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UPDATE ON THE GENERAL REGULATION UNDER THE *LONG-TERM CARE HOMES ACT, 2007*

The Community and Health Services Committee recommends the adoption of the recommendations contained in the following report dated May 19, 2010, from the Commissioner of Community and Health Services.

1. RECOMMENDATIONS

It is recommended that:

1. This report be circulated to the Central Local Health Integration Network and Ministry of Health and Long-Term Care.
2. Staff be directed to bring forward a detailed impact analysis in the Fall 2010 supported by an implementation plan to ensure the Region is in compliance with the Regulations under the *Long-Term Care Homes Act, 2007*.

2. PURPOSE

This report provides Regional Council with information concerning the new *Long-Term Care Homes Act, 2007* (the Act) and Ontario Regulation 79/10 (the Regulation), a general Regulation made under this Act. While the homes are compliant and often exceed expectations with current Acts and Regulations, there are many operational and financial implications with the new Act and Regulations that will require consideration for future budget and business planning.

3. BACKGROUND

The *Long-Term Care Homes Act, 2007* comes into force July 1, 2010

The *Long-Term Care Homes Act, 2007* comes into force on July 1, 2010 and Ontario Regulation 79/10 will also come into effect on this date. The Act will replace the current legislation governing long-term care homes ("homes"); the *Nursing Homes Act*; the *Homes for the Aged and Rest Homes Act*; and the *Charitable Institutions Act*. It also replaces the Long-Term Care Homes Program manual that currently sets out standards for long-term care home operations. The Act seeks to strengthen and improve care for long-term care residents in Ontario by setting out many specific requirements with respect to the operation of long-term care homes. As some aspects of the legislation tend to be overly prescriptive there may be a significant increase in administrative requirements for the homes.

The new legislation does not respond to the concerns expressed by York Region and numerous professional associations

The Ministry of Health and Long-Term Care (the Ministry) held public consultations with providers in 2009. A number of professional associations expressed their concerns with the proposed regulations. Regional staff participated in consultations with the Association of Municipalities of Ontario (AMO) and the Ontario Association of Non-Profit Homes and Services for Seniors and supported the feedback that these associations submitted to the Ministry. AMO had taken the position that many of the provisions were very prescriptive and as a result placed many administrative and reporting demands on municipal homes. The Regional Chair also sent a letter to the Minister which set out the Region's concerns as well as our support for the position voiced by AMO. The Act and Regulation that comes into effect July 1, 2010 is essentially unchanged from the 2009 drafts and contains many prescriptive provisions with respect to the operation of the Region's long-term care homes

4. ANALYSIS AND OPTIONS

The *Long-Term Care Homes Act, 2007* and Regulation places new requirements on long-term care homes

While the Act provides a basic regulatory framework for long-term care, the Regulation provides detailed operational requirements that must be implemented. The final draft of the Regulation was made available to the public on e-laws on March 31, 2010. The Act and Regulation impose additional and potential costly requirements above those that exist in the current legislation, in the following areas:

- Staff qualifications
- Staff training
- Administration
- Building, furniture, and equipment

The legislation sets out specific qualifications for the long-term care home's staffing positions

The Regulation under the Act sets out specific qualifications for staff employed in a home. As a result, the Region must complete a review of all staffing positions to ensure compliance with increased educational expectations. Specific qualifications and the increased requirements for Administrators, Personal Support Workers, Dietitians and Maintenance/Housekeeping staff, etc. will make recruitment very competitive across the sector, and will also limit existing employees in their own career development and growth. It is apparent that the shift is now towards formal credentialing and education versus experience or a combination of education and experience.

The legislation requires that training programs be revised and regularly reviewed and a designated lead be assigned

The Act dictates that every home must ensure that an extensive training program is developed and implemented by a designated lead in areas such as:

- The residents' rights.
- The long-term care home's mission statement.
- Abuse policy to promote zero tolerance of abuse against residents.
- The home's policy to minimize the restraining of residents.
- All Acts, Regulations, and policies of the Ministry that are relevant to the person's responsibilities.
- Infection control and others.

