

Ministry of Long-Term Care

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

Central East District

33 King Street West, 4th Floor
Oshawa, ON, L1H 1A1
Telephone: (844) 231-5702

Original Public Report

Report Issue Date: October 8, 2024	
Inspection Number: 2024-1408-0003	
Inspection Type: Complaint Critical Incident Follow up	
Licensee: Markhaven, Inc.	
Long Term Care Home and City: Markhaven, Markham	
Lead Inspector	Inspector Digital Signature
Additional Inspector(s)	

INSPECTION SUMMARY

The inspection occurred onsite on the following date(s): September 16-20 and 23-26, 2024

The following intake(s) were inspected:

- An intake related to alleged staff to resident abuse
- An intake related to a complaint regarding family council and the quality improvement program
- An intake related to a complaint regarding the continuous quality improvement program, recreation activities, and family council
- An Intake related to a complaint regarding family council

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- An intake related to a second follow-up to Compliance Order (CO) #007, from inspection #2024-1408-0002, related to FLTCA, 2021, O. Reg. 246/22 - s. 102 (15) 2, with a Compliance Due Date (CDD) on July 12, 2024
- An intake related to a second follow-up to CO #001, from inspection #2024-1408-0002, related to FLTCA, 2021 - s. 24 (1), with a CDD on June 28, 2024
- An intake related to a second follow-up to CO #002, from inspection #2024-1408-0002, related to O. Reg 246/22 - s. 140 (1) , with a CDD on July 5, 2024
- An intake related to a second follow-up to to CO #004, from inspection #2024-1408-0002, related to O. Reg. 246/22 - s. 44, with a CDD on July 12, 2024
- An intake related to a second follow-up to CO #006, from inspection #2024-1408-0002, related to FLTCA, 2021, O. Reg. 246/22 - s. 102 (2) (b), with a CDD on July 12, 2024
- An intake related to neglect of a resident
- An related to a complaint regarding the family council

Previously Issued Compliance Order(s)

The following previously issued Compliance Order(s) were found to be in compliance:

Order #007 from Inspection #2024-1408-0001 related to O. Reg. 246/22, s. 102 (15) 2.

Order #001 from Inspection #2024-1408-0001 related to FLTCA, 2021, s. 24 (1)

Order #002 from Inspection #2024-1408-0001 related to O. Reg. 246/22, s. 140 (1)

Order #004 from Inspection #2024-1408-0001 related to O. Reg. 246/22, s. 44

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Order #006 from Inspection #2024-1408-0001 related to O. Reg. 246/22, s. 102 (2)
(b)

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

- Resident Care and Support Services
- Residents' and Family Councils
- Medication Management
- Infection Prevention and Control
- Prevention of Abuse and Neglect
- Responsive Behaviours
- Quality Improvement
- Recreational and Social Activities
- Restraints/Personal Assistance Services Devices (PASD) Management

INSPECTION RESULTS

WRITTEN NOTIFICATION: INVOLVEMENT OF RESIDENT, ETC.

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

Non-compliance with: FLTCA, 2021, s. 6 (5)

Plan of care

s. 6 (5) The licensee shall ensure that the resident, the resident's substitute decision-maker, if any, and any other persons designated by the resident or substitute decision-maker are given an opportunity to participate fully in the development and implementation of the resident's plan of care.

The licensee has failed to ensure that the resident's Substitute Decision Maker (SDM), if any, and any other persons designated by the resident or SDM was given an opportunity to participate fully in the development and implementation of the

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resident's plan of care.

Rationale and Summary

A CIR was submitted to the Director regarding a complaint investigation. The home received a complaint that a resident was not administered a treatment as prescribed and that their SDM was not informed of this occurrence.

Review of a resident's medical records indicated that a treatment was ordered for a resident. The resident received initial treatment but did not receive subsequent treatment and the resident's SDM was not informed of this.

In the home's Incident Investigation notes, nursing staff stated that they had not informed the SDM when the treatment was not administered. A nursing staff indicated that they had followed up with an external partner regarding the order and reported that the order was not received. The nursing staff had not informed the SDM of the treatment order. The Director of Care (DOC) stated they had provided in-time counseling to the registered staff regarding notifying family of missed treatment.

Failing to inform the resident's SDM that their treatment had not been administered resulted in a missed opportunity to participate fully in the development and implementation of the resident's plan of care.

Sources: A resident's medical records, Home's Investigation notes, interviews with nursing staff and DOC.

**WRITTEN NOTIFICATION: PROTECTION FROM CERTAIN
RESTRAINING**

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

Non-compliance with: FLTCA, 2021, s. 34 (1) 5.

Protection from certain restraining

s. 34 (1) Every licensee of a long-term care home shall ensure that no resident of the home is:

5. Restrained, by the use of barriers, locks or other devices or controls, from leaving a room or any part of a home, including the grounds of the home, or entering parts of the home generally accessible to other residents, other than under the common law duty referred to in section 39.

The licensee failed to ensure that residents were not restrained by the use of locks, barriers or other devices from leaving or entering resident rooms.

Rationale and Summary

A specific device, that could not be easily removed, was observed to be in place for a resident.

