

The Regional Municipality of York

Committee of the Whole
Community and Health Services
April 13, 2023

Report of the Commissioner of Community and Health Services

Long-Term Care Transformation: Proposed Amendments to Ontario Regulation 264/22 under the *Fixing Long-Term Care Act, 2021*

1. Recommendations

1. Council, in its role as Committee of Management for the Region's two long-term care homes, endorse the submission made by staff to the Ministry of Long-Term Care, Appendix 1, on proposed amendments to Ontario Regulation 246/22 of the *Fixing Long-Term Care Act, 2021*.
2. The Regional Clerk circulate this report to 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 *Fixing Long-Term Care Act, 2021* (the Act), 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 impacting the Region's two long-term care homes.

This report requests Council endorsement of the submission made by staff on proposed amendments in response to Ontario Regulation 246/22 of the *Fixing Long-Term Care Act, 2021*. Obtaining Council's endorsement prior to submission was not possible due to the province's consultation deadlines.

Key Points:

- On April 11, 2022, [the Act](#) and its [General Regulation 264/22](#) came into force, repealing the previous *Long-Term Care Homes Act, 2007* and Ontario Regulation 79/10
- On February 3, 2023, the Ministry of Long-Term Care commenced public consultation on Phase 2 [proposed](#) amendments to Regulation 264/22 under the *Fixing Long-Term*

Care Act, 2021 (the Act) with a deadline of March 5, 2023. These amendments aim to advance the plan to fix long-term care in the areas of staffing, medication management, drug administration, and resident experience and will take effect April 11, 2023

- The Ministry of Long-Term Care has been informed Council will be reviewing the staff submission ([Appendix 1](#)) and that any additional commentary Council provides will be forwarded to the Province

3. Background

Council is the Committee of Management for the Region's two Long-Term Care Homes

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 ([Section 135](#)) and receives an [annual performance report](#) to ensure the Homes are in compliance with applicable legislation, meet any funding criteria and maintain appropriate service standards for their residents.

York Region has been active in advocating to improve policy planning and decision-making for long-term care

In late 2021, staff worked with sector organizations like the Association of Municipalities of Ontario, the Ontario Long-Term Care Association and AdvantAge Ontario in their submissions to the Standing Committee on the Legislative Assembly on [Bill 37](#), which repealed the *Long-Term Care Homes Act, 2007* and replaced it with the *Fixing Long-Term Care Act, 2021* (the Act).

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.

In February 2022, staff made a [submission](#) to the Ministry of Long-Term Care on proposed regulations under the Act ([April 2022](#)). The staff submission was endorsed by Council without changes on [April 28, 2022](#). Subsequently, the proposed regulations became General Regulation 264/22 with relatively few changes.

The Provincial investment in fixing long-term care and broader health sector reform continues and will directly benefit residents in Long-Term Care Homes

The Ontario government is making significant changes to the province's health care system, in an effort to create a more integrated system that provides higher quality of care to Ontarians through improved access and accountability. As part of the transformation, [Your Health: A Plan for Connected and Convenient Care](#) (February 2023), the Province has committed to:

- A total investment of \$6.4 billion to build more than 30,000 new long-term care beds in Ontario by 2028 and upgrade more than 28,000 older beds to modern design standards (announcing in [November 2022](#) increased construction funding)
- Investing nearly \$5 billion over four years to hire more than 27,000 long-term care staff, including nurses and personal support workers, to provide long-term care home residents with an average of four hours of direct care per day
- A new investment of over \$40 million this year to help long-term care homes provide specialized services and supports to residents with more complex needs (including announcing in [October 2022](#) special units for people with dementia and other complex needs)
- Partnering on pilot projects with Humber River Regional Hospital in the City of Toronto and Royal Victoria Regional Health Centre in the City of Barrie to enhance access to more diagnostic services for long-term care residents (announced in [January 2023](#))

Following the Province's investments of \$5 billion over four years to [increase staffing levels](#) and hours of care, 10.8 full-time equivalent positions were approved at the end of 2022, another 36.1 new full-time equivalent positions were approved by Council as part of the [2023 to 2026 Community and Health Services budget](#). This includes 24.8 full-time equivalent positions in 2023, 7.6 full-time equivalent positions in 2024 and 3.7 full-time equivalent positions in 2025.

