

# The Regional Municipality of York

Committee of the Whole  
Community and Health Services  
April 7, 2022

Report of the Commissioner of Community and Health Services

## Long-Term Care Transformation: Legislative Changes and Draft National Standards

### 1. Recommendations

1. Council, in its role as Committee of Management for the Region's two long-term care homes, endorse staff feedback on draft regulations released under the *Fixing Long-Term Care Act, 2021*, provided in Attachment 1, submitted to the Ministry of Long-Term Care on February 17, 2022
2. Council, in its role as Committee of Management for a long-term care home, endorse staff feedback on draft national standards for long-term care, provided in Attachment 2, submitted to the Health Standards Organization on March 27, 2022
3. The Regional Clerk circulate this report to the local municipalities, York Region Members of Provincial Parliament and Members of Parliament, Minister of Long-Term Care, Minister of Health, Minister of Seniors and Accessibility, Ontario Health Central Region, Home and Community Care Support Services Central, Ontario Health Teams in York Region, AdvantAge Ontario, Ontario Long-Term Care Association and the Association of Municipalities of Ontario

### 2. Summary

As part of its obligations as the Committee of Management under the *Long-Term Care Homes Act, 2007*, Council is to be informed of: (1) The Regional Municipality of York's obligations as the 'licensee' of York Region's two long-term care homes, Newmarket Health Centre and Maple Health Centre (the Homes) and (2) any legislative or regulatory changes that could impact Council's role as Committee of Management.

Key Points:

- On [December 9, 2021](#), the *Fixing Long-Term Care Act, 2021* (the Act) received Royal Assent. It is anticipated it will repeal the *Long-Term Care Homes Act, 2007* in April 2022. The proposed [Regulations](#) were released on January 18, 2022 for review with comments due by February 17, 2022

- Proposed legislation will create additional operational requirements, increased staffing needs and additional accountability measures for the Committee of Management
- While the Province has provided additional funding for staffing and education to help the Homes achieve legislated hours of care per resident per day it does not cover the full costs required to support compliance with legislation
- Additionally, the Health Standards Organization released a draft national standard for long-term care ([CAN/HSO 21001:2022 Long-Term Care Services](#)) on January 28, 2022 with feedback due by March 27, 2022
- Obtaining Council's endorsement of the staff submissions on the provincial regulations and national standard prior to their submission was not possible due to the consultation deadlines
- Both organizations have been informed Council will be reviewing the Region's submissions (Attachments 1 and 2) and any additional commentary they provide would be forwarded

### 3. Background

#### **York Region is still required to operate at least one Long-Term Care Home**

Under the Act, "every southern municipality that is an upper or single-tier municipality" must still operate at least one long-term care home. York Region operates two long-term care homes, Maple Health Centre and Newmarket Health Centre, with a combined total of 232 beds. In [October 2011](#), Regional Council approved its role as the Homes' Committee of Management, as required by section 135 of the Act. Under the legislation, Council has served as the Homes' Committee of Management since 2011 and receives an [annual performance report](#) to ensure the Homes comply with the Act.

#### **York Region has been influential in advocating for changes in the long-term care sector**

The long-term care sector is undergoing a significant period of transformation in response to longstanding challenges and issues magnified by the COVID-19 Pandemic. During 2020, the Ministry of Long-Term Care [appointed](#) an independent Long-Term Care COVID-19 Commission. York Region strongly advocated for transformative change in its [submission](#) to the Commission and subsequent [analysis](#) of the Commission's Final [Report](#), which advocated for urgent action by the Province.

On [October 28, 2021](#) the Province introduced new legislation to improve the well being of residents in long-term care. Regional staff worked with sector organizations like the [Association of Municipalities Ontario](#), the Ontario Long-Term Care Association and [AdvantAge Ontario](#) in their submissions to the Standing Committee on the Legislative Assembly on [Bill 37, Providing More Care, Protecting Seniors, and Building More Beds Act, 2021](#), advocating for the Province to:

- Accelerate its investments and goals to achieve four hours of direct care per resident per day by 2022-2023
- Consider providing municipal governments a choice in operating a Long-Term Care Home, which would allow flexibility for municipal governments to invest their property tax dollars in the provision of services most appropriate to their local residents' needs
- Consider identifying and establishing a service system manager for seniors' care to coordinate and bring together the currently fragmented seniors' services sector

York Region Public Health in conjunction with other public health units also contributed to the submission regarding Bill 37 made by the [Council of Ontario Medical Officers of Health](#) to the Minister of Long-Term Care.

