



**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**

**Long-Term Care Homes Division
Long-Term Care Inspections Branch**

**Division des foyers de soins de
longue durée
Inspection de soins de longue durée**

Toronto Service Area Office
5700 Yonge Street 5th Floor
TORONTO ON M2M 4K5
Telephone: (416) 325-9660
Facsimile: (416) 327-4486

Bureau régional de services de
Toronto
5700 rue Yonge 5e étage
TORONTO ON M2M 4K5
Téléphone: (416) 325-9660
Télécopieur: (416) 327-4486

Public Copy/Copie du public

Report Date(s) / Date(s) du rapport	Inspection No / No de l'inspection	Log # / No de registre	Type of Inspection / Genre d'inspection
Nov 1, 2018	2018_324535_0009	009274-16	Complaint

Licensee/Titulaire de permis

City of Toronto
55 John Street Metro Hall, 11th Floor TORONTO ON M5V 3C6

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

Fudger House
439 Sherbourne Street TORONTO ON M4X 1K6

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

VERON ASH (535)

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): June 21, 22, 2018; and off-site interviews on July 26, 27, 30, September 11, 2018.

The following intake was completed in this complaint inspection: Log #009274-16 related to admission agreement.

During the course of the inspection, the inspector(s) spoke with the Assistant Administrator, Senior Clerk, Manager of Revenue and Trust Services, Social Worker (SW), registered practical nurse (RPN) and substitute decision-makers (SDMs).

During the course of the inspection, the inspector conducted health, admission and financial record reviews; and reviewed relevant policies and procedures.

**The following Inspection Protocols were used during this inspection:
Admission and Discharge**

During the course of this inspection, Non-Compliances were issued.

1 WN(s)

0 VPC(s)

1 CO(s)

0 DR(s)

0 WAO(s)

NON-COMPLIANCE / NON - RESPECT DES EXIGENCES

Legend	Legendé
WN – Written Notification VPC – Voluntary Plan of Correction DR – Director Referral CO – Compliance Order WAO – Work and Activity Order	WN – Avis écrit VPC – Plan de redressement volontaire DR – Aiguillage au directeur CO – Ordre de conformité WAO – Ordres : travaux et activités
<p>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).</p> <p>The following constitutes written notification of non-compliance under paragraph 1 of section 152 of the LTCHA.</p>	<p>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.</p> <p>Ce qui suit constitue un avis écrit de non-respect aux termes du paragraphe 1 de l'article 152 de la LFSLD.</p>

WN #1: 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).**

Findings/Faits saillants :

1. The licensee has failed to ensure that the long-term care home's (home) admission agreement relating to basic accommodation or preferred accommodation was separate from any other agreement and only included the information provided for under s. 227(3) of the Regulation.

The Ministry of Health and Long-Term Care (MOHLTC) received a complaint letter on March 24, 2016 regarding the content of the home's written admission agreement. The letter indicated that the admission agreement for resident #001, and other residents in the home, was contrary to the requirements under Long-Term Care Homes Act, 2007 (LTCHA). The complaint letter indicated that the home misrepresented the admission agreement by including a Guarantor's Agreement to be signed in order for the resident to be admitted into the home.

Ontario Regulation 79/10, s. 227(3) states that subject to subsection (4), an agreement

related 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.
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 increase 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 to a resident who has applied for a rate reduction under section 253 until the Director had 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.

A review of resident #001's written Admission Agreement (Long Stay), signed by the SDM #110 and the home on November 10, 2015, revealed that the Admission Agreement was not consistent with s. 227(3) of the Regulation as it included the following clauses which referenced a guarantor and their obligations:

2.1 Notwithstanding the termination of this agreement for any reason whatsoever, all of the obligations of the Resident and the Guarantor pursuant to this agreement with respect to the payment of accommodation fees, shall survive any such termination and shall remain in full force and effective until discharged.

2.2 No delay on the part of the City of Toronto in the exercise of any right or remedy against the Resident or Guarantor pursuant to this agreement shall operate as a waiver thereof, and no single or partial exercise by the City of Toronto or any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy.

2.3 The undersigned agree to all of the provisions of this agreement and understand their meaning with respect to the Resident, the Guarantor, and the Home. The undersigned have read and voluntarily agree to execute this agreement and further agree that no oral representations, statements or inducements, apart from the foregoing within this agreement, have been made.

