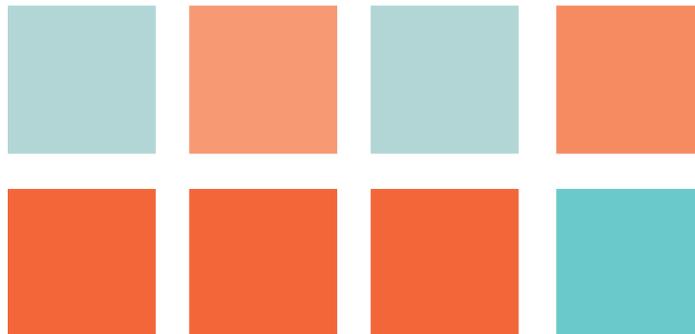


**RNAO comments on proposed  
amendments to O. Reg. 79/10 under the  
*Long-Term Care Homes Act, 2007***

Submission to the Ministry of Health and  
Long-Term Care – Long-Term Care Homes Division

March 29, 2018



## **Summary of RNAO Recommendations**

**Recommendation 1.** Balance inspection reports by requiring that they report both on areas of compliance and areas of non-compliance.

**Recommendation 2.** Do not introduce any fees for subsequent inspections required to determine compliance.

**Recommendation 3.** Use RNAO's LTC Best Practices Program throughout the stages of non-compliance to support LTC homes to achieve and maintain compliance, before administrative monetary penalties are imposed. Fines should only be used as a last measure. In particular, we recommend that:

- a) Compliance inspectors should recommend in the inspection report that homes work with RNAO's LTC Best Practices Program and coordinators to achieve compliance at the written notification stage and the voluntary plan of correction stage; and
- b) When issued with a compliance order, LTC homes should be mandated to use RNAO's LTC Best Practices Program and coordinators to assist in the preparation and execution of a plan to achieve compliance.

## **Introduction**

The Registered Nurses' Association of Ontario (RNAO) is the professional association representing registered nurses (RN), nurse practitioners (NP), and nursing students in all settings and roles across Ontario. Since 1925, RNAO has advocated for healthy public policy, promoted excellence in nursing practice, increased nurses' contributions to shaping the health system, and influenced decisions that affect nurses and the public they serve. It is the strong, credible voice leading the nursing profession to influence and promote healthy public policy.

RNAO welcomes this opportunity to provide feedback to the Ministry of Health and Long-Term Care (MOHLTC) on the proposed amendments to Ontario Regulation (O. Reg.) 79/10 under the *Long-Term Care Homes Act, 2007* (LTCHA) in support of legislative changes made under *Bill 160, Strengthening Quality and Accountability for Patients Act, 2017*, Schedule 5 to allow for administrative penalties, as posted to Ontario's Regulatory Registry on Feb. 28, 2018.<sup>1</sup> RNAO had previously commented on Bill 160 when it was brought before the Ontario legislature in the fall of 2017. Our written submission and speaking notes can be accessed on our website.<sup>2 3</sup>

## **General comments**

The focus on compliance in LTC homes does not foster a supportive, innovative practice environment. There are over 330 areas of regulation in O. Reg. 79/10 that compliance inspectors assess. Overall, LTC homes meet compliance in inspections. But LTC homes that meet and exceed expectations are not recognized for the excellent work that they do, because inspection reports only identify areas of non-compliance.

RNAO recommends that inspection reports identify both areas of compliance and non-compliance. Recognizing areas of best practice and excellence will encourage LTC staff and administrators to improve care and build on the positive work they are doing.

**Recommendation 1. Balance inspection reports by requiring that they report both on areas of compliance and areas of non-compliance.**

## **Re-inspection fees**

The draft regulatory amendments propose the introduction of a \$500 fee for subsequent inspections when an inspector must return to the LTC home to determine compliance. RNAO does not support the introduction of this fee. If follow-up is required (i.e., if non-compliance was identified), it is RNAO's view that re-inspection is part of the usual tasks of the LTC Quality Inspection Program. LTC homes should not bear this cost.

**Recommendation 2. Do not introduce any fees for subsequent inspections required to determine compliance.**

## **Administrative monetary penalties**

The draft regulatory amendments state that administrative monetary penalties will apply when a LTC home is non-compliant on a requirement under the LTCHA resulting in an order, and followed by a second or subsequent finding of non-compliance on the same requirement that also results in an order.

The draft regulatory amendments set out the amount of administrative monetary penalty, which range between \$1000 - \$10,000 for a second finding of non-compliance, but could reach as high as \$5000 - \$50,000 if there are subsequent findings of non-compliance.

As stated in RNAO's written submission to Bill 160, we have strong concerns about imposing administrative monetary penalties on a sector that is already under-resourced. Compliance will be even more difficult with the imposition of fines, as one of the challenges that long-term care (LTC) homes face in achieving compliance is adequacy of funding. Fines will only have a negative impact on resident care and staff morale.

RNAO continues to insist that monetary penalties be used only as a last resort, after the LTC home has been provided with support to achieve and maintain compliance.