### **A new legislative framework for the long-term care sector will improve staffing and care, and protect residents through better accountability, enforcement, and transparency**

On [December 9, 2021](#), [Bill 37](#) received Royal Assent. The Act aims to improve long-term care by:

- Enshrining [four hours of direct care](#) per resident per day by March 31, 2025
- Establishing new compliance and enforcement tools to improve accountability, enforcement, and transparency in the sector
- Strengthening the Residents' Bill of Rights, recognizing the important role of caregivers and focusing on resident-centred care

In addition, the Act provides for a new long-term care quality centre to be established. This centre will focus on evidence-informed person-centred models of care.

While the Act provides a legislative framework for fixing long-term care, the regulations provide much of the details affecting the operations of our Homes. The [province's](#) five priorities for Phase 1 are focused on the following areas:

1. Emergency planning
2. Quality of care
3. Resident safety
4. Staffing
5. Accountability, enforcement, transparency

Staff gathered feedback on these five priority areas through internal consultations and commentary received from York Region Public Health and [Southlake Community Ontario Health Team](#). Attachment 1 provides key advocacy messages as well as specific regulatory recommendations submitted by the Commissioner, Community and Health Services to the province by the deadline of February 17, 2022. Sector organizations like the [Association of Municipalities Ontario](#), the Ontario Long-Term Care Association and [AdvantAge Ontario](#) also made submissions on the proposed Regulations of the Fixing Long-Term Care Act, 2021.

Phase 2 of regulation development is anticipated later in 2022. It will focus on elements requiring more focused consultation with residents, families, home operators, and other experts (such as the Resident and Family/Caregiver Experience Survey) and/or more time to build operational capacity to support successful implementation (such as details about the Long-Term Care Quality Centre).

## **Long-Term Care falls under provincial jurisdiction, but the federal government is taking action to support seniors by developing National Standards**

The federal government made a commitment in [2020](#) (Throne Speech) to “take any action it can to support seniors.” In response, the Standards Council of Canada, Health Standards Organization, and the Canadian Standards Association Group agreed to align to develop two new complementary national standards for long-term care that “would be shaped by the needs and voices of Canada’s long-term care home residents, workforce, local communities, as well as broader members of the public.”

On January 27, 2022, the Health Standards Organization issued the first of these two national standards ([CAN/HSO 21001:2022](#) Long-Term Care Services). The new standard (split over ten sections) provides long-term care home residents, workforce, organizational leaders, and governing bodies with guidance on:

- Providing evidence-informed resident-centred care practices that value compassion, respect, dignity, trust, and a meaningful quality of life
- Working in a team-based way to deliver high-quality care that is culturally safe and appropriate to the diverse needs of residents, the workforce, and the broader team involved in the life of a long-term care home
- Enabling a healthy, competent, and resilient workforce and healthy working conditions
- Upholding strong governance practices and operations and a culture that is outcome-focused and committed to continuous learning and quality improvement

Staff gathered feedback on the ten sections through internal consultations and commentary received from York Region Public Health. Attachment 2 provides general comments as well as comments on specific standards that were also submitted by the Commissioner, Community and Health Services to the Health Standards Organization by the deadline of March 27, 2022.

On February 10, 2022, the Canadian Standards Association Group issued the second of the two national standards – [CSA Z8004](#) Operations and infection prevention and control of long-term care homes. The new standard (split over twelve sections) provides requirements for the safe operation and infection prevention and control of long-term care homes. Staff are gathering feedback in order to submit comments by the deadline of April 11, 2022 and will provide a report to Council on the submission in May 2022.

## 4. Analysis

### **Proposed Regulations under the *Fixing Long-Term Care Act* create additional operational requirements, increased staffing needs and new accountability measures for the Committee of Management**

It is anticipated the proposed [Regulations](#) may come into force some time in April 2022. Legislative changes will be effective once they come into force. Even though licensees will have three to twelve months to implement some of the changes, staff have advocated for longer implementation deadlines to allow time for operational, policy and recruitment work needed to support their implementation. The following table outlines some of the new requirements and major changes under the proposed Regulations:

