

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: August 28, 2024

Inspection Number: 2024-1393-0002

Inspection Type: Complaint

Licensee: Henley House Limited

Long Term Care Home and City: The Henley House, St Catherines

INSPECTION SUMMARY

The inspection occurred onsite on the following date(s): July 18, 19, 2024

The inspection occurred offsite on the following date(s): May 22, 23, 24, 27, 28, 29, 2024, June 3, 4, 7, 10, 11, 12, 13, 14, 24, 27, 2024, July 8, 31, 2024 and August 1, 14, 2024

The following intake(s) were inspected:

- Intake: #00116506 - Complaint related to documents required for employment

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

Safe and Secure Home

INSPECTION RESULTS

WRITTEN NOTIFICATION: Assistance

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

Non-compliance with: FLTCA, 2021, s. 150 (4)

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Powers on inspection

s. 150 (4) Every person shall give all reasonable assistance to an inspector in the exercise of the inspector's powers or the performance of the inspector's duties under this Act or the regulations. 2021, c. 39, Sched. 1, s. 150 (4).

The licensee has failed to ensure that the home's Administrator gave all reasonable assistance to inspectors in the exercise of the inspectors' powers or the performance of the inspector's duties under this Act or the regulations. An inspection was initiated related to a complaint regarding possible falsification of documents for employment. Multiple attempts were made to communicate with the Administrator by phone and by email on multiple dates throughout the inspection with either a lack of or a late response.

Sources: The home's contract with a staffing agency, agency staff schedules, emails and interviews.

WRITTEN NOTIFICATION: Staff records

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

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.

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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 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 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 has failed to ensure that a record was kept for each staffing agency staff member that included the staff member's qualifications, previous employment and other relevant experience for an identified staffing agency. Inspectors requested and were provided only approximately one third of agency staff records, upon reviewing the records provided, they did not include all of the required documents, including previous employment, other relevant experience, and the results of the staff member's police record check.

Sources: Interviews and emails.

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COMPLIANCE ORDER CO #001 Orientation

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

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

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:

1. The Residents' Bill of Rights.
2. The long-term care home's mission statement.
3. The long-term care home's policy to promote zero tolerance of abuse and neglect of residents.
4. The duty under section 28 to make mandatory reports.
5. The protections afforded by section 30.
6. The long-term care home's policy to minimize the restraining of residents.
7. Fire prevention and safety.
8. Emergency and evacuation procedures.
9. Infection prevention and control.
10. All Acts, regulations, policies of the Ministry and similar documents, including policies of the licensee, that are relevant to the person's responsibilities.
11. Any other areas provided for in the regulations.

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 hired pursuant to a contract, receive all required training before they perform their responsibilities.

Keep a record of this review, who participated, the date it occurred, and any changes made.

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B) Ensure that all new staff hired pursuant to a contract, receive all required training before they perform their responsibilities. Keep a record of training completed, who participated and dates completed.

C) Complete an audit of training for all current staff hired pursuant to a contract, to determine if any staff working have not received all required training. Keep a record of the audit, date completed, who completed it, and results. Ensure that for any staff identified in the audit as not having completed the training, the training is provided and keep a record of the training.

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 licensee has failed to ensure that staff hired pursuant to a contract with an identified staffing agency received required training before performing their responsibilities. The home was not able to obtain or provide any records indicating completion of the required training and were not able to confirm what training staffing agency staff had received, if any.

Sources: The home's contract with a staffing agency, staffing agency staff schedules, the home's employee education policy, emails and interviews.

This order must be complied with by September 25, 2024

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COMPLIANCE ORDER CO #002 Infection prevention and control program

NC #004 Compliance Order pursuant to FLTCA, 2021, s. 154 (1) 2.

Non-compliance with: O. Reg. 246/22, s. 102 (12) 4.

Infection prevention and control program

s. 102 (12) The licensee shall ensure that the following immunization and screening measures are in place:

4. Staff is screened for tuberculosis and other infectious diseases in accordance with any standard or protocol issued by the Director under subsection (2).

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 hired pursuant to a contract are appropriately screened for tuberculosis at time of hire. Keep a record of this review, who participated, the date it occurred, and any changes made.

B) Implement the reviewed/revised process to ensure that all new staff hired pursuant to a contract have completed a valid negative tuberculosis screening before they perform their duties.

C) Complete an audit of all current staff hired pursuant to a contract to determine if staff working have a valid negative tuberculosis screening. Keep a record of the audit, date completed, who completed it and results. Ensure that any staff identified in the audit as not having a valid negative tuberculosis screening cease working in the home until valid negative screening has been completed.

Grounds

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

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- (a) as employees of the licensee,
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According to the Infection Prevention and Control (IPAC) Standard, s. 11.2, the licensee was required to ensure that staff were screened for tuberculosis (TB) and other infectious diseases at time of hire in accordance with evidence-based practices and where there are none, in accordance with prevailing practices.

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 has failed to ensure that staff hired pursuant to a contract with an identified staffing agency were screened for tuberculosis. The home was only able to provide records for approximately one third of the agency staff, and therefore, had no documentation of TB screening for the majority of the agency staff.

Of the records provided, multiple records either did not include TB screening documents or included invalid TB screening. An interview with one medical clinic confirmed that a staffing agency provided a falsified tuberculosis screening document for the staffing agency staff to the home.

Sources: The home's contract with a staffing agency, agency staff schedules, the home's TB screening process, staffing agency staff schedules, emails and

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interviews.

This order must be complied with by September 25, 2024

COMPLIANCE ORDER CO #003 Hiring staff, accepting volunteers

NC #005 Compliance Order pursuant to FLTCA, 2021, s. 154 (1) 2.

Non-compliance with: O. Reg. 246/22, s. 252 (3)

Hiring staff, accepting volunteers

s. 252 (3) The police record check must be a vulnerable sector check referred to in paragraph 3 of subsection 8 (1) of the Police Record Checks Reform Act, 2015, and be conducted to determine the person's suitability to be a staff member or volunteer in a long-term care home and to protect residents from abuse and neglect.

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 that all staff hired pursuant to a contract have a valid Vulnerable Sector Check, including that it was conducted within six months before their date of hire. Keep a record of this review, who participated, the date it occurred, and any changes made.

B) Implement the reviewed/revised process to ensure that all new staff hired pursuant to a contract have a valid Vulnerable Sector Check before they perform their duties.

C) Complete an audit of all current staff hired pursuant to a contract to determine if staff working have a valid Vulnerable Sector Check conducted within six months before the staff member was hired. Keep a record of the audit, date completed, who

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completed it and results. Ensure that any staff identified in the audit as not having a valid Vulnerable Sector Check cease working in the home until a valid negative check has been completed.

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 Fixing Long Term Care Act, 2021, 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 has failed to ensure that a police record check, which was a vulnerable sector check, was conducted before hiring staffing agency staff members. The home was only able to provide records for approximately one third of the agency staff, and therefore, had no documentation of (Vulnerable Sector Check) VSC for the majority of the agency staff.

Of the records provided, multiple records either did not include VSC documents or were not conducted by an authorized provider. Communication with one police force confirmed that a staffing agency provided a falsified VSC document for the

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staffing agency staff to the home.

Sources: The home's contract with a staffing agency, staffing agency staff schedules, staffing agency staff records, the home's criminal reference checks policy, interviews and emails.

This order must be complied with by September 25, 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
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.