

## COMPENDIUM

### *LONG-TERM CARE HOMES ACT, 2006*

This compendium summarizes the provisions of the Bill entitled the *Long-Term Care Homes Act, 2006* (the "Act") which, if passed, would provide as follows:

#### **PREAMBLE**

The Act has a preamble.

#### **PART I: FUNDAMENTAL PRINCIPLE AND INTERPRETATION**

##### **Section 1 – Home: The Fundamental Principle**

The Act provides that the fundamental principle to be applied in the interpretation of the Act is that a long-term care home is the home of its residents and is to be operated so that it is a place where residents may live with dignity and in security, safety and comfort.

##### **Section 2 – Interpretation**

A number of terms used in the Act are defined, including:

“abuse” means physical, sexual, emotional, verbal or financial abuse, as defined in the regulations.

“Appeal Board” means the Health Services Appeal and Review Board under the *Ministry of Health Appeal and Review Boards Act, 1998*.

“Director” means as a person appointed by the Minister of Health and Long-Term Care for the purposes of the Act.

“licensee” means the holder of a licence issued under the Act to operate a long-term care home. Licensee includes a municipality, municipalities or board of management that maintains a municipal home, joint home or First Nations home.

“long-term care home” means a place that is licensed as a long-term care home under the Act and includes a municipal home, joint home or First Nations home.

“requirement under this Act” means a requirement contained in the Act, in the regulations, or in an order or agreement made under the Act, and includes a condition of a licence under Part VII or an approval under Part VIII and a condition of funding under section 88.

“resident” means a person who is admitted to and lives in a long-term care home.

“secure unit” means a part of a long-term care home that residents are prevented from leaving.

- “staff” of a long-term care home is defined as persons who work at the home,
- (a) as employees of the licensee,
  - (b) under a contract or agreement with the licensee, or
  - (c) under a contract or agreement between the licensee and an employment agency or other third party.

## **PART II: RESIDENTS: RIGHTS, CARE AND SERVICES**

### **Residents’ Bill of Rights**

#### **Section 3 - Residents’ Bill of Rights**

This section sets out the rights of residents which licensees are required to ensure are fully respected and promoted. The Act, regulations, and agreements between the licensee and the Crown or an agent of the Crown as well as agreements between the licensee and a resident or the resident’s substitute decision-maker are to be interpreted in a way that respects the rights of residents. Residents may enforce the Residents’ Bill of Rights against a licensee, as though there were a contract between the resident and the licensee under which the licensee had agreed to fully respect and promote all the rights. The Lieutenant Governor in Council may make regulations governing how rights set out in the Residents’ Bill of Rights must be respected and promoted by the licensee.

### **Mission Statement**

#### **Section 4 - Mission Statement**

The licensee must ensure that there is a mission statement for each long-term care home setting out the principles, purpose and philosophy of care of the home and must ensure that the principles, purpose and philosophy of care set out in the mission statement are put into practice in the daily operation of the home. The mission statement must be consistent with the fundamental principle and the Residents’ Bill of Rights. The mission statement must be developed and revised in collaboration with the Residents’ Council, Family Council, staff of the home and volunteers.

### **Safe and Secure Home**

#### **Section 5 - Home to be Safe, Secure Environment**

The licensee must ensure that the long-term care home is a safe and secure environment for its residents.

## **Plan of Care**

### **Section 6 - Plan of Care**

The licensee must ensure that there is a plan of care for each resident setting out all aspects of the resident's care, including medical, nursing, personal support, dietary, recreational, social, restorative, religious and spiritual care. The plan must be based on an assessment of the resident and the resident's needs and preferences. Staff and others involved in the care of the resident must collaborate with each other in the development and implementation of the plan of care and residents must be given an opportunity to participate fully in the development and implementation of the plan of care. The licensee must ensure that staff and others who provide direct care to a resident are kept aware of the contents of the resident's plan of care and have convenient and immediate access to it. The licensee must ensure that the following are documented:

- (a) how the effectiveness of the care set out in the plan of care will be evaluated;
- (b) the provision of the care set out in the plan of care; and
- (c) the outcomes of the care set out in the plan of care.

The licensee must ensure that the care set out in the plan of care is provided to the resident.

### **Care and Services**

#### **Sections 7 – 16 - Care and Services**

The licensee must have programs of care and services to meet the assessed needs of residents. These programs include nursing and personal support services, restorative care, recreational and social activities, dietary services and hydration, medical services, and housekeeping, laundry and maintenance services. The licensee must ensure that at least one registered nurse who is a member of the regular nursing staff of the long-term care home is on duty and present in the home at all times. The licensee must ensure that residents are provided with information and assistance to help them to obtain goods, services and equipment. The licensee must ensure that there is a program to ensure that residents may practise their religious and spiritual beliefs and a program that encourages and supports the participation of volunteers in the lives and activities of residents. The licensee must ensure that the programs required under sections 7 to 15 and the services provided under those programs comply with any standards or requirements, including outcomes, provided for in the regulations. The Lieutenant Governor in Council may make regulations requiring licensees to provide or offer certain types of accommodation, care, services, programs and goods to residents, and governing the accommodation, care, services, programs and goods that must be provided or offered including establishing standards or outcomes to be met.

## **Prevention of Abuse and Neglect**

### **Section 17 – Duty to Protect**

The licensee must protect residents from abuse by anyone and from neglect by the licensee or staff.

### **Section 18 - Policy to Promote Zero Tolerance**

The licensee must ensure that there is a written policy in place to promote zero tolerance of abuse and neglect of residents and that the policy is communicated to all staff, volunteers, residents, substitute decision-makers, family members and others visiting the long-term care home. The policy must comply with the regulations and the licensee must ensure that there is compliance with the policy.

## **Reporting and Complaints**

### **Section 19 – Complaints Procedure – Licensee**

The licensee must have a written complaints procedure that complies with any regulations for initiating complaints to the licensee and for how the licensee deals with complaints.

### **Section 20 – Licensee to Forward Complaints**

Written complaints made to the licensee about the care of a resident or the operation of the long-term care home must be immediately sent by the licensee to the Director.

### **Section 21 – Licensee Must Investigate, Respond and Act**

Alleged or suspected incidents of abuse and neglect or anything else provided by regulation must be immediately investigated by the licensee and appropriate action must be taken by the licensee in response. A report of the results of licensee's investigations and actions taken in response must be provided by the licensee to the Director.

### **Section 22 – Reporting Certain Matters to Director**

A person who has reasonable grounds to suspect that any of the following has occurred or may occur must immediately report the matter to the Director:

- (a) Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm.

- (b) 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.
- (c) Unlawful conduct that resulted in harm or a risk of harm to a resident.
- (d) Misuse or misappropriation of a resident's money.
- (e) Misuse or misappropriation of funding provided to a licensee under the Act.

Residents are not required to report under this section, but may do so. It is an offence for a person, other than a resident, to include information in a report to the Director that the person knows is false. The following persons are guilty of an offence if they fail to make a report:

- (a) The licensee or person who manages the home under a management contract.
- (b) An officer or director of the corporation, if the licensee or person who manages the home is a corporation.
- (c) A member of the committee of management of a home or joint home or board of management of a municipal home or First Nations home approved under Part VIII.
- (d) A staff member.
- (e) Any person who provides professional services to a resident in the areas of health, social work or social services work.
- (f) Any person who provides professional services to a licensee in the areas of health, social work or social services work.

The following persons are guilty of an offence if they coerce or intimidate a person not to make a report, discourage a person from making a report or authorize, permit or concur in a contravention of the duty to make a report:

- (a) The licensee or person who manages the home under a management contract.
- (b) An officer or director of the corporation, if the licensee or person who manages the home is a corporation.
- (c) A member of the committee of management of a home or joint home or board of management of a municipal home or First Nations home approved under Part VIII.
- (d) A staff member.

This section does not affect any privilege that may exist between a solicitor and the solicitor's client.

### **Section 23 - Inspection or Inquiries Where Information Received by Director**

The Director must have an inspector conduct an inspection or make inquiries for the purpose of ensuring compliance with the requirements under the Act if information is received that indicates that any of the following may have occurred:

- (a) A matter listed in section 22.

- (b) A violation of section 24 (which provides protection against retaliation for reporting and other things).
- (c) A failure to comply with a requirement under the Act.
- (d) Any other matter provided for in the regulations.

For inquiries about improper or incompetent treatment or care, abuse or neglect, and unlawful conduct, the inspector must visit the long-term care home immediately if the information indicates that there is serious harm or a risk of serious harm to a resident. The inspector is also required to visit the home immediately for a report of retaliation against a person for reporting and other things. For reports relating to other matters, the Director must have an inspector conduct an inspection or make inquiries if the Director has reasonable grounds to believe that there may be a risk of harm to a resident. Where the Director does not have to conduct an inspection or make inquiries, the Director may refer the matter to another person, including the licensee, Residents' Council or Family Council.

### **Section 24 - Whistle-blowing Protection**

This section prohibits retaliation and threats of retaliation against a person for:

- (a) disclosing anything to an inspector;
- (b) disclosing anything to the Director, including reporting under section 22, advising the Director of a breach of a requirement under the Act or of matters about the care of a resident or operation of a long-term care home; or
- (c) giving evidence in a proceeding or a Coroner's inquest.

This section also specifically prohibits discharging a resident from the long-term care home, threatening to discharge a resident or discriminatory treatment against a resident because of anything mentioned in (a) to (c). The following persons must not do anything to discourage a person from doing anything mentioned in (a) to (c) and must not do anything to reward a person for failing to do any of those things:

1. The licensee or person who manages the home under a management contract.
2. An officer or director of the corporation, if the licensee or person who manages the home is a corporation.
3. A member of the committee of management of a home or joint home or board of management of a municipal home or First Nations home approved under Part VIII.
4. A staff member.

No action or other proceeding can be commenced against any person for doing anything mentioned in (a) to (c) unless the person acted maliciously or in bad faith. It is an offence for anyone to contravene these provisions.