2.4 The Resident and Guarantor agree that, through this Agreement, the Home is



providing a service for which a charge is levied and for which they are jointly and severally responsible.

2.5 Schedules A and B are deemed to be a part of this agreement.

In addition to the above clauses, on page one of the Admission Agreement at the top, there was a space provided for the guarantor's name to be included as a party to the Admission Agreement.

As a result of the non-compliance identified related to resident #001's Admission Agreement, the resident sample for the inspection was expanded to include reviewing the Admission Agreements for two additional residents. A review of the Admission Agreements for resident #002 and #003, and interviews with SDMs #111 and #112, indicated that the Admission Agreements for these residents also included the same clauses related to a guarantor and their obligations, as found in resident #001's Admission Agreement.

During separate interviews, the home's Assistant Administrator #100 and Senior Clerk #101 verified that the City of Toronto homes' currently use the same written admission agreement which includes a separate Guarantor's Agreement.

During an interview, the Manager of Revenue and Trust Services #105 verified that the written admission agreement was currently used by all City of Toronto Homes; and that the Admission Agreement was certified by their legal team.

The home failed to ensure that subject to s. 227(4), an agreement related to basic accommodation or preferred accommodation was separate from any other agreement, and only included provisions relating to the information listed in s. 227 (3) of the Regulation. [s. 227. (3)]

Additional Required Actions:

CO # - 001 will be served on the licensee. Refer to the "Order(s) of the Inspector".



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Issued on this 1st day of November, 2018

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

Original report signed by the inspector.



**Ministry of Health and
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Order(s) of the Inspector

Pursuant to section 153 and/or
section 154 of the *Long-Term Care
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Ordre(s) de l'inspecteur

Aux termes de l'article 153 et/ou
de l'article 154 de la *Loi de 2007 sur les foyers
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**Long-Term Care Homes Division
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Inspection de soins de longue durée**

Public Copy/Copie du public

Name of Inspector (ID #) /

Nom de l'inspecteur (No) : VERON ASH (535)

Inspection No. /

No de l'inspection : 2018_324535_0009

Log No. /

No de registre : 009274-16

Type of Inspection /

Genre d'inspection: Complaint

Report Date(s) /

Date(s) du Rapport : Nov 1, 2018

Licensee /

Titulaire de permis : City of Toronto
55 John Street, Metro Hall, 11th Floor, TORONTO, ON,
M5V-3C6

LTC Home /

Foyer de SLD : Fudger House
439 Sherbourne Street, TORONTO, ON, M4X-1K6

Name of Administrator /

Nom de l'administratrice

ou de l'administrateur : Nancy Lew

To City of Toronto, you are hereby required to comply with the following order(s) by
the date(s) set out below:

Order(s) of the Inspector

Pursuant to section 153 and/or
section 154 of the *Long-Term Care
Homes Act, 2007*, S.O. 2007, c.8

Ordre(s) de l'inspecteur

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de l'article 154 de la *Loi de 2007 sur les foyers
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Order # /**Ordre no :** 001**Order Type /****Genre d'ordre :** Compliance Orders, s. 153. (1) (a)**Pursuant to / Aux termes de :**

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

Order / Ordre :

The licensee must be compliant with s. 227 (3) of O. Reg. 79/10 (Regulation).

The licensee must ensure that Fudger House, and all other long-term care homes operated by the licensee, have an admission agreement relating to basic accommodation or preferred accommodation that is separate from any other agreement and only includes provisions which relate to the areas mentioned under s. 227(3) of the Regulation.

The Licensee must ensure that all new admission agreements entered into with residents as of January 31, 2019, and onward, meet the requirements under s. 227(3) of the Regulation.

Grounds / Motifs :

1. The licensee has failed to ensure that the long-term care home's (home) admission agreement relating to basic accommodation or preferred accommodation was separate from any other agreement and only included the information provided for under s. 227(3) of the Regulation.

The Ministry of Health and Long-Term Care (MOHLTC) received a complaint letter on March 24, 2016 regarding the content of the home's written admission agreement. The letter indicated that the admission agreement for resident #001, and other residents in the home, was contrary to the requirements under Long-Term Care Homes Act, 2007 (LTCHA). The complaint letter indicated that the home misrepresented the admission agreement by including a Guarantor's Agreement to be signed in order for the resident to be admitted into the home.

