

Order of the Director

under the *Fixing Long-Term Care Act, 2021*

	<input type="checkbox"/> Licensee Copy/Copie du Titulaire <input checked="" type="checkbox"/> Public Copy/Copie Public
Name of Director:	Brad Robinson
Order Type:	<input type="checkbox"/> Reduction of licensed beds, section 107(3) <input type="checkbox"/> Order to impose any conditions on the licence, section 107(3)b <input type="checkbox"/> Renovation of Municipal Home Order, section 138 <input type="checkbox"/> Compliance Order, section 155 <input type="checkbox"/> Order that funding be returned or withheld, section 156 <input checked="" type="checkbox"/> Order requiring Management, section 157 <input type="checkbox"/> Suspension or Revocation Order, section 159 <input type="checkbox"/> Supervision of Long-term care home Order, section 159(5)
Intake Log # of original inspection (if applicable):	Not Applicable
Original Inspection #:	Not Applicable
Licensee:	Caessant-Care Nursing and Retirement Homes Limited
LTC Home:	Caessant Care Lindsay
Name of Administrator:	Lisa Green

Background:	
<p>Caessant Care Lindsay is a long-term care home (“the home”) in Lindsay, Ontario within the Central East Home and Community Care Support Services (HCCSS). Operated by Caessant-Care Nursing and Retirement Homes Limited (“the licensee”), the home is licensed for 124 long-stay beds.</p> <p>As a result of inspections conducted at the home between June 2019 to July 2022, several written notifications and compliance orders have been issued to the licensee for not complying with requirements under the <i>Long-Term Care Homes Act, 2007</i> (“LTCHA”) Ontario Regulation 79/10 under the LTCHA (“O. Reg. 79/10”), <i>Fixing Long-Term Care Act, 2021</i> (“FLTCA”) and Ontario Regulation 246/22 under the FLTCA (“O. Reg. 246/22”).</p> <p>Despite these findings and orders, the licensee has not taken the necessary actions to bring itself into compliance and sustain compliance. Accordingly, the licensee has demonstrated a lack of ability and understanding of what is required to address non-compliance, sustain it, and operate the home in a manner that meets the requirements under the FLTCA and O. Reg. 246/22.</p>	

Subsection 157(1) of the FLTCA states that the Director may order a licensee to retain, at the licensee's expense, one or more persons acceptable to the Director to act as managers of the home or to assist in managing the home.

Among other grounds set out in subsection 157(3) of the FLTCA, an order requiring management may be made if: (a) the licensee has not complied with a requirement under the FLTCA or (b) there are reasonable grounds to believe that the licensee cannot or will not properly manage the long-term care home, or cannot do so without assistance.

The Director is issuing this order as the licensee has not complied with requirements under the FLTCA and LTCHA, and their regulations, and overall, there are reasonable grounds to believe that the licensee cannot or will not properly manage the home or cannot do so without assistance.

As the grounds below demonstrate, there have been significant and in some cases, recurring findings of non-compliance with requirements under the FLTCA and LTCHA. As a result, the licensee has been issued multiple written notifications and compliance orders. Despite the compliance action and orders, the licensee has not taken the necessary actions to address and correct the ongoing issues of non-compliance at the home.

Further, there has been instability in the home's senior leadership as there has been frequent turnover in leadership/management positions. This has not ensured the effective management of the operations of the home and an ability for the licensee to adopt and sustain corrective actions to ensure compliance.

The licensee's non-compliance with various requirements directly impacts resident care and safety. As such, the non-compliance set out below poses a risk of harm to residents of the home.

All of these reasons provide the Director with reasonable grounds to believe that the licensee cannot or will not properly manage the home, or cannot do so without assistance. In addition, the Director has taken into account the factors under section 347(1) of the O. Reg 246/22 (e.g. severity of the non-compliance, scope of the non-compliance and the licensee's history of non-compliance) in determining that this order is warranted.

Order:	
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To Caressant-Care Nursing and Retirement Homes Limited, you are hereby required to comply with the following order(s) by the date(s) set out below:

Pursuant to: *Fixing Long Term Care Homes Act, 2021*, s. 157(1). The Director may order a licensee to retain, at the licensee's expense, one or more persons acceptable to the Director to act as managers of the long-term care home or to assist in managing the long-term care home.