## **Section 25 - Complaint to Ontario Labour Relations Board**

Staff members who believe they have been retaliated against by an employer may have the matter dealt with at grievance arbitration under a collective agreement or file a complaint with the Ontario Labour Relations Board. Various provisions of the *Labour Relations Act, 1995* apply when a complaint is filed with the Board. The burden of proof before the Board that an employer or person acting on behalf of the employer did not contravene section 24 is on the employer or person acting on behalf of the employer. Where the Board determines that a staff member has been discharged or disciplined for cause and their contract of employment or collective agreement does not contain a specific penalty for the infraction, the Board may substitute another penalty for the discharge or discipline that the Board considers just and reasonable in the circumstances.

## **Section 26 - Obstruction – Information to Inspectors, Director**

It is an offence for anyone to attempt to prevent a person from providing information to an inspector or the Director.

## **Minimizing of Restraining**

### **Section 27 – Policy to Minimize Restraining of Residents, etc.**

The licensee must have a written policy to minimize restraining of residents and ensure that any restraining that is necessary is done in accordance with the Act and regulations. The policy must comply with the regulations and the licensee must ensure that there is compliance with the policy.

### **Section 28 – Protection from Certain Restraining**

Licensees must ensure that a resident is not restrained by use of a physical device, drug, or barriers, locks or other devices or controls, other than as set out in the Act.

The following things are not restraining of a resident:

- (a) A device that a resident is able to release.
- (b) A personal assistance services device used to assist a resident with a routine activity of living.
- (c) The use of a drug as a treatment set out in a resident's plan of care.
- (d) The use of barriers, locks, other devices or controls at exits and entrances to the long-term care home or its grounds unless the resident is prevented from leaving the home.
- (e) The use of barriers, locks or other devices or controls at stairways as a safety measure.

## **Section 29 – Restraining by Physical Devices**

Physical restraining of a resident may only be done if the restraining is included in the plan of care and all of the following are satisfied:

- (a) There is significant risk that the resident or another person would suffer serious bodily harm if the resident were not restrained.
- (b) Alternatives to the restraining have been considered or tried but have not been or would not be effective to address the risk.
- (c) The method of restraining is reasonable given the resident's physical and mental condition and personal history and is the least restrictive method that would be effective to address the risk.
- (d) A physician, registered nurse in the extended class or other prescribed person has ordered or approved the restraining.
- (e) The restraining has been consented to by the resident or if the resident is incapable, by the substitute decision-maker of the resident with authority to give the consent.
- (f) The plan of care provides for certain requirements such as monitoring, repositioning, reassessment, and alternatives to restraining.

The Lieutenant Governor in Council may make regulations setting out requirements for the use of devices, as well as the monitoring, releasing, repositioning and reassessment of residents who are restrained and other requirements.

## **Section 30 – Restraining Using Barriers, Locks, etc.**

Restraining a resident by the use of barriers, locks or other devices or controls may only be done if the restraining is included in the plan of care and all of the following are satisfied:

- (a) There is significant risk that the resident or another person would suffer serious bodily harm if the resident were not restrained.
- (b) Alternatives to the restraining have been considered or tried but have not been or would not be effective to address the risk.
- (c) The method of restraining is reasonable given the resident's physical and mental condition and personal history and is the least restrictive method that would be effective to address the risk.
- (d) A physician, registered nurse in the extended class or other prescribed person has recommended the restraining.
- (e) The restraining has been consented to by the resident or if the resident is incapable, by the substitute decision-maker of the resident with authority to give the consent.



- (f) The plan of care provides for certain requirements such as reassessment, and alternatives to restraining.

The Lieutenant Governor in Council may make regulations setting out requirements for reassessment of residents who are restrained and other requirements.

Additional requirements apply where a substitute decision-maker has given consent to the resident's transfer to a secure unit in the long-term care home. The licensee must promptly (a) give the resident a written notice containing the information specified and (b) notify a rights adviser. Unless the resident refuses to meet with the rights adviser, the rights adviser must promptly meet with the resident and explain the resident's right to apply to the Consent and Capacity Board under the *Health Care Consent Act, 1996* to review whether the substitute decision-maker complied with the required principles for making the decision. At the resident's request, the rights adviser must assist the resident in making an application to the Board and in obtaining legal services. The licensee must ensure that the resident is not transferred to a secure unit until after the requirements in (a) and (b), above, are met, unless the licensee is advised by the rights adviser that the resident refuses to meet with the rights adviser.

### **Section 31 – PASDs that Limit or Inhibit Movement**

The Act sets out requirements for the use of a personal assistance services device (referred to as a "PASD") that has the effect of limiting or inhibiting a resident's freedom of movement and that is used to assist a resident with a routine activity of living. The requirements apply only to those PASDs that a resident is not able to remove. The use of the PASD must be included in the resident's plan of care and all of the following requirements must be satisfied:

- (a) Alternatives to the use of the PASD have been considered or tried but have not been or would not be effective to assist the resident with the routine activity of living.
- (b) The use of the PASD is reasonable given the resident's physical and mental condition and personal history and is the least restrictive PASD that would be effective to assist the resident.
- (c) A physician, registered nurse, registered practical nurse, occupational therapist, physiotherapist or other person provided for in the regulations has approved the use of the PASD.
- (d) The use of the PASD has been consented to by the resident or if the resident is incapable, by the resident's authorized substitute decision-maker.
- (e) The plan of care provides for everything required in the regulations.

If a PASD is being used to restrain a resident rather than to assist the resident with a routine activity of living, section 29 applies with respect to that use instead of this section.

### **Section 32 – Records, Reporting on Restraining of Residents**

The licensee must keep records and submit reports to the Director as provided for in the regulations with respect to the restraining of residents and the use of personal assistance services devices to assist residents with routine activities of living.

### **Section 33 – Prohibited Devices that Limit Movement**

The licensee must ensure that no device set out in the regulations is used on a resident to:

- (a) restrain the resident; or
- (b) assist the resident with a routine activity of living, if the device would have the effect of limiting or inhibiting the resident’s freedom of movement.

### **Section 34 – Common Law Duty**

Nothing in the Act affects the common law duty of a caregiver to restrain or confine a person when immediate action is necessary to prevent serious bodily harm to the person or to others. A resident cannot be restrained by the use of a drug under the common law duty unless a physician or other person provided for in the regulations has ordered its use. If a resident is restrained by the use of a physical device or drug under the common law duty the licensee must ensure that any requirements in the regulations are also satisfied.

### **Office of the Long-Term Care Homes Resident and Family Adviser**

#### **Section 35 - Office of the Long-Term Care Homes Resident and Family Adviser**

The Minister may establish an Office of the Long-Term Care Homes Resident and Family Adviser to assist and provide information to residents, their families and others, advise the Minister on matters concerning the interests of residents and perform any other functions provided in the regulations or assigned by the Minister.

### **Regulations**

#### **Section 36 - Regulations**

The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part.

### **PART III: ADMISSION OF RESIDENTS**

#### **Section 37 – Application of Part**

This part of the Act applies to the admission of a person into a long-term care home as a resident.

### **Section 38 – Designation of Placement Co-ordinators**

The Minister may designate placement co-ordinators for long-term care homes in specified geographic areas.

### **Section 39 – Placement Co-ordinator to Comply with Act, etc.**

The placement co-ordinator must comply with the Act and the regulations.

### **Section 40 - Requirements for Admission to Home**

A person can only be admitted as a resident to a long-term care home if a placement co-ordinator determines that the person is eligible and the placement co-ordinator for the geographic area where the home is located authorizes the admission of the person.

### **Section 41 - Eligibility for Long-Term Care Home Admission**

A person may apply for a determination of their eligibility. The criteria for determining eligibility will be provided for in the regulations. The placement co-ordinator may only determine the person's eligibility if the placement co-ordinator has the following:

- (a) An assessment of the person's physical and mental health and requirements for medical treatment and health care made by a physician or registered nurse.
- (b) An assessment of the person's functional capacity, requirements for personal care, current behaviour and behaviour during the year preceding the assessment made by a registered nurse, social worker or any other person provided for in the regulations.
- (c) Any other assessments or information provided for in the regulations.

The placement co-ordinator must take into account the required assessments and information and any other relevant information the placement co-ordinator has. If a person is determined to be eligible, the placement co-ordinator must provide information about the process for admitting persons into long-term care homes including their choices and the implications of their choices. If a person is determined to be ineligible, the placement co-ordinator must suggest alternative services and make appropriate referrals. The placement co-ordinator must notify the person in writing of the determination of ineligibility as well as the reasons and advise the person of their right to appeal the decision to the Appeal Board.

### **Section 42 - Authorization for Admission to a Home**

A person who is eligible for admission to a long-term care home may apply for an authorization of admission to homes the person selects. The person must consent to the disclosure of information necessary to deal with the application. The placement co-ordinator must, if the person wishes, assist the person with the selection of homes and must consider the person's preferences relating to admission based on ethnic, religious, spiritual, linguistic, familial and cultural factors. Placement co-ordinators for different

geographic areas must co-ordinate the applications if a person selects homes in different geographic areas.

The placement co-ordinator must give the licensees of selected homes all of the assessments and information the placement co-ordinator considered when determining the person's eligibility. This information includes the assessments relating to the person's physical and mental health and requirements for medical treatment and health care as well as the assessments relating to the person's functional capacity, requirements for personal care, and behaviour.

The licensee must approve the person's admission unless:

- (a) the home lacks the physical facilities necessary to meet the applicant's care requirements,
- (b) the staff of the home lack the nursing expertise necessary to meet the applicant's care requirements, or
- (c) circumstances exist which are provided for in the regulations.

If the licensee withholds approval, the licensee must give a written notice to the applicant, Director and placement co-ordinator. The notice must set out the grounds for withholding approval, a detailed explanation of the supporting facts as they relate both to the home and to the applicant's condition and care requirements as well as an explanation of how those supporting facts justify the decision to withhold approval.

The placement co-ordinator may authorize the person's admission to a home only if:

- (a) the assessments were made within three months preceding the authorization,
- (b) the person is still eligible for admission following any reassessment,
- (c) the licensee of the home approves the person's admission; and
- (d) the person provides consent to being admitted to the home.

If a reassessment has been made because the assessment was made more than three months before the authorization, the placement co-ordinator who determined the applicant was eligible must review that reassessment. If the placement co-ordinator is of the opinion that the applicant may no longer be eligible the placement co-ordinator must make a new determination of the applicant's eligibility.

