 30, 2013 (on site), with additional dates off site.

During the course of the inspection, the inspector(s) spoke with the home's Administrator, Director of Care, Team Lead, Financial Manager, family and residents.

During the course of the inspection, the inspector(s) reviewed the home's regulated documents including accommodation agreements, agreements related to charges other than accommodation and documents containing consent and advanced directive with respect to treatment.

The following Inspection Protocols were used during this inspection:
Admission Process

Resident Charges

Findings of Non-Compliance were found during this inspection.

NON-COMPLIANCE / NON - RESPECT DES EXIGENCES

Legend

WN – Written Notification
VPC – Voluntary Plan of Correction
DR – Director Referral
CO – Compliance Order
WAO – Work and Activity Order

Legendé

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. 80. Regulated documents for resident

Specifically failed to comply with the following:

s. 80. (1) Every licensee of a long-term care home shall ensure that no regulated document is presented for signature to a resident or prospective resident, a substitute decision-maker of a resident or prospective resident or a family member of a resident or prospective resident, unless,
(a) the regulated document complies with all the requirements of the regulations; and 2007, c. 8, s. 80. (1).
(b) the compliance has been certified by a lawyer. 2007, c. 8, s. 80. (1).

Findings/Faits saillants :



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1. The licensee failed to comply with LTCHA 2007, S.O. 2007, c.8, s.80 (1)(b), whereby the licensee did not ensure that no regulated document is presented for signature to a resident or prospective resident, substitute decision-maker of a resident or prospective resident or a family member of a resident or prospective resident, unless the compliance has been certified by a lawyer.

In accordance with O.Reg 79/10, s. 227 (1) and LTCHA 2007, s.91(1), a regulated document is described as, any agreement between the licensee and a resident or a person authorized to enter into such an agreement on the resident's behalf for any of the charges related to accommodation or charges other than accommodation. A regulated document is also described as any document containing a consent or directive with respect to "treatment" as defined in the Health Care Consent Act, 1996.

Upon request for the home's regulated documents, as described above, the Inspector was provided with an 18 page document titled Long Term Care Resident Admission Contract - Interim Long Term Care ("the document").

The document contains agreements related to accommodation charges, other charges and consent and directives with respect to treatments.

The management team of the home confirmed that the document, as described above, is presented to a resident or the substitute decision-maker of a resident for signature upon admission to the home.

The home could not provide evidence that the 18 page document containing regulated documents as defined in the LTCHA, 2007, has been certified by a lawyer for compliance. [s. 80. (1) (b)]

Additional Required Actions:

VPC - pursuant to the Long-Term Care Homes Act, 2007, S.O. 2007, c.8, s.152(2) the licensee is hereby requested to prepare a written plan of correction for achieving compliance the ensure that the regulated documents presented for signature are certified by a lawyer for compliance with the Long Term Care Homes Act, 2007 and the Health Care Consent Act, 1996, to be implemented voluntarily.



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WN #2: The Licensee has failed to comply with LTCHA, 2007 S.O. 2007, c.8, s. 83. Coercion prohibited

Specifically failed to comply with the following:

s. 83. (1) Every licensee of a long-term care home shall ensure that no person is told or led to believe that a prospective resident will be refused admission or that a resident will be discharged from the home because,
(a) a document has not been signed; 2007, c. 8, s. 83. (1).
(b) an agreement has been voided; or 2007, c. 8, s. 83. (1).
(c) a consent or directive with respect to treatment or care has been given, not given, withdrawn or revoked. 2007, c. 8, s. 83. (1).

Findings/Faits saillants :

1. The licensee failed to comply with LTHCA 2007, S.O. 2007, c.8, s.83 (1) (a), whereby the licensee did not ensure that no person is told or led to believe that a prospective resident will be refused admission or that a resident will be discharged from the home because, a document has not been signed.

Upon request for the home's regulated documents, in accordance with O.Reg 79/10, s. 227 (1) and LTCHA 2007, s.91(1), the Inspector was provided with an 18 page document titled Long Term Care Resident Admission Contract - Interim Long Term Care ("the document").

The document contains agreements related to accommodation charges, other charges and consent and directives with respect to treatments.

On page 6 of 18, the document reads as follows:

"The resident or representative/substitute decision-maker agree to all the provisions of this contract and understand their meaning with respect to themselves, the licensee and the LTC facility in general. The resident/substitute decision-maker agree that they have asked any questions which they might have and understand that the resident can only be admitted to the home and remain in the home if a written contract is signed".