Order: Caressant-Care Nursing and Retirement Homes Limited is ordered:

- a. To retain one or more persons, at your expense, described in paragraph (c) or (d) of this Order, to manage the entire operations of Caressant Care Lindsay, located at 240 Mary Street West, Lindsay, Ontario;
- b. To submit to the Director, Capital Planning Branch, **within 14 calendar days** of being served with this Order, a proposed person(s) described in paragraph (a) to this Order;
- c. The person(s) described in paragraph (a) to this Order must be acceptable to the Director, Capital Planning Branch and approved by the Director, Capital Planning Branch, in writing;
- d. If the licensee does not submit a proposed person(s) described in paragraph (a) to this Order to the Director, Capital Planning Branch within the time period specified in paragraph (b) to this Order, the Director, Capital Planning Branch will select the person(s) that the licensee must retain to manage the home;
- e. The person(s) described in paragraph (a) to this Order acceptable to the Director, Capital Planning Branch, will have specific qualifications, including:
 - i. the experience, skills and expertise required to operate and manage a long-term care (“LTC”) home in Ontario and to maintain compliance with the FLTCA and O. Reg. 246/22 under the FLTCA;
 - ii. have a good compliance record, which for the purpose of this Order means the LTC home for which the person described in paragraph (a) to this Order is a licensee or manager, or to which the person described in paragraph (a) to this Order provides consulting services has a compliance record under the LTCHA and/or FLTCA that is considered to be substantially compliant including:
 1. critical incidents that occur are reported as required;
 2. complaints are managed effectively in the LTC home;
 3. the LTC home develops policies and procedures using evidenced-based practice and quality strategies;
 4. the LTC home responds to issues identified during inspections; and

5. non-compliance in areas of actual harm or high risk of harm to residents and any other persons identified during inspections are rectified within the time frame required by the inspector;
- iii. demonstrate that they have not, under the laws of any province, territory, state or country, in the three years prior to this Order,
1. been declared bankrupt or made a voluntary assignment in bankruptcy;
 2. made a proposal under any legislation relating to bankruptcy or insolvency; or
 3. have been subject to or instituted any proceedings, arrangement, or compromise with creditors including having had a receiver and/or manager appointed to hold his, her, or its assets;
- f. To submit to the Director, Capital Planning Branch, a written contract pursuant to section 113 of the FLTCA within **14 calendar days** of receiving approval of the Director, Capital Planning Branch pursuant to paragraph (c) of this Order or the selection of a person(s) pursuant to paragraph (d) of this Order;
- g. To execute the written contract **within 24 hours** of receiving approval of the written contract from the Director, Capital Planning Branch, pursuant to section 113 of the FLTCA and to deliver a copy of that contract once executed to the Director, Capital Planning Branch;
- h. To submit to the Director, Long-Term Care Inspections Branch, a management plan, prepared in collaboration with the person described in paragraph (a) to this Order, to manage the home and that specifically addresses strategies and actions to achieve compliance with those areas identified as being in non-compliance **within 30 calendar days** of receiving approval of the Director, Capital Planning Branch, pursuant to paragraph (c) of this Order or the selection of a person pursuant to paragraph (d) of this Order;
- i. The person approved by the Director, Capital Planning Branch pursuant to paragraph (c) to this Order or selected by the Director, Capital Planning Branch pursuant to paragraph (d) of this Order, shall begin managing the home in accordance with the written contract described in paragraph (g) to this Order **within 24 hours** of the execution of that written contract;
- j. The management of the home by the person described in paragraph (a) to this Order is effective until advised otherwise by the Director;

- k. Any and all costs associated with complying with this Order are to be paid for by the licensee, including for certainty, but not limited to, all costs associated with retaining the person described in paragraph (a) to this Order; and
- l. Upon being served with this Order, comply with paragraphs (a) to (k) and not take any actions that undermine or jeopardize the ability for the person approved by the Director, Capital Planning Branch pursuant to paragraph (c) to this Order or selected by the Director, Capital Planning Branch pursuant to paragraph (d) of this Order to manage the home to its full extent.

Grounds:

The licensee’s non-compliance

Over approximately a three-year period (June 2019 to present), the licensee has not complied with several requirements under the FLTCA and LTCHA, and their regulations.

This Order relies on all inspection reports, non-compliance findings, orders and administrative monetary penalties issued from the following inspections conducted at the home:

Inspection Number	Inspection Report(s) Issued
2022_1200_0001	September 22, 2022 September 28, 2022 A1
2022_946111_0008	April 28, 2022
2022_946111_0010	March 23, 2022
2021_673672_0039	January 20, 2022
2021_673672_0040	January 20, 2022
2021_643111_0004	March 15, 2021
2020_643111_0017	November 16, 2020
2020_643111_0018	October 28, 2020
2020_640601_0010	June 26, 2020
2020_640601_0009	June 26, 2020
2020_694166_0003	January 13, 2020
2019_785732_0034	November 14, 2019
2019_785732_0033	November 14, 2019
2019_664602_0032	August 6, 2019
2019_664602_0033	July 26, 2019
2019_664602_0034	July 26, 2019
2019_593573_0012	June 4, 2019

Based on these inspections, below are some of significant areas of the licensee’s non-compliance with requirements under the FLTCA and LTCHA that have posed a risk of harm and well-being to

residents in the home. A summary of some of the significant compliance actions taken, past and present, are described below.

