

Order of the Director

under the *Fixing Long-Term Care Act, 2021*

	<input type="checkbox"/> Licensee Copy/Copie du Titulaire <input checked="" type="checkbox"/> Public Copy/Copie Public
Name of Director:	Tammy Szymanowski
Order Type:	<input type="checkbox"/> Reduction of licensed beds, section 107(3) <input type="checkbox"/> Order to impose any conditions on the licence, section 107(3)b <input type="checkbox"/> Renovation of Municipal Home Order, section 138 <input checked="" type="checkbox"/> Compliance Order, section 155 <input type="checkbox"/> Order that funding be returned or withheld, section 156 <input type="checkbox"/> Order requiring Management, section 157 <input type="checkbox"/> Suspension or Revocation Order, section 159 <input type="checkbox"/> Supervision of Long-term care home Order, section 159(5)
Intake Log # of original inspection (if applicable):	
Original Inspection #:	2023-1134-0003
Licensee:	Revera Long Term Care Inc.
LTC Home:	Fosterbrooke
Name of Administrator:	Charlene Smith

Background:	
<p>An on-site inspection was conducted at Fosterbrooke (the “Home”) between May 15-19, and June 1, 2023. The Inspector found that Revera Long Term Care Inc. (the “Licensee”), did not comply with s. 23.1(1) of O. Reg. 246/22 (the “Regulation”), under the <i>Fixing Long-Term Care Act, 2021</i> (“FLTCA”). The Inspector issued a Compliance Order and associated administrative monetary penalty (“AMP”) for the non-compliance finding. The Licensee requested the Director to review the Inspector's Compliance Order and AMP pursuant to s. 169 of the FLTCA. The Inspector's CO requires the Licensee to ensure that each resident bedroom has its own portable air conditioning unit. Portable air conditioning units are not the only mechanical cooling system that the Home can rely on to meet the requirements set out in s. 23.1(1) of the Regulation. As a result of the Director's review, the Inspector's Compliance Order is altered and substituted with the following Order of the Director.</p> <p>The Order of the Director below is issued to address the Licensee's non-compliance with s. 23.1(1) of the Regulation for not ensuring that air conditioning was installed, operational and in</p>	

good working order for the purpose of cooling the temperature in every resident bedroom during at least the period from May 15 to September 15 in each year.

Order:

To Revera Long Term Care Inc. you are hereby required to comply with the following order by the date set out below:

Pursuant to:

S. 23.1(1) of the *Regulation*

23.1 (1) Every licensee of a long-term care home shall ensure that air conditioning is installed, operational and in good working order for the purpose of cooling the temperature in the following areas of the long-term care home during at least the period from May 15 to September 15 in each year:

1. Every resident bedroom.

Order: The Licensee is ordered to:

1. Immediately retain a mechanical engineering firm or Heating Ventilation and Air Conditioning (HVAC) Engineer/Technician to determine and install an option to supplement the Home's current system that results in the Home having air conditioning installed, operational and in good working order for the purpose of cooling the temperature in every resident bedroom without over cooling rooms and while maintaining the minimum temperature requirement of 22 degrees Celsius by August 18, 2023.

Grounds:

The Licensee failed to ensure that air conditioning is installed, operational and in good working order for the purpose of cooling the temperature in every resident bedroom during at least the period from May 15 to September 15 in each year.

Rationale and Summary:

During the Inspection, the Inspector noted that the Home did not appear to have air conditioning in all resident rooms. As a result, on May 19, 2023, the Inspector requested a mechanical engineer consultation from an engineering company, to consult upon the air conditioning at the home.

On June 1, 2023, a Mechanical Engineer of record accompanied the Inspector at Fosterbrooke to conduct an air conditioning assessment at the Home.

In the Regulation, “air conditioning” is defined as “a mechanical cooling system that can maintain cool temperatures, including in peak summer conditions, and includes central air conditioning with in-room supply air ducts, portable air conditioning units, window air conditioning units, split air conditioning, package type air conditioning and variable refrigerant flow units, or a combination of any of these systems.”