The placement co-ordinator must suggest alternative services and make appropriate referrals if the person's admission is delayed or the licensee withholds or withdraws approval of the admission.

### **Section 43 - Admission to a Secure Unit**

The placement co-ordinator may authorize admission of a person to a secure unit only if:

- (a) There is significant risk of serious bodily harm to the person or another person.

- (b) Alternatives have been considered but would not be effective to address the risk.
- (c) The admission is reasonable in light of the person's physical and mental condition and personal history.
- (d) The admission has been recommended by a physician, nurse practitioner or other person provided for in the regulations.
- (e) The admission has been consented to by the person or if the person is incapable, by the substitute decision-maker of the person with authority to give the consent.

The placement co-ordinator must ensure that a person is not admitted to a secure unit on the consent of a substitute decision-maker unless certain things are done. The placement co-ordinator must (a) give the person a written notice containing the information specified and (b) notify a rights adviser. Unless the person refuses to meet with the rights adviser, the rights adviser must meet with the person and explain the person's right to apply to the Consent and Capacity Board under the *Health Care Consent Act, 1996* to review whether the substitute decision-maker complied with the required principles for making the decision. These things must be done after consent is given or within three months before consent is given. At the person's request, the rights adviser must assist the person in making the application and in obtaining legal services.

#### **Section 44 – Elements of Consent**

A consent to admission to a long-term care home must relate to the admission, be informed, be given voluntarily and must not be obtained through misrepresentation or fraud. Consent is informed if, before giving it, the person received the information about specified matters that a reasonable person would require to make a decision about the admission. The person must also receive responses to requests for more information about those matters. The specified matters are what the admission entails, the expected advantages and disadvantages of the admission, alternatives to the admission and the likely consequences of not being admitted.

#### **Section 45 - Substitute Decision-Maker May Apply for Person**

A substitute decision-maker may apply for a determination of eligibility and authorization for admission on behalf of a person.

#### **Section 46 - Transfer of Application**

The responsibility for the applications for determination of eligibility and authorization can be transferred from one placement co-ordinator to another, with the consent of the applicant.

#### **Section 47 - Controls on Licensee**

The licensee must not admit a person unless the person's admission is authorized by the placement co-ordinator for the geographic area where the long-term care home is located.

### **Section 48 - Suspension of Admissions Where Risk of Harm**

The Director may direct the placement co-ordinator to cease authorizing admissions to a long-term care home if the Director believes that there is a risk of harm to the health of or well-being of residents of a home or persons who might be admitted as residents.

### **Section 49 - Preference for Veterans**

The Minister must ensure that preference is given to veterans for access to beds that are located in homes for which funding is provided under an agreement between the Government of Canada and the Government of Ontario relating to veterans and to beds that are designated by the Minister as veterans' priority access beds.

### **Section 50 - Immunity – Placement Co-ordinator's Employees and Agents**

No action or other proceeding can be commenced against an employee or agent of a placement co-ordinator for any act done in good faith or for an alleged neglect or default in the performance or intended performance of the person's duty. A placement co-ordinator is not relieved from liability for the acts or omissions of its employees or agents.

### **Section 51 - Hearing – Ineligibility**

The Appeal Board must promptly set a time and place for a hearing after receiving an application for a review of a determination of ineligibility. The hearing must begin within 21 days after the Appeal Board receives the application. Each party must have 7 days notice of the time and place of the hearing. The parties before the Appeal Board are the applicant who has been determined ineligible, the placement co-ordinator and other parties specified by the Appeal Board. The placement co-ordinator must give the Minister notice of the hearing and written reasons for the determination of ineligibility. The Minister is entitled to be heard by counsel before the Appeal Board. The section sets out certain procedural rules relating to the hearing before the Appeal Board. After a hearing, the Appeal Board may affirm the determination of ineligibility, rescind the determination and refer the matter back to the placement co-ordinator for re-determination in accordance with directions, or rescind the determination of ineligibility, substitute its own opinion for the opinion of the placement co-ordinator and direct the placement co-ordinator to determine that the applicant is eligible for admission. The placement co-ordinator must provide a copy of the decision and reasons of the Appeal Board to the Minister.

### **Section 52 - Appeal to Divisional Court**

Appeals from the decisions of the Appeal Board can be made to the Divisional Court on a question of law or fact or both. The Appeal Board must file the record of proceedings with the Divisional Court on an appeal which, together with a transcript of evidence, constitutes the record in the appeal. The Minister is entitled to be heard by counsel on the

argument of the appeal. The Court may affirm or rescind the decision of the Appeal Board, refer the matter back to the Appeal Board for rehearing, refer the matter back to the placement co-ordinator for re-determination in accordance with directions, substitute its opinion for that of the placement co-ordinator and direct the placement co-ordinator to determine that the applicant is eligible for admission. The placement co-ordinator must give the Minister notice of any appeal to the Court and must provide a copy of the decision and reasons of the Court to the Minister.

### **Section 53 – Regulations**

The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part.

## **PART IV: COUNCILS**

### **Residents’ Council**

#### **Section 54 - Residents’ Council**

The licensee must ensure that a Residents’ Council is established in the long-term care home. A resident and, if the resident is mentally incapable, one of his or her substitute decision-makers may be a member of the Residents’ Council. Certain persons are not allowed to be members of the Residents’ Council including the licensee, anyone involved in the management of the home, the administrator and any other staff member.

#### **Section 55 - Powers of Residents’ Council**

This section sets out the powers of the Residents’ Council, including the power to:

- (a) Advise residents respecting the rights and obligations of residents and the licensee under the Act.
- (b) Attempt to resolve disputes between the licensee and residents.
- (c) Sponsor and plan activities.
- (d) Collaborate with community groups and volunteers.
- (e) Advise the licensee of concerns and recommendations,.
- (f) Report to the Director any concerns or recommendations.
- (g) Review inspection reports, allocation of funding, financial statements and the operation of the long-term care home.

The licensee must respond to concerns or recommendations of the Residents’ Council within 10 days.

## **Section 56 - Residents' Council Assistant**

The licensee must appoint a Residents' Council assistant who is acceptable to the Council to assist the Residents' Council.

## **Family Council**

### **Section 57 - Family Council**

Every long-term care home may have a Family Council. A family member of a resident or former resident or person of importance to a resident or former resident may request the establishment of a Family Council. The licensee must assist in the establishment of the Family Council. A family member of a resident or former resident, person of importance to a resident or former resident, and a person who lives in the community where the home is located who has no relationship with the Ministry may be a member of the Family Council. Certain persons are not allowed to be members of the Family Council including the licensee, anyone involved in the management of the home, the administrator and any other staff member. If there is no Family Council, the licensee must advise residents' families and persons of importance to residents of the right to establish a Family Council and must convene quarterly meetings to advise these persons of the right to establish a Family Council.

### **Section 58 - Powers of Family Council**

This section sets out the powers of the Family Council, including the power to:

- (a) Provide assistance, information and advice to residents, family members and persons of importance to residents.
- (b) Advise these people of the rights and obligations of the licensee under the Act.
- (c) Attempt to resolve disputes between the licensee and residents.
- (d) Sponsor and plan activities.
- (e) Collaborate with community groups and volunteers.
- (f) Advise the licensee of concerns and recommendations.
- (g) Report to the Director any concerns or recommendations.
- (h) Review inspection reports, allocation of funding, financial statements and the operation of the long-term care home.

The licensee must respond to concerns or recommendations of the Family Council within 10 days.

### **Section 59 - Family Council Assistant**

At the request of the Family Council, the licensee must appoint a Family Council assistant who is acceptable to the Council to assist the Family Council.



## **General**

### **Section 60 - Licensee to Co-operate With and Assist Councils**

The licensee must co-operate with the Residents' Council, the Family Council, the Residents' Council assistant and the Family Council assistant and provide them with financial and other information and assistance.

### **Section 61 - Licensee Duty to Meet with Council**

The licensee must meet with the Residents' Council or the Family Council if invited to do so.

### **Section 62 - Attendance at Meetings – Licensees, Staff, etc.**

The licensee may only attend a meeting of the Residents' Council or the Family Council if invited and must ensure that staff and others involved in the management of the long-term care home only attend a meeting if invited.

### **Section 63 - No Interference by Licensee**

The licensee must not:

- (a) interfere with the meetings or operation of the Residents' Council or the Family Council;
- (b) prevent a member of either Council from attending a meeting or performing their functions as a member; and
- (c) prevent a Residents' Council assistant or a Family Council assistant from entering the home or carrying out their duties.

The licensee must also ensure that staff and others involved in the management of the long-term care home do not do anything the licensee is forbidden to do under (a) to (c).

### **Section 64 - Immunity – Council Members, Assistants**

No action can be commenced against a member of a Residents' Council or Family Council or a Residents' Council assistant or Family Council assistant for anything done in that capacity, unless it is done maliciously or without reasonable grounds.

### **Section 65 - Duty of Licensee to Consult Councils**

The licensee must consult regularly and at least every three months with the Residents' Council and the Family Council.

## **Section 66 – Regulations**

The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part.

## **PART V: OPERATION OF HOMES**

### **Directors, Officers and Other Staff**

#### **Section 67 – Duties of Directors and Officers of a Corporation**

Every director and officer of a corporation that is a licensee must take all reasonable care to ensure that the corporation complies with all requirements under the Act. This section applies to every member of the committee of management of a home or joint home or board of management of a municipal home or First Nations home approved under Part VIII. Every person who fails to comply with this section is guilty of an offence.

#### **Section 68 – Administrator**

The licensee must ensure that the long-term care home has an Administrator. The Administrator must be in charge of the home and responsible for its management as well as perform other duties provided for in the regulations. The licensee must ensure that the Administrator works full-time in the position if the home has the number of beds set out in the regulations or the number of hours per week required under the regulations if the home has fewer beds.

#### **Section 69 - Director of Nursing and Personal Care**

The licensee must ensure that the long-term care home has a Director of Nursing and Personal Care who is a registered nurse. The Director of Nursing and Personal Care must supervise and direct the nursing staff and personal care staff of the home as well as perform other duties provided for in the regulations. The licensee must ensure that the Director of Nursing and Personal Care works full-time in the position if the home has the number of beds set out in the regulations or the number of hours per week required under the regulations if the home has fewer beds.