**Table 1**

#### **Proposed Areas of Legislative Changes for Long-Term Care Homes and Licensee**

Area	Summary of New Requirements and Major Changes
Emergency Planning	<ul style="list-style-type: none"><li>• New requirements for emergency plans to include “outbreaks of a communicable disease, outbreaks of a disease of public health significance, epidemics and pandemics”</li><li>• New requirements for annual testing, attestation and publication of all emergency plans on a website open to the public</li></ul>
Quality of Care	<ul style="list-style-type: none"><li>• New requirements for care and services that integrate a palliative care philosophy</li><li>• New requirements to establish a continuous quality improvement initiative, committee and designated lead</li></ul>
Resident Safety	<ul style="list-style-type: none"><li>• Major changes for the infection, prevention and control program, including a new requirement for a designated lead that must be on site at each of our homes for at least 26.25 hours per week</li></ul>
Staffing	<ul style="list-style-type: none"><li>• New sections defining the calculation method for direct care and allied professional health care targets</li></ul>
Accountability, Enforcement and Transparency	<ul style="list-style-type: none"><li>• Major changes to the responsibilities and duties of the Medical Director, including approving clinical policies and procedures and providing oversight of resident clinical care in the home</li><li>• The Act doubles the penalties (fines) for every individual convicted of an offence related to a private long-term care home. However, if the individual is a director or officer of a non-profit home or a member of a committee of management (municipal home) or board of management (First Nations Home) fines will not exceed \$4,000</li><li>• An inspector or Director under the Act may issue a notice of administrative penalty to a long-term care home of up to \$250,000 for non-compliance with the Act</li><li>• Committee of management members are required to undergo criminal records checks and sign a declaration regarding offences</li></ul>

## **The Region's submission was supportive of the proposed Regulations and recommended changes that would enhance delivery of care services**

The Region's submission (Attachment 1) provided suggestions for each of the province's five priority areas. Key suggestions:

- Include a staff experience survey (in addition to the Resident and Family/Caregiver Experience Survey) to ensure staff have an opportunity to have their experience with the Home measured. This suggestion is supported by both the 'Quadruple Aim' of Ontario Health and the Health Standards Organization
- Test epidemic and pandemic plans every three years instead of annually given the recent and on-going experience of COVID-19 and the impact to resources and services that this would entail
- Set the number of hours an infection prevention and control lead to be onsite at a Home at 35 hours per week rather than 26.25 hours (for homes with more than 69 beds but less than 200 beds), which would align usual work hours with the regulatory requirement for this to be one full-time position
- Asked the Province to consider if the requirement for a police record check is necessary for members of a committee of management of a municipal home, as the committee is usually comprised of elected officials

## **Draft National Standards for Long-Term Care Services align with Accreditation Standards but need funding and Provincial support ahead of implementation**

In Canada, long-term care is the largest type of health care that is neither publicly guaranteed nor insured under the *Canada Health Act*. The provision of long-term care is almost universally legislated by the provinces and territories, and each jurisdiction offers a variable range of long-term care services. The draft National Standards for Long-Term Care Services "call for better coordinated federal and provincial investments and funding into long-term care homes to improve staffing levels, the provision of direct care, infrastructure, and the overall capacity of the long-term care system to respond to the growing needs of Canada's ageing population." The success in implementing these standards will depend on how issues related to legislation, regulation, funding and accountability are resolved.

Currently, as the standards are not federally or provincially legislated there is no immediate impact on the operations of our long-term care Homes or members of the Committee of Management (termed the 'governing body' in the national standards). The Health Standards Organization has been accredited by the [Standards Council of Canada](#) to develop National Standards of Canada. The Health Standards Organization is also closely affiliated with [Accreditation Canada](#), one of two organizations whose accreditation provides quality attainment premium (QAP) [funding](#) for long-term care Homes. Our Homes are accredited through the Commission on Accreditation of Rehabilitation Facilities (CARF). Due to [accreditation](#), the Homes are well positioned to achieve the National Standards if they become a mandatory requirement. The Region's submission (Attachment 2) was generally supportive of the standards and made the following key suggestions:

- Develop ethical frameworks to address issues related to conflicts that may arise between team members as well as to support decision-making for residents who wish to live at risk (for example refusing to use a walker needed to prevent falls)
- Support residents to have access to information and communication technology. This is a recommendation from the [Ontario's Long-Term Care COVID-19 Commission](#) that the Region [advocated](#) for but it remains excluded from the proposed revised resident's bill of rights during Phase 1 of regulation development
- Coordinate care and integrate services to ensure continuity of care for residents. This is another recommendation from the [Ontario's Long-Term Care COVID-19 Commission](#) that the Region [advocated](#) for to ensure an integrated health care system is in place

## 5. Financial

The Act establishes targets for care that long-term care homes are to provide for each resident, based on a phased in approach. By March 31, 2025, the province must achieve its target of providing with an average of four hours of direct care and 36 minutes of allied health professional care per long-term care home resident per day as shown in Table 2:

**Table 2**  
**Provincial Targets of Care for Long-Term Care Homes**

Care Per Resident Per Day	2022	2023	2024	2025
Direct Care	3 hours	3 hours and 15 minutes	3 hours and 42 minutes	4 hours
Allied Health Professional Care	33 minutes	36 minutes	36 minutes	36 minutes

**Note:** Direct Care is provided by registered nurses (RNs), registered practical nurses (RPNs) and personal support workers (PSWs). Allied Health Professional Care is provided by Physiotherapists, Occupational Therapists, Support workers and others.

