

Health System Accountability and
Performance Division
Performance Improvement and
Compliance Branch

1075 Bay Street, 11th Floor
Toronto ON M5S 2B1
Telephone: (416) 212-2362
Fax: (416) 327-7603

Division de la responsabilisation et de la
performance du système de santé
Direction de l'amélioration de la
performance
et de la conformité

1075, rue Bay, 11^e étage
Toronto ON M5S 2B1
Téléphone : (416) 327-7461
Télécopieur : (416) 327-7603

HLTC2980IT-2015-206

FEB 12 2015

DATE:

MEMORANDUM TO: Long-Term Care Home Licensees
Long-Term Care Home Administrators

FROM: Nancy Lytle
Director
Performance Improvement and Compliance Branch

RE: **Clarification of Mandatory and Critical Incident Reporting
Requirements**

The *Long-Term Care Homes Act, 2007* (LTCHA) and Ontario Regulation 79/10 (Regulation) contain mandatory and critical incident reporting requirements for licensees. The purpose of this memorandum is to identify the form in which the Director requires that every licensee submit these reports to the Director. Licensees are required to submit the reports identified in this memorandum in the form set out in this memorandum and its appendices pursuant to subsection 88(2) of the LTCHA. This memo:

- updates the memorandum dated August 4, 2010 from Tim Burns, former Director, by clarifying the reporting of Critical Incidents under section 107 of the Regulation, along with a reminder of the mandatory reporting requirements to the Director under subsection 24(1) of the LTCHA;
- is a reminder of the licensee's obligation to report its investigations of alleged, suspected or witnessed incidents of abuse or neglect of residents under section 23 of the LTCHA; and
- is a reminder of the actions to be taken by licensees or others in relation to the reporting requirements, including the timeframe of the final report under subsection 104(3) of the Regulation, as previously outlined in the memorandum of March 28, 2012, from Karen Slater, former Director (A).

This memorandum contains a summary of the specified reporting requirements in the LTCHA and its Regulation. Please refer to the LTCHA and the Regulation for the complete requirements.

It is the licensee's responsibility to ensure that this information is provided to all staff who are expected to report on the licensee's behalf.

LTCHA, Subsection 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 is based to the Director:

1. Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident.
2. 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.
3. Unlawful conduct that resulted in harm or a risk of harm to a resident.
4. Misuse or misappropriation of a resident's money.
5. Misuse or misappropriation of funding provided to a licensee under the Act or the *Local Health System Integration Act, 2006*.

How to Report Under Section 24

TABLE 1 in Appendix A, attached, sets out how licensees, including those individuals reporting on behalf of a licensee, must submit mandatory reports under section 24 of the LTCHA to the Director.

LTCHA, section 23 – Licensee must investigate, respond and act; and Regulation, section 104 – Licensees who report investigations under subsection 23(2) of the 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 (see section 23 of the LTCHA). (Please refer to the definitions of abuse and neglect set out in subsection 2(1) of the LTCHA and section 2 of the Regulation.) Appropriate action must be taken in response to these incidents. The licensee must report to the Director the results of the investigation and the action(s) taken. This report to the Director must be in writing and section 104 of the Regulation sets out what information must be included in the report. Licensees must submit this report to the Director within 10 days of the licensee becoming aware of the incident or at an earlier date if required by the Director. If the licensee cannot provide all of the material mandated by subsection 104(1) then the licensee must submit a preliminary report to the Director within 10 days of the licensee becoming aware of the incident and must provide a final report within a period of time specified by the Director. In a separate memo dated March 28, 2012 the Director identified that the final report must be submitted in 21 days unless otherwise specified by the Director.

How to Report Under Section 23

Licensees must submit the reports required by section 23 of the LTCHA and section 104 of the Regulation through the on-line Critical Incident System (CIS) using the CIS form.

Additional Clarification Regarding Reporting of Abuse of Residents

In determining whether a mandatory report under section 24 relating to abuse or neglect of a resident is required, or if section 23 applies, LTC Home licensees and staff should review the definitions of abuse and neglect as set out in subsection 2(1) of the LTCHA and section 2 of the Regulation. The definitions in force as of the date of this memo are outlined below.

