



Long Term Care Homes Act 2007- Implications for Palliative Care

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Long Term Care Homes Act

- *Long-Term Care Homes Act, 2007*
S.O. 2007, CHAPTER 8
- **ONTARIO REGULATION 79/10**
- Available on E-Laws on Government of Ontario website at
<http://www.e-laws.gov.on.ca/>

Has been in effect since July 2010

Replaced *Nursing Homes Act, Homes for the Aged and Rest Homes Act* and *Charitable Institutions Act* which were repealed

Applies to ALL long term care homes in Ontario



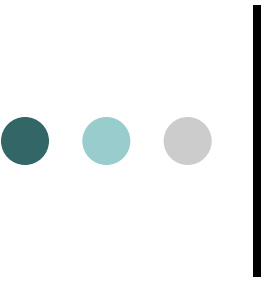
S. 1. Home: The Fundamental Principle

- 1. The fundamental principle to be applied in the interpretation of this Act and anything required or permitted under this Act is that a long-term care home is primarily the home of its residents and is to be operated so that it is a place where they may live with dignity and in security, safety and comfort and have their physical, psychological, social, spiritual and cultural needs adequately met. 2007, c. 8, s. 1.



Impact of LTCHA on Palliative care – Overview

- Requirement for staff training in palliative care
- Documents related to health consent, Including advance directives, defined as “regulated documents” with particular “rules” attached to them
- Care Requirements
 - To provide end-of-life care to residents
 - Residents Bill of Rights sections
 - Care plans based on assessed needs
 - Pain Management programmes
 - Nursing and personal support services
- Religious and Spiritual Practices
- Privacy



o Training



Requirement for training of direct care staff in “Palliative Care”

LTCHA s.76

Training

76. (1) Every licensee of a long-term care home shall ensure that all staff at the home have received training as required by this section. 2007, c. 8, s. 76 (1).

.....

Additional training – direct care staff

(7) Every licensee shall ensure that all staff who provide direct care to residents receive, as a condition of continuing to have contact with residents, training in the areas set out in the following paragraphs, at times or at intervals provided for in the regulations:

....

2. Mental health issues, including caring for persons with dementia.

.....

5. Palliative care.



Training Programme – evaluation and updating and designated lead for training requirements

LTCHA Regulation s 216

Training and orientation program

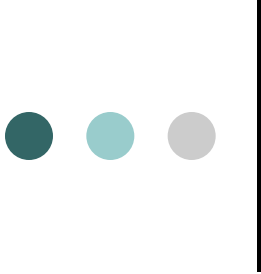
216. (1) Every licensee of a long-term care home shall ensure that a training and orientation program for the home is developed and implemented to provide the training and orientation required under sections 76 and 77 of the Act. O. Reg. 79/10, s. 216 (1).

(2) The licensee shall ensure that, at least annually, the program is **evaluated and updated in accordance with evidence-based practices and, if there are none, in accordance with prevailing practices**. O. Reg. 79/10, s. 216 (2).

(3) The licensee shall keep a written record relating to each evaluation under subsection (2) that includes the date of the evaluation, the names of the persons who participated in the evaluation, a summary of the changes made and the date that those changes were implemented. O. Reg. 79/10, s. 216 (3).

Designated lead

217. The licensee shall ensure that there is a designated lead for the training and orientation program. O. Reg. 79/10, s. 217.

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- **Regulated Documents**
 - **INCLUDE documents containing a consent or directive with respect to “treatment” as defined in the *Health Care Consent Act, 1996* (ie level of care forms, advance directives, health care consents)**



Regulated documents about consent and directives - Opportunity for Licensees

- Provisions about regulated documents in respect to consent and directives are an opportunity for licensees to develop appropriate policies and practices
 - for informed consent and appropriate advance care planning to support residents and their families in end of life planning and decision making
 - To support staff in delivery of end of life care that meets legal and ethical requirements



Consents for treatment and directives about treatment - LTCHA Reg s. 227

Regulated documents

227. (1) For the purposes of section 80 of the Act, the following are regulated documents:

1. Any agreement between the licensee and a resident or a person authorized to enter into such an agreement on the resident's behalf for any of the **charges** referred to in subsection 91 (1) of the Act.
2. Any document containing a **consent or directive with respect to "treatment" as defined in the *Health Care Consent Act, 1996***, including a document containing a consent or directive with respect to a "course of treatment" or a "plan of treatment" under that Act.
O. Reg. 79/10, s. 227 (1).