The document, as described above, containing agreements related to resident charges and consent and directives, indicates that the resident will be refused admission or discharged from the home if the agreement is not signed. [s. 83. (1) (a)]



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Additional Required Actions:

VPC - pursuant to the Long-Term Care Homes Act, 2007, S.O. 2007, c.8, s.152(2) the licensee is hereby requested to prepare a written plan of correction for achieving compliance to ensure that no person is led to believe that a prospective resident or resident of the home will be discharged from the home because a document has not been signed, to be implemented voluntarily.

WN #3: The Licensee has failed to comply with O.Reg 79/10, s. 227. Regulated documents



Specifically failed to comply with the following:

s. 227. (3) Subject to subsection (4), an agreement relating to basic accommodation or preferred accommodation must be separate from any other agreement, and only includes provisions relating to the following:

1. The amount of the charge, subject to any reduction in the charge approved by the Director, and the financial obligation of the resident to pay the charge. O. Reg. 79/10, s. 227 (3).

2. The licensee's obligation to provide the goods and services included in basic accommodation or preferred accommodation. O. Reg. 79/10, s. 227 (3).

3. The licensee's obligation under subsection 259 (1) to give the resident at least 30 days written notice of any increases in accommodation charges. O. Reg. 79/10, s. 227 (3).

4. If applicable, any reasonable interest charges for missed, incomplete or late payments. This shall include a statement that if a licensee decides to charge interest for missed, incomplete or late payments, the licensee is prohibited from charging interest to a resident who has applied for a rate reduction under section 253 until the Director has approved the maximum amount that may be charged for accommodation under that section. O. Reg. 79/10, s. 227 (3).

5. The licensee's obligation to provide a monthly statement as set out in section 261. O. Reg. 79/10, s. 227 (3).

s. 227. (5) An agreement under paragraph 3 of subsection 91 (1) of the Act for charges other than for accommodation must include provisions relating to the following, but may contain other provisions:

1. A description of all goods and services to which the agreement applies, including the quantity, if applicable. O. Reg. 79/10, s. 227 (5).

2. The licensee's obligation to provide the goods and services. O. Reg. 79/10, s. 227 (5).

3. The charge for the goods and services and the financial obligation of the resident to pay for them. O. Reg. 79/10, s. 227 (5).

4. That if the goods and services are not provided to the resident, the licensee is prohibited from charging the fee for them. O. Reg. 79/10, s. 227 (5).

5. That the resident or the authorized person entering into the agreement on the resident's behalf must be notified in writing of any increase in the charge for the goods and services at least 30 days before the licensee charges the increased amount. O. Reg. 79/10, s. 227 (5).



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6. The termination of the agreement, including,
- i. that if the goods and services have not been provided, the resident may terminate the agreement without penalty,
 - ii. that the resident may terminate the agreement at any time without notice to the licensee, and
 - iii. that the licensee may terminate the agreement on providing at least 30 days written notice to the resident. O. Reg. 79/10, s. 227 (5).

- s. 227. (6) A document containing a consent or directive with respect to "treatment" as defined in the Health Care Consent Act, 1996, including a document containing a consent or directive with respect to a "course of treatment" or a "plan of treatment" under that Act,
- (a) must meet the requirements of that Act, including the requirement for informed consent to treatment under that Act; O. Reg. 79/10, s. 227 (6).
 - (b) must not contain any provisions dealing with any of the charges referred to in subsection 91 (1) of the Act or other financial matters; O. Reg. 79/10, s. 227 (6).
 - (c) must contain a statement indicating that the consent may be withdrawn or revoked at any time; and O. Reg. 79/10, s. 227 (6).
 - (d) must set out the text of section 83 of the Act. O. Reg. 79/10, s. 227 (6).
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Findings/Faits saillants :



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1. The licensee failed to comply with O.Reg 79/10, s.227 (3), whereby the licensee did not ensure that an agreement related to basic accommodation or preferred accommodation must be separate from any other agreement, and only include provisions relating to:

1. The amount of the charge and financial obligation of the resident to pay the charge.
2. The licensee's obligation to provide the goods and services included in basic accommodation or preferred accommodation.
3. The licensee's obligation under subsection 259 (1) to give the resident at least 30 days written notice of any increases in accommodation charges.
4. If applicable, any reasonable interest charges for missed, incomplete or late payments. This shall include a statement that if a licensee decides to charge interest, the licensee is prohibited from charging interest to a resident who has applied for a rate reduction under section 253 until the Director has approved the maximum amount that may be charged for accommodation under that section.
5. The licensee's obligation to provide a monthly statement as set out in section 261

Upon request for the home's agreement related to basic accommodation or preferred accommodation, the Inspector was provided with an 18 page document titled Long Term Care Resident Admission Contract - Interim Long Term Care ("the document").