#### **Section 70 - Medical Director**

The licensee must ensure that the long-term care home has a Medical Director who is a physician. The Medical Director must advise the licensee on matters relating to medical care in the home and consult with the Director of Nursing and Personal Care and other health professionals working in the home. The Medical Director must also perform other duties provided for in the regulations.

### **Section 71 - Staff Qualifications**

The licensee must ensure that all the staff of the long-term care home, including the Administrator, Director of Nursing and Personal Care and Medical Director, have the proper skills and qualifications to perform their duties and possess the qualifications provided for in the regulations.

### **Section 72 - Continuity of Care – Limit on Temporary, Casual or Agency Staff**

The licensee must ensure that the use of temporary, casual or agency staff is limited in accordance with the regulations in order to provide a stable and consistent workforce and to improve continuity of care to residents.

### **Section 73 - Screening Measures**

The licensee must conduct screening measures, including criminal reference checks for those over 18 years of age, before hiring staff and accepting volunteers.

### **Section 74 – Training**

The licensee must ensure that all staff, volunteers and persons who provide direct services to residents on a periodic visitation basis have received the training and retraining set out in this section. The licensee must ensure that these persons do not perform their responsibilities before receiving the training set out in this section, except in emergencies or exceptional and unforeseen circumstances, when training must be provided within one week of when the person begins to perform their responsibilities. The areas of training include the Residents' Bill of Rights, long-term care home's mission statement, home's policy to promote zero tolerance of abuse and neglect of residents, duty to make mandatory reports, home's policy to minimize the restraining of residents, fire prevention and safety, emergency and evacuation procedures, infection prevention and control, laws and Ministry and licensee policies relevant to the person's responsibilities, and other areas provided for in the regulations.

The licensee must ensure that all staff that provide direct care to residents receive additional training in abuse recognition and prevention, caring for persons with dementia, behaviour management, how to minimize the restraining of residents and, where restraining is necessary, how to do it in accordance with the Act and the regulations, palliative care and other areas provided for in the regulations.

### **Section 75 - Others Who Perform Work – Written Information**

The licensee must ensure that persons who perform work at the long-term care home other than those referred to in section 74 are provided with the information set out in this section before they start to perform work at the home. The information includes the Residents' Bill of Rights, home's policy to promote zero tolerance of abuse and neglect

of residents, duty to make mandatory reports, fire prevention and safety, emergency and evacuation procedures and other areas provided for in the regulations.

## **Residents – Information, Agreements, etc.**

### **Section 76 - Information for Residents, etc.**

The licensee must ensure that on admission a package of information is given to every resident and their substitute decision-makers and that the package of information is made available to family members and persons of importance to residents. The package must include information about the Residents' Bill of Rights, long-term care home's mission statement, home's policy to promote zero tolerance of abuse and neglect of residents, duty to make mandatory reports, complaints procedures, home's policy to minimize the restraining of residents, name and telephone number of the licensee, funding provided under the Act, resident charges, additional charges, purchase of services, disclosure of any non-arm's length relationships, Residents' Council and Family Council and other information provided for in the regulations.

### **Section 77 - Posting of Information**

The licensee must ensure that certain information is posted in the long-term care home in a conspicuous and easily accessible location. The information posted must include the Residents' Bill of Rights, home's mission statement, home's policy to promote zero tolerance of abuse and neglect of residents, duty to make mandatory reports, complaints procedures, home's policy to minimize the restraining of residents, measures to be taken in case of fire and evacuation procedures, inspection reports, orders, minutes of Residents' Council and Family Council meetings and other information provided for in the regulations. The licensee must ensure that the required information is communicated in a manner that complies with the regulations to residents who cannot read the information.

### **Section 78 - Regulated Documents for Residents**

The Lieutenant Governor in Council may make regulations requiring that certain documents meet certain requirements. The licensee must ensure that these documents are not presented for signature to a resident or prospective resident, their substitute decision-maker or family member unless the documents comply with the requirements set out in the regulations and the compliance has been certified by a lawyer.

### **Section 79 - Voidable Agreements**

An agreement signed between a licensee and resident or prospective resident, their substitute decision-maker or family member is voidable by the resident or prospective resident, their substitute decision-maker or family member within 10 days after it is made. The voiding of any agreement does not relieve any person from liability for charges incurred before the agreement is voided.

### **Section 80 - Agreement Cannot Prevent Withdrawal of Consent, etc.**

An agreement with a licensee cannot prevent a consent or directive with respect to treatment or care from being withdrawn or revoked.

### **Section 81 - Coercion Prohibited**

The licensee must ensure that no person is told or led to believe that a person will be refused admission to a long-term care home or that a resident will be discharged from a home because a document has not been signed, an agreement has been voided or a consent or directive with respect to treatment or care has been given, not given, withdrawn or revoked. This section does not apply to a consent required by law for admission to a home or transfer to a secure unit.

### **General Management**

#### **Section 82 - Quality Management**

The licensee must ensure that a quality management system is developed and implemented for monitoring, evaluating and improving the quality of accommodation, care, services, programs and goods provided to residents of the long-term care home.

#### **Section 83 - Satisfaction Survey**

The licensee shall ensure that a survey is taken at least once a year of the residents and their families to measure their satisfaction with the long-term care home and the care, services, programs and goods provided at the home. The licensee must make every reasonable effort to act on the results of the survey and improve the long-term care home. The licensee must seek the advice of the Residents' Council and the Family Council in developing and carrying out the survey, and in acting on its results. The licensee must document the results of the survey and actions taken by the licensee and make this information available to the Residents' Council, Family Council, residents and their families and the Director.

#### **Section 84 - Infection Prevention and Control Program**

The licensee must ensure that there is an infection prevention and control program in the long-term care home to detect the presence of infection and prevent the transmission of infections. The program must comply with any standards or requirements, including required outcomes, provided for in the regulations.

## **Section 85 - Emergency Plans**

The licensee must ensure that there are emergency plans in place for the long-term care home and that the emergency plans are tested, evaluated, updated and reviewed with staff and volunteers of the home as provided for in the regulations.

## **Section 86 – Reports**

The licensee must submit reports to the Director on any matter as provided for in the regulations and as requested by the Director.

## **Regulations**

### **Section 87 – Regulations**

The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part.

## **PART VI – FUNDING**

### **Section 88 - Funding**

The Minister may provide funding for a long-term care home and attach conditions to the funding. The provision of funding is subject to any other conditions, rules and restrictions provided for in the regulations. Amounts owed to the Crown may be set off against the funding that would otherwise be provided.

### **Section 89 - Resident Charges**

The licensee must not charge a resident more than the amounts set out in the regulations for accommodation. A resident in preferred accommodation cannot be charged more than the basic accommodation charge unless there is a written agreement. The resident is responsible for the payment of amounts charged for basic accommodation, even if there is no written agreement with the licensee. The Director must provide a statement to the resident on an annual basis setting out the accommodation charges.

For anything other than accommodation, the licensee can only charge the resident if there is a written agreement. The licensee must not charge more than provided for in the regulations or, if no amount is provided for in the regulations, more than a reasonable amount determined under the written agreement. The licensee must not charge the resident or accept payment for anything prohibited by the regulations. The licensee must provide the resident or their representative with an itemized statement of charges and money held on behalf of the resident by the licensee.

## **Section 90 - Accounts and Records**

The licensee must keep accounts and records with respect to each long-term care home operated by the licensee. The accounts and records must be separate from the accounts and records of any other long-term care home of the operator and from any other business of the licensee. The accounts and records must meet other requirements provided for in the regulations.

## **Section 91 - Non-Arm's Length Transactions, Limitation**

The licensee must not enter into a non-arm's length transaction that is prohibited by the regulations or without the prior consent of the Director where required. The licensee must submit reports to the Director on every non-arm's length transactions entered into by the licensee as provided for in the regulations.

## **Section 92 – Regulations**

The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part.

## **PART VII – LICENSING**

### **Section 93 - Licence Required**

It is an offence to operate residential premises for persons requiring nursing care or in which nursing care is provided to two or more unrelated persons unless they have a licence or approval under the Act. This section does not apply to certain premises, such as hospitals.

### **Section 94 - Public Interest – Need**

The Minister will determine whether or not there should be a long-term care home in an area, and how many long-term care home beds there should be in an area, by considering what is in the public interest. The Minister will take into account a number of matters - the long-term care home bed capacity, other facilities or services that are available, the demand for long-term care home beds, the funds available and any other matters provided for in the regulations or that the Minister considers relevant.

### **Section 95 - Public Interest – Who Can be Issued a Licence**

The Minister may restrict who may be issued a licence based on what the Minister considers to be in the public interest. The Minister will take into account the effect issuing the licence would have on the concentration of ownership, control or management of long-term care homes and the balance between non-profit and for-profit long-term care homes. The Minister will also take into account any other matters provided for in the regulations.

## **Section 96 – Limitations on Eligibility for Licence**

A person is only eligible to be issued a licence for a long-term care home if, in the Director's opinion, all the following are satisfied:

- (a) the home and its operation would comply with the Act and other laws;
- (b) the past conduct of the person, and if the person is a corporation specified others such as directors and officers, affords reasonable grounds to believe that the home will be operated legally and with honesty and integrity;
- (c) it has been demonstrated that the person, and if the person is a corporation specified others such as directors and officers, are competent to operate a home responsibly and legally and are in a position to provide the required services;
- (d) the past conduct of the person, and if the person is a corporation specified others such as directors and officers, affords reasonable grounds to believe that the home will not be operated in a manner prejudicial to the health, safety, or welfare of the residents; and
- (e) the person is not ineligible for any other reason provided for in the regulations.

If the Director decides a person is ineligible, the Director must serve them with a copy of the decision, with reasons, and the person may appeal to the Appeal Board.

## **Section 97 - Issue of Licence**

The Director may issue a licence to a person for a long-term care home at the location specified in the licence after the Minister has determined there is a need for a long-term care home and subject to any restrictions by the Minister as to who can be issued a licence. The person must also be eligible. The public must be consulted before the licence is issued.

## **Section 98 - Undertaking to Issue Licence**

The Director may also give an undertaking to issue a licence to a person if specified conditions are satisfied. An undertaking may only be given after the Minister has determined there is a need for a long-term care home and subject to any restrictions by the Minister as to who can be issued a licence. The person must also be eligible. The public must be consulted before an undertaking is given.

