

Health System Accountability and
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Performance Improvement and
Compliance Branch

Division de la responsabilisation et de la
performance du système de santé
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MEMORANDUM TO: Licensees, Long-Term Care (LTC) Homes

COPY TO: Administrators, LTC Homes
Directors of Nursing and Personal Care, LTC Homes

FROM: Tim Burns
Director
Performance Improvement and Compliance Branch

DATE: August 4, 2010

RE: Clarification of Mandatory and Critical Incident Reporting
Requirements

The *Long-Term Care Homes Act, 2007* (LTCHA) and O. Regulation (Reg.) 79/10 came into effect on July 1, 2010. The previous long-term care home Acts and the regulations under them have been repealed and revoked, respectively.

The purpose of this memorandum is to clarify:

- the Mandatory Reporting to the Director under section 24 (1) of the LTCHA;
- the Licensee's reports of its investigations under section 23 of the LTCHA of alleged, suspected or witnessed incidents of abuse or neglect of residents
- the Reporting of Critical Incidents under section 107 of O. Reg. 79/10, and;
- the actions to be taken by the Licensees or others in relation to the reporting requirements.

LTCHA Section 24 (1) - 'Reporting Certain Matters to the Director'

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 Director:

- Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident (LTCHA S. 24(1) 1).
- Abuse of a resident by anyone or neglect of a resident by the licensee or staff that resulted in harm or a risk of harm to the resident (LTCHA S. 24(1) 2).
- Unlawful conduct that resulted in harm or a risk of harm to a resident (LTCHA S. 24(1) 3.).
- Misuse or misappropriation of a resident's money (LTCHA S. 24(1) 4).
- Misuse or misappropriation of funding provided to a licensee under the Act or the *Local Health System Integration Act, 2006* (LTCHA S. 24(1) 5).

Table 1 in Appendix A, attached, highlights the actions to be taken by licensees or others in reporting the above matters.

LTCHA, section 23 – Licensee must investigate, respond and act & Reg., s. 104 – Licensees who report investigations under s. 23(2) of Act

The licensee is required to investigate alleged, suspected or witnessed incidents of abuse of a resident by anyone or neglect of a resident by the licensee or staff that are known by or reported to the licensee. (Please refer to the definitions of abuse and neglect set out in the LTCHA and Reg.) Appropriate action must be taken in response to these incidents. Licensees must report to the Director the results of the investigation and the actions taken in response **within 10 days** of the licensee becoming aware of the incident or at an earlier date if required by the Director. Section 104 of the Regulation sets out the requirements for the report to the Director. The on-line Mandatory Critical Incident System (MCIS) form may be used by licensees to forward the required report to the Director (see note at the bottom of Table 2).

Additional Clarification Regarding Reporting of Abuse of Residents:

In determining whether a mandatory report under section 24 relating to abuse of a resident is required or if section 23 applies, LTC Home licensees and staff should review the definitions of abuse set out in section 2(1) of the LTCHA and section 2 of the Regulation. In relation to the action of a resident towards another resident, the following definitions of abuse are relevant:

LTCHA, section 2(1):

“Abuse”, in relation to a resident, means physical, sexual, emotional, verbal or financial abuse, as defined in the regulations in each case”, **and**

Regulation, section 2, for example:

“**Emotional Abuse**” means:

(b) Any threatening or intimidating gestures, actions, behaviour or remarks by a resident that **causes alarm or fear to another resident** where **the resident performing the gestures, actions, behaviour or remarks understands and appreciates their consequences**;

“**Physical Abuse**” means:

(c) the use of physical force by a resident that causes **physical injury** to another resident;

“**Verbal Abuse**” means:

(b) any form of verbal communication of a threatening or intimidating nature made by a resident **that leads another resident to fear for his or her safety** where **the resident making the communication understands and appreciates its consequences**.

Under section 24 of the LTCHA, licensees are NOT required to report an assault on a staff member by a resident. There may be requirements to report these incidents to the Ministry of Labour

Reporting Critical Incidents

This reporting is outlined under section 107 of the Regulation.