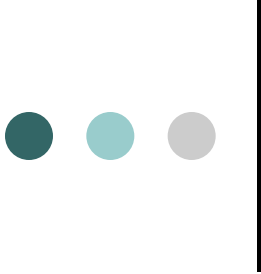
(2) Where a licensee has presented for signature a document to which subsection (1) applies, the licensee shall ensure that every one who signs it is provided with a copy of the signed document.
O. Reg. 79/10, s. 227 (2).



LTCHA Reg s.227(6)

Documents must comply with HCCA

- (6) A document containing a consent or directive with respect to “treatment” as defined in the *Health Care Consent Act, 1996*, including a document containing a consent or directive with respect to a “course of treatment” or a “plan of treatment” under that Act,
- (a) must meet the requirements of that Act, including the **requirement for informed consent to treatment** under that Act;
 - (b) must not contain any provisions dealing with any of the charges referred to in subsection 91 (1) of the Act or other financial matters;
 - (c) **must contain a statement indicating that the consent may be withdrawn or revoked at any time**; and
 - (d) must set out the text of section 83 of the Act. O. Reg. 79/10, s. 227 (6).



Coercion prohibited

LTCHA s.83

Coercion prohibited

83. (1) Every licensee of a long-term care home shall ensure that no person is told or led to believe that a prospective resident will be refused admission or that a resident will be discharged from the home because,

- (a) a document has not been signed;
- (b) an agreement has been voided; or
- (c) a consent or directive with respect to treatment or care has been given, not given, withdrawn or revoked. 2007, c. 8, s. 83 (1).



Home's advance directives and levels of care cannot be required

This means that

- Resident can choose not to execute LTC home's advance directive
- Resident could have own form of directive or express wishes orally/ communicate wishes by alternative means
- Resident/ SDM cannot be required to sign homes advance directives or level of care forms
- LTC homes policies and practices in respect to health consents and advance directives and levels of care forms need to be reviewed to ensure compliance with LTCHA and HCCA
- Staff need to understand requirements about health consent and how any advance directives affect or not effect care delivery and that advance directives and level of care forms are NOT consents



Regulated documents for resident LTCHA s.80

80. (1) Every licensee of a long-term care home shall ensure that no regulated document is presented for signature to a resident or prospective resident, a substitute decision-maker of a resident or prospective resident or a family member of a resident or prospective resident, unless,

- (a) the regulated document **complies with all the requirements of the regulations;** and
- (b) **the compliance has been certified by a lawyer.** 2007, c. 8, s. 80 (1).



Regulated documents LTCHA s.80

- Requirement for every licensee to have such documents reviewed and certified by licensee's lawyer
- Must be reviewed to ensure that it is legally correct and in compliance with LTCHA as well as other applicable legislation including Health Care Consent Act



Regulated documents LTCHA s.80

- Review by lawyer should ensure that when the staff see the document that :
 - Staff understand that
 - Consent must be “informed” (decision maker must get information on risks, benefits, side effects, alternatives, what could happen if treatment refused etc)
 - Consent must come from appropriate person (resident if capable, proper SDM (and who that is) if resident not capable)



Regulated documents LTCHA s.80

- Review by lawyer should ensure that when staff see the document that :
 - Staff understand that
 - Only resident can provide an “advance directive” or “wish” about future care
 - That SDM cannot advance care plan for resident
 - That “level of care” forms are NOT CONSENTS
 - That there is no requirement for signature of a level of care form or any other form of directive and lack of signature is not an impediment to care delivery



o **Care Needs of Residents**



End-of-life care

LTCHA Regulation s.42

- 42. Every licensee of a long-term care home shall ensure that every resident receives end-of-life care when required in a manner that meets their needs. O. Reg. 79/10, s. 42.