An undertaking must be in two parts. One part is not amendable and consists of where the home will be, the number, class and type of beds, the term of the licence and any conditions the licence will be subject to, anything else provided for in the regulations and anything else the Director considers appropriate. The other part is amendable and consists of everything else. The amendable part may be amended by consent.



If the Director determines that the person has complied with the specified conditions, the Director shall issue the licence and is not required to consult the public a second time before issuing it.

If the Director determines that the person has not complied with the specified conditions for the issue of the licence the Director may cancel the undertaking. The person may request a review of the cancellation by the Minister who may confirm the cancellation or revoke it and direct the Director to amend the amendable part of the undertaking.

### **Section 99 - Conditions of Licence**

A licence is subject to any conditions provided for in the regulations. The Director may also impose other conditions when the licence is issued or when a new licence is issued pursuant to a transfer. It is also a condition that the licensee comply with the Act, the regulations, and every order or agreement under the Act. The licensee must comply with the conditions of the licence.

### **Section 100 - Term of Licence**

A licence is issued for a fixed term of up to 25 years. The licence expires at the end of the term. It can also be revoked earlier for cause.

### **Section 101 - Notice at End of Term**

At least three years before the expiry of a licence's term, the Director must either give notice that no new licence will be issued or give an undertaking to issue a new licence if specified conditions are satisfied. The undertaking may only be given after the Minister has determined there is a need for a long-term care home and subject to any restrictions by the Minister as to who can be issued a licence. The person must also be eligible. The normal rules for undertakings set out in subsections 98(3) to (9) apply to the undertaking. If the Director does not give a notice or undertaking the Director shall be deemed to have given a notice that no new licence will be issued. Before the Director gives a notice or undertaking the public must be consulted. The Director is not required to give reasons for the decision whether or not to issue a new licence.

### **Section 102 - Beds Allowed under Licence**

A licensee may not operate more than the number of beds that are licensed or authorized. A licensee must also ensure that all licensed beds are either occupied or available for occupation. If beds are neither occupied nor available for 14 consecutive days or more and the licensee did not get prior written permission, the Director may amend the licence to remove the beds or impose conditions provided for in the regulations. The licensee may appeal to the Appeal Board.

### **Section 103 - Transfers, Limitation**

A licence or beds under a licence may not be transferred except by the Director in accordance with this section.

A transfer that results in a change of the location specified in the licence can only be made if the Minister has made a determination about the need for a long-term care home or beds. All transfers are subject to any restrictions by the Minister as to who can be issued a licence and the eligibility requirements. The public must be consulted before a transfer.

A request for approval of a proposed transfer may be submitted to the Director for the Director's consideration. Where the Director gives approval, a licence is transferred by being surrendered to the Director for re-issue to another person. The re-issued licence may be for a different location and may also be re-issued to the same licensee. Where the Director gives approval, beds under a licence may be transferred by the surrender of licences to the Director for re-issue with the beds transferred from one licence to another or a licence being surrendered to the Director for reissue with beds transferred to a new licence issued by the Director.

A non-profit licensee may not transfer the licence to a for-profit entity except in the limited circumstances provided for in the regulations.

A transfer does not affect the applicability of a notice, given before the expiry of the licence term, that no new licence will be issued.

No interest in a licence, including a beneficial interest, may be transferred except in accordance with this section. This restriction does not apply to the giving of a security interest.

### **Section 104 - Public Consultation**

The Director must consult the public before,

- (a) issuing a licence;
- (b) undertaking to issue a licence;
- (c) deciding, before the expiry of a licence term, whether or not to issue a new licence;
- (d) transferring a licence or beds under a licence; or
- (e) amending a licence to increase the number of beds.

The Director must ensure that persons can make written representations and that at least one public meeting is held for oral representations. The public meeting must be held in the area where the long-term care home is or is proposed to be located. If there is a transfer of location, a meeting must be held in both areas. The Direction must ensure that the representations are considered before a final decision is made.

### **Section 105 - Exercise of Security Interests**

No person may acquire control over, or interfere with, the operation of a long-term care home by exercising a security interest except through a management contract. If that happens, the Act applies to the person exercising the security interest as though the person were acting as the licensee. No exercise of a security interest results in a transfer of a licence. This section applies, with necessary modifications, to receivers and trustees in bankruptcy as though they were exercising a security interest. This section does not limit the transfer of a licence under section 103.

### **Section 106 - Duty to Notify Director re Corporate Changes**

A corporate licensee must notify the Director of changes in its officers or directors or in the persons who have a controlling interest in the licensee. The licensee must also notify the Director if any of the licensee's directors or officers has reason to believe that a person has acquired a controlling interest in the licensee.

A licensee must also notify the Director if the licensee has reason to believe that there has been a change in the officers, directors or persons having a controlling interest in a corporation that controls the licensee.

If the long-term care home is managed by a corporation through a management contract, the licensee has the same obligations to report with respect to that corporation.

### **Section 107 - Acquiring Controlling Interest in Corporation**

A person who is acquiring a controlling interest in a corporation that is a licensee must obtain the approval of the Director. The Director's approval is subject to any restrictions by the Minister as to who can be issued a licence and the eligibility requirements. The Director may attach conditions to the approval. This section does not apply to a person acquiring a controlling interest in a private company by an issue or transfer of shares which the Director has approved under section 108.

### **Section 108 - Share Transfer - Private Companies**

A licensee that is a private company must not allow an issue or transfer of shares that would change the ownership or a controlling interest in the licensee without the approval of the Director. The Director's approval is subject to any restrictions by the Minister as to who can be issued a licence and the eligibility requirements.

## **Section 109 - Management Contracts**

A licensee may not allow anyone else to manage the licensee's long-term care home except pursuant to a written contract approved by the Director. This requirement does not apply to contracts with the Administrator of the home. A contract must satisfy the requirements under the regulations.

Before approving a contract the Director must satisfy himself that the requirements in the regulations are satisfied. The Director's approval is subject to any restrictions by the Minister as to who can be issued a licence and the eligibility requirements. The Director may withdraw the approval at any time.

The licensee must not allow a management contract to be amended without the approval of the Director.

## **Section 110 - Temporary Licences**

The Director may issue a temporary licence for premises that are not a long-term care home or for additional beds at a long-term care home. A temporary licence may be revoked at any time on the giving of the notice provided for in the licence. A temporary licence may also be revoked for cause. A temporary licence may be issued for a term of no more than five years and may not be renewed. A temporary licence is not transferable.

The specified sections, and other provisions provided for in the regulations, do not apply to temporary licences. The specified sections are section 101 (Notice at end of term), section 103 (Transfers, limitation) and section 104 (Public consultation).

## **Section 111 – Short Term Authorizations**

In circumstances provided for in the regulations, the Director may authorize temporary additional beds at a long-term care home for a period of not more than 30 days.

## **Section 112 - Amendments with Consent**

The Director may amend a licence with the consent of the licensee, subject to the restrictions in this section and the regulations.

A licence may not be amended to,

- (a) change the licensee or the location of the long-term care home;
- (b) extend the term;
- (c) increase the preferred accommodation the licensee is allowed to provide; or

- (d) make any other change provided for in the regulations.

An amendment to increase the number of beds may only be made if the Minister has made a determination about need for beds. Such an amendment is subject to any restrictions by the Minister as to who can be issued a licence. The public must also be consulted.

Amendments to conditions or a licence are considered to be amendments of the licence for the purposes of this section. This section does not apply to changes to a licence pursuant to a transfer.

### **Section 113 - Competitive Process**

A competitive process may be used, but is not required, before a licence is issued or an approval granted under Part VIII.

### **Section 114 - Decisions of Minister and Director – Sole Discretion**

The following decisions of the Minister and Director are within their sole discretion:

1. A decision to issue or not to issue a licence including a notice, given before the expiry of the licence term, that no new licence will be issued.
2. A decision with respect to the term of a licence, number of beds, or any other condition of a licence.

### **Section 115 – Regulations**

The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part.

## **PART VIII - Municipal and First Nations Homes**

### **Interpretation**

#### **Section 116 – Interpretation**

A number of terms are defined, including “northern municipality” which means any municipality in a territorial district, but does not include the District Municipality of Muskoka, and “southern municipality” which means any municipality that is not a northern municipality.

## **Southern Homes**

### **Section 117 - Southern Municipal Homes**

Every upper and single-tier southern municipality is required to operate at least one municipal home. The obligation to operate at least one home can be met by participating in a joint home or helping to maintain a home under an agreement with another municipality. This section does not apply to the Township of Pelee.

### **Section 118 - Joint Homes – South**

Two or more southern municipalities that can operate a municipal home can, under an agreement with each other, operate a joint home. The agreement must be approved in writing by the Minister.

### **Section 119 - Agreement to Help Maintain Home – South**

A southern municipality that can operate a municipal home can have an agreement with another municipality to help to maintain a municipal home or joint home. The agreement must be approved in writing by the Minister.

## **Northern Homes**

### **Section 120 - Northern Municipal Homes**

An upper or single-tier northern municipality with a population of at least 15,000 may establish and maintain a municipal home.

### **Section 121 - Joint Homes – North**

A northern municipality that is allowed to establish and maintain a municipal home can have an agreement with other municipalities in the same territorial district to establish and maintain a joint home. The agreement must be approved in writing by the Minister.

### **Section 122 - Agreement to Help Maintain Home – North**

A northern municipality that is not maintaining a municipal or joint home can enter into an agreement to help maintain a municipal home or joint home. The agreement must be approved in writing by the Minister.

### **Section 123 - Territorial District under Board of Management**

If a majority of the municipalities in a single territorial district pass by-laws authorizing it, and if the Minister approves, a board of management shall be established to operate a municipal home in the district. All the municipalities in the district must contribute to establishment and maintenance of the home. The composition of the board may be

determined under the regulations. A municipality that already has a home or is helping to maintain one is not considered part of the district for the purposes of this section and sections 124 and 125.

### **Section 124 – Operating Costs – Apportionment by Board of Management**

The board of management of a district home will estimate how much money it will need each year and that amount will be apportioned to the municipalities in the territorial district in accordance with the regulations. Some specific rules are set out for operating reserves, borrowing for operating expenses, etc.