Reg., s.107 (1) - report of critical incident immediately

The following critical incidents must be reported to the Director **immediately**, in as much detail as possible, followed by the written report referred to in s. 107 (4) – see Appendix B:

- An emergency, including loss of essential services, fire, unplanned evacuation, intake of evacuees or flooding.
- An unexpected or sudden death, including a death resulting from an accident or suicide.
- A resident who is missing for three hours or more.
- Any missing resident who returns to the home with an injury or any adverse change in condition regardless of the length of time the resident was missing.
- An outbreak of a reportable disease or communicable disease as defined in the *Health Protection and Promotion Act*.
- Contamination of the drinking water supply.

Reg., s. 107(2)

After normal business hours, the immediate report of the above incidents must be made using the Ministry's after hours emergency contact (i.e. pager).

Reg., s. 107(3) - report of critical incident within one business day

The following critical incidents must be reported to the Director within **one business day**, followed by the written report referred to in s. 107 (4) – see Appendix B:

- A resident who is missing for less than three hours and who returns to the home with no injury or adverse change in condition.
- An environmental hazard, including a breakdown or failure of the security system or a breakdown of major equipment or a system in the home that affects the provision of care or the safety, security or well-being of residents for a period greater than six hours.
- A missing or unaccounted for controlled substance.
- An injury in respect of which a person is taken to hospital.
- A medication incident or adverse drug reaction in respect of which a resident is taken to hospital.

The report under s. 107 (4) must be made within 10 days of the licensee becoming aware of the incident or at an earlier date if required by the Director. Table 2 in Appendix B, attached, highlights the actions to be taken by licensees or others in reporting critical incidents under both s. 107 (1) and (3).

Tables 1 and 2 summarize the reporting requirements for critical incidents, mandatory reporting under section 24 and reports of the licensee's investigations of abuse/neglect and actions taken under section 23

If you have further questions related to this memorandum, please contact your Service Area Office.
Thank you for your attention to this matter.

Sincerely,



Tim Burns, Director
Performance Improvement and Compliance Branch

- c: Ken Deane, ADM, Health System Accountability & Performance Division, MOHLTC
Donna Rubin, CEO, OANHSS
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Appendix A: TABLE 1: LTCHA Section 24 (1) - Reporting Certain Matters to the Director

Type of Incident in LTC home	Section of the LTCHA	Action to be taken by LTC Home to notify MOHLTC		Reporting Time Frame
		Monday - Friday 8 a.m. - 5 p.m.	All other times and Statutory holidays	
Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident	LTCHA S. 24(1) 1.	Immediately initiate the on-line Mandatory Critical Incident System (MCIS) form using the mandatory report section	Phone the After Hours Pager #	Immediately upon becoming aware of the incident
Abuse of a resident by anyone or neglect of a resident by the licensee or staff that resulted in harm or a risk of harm to the resident*	LTCHA S. 24(1) 2.	Immediately initiate the on-line MCIS form using the mandatory report section	Phone the After Hours Pager #	Immediately upon becoming aware of the incident
Unlawful conduct that resulted in harm or a risk of harm to a resident	LTCHA S. 24(1) 3.	Immediately initiate the on-line MCIS form using the mandatory report section	Phone the After Hours Pager #	Immediately upon becoming aware of the incident
Misuse or misappropriation of a resident's money	LTCHA S. 24(1) 4.	Immediately initiate the on-line MCIS form using the mandatory report section	No after-hours reporting requirement	Immediately upon becoming aware of the incident
Misuse or misappropriation of funding provided to a licensee under the LTCHA or the Local Health System Integration Act, 2006.	LTCHA S. 24(1) 5.	Immediately initiate the on-line MCIS form using the mandatory report section	No after-hours reporting requirement	Immediately upon becoming aware of the incident

- ***Please ensure that the staff person reporting abuse of a resident has reviewed the definitions of abuse set out in the LTCHA, section 2(1) and the Regulation, section 2**
- **Any person who is aware of an incident that must be reported to the Director under S. 24(1) of the LTCHA, 2007 and who does not have access to the home's critical incident reporting system should report using the toll-free Action Line # at 1-866-434-0144.**

