



Français

Retirement Homes Act, 2010

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PART I INTERPRETATION

Fundamental principle

1 The fundamental principle to be applied in the interpretation of this Act and any regulation, order or other document made under this Act is that a retirement home is to be operated so that it is a place where residents live with dignity, respect, privacy and autonomy, in security, safety and comfort and can make informed choices about their care options. 2010, c. 11, s. 1.

Definitions

2 (1) In this Act,

“abuse”, in relation to a resident, means physical abuse, sexual abuse, emotional abuse, verbal abuse or financial abuse, as may be defined in the regulations in each case; (“mauvais traitement”)

“administrative penalty” means an administrative penalty imposed under section 93; (“pénalité administrative”)

“Authority” means the Retirement Homes Regulatory Authority established under section 10; (“Office”)

“board” means the board of directors of the Authority; (“conseil”)

“care service” means,

- (a) a prescribed health care service provided by a member of a College as defined in the *Regulated Health Professions Act, 1991*,
- (b) administration of a drug, as defined in the *Drug and Pharmacies Regulation Act*, or another substance,
- (c) assistance with feeding,
- (d) assistance with bathing,
- (e) continence care,
- (f) assistance with dressing,
- (g) assistance with personal hygiene,
- (h) assistance with ambulation,
- (i) provision of a meal, or
- (j) any other service prescribed as a care service,

but does not include any service that is prescribed as not being a care service; (“service en matière de soins”)

“Complaints Review Officer” means the Complaints Review Officer of the Authority appointed under section 25; (“agent d’examen des plaintes”)

“confine”, except with respect to the common law duty of a caregiver to confine a person as mentioned in section 71, has the meaning provided in the regulations; (“confiner”)

“external care provider” means a person who provides care services to a resident of a retirement home and who is not the licensee of the home, the staff of the home or a volunteer with respect to the home; (“prestataire externe”)

“Fund” means the Retirement Homes Regulatory Authority Emergency Fund established under subsection 27 (1); (“Fonds”)

“incapable” means unable to understand the information that is relevant to making a decision concerning the subject matter or unable to appreciate the reasonably foreseeable consequences of a decision or a lack of decision; (“incapable”)

“inspector” means the Registrar or an inspector appointed by the Registrar under section 76; (“inspecteur”)

“licence” means a licence to operate a retirement home issued under this Act; (“permis”)

“licensee” means a person who is licensed under this Act to operate a retirement home; (“titulaire de permis”)

“memorandum of understanding” means the memorandum of understanding described in subsection 18 (1); (“protocole d’entente”)

“Minister” means the Minister of Seniors Affairs or any other member of the Executive Council to whom responsibility for the administration of this Act is assigned or transferred under the *Executive Council Act*; (“ministre”)

“neglect”, in relation to residents, means the failure to provide a resident with the care and assistance required for his or her health, safety or well-being and includes inaction or a pattern of inaction that jeopardizes the health or safety of one or more residents; (“négligence”)

“operator”, in relation to a retirement home, means a person who owns or controls the business of operating the home; (“exploitant”)

“personal health information” means personal health information as defined in the *Personal Health Information Protection Act, 2004*; (“renseignements personnels sur la santé”)

“personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*; (“renseignements personnels”)

“plan of care” means a plan of care developed in accordance with section 62; (“programme de soins”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“Registrar” means the Registrar of the Authority appointed under section 23; (“registrateur”)

“regulations” means the regulations made under this Act; (“règlements”)

“resident” means a person residing in a retirement home; (“résident”)

“residential complex” means a building or related group of buildings in which one or more rental units of living accommodation are located, and includes all common areas and services and facilities available for the use of the residents of the complex; (“ensemble d’habitation”)

“Residents’ Bill of Rights” means the Bill of Rights established under subsection 51 (1); (“déclaration des droits des résidents”)

“Residents’ Council” means a council established under subsection 56 (1); (“conseil des résidents”)

“retirement home” means a residential complex or the part of a residential complex,

(a) that is occupied primarily by persons who are 65 years of age or older,

(b) that is occupied or intended to be occupied by at least the prescribed number of persons who are not related to the operator of the home, and

(c) where the operator of the home makes at least two care services available, directly or indirectly, to the residents,

but does not include,

(d) premises or parts of premises that are governed by or funded under,

(i) REPEALED: 2010, c. 11, s. 123 (1).

(ii) REPEALED: 2010, c. 11, s. 123 (2).

(iii) the *Homes for Special Care Act*,

(iv) REPEALED: 2010, c. 11, s. 123 (1).

(v) the *Long-Term Care Homes Act, 2007*,

(vi) the *Ministry of Community and Social Services Act*,

(vii) REPEALED: 2010, c. 11, s. 123 (1).

(viii) the *Private Hospitals Act*,

Note: On a day to be named by proclamation of the Lieutenant Governor, subclause (d) (viii) of the definition of “retirement home” in subsection 2 (1) of the Act is repealed and the following substituted: (See: 2017, c. 25, Sched. 9, s. 117)

(viii) the *Oversight of Health Facilities and Devices Act, 2017* in the case of premises that were formerly governed by the *Private Hospitals Act*,

(ix) the *Public Hospitals Act*, or

(x) the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*,

(e) premises at which emergency hostel services are provided under the *Ontario Works Act, 1997*, or

(f) the other premises that are prescribed; (“maison de retraite”)

“rights adviser” means a person designated by or in accordance with the regulations as a rights adviser; (“conseiller en matière de droits”)

“Risk Officer” means the Risk Officer of the Authority appointed under section 24; (“agent de gestion des risques”)

“staff”, in relation to a retirement home, means every person who works or provides services at the home,

(a) as an employee of the licensee,

(b) pursuant to a contract or agreement with the licensee, or

(c) pursuant to a contract or agreement between the licensee and an employment agency or other third party; (“personnel”)

“substitute decision-maker” means a person who is authorized, under the *Substitute Decisions Act, 1992* or under the provisions of the *Health Care Consent Act, 1996* that apply with respect to retirement homes and residents of retirement homes, to make a decision or to give or refuse consent on behalf of another person in the circumstances in which the decision or consent, as the case may be, is required; (“mandataire spécial”)

“Tribunal” means the Licence Appeal Tribunal established under the *Licence Appeal Tribunal Act, 1999*; (“Tribunal”)

“volunteer”, in relation to a retirement home, means a person who works in or supplies services to the home, but who is not part of the staff of the home and who does not receive a wage or salary for the services or work that the person provides in the home.

(“bénévole”) 2010, c. 11, ss. 2 (1), 123; 2017, c. 25, Sched. 10, s. 1.

Interpretation, related person

(2) A person who is related to another person for the purposes of clause (b) of the definition of “retirement home” in subsection (1) includes a person related through adoption, marriage, conjugal relationship outside marriage, other culturally traditional form of kinship as described in the regulations, if any, or through another prescribed form. 2016, c. 23, s. 67.

Section Amendments with date in force (d/m/y) [+]

Interpretation, controlling interest

3 (1) For the purposes of this Act and without limiting the meaning of “controlling interest”,

(a) a person has a controlling interest in a corporation if,

(i) the person, either alone or with one or more associates, directly or indirectly owns, beneficially or otherwise, other than by way of security only, voting shares of the corporation carrying more than 50 per cent of the votes for the election of directors, and

(ii) the votes carried by such shares are sufficient, if exercised, to elect a majority of the board of directors of the corporation;

(b) a person has a controlling interest in an entity that is not a corporation if the person, either alone or with one or more associates, has the direct or indirect right or ability, beneficially or otherwise, to direct the management and policies of the entity; and

(c) a person has a controlling interest in a second person if the person, either alone or with one or more associates, has a controlling interest within the meaning of clause (a) or (b), as applicable, in a third person who has a controlling interest within the meaning of clause (a) or (b), as applicable, in the second person, and so on. 2010, c. 11, s. 3 (1).

Associate

(2) For the purpose of this section, one person is an associate of another person if,

- (a) one person is a corporation of which the other person is a director or officer;
- (b) one person is a partnership of which the other person is a partner;
- (c) one person is a corporation that is controlled, directly or indirectly, by the other person;
- (d) both persons are members of the same voting trust relating to shares of a corporation;
- (e) one person is the father, mother, brother, sister, son, daughter or spouse of the other person or is another relative who has the same residence as the other person; or
- (f) both persons are associates, within the meaning of clauses (a) to (e), of the same person. 2010, c. 11, s. 3 (2).

Spouse

(3) In subsection (2),

“spouse” means,

- (a) a spouse as defined in section 1 of the *Family Law Act*, or
- (b) either of two persons who live together in a conjugal relationship outside marriage. 2010, c. 11, s. 3 (3).

Interpretation, requirement under this Act

4 A reference in this Act to contravention of a requirement under this Act means contravention of or non-compliance with any of the following, and a reference in this Act to compliance with the requirements under this Act means compliance with all of the following:

1. The provisions of this Act or the regulations.
2. The obligations, terms, conditions, limitations and restrictions prescribed for the licence held by the licensee.
3. The conditions imposed by the Registrar on the licensee’s licence.
4. The orders issued by the Registrar to the licensee under this Act. 2010, c. 11, s. 4.

Interpretation, living quarters

5 Any expression in this Act referring to rooms in a retirement home that are being used as living quarters for one or more residents does not include any common area in the retirement home or any area used by its staff. 2010, c. 11, s. 5.

Interpretation, final decision or order

6 For the purposes of this Act, a decision or order shall be considered to have become final when no further reviews or appeals are available with respect to the decision or order. 2010, c. 11, s. 6.

Interpretation, refusal to issue a licence

7 If the regulations prescribe classes of licence, a reference in this Act or the regulations to a refusal to issue a licence to an applicant includes a refusal to issue a licence of the specific class of licence for which the applicant applied. 2010, c. 11, s. 7.

Interpretation, imposition of condition on a licence

8 A reference in this Act or the regulations to the imposition of a condition on a licensee’s licence includes a refusal to remove a condition from a licensee’s licence. 2010, c. 11, s. 8.

PART II RETIREMENT HOMES REGULATORY AUTHORITY

DEFINITION

Definition

9 In this Part,

“consumer” means a resident, a family member of a resident, a person of importance to a resident, a representative of a seniors’ organization or an individual who advocates for seniors. 2010, c. 11, s. 9.

CORPORATION

Authority established

10 A corporation without share capital is established under the name Retirement Homes Regulatory Authority in English and Office de réglementation des maisons de retraite in French. 2010, c. 11, s. 10.

Members

11 (1) The Authority is composed of the members of its board of directors. 2010, c. 11, s. 11 (1).

Same

(2) A person ceases to be a member of the Authority when he or she ceases to be a director of the Authority. 2010, c. 11, s. 11 (2).

Board of directors

12 (1) The Authority shall have a board of directors which shall manage or supervise the management of the affairs of the Authority. 2010, c. 11, s. 12 (1).

Composition

(2) The board shall consist of nine directors unless the number is changed by order of the Minister under subsection (3). 2010, c. 11, s. 12 (2).

Change in number of directors

(3) The Minister may, by order, increase or decrease the number of directors on the board. 2010, c. 11, s. 12 (3).

Appointed directors

(4) The Lieutenant Governor in Council may appoint directors to the board. 2010, c. 11, s. 12 (4).

Not majority

(5) The Lieutenant Governor in Council shall ensure, when appointing directors under subsection (4), and the Minister shall ensure, when increasing or decreasing the number of directors under subsection (3), that the directors appointed by the Lieutenant Governor in Council do not constitute a majority of the number of directors required to be on the board. 2010, c. 11, s. 12 (5).

Representation

(6) The directors appointed by the Lieutenant Governor in Council may include licensees, consumers, and representatives of business, government, government organizations and other interests that the Lieutenant Governor in Council determines. 2010, c. 11, s. 12 (6).

Elected directors

(7) Directors, other than the directors appointed by the Lieutenant Governor in Council, shall be elected by the members of the board. 2010, c. 11, s. 12 (7).

Qualifications

(8) The Minister may, by order, set the qualifications for being a director of the Authority and only persons who meet those qualifications shall be appointed or elected as directors. 2010, c. 11, s. 12 (8).

Representation, etc., elected directors

(9) The Minister may, by order, establish rules regarding who can serve as directors elected to the board, including,

- (a) that no more than a fixed percentage of members of the board shall be drawn from among the persons or classes of persons specified in the order;
- (b) the criteria for their nomination;
- (c) the process for their election;
- (d) the length of their term; and
- (e) whether they can be re-elected. 2020, c. 14, Sched. 7, s. 1.

Order prevails

(10) An order made under subsection (9) prevails over a by-law made under subsection 14 (2) in the case of conflict. 2020, c. 14, Sched. 7, s. 1.

Remuneration and expenses

(11) The Authority shall pay reasonable remuneration and expenses to the directors. 2010, c. 11, s. 12 (11).

Reappointment

(12) A director is eligible to be reappointed or re-elected. 2010, c. 11, s. 12 (12).

Quorum

(13) A majority of the number of directors required to be on the board constitutes a quorum. 2010, c. 11, s. 12 (13).

Chair

(14) The Minister shall designate a chair of the board from among the directors. 2010, c. 11, s. 12 (14).

First election

(15) The first election of the directors mentioned in subsection (7) shall take place before the second anniversary of the day this section comes into force or before a later date that is prescribed. 2010, c. 11, s. 12 (15).

Section Amendments with date in force (d/m/y) [+]**Interim board**

13 (1) Until the first election of the directors mentioned in subsection 12 (7) takes place, the Authority shall have an interim board consisting of five directors who shall be appointed by the Lieutenant Governor in Council. 2010, c. 11, s. 13 (1).

Remuneration and expenses of interim board

(2) The remuneration and expenses of the directors on the interim board shall be determined by the Lieutenant Governor in Council. 2010, c. 11, s. 13 (2).

Application of s. 12

(3) Section 12, except subsections (2) to (5), (7) and (11), applies to the interim board. 2010, c. 11, s. 13 (3).

By-laws

14 (1) The board may make by-laws for the management of the Authority and for the conduct and administration of the Authority's affairs. 2010, c. 11, s. 14 (1).

Same, elected directors

(2) The board shall make a by-law regarding who can serve as directors elected to the board, the criteria for their nomination, the process for their election, the length of their term and whether they can be re-elected. 2010, c. 11, s. 14 (2).

Minister's approval required

(3) The board may make a by-law described in subsection (2) only with the approval in writing of the Minister. 2010, c. 11, s. 14 (3).

Available to the public

(4) The Authority shall make the by-laws available for public inspection within the time specified in the memorandum of understanding or, if no time is specified in the memorandum of understanding, within 30 days after they are made by the board. 2020, c. 14, Sched. 7, s. 2.

Section Amendments with date in force (d/m/y) [+]**Conflict with corporate Acts and regulations**

15 (1) In the event of conflict between any provision of this Act or the regulations and any provision of the *Corporations Act* or the *Corporations Information Act* or of a regulation made under either of those Acts, the provision of this Act or the regulations prevails. 2010, c. 11, s. 15.

Conflict, Minister's order

(2) In the event of a conflict, a Minister's order made under this Act prevails over the memorandum of understanding and the Authority's by-laws and resolutions. 2020, c. 14, Sched. 7, s. 3.

Note: On the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force, section 15 of the Act is amended by striking out "*Corporations Act*" and substituting "*Not-for-Profit Corporations Act, 2010*". (See: 2017, c. 20, Sched. 8, s. 126)

Section Amendments with date in force (d/m/y) [+]

OBJECTS, POWERS AND DUTIES

Objects

16 The objects of the Authority are,

- (a) to administer this Act and the regulations, including overseeing their enforcement, for the purpose of ensuring that retirement homes are operated in accordance with this Act and the regulations;
- (b) to educate licensees, consumers and the public about matters relating to this Act and the regulations, including the requirements applicable to licensees, the prescribed care and safety standards for retirement homes, the rights of residents and best practices for the operation of retirement homes;
- (c) to provide information about retirement homes;
- (d) to advise the Minister on policy matters relating to retirement homes;
- (d.1) to suggest to the Minister amendments to Ontario legislation that it considers would further the purposes of this Act or would assist the Authority in administering the Act and the regulations; and
- (e) to carry out any other duties or powers assigned to it under any Act or by the Minister. 2010, c. 11, s. 16; 2020, c. 14, Sched. 7, s. 4.

Section Amendments with date in force (d/m/y) [+]

Powers

17 The Authority has the capacity and the rights, powers and privileges of a natural person, except as limited by this Act or the regulations. 2010, c. 11, s. 17.

Memorandum of understanding

18 (1) The Minister and the Authority shall enter into a memorandum of understanding, which must, at a minimum,

- (a) set out requirements relating to the governance of the Authority;
- (b) set out requirements with which the Authority shall comply in connection with its administration of this Act and the regulations, including a requirement that the Authority maintain adequate insurance against liability arising out of its administration of this Act and the regulations;
- (c) set out requirements with which the Authority shall comply in connection with carrying out its other objects; and
- (d) set out the financial terms of the administration of this Act. 2010, c. 11, s. 18 (1); 2020, c. 14, Sched. 7, s. 5 (1).

Conflict

(2) In the event of conflict between any provision of this Act or the regulations and any provision of the memorandum of understanding, by-laws and resolutions, the provision of this Act or the regulations prevails. 2020, c. 14, Sched. 7, s. 5 (2).

Amendment by Minister

(3) If the Minister considers it reasonable to do so in the public interest, the Minister may unilaterally amend the memorandum of understanding after giving the Authority the notice that the Minister considers reasonable in the circumstances. 2017, c. 25, Sched. 10, s. 2.

Section Amendments with date in force (d/m/y) [+]**Minister's policy directions**

19 (1) If the Minister considers it in the public interest to do so, the Minister may issue policy directions to the Authority relating to its administration of this Act and the regulations after giving the Authority the notice that the Minister considers reasonable in the circumstances. 2020, c. 14, Sched. 7, s. 6.

Part of MOU

(1.1) The policy directions issued under subsection (1) are deemed to form part of the memorandum of understanding. 2020, c. 14, Sched. 7, s. 6.

Compliance with directions

(2) The Authority shall comply with the directions given by the Minister under this section. 2010, c. 11, s. 19 (2).