Residents' Bill of Rights

LTCHA s.3- relevant sections related to palliative care

3. (1) Every licensee of a long-term care home shall ensure that the following rights of residents are fully respected and promoted:

1. Every resident has the right to be **treated with courtesy and respect and in a way that fully recognizes the resident's individuality and respects the resident's dignity.**
2. Every resident has the **right to be protected from abuse.**
3. Every resident has the **right not to be neglected** by the licensee or staff.
4. Every resident has the right to be properly sheltered, fed, clothed, groomed and **cared for in a manner consistent with his or her needs.**



Residents' Bill of Rights

LTCHA s.3- relevant sections related to palliative care

9. Every resident has the **right to have his or her participation in decision-making respected**

11. Every resident has the right to,
 - i. **participate fully in the development, implementation, review and revision of his or her plan of care,**
 - ii. **give or refuse consent to any treatment,** care or services for which his or her consent is required by law and to be informed of the consequences of giving or refusing consent,
 - iii. **participate fully in making any decision concerning any aspect of his or her care,** including any decision concerning his or her admission, discharge or transfer to or from a long-term care home or a secure unit and to obtain an independent opinion with regard to any of those matters, and
 - iv. have his or her personal health information within the meaning of the *Personal Health Information Protection Act, 2004* kept confidential in accordance with that Act, and to have access to his or her records of personal health information, including his or her plan of care, in accordance with that Act.



Residents' Bill of Rights

LTCHA s.3- relevant sections related to palliative care

14. Every resident has the right to communicate in confidence, **receive visitors of his or her choice and consult in private with any person without interference.**

15. Every resident who is dying or who is very ill has **the right to have family and friends present 24 hours per day.**

16. Every resident has the **right to designate a person to receive information concerning any transfer or any hospitalization of the resident and to have that person receive that information immediately**



Residents' Bill of Rights

LTCHA s.3- relevant sections related to palliative care

23. Every resident has the right to pursue social, cultural, **religious, spiritual and other interests**, to develop his or her potential and to be given reasonable assistance by the licensee to pursue these interests and to develop his or her potential.
24. Every resident has the right to be informed in writing of any law, rule or policy affecting services provided to the resident and of the procedures for initiating complaints.
27. Every resident has the right to have any friend, family member, or other person of importance to the resident attend any meeting with the licensee or the staff of the home. 2007, c. 8, s. 3 (1).



Plan of Care LTCHA s.6

Plan of care

6. (1) Every licensee of a long-term care home shall ensure that there is a written plan of care for each resident that sets out,

- (a) the planned care for the resident;
- (b) the goals the care is intended to achieve; and
- (c) clear directions to staff and others who provide direct care to the resident. 2007, c. 8, s. 6 (1).

Based on assessment of resident

(2) The licensee shall ensure that the care set out in the plan of care is based on an assessment of the resident and the needs and preferences of that resident. 2007, c. 8, s. 6 (2).



Plan of Care LTCHA s. 6(5)

Involvement of resident, etc.

(5) The licensee shall ensure that the resident, the resident's substitute decision-maker, if any, and any other persons designated by the resident or substitute decision-maker are given an opportunity to participate fully in the development and implementation of the resident's plan of care. 2007, c. 8, s. 6 (5).



Plan of Care LTCHA s. 6(5)

Explanation of plan

(12) The licensee shall ensure that the resident, the resident's substitute decision-maker, if any, and any other persons designated by the resident or substitute decision-maker are given an explanation of the plan of care. 2007, c. 8, s. 6 (12).

Access to plan

(14) Nothing in this section limits a right of access to a plan of care under the *Personal Health Information Protection Act, 2004*. 2007, c. 8, s. 6 (14).



LTCHA Reg s24 Care Plan

- (6) The licensee shall ensure that the care set out in the care plan is provided to the resident as specified in the plan. O. Reg. 79/10, s. 24 (6).
- (7) The licensee shall ensure that the staff and others who provide direct care to a resident **are kept aware of the contents of the resident's care plan and have convenient and immediate access to it.** O. Reg. 79/10, s. 24 (7).
- (8) The licensee shall ensure that the provision and outcomes of the care set out in the care plan are documented. O. Reg. 79/10, s. 24 (8).



LTCHA Reg s24 Care Plan

- (9) The licensee shall ensure that the resident is reassessed and the care plan is reviewed and revised when,
- (a) the resident's care needs change;
 - (b) the care set out in the plan is no longer necessary; or
 - (c) the care set out in the plan has not been effective. O. Reg. 79/10, s. 24 (9).
- (10) When the care plan is being revised because care set out in the plan has not been effective, the licensee shall ensure that different approaches are considered in the revision of the care plan. O. Reg. 79/10, s. 24 (10).
- (11) The licensee shall ensure that the resident, the resident's substitute decision-maker, if any, and any other persons designated by the resident or substitute decision-maker are **given an explanation of the care plan.** O. Reg. 79/10, s. 24 (11).