### **Section 125 - Capital Costs – Apportionment by Board of Management**

The board of management of a district home will estimate how much money it will need for the establishment of the home or any renovations, alterations or additions and that amount will be apportioned to the municipalities in the territorial district in accordance with the regulations. Each municipality must pay the amount apportioned to it.

### **Section 126 - Regulations, Apportionments by Boards of Management**

The Lieutenant Governor in Council may make regulations for apportionments for district homes. A contributing municipality can apply for a review by the Director if the municipality thinks the apportionment may be incorrect because of an error or omission in the amount of the assessment, error or omission in a calculation or failure to apply one or more provisions of the regulation. An appeal can be made to the Ontario Municipal Board from the Director's decision.

## **First Nations Homes**

### **Section 127 - First Nations Homes**

The council of a band, within the meaning of the *Indian Act* (Canada) may establish and maintain a First Nations home. Two or more councils may also do so under an agreement approved by the Minister. A First Nations home shall be operated under a board of management. The composition of the board will be determined under the regulations.

A number of provisions of Part VIII apply to First Nations homes as they apply to municipal homes. These include the section that requires the Minister's approval for the establishment of the home and the sections providing for the Director to order renovations or take control of the home in certain circumstances. Some other provisions of the Act are also applicable to a board of management of a First Nations home as they are applicable to the board of management of a municipal home.

A council is not prevented from obtaining a licence under Part VII.

## **General**

### **Section 128 - Approval Required**

No municipal home or joint home may be established without the approval of the Minister. Approvals will set out the number of beds to be established. Approvals do not expire. The Minister may not charge fees for approvals.

### **Section 129 - Application of Part VII**

Part VII does not apply to an approval except as provided under this section.

An approval may only be granted after the Minister has determined there is a need for a home or beds in the area.

A number of provisions of Part VII apply to approvals as if they were licences. These include the section relating to undertakings to issue a licence, the section relating to conditions on a licence, the section relating to beds allowed under a licence, the section providing for public consultation, the section relating to amendments of licences and the section relating to the competitive process.

For the approval of a home that is required under section 117(1), the Minister's decision about need shall not deal with whether there should be a home in the municipality.

Municipalities and boards of management can be issued temporary licences under section 110 and short-term authorizations under section 111.

### **Section 130 - Committee of Management, Appointment**

The council of a municipality establishing and maintaining a municipal home or the councils of municipalities establishing and maintaining a joint home must appoint a committee a management for the home or joint home from among the members of the council or councils. The regulations may provide for the composition of the committee of management and the qualifications and term of office of its members.

### **Section 131 - Trust Funds**

A municipality or municipalities that maintain a municipal home or joint home or a board of management that maintains a municipal home may receive, hold and administer the property of a resident in trust, subject to any restrictions provided for in the regulations.

### **Section 132 - Personal Information, Disclosure to Inspectors, etc.**

A head and an institution (as defined in the *Municipal Freedom of Information and Protection of Privacy Act*) are authorized to disclose personal information to an inspector



or the Director for the purpose of complying with the Act or facilitating an inspection or making of inquiries under the Act.

### **Section 133 - Director May Make Orders re Renovations, etc.**

The Director may make an order to a municipality or municipalities or a board of management maintaining a municipal home or joint home respecting renovations, additions or alterations to the home and respecting information, plans and other material that are to be provided to the Director, and requiring the order to be complied with in a certain time.

### **Section 134 - Director May Take Control with Consent**

The Director may take control of, operate and manage a municipal home or joint home with the consent of the municipality, municipalities or board of management operating the home.

### **Section 135 - Taking Control on Certain Grounds**

The Director may take control of, operate and manage a municipal home or joint home if the Director believes on reasonable grounds that the home is not being or is not likely to be operated with competence, honesty, integrity and concern for the health, safety and well-being of its residents. If there is no consent, the Minister must appoint a person to conduct a hearing prior to the exercise of the power. Certain provisions of the *Statutory Powers Procedure Act* do not apply to the hearing. The person conducting the hearing must give the Minister a report setting out recommendations as to the carrying out of the proposal, findings of fact, the information and the knowledge used in making the recommendations and the conclusions of law relevant to the recommendations. The person must give a copy of the report to the municipality that maintains and operates the municipal home, the municipalities that maintain and operate the joint home or the board of management of the municipal home, as the case may be. After considering the report, the Minister may direct the Director to take control and must give the municipality, municipalities or board of management a written notice of the decision and reasons for taking control of the home.

### **Section 136 - Provisional Exercise of Power Without Hearing**

Despite section 135, the Director may on notice to the municipality that maintains and operates the municipal home, each of the municipalities that maintain and operate the joint home or the board of management of the municipal home, as the case may be, exercise the power to take control without a hearing if, in the Director's opinion, it is necessary to do so to avert an immediate threat to a person's health, safety or well-being. The notice must set out the Director's opinion and reasons for the opinion. The hearing referred to in section 135 must take place as soon as possible after the power is exercised to determine whether the power should continue to be exercised.

### **Section 137 - Powers Where Control is Taken**

When the Director takes control of a municipal home or joint home, the Director has all the powers of the municipality, municipalities or board of management to occupy, manage, operate and administer the home. The Director can exercise these powers for a period of up to one year, unless the municipality, municipalities or board of management consents to a longer period of time or the Minister authorizes a longer period of time. Certain provisions applicable to an interim manager appointed when a licence is being revoked are made applicable to the operation and management of the home by the Director.

### **Section 138 – Regulations**

The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part.

## **PART IX – COMPLIANCE AND ENFORCEMENT**

### **Inspections**

#### **Section 139 – Appointment of Inspectors**

This section provides the Minister with the power to appoint inspectors for the purposes of the Act. The Director is an inspector by virtue of his/her office. The Minister will issue a certificate of appointment to every inspector, which the inspector must produce, if requested, when performing his/her duties.

#### **Section 140 - Purpose of Inspection**

Inspections may be conducted to ensure compliance with the requirements under the Act.

#### **Section 141 - Annual Inspections**

Every long-term care home must be inspected at least once a year. The regulations may provide for less frequent inspections for certain classes of long-term care homes, including homes that are recognized as having a good record of compliance with requirements under the Act.

#### **Section 142 - Inspections Unannounced**

No notice can be given of any annual inspection. No notice can be given of any other inspection of a long-term care home, subject to any exceptions in the regulations.

### **Section 143 - Powers of Entry**

An inspector may at any reasonable time, enter a long-term care home, or a place operated in connection with the home and providing services to it, in order to conduct an inspection. Inspectors cannot enter a place that is not the long-term care home and that is used as a dwelling except with the consent of the occupier or under a warrant.

### **Section 144 - Powers on Inspection**

This section enumerates the power of an inspector conducting an inspection to: inspect premises of the long-term care home or premises of a place operated in connection with the home and providing services to it and the operations on the premises; inspect or copy a record or thing; demand in writing the production of records or other things including those not kept on the premises of a long-term care home; question a person (subject to person's right to counsel); photograph or make a recording without intercepting private communications; conduct examinations or test; use data storage, processing or retrieval devices to produce a readable record; remove a record; and call upon experts.

### **Section 145 – Warrant**

A justice of the peace may issue a warrant if the inspector has been (or there are reasonable grounds to believe that he/she will be) prevented from entering a long-term care home or place operated in connection with a home and providing services to it or prevented from exercising an inspection power.

### **Section 146 - Inspection Report**

Inspectors must prepare an inspection report following an inspection and provide a copy to the licensee and the Residents' Council and Family Council. For annual inspections, the inspector must prepare a summary of the inspection report and provide it to the Residents' Council and Family Council. An inspector must document non-compliance with a requirement under the Act in the inspection report.

### **Section 147 - Admissibility of Certain Documents**

This section sets out certain rules relating to the admissibility of certain documents in evidence in any proceeding.

### **Section 148 – Obstruction, etc.**

It is an offence to hinder, obstruct or interfere with an inspector conducting an inspection, or impede the inspector; destroy or alter records or other things demanded or fail, when required, to produce records or other things or assist the inspector in producing or interpreting them.

## **Enforcement**

### **Section 149 - Actions by Inspectors if Non-Compliance Found**

An inspector must do one of the following where he/she finds a licensee has not complied with a requirement under the Act: issue a written notification to the licensee; request the licensee to prepare a written plan of correction to be implemented voluntarily; make a compliance or work order; or issue a written notification to the licensee and refer the matter to the Director for further action.

### **Section 150 - Compliance Orders**

An inspector or the Director may order a licensee to: do anything, or refrain from doing anything, to achieve compliance; or prepare, submit and implement a plan to achieve compliance. An order can be made under this section if the licensee has not complied with a requirement under the Act.

### **Section 151 - Work and Activity Orders**

An inspector or the Director may order a licensee to allow Ministry personnel, agents or contractors to perform any work or activity at the long-term care home where necessary to achieve compliance and to pay reasonable costs of such work. An order may be made under this section if the licensee has not complied with a requirement under the Act and there are reasonable grounds to believe that the licensee will not or cannot perform the work. A licensee must co-operate with and provide assistance to persons performing work.

### **Section 152 - Order that Funding be Returned or Withheld**

The Director may order that a specified amount of funding provided to a licensee be returned or withheld from future funding where the licensee has not complied with a requirement under the Act. The amount of funding shall not exceed, for each day of non-compliance, \$50 for each bed at the long-term care home. The Director must consider certain principles in determining the amount of funding to be returned or withheld such as: the gain to a licensee; any reduction in value of the care and services; an amount to encourage compliance or other principles in the regulations.

Subject to the limitations in the regulations, the Director and a licensee may enter an agreement in respect of an order under this section that identifies the non-compliance, requires the licensee to take specific steps in certain time periods or provides that the order be cancelled, not made or the amount of funding to be returned or withheld be reduced.

### **Section 153 - Mandatory Management Orders**

The Director may order a licensee to retain, at the licensee's expense, a person or persons to manage or assist in managing the long-term care home where a licensee has not complied with a requirement under the Act and there are reasonable grounds to believe the licensee cannot or will not properly manage the home or cannot do so without assistance.