Section Amendments with date in force (d/m/y) [+]**Advisory committees, advisory process**

19.1 The Minister may require the Authority to,

- (a) establish one or more advisory committees;
- (b) include, as members of an advisory committee, at least one consumer representative of the retirement home sector and any other individuals that the board selects or that the Minister determines; or
- (c) undertake an advisory process in which it seeks advice from one or both of the public and persons with experience or knowledge relating to this Act. 2017, c. 25, Sched. 10, s. 3.

Section Amendments with date in force (d/m/y) [+]**Review**

19.2 (1) The Minister may,

- (a) require that policy, legislative or regulatory reviews related to the powers and duties of the Authority under this Act, the regulations or the memorandum of understanding be carried out,
 - (i) by or on behalf of the Authority, or
 - (ii) by a person or entity specified by the Minister; or
- (b) require that reviews of the Authority, of its operations or of both, including, without limitation, performance, governance, accountability and financial reviews, be carried out,
 - (i) by or on behalf of the Authority, or
 - (ii) by a person or entity specified by the Minister. 2017, c. 25, Sched. 10, s. 3.

Access to records

(2) If a review is carried out by a person or entity specified by the Minister, the Authority shall give the person or entity specified by the Minister and the employees and agents of the person or entity access to all records and other information required to conduct the review. 2017, c. 25, Sched. 10, s. 3; 2020, c. 14, Sched. 7, s. 7 (1).

Report to Minister

(3) The results of reviews under this section shall be reported to the Minister, within the time specified by the Minister. 2020, c. 14, Sched. 7, s. 7 (2).

Terms and conditions

(4) The Minister may impose terms and conditions with respect to a review carried out under this section. 2020, c. 14, Sched. 7, s. 7 (2).

Section Amendments with date in force (d/m/y) [+]**Duty to advise the responsible Minister**

19.3 (1) The Authority shall promptly inform and advise the Minister with respect to,

- (a) any information that could affect the Authority's ability to perform its duties under this Act and the regulations; and
- (b) any urgent or critical matter that is likely to require action by the Minister. 2020, c. 14, Sched. 7, s. 8.

Same

(2) The Authority shall advise or report to the Minister, within the time period that the Minister specifies, on any matter that the Minister refers to it and that relates to this Act and the regulations. 2020, c. 14, Sched. 7, s. 8.

Section Amendments with date in force (d/m/y) [+]**Consultation by Minister**

19.4 The Minister may consult with the Authority about proposed legislative or policy changes that may affect the Authority and its activities. 2020, c. 14, Sched. 7, s. 8.

Section Amendments with date in force (d/m/y) [+]**Forms**

20 In connection with administering this Act and the regulations, the Authority may require the use of forms developed by it. 2010, c. 11, s. 20.

Fees, etc.

21 (1) The Authority may set and charge fees, costs or other charges in relation to anything that the Authority does in administering this Act and the regulations or anything that the Registrar does under this Act and the regulations, as long as the decisions to set and charge are made in accordance with processes and criteria that the Authority establishes and that the Minister approves. 2020, c. 14, Sched. 7, s. 9 (1).

Exception

(2) The Authority shall not set or charge any fees, costs or charges payable by a person for making a complaint described in subsection 83 (1) to the Registrar. 2020, c. 14, Sched. 7, s. 9 (1).

Setting fees, etc.

(3) In setting the fees, costs and charges described in subsection (1), the Authority may specify their amounts or the method for determining the amounts. 2020, c. 14, Sched. 7, s. 9 (1).

Collection

(4) The Authority may,

- (a) set the time and manner of payment of the fees, costs and charges charged by it under subsection (1); and
- (b) require the payment of interest and other penalties, including payment of collection costs, when fees, costs and charges charged under subsection (1) are unpaid or paid after the due date. 2020, c. 14, Sched. 7, s. 9 (1).

Publication

(5) The Authority,

(a) shall publish the fees, costs and charges, the processes and criteria and anything set or required under subsection (4) on its website and in any other way described in the memorandum of understanding; and

(b) may publish anything mentioned in clause (a) in any other format the Authority considers advisable. 2020, c. 14, Sched. 7, s. 9 (1).

Not public money

(6) For greater certainty, the money that the Authority collects in administering this Act and the regulations is not public money as defined in the *Financial Administration Act*, and the Authority may use the money to carry out its objects. 2020, c. 14, Sched. 7, s. 9 (1).

Note: On July 1, 2021, the day named by proclamation of the Lieutenant Governor, subsection 21 (6) of the Act is amended by adding “subject to section 32.2” at the end. (See: 2020, c. 14, Sched. 7, s. 9 (2))

Section Amendments with date in force (d/m/y) [+]**Employees, etc.**

22 (1) The Authority may employ or retain the services of the qualified persons that it considers necessary for the administration of this Act and the regulations, the carrying out of the Authority's other objects, and the fulfilment of its obligations under the memorandum of understanding. 2010, c. 11, s. 22 (1); 2017, c. 25, Sched. 10, s. 4.

Not employees of the Crown

(2) The employees of the Authority are not and shall not be deemed to be employees of the Crown. 2010, c. 11, s. 22 (2).

Section Amendments with date in force (d/m/y) [+]**Processes and procedures**

22.1 The Authority shall follow the prescribed processes and procedures with respect to providing access to the public to records of the Authority and with respect to managing personal information contained in those records. 2020, c. 14, Sched. 7, s. 10.

Section Amendments with date in force (d/m/y) [+]**Compensation information**

22.2 (1) The Minister may, by order, require the Authority to make available to the public, on its website and by any other means that the Authority determines, any information specified by the Minister relating to,

(a) the compensation that the Authority pays to members of the board, its officers and its employees; and

(b) any other payments that the Authority makes or is required to make to the persons mentioned in clause (a). 2020, c. 14, Sched. 7, s. 11.

Information for prior period

(2) An order made under subsection (1) may require that the Authority make information referred to in that subsection available to the public with respect to a period that began before the day this section came into force, where the information relates to a member of its board, an officer or employee who was in office or employed on the day this section came into force. 2020, c. 14, Sched. 7, s. 11.

Effect of compliance

(3) If the Authority makes information available to the public in accordance with an order under subsection (1), or in the reasonable belief that the action is required by the order, no court, person or other entity shall find that the Authority,

(a) has contravened any Act enacted or regulation made before or after this section came into force; or

(b) is in breach of or has contravened any agreement that purports to restrict or prohibit that action, regardless of whether the agreement is made before or after this section came into force. 2020, c. 14, Sched. 7, s. 11.

Definition

(4) In this section,

“compensation” means anything paid or provided, directly or indirectly, to or for the benefit of a person who performs duties and functions that entitle the person to be paid, and includes salary, benefits, perquisites and all forms of non-discretionary and discretionary payments. 2020, c. 14, Sched. 7, s. 11.

Section Amendments with date in force (d/m/y) [+]

Note: On July 1, 2021, the day named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2020, c. 14, Sched. 7, s. 12)

Orders

22.3 (1) The Minister shall publish any orders the Minister makes under this Act on a website of the Government of Ontario. 2020, c. 14, Sched. 7, s. 12.

Not regulations

(2) For greater certainty, Part III (Regulations) of the *Legislation Act, 2006* does not apply to orders made by the Minister under this Act. 2020, c. 14, Sched. 7, s. 12.

Section Amendments with date in force (d/m/y) [+]**Registrar**

23 (1) The board shall appoint a Registrar who shall perform the duties assigned to the Registrar under this Act and by the board. 2010, c. 11, s. 23 (1).

No hearing required

(2) Subject to the regulations, the Registrar is not required to hold a hearing or to afford a person an opportunity for a hearing before doing anything under this Act. 2010, c. 11, s. 23 (2).

Non-application of *Statutory Powers Procedure Act*

(3) The *Statutory Powers Procedure Act* does not apply to anything done by the Registrar under this Act. 2010, c. 11, s. 23 (3).

Deputy Registrars

23.1 (1) The board may appoint a maximum of two Deputy Registrars who shall perform the duties that the Registrar assigns and shall act as the Registrar in the Registrar's absence. 2017, c. 25, Sched. 10, s. 6.

If more than one Deputy Registrar

(2) If more than one Deputy Registrar is appointed, only one Deputy Registrar may act as the Registrar under subsection (1) at any one time. 2017, c. 25, Sched. 10, s. 6.

Section Amendments with date in force (d/m/y) [+]**Risk Officer**

24 (1) The board shall, with the approval of the Minister, appoint a Risk Officer by a resolution approved by at least two-thirds of the members of the board. 2010, c. 11, s. 24 (1).

Removal from office

(2) The Risk Officer may be removed from office only by a resolution approved by at least two-thirds of the members of the board. 2010, c. 11, s. 24 (2).

Duties and powers

(3) The Risk Officer,

- (a) shall review, and assess the effectiveness of, the Authority's administration of this Act and the regulations, including the Authority's activities and proposed activities related to ensuring that licensees meet the care standards and safety standards set out in this Act and the regulations and respect the rights of residents set out in this Act and the regulations; and
- (b) shall perform the other duties and may exercise the other powers that are prescribed. 2010, c. 11, s. 24 (3).

Required reports

(4) The Risk Officer shall,

- (a) prepare and give the board and the Minister an annual report about the Authority's activities and proposed activities mentioned in subsection (3);
- (b) prepare and give the board the other reports that the board requests; and
- (c) prepare and give the Minister the reports that the Minister requests. 2010, c. 11, s. 24 (4).

Optional reports

(5) The Risk Officer may prepare and give the board a report on any matter related to the Authority's activities or proposed activities mentioned in subsection (3), at the times that the Officer considers it in the public interest to do so. 2010, c. 11, s. 24 (5).

Access to records and information

(6) When the Risk Officer performs a duty under subsection (3) or prepares a report under subsection (4) or (5), the Authority shall give the Officer access to all records and other information that the Officer believes to be necessary in order to perform that duty or prepare that report. 2010, c. 11, s. 24 (6).

Board response to annual report

(7) The board shall review the Risk Officer's annual report at the next annual meeting of the members of the Authority that takes place after the board receives the report and shall make the report available for public inspection promptly after the meeting. 2010, c. 11, s. 24 (7).

Board response to other reports

(8) Within six months after receiving any other report prepared by the Risk Officer under clause (4) (b) or subsection (5), the board shall review the report and make it available for public inspection. 2010, c. 11, s. 24 (8).

Minister to review and disclose other reports

(9) Within six months after receiving a report prepared by the Risk Officer under clause (4) (c), the Minister shall review the report and make it available for public inspection. 2010, c. 11, s. 24 (9).

Complaints Review Officer

25 (1) The board shall appoint a Complaints Review Officer by a resolution approved by at least two-thirds of the members of the board. 2010, c. 11, s. 25 (1).

Removal from office

(2) The Complaints Review Officer may be removed from office only by a resolution approved by at least two-thirds of the members of the board. 2010, c. 11, s. 25 (2).

Code of ethics

26 The Authority,

- (a) with the approval of the Minister, shall establish a code of ethics that includes rules respecting conflicts of interest, political activity and disclosure of wrongdoing;
- (b) shall ensure that the code of ethics is complied with by every director and officer of the Authority, every inspector and every other person employed, retained or appointed by the Authority; and
- (c) shall ensure that the code of ethics is available for public inspection. 2010, c. 11, s. 26.

Emergency fund

27 (1) A fund is established under the name Retirement Homes Regulatory Authority Emergency Fund in English and Fonds d'urgence de l'Office de réglementation des maisons de retraite in French. 2010, c. 11, s. 27 (1).

Same

(2) The Authority shall make payments into the Fund, hold the property of the Fund in trust, make payments out of the Fund, require repayment to the Fund and otherwise administer and manage the Fund in accordance with the regulations. 2010, c. 11, s. 27 (2).

No personal liability

28 (1) No action or other proceeding shall be instituted against a director or officer of the Authority, an inspector or any other person employed, retained or appointed by the Authority for any act done in good faith in the execution or intended execution of any duty imposed or power conferred by this Act or the regulations, or for any alleged omission in the execution in good faith of that duty or power. 2010, c. 11, s. 28 (1).

Liability of the Authority

(2) Subsection (1) does not relieve the Authority of any liability to which it would otherwise be subject in respect of an act or omission of a person mentioned in that subsection. 2010, c. 11, s. 28 (2).

Not Crown agents

29 (1) The Authority, the members, directors and officers of the Authority, the inspectors and the other persons employed, retained or appointed by the Authority are not agents of the Crown and shall not hold themselves out as agents of the Crown. 2010, c. 11, s. 29 (1).

Same

(2) The directors mentioned in subsection (1) include directors appointed by the Lieutenant Governor in Council. 2010, c. 11, s. 29 (2).

No Crown liability

30 (1) No cause of action arises against the Crown, a minister of the Crown, a Crown employee or a Crown agent as a direct or indirect result of any act or omission of a person who is not a minister of the Crown, a Crown employee or a Crown agent if the act or omission is related, directly or indirectly, to the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations or a Minister's order. 2020, c. 14, Sched. 7, s. 13 (1).

Same

(1.1) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, shall be instituted against the Crown, a minister of the Crown, a Crown employee or a Crown agent by a person who has suffered any damages, injury or other loss based on or related to any cause of action described in subsection (1). 2020, c. 14, Sched. 7, s. 13 (1).

Application

(1.2) Without limiting the generality of subsection (1.1), that subsection applies to any action or other proceeding claiming any remedy or relief, including specific performance, injunction, declaratory relief, any form of compensation or damages, including loss of revenue and loss of profit, or any other remedy or relief, including a proceeding to enforce a judgment, order or award made by a court, tribunal or arbitrator outside of Canada. 2020, c. 14, Sched. 7, s. 13 (1).

Indemnification

(2) The Authority shall indemnify the Crown in respect of damages and costs incurred by the Crown as a result of any act or omission of the Authority, a director or officer of the Authority, an inspector or any other person employed, retained or appointed by the Authority. 2010, c. 11, s. 30 (2).

Note: On July 1, 2021, the day named by proclamation of the Lieutenant Governor, subsection 30 (2) of the Act is repealed and the following substituted: (See: 2020, c. 14, Sched. 7, s. 13 (2))

Indemnification of the Crown

(2) The Authority shall indemnify the Crown, in accordance with the memorandum of understanding, in respect of damages and costs incurred by the Crown for any act or omission of the Authority or its officers, directors, inspectors, investigators, employees or agents,

(a) in carrying out the administration of this Act, the regulations, a Minister's order or the memorandum of understanding; or

(b) in the execution or intended execution of its powers and duties under this Act, the regulations, a Minister's order or the memorandum of understanding. 2020, c. 14, Sched. 7, s. 13 (2).

Section Amendments with date in force (d/m/y) [+]

No personal liability, employee of the Crown

30.1 (1) No action or other proceeding shall be instituted against an employee of the Crown or a former employee for any act done in good faith in the exercise or intended exercise or performance of any duty or power under this Act, the regulations or a Minister's order or for any alleged neglect or default in the exercise or performance in good faith of such a duty or power. 2020, c. 14, Sched. 7, s. 14.

Crown liability

(2) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (1) of this section does not relieve the Crown of liability in respect of a tort committed by an employee of the Crown to which it would otherwise be subject. 2020, c. 14, Sched. 7, s. 14.

Section Amendments with date in force (d/m/y) [+]

Authority's annual report

31 (1) The Authority shall give the Minister an annual report about its activities and financial affairs. 2020, c. 14, Sched. 7, s. 15 (1).

Form and content

(2) The report shall be in a form acceptable to the Minister and shall provide the information that the Minister requires. 2010, c. 11, s. 31 (2).

Available to the public

(3) The Authority shall publish the report on its website and by any other method within the period and in the manner the Minister requires. 2020, c. 14, Sched. 7, s. 15 (2).

Section Amendments with date in force (d/m/y) [+]

Audit

31.1 (1) The Auditor General appointed under the *Auditor General Act* may conduct an audit of the Authority, other than an audit required under the *Corporations Act*. 2017, c. 25, Sched. 10, s. 7 (1).

Note: On the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force, subsection 31.1 (1) of the Act is amended by striking out "the *Corporations Act*" and substituting "the *Not-for-Profit Corporations Act, 2010*". (See: 2017, c. 25, Sched. 10, s. 7 (2))

Access to records and information

(2) If the Auditor General conducts an audit under subsection (1), the Authority shall give the Auditor General and employees of the Auditor General access to all records and other information required to conduct the audit. 2017, c. 25, Sched. 10, s. 7 (1).

Section Amendments with date in force (d/m/y) [+]

Administrator

32 (1) If the Minister considers it in the public interest to do so, the Minister may, by order, appoint an administrator of the Authority for the purpose of assuming control of the Authority and responsibility for its activities. 2010, c. 11, s. 32 (1); 2020, c. 14, Sched. 7, s. 16 (1).

Notice of appointment

(2) The Minister shall give the board the notice that the Minister considers reasonable in the circumstances before appointing the administrator, unless there are not enough directors on the board to form a quorum, in which case the Minister may appoint the administrator without notice. 2020, c. 14, Sched. 7, s. 16 (2).

Term of appointment

(3) The appointment of an administrator remains in force until the Minister terminates it. 2010, c. 11, s. 32 (3).

Powers and duties

(4) The Minister may specify in the appointment the powers and duties of the administrator and the terms and conditions governing those powers and duties. 2010, c. 11, s. 32 (4).

Same

(5) The administrator has the exclusive right to exercise all the powers and perform all the duties of the Authority and its members, directors and officers, unless the appointment provides otherwise. 2010, c. 11, s. 32 (5).

Approval of board acts

(6) If the administrator's appointment provides that the board may continue to act during the term of the appointment, any act of the board during that time is valid only if the administrator approves it in writing. 2010, c. 11, s. 32 (6).

Rights with respect to documents, etc.

(7) The administrator has the same rights as the board in respect of the records, documents and information of the Authority. 2010, c. 11, s. 32 (7).

Accountability to Minister

(8) The administrator shall report to the Minister as the Minister requires and shall comply with the Minister's directions. 2010, c. 11, s. 32 (8).

No personal liability

(9) No action or other proceeding shall be instituted against the administrator for any act done in good faith in the execution or intended execution of any duty imposed or power conferred by this Act, the regulations, a Minister's order or the administrator's appointment, or for any alleged omission in the execution in good faith of that duty or power. 2010, c. 11, s. 32 (9); 2020, c. 14, Sched. 7, s. 16 (3).

Crown liability

(10) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (9) does not relieve the Crown of any liability to which it would otherwise be subject. 2010, c. 11, s. 32 (10); 2019, c. 7, Sched. 17, s. 156.