4. Analysis

The proposed amendments focus on staffing qualifications, medication management, drug administration and resident experience

The Ministry of Long-Term Care has shared only high-level descriptions of the [proposed](#) amendments to Regulation 264/22, not the actual draft regulations themselves. If approved, these amendments would come into force on [April 11, 2023](#).

Key changes proposed include:

- Amending [staffing qualifications](#) for some staff roles specified within the Regulation to ensure requirements are proportionate with the responsibilities and accountabilities of the role and to eliminate barriers that restrict graduates from some education programs, qualified students or other professionals from entering the sector
- Providing for a personal support worker, who has received training in the administration of drugs and who has been authorized by a member of the registered nursing staff, to administer drugs to residents where it is not a [controlled act](#)
- Modernizing medication management and drug administration requirements to facilitate regulated health professionals to practice to their full scope of practice

- Bolstering the resident experience and safety by strengthening air conditioning requirements, and clarifying falls prevention and management and skin and wound care procedures

These regulatory amendments are big enablers for the long-term care sector. Each long-term care home in Ontario will benefit from these changes to varying degrees. However, without the exact language of the regulations before they are enacted April 11, 2023, the Region's Homes will have very little time to implement any changes. To be prepared, staff are identifying programs and services that will likely be affected and prioritising their review and revision.

Two of the proposed changes reflect recommendations made in the Region's submission in April 2022

- In April 2022, [York Region](#) commented that the staffing qualifications of cooks and food service workers in the-then [draft regulations](#) were “too onerous.” The following [proposed](#) amendment to Regulation 264/22 aims to reduce this burden:
 - Allowing long-term care homes to hire a cook with institutional, health care, restaurant, or hospitality cooking experience (in place of the identified educational/training requirements) the home is satisfied with will allow them to adequately fulfill the role
- In April 2022, [York Region](#) commented the authority of the Medical Director in the-then [draft regulations](#) did not adequately capture the authority of the Medical Director. The following [proposed](#) amendment to Regulation 264/22 aims to rectify this:
 - Clarifying the Medical Director has a role in oversight of medical care (and not all clinical care)

The Region's submission regarding the current proposed amendments was supportive overall and noted that more resources would be needed to implement these changes

Staff's March 3, 2023 submission to the Ministry of Long-Term Care ([Appendix 1](#)) was prepared based on consultation with staff and discussions with sector associations. Key comments included:

- Allowing personal support workers (unregulated health professionals) to administer drugs to residents may increase risks to resident safety, and has potential implications for our Homes' and regulated professionals' insurance premiums. If the Ministry of Long-Term Care proceeds with this change, funding is needed to cover the additional staffing, education and training costs and potential increases to insurance premiums.
- Changes to medication management and drug administration should support safer admissions. However, our Homes' do not have the resources to complete a

comprehensive medication review (use of medications, adverse drug reactions and drug reconciliation) within a 24-hour timeframe and will incur additional costs from our Pharmacy Service Provider for these services. If the Ministry of Long-Term Care proceeds with this change, the Province needs to reverse the funding cuts to long-term care Pharmacy Service Providers and continue to [pause](#) funding reductions.

- The technical amendment to the regulations providing for situations where residents can be temporarily placed in [preferred \(a private room\) accommodation](#) (when basic accommodation has been selected) is a positive change. If the Ministry of Long-Term Care proceeds with this change, a well defined policy and process supported by up-front funding is needed.

Staff participated in consultations for submissions by sector organizations such as the Association of Municipalities of Ontario, the Ontario Long-Term Care Association and [AdvantAge Ontario](#). These submissions echo the same issues as staff analysis indicated would affect the Region's two long-term care Homes.

5. Financial

Ministry of Long-Term Care estimates for the cost of complying with provincial requirements are too low

As shown in Table 1, in [Phase 1](#) of regulation development to the *Fixing Long-Term Care Act, 2021*, the Ministry of Long-Term Care estimated direct compliance costs of \$38,000 on average for each long term care home in the province per annum (\$20-\$23.8 million for all long-term care homes in Ontario). [AdvantAge Ontario](#), after consultation with members and research, [estimated Phase 1 compliance costs](#) in the range of \$590,000 to \$650,000 per home per annum (\$369 million to \$407 million for all long-term care homes in Ontario); more than 15 to 17 times the Ministry's estimated cost. It is too early to say what the exact financial impact would be for York Region and additional analysis would be required. These compliance cost discrepancies (over Phase 1 and 2) are likely due to:

- New roles (such as an infection, prevention and control lead)
- New requirements (such as the continuous quality improvement initiative)
- New education and training (for new legislative requirements such as palliative care, new standards such as infection, prevention and control and broader staffing competencies)

For the Phase 2 [regulatory amendments](#) that are the subject of this report, the Ministry of Long-Term Care estimates the direct compliance costs as \$33.5 million over a ten-year period. [Advantage Ontario](#) estimates the cost for just two of the proposed changes—staffing qualifications for Food Handler Training and the personal support workers' training requirement related to the administration of drugs not in the Controlled Act—is about \$65 million for the sector or \$40,000 for a 100-bed home; almost double the Ministry's estimates.