### **Section 154 – Revocation**

The Director may make a order to revoke a licence where: the licensee has not complied with a requirement under the Act; false statements have been made; conduct of the licensee or its officers and directors or persons with a controlling interest affords the belief that the long-term care home will not be operated in accordance with the law and with honesty and integrity, or such persons are not competent to operate the home responsibly or are not in a position to provide required services or the home's operation may prejudice the health, safety or welfare of residents; a person has exercised a security interest contrary to s. 105; or the licensee is a corporation and a person has acquired a controlling interest in the corporation without the approval of the Director contrary to s. 107 or a condition of such approval has been breached.

If the Director makes an order to revoke a licence, the Director may also order that the long-term care home be occupied and operated by an interim manager until the revocation becomes effective and the residents who want to be relocated are relocated. The interim manager has the powers of the licensee and may make repairs as are necessary which become a debt due to the Crown. The licensee is not entitled to funding under the Act while the home is under interim management and any other amount owed by the licensee to the Crown may be set off against funding to the licensee. The Crown and the interim manager are not responsible for liabilities of the licensee which were incurred prior to the occupation and operation of the home by the interim manager. Any amounts paid by the Crown or the interim manager that relate to the period before the interim manager began to occupy and operate the home become a debt due to the Crown.

### **Section 155 - Interim Manager, Rules Relating to Employees**

If an interim manager occupies and operates a long-term care home, the interim manager can continue the employment of some or all of the employees. If an employee is not continued the employment relationship of that employee with the licensee is not affected. If an employee is continued the employee remains the employee of the licensee but while the interim manager is occupying and managing the home, the interim manager is responsible for the direction of the employee and has the rights and obligations of an employer.

If an employee's employment is terminated by the licensee while the interim manager occupies and operates the home, the Crown shall pay any termination and severance pay and entitlements under the *Employment Standards Act, 2000* that the licensee fails to pay.

The interim manager may also pay any other termination or severance pay and entitlements that a continued employee may be entitled to.

The interim manager can only agree to change the terms and conditions of employment or provisions of a collective agreement with respect to the period during which the interim manager occupies and operates the home. The interim manager can also employ or contract for persons to work in the home or contract for the delivery of services to the home if it is necessary to do so to avoid harm or a risk of harm to any resident. The interim manager is not a successor employer.

### **Section 156 - Due Diligence, Mistake Do Not Prevent Order**

The authority to make an order against a licensee under sections 150-154 may be exercised whether or not the licensee took all reasonable steps to prevent the non-compliance or if 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.

### **Section 157 - More Than One Order**

More than one order can be made under sections 150-154.

### **Section 158 – Order Not a Bar to Conviction**

An order under sections 150-154 does not affect the liability of any person to conviction of an offence arising from non-compliance.

### **Section 159 - Form and Service of Orders**

An order under sections 150-154 must be in writing, set out the grounds on which it was made, set out rights to review and appeal and explanations as to how to exercise these rights, and must be served on the licensee.

## **Review and Appeals**

### **Section 160 - Review of Inspector's Order**

A licensee who received an order under sections 150 or 151 may request the Director to review the order. The request must be in writing and served on the Director within 14 days from the day the order was served on the licensee. The request must include the portions of the order from which the review is requested, the licensee's submissions and an address for service for the licensee. Orders are not stayed by requests for review unless the Director orders otherwise upon being satisfied that no harm or risk of harm to a resident would result. On review of an order, the Director may rescind, confirm or alter the order and the Director may substitute his/her own order. The Director must serve the licensee with notice of the Director's decision which shall include reasons if the order is confirmed or amended within 14 days of receiving the request, failing which, the Director

is deemed to confirm the order and for the purposes of further appeal, is deemed to have served the licensee with a copy of that decision on the expiry of the 14 day period.

### **Section 161 - Appeal from Director's Order, Decision**

A licensee may appeal an order by the Director under s. 150-154 or a decision of the Director under s. 160 to the Appeal Board.

### **Section 162 - When and How Appeal to be Made**

The licensee must give the Appeal Board and the Director notice of appeal within 15 days from the day the licensee was served with a copy of the order or decision appealed from.

### **Section 163 - No Automatic Stay of Order or Decision**

An appeal to the Appeal Board does not stay an order or decision unless the Appeal Board orders otherwise upon being satisfied that no harm or risk of harm to a resident would result. This section does not apply to an order to revoke a licence under s. 154(1) but does apply to orders for interim managers under s. 154(4).

### **Section 164 – Parties**

The parties to an appeal are the licensee and the Director.

### **Section 165 – Hearing**

The Appeal Board must promptly set a time and place for a hearing after receiving a notice of appeal. The hearing relating to licence revocations must begin within 90 days after the day the Appeal Board receives the notice. Each party must have 7 days notice of the time and place of the hearing.

### **Section 166 - Decision of Appeal Board**

After a hearing, the Appeal Board may rescind, confirm or alter the order or decision of the Director and may substitute its own opinion, or may direct the Director to take other action in accordance with the Act and the regulations.

### **Section 167 - Appeal to Court**

Appeals from the Appeal Board can be made to the Divisional Court. An appeal to the Divisional Court does not stay an order or decision unless the Divisional Court orders otherwise upon being satisfied that no harm or risk of harm to a resident would result. The Appeal Board must file the record of proceedings with the Divisional Court on an appeal which, together with the transcript of evidence, constitutes the record in the appeal. Appeals may be on questions of law or fact or both. The Court may affirm or

rescind the decision of the Appeal Board, direct the Director to take action, substitute its opinion for that of the Director or Appeal Board or refer the matter back to the Appeal Board for rehearing.

### **Section 168 - Funding Not to be Considered**

The sufficiency of funding provided to a licensee must not be considered in any review or appeal.

### **Miscellaneous**

### **Section 169 - Reports, etc. to be Public**

The Director must publish, in any format or manner the Director considers appropriate, every inspection report under s. 146; every order under this Part and every written notification or request under s. 149.

### **Section 170 – Regulations**

The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part.

## **PART X – ADMINISTRATION, MISCELLANEOUS AND TRANSITION**

### **Section 171 - Director – Appointment**

The Minister may appoint one or more Directors. If there is more than one Director the regulations can provide for which Director is the Director for provisions of the Act.

### **Section 172 – Personal Information, Collection**

This section provides for the collection, use and disclosure of personal information for purposes related to the administration of the Act and other purposes that may be provided for under the regulations.

### **Section 173 – Restriction on terms**

A person who owns or operates a place that is not a long-term care home must not describe the place as a “long-term care home”, “nursing home” “home for the aged”, or by a term that may cause confusion with one of those terms.

### **Section 174 – Affidavits**

The Minister may designate persons to take affidavits for the purposes of this Act.



### **Section 175 – Service**

Anything that is to be served under the Act may be served personally or by a method provided for in the regulations.

### **Section 176 – Immunity**

The Crown, Minister, Director and employees and agents of the Crown have immunity for things done or omitted to be done in good faith in purported compliance with the Act.

### **Section 177 – Penalties**

Penalties are set out for offences under the Act. Penalties are provided for individuals and corporations and for first and subsequent offences. A court may also order a convicted person to make restitution to anyone who suffered a loss as a result of the offence.

### **Section 178 – Regulations**

The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of the Act.

### **Section 179 – General Provisions re Regulations**

Regulations under the Act can be retroactive, can be general or particular in their application and can incorporate codes and standards.

### **Transitional**

### **Sections 180 – Transition, Nursing Homes and Charitable Homes**

This section set out the replacement licences, including the terms of the replacement licences, for existing licences under the *Nursing Homes Act* and existing approvals under the *Charitable Institutions Act*. With some exceptions, the terms range from 10 years to 25 years based on the long-term care home's classification.

### **Section 181 – Existing Overbeds**

Any authority or permission to operate more beds than licensed or approved under the *Nursing Homes Act*, the *Charitable Institutions Act* or the *Homes for the Aged and Rest Homes Act* is extinguished. Specified homes with existing overbeds will receive a temporary licence with a term of three years.

### **Section 182 – Transitional, Mission Statement**

The licensee must develop a mission statement in accordance with section 4 within one year from the day that section 4 comes into force.

### **Section 183 – Further Transitional, *Charitable Institutions Act***

Despite its repeal, clause 5(1)(d) of the *Charitable Institutions Act* continues to apply to a change in the use of, or sale or other disposition of, a long-term care home that was governed under that *Act*.

### **Section 184 – Transition – Municipal Homes**

Every long-term care home established and maintained under the *Homes for the Aged and Rest Homes Act* is deemed to have been established under an approval granted under Part VIII.

### **Section 185 – Further Transitional, *Homes for the Aged and Rest Homes Act***

Despite its repeal, subsection 14(2) of the *Homes for the Aged and Rest Homes Act* continues to apply to the sale or other disposition of a long-term care home that was governed under that *Act*.

### **Section 186 – No Cause of Action for Enactment of Act**

This section provides that no cause of action arises as a direct or indirect result of the enactment of this Act including, without limiting the generality of the foregoing, the deemed replacement of a licence or approval under section 180 or the extinguishment of any authority or permission under section 181. No costs, compensation or damages are owing or payable to any person and no remedy, including but not limited to a remedy in contract, restitution, tort or trust, is available to any person in connection with the enactment of this Act including, without limiting the generality of the foregoing, the deemed replacement of a licence or approval under section 180 or the extinguishment of any authority or permission under section 181.

## **PART XI – REPEALS AND CONSEQUENTIAL AMENDMENTS**

### **Repeals**

#### **Section 187 – Repeals**

The *Charitable Institutions Act*, the *Homes for the Aged and Rest Homes Act* and the *Nursing Homes Act* are repealed.

**Amendments to this Act in Consequence of *Local Health System Integration Act, 2006***

**Section 188 – Amendments in Consequence of *Local Health System Integration Act, 2006***

This section sets out the amendments to this legislation as a result of the *Local Health System Integration Act, 2006* .