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, (1)

“emotional abuse” means,

- (a) any threatening, insulting, intimidating or humiliating gestures, actions, behaviour or remarks, including imposed social isolation, shunning, ignoring, lack of acknowledgement or infantilization that are performed by anyone other than a resident, or

(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

“financial abuse” means any misappropriation or misuse of a resident’s money or property;

“physical abuse” means, subject to subsection (2),

- (a) the use of physical force by anyone other than a resident that causes physical injury or pain,
- (b) administering or withholding a drug for an inappropriate purpose, or
- (c) the use of physical force by a resident that causes physical injury to another resident

***Note:** “physical abuse” is this subsection does not include the use of force that is appropriate to the provision of care or assisting a resident with activities of daily living, unless the force used is excessive in the circumstances. Regulation s. 2 (2).*

“sexual abuse” means,

- (a) subject to subsection (3), any consensual or non-consensual touching, behaviour or remarks of a sexual nature or sexual exploitation that is directed towards a resident by a licensee or staff member, or
- (b) any non-consensual touching, behaviour or remarks of a sexual nature or sexual exploitation directed towards a resident by a person other than a licensee or staff member

***Note:** Sexual abuse in this subsection does not include,*
(a) touching, behaviour or remarks of a clinical nature that are appropriate to the provision of care or assisting a resident with activities of daily living; or
(b) consensual touching, behaviour or remarks of a sexual nature between a resident and a licensee or staff member that is in the course of a sexual relationship that began before the resident was admitted to the long-term care home or before the licensee or staff member became a licensee or staff member. Regulation s. 2 (3).

“verbal abuse” means,

- (a) any form of verbal communication of a threatening or intimidating nature or any form of verbal communication of a belittling or degrading nature which diminishes a resident’s sense of well-being, dignity or self-worth, that is made by anyone other than a resident, or
- (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.

“neglect” means the failure to provide a resident with the treatment, care, services or assistance required for health, safety or well-being, and includes inaction or a pattern of inaction that jeopardizes the health, safety or well-being of one or more residents.

Under section 24 of the LTCHA, licensees are NOT required to report an assault on a staff member by a resident. Although licensees may not have to report these incidents under the LTCHA, licensees may be required to, or should report these incidents to other persons or entities, such as the Ministry of Labour or the police.

Reporting Critical Incidents

This reporting is outlined under section 107 of the Regulation.

Regulation, subsection 107(1) – report of critical incident immediately

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

1. An emergency, including fire, unplanned evacuation or intake of evacuees.
2. An unexpected or sudden death, including a death resulting from an accident or suicide.
3. A resident who is missing for three hours or more.
4. 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.
5. An outbreak of a reportable disease or communicable disease as defined in the Health Protection and Promotion Act.
6. Contamination of the drinking water supply.

Regulation, subsection 107(3) – report of critical incident within one business day

The following critical incidents in the home must be reported to the Director within one business day after occurrence of the incident, followed by the written report referred to in subsection 107(4) – refer to Appendix B:

1. A resident who is missing for less than three hours and who returns to the home with no injury or adverse change in condition.
2. An environmental hazard that affects the provision of care or the safety, security or well-being of one or more residents for a period greater than six hours, including: a breakdown or failure of the security system; a breakdown of major equipment or a system in the home; a loss of essential services, or flooding.
3. A missing or unaccounted for controlled substance.
4. Subject to subsection (3.1), an incident that causes an injury to a resident for which the resident is taken to a hospital and that results in a significant change in the resident's health condition.
5. A medication incident or adverse drug reaction in respect of which a resident is taken to hospital.

Regulation, subsection 107(2) - reports

For reporting purposes, the Ministry's normal business hours are 8:30 a.m. - 4:30 p.m. After normal business hours, the immediate report of the incidents listed in subsection 107(1) of the Regulation must be made using the Ministry's after hours emergency contact (i.e. 1-800-268-6060 Spills Action Centre (SAC) pager). This pager number is only to be used by LTC Home licensee/staff and only for purposes of after-hours reporting on behalf of the licensee.

Where the licensee is required to report a critical incident to the Director under subsections 107(1), (3) and (3.1), the licensee must make a report in writing to the Director within 10 days of the licensee becoming aware of the incident or at an earlier date if required by the Director. This report must include all of the information set out in subsection 107(4) of the Regulation. The licensee must submit this report to the Director using the on-line Critical Incident System form.