The Province is providing [\\$1.75 billion](#) over five years to long-term care homes to increase staffing levels. The Region's annual additional [funding](#) allocation for staffing has been confirmed for 2021 and forecasted for 2022-2025 as shown in Table 3. In addition, there is additional funding from the Province to support additional staff education and training ([Supporting Professional Growth Fund](#)).

**Table 3****Additional Provincial Funding for Staffing and Education for York Region’s Long-Term Care Homes 2021-2025**

<b>Additional Provincial Funding (\$)</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Total Direct Care Funding	278,163	1,608,094	2,501,403	3,426,220	908,245
Total Allied Health Professionals Funding	52,404	302,962	330,795	326,521	80,395
<b>Total Additional Staffing Funding</b>	<b>330,568</b>	<b>1,911,056</b>	<b>2,832,198</b>	<b>3,752,742</b>	<b>988,640</b>
<b>Total Education Funding</b>	<b>12,444</b>	<b>18,667</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

**Note:** 2021 funding has been confirmed by the Ministry of Long-Term Care. 2022-2025 figures are staff forecasts based on the 2021 allocation and estimates of the number of beds eligible for additional funding. Actual allocations will be communicated annually by the Ministry

While the Province has provided additional funding for staffing and education to help Homes achieve legislated hours of care per resident per day it does not cover the full staffing costs. This additional funding does not impact the capital budget but may impact the operating budget depending on investments that are made into the program.

York Region subsidizes the cost of operating its two municipal long-term care homes with tax levy funding paying 45% of the total cost of care in 2020, the provincial subsidy paying 44% and residents’ fees and service charges making up the remaining 11%. The vast majority of this property tax contribution is to support staffing. If the cost to operate a long-term care home is not fully funded by the Province, the cost of staffing will remain funded by Regional tax levy. Decisions about program investments may also affect the breakdown of operating costs. The letter accompanying staff’s submission on the draft regulations (see Attachment 1) requested the Ministers of Health and Long-Term Care to urgently implement an enhanced funding model for long-term care that will support additional staffing costs.

**Additional Provincial funding is also needed to support compliance with new legislative requirements and implement national standards if legislated**

The province estimates direct costs for homes to comply with requirements in the new Act and regulations will be in the range of \$20-\$23.5 million annually (or [\\$36,000 per home](#)) per year). Analysis by [Advantage Ontario](#) concluded this estimate significantly understates expected costs. Advantage Ontario estimated costs will be in the range of \$590,000-\$650,000 per home. However, this cost excludes the additional costs associated with infection prevention and control, menu planning and palliative care.



Without additional Provincial funding to support compliance, the Homes will continue to rely on Regional tax levy. The letter accompanying staff's submission on the draft regulations (see Attachment 1) the Minister of Health and Long-Term Care was requested to provide sufficient funding for the Homes to comply with Provincial requirements.

Staff are analyzing the Homes' staffing model to ensure the Region can maximize the new funding, meet Provincial care targets, and focus on evidence-informed person-centred models of care.

The national standards are not federally or provincially legislated for Ontario at this time. If this changes, there may be an impact on the capital and operating budgets of the Homes.

## **6. Local Impact**

It is important that York Region Seniors have local options available for their long-term care needs and can access a high-quality municipal Home. Addressing the needs of the Region's long-term care residents involves coordination and collaboration to effectively serve and support a resident-centred model of care. Seniors Services continues to find ways to work efficiently with and leverage resources through community, provincial and federal partners.

## **7. Conclusion**

Staff are developing an implementation plan to prepare for these legislative changes. Once the Regulations are finalized, a comprehensive impact analysis will be completed, and work undertaken to ensure the Homes are brought into compliance with any new requirements. When the regulations are finalized and analysis is completed, staff will report to Council on actions taken to respond to the new legislation and Regulations, and any further changes to Council's role as Committee of Management.

---

For more information on this report, please contact Lisa Gonsalves, General Manager at 1-877-464-9675 ext. 72090. Accessible formats or communication supports are available upon request.



Recommended by:

**Katherine Chislett**  
Commissioner of Community and Health Services



Approved for Submission:

**Bruce Macgregor**  
Chief Administrative Officer

March 17, 2022

Attachments (2)

eDOCS # 13683491