Liability of the Authority

(11) Subsection (9) does not relieve the Authority of any liability to which it would otherwise be subject. 2010, c. 11, s. 32 (11).

Section Amendments with date in force (d/m/y) [+]**Status of board during administrator's tenure**

32.1 (1) On the appointment of an administrator under subsection 32 (1), the members of the board of directors cease to hold office, unless the order provides otherwise. 2020, c. 14, Sched. 7, s. 17.

Same

(2) During the term of the administrator's appointment, the powers of any member of the board who continues to hold office are suspended, unless the order provides otherwise. 2020, c. 14, Sched. 7, s. 17.

No personal liability

(3) No action or other proceeding shall be instituted against a member or former member of the board for any act, neglect or default done by the administrator or the Authority after the member's removal under subsection (1) or while the member's powers are suspended under subsection (2). 2020, c. 14, Sched. 7, s. 17.

Crown liability

(4) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (3) of this section does not relieve the Crown of liability to which it would otherwise be subject. 2020, c. 14, Sched. 7, s. 17.

Liability of designated administrative authority

(5) Subsection (3) does not relieve the Authority of liability to which it would otherwise be subject. 2020, c. 14, Sched. 7, s. 17.

Section Amendments with date in force (d/m/y) [+]

Note: On July 1, 2021, the day named by proclamation of the Lieutenant Governor, the Act is amended by adding the following section: (See: 2020, c. 14, Sched. 7, s. 18)

Commercial activity

32.2 The Authority shall not engage in commercial activity through an individual, corporation or other entity that is related to the Authority. 2020, c. 14, Sched. 7, s. 18.

Section Amendments with date in force (d/m/y) [+]

PART III
LICENCE TO OPERATE A RETIREMENT HOME

Prohibition: operation without a licence

33 (1) No person shall operate a retirement home unless the person is licensed under this Act to operate that specific home. 2010, c. 11, s. 33 (1).

Transition

(2) A person who operates a retirement home on the day this section comes into force and who has applied to the Registrar under section 34 for a licence to operate the home on or before that day shall be deemed to be licensed under this Act to operate the home until the Registrar issues the licence or a decision to refuse to issue the licence has become final. 2010, c. 11, s. 33 (2).

Application for licence

34 In order to obtain a licence to operate a specific retirement home, a person shall apply to the Registrar in accordance with this Act and the regulations and shall provide the Registrar with the documents and information specified in the regulations and the other documents and information that the Registrar reasonably requires. 2010, c. 11, s. 34.

Issuance of licence

35 The Registrar shall issue a licence to operate a specific retirement home to an applicant if, in the opinion of the Registrar, the applicant has complied with section 34 and the following criteria have been met:

1. The applicant has demonstrated that the following persons are competent to operate the home in a responsible manner in accordance with this Act and the regulations and are in a position to provide or facilitate the provision of care services to its residents:
 - i. The applicant.
 - ii. If the applicant is a corporation,
 - A. the persons who have a controlling interest in the applicant, and
 - B. the directors and officers of the applicant.

- iii. If the applicant is not a corporation, the persons who have a controlling interest in the applicant.
 - iv. If a person who has a controlling interest in the applicant is itself a corporation, the person's directors and officers.
2. The past conduct of the persons described in subparagraphs 1 i, ii, iii and iv affords reasonable grounds to believe that the home will be operated,
- i. in accordance with this Act and the regulations and all other applicable Acts, regulations and municipal by-laws,
 - ii. with honesty and integrity, and
 - iii. in a manner that is not prejudicial to the health, safety or welfare of its residents.
3. The applicant has satisfied the prescribed requirements, if any, for the issuance of the class of licence for which the applicant is applying and is not ineligible for that class of licence on any ground specified in the regulations.
4. The applicant has satisfied the other requirements for the issuance of the licence that are specified in the regulations and the applicant is not ineligible for the licence on any ground specified in the regulations. 2010, c. 11, s. 35.

Refusal to issue licence

36 Subject to section 40, the Registrar shall refuse to issue a licence to an applicant if, in the opinion of the Registrar, the applicant has not complied with section 34 or the criteria set out in paragraphs 1 to 4 of section 35 have not been met. 2010, c. 11, s. 36.

Inquiries, investigations and inspections

37 (1) In order to determine whether the criteria in paragraphs 1 to 4 of section 35 have been met, the Registrar may,

- (a) make inquiries and conduct investigations into the character, financial history and competence of any licensee or any of the persons described in subparagraphs 1 i to iv of section 35;
- (b) require any licensee or any person who is the subject of an inquiry or investigation to provide material or information that is relevant to the inquiry or investigation;
- (c) request material or information that is relevant to the inquiry or investigation from any person that the Registrar has reason to believe can provide it;
- (d) require that any material or information provided under clause (b) or (c) be verified by statutory declaration or otherwise; and
- (e) cause an inspector to conduct an inspection of the retirement home and any place that is operated in connection with the home and from which services are provided to the home. 2010, c. 11, s. 37 (1); 2017, c. 25, Sched. 10, s. 8.

Costs

(2) At the Registrar's request, the applicant shall pay the reasonable costs of the inquiries, investigations and inspections conducted under this section. 2010, c. 11, s. 37 (2).

Application of s. 77

(3) Subsections 77 (4) to (12) and (17) apply with necessary modifications to an inspection under this section. 2010, c. 11, s. 37 (3).

Section Amendments with date in force (d/m/y) [+]

Fees, etc.

38 An applicant for a licence or a licensee shall pay all fees, costs and other charges set by the Authority under section 21. 2020, c. 14, Sched. 7, s. 19.

Section Amendments with date in force (d/m/y) [+]

Conditions imposed by Registrar

39 At or after the time a licence is issued, the Registrar may impose the conditions that the Registrar considers appropriate on the licence, subject to section 40. 2010, c. 11, s. 39.

Notice of intent to make decision

40 (1) The Registrar shall not make a decision to refuse to issue a licence to an applicant or to impose a condition on a licensee's licence at or after the time the licence is issued unless, before doing so, the Registrar,

- (a) serves a notice of intent to make the decision on the applicant or licensee, as the case may be, in accordance with subsection (2);
- (b) gives the applicant or licensee an opportunity to make written submissions with respect to the proposed decision in accordance with subsection (3); and
- (c) reviews the written submissions, if any, made by the applicant or licensee in accordance with subsection (3). 2010, c. 11, s. 40 (1).

Content of notice of intent

(2) A notice of intent shall,

- (a) set out the proposed decision and the reasons for it; and
- (b) state that the applicant or licensee may provide written submissions to the Registrar in accordance with subsection (3). 2010, c. 11, s. 40 (2).

Written submissions

(3) An applicant or licensee who is served with a notice of intent may provide written submissions to the Registrar with respect to any matter set out in the notice, within 15 days after the day the notice of intent was served on the applicant or licensee or within whatever other period is specified in the notice. 2010, c. 11, s. 40 (3).

Notice of Registrar's decision

41 If the Registrar makes a decision to refuse to issue a licence to an applicant or to impose a condition on a licensee's licence, the Registrar shall serve on the applicant or licensee, as the case may be, a notice of decision setting out,

- (a) the decision and the reasons for it; and
- (b) the requirements of Part VI for appealing the decision to the Tribunal. 2010, c. 11, s. 41.

Reapplication for licence

42 After a decision to refuse to issue a person a licence to operate a specific retirement home has become final, the person may reapply to the Registrar for a licence to operate the home if the person satisfies the Registrar that new or other evidence is available or that material circumstances have changed. 2010, c. 11, s. 42.

Application for removal of condition

43 After a decision to impose a condition on a licensee's licence has become final, the licensee may apply to the Registrar for removal of the condition if the licensee satisfies the Registrar that new or other evidence is available or that material circumstances have changed. 2010, c. 11, s. 43.

Reduction in care services

44 (1) A licensee of a retirement home shall not reduce the care services that the licensee makes available in the home, directly or indirectly, to the residents unless the licensee,

- (a) has delivered directly to each resident a written notice indicating the date the reduction will take effect, at least the prescribed number of days before the reduction takes effect;
- (b) has given the substitute decision-maker, if any, of each resident the written notice described in clause (a);

- (c) if a resident indicates that he or she is going to continue to reside in the home, has taken reasonable steps to facilitate the resident's access to any external care providers that the resident needs; and
- (d) if a resident indicates that he or she is going to cease to reside in the home, has taken reasonable steps to find appropriate alternate accommodation for the resident. 2010, c. 11, s. 44 (1).

Care services authorized for class of licence

(2) If the regulations prescribe classes of licence relating to the provision of types of care services, a licensee holding a licence of a specific class in respect of a retirement home shall not make available to the residents of the home more, fewer or different care services than the types of care services authorized for that class of licence. 2010, c. 11, s. 44 (2).

Licence not transferable

45 No person may transfer any interest in a licence, including a beneficial interest. 2010, c. 11, s. 45.

Security interest

46 (1) In this section,

“security interest” means an interest in or charge on a licence or property of the licensee that includes a licence, where the interest or charge secures the repayment of a debt or the performance of any other obligation. 2010, c. 11, s. 46 (1).

Exercise of security interest

(2) The exercise by a person of a security interest in a licence or in property of a licensee that includes a licence does not result in a transfer of the licence if, within 15 days after exercising the interest, the person who exercises the interest gives the Registrar a written notice of the exercise of the interest and a written plan specifying how the person intends to manage the operations of the retirement home. 2010, c. 11, s. 46 (2).

Time limit for acting as licensee

(3) If the person exercising a security interest gives the notice required by subsection (2), the Registrar shall determine the time period for which the person may act as if the person were the licensee. 2010, c. 11, s. 46 (3).

Extension of time limit

(4) At any time before the expiry of the time period determined under subsection (3), the Registrar may extend the time period for which the person may act as if the person were the licensee. 2010, c. 11, s. 46 (4).

Acting as licensee

(5) During the time period determined under subsection (3) or (4), as the case may be, this Act applies with necessary modifications to the person as if the person were the licensee. 2010, c. 11, s. 46 (5).

Receiver

(6) This section applies, with necessary modifications, to a receiver appointed with respect to a licence or property of a licensee that includes a licence, as if the receiver were a person exercising a security interest. 2010, c. 11, s. 46 (6).

Trustee in bankruptcy

47 (1) The appointment of a trustee in bankruptcy for a licensee does not result in a transfer of any licence of the licensee, but this Act applies with necessary modifications to the trustee in bankruptcy that deals with the licence, as if that person were the licensee. 2010, c. 11, s. 47 (1).

Notice to Registrar

(2) Within 15 days after the date of the bankruptcy as defined in the *Bankruptcy and Insolvency Act* (Canada) with respect to a licensee of a retirement home, the trustee in bankruptcy shall give the Registrar a written notice of the bankruptcy together with a written plan specifying how the trustee intends to manage the operations of the home. 2010, c. 11, s. 47 (2).

Termination of licence

48 (1) Subject to subsection (2), a licence terminates,

- (a) when a person ceases to have a controlling interest in the licensee;
 - (b) when a person acquires a controlling interest in the licensee;
 - (c) at the time or on the occurrence of an event that is described in the licence;
 - (d) at the time or on the occurrence of an event that is prescribed; or
 - (e) at the expiration of the time period that the Registrar determines for the purpose of subsection 46 (3) or (4), as the case may be.
- 2010, c. 11, s. 48 (1).

Continuation pending final decision

(2) If the licensee applies to the Registrar for a new licence before the old licence terminates under subsection (1), the old licence shall be deemed not to terminate until the new licence is issued or the decision to refuse to issue the new licence has become final. 2010, c. 11, s. 48 (2).

Ceasing to operate a retirement home

49 (1) Subject to subsection (3), a licensee of a retirement home shall not cease operating it as a retirement home until the licensee,

- (a) has given the Registrar a transition plan that complies with the prescribed requirements, at least the prescribed number of days before the home ceases to be operated as a retirement home;
- (b) has delivered directly to each resident a written notice indicating the date the home will cease to be operated as a retirement home, at least the prescribed number of days before the home ceases to be operated as a retirement home, as the case may be;
- (c) has given the substitute decision-maker, if any, of each resident the written notice described in clause (b);
- (d) if a resident so requests, has taken reasonable steps to find appropriate alternate accommodation for the resident or to facilitate the resident's access to any external care providers that the resident needs. 2010, c. 11, s. 49 (1).

Deemed surrender of licence

(2) The licensee's licence is deemed to be surrendered on the date the retirement home ceases to be operated as a retirement home. 2010, c. 11, s. 49 (2).

Exception

(3) This section does not apply to a licensee of a retirement home if the Registrar makes an order under Part V to the licensee to cease operating the home or to revoke the licensee's licence. 2010, c. 11, s. 49 (3).

**PART IV
RESIDENTS' RIGHTS, CARE AND SAFETY**

INTERPRETATION

Interpretation

50 (1) In this Part,

"personal assistance services device" means a device that is intended to assist a resident with a routine activity of living if the device has the effect of limiting or inhibiting the resident's freedom of movement and the resident is not able, either physically or cognitively to release oneself from the device. 2010, c. 11, s. 50 (1).

Interpretation, restraints

(2) The following shall not constitute restraints for the purposes of this Part:

1. The use of a physical device from which a resident is both physically and cognitively able to release oneself.
2. The use of a personal assistance services device permitted by section 69.

3. The administration of a drug to a resident as part of the resident's treatment as provided for in the resident's plan of care if the restraining effect of the drug is not the primary purpose for its administration.
4. Confinement as permitted by section 68 or 70. 2010, c. 11, s. 50 (2); 2017, c. 25, Sched. 10, s. 9.

Section Amendments with date in force (d/m/y) [+]

RIGHTS

Residents' Bill of Rights

51 (1) Every resident of a retirement home has the following rights which constitute the Residents' Bill of Rights:

1. The right to,
 - i. know what care services are provided in the home and how much they cost,
 - ii. be informed in advance of any increases in charges for care services provided in the home,
 - iii. receive advance notice of a decision of the licensee of the home to discontinue providing a particular care service,
 - iv. have the licensee of the home take reasonable steps to facilitate the resident's access to any external care providers that the resident needs, if the resident receives the notice described in subparagraph iii and indicates that he or she is going to continue to reside in the home, and
 - v. have the licensee of the home take reasonable steps to find appropriate alternate accommodation for the resident, if the resident receives the notice described in subparagraph iii and indicates that he or she is going to cease to reside in the home.
2. The right to apply for publicly funded care services and assessments.
3. The right to be informed about and to apply for care services and assessments from an external care provider.
4. The right to have his or her choice of care services provided by staff who are suitably qualified and trained to provide the services.
5. The right to,
 - i. participate fully in making any decision concerning any aspect of his or her care,
 - ii. participate fully in the development, implementation, review and revision of his or her plan of care, and
 - iii. give or refuse consent to any treatment, care or service for which his or her consent is required by law and to be informed of the consequences of giving or refusing consent.
6. The right not to be restrained except in accordance with the common law.

Note: On the day section 70 of the *Retirement Homes Act, 2010* comes into force, subsection 51 (1) of the Act is amended by adding the following paragraph: (See: 2017, c. 25, Sched. 10, s. 10 (1))

- 6.1 The right not to be confined except in accordance with this Act or the common law.
7. The right to be afforded privacy in treatment and in caring for his or her personal needs.
8. The right to live in a safe and clean environment where he or she is treated with courtesy and respect and in a way that fully recognizes the resident's individuality and respects the resident's dignity.
9. The right to have his or her lifestyle and choices respected and to freely pursue his or her social, cultural, religious, spiritual and other interests as long as the resident's lifestyle, choices and pursuits do not substantially interfere with the reasonable enjoyment of the home for all usual purposes by the licensee and other residents.

10. The right to raise concerns or recommend changes in policies and services on behalf of oneself or others to the Authority or any other person without interference and without fear of coercion, discrimination or reprisal, whether directed at the resident or anyone else.
11. The right to know if the home is also a care home within the meaning of the *Residential Tenancies Act, 2006*, and whether the residents therefore have rights and responsibilities as tenants under that Act. 2010, c. 11, s. 51 (1); 2017, c. 25, Sched. 10, s. 10 (2).

Licensee's obligations

(2) Every licensee of a retirement home shall ensure that the rights set out in the Residents' Bill of Rights are fully respected and promoted in the home in accordance with the regulations, if any. 2010, c. 11, s. 51 (2).

Enforcement by residents

(3) A resident of a retirement home may enforce the Residents' Bill of Rights against the licensee of the home as though the resident and the licensee had entered into a contract under which the licensee had agreed to fully respect and promote the rights set out in the Residents' Bill of Rights. 2010, c. 11, s. 51 (3).

Section Amendments with date in force (d/m/y) [+]

Application of *Residential Tenancies Act, 2006*

52 If a retirement home also falls within the meaning of a care home as defined in the *Residential Tenancies Act, 2006*, nothing in this Act overrides or affects the provisions of the *Residential Tenancies Act, 2006* that would otherwise apply with respect to the home as a care home. 2010, c. 11, s. 52.

Agreement required

53 (1) The licensee of a retirement home shall enter into a written agreement with every resident of the home before the resident commences residency in the home. 2010, c. 11, s. 53 (1).

Contents of agreement

(2) The agreement shall contain the prescribed requirements. 2010, c. 11, s. 53 (2).

Plain language

(3) The agreement must be expressed in plain language that is clear and concise. 2010, c. 11, s. 53 (3).

Information for residents

54 (1) Every licensee of a retirement home shall ensure that,

- (a) a package of information that complies with this section is given to every resident of the home and to the substitute decision-maker of the resident, if any, before the resident commences his or her residency;
- (b) the package of information is made available to family members of a resident of the home and persons of importance to the resident if the resident or the resident's substitute decision-maker so consents;
- (c) the package of information is accurate and revised as necessary; and
- (d) any material revisions to the package of information are provided to any person who has received the original package and who is still a resident of the home or substitute decision-maker of a resident of the home. 2010, c. 11, s. 54 (1).