Summary of the Regulation Amendments Affecting Critical Incident Reporting, Effective September 15, 2013

The Regulation was amended to remove "loss of essential services" and "flooding" from the list of emergencies that must be reported immediately. These incidents were added to the list of environmental hazards that must be reported within one business day.

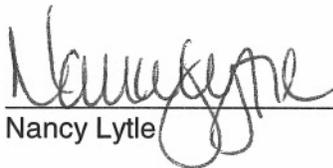
The reporting requirements for environmental hazards were clarified so that the reporting requirements apply to incidents that affect the provision of care or the safety, security or well-being of one or more residents of a LTC home, for a period greater than six hours.

The reporting requirements related to injuries were amended so that reporting is only required no later than one business day after the occurrence of an incident that causes an injury to a resident for which the resident is taken to a hospital and that results in a **significant change** in the resident's health condition. The term "significant change" is defined in the Regulation (see subsection 107(7) of the Regulation). If the LTC home licensee is unable within one business day to determine whether the injury has resulted in a significant change in the resident's health condition, the licensee must contact the hospital within three calendar days after the incident to determine whether the injury resulted in a significant change (see subsection 107(3.1) of the Regulation). If the licensee finds out that the injury has resulted in a significant change in the resident's health condition or the licensee remains unable to determine whether this is the case, the licensee must inform the Ministry of the incident no later than three business days after the incident occurred. The licensee must follow with the report required under subsection 107(4).

How to Report Under Section 107

TABLE 2 in Appendix B, attached, sets out how the licensee, and others on behalf of the licensee, must submit to the Director the reports required by section 107 of the Regulation.

If you have further questions related to this memorandum, please email your question to CIATTgeneral.MOH@ontario.ca with the subject line "**CIS Reporting Question**". Thank you for your attention to this matter.



Nancy Lytle

Attachment

- c: Chief Executive Officers, Local Health Integration Network
 - Candace Chartier, Chief Executive Officer, Ontario Long Term Care Association
 - Donna Rubin, Chief Executive Officer, Ontario Association of Non-Profit Homes and Services for Seniors
 - Valerie Bowering, Supervisor Spills Action Centre, Ministry of the Environment and Climate Change
 - Kathryn McCulloch, Director, Local Health Integration Network Liaison Branch, Ministry of Health and Long-Term Care

Appendix A: TABLE 1: LTCHA Subsection 24(1) – Reporting Certain Matters to the Director

| Type of Incident in LTC Home | Section of the LTCHA | How Licensee must submit report to MOHLTC (Director) | | Reporting Time Frame |
|--|----------------------|---|--|--|
| | | Monday-Friday 8:30 a.m. – 4:30 p.m. | All other times (including 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 and submit the on-line Critical Incident System (CIS) form identifying this as a 'Mandatory Report'. | Phone the After Hours Pager # 1-800-268-6060 | Immediately upon having reasonable grounds to suspect this has occurred or may occur |
| 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 and submit the on-line CIS form identifying this as a 'Mandatory Report'. | Phone the After Hours Pager # 1-800-268-6060 | Immediately upon having reasonable grounds to suspect this has occurred or may occur |
| Unlawful conduct that resulted in harm or a risk of harm to a resident | LTCHA s.24(1)3. | Immediately initiate and submit the on-line CIS form identifying this as a 'Mandatory Report'. | Phone the After Hours Pager # 1-800-268-6060 | Immediately upon having reasonable grounds to suspect this has occurred or may occur |
| Misuse or misappropriation of a resident's money | LTCHA s.24(1)4. | Immediately initiate and submit the on-line CIS form identifying this as a 'Mandatory Report'. | Same as Monday-Friday | Immediately upon having reasonable grounds to suspect this has occurred or may occur |
| Misuse or misappropriation of funding provided to a licensee under this Act or the <i>Local Health System Integration Act, 2006</i> | LTCHA s.24(1)5. | Immediately initiate and submit the on-line CIS form identifying this as a 'Mandatory Report'. | Same as Monday-Friday | Immediately upon having reasonable grounds to suspect this has occurred or may occur |

- **Please ensure that the staff person reporting abuse of a resident has reviewed the definitions of abuse set out in the LTCHA, subsection 2(1) and the Regulation, section 2.*