Infection Prevention and Control

Inspections (2021_673672_0039 and 2021_673672_0040) have demonstrated recurring non-compliance with O. Reg 79/10 r. 229. (4) and most recently (2022_1200_0001) failure to comply with s. 102(8) of O. Reg 246/22 of the FLTCA, as it did not ensure that all staff participated in the implementation of the infection prevention and control (IPAC) program. Multiple observations of staff, volunteers and essential caregivers in an inspection showed that the former were not following the home's IPAC guidelines and requirements.

- A compliance order was issued as a result of inspection # 2022_1200_0001 conducted in August 2022. By not ensuring that all staff participated in implementing the infection prevention and control program, residents were placed at risk of being exposed to different infections. During the inspection, the home went into a COVID-19 outbreak.
- An administrative monetary penalty was also issued resulting from recurring non-compliance identified during inspection 2021_673672_0040. The repeated non-compliance resulted in an AMP in the amount of \$5,500.00.

Policies to be Followed

Inspections (2021_673672_0040 and 2022_946111_0008) have demonstrated recurring non-compliance with O. Reg 79/10 r. 8(1) and most recently (2022_1200_0001) failure to comply with s. 11(1) of O. Reg. 246/22 under the FLTCA, as it did not ensure the internal suspected head Injury policy was complied with.

- A compliance order was issued as a result of inspection #2022_1200_0001 conducted in August 2022, as the home did not ensure the internal suspected head injury policy was followed.
- An administrative monetary penalty was also issued resulting from recurring non-compliance identified during inspection 2021_673672_0040. The repeated non-compliance resulted in an AMP in the amount of \$5,500.00.

Dining and Snack Services

Inspections (2021_673672_0040) have demonstrated recurring non-compliance with O. Reg 79/10 s. 73. (1) and most recently (2022_1200_0001) failure to comply with s. 79 (1) 9 of O. Reg. 246/22 under the FLTCA as it did not ensure that staff used proper techniques to assist residents with eating, including safe transferring and positioning techniques when assisting residents.

- A compliance order was issued as a result of inspection #2022_1200_0001 conducted in August 2022, when several residents were placed at risk of experiencing episodes of

choking and/or aspiration when staff failed to ensure residents were in safe positions during food and fluid intake.

- An administrative monetary penalty was also issued resulting from recurring non-compliance identified during inspection 2021_673672_0040. This repeated non-compliance resulted in an AMP in the amount of \$1,100.00

August 2022 inspection (#2022_1200_0001)

New findings of non-compliance were made during a follow-up/complaint inspection completed in August 2022. The inspection resulted in the issuance of 14 written notifications, 14 compliance orders and 4 administrative monetary penalties.

In addition to the compliance orders from this inspection mentioned above, the following compliance orders were also issued to the licensee for non-compliance with various requirements under the FLTCA and O. Reg. 246/22:

- **s. 40 of O. Reg. 246/22:** Failure to ensure that staff used safe transferring and positioning techniques when assisting residents with a mechanical lift.
- **s. 41(1)(a) of O. Reg. 246/22:** Failure to ensure personal items were labelled.
 - An administrative monetary penalty was also issued for this non-compliance in the amount of \$1,100.00.
- **s. 79(2)(b) of O. Reg. 246/22:** Failure to ensure that residents who required assistance with eating and drinking were served meals until someone was available to provide the required assistance.
- **s. 96 1)(i) of O. Reg. 246/22:** Failure to ensure that the hot water serving all bathtubs and showers used by residents was maintained at a temperature of at least 40 degrees Celsius.
- **s. 96 (1)(k) of O. Reg. 246/22:** Failure to ensure that the water temperatures were monitored daily.
- **s. 96(1)(g) of O. Reg. 246/22:** Failure to ensure that the water serving all bathtubs and showers used by residents did not exceed a temperature of 49 degrees Celsius.
- **s. 97 of O. Reg. 246/22:** Failure to ensure that hazardous substances were kept inaccessible to residents at all times.
- **s. 139(1) of O. Reg. 246/22:** Failure to ensure that drugs were stored in an area or medication cart that was used exclusively for drugs and drug-related supplies, which was kept secured and locked.

- **s. 6(7) of FLTCA:** Failure to ensure that the plan of care was provided as specified in their plan, related to one to one nursing observation.
- **s. 23 (5) of O. Reg. 246/22:** Failure to ensure that when central air conditioning was not available in the home, the home had at least one separate designated cooling area for every 40 residents, which was kept at a comfortable temperature for the residents.
- **s. 12 (1)3 of O. Reg. 246/22:** Failure to ensure all doors leading to non-residential areas were kept closed and locked when they were not being supervised by staff.