Appendix B: TABLE 2: Critical Incident Reporting under O. Reg. 79/10 s. 107 (1) and (3)

Type of Incident in LTC home	Section of O. Reg. 79/10	Action to be taken by LTC Home to notify MOHLTC		Reporting Time Frame
		Monday - Friday 8 a.m. - 5 p.m.	All other times and Statutory holidays	
An emergency, including loss of essential services, fire, unplanned evacuation, intake of evacuees or flooding	S. 107 (1)1.	Immediately initiate the on-line Mandatory Critical Incident System (MCIS) form	Phone the After Hours Pager #	Immediately upon becoming aware of the incident; full report within 10 days of becoming aware of the incident*
An unexpected or sudden death, including a death resulting from an accident or suicide.	S. 107 (1) 2	Immediately initiate the on-line MCIS form	Phone the After Hours Pager #	Immediately upon becoming aware of the incident; full report within 10 days of becoming aware of the incident
A resident who is missing for three hours or more.	S. 107 (1) 3.	Immediately initiate the on-line MCIS form	Phone the After Hours Pager #	Immediately upon becoming aware of the incident; full report within 10 days of becoming aware of the incident
Any missing resident who returns to the home with an injury or any adverse change in condition regardless of the length of time the resident was missing.	S. 107 (1) 4.	Immediately initiate the on-line MCIS form	Phone the After Hours Pager #	Immediately upon becoming aware of the incident; full report within 10 days of becoming aware of the incident
An outbreak of a reportable disease or communicable disease as defined in the Health Protection and Promotion Act.	S. 107 (1) 5.	Immediately initiate the on-line MCIS form	Phone the After Hours Pager #	Immediately upon becoming aware of the incident; full report within 10 days of becoming aware of the incident

Type of Incident in LTC home	Section of O. Reg. 79/10	Action to be taken by LTC Home to notify MOHLTC		Reporting Time Frame
		Monday - Friday 8 a.m. - 5 p.m.	All other times and Statutory holidays	
Contamination of the drinking water supply.	S. 107 (1) 6.	Immediately initiate the on-line MCIS form	Phone the After Hours Pager #	Immediately upon becoming aware of the incident; full report within 10 days of becoming aware of the incident
A resident who is missing for less than three hours and who returns to the home with no injury or adverse change in condition.	S. 107 (3) 1.	Initiate the on-line MCIS form	No after-hours reporting requirement	Within one business day of becoming aware of the incident; full report within 10 days of becoming aware of the incident
An environmental hazard, including a breakdown or failure of the security system or a breakdown of major equipment or a system in the home that affects the provision of care or the safety, security or well-being of residents for a period greater than six hours.	S. 107 (3) 2	Initiate the on-line MCIS form	No after-hours reporting requirement	Within one business day of becoming aware of the incident; full report within 10 days of becoming aware of the incident
A missing or unaccounted for controlled substance.	S. 107 (3) 3	Initiate the on-line MCIS form	No after-hours reporting requirement	Within one business day of becoming aware of the incident; full report within 10 days of becoming aware of the incident
An injury in respect of which a person is taken to hospital.	S. 107 (3) 4	Initiate the on-line MCIS form	No after-hours reporting requirement	Within one business day of becoming aware of the incident; full report within 10 days of becoming aware of the incident
A medication incident or adverse	S. 107 (3) 5	Initiate the on-line MCIS	No after-hours	Within one business day of

Type of Incident in LTC home	Section of O. Reg. 79/10	Action to be taken by LTC Home to notify MOHLTC		Reporting Time Frame
		Monday - Friday 8 a.m. - 5 p.m. form	All other times and Statutory holidays reporting requirement	
drug reaction in respect of which a resident is taken to hospital.				becoming aware of the incident; full report within 10 days of becoming aware of the incident

Please note that the Mandatory Critical Incident System form can also be used to report the results of the investigation undertaken by the licensee under Section 23 (1) of the Act with respect to an alleged, suspected or witnessed incident of abuse of a resident by anyone and neglect of a resident by the licensee or staff.

** The full report under s. 107 (4) must be made within 10 days of the licensee becoming aware of the incident or at an earlier date if required by the Director.*