Consent required for Care LTCHA s.7

Consent

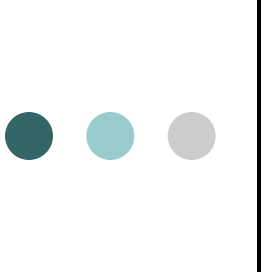
7. Nothing in this Act authorizes a licensee to assess a resident's requirements without the resident's consent or to provide care or services to a resident without the resident's consent. 2007, c. 8, s. 7.



Changes in plan of care, consent

LTCHA Reg s. 29

- 29. Every licensee of a long-term care home shall ensure that when a resident is reassessed and the resident's plan of care is reviewed and revised under subsection 6 (10) of the Act, any consent or directive with respect to "treatment" as defined in the *Health Care Consent Act, 1996*, including a consent or directive with respect to a "course of treatment" or a "plan of treatment" under that Act, that is relevant, including a regulated document under paragraph 2 of subsection 227 (1) of this Regulation, is reviewed and, if required, revised. O. Reg. 79/10, s. 29.



Requirement for nursing and personal support services to meet needs of residents LTCHA s.8

Nursing and personal support services

8. (1) Every licensee of a long-term care home shall ensure that there is,

- (a) an organized program of nursing services for the home to meet the **assessed needs of the residents**; and
- (b) an organized program of personal support services for the home to meet the **assessed needs of the residents**. 2007, c. 8, s. 8 (1).

Personal support services

(2) In clause (1) (b),

“personal support services” means services to assist with the activities of daily living, including personal hygiene services, and includes supervision in carrying out those activities. 2007, c. 8, s. 8 (2).

24-hour nursing care

(3) Every licensee of a long-term care home shall ensure that at least one registered nurse who is both an employee of the licensee and a member of the regular nursing staff of the home is on duty and present in the home at all times, except as provided for in the regulations. 2007, c. 8, s. 8 (3).



Nursing and personal support services

LTCHA Reg s.38

31. (1) This section and sections 32 to 47 apply to,
(a) the organized program of nursing services required under clause 8 (1) (a) of the Act; and
(b) the organized program of personal support services required under clause 8 (1) (b) of the Act. O. Reg. 79/10, s. 31 (1).

(2) Every licensee of a long-term care home shall ensure that there is a written staffing plan for the programs referred to in clauses (1) (a) and (b). O. Reg. 79/10, s. 31 (2).



Written staffing plan LTCH

Reg s. 38

- (3) The staffing plan must,
- (a) provide for a staffing mix that is consistent with residents' assessed care and safety needs and that meets the requirements set out in the Act and this Regulation;
 - (b) set out the organization and scheduling of staff shifts;
 - (c) promote continuity of care by minimizing the number of different staff members who provide nursing and personal support services to each resident;
 - (d) include a back-up plan for nursing and personal care staffing that addresses situations when staff, including the staff who must provide the nursing coverage required under subsection 8 (3) of the Act, cannot come to work; and
 - (e) be evaluated and updated at least annually in accordance with evidence-based practices and, if there are none, in accordance with prevailing practices. O. Reg. 79/10, s. 31 (3).
- (4) The licensee shall keep a written record relating to each evaluation under clause (3) (e) that includes the date of the evaluation, the names of the persons who participated in the evaluation, a summary of the changes made and the date that those changes were implemented. O. Reg. 79/10, s. 31 (4).



Pain Management Programme is a Required Programme LTCHA Reg s.38

Required programs

48. (1) Every licensee of a long-term care home shall ensure that the following interdisciplinary programs are developed and implemented in the home:

4. A pain management program to identify pain in residents and manage pain. O. Reg. 79/10, s. 48 (1).

(2) Each program must, in addition to meeting the requirements set out in section 30,

(a) provide for screening protocols; and

(b) provide for assessment and reassessment instruments. O. Reg. 79/10, s. 48 (2).



Pain management Requirements LTCHA Reg S. 52

52. (1) The pain management program must, at a minimum, provide for the following:

1. Communication and assessment methods for residents who are unable to communicate their pain or who are cognitively impaired.
2. Strategies to manage pain, including non-pharmacologic interventions, equipment, supplies, devices and assistive aids.
3. Comfort care measures.
4. Monitoring of residents' responses to, and the effectiveness of, the pain management strategies. O. Reg. 79/10, s. 52 (1).