Contents

(2) The package of information shall include, at a minimum,

- (a) the Residents' Bill of Rights;
- (b) a statement that, if the retirement home also falls within the meaning of a care home as defined in the *Residential Tenancies Act, 2006*, nothing in this Act overrides or affects the provisions of the *Residential Tenancies Act, 2006* that would otherwise apply with respect to the home as a care home;

- (c) the licensee's policy mentioned in subsection 67 (4) to promote zero tolerance of abuse and neglect of residents;
- (d) the licensee's procedure for complaints mentioned in subsection 73 (1);
- (e) the licensee's policy mentioned in subsection 68 (3) regarding the use of personal assistance services devices for residents;
- (f) the name, telephone number and e-mail address of the licensee;
- (g) information about the role of the Authority and its contact information;
- (h) information about the Residents' Council, including any information that the Residents' Council provides for inclusion in the package;
- (i) an explanation of the protection afforded for whistle-blowing described in section 115;
- (j) information relating to the contents of the written agreement that section 53 requires each of the residents and the licensee to make;
- (k) an itemized list of the different types of accommodation and care services provided in the retirement home and their prices;
- (l) a statement that a resident may purchase or apply for care services, other services, programs or goods from external care providers;
- (m) information about the licensee's process for assisting residents to purchase or apply for care services and other services, programs or goods from external providers;
- (n) information regarding the rights of residents if the licensee chooses to reduce or discontinue the care services that the licensee provides to residents;
- (o) disclosure of any non-arm's length relationships that exist between the licensee and external care providers;
- (p) REPEALED: 2016, c. 30, s. 48 (1).
- (p.1) contact information for the local health integration network within the meaning of the *Local Health System Integration Act, 2006* for the geographic area in which the retirement home is located;

Note: On a day to be named by proclamation of the Lieutenant Governor, clause 54 (2) (p.1) of the Act is repealed. (See: 2019, c. 5, Sched. 3, s. 21)

- (q) information relating to the assessments required to prepare a plan of care, including a resident's right to apply for publicly funded assessments;
- (r) information about the licensee's process for assisting a resident in his or her transition to a long-term care home or other place of residence;
- (s) information as to whether the retirement home has automatic sprinklers in each resident's room;
- (t) information relating to staffing, including night time staffing levels and qualifications of staff of the retirement home;
- (u) a statement as to whether the retirement home is required under subsection 60 (2) to have a resident-staff communication and response system and whether the home has such a system and, if so, details of the system; and
- (v) all other information that is prescribed. 2010, c. 11, ss. 54 (2), 124 (2); 2016, c. 30, s. 48.

Section Amendments with date in force (d/m/y) [+]

Public information

55 (1) Every licensee of a retirement home shall ensure that the following information is made available in the home, in an easily accessible location and in a manner that complies with the prescribed requirements, if any:

1. The package of information described in subsection 54 (2).
2. Copies of the final reports done by inspectors under section 77 in the previous two years for the retirement home, subject to section 114.
3. Orders made by the Registrar with respect to the retirement home that are in effect or that have been made in the previous two years, subject to section 114.

4. Decisions of the Tribunal or the Divisional Court that were made under this Act with respect to the retirement home within the previous two years.
5. The minutes of the most recent Residents' Council meeting, if the Council consents to their disclosure.
6. All other information that is prescribed. 2010, c. 11, s. 55 (1).

Posting information

(2) Every licensee of a retirement home shall ensure that the following information is posted in the home in a conspicuous and easily accessible location and in a manner that complies with the prescribed requirements, if any:

1. The Residents' Bill of Rights.
2. The licensee's licence for the home.
3. An explanation of the measures to be taken in case of fire.
4. All other information that is prescribed. 2010, c. 11, s. 55 (2).

Residents' Council

56 (1) The licensee of a retirement home shall allow the residents of the home to establish a Residents' Council for the home. 2010, c. 11, s. 56 (1).

Only residents

(2) Only residents of the retirement home may be members of the Residents' Council. 2010, c. 11, s. 56 (2).

Powers

(3) A Residents' Council for a retirement home has the power to,

- (a) inform residents of their rights and obligations under this Act;
- (b) inform residents of the rights and obligations of the licensee under this Act and under any agreement relating to the home;
- (c) attempt to resolve disputes between the licensee and residents;
- (d) sponsor and plan activities for residents subject to any requirements that the licensee may have regarding the licensee's liability arising from any such activities;
- (e) collaborate with community groups and volunteers concerning activities for residents;
- (f) advise the licensee of any concerns or recommendations the Council has about the operation of the home;
- (g) provide advice and recommendations to the licensee regarding what the residents would like to see done to improve care or the quality of life in the home;
- (h) report to the Registrar any concerns and recommendations that in the Council's opinion ought to be brought to the Registrar's attention;
- (i) act as a tenants' association under the *Residential Tenancies Act, 2006*; or
- (j) exercise any other prescribed powers. 2010, c. 11, s. 56 (3).

Duty to respond

(4) If the Residents' Council has advised the licensee of concerns or recommendations under clause (3) (f) or (g), the licensee shall, within 10 days of receiving the advice, respond to the Residents' Council in writing. 2010, c. 11, s. 56 (4).

Residents' Council assistant

57 (1) If a Residents' Council has been established for a retirement home, the licensee of the home shall appoint a Residents' Council assistant who is acceptable to the Council to assist the Council. 2010, c. 11, s. 57 (1).

Duties

(2) In carrying out his or her duties, a Residents' Council assistant shall take instructions from the Council, ensure confidentiality if the Council requests it and report to the Council. 2010, c. 11, s. 57 (2).

Duties of licensee

58 (1) If a Residents' Council has been established for a retirement home, the licensee of the home shall,

- (a) co-operate with the Residents' Council and the Residents' Council assistant and provide them with the prescribed information and assistance within the prescribed time; and
- (b) consult regularly with the Residents' Council and at a minimum at least every three months. 2010, c. 11, s. 58 (1).

Meeting with Council

(2) If invited by the Residents' Council, the licensee shall,

- (a) meet with the Council if the licensee is not a corporation; or
- (b) ensure that representatives of the licensee meet with the Council, if the licensee is a corporation. 2010, c. 11, s. 58 (2).

Attendance at meetings of Council

(3) A licensee of a retirement home shall not attend a meeting of the Residents' Council for the home unless invited to do so and shall ensure that the staff of the home do not attend a meeting unless invited to do so. 2010, c. 11, s. 58 (3).

No interference

(4) A licensee of a retirement home,

- (a) shall not interfere with the meetings or operation of the Residents' Council;
- (b) shall not charge any fees to the Residents' Council for any purpose relating to the Residents' Council's creation, administration or activities;
- (c) shall not prevent a member of the Residents' Council from performing any duties as a member of the Council and shall not otherwise hinder, obstruct or interfere with such a member carrying out those duties;
- (d) shall not prevent a Residents' Council assistant from entering the retirement home to carry out his or her duties or otherwise hinder, obstruct or interfere with such an assistant carrying out those duties; and
- (e) shall ensure that no staff member does anything that the licensee is forbidden to do under clauses (a) to (d). 2010, c. 11, s. 58 (4).

Immunity for Council members and assistant

59 No action or other proceeding shall be commenced against a member of a Residents' Council or a Residents' Council assistant for anything done or omitted to be done in good faith in that capacity. 2010, c. 11, s. 59.

CARE AND SAFETY

Standards

60 (1) Every licensee of a retirement home shall ensure that the care services that the licensee and the staff of the home provide to the residents of the home meet the prescribed care standards. 2010, c. 11, s. 60 (1).

Resident-staff communication and response system

(2) The prescribed care standards mentioned in subsection (1) may require that the room in a retirement home that each resident of the home uses as living quarters contain a resident-staff communication and response system as described in the standards and if the standards so require, the licensee of the home shall ensure that the home meets the requirement. 2010, c. 11, s. 60 (2).

Safety standards

(3) Every licensee of a retirement home shall comply with all prescribed safety standards for the home, including standards with respect to fire, safety and public health requirements and emergency evacuation plans. 2010, c. 11, s. 60 (3).

Safety plans

(4) Every licensee of a retirement home shall ensure that the following are in place for the home:

1. An emergency plan that responds to emergencies in the home or in the community in which the home is located and that meets the prescribed requirements.
2. An infection prevention and control program that meets the prescribed requirements. 2010, c. 11, s. 60 (4).

Time for compliance

(5) A licensee to whom a standard mentioned in subsection (1) or (3) or a requirement mentioned in subsection (4) applies shall comply with the standard or requirement, as the case may be, within the prescribed time period. 2010, c. 11, s. 60 (5).

External care providers

61 (1) A licensee of a retirement home shall not prevent a resident of the home from applying for care services from an external care provider of the resident's choosing. 2010, c. 11, s. 61 (1).

No interference

(2) Subject to sections 67 and 68, a licensee of a retirement home shall not interfere with the provision of care services to a resident of the home by an external care provider. 2010, c. 11, s. 61 (2).

No responsibility of licensee

(3) Nothing in this Act shall have the effect of making a licensee responsible for ensuring that the services provided by an external care provider meet the prescribed care standards. 2010, c. 11, s. 61 (3).

Plan of care

62 (1) When a resident commences his or her residency in a retirement home, the licensee shall, within the prescribed times, ensure that the resident is assessed and that a plan of care is developed based on the assessment and in accordance with this section and the regulations. 2010, c. 11, s. 62 (1).

Assessment only with consent, etc.

(2) Nothing in this section authorizes a licensee to assess or to reassess a resident without the resident's consent. 2010, c. 11, s. 62 (2).

Performance of assessments, etc.

(3) All assessments and reassessments mentioned in this section that a licensee performs shall be performed in accordance with the prescribed criteria. 2010, c. 11, s. 62 (3).

Contents of plan

(4) The licensee of a retirement home shall ensure that there is a written plan of care for each resident of the home that sets out,

- (a) the care services that are part of a package of care services that the resident is entitled to receive under the resident's agreement with the licensee, whether or not the resident receives the services;
- (b) the planned care services for the resident that the licensee will provide, including,
 - (i) the details of the services,
 - (ii) the goals that the services are intended to achieve, and
 - (iii) clear directions to the licensee's staff who provide direct care to the resident;
- (c) if the resident has consented to the inclusion of the information in the plan of care, the planned care services for the resident that external care providers will provide with the consent of the resident, to the extent that such information is available to the licensee after the licensee has taken all reasonable steps to obtain such information from the resident and the external care provider, including,
 - (i) the details of the services, and

- (ii) the goals that the services are intended to achieve; and
- (d) a statement indicating whether the resident has provided consent to the licensee to collect information from external care providers, to use such information and to disclose the contents of the plan of care to external care providers and others. 2010, c. 11, s. 62 (4).

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 in the development, implementation and reviews of the resident's plan of care. 2010, c. 11, s. 62 (5).

Assessment of resident

(6) The licensee shall ensure that the plan of care is based on an assessment of the resident and the needs and preferences of the resident. 2010, c. 11, s. 62 (6).

Assessment by external provider

(7) If a resident advises the licensee at any time that the resident wishes to have an assessment done by an external care provider, the licensee shall facilitate the resident's access to the provider. 2010, c. 11, s. 62 (7).

Integration of assessments and care

(8) The licensee shall ensure that there are protocols to promote the collaboration between the staff, external care providers and others involved in the different aspects of care of the resident,

- (a) in the assessment of the resident so that their assessments are integrated and are consistent with and complement each other; and
- (b) in the development and implementation of the plan of care so that the different aspects of care are integrated and are consistent with and complement each other. 2010, c. 11, s. 62 (8).

Persons who approve plans of care

(9) The licensee shall ensure that the following persons have approved the plan of care, including any revisions to it, and that a copy is provided to them:

1. The resident or the resident's substitute decision-maker.
2. The prescribed person if there is a person prescribed for the purpose of this paragraph.
3. A person with the requisite expertise in assessing the suitability of care services for the resident in light of those set out in the plan, if there is no person prescribed for the purpose of paragraph 2. 2010, c. 11, s. 62 (9).

Compliance with plan

(10) The licensee shall ensure that the care services that the licensee provides to the resident are set out in the plan of care and are provided to the resident in accordance with the plan and the prescribed requirements, if any. 2010, c. 11, s. 62 (10).

Documentation

(11) The licensee shall ensure that the following are documented in accordance with the regulations, if any:

1. The provision of the care services set out in the plan of care.
2. The outcomes of the care services set out in the plan of care.
3. The effectiveness of the plan of care. 2010, c. 11, s. 62 (11).

Reassessment and revision

(12) The licensee shall ensure that the resident is reassessed and the plan of care reviewed and revised at least every six months and at any other time if, in the opinion of the licensee or the resident,

- (a) a goal in the plan is met;
- (b) the resident's care needs change or the care services set out in the plan are no longer necessary; or
- (c) the care services set out in the plan have not been effective. 2010, c. 11, s. 62 (12).

Information about external care providers, etc.

63 (1) If a resident requests information relating to the provision of services by an external care provider, the licensee shall promptly provide the resident with such information that is readily available to the licensee. 2010, c. 11, s. 63 (1).

Same, after assessment

(2) If an assessment undertaken under subsection 62 (1) or (12) indicates that a resident needs care services that the licensee is not able to provide, the licensee shall promptly provide the resident with information that is readily available to the licensee and that will enable the resident to obtain those services from an external care provider. 2010, c. 11, s. 63 (2).

Information about alternatives to a retirement home

(3) If an assessment undertaken under subsection 62 (1) or (12) indicates that a resident meets one or more of the prescribed criteria, the licensee shall,

- (a) provide the resident or the resident's substitute decision-maker with information about other alternatives to living in the retirement home and information about admission to a long-term care home as defined in the *Long-Term Care Homes Act, 2007*;
- (b) if the resident or the resident's substitute decision-maker so requests, contact the placement co-ordinator designated in subsection 40 (1) of the *Long-Term Care Homes Act, 2007* for the purpose of providing the resident with information about alternatives to living in a retirement home; and
- (c) document the actions that the licensee takes under this subsection for the resident and provide the documentation to the Registrar on a periodic basis as is prescribed. 2010, c. 11, s. 125.

Section Amendments with date in force (d/m/y) [+]

Hiring staff

64 (1) A licensee of a retirement home shall ensure that screening measures are conducted in accordance with the regulations before hiring staff and accepting volunteers to work in the home. 2010, c. 11, s. 64 (1).

Police record checks

(2) The screening measures shall include a police record check as defined in the regulations, unless the person being screened is under 18 years of age. 2010, c. 11, s. 64 (2); 2015, c. 30, s. 29.

Section Amendments with date in force (d/m/y) [+]

Obligations of licensees re staff

65 (1) Every licensee of a retirement home shall ensure that all the staff who work in the home,

- (a) have the proper skills and qualifications to perform their duties; and
- (b) possess the prescribed qualifications. 2010, c. 11, s. 65 (1).

Training

(2) Every licensee of a retirement home shall ensure that no staff work in the home unless they have received training in,

- (a) the Residents' Bill of Rights;
- (b) the licensee's policy mentioned in subsection 67 (4) to promote zero tolerance of abuse and neglect of residents;
- (c) the protection afforded for whistle-blowing described in section 115;
- (d) the licensee's policy mentioned in subsection 68 (3) regarding the use of personal assistance services devices for residents;
- (e) injury prevention;

- (f) fire prevention and safety;
- (g) the licensee's emergency evacuation plan for the home mentioned in subsection 60 (3);
- (h) the emergency plan and the infection prevention and control program of the licensee for the home mentioned in subsection 60 (4);
- (i) all Acts, regulations, policies of the Authority and similar documents, including policies of the licensee, that are relevant to the person's duties; and
- (j) all other prescribed matters. 2010, c. 11, s. 65 (2).

Exception

(3) Subsection (2) does not apply to a member of the staff employed or retained in the case of emergencies or exceptional and unforeseen circumstances but, in that case, the licensee shall provide the training described in that subsection to the person within one week of the time when the person begins performing their duties. 2010, c. 11, s. 65 (3).

On-going training

(4) The licensee shall ensure that the persons who are required to receive the training described in subsection (2) receive on-going training as described in that subsection at the times required by the regulations. 2010, c. 11, s. 65 (4).

Additional training for direct care staff

(5) The licensee shall ensure that all staff who provide care services to residents receive training in the following matters and at the times required by the regulations, as a condition of continuing to have contact with residents, in addition to the other training that they are required to receive under this section:

1. Abuse recognition and prevention.
2. Mental health issues, including caring for persons with dementia.
3. Behaviour management.
4. Ways to minimize the need of residents for personal assistance services devices and if a resident needs such a device, the ways of using it in accordance with its manufacturer's operating instructions, this Act and the regulations.
5. All other prescribed matters. 2010, c. 11, s. 65 (5).

Section Amendments with date in force (d/m/y) [+]

Training of volunteers

66 (1) Subject to subsection (2) and the regulations, every licensee of a retirement home who allows volunteers to participate in the lives and activities of residents of the home shall ensure that the volunteers are trained in accordance with the regulations in applying the emergency plan and the infection prevention and control program of the licensee for the home mentioned in subsection 60 (4) and the licensee's policy to promote zero tolerance of abuse and neglect of residents mentioned in subsection 67 (4). 2010, c. 11, s. 66; 2017, c. 25, Sched. 10, s. 13 (1).

Exception

(2) Subsection (1) does not apply to volunteers working in a retirement home if,

- (a) they are occasional volunteers who do not provide direct care to residents of the home;
- (b) their work in the home is monitored and supervised in accordance with written policies that the licensee of the home has prepared for that purpose; and
- (c) they have received information about the matters covered by the training described in subsection (1). 2017, c. 25, Sched. 10, s. 13 (2).

Section Amendments with date in force (d/m/y) [+]

Protection against abuse and neglect

67 (1) Every licensee of a retirement home shall protect residents of the home from abuse by anyone. 2010, c. 11, s. 67 (1).

Same, neglect

(2) Every licensee of a retirement home shall ensure that the licensee and the staff of the home do not neglect the residents. 2010, c. 11, s. 67 (2).

Resident absent from home

(3) The duties in subsections (1) and (2) do not apply if a resident is absent from the retirement home, unless the resident continues to receive care services from the licensee or the staff of the home. 2010, c. 11, s. 67 (3).

Policy to promote zero tolerance

(4) Without in any way restricting the generality of the duties described in subsections (1) and (2), the licensee shall ensure that there is a written policy to promote zero tolerance of abuse and neglect of residents and shall ensure that the policy is complied with. 2010, c. 11, s. 67 (4).

