

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: July 23, 2024

Inspection Number: 2024-1550-0001

Inspection Type: Complaint

Licensee: The Regional Municipality of Niagara

Long Term Care Home and City: Gilmore Lodge, Fort Erie

INSPECTION SUMMARY

The inspection occurred offsite on the following dates: May 22-23, 27-31, 2024, June 3 - 4, 7, 10, 11-12, 14, 18, 20-21, 2024 and July 4, 9, & 11, 2024

The following was inspected:

- Intake: #00116515 - Complaint related to records required for employment.

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

Safe and Secure Home

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INSPECTION RESULTS

WRITTEN NOTIFICATION: Exemptions, training

NC #001 Written Notification pursuant to FLTCA, 2021, s. 154 (1) 1.

Non-compliance with: O. Reg. 79/10, s. 222 (2)

Exemptions, training

s. 222 (2) The licensee shall ensure that the persons described in clauses (1) (a) to (c) are provided with information about the items listed in paragraphs 1, 3, 4, 5, 7, 8 and 9 of subsection 76 (2) of the Act before providing their services. O. Reg. 79/10, s. 222 (2).

The licensee failed to ensure all contracted staff who performed a role that did not involve direct care of residents were provided required information before they worked within the home, including the home's policy to promote zero tolerance of resident abuse and neglect.

Sources: Interview with the home's Administrator, as well as records including one of the licensee's service agreements.

WRITTEN NOTIFICATION: Training

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

Non-compliance with: FLTCA, 2021, s. 82 (2) 3.

Training

s. 82 (2) Every licensee shall ensure that no person mentioned in subsection (1) performs their responsibilities before receiving training in the areas mentioned below:

3. The long-term care home's policy to promote zero tolerance of abuse and

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neglect of residents.

The Fixing Long Term Care Act, 2021, s. 2 states: "staff", in relation to a long-term care home, means persons who work at the home,

- (a) as employees of the licensee,
- (b) pursuant to a contract or agreement with the licensee, or
- (c) pursuant to a contract or agreement between the licensee and an employment agency or other third party; ("personnel")

The licensee failed to ensure all staff pursuant to a contract who provided direct care to residents received training in the long-term care home's policy to promote zero tolerance of abuse and neglect of residents, before the staff performed their responsibilities.

Sources: Interview with the home's Administrator, as well as records including one of the licensee's service agreements.

COMPLIANCE ORDER CO #001 Staff records

NC #003 Compliance Order pursuant to FLTCA, 2021, s. 154 (1) 2.

Non-compliance with: O. Reg. 246/22, s. 278 (1)

Staff records

s. 278 (1) Subject to subsections (2) and (3), every licensee of a long-term care home shall ensure that a record is kept for each staff member of the home that includes at least the following with respect to the staff member:

1. The staff member's qualifications, previous employment and other relevant experience.
2. Where applicable, a verification of the staff member's current certificate of registration with the College of the regulated health profession of which they are a

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member, or verification of the staff member's current registration with the regulatory body governing their profession.

3. Where applicable, the results of the staff member's police record check under subsection 81 (2) of the Act.

4. If subsection 81 (4) of the Act applied with respect to a staff member, a record showing that the staff member has not been convicted of an offence prescribed under subsection 255 (1) of this Regulation or found guilty of an act of professional misconduct prescribed under subsection 255 (2).

5. Where applicable, the staff member's declarations under subsection 252 (4) and section 253.

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

The licensee shall:

A) Review and revise as necessary its process for ensuring all staff who will be providing direct care to residents have had their records collected and reviewed by the licensee prior to the staffs' first day of work on site. In accordance with O. Reg. 246/22, s. 281, these records must be kept on-site at the home while the staff member is actively employed by the home. In accordance with O. Reg. 246/22, s. 282, the staff records must be retained for seven years after the staff member ceased to work at the home, and on-site at the home for at least the first year following the employees last date of work.

B) Among the applicable elements of Ontario Regulation (O. Reg.) 246/22 s. 278 (1), ensure the revised process includes procedures for collecting and reviewing the following records for completion, prior to the staff working with residents:

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1. A valid Vulnerable Sector Check that complies with the requirements of Ontario Regulation 246/22 s. 252, including that it was conducted within six months before their date of hire, by a police record check provider within the meaning of the Police Record Checks Reform Act, 2015.
2. Valid tuberculosis screening record(s) at time of hire, in accordance with evidence-based practices and where there are none, in accordance with prevailing practices, consistent with s. 102 (12) 4 of O. Reg. 246/22.

Grounds

The Fixing Long Term Care Act, 2021, s. 2 states: "staff", in relation to a long-term care home, means persons who work at the home,

- (a) as employees of the licensee,
- (b) pursuant to a contract or agreement with the licensee, or
- (c) pursuant to a contract or agreement between the licensee and an employment agency or other third party; ("personnel")

The FLTCA, s. 162 (1) 2 states: The authority to make an order or issue a notice under sections 155 to 161 against a licensee who has not complied with a requirement under this Act applies regardless of the following, and they shall not be considered in deciding whether to exercise the authority whether, at the time of the non-compliance, the licensee had an honest and reasonable belief in a set of facts that, if true, would have resulted in there not being any non-compliance.

The licensee failed to ensure required records were kept for all contracted staff members who provided direct care to residents at the home over a two-year period.

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The licensee reported they did not have relevant hiring records for multiple staff at the time of inspection.

Sources: Interview with the home's Administrator, as well as records including the licensee's policies related to screening prospective staff at time of hiring.

This order must be complied with by August 31, 2024

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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

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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:

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Health Services Appeal and Review Board

Attention Registrar
151 Bloor Street West, 9th Floor
Toronto, ON, M5S 1S4

Director

c/o Appeals Coordinator
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438 University Avenue, 8th Floor
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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.