In addition to the compliance orders issued above, the following written notifications were also issued to the licensee as a result of the August 2022 inspection:

- s. 3(1)18 of FLTCA- privacy in treatment and in caring for resident's personal needs
- s. 26(1)(c) of FLTCA – written complaints forwarded to the Director
- s. 20(d) of O. Reg. 246/22 - resident-staff communication and response system
- s. 24(1) of O. Reg. 246/22 – home not maintained at 22 degrees Celsius
- s. 24(3) of O. Reg. 246/22 – temperatures not measured at least once every morning, afternoon and evening or night
- s. 37(1) of O. Reg. 246/22 – bathing requirements
- s. 79(1) 10 of O. Reg 246/22 – appropriate furnishings are used
- s. 94(2) 4 of O. Reg. 246/22 – immediate action taken when pest control concerns are identified in the home
- s. 102(9) (a) of O. Reg 246/22 – signs and symptoms of infection(s) are monitored
- s. 108(1) 3 i of O. Reg 246/22 – reporting and complaints
- s. 108(1) 3 ii A of O. Reg 246/22 – explanation of resolution of complaints provided
- s. 108(2) of O. Reg 246/22 – documented record of complaint, action, resolution is kept
- s. 101(2) (b) of O. Reg. 246/22 – retention of records related to complaints
- s. 140(2) of O. Reg. 246/22 – administration of drugs according to prescriber

Leadership Instability

The home has had a frequent turnover in key leadership/management positions between July 15, 2019 and July 5, 2022. During this time, seven different head office personnel were supporting the Executive Director (ED) of the home until a new ED was brought on board on July 28, 2021. Two previous Directors of Care (DOC) resigned with the most recent DOC starting on August 8, 2022.

A new Environmental Services Manager (ESM) started on August 30, 2022 after the previous ESM was terminated. Additionally, the new Business Officer Manager and Resident Care Coordinator began August 30, 2021, and July 25, 2022, respectively.

The frequent vacancies and turnover in a short period represents instability within the home at the management level. Management is tasked with leading and managing the operations of the home. The instability and turnover contribute to the inability for the senior leadership/management to provide effective direction to staff and expertise to effectively understand the compliance issues at the home, to take the necessary actions to correct them, and to manage/operate the home in accordance with the requirements under the FLTCA.

An Order is Warranted

Subsection 352(1) of O. Reg 246/22 provides that Part X of the FLTCA and O. Reg 246/22, which sets out the Ministry's compliance and enforcement authority, apply with respect to a failure to comply with a requirement under the LTCHA before the FLTCA came into force.

Since June 2019 to August 2022, a total of 17 inspections have been conducted resulting in 68 written notifications, 28 voluntary plans of correction, 26 compliance orders, 4 administrative monetary penalties and 1 Director's referral issued to the licensee. The licensee's continued non-compliance puts residents' health, safety, and quality of life at risk.

On February 7, 2022 and September 27, 2022, MLTC, along with the licensee, held two separate meetings to discuss inspection results.

Additionally, the Director having reasonable grounds to believe that the licensee cannot or will not properly manage the LTC home, or cannot do so without assistance because of:

- (a) The licensee's non-compliance with requirements under the FLTCA and LTCHA
- (b) The licensee has ongoing or recurrent non-compliance with certain requirements over a period of time, which it hasn't remedied/corrected on its own.
- (c) The non-compliance, particularly with recurring matters, poses a risk of harm to residents of the home.
- (d) The frequent turnover of leadership positions in the home does not enable the licensee to effectively understand and address compliance issues at the LTC home, and to manage the operations of the home on its own.
- (e) The Ministry has had meeting with the licensee about compliance issues at the home and there has been no real improvement

All of the above give the Director the belief that the licensee cannot or will not properly manage the operations of the home without assistance.

The decision to issue this Director's Order is based on the scope and severity of non-compliance, and the licensee compliance history over the past 36 months. The scope of non-compliance is identified as widespread in the home and represents systemic failure that affects or has the potential to negatively affect many, if not all, of the home's residents. The severity of the non-compliance is determined to be actual harm or risk of actual harm. As noted in this Order, the licensee has a history of non-compliance findings with several requirements under the Act and Regulation. When taking all of the above information into account, there are reasonable grounds to believe that the licensee cannot or will not properly manage the home without assistance, based upon ongoing inability to maintain effective leadership/management in the home that is necessary to execute the change required and achieve compliance.

This order must be complied with by:

The dates as outlined and specified in the Order.

REVIEW/APPEAL INFORMATION

TAKE NOTICE:

Pursuant to s. 170 of the *Fixing Long-term Care Act, 2021* the licensee has the right to appeal any of the following to Health Service Appeal Review Board (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

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.

Issued on this 29 th day of September, 2022	
Signature of Director:	<i>Original Signed.</i>
Name of Director:	Brad Robinson