Contents

(5) At a minimum, the policy to promote zero tolerance of abuse and neglect of residents shall,

- (a) clearly set out what constitutes abuse and neglect;
- (b) provide that abuse and neglect are not to be tolerated;
- (c) provide for a program for preventing abuse and neglect;
- (d) contain an explanation of the duty under section 75 to report to the Registrar the matters specified in that section;
- (e) contain procedures for investigating and responding to alleged, suspected or witnessed abuse and neglect of residents;
- (f) set out the consequences for those who abuse or neglect residents;
- (g) comply with the prescribed requirements, if any, respecting the matters described in clauses (a) to (f); and
- (h) deal with the additional matters, if any, that are prescribed. 2010, c. 11, s. 67 (5).

Restraints prohibited

68 (1) No licensee of a retirement home and no external care providers who provide care services in the home shall restrain a resident of the home in any way, including by the use of a physical device or by the administration of a drug except as permitted by section 71. 2010, c. 11, s. 68 (1).

Same, confinement

(2) No licensee of a retirement home and no external care providers who provide services in the home shall confine a resident of the home, other than in accordance with section 70 or under the common law duty mentioned in section 71. 2017, c. 25, Sched. 10, s. 14 (1).

Policy re devices

(3) Every licensee of a retirement home shall ensure that there is a written policy regarding the use of personal assistance services devices for residents of the home and that the policy complies with the prescribed requirements, if any. 2010, c. 11, s. 68 (3).

(4) REPEALED: See Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006*.

Section Amendments with date in force (d/m/y) [+]

Use of personal assistance services devices

69 (1) A licensee of a retirement home or an external care provider who provides care services in the home may permit the use of a personal assistance services device for a resident of the home only for the purpose of assisting the resident with a routine activity of living. 2010, c. 11, s. 69 (1).

Restrictions on use

(2) A licensee of a retirement home or an external care provider who provides care services in the home may permit the use of a personal assistance services device for a resident of the home only if,

- (a) the licensee has considered or tried alternatives to the use of the device but has found that the alternatives have not been, or considers that they would not be, effective to assist the resident with a routine activity of living;
- (b) the use of the device is reasonable, in light of the resident's physical and mental condition and personal history, and is the least restrictive of such devices that would be effective to assist the resident with a routine activity of living;
- (c) one or more of the following persons have approved the use of the device:
 - (i) a legally qualified medical practitioner,
 - (ii) a member of the College of Nurses of Ontario,
 - (iii) a member of the College of Occupational Therapists of Ontario,
 - (iv) a member of the College of Physiotherapists of Ontario,
 - (v) any other prescribed person;
- (d) the resident or, if the resident is incapable, the resident's substitute decision-maker, has consented to the use of the device;
- (e) the use of the device is included in the resident's plan of care; and
- (f) the device is used in accordance with the prescribed requirements, if any. 2010, c. 11, s. 69 (2).

70 REPEALED: See Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006*.

Section Amendments with date in force (d/m/y) [+]**Common law duties re restraint and confinement**

71 (1) Nothing in section 68, 69 or 70 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. 2010, c. 11, s. 71 (1); 2017, c. 25, Sched. 10, s. 16 (1).

Limitation on restraint by physical device

(2) A licensee of a retirement home who is having a resident of the home restrained by a physical device pursuant to the common law duty described in subsection (1) shall ensure that the device is used in accordance with any applicable regulations. 2010, c. 11, s. 71 (2).

Limitations on restraint by drug

(3) A licensee of a retirement home who is having a resident of the home restrained by the administration of a drug pursuant to the common law duty described in subsection (1) shall ensure that the drug is used in accordance with any applicable regulations and that its administration was ordered by a legally qualified medical practitioner or another person belonging to a prescribed class. 2010, c. 11, s. 71 (3).

Limitations on confinement

(3.1) A licensee of a retirement home who is having a resident of the home confined pursuant to the common law duty described in subsection (1) shall ensure that the confinement is done in accordance with the prescribed requirements, if any. 2017, c. 25, Sched. 10, s. 16 (2).

Records

(4) Every licensee of a retirement home shall keep the records required by the regulations in relation to the restraining or confining of a resident of the home pursuant to the common law duty described in subsection (1). 2010, c. 11, s. 71 (4).

Section Amendments with date in force (d/m/y) [+]**Prohibited devices for restraint or confinement**

71.1 A licensee of a retirement home shall ensure that no device prohibited for use in any applicable regulations is used to restrain or confine a resident of the home. 2017, c. 25, Sched. 10, s. 17.

Section Amendments with date in force (d/m/y) [+]

Trust for resident's money

72 If money is entrusted to the care of a licensee of a retirement home on behalf of a resident of the home, the licensee shall establish a trust account for the money in accordance with the rules specified in the regulations. 2010, c. 11, s. 72.

Procedure for complaints to licensee

73 (1) Every licensee of a retirement home shall ensure that there is a written procedure for a person to complain to the licensee about the operation of the home and for the way in which the licensee is required to deal with complaints. 2010, c. 11, s. 73 (1).

Requirements for procedure

(2) The procedure shall comply with the regulations. 2010, c. 11, s. 73 (2).

Licensee's duty to respond to incidents of wrongdoing

74 Every licensee of a retirement home shall ensure that,

- (a) every alleged, suspected or witnessed incident of the following of which the licensee knows or that is reported to the licensee is immediately investigated:
 - (i) abuse of a resident of the home by anyone,
 - (ii) neglect of a resident of the home by the licensee or the staff of the home, or
 - (iii) anything else specified in the regulations;
- (b) appropriate action as determined in the context of this Part and in the circumstances is taken in response to every incident described in clause (a); and
- (c) the prescribed requirements, if any, for investigating and responding as required under clauses (a) and (b) are complied with. 2010, c. 11, s. 74.

Reporting certain matters to Registrar

75 (1) A person who has reasonable grounds to suspect that any of the following has occurred or may occur shall immediately report the suspicion and the information upon which it is based to the Registrar:

1. Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident.
2. Abuse of a resident by anyone or neglect of a resident by the licensee or the staff of the retirement home of the resident if it results in harm or a risk of harm to the resident.
3. Unlawful conduct that resulted in harm or a risk of harm to a resident.
4. Misuse or misappropriation of a resident's money. 2010, c. 11, s. 75 (1).

Exception for residents

(2) A resident is not required to make a report under subsection (1) but may do so. 2010, c. 11, s. 75 (2).

Duty on medical practitioners and others

(3) Even if the information on which a report may be based is confidential or privileged, subsection (1) applies to a person mentioned in paragraph 1, 2 or 3 and no action or other proceeding for making the report shall be commenced against a person who acts in accordance with subsection (1) unless that person acts maliciously or without reasonable grounds for the suspicion:

1. A legally qualified medical practitioner or any other person who is a member of a College as defined in subsection 1 (1) of the *Regulated Health Professions Act, 1991*.

2. A person who is registered as a drugless practitioner under the *Drugless Practitioners Act*.
3. A member of the Ontario College of Social Workers and Social Service Workers. 2010, c. 11, s. 75 (3).

Solicitor-client privilege

(4) Nothing in this section abrogates any privilege that may exist between a solicitor and the solicitor's client. 2010, c. 11, s. 75 (4).

Inspection or inquiries

(5) If the Registrar receives a report indicating that any of the events described in subsection (1) may have occurred, the Registrar shall ensure that an inspector conducts an inspection of the retirement home or makes inquiries for the purpose of determining whether the licensee of the home is in compliance with the requirements under this Act. 2017, c. 25, Sched. 10, s. 18 (1).

Immediate visit

(5.1) In acting under subsection (5), the inspector shall immediately visit the retirement home if the report indicates that serious harm has occurred to a resident of the home or that there is a risk of serious harm occurring to a resident of the home. 2017, c. 25, Sched. 10, s. 18 (1).

Powers of inspector

(6) Sections 77 to 79 apply with necessary modifications to an inspector acting under subsection (5) or (5.1). 2010, c. 11, s. 75 (6); 2017, c. 25, Sched. 10, s. 18 (2).

Section Amendments with date in force (d/m/y) [+]**PART V
ENFORCEMENT****INSPECTIONS****Inspectors**

76 (1) The Registrar shall appoint inspectors as are necessary for the purposes of this Act. 2010, c. 11, s. 76 (1).

Registrar is an inspector

(2) The Registrar is, by virtue of his or her office, an inspector. 2010, c. 11, s. 76 (2).

Certificate of appointment

(3) The Registrar shall issue to every inspector a certificate of appointment which the inspector shall produce, on request, when acting in the performance of his or her duties. 2010, c. 11, s. 76 (3).

Inspection without warrant

77 (1) An inspector may at any reasonable time, without notice, enter and conduct an inspection of a retirement home in respect of which a licence has been issued and any place that is operated in connection with the home and from which services are provided to the home, for the purpose of determining whether the licensee of the home is in compliance with the requirements under this Act. 2010, c. 11, s. 77 (1).

Same, residential complex

(2) If an inspector has reasonable and probable grounds to believe that a residential complex or part of a residential complex is a retirement home being operated by a person who is not licensed to operate it, the inspector may at any reasonable time, without notice, enter and conduct an inspection of the complex or the part for the purpose of determining whether,

- (a) it is a retirement home;
- (b) the person is operating a retirement home for which the Registrar refused to issue a licence to the person under section 36;
- (c) the person is in compliance with an order made by the Registrar under section 89 or 95; or

- (d) there has been harm or there is a risk of harm to occupants resulting from the failure of the operator to comply with section 33 or any other requirement of this Act. 2017, c. 25, Sched. 10, s. 19 (1).

Required inspection

(3) The Registrar shall ensure that every retirement home in respect of which a licence has been issued is inspected under this Act with the frequency that is prescribed or, if no frequency is prescribed, at least once a year. 2010, c. 11, s. 77 (3).

Living quarters

(4) In conducting an inspection, an inspector shall not enter any rooms that are being used as living quarters for one or more residents except,

- (a) with the consent of the occupier; or
- (b) under the authority of a warrant issued under subsection 79 (2). 2010, c. 11, s. 77 (4).

Powers on inspection

(5) In conducting an inspection, an inspector may,

- (a) inspect the premises;
- (b) inspect the operations;
- (c) inspect and copy records and other things;
- (d) demand the production of records and other things, even if they are not kept on the premises;
- (e) question individuals;
- (f) photograph, film and make any other kind of recording of anything or anyone, but only in a manner that does not intercept any private communications and that is in keeping with reasonable expectations of privacy;
- (g) conduct examinations and tests;
- (h) use data storage, processing and retrieval devices and systems at the premises in order to produce a record in readable form;
- (i) on providing a receipt, take specimens and remove samples, records and other things;
- (j) call on experts for assistance in carrying out the inspection; and
- (k) do the other things that are prescribed. 2010, c. 11, s. 77 (5).

Demand

(6) A demand under clause (5) (d) must be in writing and must specify,

- (a) the nature of the records and other things demanded; and
- (b) the time within which the records and other things must be produced. 2010, c. 11, s. 77 (6).

Obligation to produce and assist

(7) If an inspector makes a demand under clause (5) (d), the person having custody of the record shall produce it for the inspector within the time specified in the demand and, at the inspector's request, shall,

- (a) provide whatever assistance is reasonably necessary to produce the record in a readable form, including using data storage, processing and retrieval devices and systems; and
- (b) provide whatever assistance is reasonably necessary to interpret the record for the inspector. 2010, c. 11, s. 77 (7).

Power to exclude persons

(8) An inspector who questions an individual under clause (5) (e) may exclude from the questioning any other individual except counsel for the individual being questioned. 2010, c. 11, s. 77 (8).

Return of things

(9) An inspector shall, within a reasonable time, return the records and other things removed under clause (5) (i). 2010, c. 11, s. 77 (9).

Making things available

(10) At the request of the person operating the premises, an inspector who has removed a record or other thing under clause (5) (i) shall make it available for review, copying, examination or testing by or on behalf of the person at a mutually convenient time and place. 2010, c. 11, s. 77 (10).

Specimens and samples

(11) Subsections (9) and (10) do not apply to specimens taken or samples removed by the inspector. 2010, c. 11, s. 77 (11).

Admissibility of copies

(12) A copy of a record certified by an inspector to be a true copy of the original is admissible in evidence to the same extent, and has the same evidentiary value, as the original. 2010, c. 11, s. 77 (12).

Draft report, if operator licensed

(13) If an inspector conducts an inspection under subsection (1) for the purpose of determining whether the licensee of a retirement home is in compliance with the requirements under this Act, the inspector, on completing the inspection, shall prepare a draft inspection report and give it to the licensee together with a written notice stating that the licensee may provide written comments on the draft inspection report to the inspector within the period specified in the notice. 2010, c. 11, s. 77 (13).

Final report, if operator licensed

(14) When the period within which the licensee may provide written comments on the draft inspection report expires, the inspector shall,

(a) prepare a final inspection report, taking into consideration the licensee's written comments, if any, on the draft inspection report; and

(b) give the final inspection report to the licensee, the Registrar and the Residents' Council, if any. 2010, c. 11, s. 77 (14).

Documentation of contravention

(15) An inspector who finds that a licensee has contravened a requirement under this Act shall document the contravention in the inspection report. 2010, c. 11, s. 77 (15).

Report, if operator not licensed

(16) If an inspector conducts an inspection under subsection (2) for any of the purposes set out in that subsection, the inspector, on completing the inspection, shall prepare an inspection report setting out the inspector's findings in the manner, if any, that the Registrar determines and shall give the report to the Registrar. 2017, c. 25, Sched. 10, s. 19 (2).

Definition, record

(17) In this section,

"record" means any document or record of information in any form, and includes a record of personal health information. 2010, c. 11, s. 77 (17).

Section Amendments with date in force (d/m/y) [+]**Use of force in exigent circumstances**

78 If the conditions for obtaining a warrant under this or any other Act exist but it would be impracticable to obtain a warrant due to exigent circumstances, an inspector may use whatever force is reasonably necessary, and may call on a police officer for assistance,

(a) in order to enter, without the consent of the occupier, a room in a retirement home that is being used as living quarters for one or more residents and to exercise the powers in section 77 with respect to that room; and

(b) in order to enter any other part of a retirement home and any place that is operated in connection with the home and from which services are provided to the home and to exercise the powers under section 77 with respect to those areas. 2010, c. 11, s. 78.

Search with warrant

79 (1) Upon application by an inspector without notice, a justice of the peace may issue a warrant authorizing an inspector named in the warrant to enter premises specified in the warrant and to exercise any of the powers mentioned in section 77, if the justice of the peace is satisfied on information under oath that,

- (a) the inspector has been prevented from exercising a right of entry to the premises, or a power, under section 77; or
- (b) there are reasonable grounds to believe that the inspector will be prevented from exercising a right of entry to the premises, or a power, under section 77. 2010, c. 11, s. 79 (1).

Same, entry into retirement home

(2) Upon an application by an inspector without notice, a justice of the peace may issue a warrant authorizing an inspector named in the warrant to enter one or more rooms in a retirement home that are being used as living quarters for one or more residents, if the justice of the peace is satisfied on information under oath that there are reasonable grounds to believe that,

- (a) a person has contravened or is contravening a requirement under this Act; and
- (b) there is information or evidence in the rooms that relates to the contravention. 2010, c. 11, s. 79 (2).

Expiry of warrant

(3) The warrant shall name the date on which it expires, which shall not be later than 30 days after the warrant is issued. 2010, c. 11, s. 79 (3).

Extension of time

(4) A justice of the peace may extend the date on which the warrant expires for an additional period of no more than 30 days, on application without notice by the inspector named in the warrant. 2010, c. 11, s. 79 (4).

Force

(5) The inspector named in the warrant may use whatever force is necessary to execute the warrant and may call on a police officer for assistance in executing the warrant. 2010, c. 11, s. 79 (5).

Time of execution

(6) The warrant may be executed only between 8 a.m. and 8 p.m. unless it specifies otherwise. 2010, c. 11, s. 79 (6).

Other matters

(7) Subsections 77 (5) to (17) apply, with necessary modifications, to an inspector executing a warrant issued under this section. 2010, c. 11, s. 79 (7).

Investigations with warrant

80 (1) The Registrar may appoint persons to be investigators for the purposes of conducting investigations under this section. 2010, c. 11, s. 80 (1).

Certificate of appointment

(2) The Registrar shall issue to every investigator a certificate of appointment bearing the Registrar's signature or a facsimile of the signature. 2010, c. 11, s. 80 (2).

Production of certificate of appointment

(3) Every investigator who is conducting an investigation under this section shall, upon request, produce the certificate of appointment as an investigator. 2010, c. 11, s. 80 (3).

(4), (5) REPEALED: 2017, c. 25, Sched. 10, s. 20.

Section Amendments with date in force (d/m/y) [+]

Investigations with warrant

80.1 (1) Upon application made without notice by an investigator, a justice of the peace may issue a warrant, if satisfied on information under oath that there is reasonable ground for believing that,

- (a) a person has contravened or is contravening this Act or the regulations or has committed an offence that is relevant to the person's fitness for a licence; and
- (b) there is,
 - (i) in any building, dwelling, receptacle or place, anything relating to the contravention of this Act or the regulations or to the person's fitness for a licence, or
 - (ii) information or evidence relating to the contravention of this Act or the regulations or the person's fitness for a licence that may be obtained through the use of an investigative technique or procedure or the doing of anything described in the warrant. 2017, c. 25, Sched. 10, s. 21.

Power to enter

(2) Subject to any conditions contained in it, a search warrant issued under subsection (1) authorizes an investigator to enter or access the building, dwelling, receptacle or place specified in the warrant. 2017, c. 25, Sched. 10, s. 21.

Other powers of investigator, etc.

(3) Subject to any conditions contained in a search warrant issued under subsection (1), subsections 77 (4) to (12) apply, with necessary modifications, to an investigation under the warrant, reading references to an inspector as references to an investigator and references to a search warrant as references to a search warrant issued under subsection (1) of this section. 2017, c. 25, Sched. 10, s. 21.

Conditions on warrant

(4) A warrant issued under subsection (1) shall contain the conditions that the justice of the peace considers advisable to ensure that any search authorized by the warrant is reasonable in the circumstances. 2017, c. 25, Sched. 10, s. 21.

Expiry of warrant

(5) A warrant issued under subsection (1) shall name a date of expiry, which shall be no later than 30 days after the warrant is issued, but a justice of the peace may extend the date of expiry for an additional period of no more than 30 days, upon application without notice by an investigator. 2017, c. 25, Sched. 10, s. 21.