The amendments include the following:

- (a) adding a definition that a “local health integration network” means a local health integration network as defined in section 2 of the *Local Health System Integration Act, 2006*;
- (b) amending section 22 to require a person to report misuse or misappropriation of funding provided to a licensee under the *Local Health System Integration Act, 2006*;
- (c) amending section 23 to require the Director to have an inspector conduct an inspection or make inquiries relating to the misuse or misappropriation of funding provided to a licensee under the *Local Health System Integration Act, 2006*;
- (d) amending section 55 to include a power of the Residents’ Council to review the detailed allocation, by the licensee, of funding under the *Local Health System Integration Act, 2006* and financial statements filed with the local health integration network under the *Local Health System Integration Act, 2006*;
- (e) amending section 57 to provide that the right, of a person who lives in the community where the home is located, to be a member of the Family Council does not extend to a person who has a relationship with the local integration network for the geographic area where the home is located;
- (f) amending section 58 to include a power of the Family Council to review the detailed allocation, by the licensee, of funding under the *Local Health System Integration Act, 2006* and financial statements filed with the local health integration network under the *Local Health System Integration Act, 2006*;
- (g) amending section 76 to include information about funding provided under the *Local Health System Integration Act, 2006*;
- (h) amending section 77 to require the licensee to post the service accountability agreement entered into between the licensee and the local health integration network under the *Commitment to Medicare Act, 2004*;
- (i) amending section 151 to permit the Minister to direct the local health integration network that provides funding to the licensee to withhold funding in an amount equal to the reasonable costs of any work or activity performed under this section. The local health integration network must comply with the direction;

- (j) amending section 152 to permit the Director to order that a specified amount of funding provided to a licensee by a local health integration network be returned by the licensee or that the local health integration network that provides funding to the licensee withhold a specified amount from funding. The local health integration network must comply with the order;
- (k) amending section 154 to provide that the cost of repairs may be set off against funding provided to a licensee under the *Local Health System Integration Act, 2006* and a licensee is not entitled to funding under the *Local Health System Integration Act, 2006* while the home is under interim management; and
- (l) adding a section that an order under section 150 to 154 may be made despite any other measures taken, under the *Local Health System Integration Act, 2006* or the *Commitment to Medicare Act, 2004* in respect of the same instance of non-compliance with a requirement under this Act.

### **Consequential Amendments to Other Acts**

#### **Sections 189, 192 – 194, 196, 198 - 199, 202 - 206, 208 - 210, 212 - 215, 217, 219 - 220, 222 – 224**

The following Acts are amended to replace references to the three repealed Acts with this new Act, the “*Long-Term Care Homes Act, 2006*” and replace references to “nursing home”, “home for the aged” and “charitable home for the aged” with “long-term care home”. Where necessary, references to a “home for the aged” under the *Homes for the Aged and Rest Homes Act* are changed to “long-term care home under Part VIII”. References to “charitable institutions” under the *Charitable Institutions Act* are repealed to correspond with the repeal of the *Charitable Institutions Act*. These are technical amendments only and do not change the meanings of the provisions being amended.

- *Cemeteries Act (Revised)*
- *Commitment to the Future of Medicare Act, 2004*
- *Coroners’ Act*
- *Election Act*
- *Funeral, Burial and Cremation Services Act, 2002*
- *Funeral Directors and Establishments Act*
- *Health Insurance Act*
- *Health Protection and Promotion Act*
- *Hospital Labour Disputes Arbitration Act*
- *Income Tax Act*
- *Indian Welfare Services Act*
- *Long-Term Care Act, 1994*
- *Ministry of Health Appeal and Review Boards Act, 1998*
- *Ministry of Health and Long-Term Care Act*
- *Municipal Conflict of Interest Act*
- *Northern Services Boards Act*
- *Occupational Health and Safety Act*

- *Ontario Energy Board Act, 1998*
- *Personal Health Information Protection Act, 2004*
- *Smoke-Free Ontario Act*
- *Substitute Decisions Act, 1992*
- *Tenant Protection Act*
- *Tobacco Control Act, 2004*
- *Tourism Act*

## **Sections 190 and 191**

In the *City of Toronto Act, 1997 (No. 2)*, generic references to the City’s homes for the aged are replaced with ‘long-term care homes’ and where further specificity is appropriate, the reference is changed to a ‘long-term care home’ established under the Municipal Homes Part VIII of this Act. Section 52, a transitional provision enacted to address funding matters arising out of the sale of a home for the aged to York Region that has no further application, is repealed. Similar amendments are made to the *City of Toronto Act, 2006* which is not yet in force.

## **Section 195**

Amendments to the *County of Haliburton Act, 2003*, a private Act, maintain the exclusion of the County of Haliburton from the requirement to operate a municipal home if certain conditions are met.

## **Section 197**

The definition of “government agency” under the *French Language Services Act* is amended to reflect a change in terminology and to clarify the exclusion of municipal homes or joint homes under Part VIII of this Act from the definition of “government agency.”

## **Section 200**

A number of amendments are made to the *Health Care Consent Act, 1996 (HCCA)*, including:

- (1) The definitions of “care facility” and “recipient” in the HCCA are amended to replace references to the three repealed Acts with this new Act and to reflect the change in terminology.
- (2) Part III of the HCCA, which provides for a substitute decision-maker to make a decision about admission to a care facility on behalf of a person who is incapable of making the decision, is amended to include admission to a secure unit of a care facility and transfer to a secure unit of a long-term care home.
- (3) The person responsible for authorizing admissions (referred to as the placement co-ordinator in this Act) must ensure that a person’s admission to a care facility is

not authorized unless the person's substitute decision-maker has given consent in accordance with the HCCA.

- (4) An additional principle for making a decision about admission to a care facility is added to provide that a substitute decision-maker must not give consent to admission to a secure unit unless the admission is essential to prevent serious bodily harm to the incapable person or to others or allows the incapable person greater freedom or enjoyment. This amendment is subject to the principle that the substitute decision-maker must make the decision in accordance with wishes applicable to the circumstances expressed by the incapable person while capable and after attaining the age of 16 years.
- (5) An evaluator who finds a person incapable of making a decision about admission to a care facility or a personal assistance service (dealt with under Part IV of the HCCA) is required to give the person information about the consequences of the finding, as specified in the guidelines established by the governing body of the evaluator's profession.
- (6) An incapable person may apply to the Consent and Capacity Board to review whether the substitute decision-maker complied with the required principles for making a decision to give or refuse consent to admission to a secure unit. A new application cannot be made within six months of a final disposition of an earlier application unless the Board gives permission in advance. The Board may give this permission if it is satisfied that there has been a material change in circumstances that justifies reconsideration of the substitute decision-maker's decision.
- (7) An application by an incapable person to review the substitute decision-maker's decision about admission to a secure unit cannot be made within six months of a decision in which the Board (a) gave directions to the substitute decision-maker about a wish expressed by the incapable person, (b) gave permission to the substitute decision-maker to depart from wishes and consent to the admission, or (c) gave directions to consent to admission on an application by the person responsible for authorizing admissions to review the substitute decision-maker's decision. The Board may give permission to bring an earlier application if it is satisfied that there has been a material change in circumstances that justifies reconsideration of the substitute decision-maker's decision.
- (8) The person responsible for authorizing admissions must take reasonable steps to ensure that a person is not admitted to a secure unit where the incapable person is applying to the Consent and Capacity Board to review the substitute decision-maker's decision about admission to a secure unit.
- (9) A person who provides a personal assistance service must not rely on the consent of a substitute decision-maker unless the person has taken reasonable steps to ensure that the consent has been given in accordance with the HCCA.
- (10) Regulation-making powers are added under the HCCA to prescribe a situation as a "crisis" and to clarify the modifications necessary in the application of Part III of the HCCA to transfers to secure units.

## **Section 201**

All provisions and portions of provisions of the *Health Facilities Special Orders Act* that pertain specifically to nursing homes are repealed. These provisions have been incorporated into this Act and are no longer needed.

## **Section 207**

Amendments to the *Local Health Systems Integration Act, 2006* are required to reflect a change in terminology. The definition of “health service provider” will reflect the new terminology of this Act and replace references to the three Acts repealed by this Act, the *Charitable Institutions Act*, the *Homes for the Aged and Rest Homes Act* and the *Nursing Homes Act*, with a reference to this Act. The amendment will not change the meaning of the provision.

## **Section 208**

The short title of the *Long-Term Care Act, 1994* is repealed and the short title *Home Care and Community Services Act, 1994* is substituted. The following Acts are amended to replace references to the repealed short title with the new short title:

*Commitment to the Future of Medicare Act, 2004*

*Community Care Access Corporations Act, 2001*

*Health Care Consent Act, 1996*

*Local Health System Integration Act, 2006*

*Ministry of Health Appeal and Review Boards Act, 1998*

*Personal Health Information Protection Act, 2004*

*Rescuing Children from Sexual Exploitation Act, 2002*

## **Section 211**

Amendments to the *Municipal Act, 2001* are required to reflect a change in terminology. A regulation-making power to prescribe the basis upon which apportionments are to be made by boards of management under the *Homes for the Aged and Rest Homes Act* is removed from a provision of the *Municipal Act, 2001*. This regulation-making power is incorporated into this Act. A reference to the *Homes for the Aged and Rest Homes Act* is replaced with the “*Long-Term Care Homes Act, 2006*”. Sections 474.6 and 474.7, transitional provisions that have no further application, are repealed. If Bill 130 (*Municipal Statute Law Amendment Act, 2006*) receives Royal Assent, amendments are made to reflect a change in terminology and replace references to the *Homes for the Aged and Rest Homes Act*.

## **Section 216**

Amendments to the *Pay Equity Act* move references to all long-term care homes under the heading ‘Ministry of Health’ to reflect that the Ministry of Health and Long-Term Care has jurisdiction over all long-term care homes.

## **Section 219**

Subsection 5(e) of the *Residential Tenancies Act, 2006*, which exempts living accommodation in long-term care homes from the application of the legislation, will be amended to refer to the *Long-Term Care Homes Act, 2006*.

## **Section 221**

Amendments to the *Social Contract Act, 1993* move references to all long-term care homes under the heading ‘Ministry of Health’ to reflect that the Ministry of Health and Long-Term Care has jurisdiction over all long-term care homes.

## **PART X11 – COMMENCEMENT AND SHORT TITLE**

### **Section 225 – Commencement**

Sections 225 and 226 of the Act come into force on the day this Act receives Royal Assent. Sections 1 to 224 of the Act come into force on a day to be named by proclamation of the Lieutenant Governor.

### **Section 226 – Short Title**

The short title of this Act is the *Long-Term Care Homes Act, 2006*.