A review of the resident's health records indicated that the device was used as a Personal Assistive Services Device (PASD).

The home's policy on "Personal Assistive Services Device" directs that a PASD may limit or inhibit movement and may restrain a resident but is not considered a restraint if the intent is to provide assistance with Activities of Daily Living (ADLs).

The Resident Assistance Instrument (RAI) Coordinator, nursing staff, and the DOC indicated that the specific device was being used as a PASD but acknowledged that it did not assist the resident with their ADLs and was being used for another purpose.

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When the licensee implemented the use of the specific device, it posed a safety risk to residents.

Sources: Observations, "Personal Assistive Device" Policy, resident's health records, interviews with RAI Coordinator, nursing staff, and the DOC.

WRITTEN NOTIFICATION: RESIDENT AND FAMILY/CAREGIVER EXPERIENCE SURVEY

NC #003 Written Notification pursuant to FLTCA, 2021, s. 154 (1) 1.

Non-compliance with: FLTCA, 2021, s. 43 (5) (a)

Resident and Family/Caregiver Experience Survey

s. 43 (5) The licensee shall ensure that,

(a) the results of the survey are documented and made available to the Residents' Council and the Family Council, if any, to seek their advice under subsection (4);

The licensee failed to ensure that the Resident and Family/Caregiver Survey was documented and made available to the Family Council.

Rationale and Summary

Complaints were submitted to the Director related to information not being provided to the Family Council.

A review of the home's Continuous Quality Improvement Initiative (CQI) Report, CQI Committee minutes, and Family Council minutes did not include that the Resident and Family/Caregiver Survey results, and the actions taken to improve the Long-Term Care Home (LTCH), were documented, and made available to the Family Council to seek their advice.

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Electronic mail (E-mail) documentation provided by the Family Council showed that they had requested the Resident and Family Experience Survey results and alleged that it had not been provided.

Family Council members indicated they did not recall the home providing any results of the Resident Satisfaction Survey or action plan for the survey taken in the fall of 2023.

The Recreation Manager indicated that the Executive Director (ED) sent out e-mails to the Family Council and that they would have shared the results. The ED indicated that the Recreation Manager should have shared the results and acknowledged that they did not.

Failing to ensure that the home's Resident and Family/Caregiver Experience Survey was shared with the Family Council members posed a risk that the Family Council was not aware of improvements in the home and would become concerned for the operation of the home.

Sources: Complaints submitted to the Director, CQI Reports, Family Council and CQI Committee meeting minutes, interviews with Complainants, Recreation Manager and ED.

WRITTEN NOTIFICATION: LICENSEE TO CO-OPERATE WITH AND ASSIST COUNCILS

NC #004 Written Notification pursuant to FLTCA, 2021, s. 154 (1) 1.

Non-compliance with: FLTCA, 2021, s. 68

Licensee to co-operate with and assist Councils

s. 68. A licensee shall co-operate with the Residents' Council, the Family Council,

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the Residents' Council assistant and the Family Council assistant and shall provide them with such financial and other information and such assistance as is provided for in the regulations.

The licensee failed to cooperate with the Family Council and provide them with financial and other information, as is provided for in the regulations.

Rationale and Summary

Multiple complaints were submitted to the Director from Family Council members who expressed concerns with the home not providing information requested.

A Family Council member provided e-mails wherein they communicated concerns that financial, resident satisfaction survey results, and recreation activities information were not being provided to the Family Council.

The Executive Director (ED) responded to the Family Council but did not provide the requested information.

A review of the Family Council minutes for the past year did not include any financial information or Resident and Family/Caregiver Survey results.

The former Family Council President indicated they resigned from Family Council after being frustrated with the responses from the home and lack of transparency in not providing the requested information. Three other complaints were submitted to the Director related to the licensee's interactions with the Family Council and lack of response in providing requested information.

The ED indicated they were aware the licensee was required to provide financial information and acknowledged it was provided at a Family Council meeting.

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The ED indicated that the home usually sends out the Resident and Family/Caregiver Experience survey results to the Family Council and acknowledged last year's survey results were not sent.

Failing to cooperate with providing the Family Council with financial information and other information, as provided for in the regulations, led the Family Council members to become frustrated with the lack of transparency of the home.

Sources: Complaints, Family Council minutes, e-mails, interviews with Family Council members and ED.

WRITTEN NOTIFICATION: POSTING OF INFORMATION

NC #005 Written Notification pursuant to FLTCA, 2021, s. 154 (1) 1.

Non-compliance with: FLTCA, 2021, s. 85 (3) (l)

Posting of information

s. 85 (3) The required information for the purposes of subsections (1) and (2) is,
(l) copies of the inspection reports from the past two years for the long-term care home;

The licensee failed to post copies of the Inspection Reports from the past two years for the LTCH in a conspicuous and easily accessible location.

Rationale and Summary

A complaint was submitted to the Director related to the home not providing information to the Family Council.

During an initial tour of the home, a binder of information was observed to have only one Inspection Report included as documentation under a tab entitled "Inspection

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Reports." Further observations in the home did not find any other Inspection Reports posted in the home.