Time of execution

(6) An entry or access under a warrant issued under subsection (1) shall be made between 8 a.m. and 8 p.m., unless the warrant specifies otherwise. 2017, c. 25, Sched. 10, s. 21.

Use of force

(7) An investigator may call upon police officers for assistance in executing the warrant and the investigator may use whatever force is reasonably necessary to execute the warrant. 2017, c. 25, Sched. 10, s. 21.

Section Amendments with date in force (d/m/y) [+]**Seizure of things not specified**

80.2 An investigator who is lawfully present in a place, pursuant to a warrant or otherwise, in the execution of the investigator's duties may, without a warrant, seize anything in plain view that the investigator believes on reasonable grounds will afford evidence relating to a contravention of this Act or the regulations. 2017, c. 25, Sched. 10, s. 21.

Section Amendments with date in force (d/m/y) [+]**Searches in exigent circumstances**

80.3 (1) An investigator may enter or access, without a warrant, any building, dwelling, receptacle or place in which there is anything relating to the contravention of this Act or the regulations or to the person's fitness for a licence if the conditions for obtaining the warrant exist but, by reason of exigent circumstances, it would be impracticable to obtain the warrant. 2017, c. 25, Sched. 10, s. 21.

Applicability of s. 77

(2) Subsections 77 (4) to (12) apply, with necessary modifications, to a search under this section, reading references to an inspector as references to an investigator. 2017, c. 25, Sched. 10, s. 21.

Use of force

(3) The investigator may, in executing any authority given by this section, call upon police officers for assistance and use whatever force is reasonably necessary. 2017, c. 25, Sched. 10, s. 21.

Section Amendments with date in force (d/m/y) [+]

COMPLAINTS TO THE REGISTRAR

Application

81 Sections 82 to 88 apply to retirement homes in respect of which a licence has been issued. 2010, c. 11, s. 81.

Process

82 The Registrar may develop a process for handling complaints that the Registrar receives about an alleged contravention of a requirement under this Act with respect to a retirement home, as long as the process does not conflict with sections 83 to 87. 2010, c. 11, s. 82.

Registrar's response to complaint

83 (1) If the Registrar receives a complaint about an alleged contravention of a requirement under this Act with respect to a retirement home, the Registrar shall review the complaint promptly and may request the licensee to provide the Registrar with information relevant to the complaint. 2010, c. 11, s. 83 (1).

Request for information

(2) A request for information under subsection (1) must be in writing and must indicate the nature of the complaint. 2010, c. 11, s. 83 (2).

Duty to comply with request

(3) A licensee who receives a request for information under this section shall provide the information to the Registrar by the date that the Registrar specifies. 2010, c. 11, s. 83 (3).

Powers of Registrar

84 In addition to any other powers available to the Registrar under this Act, the Registrar may, in handling a complaint received under subsection 83 (1) with respect to a retirement home, do any one or more of the following that the Registrar considers appropriate:

1. Make inquiries relating to the complaint.
2. Conduct an inspection of the home and any place that is operated in connection with the home and from which services are provided to the home, or direct another inspector to do so.
3. Attempt to mediate or resolve the complaint.
4. Provide information to, or attempt to educate, the complainant, the licensee or the other persons that the Registrar considers appropriate.
5. Give the licensee a written warning that if the licensee continues with the activity that led to the complaint, the Registrar may take action against the licensee.
6. Take other action that is prescribed in the circumstances that are prescribed. 2010, c. 11, s. 84.

Immediate inspection of retirement home

85 (1) If a complaint received under subsection 83 (1) with respect to a retirement home or information that the Registrar receives indicates that any of the following may have occurred, the Registrar shall ensure that an inspector conducts an inspection of the home or makes inquiries for the purpose of determining whether the licensee of the home is in compliance with the requirements under this Act:

1. Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident.
2. Abuse of a resident by anyone or neglect of a resident by the licensee or staff of the home that resulted in harm or a risk of harm to the resident.
3. Contravention of a requirement under this Act, or other unlawful conduct, that resulted in harm or a risk of harm to a resident.
4. Any other matter specified in the regulations. 2010, c. 11, s. 85; 2017, c. 25, Sched. 10, s. 22 (1).

Immediate visit

(2) In acting under subsection (1), the inspector shall immediately visit the retirement home if the report indicates that serious harm has occurred to a resident of the home or that there is a risk of serious harm occurring to a resident of the home. 2017, c. 25, Sched. 10, s. 22 (2).

Section Amendments with date in force (d/m/y) [+]**Powers of inspector**

86 Sections 77 to 79 apply with necessary modifications to an inspector acting under paragraph 2 of section 84 or under section 85. 2010, c. 11, s. 86.

Notice to complainant

87 After receiving a complaint under subsection 83 (1) with respect to a retirement home, the Registrar shall notify the complainant in writing of,

- (a) any action taken by the Registrar in respect of the complaint;
- (b) any decision that the Registrar makes to take no further action in respect of the complaint; and
- (c) the complainant's right to have the Complaints Review Officer review the complaint under section 88. 2010, c. 11, s. 87.

Right to review by Complaints Review Officer

88 (1) A person who makes a complaint to the Registrar about an alleged contravention of a requirement under this Act with respect to a retirement home may require the Complaints Review Officer to review the complaint if,

- (a) the Registrar has considered the merits of the complaint;
- (b) the Registrar has notified the complainant in writing that the Registrar will be taking no further action in respect of the complaint; and
- (c) the Officer has not previously reviewed the complaint. 2010, c. 11, s. 88 (1).

Interpretation, previously reviewed

(2) For the purpose of clause (1) (c), a complaint that the Complaints Review Officer refers back to the Registrar for further consideration under subsection (7) or (8) shall not be considered to have been previously reviewed by the Officer. 2010, c. 11, s. 88 (2).

When and how to require review

(3) To require a review by the Complaints Review Officer under this section, a complainant shall give the Officer and the Registrar a written request for review within 60 days after the day the Registrar notifies the complainant in writing that the Registrar will be taking no further action in respect of the complaint. 2010, c. 11, s. 88 (3).

Notice to licensee

(4) Upon receiving a request under subsection (3), the Registrar shall give written notice of the request to the licensee of the retirement home that is the subject of the complaint. 2010, c. 11, s. 88 (4).

Review

(5) Upon receiving a request under subsection (3), the Complaints Review Officer shall promptly review the complaint. 2010, c. 11, s. 88 (5).

Process

(6) The Complaints Review Officer may develop his or her own process for reviewing complaints that have been referred to him or her under this section, as long as the process does not conflict with this section. 2010, c. 11, s. 88 (6).

Access to information

(7) If the Complaints Review Officer is reviewing a complaint under subsection (5), the Registrar, at the request of the Officer, shall provide the Officer with,

- (a) all information in the records of the Registrar respecting the retirement home that is the subject of the complaint and its licensee; and
- (b) all other information within the knowledge of the Registrar respecting the subject matter of the complaint. 2010, c. 11, s. 88 (7).

Fresh information

(8) If, when reviewing a complaint under subsection (5), the Complaints Review Officer obtains information about the retirement home that is the subject of the complaint or its licensee that was not known to the Registrar when the Registrar considered the merits of the complaint and that is, in the opinion of the Officer, significant, the Officer shall refer the complaint, together with the information, back to the Registrar for further consideration. 2010, c. 11, s. 88 (8).

Disposition of complaint

(9) After reviewing a complaint under subsection (5), the Complaints Review Officer shall,

- (a) if satisfied that the Registrar's consideration of the complaint and his or her decision to take no further action in respect of the complaint are reasonable, so notify the complainant and the Registrar in writing; or
- (b) if not satisfied that the Registrar's consideration of the complaint and his or her decision to take no further action in respect of the complaint are reasonable,
 - (i) refer the complaint back to the Registrar with a recommendation that the Registrar take further action in respect of the complaint, and
 - (ii) so notify the complainant in writing. 2010, c. 11, s. 88 (9).

Notice to licensee

(10) The Complaints Review Officer shall give written notice of his or her decision under subsection (9) to the licensee of the retirement home that is the subject of the complaint. 2010, c. 11, s. 88 (10).

Decision final

(11) A decision of the Complaints Review Officer under subsection (9) is final and is not subject to appeal. 2010, c. 11, s. 88 (11).

ORDERS OF THE REGISTRAR

Person operating without a licence

89 (1) If the Registrar believes on reasonable grounds that a person is operating a retirement home without a licence, the Registrar may serve an order on the person ordering the person to cease to operate the premises as a retirement home by a date that the Registrar specifies or to apply for a licence under this Act by a date that the Registrar specifies or both. 2017, c. 25, Sched. 10, s. 23.

Contents of order

(2) If the order requires the person to cease operating the premises as a retirement home, the order may require the person to comply, at the person's expense, with the requirements that are set out in the order and that the Registrar considers necessary for achieving the ceasing of the operation. 2017, c. 25, Sched. 10, s. 23.

Section Amendments with date in force (d/m/y) [+]

Compliance order

90 (1) If the Registrar believes on reasonable grounds that a licensee has contravened a requirement under this Act, the Registrar may serve an order on the licensee ordering the licensee to refrain from doing something, or to do something, for the purpose of ending the contravention and achieving compliance and for the purpose of ensuring that the contravention is not repeated and that compliance is maintained. 2010, c. 11, s. 90 (1).

Contravention to be specified

(2) The order must set out the contravention or contraventions on which it is based, with dates and locations if appropriate. 2010, c. 11, s. 90 (2).

Examples

(3) Without limiting the generality of subsection (1), an order under that subsection may order the licensee,

(a) to prepare, submit to the Registrar, and implement, a plan for ending the contravention, achieving compliance and ensuring that the contravention is not repeated and that compliance is maintained; and

(b) to obtain, and ensure that the staff of the retirement home obtain, additional education or training. 2010, c. 11, s. 90 (3).

Date

(4) The order may specify a date or the dates by which the licensee shall comply with its requirements. 2010, c. 11, s. 90 (4).

Management order

91 (1) The Registrar may serve an order on the licensee of a retirement home ordering the licensee to employ or retain, at the licensee's expense, one or more persons acceptable to the Registrar to manage or assist in managing all or some of the operations of the home, if the Registrar believes on reasonable grounds that,

(a) the licensee has contravened a requirement under this Act; and

(b) the licensee cannot or will not properly manage the operations of the home or cannot do so without assistance. 2010, c. 11, s. 91 (1).

Contravention to be specified

(2) The order must set out the contravention or contraventions on which it is based, with dates and locations if appropriate. 2010, c. 11, s. 91 (2).

Date

(3) The order may specify a date or the dates by which the licensee shall comply with its requirements. 2010, c. 11, s. 91 (3).

Due diligence, mistake of fact

92 The Registrar may make an order under section 90 or 91 and the Tribunal and the Divisional Court may affirm such an order even if,

(a) the licensee took all reasonable steps to prevent the contravention; or

(b) at the time of the contravention, the licensee had an honest and reasonable belief in a mistaken set of facts which, if true, would have resulted in there not being any contravention. 2010, c. 11, s. 92.

Order to pay administrative penalty

93 (1) If the Registrar believes on reasonable grounds that a person has contravened a requirement under this Act, the Registrar may serve an order on the person ordering the person to pay an administrative penalty to the Authority in accordance with the regulations. 2010, c. 11, s. 93 (1).

Purpose

(2) The purpose of an administrative penalty is to encourage compliance with the requirements under this Act. 2010, c. 11, s. 93 (2).

Amount of penalty

(3) The amount of the administrative penalty shall reflect the purpose of the penalty and shall be determined in accordance with the regulations, but shall not exceed \$10,000. 2010, c. 11, s. 93 (3).

Content of order

(4) An order for an administrative penalty must set out,

- (a) the contravention or contraventions on which it is based, with dates and locations if appropriate;
- (b) the amount of the penalty or how it will be determined; and
- (c) the time within which and the manner in which the penalty must be paid. 2010, c. 11, s. 93 (4).

Two-year limitation

(5) An order shall not be served on a person under this section more than two years after the day the person's most recent contravention on which the order is based first came to the knowledge of the Registrar. 2010, c. 11, s. 93 (5).

Enforcement of administrative penalty

94 (1) An order under section 93 that has not been complied with may be filed with a local registrar of the Superior Court of Justice and may be enforced as if it were an order of that court. 2010, c. 11, s. 94 (1).

Interest

(2) Section 129 of the *Courts of Justice Act* applies in respect of an order filed with the Superior Court of Justice under subsection (1), and the date on which the order is filed under subsection (1) shall be deemed to be the date of the order that is mentioned in section 129 of the *Courts of Justice Act*. 2010, c. 11, s. 94 (2).

Payment into emergency fund

(3) The Authority shall pay all administrative penalties collected by it into the Fund. 2010, c. 11, s. 94 (3).

Order revoking licence

95 (1) Subject to subsection (3), the Registrar may serve an order on a licensee revoking the licensee's licence, if the Registrar believes on reasonable grounds that,

- (a) the criteria in paragraphs 1 to 4 of section 35 are no longer met;
- (b) the licensee has contravened a requirement under this Act; or
- (c) the licensee or any person acting on behalf of the licensee made a false statement in the application for the licence or in any document or information required to be provided under this Act. 2010, c. 11, s. 95 (1).

Contents of order

(2) The order may require the licensee to cease operating the retirement home for which the licence was issued and to comply with the requirements that are set out in the order and that the Registrar considers necessary for achieving the ceasing of the operation of the home. 2010, c. 11, s. 95 (2).

Notice of intent

(3) The Registrar shall not serve an order on a person under subsection (1) unless, before doing so, the Registrar,

- (a) serves a notice of intent to issue the order on the person in accordance with subsection (4);
- (b) gives the person an opportunity to make written submissions with respect to the proposed order in accordance with subsection (5); and
- (c) reviews the written submissions, if any, made by the person in accordance with subsection (5). 2010, c. 11, s. 95 (3).

Content of notice of intent

(4) A notice of intent shall,

- (a) set out the proposed order;
- (b) set out the reasons for the proposed order, including details of the person's acts and omissions with dates and locations, if appropriate; and
- (c) state that the person may provide written submissions to the Registrar in accordance with subsection (5). 2010, c. 11, s. 95 (4).

Written submissions

(5) A person who is served with a notice of intent may provide written submissions to the Registrar with respect to any matter set out in the notice, within 15 days after the day the notice of intent was served on the person or within whatever other period that is specified in the notice. 2010, c. 11, s. 95 (5).

Application for licence after revocation

(6) In the case of a final order to revoke a person's licence to operate a retirement home, the person may reapply to the Registrar under Part III for a licence to operate the home only if the person satisfies the Registrar that new or other evidence is available or that material circumstances have changed. 2010, c. 11, s. 95 (6).

Right to appeal

96 Every order made under section 89, 90, 91, 93 or 95 must set out the requirements of Part VI for appealing the order to the Tribunal. 2010, c. 11, s. 96.

Court order for compliance

96.1 The Registrar may apply to the Superior Court of Justice for an order directing a person to comply with a provision of this Act or the regulations or an order made under this Act and, upon the application, the court may make any order that the court thinks fit. 2017, c. 25, Sched. 10, s. 24.

Section Amendments with date in force (d/m/y) [+]

No bar to offence

97 An order made under this Part against a person in respect of non-compliance with a requirement under this Act does not affect the liability of the person to conviction for an offence arising from the non-compliance. 2010, c. 11, s. 97.

OFFENCES

Offences

98 (1) A person is guilty of an offence if the person,

- (a) contravenes a provision of this Act that is listed in subsection (2);
- (b) includes in a report to the Registrar under subsection 75 (1) information that the person knows to be false and the person is not a resident who is incapable;
- (c) fails to make a report required by subsection 75 (1) and the person is,
 - (i) the licensee of a retirement home or a person who manages a retirement home on behalf of a licensee,
 - (ii) if the licensee of a retirement home or person who manages the home is a corporation, an officer or director of the corporation,

- (iii) a staff member of a retirement home,
- (iv) any person who provides professional services to a resident in the areas of health, social work, social services work or finances, or
- (v) any person who provides professional services to a licensee in the areas of health, social work or social services work;
- (d) is a person described in subclause (c) (i), (ii) or (iii) and,
 - (i) coerces or intimidates a person not to make a report required by subsection 75 (1),
 - (ii) discourages a person from making a report required by subsection 75 (1), or
 - (iii) authorizes, permits or concurs in a contravention of the duty to make a report required by subsection 75 (1);
- (e) contravenes a provision of the regulations that is prescribed for the purpose of this clause;
- (f) fails to pay a fee that the person is required to pay under section 21 or 38;
- (g) contravenes a condition imposed by the Registrar on a licence; or
- (h) fails to comply with an order made by the Registrar under this Act. 2010, c. 11, s. 98 (1).

List of offences

(2) Each of the following provisions of this Act is listed for the purpose of clause (1) (a):

1. Section 33 (operation without a licence).
2. Section 44 (reduction in care services).
3. Section 49 (ceasing to operate a retirement home).
4. Section 60 (compliance with care and safety standards).
5. Subsection 61 (2) (interference with an external care provider).
6. Subsections 67 (1) and (2) (protection from abuse and neglect).
7. Subsection 77 (7) (compliance with inspections).
- 7.1 Subsection 80.1 (3) as it relates to subsection 77 (7) (compliance with investigations).
- 7.2 Subsection 80.3 (2) as it relates to subsection 77 (7) (compliance with a search by an investigator without warrant).
- 7.3 Subsection 113 (3) (confidentiality of information).
8. Section 115 (whistle-blowing).
9. Section 117 (obstruction).
10. Section 118 (false information). 2010, c. 11, s. 98 (2); 2017, c. 25, Sched. 10, s. 25 (1).

Individual's act is act of entity

(3) In a prosecution of an offence under this Act, any act or omission on the part of any manager, agent, representative, officer, director or supervisor of the accused, whether a corporation or not, shall be deemed to be the act or omission of the accused. 2010, c. 11, s. 98 (3).

Prosecution of individuals, but not corporation

(4) If an act or omission of an individual employed or retained by a corporation would be an offence under this Act if done by the corporation, the individual is guilty of the offence, whether or not the corporation has been prosecuted or convicted. 2010, c. 11, s. 98 (4).

Prosecution of individuals directing management of affairs of corporation

(5) If a corporation commits an offence under this Act, each of the individuals who were directing the management of the affairs of the corporation at the time the corporation committed the offence is guilty of the offence if he or she failed to take reasonable care to prevent the corporation from committing the offence, whether or not the corporation has been prosecuted or convicted. 2010, c. 11, s. 98 (5).