The document includes agreements related to accommodation charges, other charges and consent and directives related to treatment.

The agreement relating to basic or preferred accommodation is not separate from any other agreement, as required by O.Reg 79/10, s.227 (3).

As it relates to O.Reg 79/10, s.227 (3) 1.:

On page 5 of 18 of the document, Article III, related to the appointment of a representative/substitute decision-maker, the document reads as follows:

"And he/she agrees to act as a representative/substitute decision-maker, if necessary, for the purposes of financial decision making and assumes full liability for the payment of all charges incurred by the resident"

It is the financial obligation of the resident or a person authorized to enter into such an agreement on the resident's behalf, to pay for basic accommodation or preferred accommodation, as agreed.



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As it relates to O.Reg 79/10, s.227 (3) 2.:

The document does not include the licensee's obligation to provide the goods and services included in basic accommodation or preferred accommodation, as applicable.

As it relates to O.Reg 79/10, s.227 (3) 3.:

The document does not include the licensee's obligation to give the resident at least 30 days written notice of any increases in accommodation charges.

As it relates to O.Reg 79/10, s.227 (3) 4.:

The document does not include a statement that if a licensee decides to charge interest for missed, incomplete or late payments, the licensee is prohibited from charging interest to a resident who has applied for a rate reduction under section 253 of the Regulations, until the Director has approved the maximum amount that may be charged for accommodation under that section.

As it relates to O.Reg 79/10, s.227 (3) 5.:

The document does not include the licensee's obligation to provide a monthly statement as set out in section 261 of the Regulations. [s. 227. (3) 1.]

2. The licensee failed to comply with O.Reg, 79/10, s. 227 (5), whereby the licensee did not ensure that an agreement under paragraph 3 of subsection 91 (1) of the Act for charges other than for accommodation must include provisions relating to the following:

1. A description of all goods and services to which the agreement applies, including the quantity, if applicable.
2. The licensee's obligation to provide the goods and services.
3. The charge for the goods and services and the financial obligation of the resident to pay for them.
4. That if the goods and services are not provided to the resident, the licensee is prohibited from charging the fee for them.
5. That the resident or the authorized person entering into the agreement on the resident's behalf must be notified in writing of any increase in the charge for the goods and services at least 30 days before the licensee charges the increased amount.
6. The termination of the agreement, including,
 - i. that if the goods and services have not been provided, the resident may terminate the agreement without penalty,



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- ii. that the resident may terminate the agreement at any time without notice to the licensee, and
- iii. that the licensee may terminate the agreement on providing at least 30 days written notice to the resident. O. Reg. 79/10, s. 227 (5).

In accordance with LTCHA 2007, c.8, s.91 (1) 3., for anything other than accommodation, a resident shall be charged only if it was provided under an agreement.

Upon request for the home's agreement related to charges other than for accommodation, the Inspector was provided with an 18 page document titled Long Term Care Resident Admission Contract - Interim Long Term Care ("the document").

As it relates to O.Reg 79/10, s.227 (5) 1.:

The document does not include a description of all goods and services to which the agreement applies, including the quantity, if applicable

As it relates to O.Reg 79/10, s.227 (5) 2.:

The document does not include the licensee's obligation to provide the goods and services.

As it relates to O.Reg 79/10, s.227 (5) 3.:

The document does not include the charges for all goods and services listed

As it relates to O.Reg 79/10, s.227 (5) 4.:

The document does not include that if the goods and services are not provided to the resident, the licensee is prohibited from charging the fee for them.

As it relates to O.Reg 79/10, s.227 (5) 5.:

The document indicates that notice will be distributed to the resident or substitute decision-maker when charges are increased. The document does not include that notice will be given to the resident or person entering into the agreement by writing of any increase in the charge for goods and services at least 30 days before the licensee charges the increased amount.