The Engineer’s final report states that it is in their opinion that the building does not comply with the air conditioning requirements of the Regulation. It is the professional opinion of the Mechanical Engineer that, while 100% outside air (OA) that is being delivered to each room is tempered, it is not able to cool the air in all resident bedrooms. The Engineer further stated that the heat pumps located in the corridors are working to provide supplementary cooling; however, since there is not a concrete means to direct this cooling into the residents’ bedrooms, there is inconsistency observed in temperature distribution. The report further explains that providing the OA at a neutral supply air temperature and only conditioning corridors creates a risk of spaces not being adequately cooled under peak conditions. In the Engineer’s professional opinion, they believe the building does not comply with the updated air conditioning requirements in O. Reg. 246/22.

Inspector observations and interview with the Environmental Services Manager, along with the Home’s temperature log confirmed there was over cooling in rooms below the requirement of 22 degrees Celsius (as set out in the Regulation) so that other rooms would not exceed 26 degrees Celsius resulting in an inconsistency in temperature distribution in the Home. Furthermore, on the day of the site visit, the Engineer observed that there were spaces below the minimum temperature requirements (therefore being over cooled) and spaces above 26 degrees Celsius.

I have found, based on my review of the Engineer’s report, that the home’s air conditioning system is not effective for the purpose of cooling each resident bedroom because there is not a concrete means to direct the supplementary cool air in the corridor into the resident bedrooms which has caused an inconsistency observed in temperature distribution which includes over cooling rooms. Providing outside air supplied at a neutral temperature may not be able to provide sufficient cooling to all resident bedrooms and creates a risk of spaces not being adequately cooled under peak conditions. This leads me to determine, the Home is not able to regulate temperatures to provide purposeful cooling in each resident bedroom while meeting the minimum temperature requirements set out in the Regulation. For those reasons, I find that the Home failed to comply with s. 23.1(1) of the Regulation to ensure that air conditioning is installed, operational and in good working order for the purpose of cooling the temperature in every resident bedroom, including in peak summer conditions.

An Order is Warranted: Not ensuring that all resident bedrooms are served by air conditioning has a significant impact on or poses a significant risk to the health, safety or quality of life of residents.

Living in a warm or hot environment without sufficient air conditioning puts residents at risk for dehydration, delirium, increased risk of falling and heat-related illnesses, particularly during the summer. Heat related illnesses occur when the body is unable to properly cool itself and overheats due to external environmental conditions. Residents with responsive behaviours and/or cognitive impairments such as dementia are at an increased susceptibility to heat related illnesses than residents who are mobile and cognitively well. LTC residents are particularly vulnerable to extreme heat events given their advanced age and/or presence of chronic health conditions. Not ensuring residents bedrooms are served by air conditioning during periods of hot weather also results in the overall discomfort of residents in their day-to-day life, as they are living in an environment where the temperature is not at a comfortable level. This summer has been particularly hot with several heat warnings issued, including for the Newcastle region, which highlights the need for and importance of ensuring that all resident bedrooms are air conditioned. By not having all resident bedrooms served by air conditioning, the licensee has not ensured that it has met the safety and comfort needs of the residents to adequately protect them from periods of hot weather and the negative affects of such weather.

A Notice of Administrative Monetary Penalty (AMP #001) was issued in accordance with the FLTCA and the Regulation. Section 349(10) was issued by the Inspector on July 7, 2023. The amount of the administrative penalty is \$25,000. No additional notices are required.

This order must be complied with by:	August 18, 2023
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REVIEW/APPEAL INFORMATION

TAKE NOTICE:

Pursuant to s. 170 of the *Fixing Long-Term Care Act, 2021* the licensee has the right to appeal any of the following to Health Service Appeal Review Board (HSARB):

- An order made by the Director under sections 155 to 159 of the Act.
- An AMP issued by the Director under section 158 of the Act.
- 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**

Director



Ministry of Long-Term Care

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

Ministère des Soins de longue durée

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

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

c/o Appeals Coordinator
Long-Term Care Inspections Branch
Ministry of Long-Term Care
438 University Avenue, 8th Floor
Toronto, ON M7A 1N3
email: 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.

Issued on this 10 day of August, 2023	
Signature of Director:	<p style="text-align: right;">2023-08-10</p> <p><u>X Tammy Szymanowski</u></p> <p>Signed by: Tammy Szymanowski</p>
Name of Director:	Tammy Szymanowski