Onus of proof

(6) In the trial of an individual mentioned in subsection (5), the onus is on the individual to prove that he or she took reasonable care to prevent the corporation from committing the offence. 2010, c. 11, s. 98 (6).

Two-year limitation

(7) A prosecution for an offence under this Act shall not be commenced more than two years after the day the facts on which the prosecution is based first came to the knowledge of the Registrar. 2010, c. 11, s. 98 (7).

Protection of information

(8) In a prosecution for an offence under this Act or if documents or materials are filed with a court under sections 158 to 160 of the *Provincial Offences Act* in relation to an investigation into an offence under this Act, the court may, at any time, take precautions to avoid the disclosure by the court or any person of any personal health information about an individual, including, where appropriate,

- (a) removing the identifying information of any person whose personal health information is referred to in any documents or materials;
- (b) receiving representations without notice;
- (c) conducting hearings or parts of hearings in private; or
- (d) sealing all or part of the court files. 2017, c. 25, Sched. 10, s. 25 (2).

Definition

(9) In this section,

“personal health information” means personal health information as defined in the *Personal Health Information Protection Act, 2004*. 2017, c. 25, Sched. 10, s. 25 (2).

Section Amendments with date in force (d/m/y) [+]**Penalties**

99 (1) Every individual who is convicted of an offence under this Act is liable,

- (a) on a first conviction,
 - (i) to a fine of not more than \$25,000,
 - (ii) to imprisonment for a term of not more than one year, or
 - (iii) to both a fine under subclause (i) and imprisonment under subclause (ii); and
- (b) on each subsequent conviction,
 - (i) to a fine of not more than \$50,000,
 - (ii) to imprisonment for a term of not more than one year, or
 - (iii) to both a fine under subclause (i) and imprisonment under subclause (ii). 2010, c. 11, s. 99 (1).

Same, corporations

(2) Every corporation that is convicted of an offence under this Act is liable,

- (a) on a first conviction, to a fine of not more than \$50,000; and
- (b) on each subsequent conviction, to a fine of not more than \$200,000. 2010, c. 11, s. 99 (2).

Exception, duty to report

(3) Despite subsections (1) and (2), an individual or a corporation convicted of an offence described in clause 98 (1) (b), (c) or (d) is not liable to any term of imprisonment. 2010, c. 11, s. 99 (3).

Order for compensation, restitution

(4) A court that convicts a person of an offence under this Act may, in addition to any other penalty, order that the person pay compensation or make restitution to any person who suffered a loss as a result of the offence. 2010, c. 11, s. 99 (4).

**PART VI
APPEALS****Appeal to Tribunal**

100 (1) A person who is served with notice of any of the following decisions of the Registrar or with any of the following orders of the Registrar may appeal the decision or order, as the case may be, to the Tribunal:

1. A decision to refuse to issue a licence to the person.
2. A decision to impose a condition on the person's licence.
3. An order made under section 89, 90, 91, 93 or 95. 2010, c. 11, s. 100 (1).

When and how to appeal

(2) To appeal an order or a decision of the Registrar to the Tribunal under this section, a person shall give the Tribunal and the Registrar a written notice of appeal setting out the grounds for the appeal within 15 days after the day the person was served with the Registrar's order or notice of the Registrar's decision. 2010, c. 11, s. 100 (2).

No automatic stay on appeal

101 (1) Despite section 25 of the *Statutory Powers Procedure Act*, an appeal of an order or a decision of the Registrar to the Tribunal under section 100 does not stay the order or decision, unless the Tribunal orders otherwise in writing. 2010, c. 11, s. 101 (1).

Application for stay

(2) Upon application, the Tribunal may order a stay of an order or a decision of the Registrar and may do so only if the Tribunal is satisfied that the stay will not cause harm or a risk of harm to a resident. 2010, c. 11, s. 101 (2).

Application to remove stay

(3) The Registrar may apply to the Tribunal for the removal of a stay ordered under subsection (2) on the ground that, as a result of circumstances having changed since the time the stay was ordered, the stay may cause harm or a risk of harm to a resident. 2010, c. 11, s. 101 (3).

Removal of stay

(4) On an application under subsection (3), the Tribunal,

- (a) shall remove the stay if it is satisfied that, as a result of circumstances having changed since the time the stay was ordered, the stay may cause harm or a risk of harm to a resident; and
- (b) shall not remove the stay if it is not satisfied that circumstances have changed since the time the stay was ordered or if it is satisfied that, despite the change in circumstances, the stay will not cause harm or a risk of harm to a resident. 2010, c. 11, s. 101 (4).

Hearing required

(5) Before exercising its powers under subsection (2) or (4), the Tribunal shall hold a hearing which shall be heard by a single member of the Tribunal. 2010, c. 11, s. 101 (5).

Rules and procedures

(6) The Tribunal shall make and implement rules and procedures that apply to an application mentioned in subsection (2) or (3) in order to ensure that the application is dealt with in an expeditious manner, subject to the regulations, if any. 2010, c. 11, s. 101 (6).

Hearing

102 (1) Upon receiving a notice of appeal under section 100, the Tribunal shall promptly set a time and place for a hearing and shall hold the hearing. 2010, c. 11, s. 102 (1).

Parties

(2) The parties to the hearing are the appellant, the Registrar and the other persons that the Tribunal specifies. 2010, c. 11, s. 102 (2).

Powers of Tribunal on appeal

103 (1) After a hearing, the Tribunal shall,

- (a) affirm the order or decision of the Registrar; or
- (b) rescind the order or decision of the Registrar, substitute its decision for the order or decision of the Registrar and direct the Registrar to implement the decision of the Tribunal in accordance with the directions, if any, that the Tribunal considers appropriate. 2010, c. 11, s. 103 (1).

Administrative penalty order

(2) In the case of an order for an administrative penalty, the power of the Tribunal under clause (1) (b) includes the power to reduce the amount of the penalty if the Tribunal finds that the amount of the penalty specified in the order is excessive in the circumstances or is, by its magnitude, punitive in nature having regard to all the circumstances. 2010, c. 11, s. 103 (2).

Appeal to Divisional Court

104 (1) A party to a hearing before the Tribunal under section 102 may appeal the decision of the Tribunal to the Divisional Court on a question of law in accordance with the rules of court. 2010, c. 11, s. 104 (1).

Powers of court

(2) On the appeal, the Divisional Court may affirm, reverse or vary the decision of the Tribunal. 2010, c. 11, s. 104 (2).

No automatic stay of Tribunal's decision

105 (1) Despite section 25 of the *Statutory Powers Procedure Act*, an appeal of a decision of the Tribunal to the Divisional Court under section 104 does not stay the Tribunal's decision unless the Divisional Court orders otherwise in writing. 2010, c. 11, s. 105 (1).

Power to order stay

(2) Upon application, the Divisional Court may order a stay of the Tribunal's decision and may do so only if the Divisional Court is satisfied that the stay will not cause harm or a risk of harm to a resident. 2010, c. 11, s. 105 (2).

Application to remove stay

(3) The Registrar may apply to the Divisional Court for the removal of a stay ordered under subsection (2) on the ground that, as a result of circumstances having changed since the time the stay was ordered, the stay may cause harm or a risk of harm to a resident. 2010, c. 11, s. 105 (3).

Removal of stay

(4) On an application under subsection (3), the Divisional Court,

- (a) shall remove the stay if it is satisfied that, as a result of circumstances having changed since the time the stay was ordered, the stay may cause harm or a risk of harm to a resident; and
- (b) shall not remove the stay if it is not satisfied that circumstances have changed since the time the stay was ordered or if it is satisfied that, despite the change in circumstances, the stay will not cause harm or a risk of harm to a resident. 2010, c. 11, s. 105 (4).

**PART VII
GENERAL**

Registers

106 (1) The Registrar shall establish and maintain one or more registers, which shall contain the following information at a minimum, subject to the rules, if any, that are prescribed:

1. For each application for a licence,
 - i. the name and address of the applicant,
 - ii. the name and address of the retirement home,
 - iii. a statement whether there is an automatic sprinkler in the room of each resident of the retirement home or elsewhere in the home and, if so, information about the sprinklers,
 - iv. the number of residents that the retirement home can accommodate,
 - v. the care services that the applicant, when licensed, will make available to the residents of the retirement home, and
 - vi. information about the status of the application, including any decision that the Registrar has made with respect to the application and information about any appeals from that decision.
2. For each licence,
 - i. the name and address of the licensee,
 - ii. the name and address of the retirement home,
 - iii. a statement whether there is an automatic sprinkler in the room of each resident of the retirement home or elsewhere in the home and, if so, information about the sprinklers,
 - iv. the number of residents that the retirement home can accommodate,
 - v. the care services that the applicant, when licensed, will make available to the residents of the retirement home,
 - vi. the class of licence, if any, issued to the licensee,
 - vii. the conditions, if any, imposed on the licence by the Registrar,
 - viii. a summary of each inspection report prepared with respect to the retirement home, subject to section 114,
 - ix. information about any orders issued by the Registrar to the licensee, including information about appeals from those orders, subject to section 114,
 - x. information about any conviction of the licensee or any of its directors or officers for an offence under this Act, including the penalty imposed on conviction, and
 - xi. information about any termination, revocation or surrender of the licence.
3. Any other information required by the regulations. 2010, c. 11, s. 106 (1).

Available to the public

(2) The Registrar shall make the information in the registers available for public inspection. 2010, c. 11, s. 106 (2).

Statistical information

107 The Authority may publish or otherwise make available to the public statistical information about retirement homes. 2010, c. 11, s. 107.

Request for information

108 (1) The Registrar may at any time request a licensee of a retirement home to give the Registrar, within the time period specified by the Registrar, information that the Registrar specifies in accordance with processes and criteria that the Authority establishes and that the Minister approves and that relates to,

- (a) the types of care services that the licensee makes available in the home;
- (b) clinical and functional profiles of residents of the home if the profiles are de-identified; or
- (c) the licensee's operation of the home and compliance with this Act. 2010, c. 11, s. 108 (1); 2017, c. 25, Sched. 10, s. 26.

Definition

(2) In subsection (1),

"de-identify", in relation to information of an individual, means to remove any information that identifies the individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify the individual. 2010, c. 11, s. 108 (2).

Compliance with request

(3) The licensee shall comply with a request by the Registrar under subsection (1). 2010, c. 11, s. 108 (3).

Section Amendments with date in force (d/m/y) [+]**Notice of certain events**

109 (1) At least two months before any of the following events occurs or as soon as practicable, the licensee shall give the Registrar a written notice setting out the details of the event:

- 1. A person ceases to have a controlling interest in the licensee.
- 2. A person acquires a controlling interest in the licensee.
- 3. Any other event that would result in the termination of the licence. 2010, c. 11, s. 109 (1).

Same

(2) As soon as possible after any of the following events occurs, the licensee shall give the Registrar a written notice setting out the details of the event:

- 1. A change in the directors or officers of the licensee.
- 2. A change in the directors or officers of a person who has a controlling interest in the licensee.
- 3. The licensee employs or retains a person to manage the operations or most of the operations of the retirement home.
- 4. Any other event that is prescribed. 2010, c. 11, s. 109 (2).

Right to use French in dealings with Authority

110 (1) Everyone has the right to use French in all prescribed dealings with the Authority. 2010, c. 11, s. 110 (1).

Publication

(2) The Authority shall ensure that all communications, information and notices with respect to any prescribed dealings with licensees, residents or members of the public are made available in French in accordance with the regulations. 2010, c. 11, s. 110 (2).

Giving or serving a document

111 (1) Any notice, order or other document required to be given or served on a person under this Act is sufficiently given or served if it is,

- (a) delivered directly to the person;
- (b) left at the last known address of the person, either in a place that appears to be for incoming mail or with an individual who appears to be 16 years old or older;
- (c) sent by regular mail to the last known address of the person;
- (d) sent by commercial courier to the last known address of the person;
- (e) sent by e-mail to the last known e-mail address of the person;
- (f) sent by fax to the last known fax number of the person; or
- (g) given by other means specified by the regulations. 2010, c. 11, s. 111 (1).

Deemed receipt

(2) Subject to subsection (4),

- (a) a document left under clause (1) (b) shall be deemed to have been received on the first business day after the day it was left;
- (b) a document sent under clause (1) (c) shall be deemed to have been received on the fifth business day after the day it was mailed;
- (c) a document sent under clause (1) (d) shall be deemed to have been received on the second business day after the day the commercial courier received it;
- (d) a document sent under clause (1) (e) or (f) shall be deemed to have been received on the first business day after the day it was sent; and
- (e) a document given under clause (1) (g) shall be deemed to have been received on the day specified by the regulations. 2010, c. 11, s. 111 (2).

Definition

(3) In subsection (2),

“business day” means a day from Monday to Friday, other than a holiday as defined in section 87 of the *Legislation Act, 2006*. 2010, c. 11, s. 111 (3).

Failure to receive document

(4) Subsection (2) does not apply if the person establishes that, acting in good faith, the person did not receive the document or received it on a later date because of an absence, accident, illness or other cause beyond the person’s control. 2010, c. 11, s. 111 (4).

Proof

112 (1) A document that purports to be signed by the Registrar or an inspector or a certified copy of a document that purports to be signed by the Registrar or an inspector is admissible in evidence in any proceeding as proof, in the absence of evidence to the contrary, that the document was signed by the Registrar or an inspector, as the case may be, without proof of the office or signature of the Registrar or the inspector. 2010, c. 11, s. 112 (1).

Same, statement

(2) A statement that purports to be certified by the Registrar or an inspector is, without proof of the office or signature of the Registrar or the inspector, as the case may be, admissible in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in it in relation to,

- (a) whether any person is licensed or not licensed to operate a retirement home;
- (b) the receipt or non-receipt of any document required or permitted to be given to the Registrar or the inspector;

- (c) the day on which evidence of a person's contravention of a requirement under this Act first came to the attention of the Registrar or the inspector; and
- (d) whether a residential complex or a part of it is occupied primarily by persons who are 65 years of age or older. 2010, c. 11, s. 112 (2).

Confidentiality of information

113 (1) In this section,

"law enforcement proceeding" means a proceeding in a court or tribunal that could result in a penalty or sanction being imposed; ("procédure d'application de la loi")

"peace officer" means a person or a member of a class of persons set out in the definition of "peace officer" in section 2 of the *Criminal Code* (Canada); ("agent de la paix")

"serious incident" means any occurrence at or around a retirement home that results in harm or a risk of harm to a resident of the home. ("incident grave") 2010, c. 11, s. 113 (1); 2017, c. 25, Sched. 10, s. 27 (1).

Health numbers

(2) Despite subsection 34 (2) of the *Personal Health Information Protection Act, 2004*, inspectors, the Authority and its officers, directors, employees, appointees and agents may collect and use health numbers for purposes related to the Authority's duties or powers. 2010, c. 11, s. 113 (2).

Disclosure

(3) The Authority and its officers, directors, employees and agents shall preserve secrecy with respect to any information, including personal information and personal health information, obtained in performing a duty or exercising a power under this Act and shall not communicate the information to any person except,

- (a) as may be required in connection with a proceeding under this Act or in connection with the administration of this Act and the regulations;
- (b) to a ministry, department or agency of a government engaged in the administration of this Act;
- (c) to a peace officer to aid an inspection, investigation or similar proceeding undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (d) in a criminal proceeding, as required by law;
- (e) with the consent of the person to whom the information relates;
- (f) to the counsel of the person to whom the information relates;
- (g) to the extent that the information is available to the public under this Act;
- (g.1) if the information relates to compliance with this Act or the regulations or relates to a serious incident involving a retirement home and if the information is communicated to a person who administers or enforces another Act or a regulation made under another Act, as may be required to aid an inspection, investigation or similar proceeding related to the administration or enforcement of the other Act or regulation;
- (h) as permitted or required by law; or
- (i) under further circumstances that are prescribed. 2010, c. 11, s. 113 (3); 2017, c. 25, Sched. 10, s. 27 (2).

Disclosure to peace officer

(4) Clause (3) (c) does not require a person described in subsection (3) to disclose information to a peace officer unless the information is required to be produced under a warrant. 2010, c. 11, s. 113 (4).

Persons not compellable

(5) No person shall be compelled to give testimony in any civil proceeding, other than a proceeding under this Act or an appeal or a judicial review relating to a proceeding under this Act, with regard to information obtained in the course of performing a duty or exercising a power under this Act. 2010, c. 11, s. 113 (5).

Documents not admissible

(6) No record of a proceeding under this Act, no document or other thing prepared for, or statement given at, such a proceeding and no order or decision made in such a proceeding is admissible in any civil proceeding, other than a proceeding under this Act or an appeal or judicial review relating to a proceeding under this Act. 2010, c. 11, s. 113 (6).

Section Amendments with date in force (d/m/y) [+]

Restrictions on publishing reports, etc.

114 (1) If a final inspection report prepared under clause 77 (14) (a) contains personal information or personal health information,

- (a) the licensee of the retirement home shall, in making a copy of the report available in the home under paragraph 2 of subsection 55 (1), make available only an edited version of the report as described in subsection (2); and
- (b) the Registrar shall ensure that the summary of the report contained in the registers under subparagraph 2 viii of subsection 106 (1) consists only of an edited version as described in subsection (2). 2010, c. 11, s. 114 (1).

Edited version

(2) The edited version of the report mentioned in clause (1) (a) and the edited version of the summary mentioned in clause (1) (b) shall,

- (a) exclude all personal information and personal health information;
- (b) if there is a finding in the original report that there has been a contravention of a requirement under this Act, provide only the finding and a summary of the evidence supporting the finding; and
- (c) if there is a finding in the original report that there has not been a contravention of a requirement under this Act, provide only a summary of the finding. 2010, c. 11, s. 114 (2).

Registrar's orders

(3) If an order of the Registrar with respect to a retirement home, including an order ordering the licensee to pay an administrative penalty, contains personal information or personal health information,

- (a) the licensee of the home shall, in making a copy of the order available in the home under paragraph 3 of subsection 55 (1), make available only an edited version of the order that excludes all personal information and personal health information; and
- (b) the Registrar shall ensure that information about the order contained in the registers under subparagraph 2 ix of subsection 106 (1) excludes all personal information and personal health information. 2010, c. 11, s. 114 (3).

