Ontario

Inspection Report Under the
Fixing Long-Term Care Act, 2021

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

Central West District
609 Kumpf Drive, Suite 105
Waterloo, ON, N2V 1K8
Telephone: (888) 432-7901

Original Public Report

Report Issue Date: August 19, 2024

Inspection Number: 2024-1548-0003

Inspection Type:
Critical Incident

Licensee: Corporation of the County of Bruce

Long Term Care Home and City: Gateway Haven Long Term Care Home, Wiarton

INSPECTION SUMMARY

The inspection occurred onsite on the following date(s): July 22-25, 30-31, 2024 and August 1, 2024

The following intake(s) were inspected:

- Intake: #00114663 /intake: #00115078 /Intake: #00115076 allegations of staff to resident abuse

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

Infection Prevention and Control
Prevention of Abuse and Neglect
Reporting and Complaints

INSPECTION RESULTS

COMPLIANCE ORDER CO #001 Duty to protect

NC #001 Compliance Order pursuant to FLTCA, 2021, s. 154 (1) 2.
Non-compliance with: FLTCA, 2021, s. 24 (1)
Duty to protect
s. 24 (1) Every licensee of a long-term care home shall protect residents from abuse by anyone and shall ensure that residents are not neglected by the licensee or staff.

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

The plan must include but is not limited to:

The licensee shall prepare, submit and implement a plan to ensure staff are following the Fixing Long Term Care Act 2021 s. 24 Duty to Protect and S. 28 (1) Reporting Certain Matters, the home's policies related to resident abuse and neglect, reporting allegations of resident abuse and neglect and whistle blowing.

-The type of retraining involved, including who will be responsible for the retraining and when it will be completed.

-The person(s) responsible for monitoring that the policy is being complied with, the frequency of monitoring and how it will be documented.

-The person(s) responsible for implementing an action plan if monitoring demonstrates the policy is not complied with; and

-Actions to address sustainability once the home has been successful in ensuring compliance with this policy.

Please submit the written plan for achieving compliance for inspection 2024_1548_0003 by email.

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

Grounds

The licensee failed to protect residents from abuse.

For the purpose of this Act and Regulation,

a) "verbal abuse" means "any form of verbal communication of a threatening or intimidating nature or any form of verbal communication of a belittling or degrading nature which diminishes a resident's sense of well-being, dignity or self-worth, that is made by anyone other than a resident".

b) "emotional abuse" means, any threatening, insulting, intimidating or humiliating gestures, actions, behaviour or remarks, including imposed social isolation, shunning, ignoring, lack of acknowledgement or infantilization that are performed by anyone other than a resident.

d) "Physical abuse" means use of physical force by anyone other than a resident that causes physical injury or pain.

Rationale and Summary

The home received allegations of abuse towards a resident.

During the course of the home's internal investigation related to these allegations, information was gathered and additional allegations of resident abuse towards other residents was reported.

The acting Director of Nursing (DON) stated that the home concluded a staff member had abused residents. Their employment was terminated.

Failing to protect residents from abuse caused impact to the residents.

Sources:

Review of resident clinical records, investigation notes, interviews with staff, policy VII-G-10.00 Prevention of Abuse and Neglect of a Resident, last revised February 2024

This order must be complied with by October 18, 2024

An Administrative Monetary Penalty (AMP) is being issued on this compliance order AMP #001

NOTICE OF ADMINISTRATIVE MONETARY PENALTY (AMP)

The Licensee has failed to comply with FLTCA, 2021

Notice of Administrative Monetary Penalty AMP #001
Related to Compliance Order CO #001

Pursuant to section 158 of the Fixing Long-Term Care Act, 2021, the licensee is required to pay an administrative penalty of $5500.00, to be paid within 30 days from the date of the invoice.
In accordance with s. 349 (6) and (7) of O. Reg. 246/22, this administrative penalty is being issued for the licensee's failure to comply with a requirement, resulting in an order under s. 155 of the Act and during the three years immediately before the date the order under s. 155 was issued, the licensee failed to comply with the same requirement.

Compliance History:

July 25, 2023, CO #001 in inspection #2023-1548-0005

This is the first AMP that has been issued to the licensee for failing to comply with this requirement.

Invoice with payment information will be provided under a separate mailing after service of this notice.
Licensees must not pay an AMP from a resident-care funding envelope provided by the Ministry [i.e., Nursing and Personal Care (NPC); Program and Support Services (PSS); and Raw Food (RF)]. By submitting a payment to the Minister of Finance, the licensee is attesting to using funds outside a resident-care funding envelope to pay the AMP.

COMPLIANCE ORDER CO #002 Reporting certain matters to Director

NC #002 Compliance Order pursuant to FLTCA, 2021, s. 154 (1) 2.

Non-compliance with: FLTCA, 2021, s. 28 (1) 2.

Reporting certain matters to Director

s. 28 (1) A person who has reasonable grounds to suspect that any of the following has occurred or may occur shall immediately report the suspicion and the information upon which it is based to the Director:

2. Abuse of a resident by anyone or neglect of a resident by the licensee or staff that resulted in harm or a risk of harm to the resident.

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

a) provide training to all staff on the definitions of the types of resident abuse and neglect, with examples, the whistle blowing legislation and when and who to report an allegation of resident abuse. A component of the training should include, a knowledge check (test) administered to identify staff with further training needs. Document the education including the date, any corrective action, format and attendance, including the staff member who provided the education.

Grounds

The licensee failed to report to the Director immediately when there were allegations of resident abuse.

Rationale and Summary

The home received allegations of staff to resident abuse. These allegations were not reported to the Director immediately. Staff members were aware allegations of resident abuse were to be reported immediately.

The acting Director of Nursing (DON) stated that staff had been aware of allegations of staff to resident abuse and had not reported these allegations to the home.

When staff failed to report witnessed or suspected incidents of abuse, the resident was at risk of continued abuse by staff.

Sources:

Homes investigation interviews, written statement summaries by various staff members, interview with staff.

This order must be complied with by October 18, 2024

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

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.