Ontario Regulation 79/10, s. 227(3) states that subject to subsection (4), an agreement related 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.
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 increase 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 to a resident who has applied for a rate reduction under section 253 until the Director had 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.

A review of resident #001's written Admission Agreement (Long Stay), signed by the SDM #110 and the home on November 10, 2015, revealed that the Admission Agreement was not consistent with s. 227(3) of the Regulation as it included the following clauses which referenced a guarantor and their obligations:

2.1 Notwithstanding the termination of this agreement for any reason whatsoever, all of the obligations of the Resident and the Guarantor pursuant to this agreement with respect to the payment of accommodation fees, shall survive any such termination and shall remain in full force and effective until discharged.

2.2 No delay on the part of the City of Toronto in the exercise of any right or remedy against the Resident or Guarantor pursuant to this agreement shall operate as a waiver thereof, and no single or partial exercise by the City of Toronto or any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy.

2.3 The undersigned agree to all of the provisions of this agreement and understand their meaning with respect to the Resident, the Guarantor, and the Home. The undersigned have read and voluntarily agree to execute this agreement and further agree that no oral representations, statements or inducements, apart from the foregoing within this agreement, have been made.

2.4 The Resident and Guarantor agree that, through this Agreement, the Home is providing a service for which a charge is levied and for which they are jointly and severally responsible.

2.5 Schedules A and B are deemed to be a part of this agreement.

In addition to the above clauses, on page one of the Admission Agreement at the top, there was a space provided for the guarantor's name to be included as a party to the Admission Agreement.

As a result of the non-compliance identified related to resident #001's Admission Agreement, the resident sample for the inspection was expanded to include reviewing the Admission Agreements for two additional residents. A review of the Admission Agreements for resident #002 and #003, and interviews with SDMs #111 and #112, indicated that the Admission Agreements for these residents also included the same clauses related to a guarantor and their obligations, as found in resident #001's Admission Agreement.

During separate interviews, the home's Assistant Administrator #100 and Senior Clerk #101 verified that the City of Toronto homes' currently use the same



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Order(s) of the Inspector

Pursuant to section 153 and/or
section 154 of the *Long-Term Care
Homes Act, 2007*, S.O. 2007, c.8

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written admission agreement which includes the above clauses.

During an interview, the Manager of Revenue and Trust Services #105 verified that same written admission agreement was currently used by all City of Toronto Homes and included a separate Guarantor's Agreement, and that the Admission Agreement was certified by their legal team.

The home failed to ensure that subject to s. 227(4), an agreement related to basic accommodation or preferred accommodation was separate from any other agreement, and only included provisions relating to the information listed in s. 227 (3) of the Regulation.

The severity of this issue was determined to be a level 1 as there was minimum risk to the residents. The scope of the issue was a level three as it was related to three of the three residents reviewed. The compliance history indicates one or more unrelated non-compliance in the last 36 months. Due to the widespread and ongoing use of the Admission Agreement document, a compliance order is warranted. (535) (535)

This order must be complied with by /

Vous devez vous conformer à cet ordre d'ici le : Jan 31, 2019



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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 to request that the Director stay this (these) Order(s) in accordance with section 163 of the Long-Term Care Homes Act, 2007.

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 was served on the Licensee.

The written request for review must include,

- (a) the portions of the order in respect of which the review is requested;
- (b) any submissions that the Licensee wishes the Director to consider; and
- (c) an address for services for the Licensee.

The written request for review must be served personally, by registered mail, commercial courier or by fax upon:

Director
c/o Appeals Coordinator
Long-Term Care Inspections Branch
Ministry of Health and Long-Term Care
1075 Bay Street, 11th Floor
TORONTO, ON
M5S-2B1
Fax: 416-327-7603



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When service is made by registered mail, it is deemed to be made on the fifth day after the day of mailing, when service is made by a commercial courier it is deemed to be made on the second business day after the day the courier receives the document, and when service is made by fax, it is deemed to be made on the first business day after the day the fax is sent. If the Licensee is not served with written notice of the Director's decision within 28 days of receipt of the Licensee's request for review, this (these) Order(s) is(are) deemed to be confirmed by the Director and the Licensee is deemed to have been served with a copy of that decision on the expiry of the 28 day period.