Further, the Act requires that the home provide additional training to staff who provide direct care to residents in the areas of:

- Abuse recognition and prevention
- Mental health issues
- Behaviour management
- How to minimize restraints
- Palliative care
- Skin and wound care
- Continence care and others

The Regulation requires the home to assess the staff training immediately and update it, if necessary, with evidenced based practices. While the majority of these training programs are currently implemented and meet current Regulations, all programs need to be reviewed and revised to reflect all aspects of the new Regulations. Also, the inclusion of a designated lead will increase costs.

The legislation contains 60 provisions that increase the administrative requirements on homes

The legislation provides for increased administrative requirements for homes, including additional documentation and record keeping in a number of areas. Overall, there are over 60 provisions for written documentation resulting in an increased administrative burden on staff.

The Act calls for increased documentation for such programs as nursing and personal support services, restorative care, dietary services and hydration, recreational and social activities, medical services, accommodation services and others. Specifically, there must be a written description of all programs which includes goals and objectives and relevant policies, procedures and protocols and provides for methods to reduce and monitor outcomes, including protocols for the referral of residents to specialized resources when

required. Programs must be updated at least annually in accordance with evidence based practices and, if there are none, in accordance with prevailing practices. The home must keep a record of the individuals who reviewed the programs along with the changes made to the programs, if any, and the date that the changes were implemented.

The legislation dictates building standards for long-term care homes

The Regulation sets out specific standards with respect to building aspects, including but not limited to, elevators, windows, doors, floor space, furnishings, and laundry facilities. For example, long-term care homes must ensure that any elevators in the home are equipped to restrict resident access to areas that are not to be accessed by residents. This requirement must be met by July 1, 2011; however, most provisions related to building requirements come into effect on July 1, 2010. Staff will be reviewing these provisions in detail to evaluate any deficiencies and develop and implement a plan for compliance.

Failure to comply with the Act could lead to revocation of operating license

Under the *Municipal Act, 2001* the Region is required to operate a long-term care home and did not require a license to operate but instead received the designation of approved beds from the Ministry. However, under the new Act, the Region will receive a license to operate its two long-term care homes. The failure to comply with legislation could result in the Region's license to operate being revoked. Should the Ministry revoke a license, the Region is entitled to appeal the decision to the Health Services Appeal and Review Board.

5. FINANCIAL IMPLICATIONS

The Region already exceeds its cost sharing commitments and invests approximately \$11.5 million a year of municipal resources in the provincial long-term care system through the funding and operation of its two long-term care homes.

Additional resources will be required to comply with the Act, but at this early date, the full financial obligation is not known. These increased operational and capital costs will be identified in a detailed impact analysis and implementation plan in the Fall of 2010.

The Ministry has announced \$30 million in funding to assist homes and the Ministry to implement the changes. York's share of this transition funding has not yet been determined.

6. LOCAL MUNICIPAL IMPACT

The Region's long-term care homes are a valuable community asset and are home to 232 vulnerable residents. Local residents benefit from the Region's current enhancements to the quality of life of its long-term care residents as demonstrated by the admission wait

list at each of the Region's two long-term care homes. However, in order to comply with the Act, the Region will require additional funding to cover the increased administrative functions to sustain the current level of care provided in the Newmarket and Maple Health Centres.

7. CONCLUSION

Ontario's *Long-Term Care Homes Act, 2007* and Ontario Regulation 79/10 will increase the operational workload in the Region's two long-term care homes. Additional resources will be required to ensure the Region is in compliance with the legislation in order to retain its licenses to provide long-term care beds to York Region residents.

For more information on this report, please contact Sylvia Patterson, General Manager of Housing and Long Term Care at Ext. 2091.

The Senior Management Group has reviewed this report.