Table 1**Estimated costs of direct compliance with the *Fixing Long-Term Care Act, 2021***

Regulatory Amendment	Ministry of Long-Term Care's Estimated Total Compliance Cost for all LTCHs in Ontario	Ministry of Long-Term Care's Estimated Average Compliance Cost per LTCH	AdvantAge Ontario's Estimated Total Compliance Cost for all LTCHs in Ontario	AdvantAge Ontario's Estimated Average Compliance Cost per LTCH
Phase 1 (April 11, 2022) costs per annum	\$20M – \$23.8M	\$38,000	\$369M - \$407M	\$590,000 - \$650,000
Phase 2 (April 11, 2023) costs over 10-year period	\$33.5M	\$53,000	\$65M	\$400,000 for a 100-bed home

Note: Long-Term Care Homes (LTCHs)

At this time, staff have not undertaken a review of the direct compliance costs associated with Phase 1 or Phase 2 for the Region's homes.

Long Term Care Home insurance premiums are increasing province wide

[Ontario Long-Term Care Association](#) has found that Homes across the province are seeing increases between 30% to 50%, as well as a marked increase in deductibles and a reduction in coverage. The Region's insurance premiums for its two Long-Term Care Homes rose within the range above between 2020 and 2022. Legislative changes permitting Personal Support Workers to administer certain drugs in Long-Term Care Homes, without additional training and supports, could increase liability of Homes generally. Staff will monitor the situation and overall market premiums associated with regulatory changes in long-term care.

6. Local Impact

These regulatory changes continue to support improvements in the services our Homes can offer to the Region's long-term care residents. Addressing these changes involves coordination and collaboration to effectively serve and support a resident-centred model of care. However, there could be significant financial implications if the province does not fully

fund the cost of complying with its rules. 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 in April 2023. A report to Council in Fall 2023 will provide Regional Council (as the Committee of Management) with actions taken by the Homes in response to the passing of the Act and its Regulation.

For more information on this report, please contact Lisa Gonsalves 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 22, 2023

14905646

Appendix 1 – Submission to the Ministry of Long-Term Care on Proposed Amendments to Ontario Regulation 264/22

APPENDIX 1



KATHERINE CHISLETT
Commissioner Community and Health Services

March 3, 2023

Paul.Calandra@pc.ola.org
Sylvia.Jones@pc.ola.org

Hon. Paul Calandra
Minister of Long-Term Care
Ministry of Long-Term Care
6th Floor, 400 University Ave
Toronto, Ontario M5G 1S5

Hon. Sylvia Jones
Deputy Premier and Minister of Health
Ministry of Health
5th Floor, 777 Bay Street
Toronto, Ontario M7A 2J3

Dear Ministers:

The Regional Municipality of York appreciates the ongoing efforts, supports and funding commitments from the Ontario Government to support the long-term care (LTC) sector throughout the COVID-19 pandemic. We congratulate the Province for the success of the *Fixing Long-Term Care Act, 2021* (the Act).

We further commend the Province for [consulting](#) on amending Ontario Regulation 246/22, which takes important steps to enhance quality of care and quality of life for residents in LTC homes in the areas of:

1. Staffing qualifications
2. Medication management and drug administration, and
3. Resident experience

As a municipal operator of two LTC homes in York Region, we are very familiar with the challenges facing the LTC sector and welcome the opportunity to review and provide feedback on the proposed amendments. Our attached submission is based on feedback received through internal staff consultations and provides comments for consideration.

Due to timing, it was not possible to bring our response to York Regional Council for endorsement prior to submission. This response will be shared with York Regional Council at their April 2023 meeting for endorsement, and any commentary they provide will be forwarded to the Province.