The Licensee has the right to appeal the Director's decision on a request for review of an Inspector's Order(s) to the Health Services Appeal and Review Board (HSARB) in accordance with section 164 of the Long-Term Care Homes Act, 2007. The 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 a hearing, the Licensee must, within 28 days of being served with the notice of the Director's decision, give a written notice of appeal to both:

Health Services Appeal and Review Board and the Director

Attention Registrar
151 Bloor Street West
9th Floor
Toronto, ON M5S 2T5

Director
c/o Appeals Coordinator
Long-Term Care Inspections Branch
Ministry of Health and Long-Term Care
1075 Bay Street, 11th Floor
TORONTO, ON
M5S-2B1
Fax: 416-327-7603

Upon receipt, the HSARB will acknowledge your notice of appeal and will provide instructions regarding the appeal process. The Licensee may learn more about the HSARB on the website www.hsarb.on.ca.



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**RENSEIGNEMENTS RELATIFS AUX RÉEXAMENS DE DÉCISION ET AUX
APPELS**

PRENEZ AVIS :

Le/la titulaire de permis a le droit de faire une demande de réexamen par le directeur de cet ordre ou de ces ordres, et de demander que le directeur suspende cet ordre ou ces ordres conformément à l'article 163 de la Loi de 2007 sur les foyers de soins de longue durée.

La demande au directeur doit être présentée par écrit et signifiée au directeur dans les 28 jours qui suivent la signification de l'ordre au/à la titulaire de permis.

La demande écrite doit comporter ce qui suit :

- a) les parties de l'ordre qui font l'objet de la demande de réexamen;
- b) les observations que le/la titulaire de permis souhaite que le directeur examine;
- c) l'adresse du/de la titulaire de permis aux fins de signification.

La demande de réexamen présentée par écrit doit être signifiée en personne, par courrier recommandé, par messagerie commerciale ou par télécopieur, au :

Directeur
a/s du coordonnateur/de la coordonnatrice en matière d'appels
Direction de l'inspection des foyers de soins de longue durée
Ministère de la Santé et des Soins de longue durée
1075, rue Bay, 11^e étage
Toronto ON M5S 2B1
Télécopieur : 416 327-7603



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Quand la signification est faite par courrier recommandé, elle est réputée être faite le cinquième jour qui suit le jour de l'envoi, quand la signification est faite par messagerie commerciale, elle est réputée être faite le deuxième jour ouvrable après le jour où la messagerie reçoit le document, et lorsque la signification est faite par télécopieur, elle est réputée être faite le premier jour ouvrable qui suit le jour de l'envoi de la télécopie. Si un avis écrit de la décision du directeur n'est pas signifié au/à la titulaire de permis dans les 28 jours de la réception de la demande de réexamen présentée par le/la titulaire de permis, cet ordre ou ces ordres sont réputés être confirmés par le directeur, et le/la titulaire de permis est réputé(e) avoir reçu une copie de la décision en question à l'expiration de ce délai.

Le/la titulaire de permis a le droit d'interjeter appel devant la Commission d'appel et de révision des services de santé (CARSS) de la décision du directeur relative à une demande de réexamen d'un ordre ou des ordres d'un inspecteur ou d'une inspectrice conformément à l'article 164 de la Loi de 2007 sur les foyers de soins de longue durée. La CARSS est un tribunal autonome qui n'a pas de lien avec le ministère. Elle est créée par la loi pour examiner les questions relatives aux services de santé. Si le/la titulaire décide de faire une demande d'audience, il ou elle doit, dans les 28 jours de la signification de l'avis de la décision du directeur, donner par écrit un avis d'appel à la fois à :

la Commission d'appel et de révision des services de santé et au directeur

À l'attention du/de la registrateur(e)
151, rue Bloor Ouest, 9e étage
Toronto ON M5S 2T5

Directeur
a/s du coordonnateur/de la coordonnatrice en matière
d'appels
Direction de l'inspection des foyers de soins de longue durée
Ministère de la Santé et des Soins de longue durée
1075, rue Bay, 11e étage
Toronto ON M5S 2B1
Télécopieur : 416 327-7603

À la réception de votre avis d'appel, la CARSS en accusera réception et fournira des instructions relatives au processus d'appel. Le/la titulaire de permis peut en savoir davantage sur la CARSS sur le site Web www.hsarb.on.ca.

Issued on this 1st day of November, 2018

Signature of Inspector /

Signature de l'inspecteur :



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**Name of Inspector /
Nom de l'inspecteur :**

Veron Ash

Service Area Office /

Bureau régional de services : Toronto Service Area Office