Family Council members indicated that the home was not providing Inspection Reports to the Family Council of the home until they requested them and that the most recent Inspection Report was not posted in the home.

The DOC and ED indicated that the posting of Inspection Reports in their home only included the most recent report and acknowledged they were not aware of the requirement of the Director that the Inspection Reports for the past two years be posted.

Failing to post required information in the home led to the Family Council to become frustrated about the home's transparency to share information.

Sources: Complaint, observations, interviews with Family Council members, DOC, and ED.

WRITTEN NOTIFICATION: BEHAVIOURS AND ALTERCATIONS

NC #006 Written Notification pursuant to FLTCA, 2021, s. 154 (1) 1.

Non-compliance with: O. Reg. 246/22, s. 60 (a)

Behaviours and altercations

s. 60. Every licensee of a long-term care home shall ensure that,

(a) procedures and interventions are developed and implemented to assist residents and staff who are at risk of harm or who are harmed as a result of a resident's behaviours, including responsive behaviours, and to minimize the risk of altercations and potentially harmful interactions between and among residents; and

The licensee failed to ensure that interventions are developed and implemented to

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minimize the altercations due to responsive behaviours for a resident.

Rationale and Summary

A CIR was submitted to the Director related to an altercation between a resident and a Personal Support Worker (PSW) in which the resident exhibited responsive behaviours and sustained an injury. The resident's health records indicated that the resident fell and sustained an injury.

A specific behavioural trigger for the resident was documented in a health care record. Other health records indicated that an intervention to address the resident's behaviours was in place, however, did not account for this known behavioural trigger.

The Behavioural Supports Ontario (BSO) Lead and the RAI Coordinator acknowledged that the specific behavioural trigger for this resident was known.

The DOC indicated that the resident required the specific intervention for safety. The DOC acknowledged that behavioural triggers should be avoided and that implementing the specific intervention without accounting for the known behavioural trigger posed a safety risk to the resident and staff.

The ED acknowledged that the specific behavioural trigger should be documented and communicated to staff.

Failing to develop and implement interventions for the resident's behaviours led to an altercation with staff which resulted in an injury.

Sources: Resident's health records, interviews with the BSO Lead, RAI Coordinator, DOC, and ED.

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WRITTEN NOTIFICATION: CONTINUOUS QUALITY IMPROVEMENT COMMITTEE

NC #007 Written Notification pursuant to FLTCA, 2021, s. 154 (1) 1.

Non-compliance with: O. Reg. 246/22, s. 166 (2) 4.

Continuous quality improvement committee

s. 166 (2) The continuous quality improvement committee shall be composed of at least the following persons:

4. Every designated lead of the home.

The licensee failed to ensure the CQI Committee was composed of every designated lead of the home.

Rationale and Summary

A complaint was submitted to the Director related to the Quality Improvement Program of the home.

A review of the home's CQI Committee meetings and terms of reference did not include the designated leads as members attending the home's CQI meetings.

The Recreation Manager indicated that they were not a member of the CQI Committee of the home.

The DOC and ED acknowledged the designated leads for programs, dietary and environmental departments were not members of the CQI Committee.

Failing to ensure every designated lead of the home attends the CQI Committee poses a risk that quality improvement initiatives do not involve all departments of the home.

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Sources: Home's CQI Committee meeting minutes and terms of reference, interviews with DOC and ED.

WRITTEN NOTIFICATION: CONTINUOUS QUALITY IMPROVEMENT INITIATIVE REPORT

NC #008 Written Notification pursuant to FLTCA, 2021, s. 154 (1) 1.

Non-compliance with: O. Reg. 246/22, s. 168 (1)

Continuous quality improvement initiative report

s. 168 (1) Every licensee of a long-term care home shall prepare a report on the continuous quality improvement initiative for the home for each fiscal year no later than three months after the end of the fiscal year and, subject to section 271, shall publish a copy of each report on its website.

The licensee failed to publish a copy of the CQI Report on its website no later than three months after the end of the fiscal year.

Rationale and Summary

A complaint was forwarded to the Director related to information not being provided to the Family Council of the home.

A review of the home's website revealed that the report from another home was posted.

The DOC and ED indicated that the incorrect report was posted on the home's website and acknowledged that their CQI report was not posted by the required timeline.

Failing to ensure the home's CQI Report was posted on the home's website, as

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required, is a lack of transparency providing the home's quality improvement program.

Sources: Home's website, CQI Initiative report, interviews with ED and DOC.

NOTICE OF RE-INSPECTION FEE Pursuant to section 348 of O. Reg. 246/22 of the Fixing Long-Term Care Act, 2021, the licensee is subject to a re-inspection fee of \$500.00 to be paid within 30 days from the date of the invoice.

A re-inspection fee applies since this is, at minimum, the second follow-up inspection to determine compliance with the following Compliance Order(s) under s. 155 of the FLTCA, 2021, and/or s. 153 of the LTCHA, 2007.

Issued for re-inspection of five compliance orders. CO's were initially issued in WS: 2024-1408-0001. CO's were not complied in first follow up inspection WS: 2024-1408-0002.

Licensees must not pay a Re-Inspection Fee 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 Re-Inspection Fee.