Our LTC homes will require significantly more funding to implement the requirements of the Act and Regulation 264/22. The Province's estimated \$20-23.5 M (or [\\$38,000 per home](#)) per annum to support direct compliance costs associated with the regulatory changes made in April 2021, and the further estimated direct compliance cost of \$33.5 M over a ten-year period (or just over \$53,000 per Home over ten years) for this tranche of changes are significantly underestimated. We support [AdvantAge Ontario's](#) 2023/24 pre-budget recommendation to fully fund the new requirements of the Act as well as increasing base level-of care funding ([AdvantAge Ontario](#) and [OLTCA](#)). York Region already subsidizes the cost of operating its two municipal LTC homes with tax levy funding paying 38% of the total cost of care in 2020, the provincial subsidy paying 49% and residents' fees and service charges making up the remaining 13%. The tax levy funding supports each funding envelope provided by the government as well as compliance and operating costs.

Due to the changes in medication management, the Region [continues to advocate](#) for the reduction in payments to long-term care Pharmacy Service Providers to remain paused ([ADM Memo in February 2022](#)) and to not undertake further cuts. Pharmacy Service Providers offer vital supports that improve medication management and safety.

In addition, we strongly request the Province to give long-term care homes at least one year to implement these regulatory requirements before any findings of non-compliance or administrative monetary penalties are issued.

York Region remains committed to working with all levels of government, community partners and sector organizations to ensure our vulnerable seniors continue to receive appropriate, respectful and compassionate care.

If you have questions or would like to further discuss, please contact Lisa Gonsalves, General Manager, Paramedic and Seniors Services, at 1-877-464-9675 extension 72090 or by email at Lisa.Gonsalves@york.ca.

Sincerely,



Katherine Chislett
Commissioner, Community and Health Services

cc: Wayne Emmerson, Regional Chair and Chief Executive Officer
Lina Bigioni, Chief of Staff, York Region
Bruce Macgregor, Chief Administrative Officer, York Region

#14905688

SUBMISSION TO THE MINISTRY OF LONG-TERM CARE ON PROPOSED AMENDMENTS TO ONTARIO REGULATION 246/22 UNDER THE FIXING LONG-TERM CARE ACT, 2021

Submitted by: The Regional Municipality of York

Date: March 3, 2023

Introduction

This submission to the Ministry of Long-Term Care on proposed amendments to Ontario Regulation 246/22 (the Regulation) under the *Fixing Long-Term Care Act, 2021* builds on York Region's previous [submission](#) to the Ministry of Long-Term Care on the Regulation.

The proposed amendments in the areas of staffing, medication management and drug administration, and resident experience are an important step towards enhancing the quality of care and quality of life for residents in long-term care homes.

Recommendations for the proposed Regulation amendments

York Region's feedback on the proposed amendments to the Regulation is structured using the four areas identified by the Province for regulatory amendment:

1. Staffing qualifications
2. Medication management and drug administration
3. Resident experience
4. Technical amendments

The following table has two columns. The first column lifts the wording from the [proposed regulatory amendments](#). The second column provides York Region's comments on the proposed amendments.

1. Staffing Qualifications

Proposed Regulatory Amendment to Ontario Regulation 246/22	York Region's Comments
Amend staffing qualifications for some roles specified in the regulation to ensure requirements are proportionate with the responsibilities and accountabilities of the role (please see Staffing Qualification Addendum).	The Region welcomes these changes and previously advocated for less onerous staffing qualifications for cooks and food service workers.
Revise the transitional staffing qualifications provision (proposed 6-month extension).	No comment.
Include nursing students from Indigenous Institutes in provisions that allow nursing students from colleges and universities to administer drugs to residents under the supervision of a member of the registered nursing staff.	No comment.
Provide that all regulated health professionals may administer drugs in long-term care homes according to their scope of practice and as authorized under the <i>Regulated Health Professions Act, 1991</i> (including pharmacists administering COVID-19 and flu vaccines to residents).	No comment.

Proposed Regulatory Amendment to Ontario Regulation 246/22	York Region's Comments
<p>Provide that a personal support worker who has received training in the administration of drugs and who has been authorized by a member of the registered nursing staff may administer drugs to residents where it is not a controlled act.</p>	<p>The Region understands this change is intended to benefit Homes that experience critical staffing shortages (such as Homes in Northern Ontario and rural areas).</p> <p>The Region concerns include the potential for increased risks to resident safety, the increased liabilities to Homes, and the potential implication for Homes and regulated professionals' insurance premiums. If the Ministry of Long-Term Care proceeds with this change, the following supports are required:</p> <ul style="list-style-type: none"> • Funding education and training of personal support workers to undergo additional training in the administration of drugs, • Funding additional staffing costs associated with both registered nursing staff providing the required supervision and the increased workload of personal support workers, • Funding the increase on Homes' and regulated professionals' insurance costs to cover increased risks and liabilities associated with unregulated health professionals administering medication, and • Ensure the College of Nurses (CNO) provides guidelines for Registered Nurses and Registered Practical Nurses to supervise personal support workers administering medication.