(2) Every licensee of a long-term care home shall ensure that when a resident's pain is not relieved by initial interventions, the resident is assessed using a clinically appropriate assessment instrument specifically designed for this purpose. O. Reg. 79/10, s. 52 (2).



Duty to protect LTCHA s.19

- 19. (1) Every licensee of a long-term care home shall protect residents from abuse by anyone and shall ensure that residents **are not neglected** by the licensee or staff. 2007, c. 8, s. 19 (1).



Definition of Neglect

LTCHA Regulation s.5

5. For the purposes of the Act and this Regulation,
- “neglect” means the **failure to provide a resident with the treatment, care, services or assistance required for health, safety or well-being**, and includes inaction or a pattern of inaction that jeopardizes the health, safety or well-being of one or more residents. O. Reg. 79/10, s.



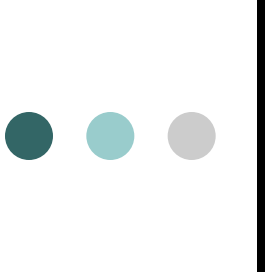
Reports re critical incidents LTCH reg s. 107

- 107. (1) Every licensee of a long-term care home shall ensure that the Director is immediately informed, in as much detail as is possible in the circumstances, of each of the following incidents in the home, followed by the report required under subsection (4):

2. An unexpected or sudden death, including a death resulting from an accident or suicide.



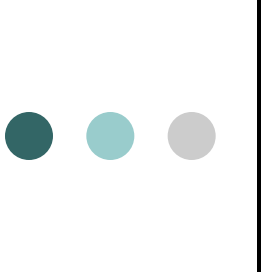
○ Religious and Spiritual Needs



Religious and spiritual practices

LTCHA s. 14

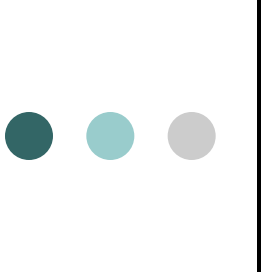
- 14. Every licensee of a long-term care home shall ensure that there is an organized program for the home to ensure that residents are given reasonable opportunity to practise their religious and spiritual beliefs, and to observe the requirements of those beliefs. 2007, c. 8, s.



Religious and spiritual practices

LTCHA Reg s. 85

- 85. (1)** This section applies to the organized program for the home to give residents reasonable opportunity to practise their religious and spiritual beliefs required under section 14 of the Act. O. Reg. 79/10, s. 85 (1).
- (2)** Every licensee of a long-term care home shall ensure that the program includes arrangements to provide worship services, resources and non-denominational spiritual counselling on a regular basis for all residents who desire them based on availability within the community. O. Reg. 79/10, s. 85 (2).
- (3)** The licensee shall ensure that,
- (a) mechanisms are in place to support and facilitate residents' participation in the program;
 - (b) arrangements are made for one-to-one visitation, according to the resident's wishes, based on availability within the community; and
 - (c) arrangements are made to facilitate the participation in the program of residents who have hearing or visual impairments, based on availability within the community. O. Reg. 79/10, s. 85 (3).
- (4)** The licensee shall ensure that there is a designated lead for the program who has sufficient knowledge and experience to co-ordinate religious services and spiritual care in a multi-faith setting. O. Reg. 79/10, s. 85 (4).



Religious and spiritual practices

LTCHA Reg s. 85

- (3) The licensee shall ensure that,
- (a) mechanisms are in place to support and facilitate residents' participation in the program;
 - (b) arrangements are made for one-to-one visitation, according to the resident's wishes, based on availability within the community; and
 - (c) arrangements are made to facilitate the participation in the program of residents who have hearing or visual impairments, based on availability within the community.
- O. Reg. 79/10, s. 85 (3).
- (4) The licensee shall ensure that there is a designated lead for the program who has sufficient knowledge and experience to co-ordinate religious services and spiritual care in a multi-faith setting. O. Reg. 79/10, s. 85 (4).



Privacy curtains LTCHA s.13

- 13. Every licensee of a long-term care home shall ensure that every resident bedroom occupied by more than one resident has sufficient privacy curtains to provide privacy. O. Reg. 79/10, s. 13.



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