One source of untapped support is compliance officers themselves. There is huge opportunity for compliance inspectors to share best practices and make connections between the homes that they visit. The inspectors are in a unique position as they have knowledge of each LTC home in Ontario. They could make connections between homes that have exemplary practices in certain areas and homes that require support to achieve or maintain compliance in these areas.

There is also opportunity to expand supports that are already available, and in particular, RNAO's LTC Best Practices Program. This program is a key support that assists LTC homes across the province to implement evidence-based practices to improve the quality of resident care. The LTC Best Practices program has been consistently funded by the MOHLTC to foster the development of evidence-based practice cultures in LTC homes using RNAO's clinical and health work environment best practice guidelines (BPG). Development and implementation of clinical guidelines in the area of elder care has been one of the top priorities of RNAO's BPG program since its inception.

Fourteen expert RNAO LTC Best Practice Coordinators – one in each LHIN – engage with LTC home staff and leadership, to adopt best practice recommendations. Their role includes spreading innovations and sharing knowledge from home to home.

RNAO has also developed a LTC Best Practices Toolkit, which is a free online repository of evidence-based resources that support BPG implementation and program planning and evaluation. Content in the LTC Best Practices Toolkit is based on the expressed needs of the LTC homes as identified by and shared with LTC Best Practice Coordinators.

RNAO has BPGs that address each of the mandatory programs that LTC homes are required to implement, including prevention of falls and fall injuries in the older adult; promoting continence using prompted voiding; prevention of constipation in the older adult population; assessment and management of pain; and various guidelines for skin and wound care. RNAO has numerous additional BPGs relevant to the sector, including alternative approaches to the use of restraints; preventing and addressing abuse and neglect of older adults; and delirium, dementia, and depression in older adults.

LTC homes can partner with RNAO's LTC Best Practices Program as Best Practice Spotlight Organizations (BPSO). This program engages LTC homes in implementing and evaluating the impact of BPGs while continuously cultivating knowledge-based nursing practices. RNAO provides additional supports to LTC BPSO homes through the LTC Best Practices Program wherein LTC Best Practice Coordinators serve as coaches to the LTC BPSO leadership teams in the systematic implementation of BPGs.

LTC homes achieve exemplary results from their involvement in RNAO's LTC BPSO program.

For example, since 2014, Tilbury Manor in the Erie-St. Clair LHIN has implemented practice changes based on the recommendations of 12 RNAO BPGs. This resulted in improvements for seven RAI-MDS quality indicators, including decreased incidence of pressure ulcers, decreased use of restraints, and decreased incidence of resident falls.<sup>4</sup>

Homes do not have to be part of a LTC BPSO partnership to realize the benefits of RNAO's BPGs. Extencicare Haliburton decreased restraint use from 15.9 per cent to zero by implementing RNAO's *Promoting Safety: Alternative Approaches to the Use of Restraints* BPG.<sup>5</sup>

To support LTC homes to achieve and maintain compliance, we recommend the introduction of correction plans that incorporate RNAO's LTC Best Practices Program and LTC coordinators for homes that are found non-compliant, *before* administrative monetary penalties are imposed.

This is consistent with recommendations from the 2015 Auditor General's report on the LTC home inspection process in Ontario. This report recommends that the MOHLTC should help LTC homes to achieve and compliance by "providing additional information and support on how to rectify issues, [and] by sharing best practice between long-term care homes."<sup>6</sup> The ministry's response to the Auditor General's report recommendation actually references RNAO's LTC Best Practices Program.<sup>7</sup>

**Recommendation 3. Use RNAO's LTC Best Practices Program throughout the stages of non-compliance to support LTC homes to achieve and maintain compliance, before administrative monetary penalties are imposed. Fines should only be used as a last measure. In particular, we recommend that:**

- a) Compliance inspectors should recommend in the inspection report that homes work with RNAO’s LTC Best Practices Program and coordinators to achieve compliance at the written notification stage and the voluntary plan of correction stage; and**
- b) When issued with a compliance order, LTC homes should be mandated to use RNAO’s LTC Best Practices Program and coordinators to assist in the preparation and execution of a plan to achieve compliance.**

### **Conclusion**

RNAO has been a strong advocate for transformation of the archaic LTC funding model to remove the financial penalty that disincentivizes improvements to resident outcomes.<sup>8 9</sup> It is disappointing that the ministry is pursuing a punitive approach to the inspections process that may lead to substantial monetary fines being imposed on already under-resourced sector. Funding models and inspection processes should improve, encourage, and enable – rather than penalize – improvements in resident outcomes and care.

The inspections process could be a tool for LTC administration and staff to gain insights into where and how improvements can be made to their home to support and improve resident care. RNAO looks forward to working with the ministry so that LTC homes can take full advantage of existing supports, such as the LTC Best Practices Program, to achieve and maintain compliance, and ultimately improve resident outcomes.

Thank you for the opportunity to provide feedback in the pursuit of improving resident care and outcomes in Ontario’s LTC homes.

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