As it relates to O.Reg 79/10, s.227 (5) 6.:

The document does not include the termination of the agreement to included: that if



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the goods and services have not been provided, the resident may terminate the agreement without penalty, that the resident may terminate the agreement at any time without notice to the licensee, and that the licensee may terminate the agreement on providing at least 30 days written notice to the resident. [s. 227. (5) 1.]

3. The licensee did not comply with O. Reg 79/10, s.227 (6), whereby the licensee did not ensure that a document containing a consent or directive with respect to "treatment" as defined in the Health Care Consent Act, 1996:

- (a) meets the requirements of the Health Care Consent Act, 1996,
- (b) does not contain any provisions dealing with any of the charges referred to in subsection 91(1) of the Act or other financial matters,
- (c) contains a statement indicating that the consent may be withdrawn or revoked at any time; and
- (d) sets out the text of section 83 of the Long Term Care Homes Act, 2007

Upon request for the home's consent and directives with respect to treatments, the Inspector was provided with an 18 page document titled Long Term Care Resident Admission Contract - Interim Long Term Care ("the document").

The document contains consent to four treatments including annual flu vaccine, tamiflu, pneumococcal vaccine and 2 Step Mantoux test. In addition, the document contains an agreement related to advanced directive for care describing care to be provided during a life threatening illness.

The document also contains agreements related to accommodation charges and charges other than accommodation, as defined in LTCHA 2007, s. 91(1).

"Treatment" under the Health Care Consent Act, 1996 means:

- anything that is done for a therapeutic, preventive, palliative, diagnostic, cosmetic or other health-related purpose, and includes a course of treatment, plan of treatment or community treatment plan, but does not include,

- (1) the assessment for the purpose of this Act of a person's capacity with respect to a treatment, admission to a care facility or a personal assistance service, the assessment for the purpose of the Substitute Decisions Act, 1992 of a person's capacity to manage property or a person's capacity for personal care, or the assessment of a person's capacity for any other purpose,



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- (b) the assessment or examination of a person to determine the general nature of the person's condition,
 - (c) the taking of a person's health history,
 - (d) the communication of an assessment or diagnosis,
 - (e) the admission of a person to a hospital or other facility
 - (f) a personal assistance service
 - (g) a treatment that in the circumstances poses little or no risk of harm to the person,
 - (h) anything prescribed by the regulations as not constituting treatment

As it relates to O. Reg 79/10, s.227(6)(a):

In accordance with the Health Care Consent Act, 1996, S.O., 1996, c.2, s.11, consent to a treatment must be informed which is described to include the nature of the treatment, the benefits, risks, side effects, alternative courses of action and likely consequence of not having the treatment.

On its face the document does not comply with the Health Care Consent Act, 1996. Through interviews conducted during the inspection it was found that the document containing consent and directive with respect to treatment is presented to the residents and/or substitute decision makers (SDM) without a discussion of the elements described in the Health Care Consent Act, 1996 s. 11(3), as it relates to each consent and directive. Examples were found, in which the document was left at the resident's bedside or presented to the resident or SDM with instructions to read, sign and return the document. A discussion of the risks and benefits may only occur at the initiation of the resident or SDM.

As it relates to O. Reg 79/10, s.227(6)(b):

The document contains agreements related to accommodation charges and charges other than accommodation, as defined in LTCHA 2007, s. 91(1), in addition to consents and directives related to treatment.

As it relates to O. Reg 79/10, s.227(6)(c):

The document does not contain a statement indicating that consent may be withdrawn or revoked at any time.

As it relates to O. Reg 79/10, s.227(6)(d):

LTCHA, 2007, S.O. 2007, c.8, s.83 states the following:

Every licensee of a long-term care home shall ensure that no person is told or led to



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believe that a prospective resident will be refused admission or that a resident will be discharged from the home because,

- (a) a document has not been signed;
- (b) an agreement has been voided; or
- (c) a consent or directive with respect to treatment or care has been given, not given, withdrawn or revoked.

The document does not set out the text of LTCHA 2007, s. 83, as described above.

The home needs to seek legal council to ensure that the documents containing consent or directive with respect to treatment is compliant with the Long Term Care Homes Act, 2007 and the Health Care Consent Act, 1996. [s. 227. (6) (a)]

Issued on this 5th day of November, 2013

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

Amanda Ni RD LTCH Inspector