2. Medication Management and Drug Administration

Proposed Regulatory Amendment to Ontario Regulation 246/22	York Region's Comments
<p>Clarify requirements of the 24-hour admission care plan including adding reference to: clinical use of medications, adverse drug reactions, and medication reconciliation.</p>	<p>The Region welcomes changes that support safer admissions of new residents. However, the Region has concerns with inclusion of these requirements in the resident's 24-hour admission care plan as our Homes:</p> <ul style="list-style-type: none"> • Do not have the resources needed to complete a comprehensive medication review (use of medications, adverse drug reactions and drug reconciliation) within this timeframe, and • Will incur additional costs to either fund our Pharmacy Service Provider to provide these services in lieu of the resources at our Homes or fund additional registered nursing staff (RN or RPN) on admission days. <p>If the Ministry of Long-Term Care proceeds with this change, the following supports are required:</p> <ul style="list-style-type: none"> • As identified in the Region's submission to the Ontario Long-Term Care COVID-19 Commission, reverse funding reductions for pharmacy services and do not undertake further cuts, and • Either extend the timeframe of these requirements to within 72 hours of admission, or • Fund the costs of the Home's Pharmacy Service Provider to provide these services (if not, the additional registered nursing staff (RN or RPN) on admission days) to be able to meet these requirements within this timeframe, and • Provide for an extension to these requirements for admissions that occur on weekends or statutory holidays.
<p>Modernize medication acquisition, storage and destruction requirements.</p>	<p>No comment.</p>
<p>Embed in regulation the Minister's Directive: Glucagon, Severe Hypoglycemia and Unresponsive Hypoglycemia.</p>	<p>The Region's Homes are already in compliance.</p>
<p>Add COVID-19 vaccines to immunizations that must be offered to residents.</p>	<p>Our Homes already offer COVID-19 vaccinations to residents.</p>

3. Resident Experience

Proposed Regulatory Amendment to Ontario Regulation 246/22	York Region's Comments
Update exemption criteria for air conditioning requirements in resident rooms and further clarify the Director's existing authority when considering exemption requests.	The Region's Homes have air conditioning.
Refine the definition of air conditioning.	No comment.
Add air conditioning in designated cooling areas to the list of functions generators are required to support during a power failure.	The Region's Homes are supported by a generator for essential services (which include air conditioning).
Create a new Administrative Monetary Penalty (up to \$25,000) for not meeting the requirement to have air conditioning in all resident rooms.	No comment.
Require licensees to ensure a post-fall assessment is always completed when a resident falls.	The Region's Homes are already in compliance.
Clarify when a dietitian is required to assess a resident's skin condition(s).	No comment.

4. Technical Amendments

Proposed Regulatory Amendment to Ontario Regulation 246/22	York Region's Comments
Clarify rules regarding applicability of Administrative Monetary Penalties in instances of non-compliance.	No comment.
Clarify that the medical director has a role in oversight of medical care (and not all clinical care).	The Region welcomes this change and previously advocated for the authority of the Medical Director to better align with the authority of the Administrator and/or the Director of Nursing and Personal Care.
Clarify requirements that support placement of an ALC patient into preferred accommodation, when basic accommodation has been selected.	The Region welcomes clarity regarding which residents are eligible for preferred accommodation when basic accommodation has been selected along with other critical situations which may warrant the same support. The Ministry of Long-Term Care is requested to consider: <ul style="list-style-type: none">• Providing funding up-front to Homes to support the placement of residents in preferred accommodation• Providing a policy on how to move residents from preferred accommodation to basic accommodation once a bed becomes available• Supporting the Homes with a process to track residents placed in the Homes under unique circumstances, and• Supporting the Homes with a clear process for reimbursement for lost revenue in placing Alternate Level of Care (ALC) or other special situation residents in private rooms
Identify other critical situations where a lack of availability in basic accommodation may warrant temporary placement in preferred accommodation.	
Remove some expired transitional provisions.	No comment.