Whistle-blowing protection

115 (1) No person shall retaliate or threaten to retaliate against another person, whether by action or omission, because any person has disclosed anything to the Registrar or an inspector or has provided evidence that has been or may be given in a proceeding, including a proceeding in respect of the enforcement of this Act or the regulations, or in an inquest under the *Coroners Act*. 2010, c. 11, s. 115 (1).

Interpretation, retaliate

(2) Without limiting the meaning of "retaliate" in this section, the following constitute retaliation for the purpose of this section:

1. Dismissing, suspending or disciplining a member of the staff of a retirement home.
2. Evicting a resident from a retirement home.
3. Subjecting a resident of a retirement home to discriminatory treatment.
4. Imposing a penalty on any person.
5. Intimidating, coercing or harassing any person. 2010, c. 11, s. 115 (2).

Interpretation, discriminatory treatment

(3) Without limiting the meaning of “discriminatory treatment” in subsection (2), discriminatory treatment for the purpose of that subsection includes any change in or discontinuation of any service or care provided to a resident. 2010, c. 11, s. 115 (3).

Threats against resident made to others

(4) The prohibition in subsection (1) includes threatening a family member of a resident, substitute decision-maker of a resident, or person of importance to a resident with retaliation against the resident. 2010, c. 11, s. 115 (4).

Malicious, etc., disclosure

(5) The prohibition in subsection (1) applies to retaliation or threatening retaliation against a resident, even if the disclosure to the Registrar or inspector was made maliciously or in bad faith. 2010, c. 11, s. 115 (5).

Disclosure not to be discouraged

(6) None of the following persons shall do anything that discourages, is aimed at discouraging or has the effect of discouraging a person from making a disclosure to the Registrar or an inspector:

1. The licensee of a retirement home.
2. A member of the staff of a retirement home.
3. If the member mentioned in paragraph 2 is a corporation, a director or officer of the corporation. 2010, c. 11, s. 115 (6).

Protection from legal action

(7) No action or other proceeding shall be instituted against any person for making a disclosure to the Registrar or an inspector, unless the person acted maliciously or in bad faith. 2010, c. 11, s. 115 (7).

Whistle-blowing remedies

116 (1) In this section,

“Board” means the Ontario Labour Relations Board; (“Commission”)

“employer”, in relation to a member of the staff of a retirement home, means,

- (a) the licensee of the home, if the member works at the home as an employee of the licensee or pursuant to a contract or agreement with the licensee, or
- (b) if the member works at the home pursuant to a contract or agreement between the licensee of the home and an employment agency or other third party, the employment agency or third party. (“employeur”) 2010, c. 11, s. 116 (1).

Arbitration or complaint

(2) A member of the staff of a retirement home who complains that the employer or a person acting on behalf of the employer has contravened section 115 may either have the matter dealt with by final and binding settlement by arbitration under the collective agreement, if any, that applies to the member and his or her employer or file a complaint with the Board, in which case the rules governing the practice and procedure of the Board apply with necessary modifications to the complaint. 2010, c. 11, s. 116 (2).

Inquiry by Board

(3) The Board may inquire into any complaint filed under subsection (2) and, if the Board does so, subsections 96 (1), (2), (3), (4), (6), (7) and (8) and sections 110, 111, 114 and 116 of the *Labour Relations Act, 1995* apply with necessary modifications. 2010, c. 11, s. 116 (3).

Onus of proof

(4) On an inquiry under subsection (3), the onus is on the employer or the person acting on behalf of the employer to prove that the employer or person, as the case may be, did not contravene section 115. 2010, c. 11, s. 116 (4).

Board may substitute penalty

(5) If, on an inquiry under subsection (3), the Board determines that an employer has dismissed, suspended or disciplined a member of the staff of a retirement home for cause and the contract of employment or the collective agreement, as the case may be, does not contain a specific penalty for the reason for the dismissal, suspension or discipline, the Board may substitute any other penalty that it considers just and reasonable in the circumstances in the place of the dismissal, suspension or discipline. 2010, c. 11, s. 116 (5).

Obstruction prohibited

117 No person shall hinder or obstruct any person in the performance of his or her duties under this Act. 2010, c. 11, s. 117.

False information

118 No person shall knowingly provide false or misleading information to an inspector, the Registrar or any person employed or retained by the Authority in any statement or document in respect of any matter relating to this Act or the regulations, whether made or given orally, on paper or electronically. 2010, c. 11, s. 118.

Application of *Residential Tenancies Act, 2006*

119 Nothing in this Act overrides or affects any rights or obligations that a tenant or landlord has under the *Residential Tenancies Act, 2006*. 2010, c. 11, s. 119.

Review of Act

120 (1) Within five years after this section comes into force, the Minister shall undertake a comprehensive review of this Act and shall prepare a report setting out the findings of the review. 2010, c. 11, s. 120 (1).

Tabling in Assembly

(2) The Minister shall deliver the report to the Speaker of the Assembly, who shall lay the report before the Assembly at the earliest reasonable opportunity. 2010, c. 11, s. 120 (2).

Regulations

121 (1) The Lieutenant Governor in Council may make regulations,

1. specifying anything that this Act describes as prescribed, specified, described or defined in the regulations or done by or in accordance with the regulations;
2. defining physical abuse, sexual abuse, emotional abuse, verbal abuse and financial abuse for the purposes of the definition of "abuse" in subsection 2 (1);
3. defining any of the terms used in the definition of "care service" or "retirement home" in subsection 2 (1) or used in subsection 2 (2);
4. governing the designation of rights advisors;
5. specifying classes of licence that may be issued under this Act, the care services authorized for each class of licence and the obligations, terms, conditions, limitations and restrictions relating to each class of licence;
6. governing applications for a licence or a class of licence;
7. governing the issuance of licences to operate retirement homes, including specifying the requirements for the issuance of a licence or a class of licence and the grounds of ineligibility for a licence or a class of licence;
8. providing for transitional matters that the Lieutenant Governor in Council considers necessary or advisable for the effective implementation of this Act and the regulations in connection with,
 - i. the issuance of licences to operators of retirement homes, or
 - ii. the application of prescribed provisions of this Act or the regulations to licensees or other prescribed persons;
9. exempting any licensee or class or classes of licensees or any person from any provision of this Act or the regulations for the time period or on the conditions specified in the regulations;

10. governing the termination of a licence, including prescribing times at which or events upon which a licence terminates;
11. governing how licensees shall respect and promote the rights set out in the Residents' Bill of Rights;
12. defining "non-arm's length relationship" for the purposes of clause 54 (2) (o) or "night time" for the purposes of clause 54 (2) (t);
13. governing the process for establishing a Residents' Council;
14. requiring the licensee of a retirement home to assist in the establishment of a Residents' Council for the home and governing the assistance, financial or otherwise, that the licensee is required to provide to the Council;
15. governing plans of care, including governing their form, content, development, implementation and review, and specifying matters that must be set out in them;
16. governing the documentation required by subsection 62 (11), including specifying criteria for determining the effectiveness of a plan of care;
17. governing the assessment of residents for the purpose of section 62, including determining the type of assessment to use, establishing criteria for the assessment and determining whether residents meet the criteria;
18. governing screening measures for the purposes of section 64;
19. requiring a licensee of a retirement home to obtain regular declarations about criminal convictions and other regular declarations that are prescribed from the staff and volunteers of the home and persons who apply to be staff members or volunteers of the home;
20. governing training for the purposes of subsection 65 (2), (4) or (5), section 66 or clause 90 (3) (b);
21. specifying the provisions of the *Health Care Consent Act, 1996* that are to apply with respect to retirement homes and residents of retirement homes if those provisions do not so apply under the terms of that Act and specifying any modifications or variations with which those provisions are to apply, including additions to or substitutions for those provisions;
- 21.1 governing the confinement of residents, including setting requirements for confinement in addition to those set out in this Act;
22. governing all matters relating to a review mentioned in subsection 70 (6), including,
 - i. conferring on the prescribed person or entity conducting the review the authority to conduct the review,
 - ii. governing the requirements that a person must fulfil in order to have the right to apply for the review,
 - iii. specifying the matters that may be reviewed,
 - iv. governing the conduct of the review, including the procedures to be followed, and
 - v. governing the decisions that the prescribed person or entity conducting the review may make and the powers that the person or entity may exercise upon completing the review;
23. governing the information that must be included in the written and verbal notices required by subsection 70 (8);
24. governing a resident's right to consult a rights adviser for the purposes of section 70 and the process for doing so and governing the information that a rights advisor must include in the explanation mentioned in clause 70 (11) (a);
25. specifying rules for the proper use of restraints by a physical device or by the administration of a drug when used pursuant to the common law duty mentioned in subsection 71 (1);
26. governing the types of records that a licensee must keep when restraining a resident or confining a resident pursuant to the common law duty mentioned in subsection 71 (1), including governing the form and content of the records and specifying matters that must be set out in them;
27. requiring a licensee of a retirement home to keep records, including health records, with respect to residents of the home, specifying the records that the licensee must keep and governing those records and the keeping of them;

28. requiring a licensee of a retirement home to establish a trust account for the purpose of section 72 and governing the administration of the account, including setting limits on the amount that may be held in the account;
29. governing the administration and maintenance of the Fund;
30. specifying the terms of the trust for the holding of the Fund in trust;
31. requiring licensees to make payments into the Fund and otherwise participate in the Fund and governing the participation of licensees in the Fund;
32. respecting the payment out of the Fund of claims and respecting the procedures and rules to be followed in respect of claims, including,
 - i. specifying maximum amounts that may be paid out of the Fund in different circumstances,
 - ii. permitting the Registrar, with the approval of the board of the Authority to authorize the payment out of the Fund of amounts exceeding the prescribed maximum amount in specified circumstances,
 - iii. specifying rules that apply to payment out of the Fund of claims arising out of a major event, including the right to defer payment, to pay in instalments or to partially reimburse, and
 - iv. permitting the Registrar to designate one or more events as a major event and specifying the matters the Registrar shall consider in designating a major event;
33. requiring the Authority to make decisions in respect of claims made against the Fund available to the public, specifying the manner required for making the decisions available to the public, including requiring their publication, and governing the information contained in the decision that the Authority shall not disclose to the public;
34. permitting the Registrar, in specified circumstances, to direct that payments be made from the Fund in order to enable or assist a resident to find, move to and pay for alternate available accommodation or to access external care providers in prescribed circumstances, and specifying matters that the Registrar may consider in deciding whether to make the direction;
35. respecting the payment out of the Fund for matters relating to the administration and operation of the Fund;
36. permitting the Registrar, in specified circumstances, to direct that payments be made from the Fund to the Authority for matters relating to the Authority's carrying out its duties or powers or to direct the Authority to reduce the fees payable by applicants for a licence or by licensees under section 21 or 38;
37. governing the process for appealing a decision made relating to payments out of the Fund and the rights of parties affected by the appeal;
38. specifying the circumstances under which a licensee is required to reimburse the Fund for the payment of claims to residents of the licensee's retirement home and specifying rules respecting the time and manner for the reimbursement and the imposition of penalties and interest;
39. governing the reimbursement by a licensee to the Fund for money paid out of the Fund to reimburse a resident of the licensee's retirement home;
40. governing procedures and obligations if a licensee is in default in making a prescribed payment to the Fund;
41. respecting the borrowing of money to supplement the Fund;
42. specifying requirements that the written complaints procedure of a licensee mentioned in subsection 73 (1) must satisfy;
43. specifying the frequency with which retirement homes shall be inspected under this Act;
44. specifying additional duties and powers of inspectors;
45. governing the orders that the Registrar may make under section 89, 90, 91, 93 or 95, including specifying factors that the Registrar is required to take into account in determining whether to issue such an order and specifying how the Registrar is required to take the factors into account in making the determination;

46. governing administrative penalties that the Registrar may order and all matters necessary and incidental to the administration of a system of administrative penalties, including,
- i. specifying the amount of an administrative penalty or providing for the determination of the amount of an administrative penalty by specifying the method of calculating the amount and the criteria to be considered in determining the amount,
 - ii. providing for different amounts to be paid, or different calculations or criteria to be used, depending on the circumstances that gave rise to the administrative penalty or the time at which the penalty is paid,
 - iii. specifying information that must be included in an order for payment of an administrative penalty, and
 - iv. governing the review by the Tribunal of an order for payment of an administrative penalty;
47. governing procedures for hearings held by the Tribunal under this Act, including specifying which provisions of the *Statutory Powers Procedure Act* apply to the hearings and which provisions of that Act do not apply to the hearings;
48. specifying the rules that apply to the information that is contained in a register mentioned in subsection 106 (1), including rules for the length of time that the information must remain in a register and for the removal of information from a register;
49. subject to subsection 114 (2), governing the information that can be included in the edited version described in that subsection. 2010, c. 11, s. 121 (1); 2017, c. 25, Sched. 10, s. 27 (1-4).

Scope

(2) A regulation may be general or specific in its application to any person, place or thing or any class of them, may impose different requirements, conditions or restrictions on or in respect of any class and may be limited as to time and place. 2010, c. 11, s. 121 (2).

Classes

(3) A class described in a regulation may be described according to any characteristic or combination of characteristics and may be described to include or exclude any specified member, whether or not with the same characteristics. 2010, c. 11, s. 121 (3).

Classes of retirement homes

(4) Subject to subsection (3), a class of retirement homes described in a regulation may be described with respect to any of the following characteristics:

- 1. The number of residents of the home.
- 2. The size of the home's buildings, structures or premises.
- 3. The type of care services available directly or indirectly to the residents of the home.
- 4. The location of the home. 2010, c. 11, s. 121 (4).

Rolling incorporation by reference

(5) If a regulation adopts by reference any code, standard, guideline or similar document that is made by a body that is not part of the Government of Ontario, the regulation may require compliance with the code, standard or guideline, as amended from time to time, whether the amendment was made before or after the regulation was made. 2017, c. 25, Sched. 10, s. 27 (5).

Section Amendments with date in force (d/m/y) [+]

Public consultation before making initial regulations

122 (1) The Lieutenant Governor in Council shall not make the initial regulation with respect to any matter about which the Lieutenant Governor in Council may make regulations under this Act unless,

- (a) the Minister has published a notice of the proposed regulation on the website of the Ministry of the Minister and in any other format the Minister considers advisable;
- (b) the notice complies with the requirements of this section;

- (c) the time periods specified in the notice, during which members of the public may exercise a right described in clause (2) (b) or (c), have expired; and
- (d) the Minister has considered whatever comments and submissions that members of the public have made on the proposed regulation in accordance with clause (2) (b) or (c) and has reported to the Lieutenant Governor in Council on what, if any, changes to the proposed regulation the Minister considers appropriate. 2010, c. 11, s. 122 (1).

Contents of notice

(2) The notice mentioned in clause (1) (a) shall contain,

- (a) a description of the proposed regulation and the text of it;
- (b) a statement of the time period during which members of the public may submit written comments on the proposed regulation to the Minister and the manner in which and the address to which the comments must be submitted;
- (c) a description of whatever other rights, in addition to the right described in clause (b), that members of the public have to make submissions on the proposed regulation and the manner in which and the time period during which those rights must be exercised;
- (d) a statement of where and when members of the public may review written information about the proposed regulation; and
- (e) all other information that the Minister considers appropriate. 2010, c. 11, s. 122 (2).

Time period for comments

(3) The time period mentioned in clauses (2) (b) and (c) shall be at least 30 days after the Minister gives the notice mentioned in clause (1) (a) unless the Minister shortens the time period in accordance with subsection (4). 2010, c. 11, s. 122 (3).

Shorter time period for comments

(4) The Minister may shorten the time period if, in the Minister's opinion,

- (a) the urgency of the situation requires it;
- (b) the proposed regulation clarifies the intent or operation of this Act or the regulations; or
- (c) the proposed regulation is of a minor or technical nature. 2010, c. 11, s. 122 (4).

Discretion to make regulations

(5) Upon receiving the Minister's report mentioned in clause (1) (d), the Lieutenant Governor in Council, without further notice under subsection (1), may make the proposed regulation with the changes that the Lieutenant Governor in Council considers appropriate, whether or not those changes are mentioned in the Minister's report. 2010, c. 11, s. 122 (5).

No public consultation

(6) The Minister may decide that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under this Act if, in the Minister's opinion,

- (a) the urgency of the situation requires it;
- (b) the proposed regulation clarifies the intent or operation of this Act or the regulations; or
- (c) the proposed regulation is of a minor or technical nature. 2010, c. 11, s. 122 (6).

Same

(7) If the Minister decides that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under this Act,

- (a) those subsections do not apply to the power of the Lieutenant Governor in Council to make the regulation; and
- (b) the Minister shall give notice of the decision to the public as soon as is reasonably possible after making the decision. 2010, c. 11, s. 122 (7).

Contents of notice

(8) The notice mentioned in clause (7) (b) shall include a statement of the Minister's reasons for making the decision and all other information that the Minister considers appropriate. 2010, c. 11, s. 122 (8).

Publication of notice

(9) The Minister shall publish the notice mentioned in clause (7) (b) on the website of the Ministry of the Minister and give the notice by all other means that the Minister considers appropriate. 2010, c. 11, s. 122 (9).

No review

(10) Subject to subsection (11), a court shall not review any action, decision, failure to take action or failure to make a decision by the Lieutenant Governor in Council or the Minister under this section. 2010, c. 11, s. 122 (10).

Exception

(11) Any person resident in Ontario may make an application for judicial review under the *Judicial Review Procedure Act* on the grounds that the Minister has not taken a step required by this section. 2010, c. 11, s. 122 (11).

Time for application

(12) No person shall make an application under subsection (11) with respect to a regulation later than 21 days after the day on which the Minister publishes a notice with respect to the regulation under clause (1) (a) or subsection (9), if applicable. 2010, c. 11, s. 122 (12).

PART VIII (OMITTED)

123-126 OMITTED (PROVIDES FOR AMENDMENTS TO THIS ACT). 2010, c. 11, ss. 123-126.

Section Amendments with date in force (d/m/y) [+]**PART IX (OMITTED)**

127, 128 OMITTED (AMENDS, REPEALS OR REVOKES OTHER LEGISLATION). 2010, c. 11, ss. 127, 128.

PART X (OMITTED)

129 OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 2010, c. 11, s. 129.

130 OMITTED (ENACTS SHORT TITLE OF THIS ACT). 2010, c. 11, s. 130.

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