- Any person who is aware of an incident that must be reported to the Director under subsection 24(1) of the LTCHA, 2007 and who does not have access to the home's critical incident reporting system (and who is not reporting on behalf of the licensee) 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 subsections 107(1), (3), (3.1), and (7)

| Type of Incident in LTC Home | Section of O Reg 79/10 | How Licensee must submit report to MOHLTC (Director) | | Reporting Time Frame |
|---|------------------------|--|---|--|
| | | Monday-Friday 8:30 a.m. – 4:30 p.m. | All other times (including Statutory holidays) | |
| An emergency, including fire, unplanned evacuation or intake of evacuees. | s.107(1)1. | Immediately initiate and submit the on-line Critical Incident System (CIS) form identifying this as a 'Critical Incident'. | Phone the After Hours Pager # 1-800-268-6060 | Immediately; 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 and submit the on-line CIS form identifying this as a 'Critical Incident'. | Phone the After Hours Pager # 1-800-268-6060 | Immediately; 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 and submit the on-line CIS form identifying this as a 'Critical Incident'. | Phone the After Hours Pager # 1-800-268-6060 | Immediately; 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 and submit the on-line CIS form identifying this as a 'Critical Incident'. | Phone the After Hours Pager # 1-800-268-6060 | Immediately; full report within 10 days of becoming aware of the incident* |
| An outbreak of a reportable disease or communicable disease as defined in the <i>Health Protection and Promotion Act</i> . | s.107(1)5. | Immediately initiate and submit the on-line CIS form identifying this as a 'Critical Incident'. | Phone the After Hours Pager # 1-800-268-6060 | Immediately; full report within 10 days of becoming aware of the incident* |
| Contamination of the drinking water supply. | s.107(1)6. | Immediately initiate and submit the on-line CIS form identifying this as a 'Critical Incident'. | Phone the After Hours Pager # 1-800-268-6060 | Immediately; full report within 10 days of becoming aware of the incident* |

| Type of Incident in LTC Home | Section of O Reg 79/10 | How Licensee must submit report to MOHLTC (Director) | | Reporting Time Frame |
|---|------------------------|---|---|---|
| | | Monday-Friday 8:30 a.m. – 4:30 p.m. | All other times (including Statutory holidays) | |
| 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 and submit the on-line CIS form identifying this as a 'Critical Incident'. | Same as Monday-Friday | Within one business day of the incident; full report within 10 days of becoming aware of the incident* |
| An environmental hazard that affects the provision of care or the safety, security or well-being of one or more residents for a period greater than six hours, including: <ul style="list-style-type: none"> • A breakdown or failure of the security system • A breakdown of major equipment or a system in the home • A loss of essential services, or • flooding | s.107(3)2. | Initiate and submit the on-line CIS form identifying this as a 'Critical Incident'. | Same as Monday-Friday | Within one business day 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 and submit the on-line CIS form identifying this as a 'Critical Incident'. | Same as Monday-Friday | Within one business day of the incident; full report within 10 days of becoming aware of the incident* |
| Subject to subsection (3.1) [see below], an incident that causes an injury to a resident for which the resident is taken to a hospital and that results in a significant change** in the resident's health condition. | s.107(3)4. | Initiate and submit the on-line CIS form identifying this as a 'Critical Incident'. | Same as Monday-Friday | Within one business day of the incident, or within 3 calendar days if unable within 1 business day to determine whether injury caused a significant change** ; full report within 10 days of becoming aware of the incident** |
| A medication incident or adverse drug reaction in respect of which a resident is taken to hospital. | s.107(3)5. | Initiate and submit the on-line CIS form identifying this as a 'Critical Incident'. | Same as Monday-Friday | Within one business day of the incident; full report within 10 days of becoming aware of the incident* |

* Using the Critical Incident System, the full report under subsection 107(4) of the Regulation must be made within 10 days of the licensee becoming aware of the incident or at an earlier date if required by the Director.

****** In section 107 of the Regulation, “**significant change**” means a major change in the resident’s health condition that,

- (a) will not resolve itself without further intervention,
- (b) impacts on more than one aspect of the resident’s health condition, and
- (c) requires an assessment by the interdisciplinary team or a revision to the resident’s plan of care. [s.107(7)]

Regulation, subsection 107 (3.1):

Where an incident occurs that causes **an injury to a resident for which the resident is taken to a hospital**, but the licensee is unable to determine within one business day whether the injury has resulted in a significant change in the resident’s condition, the licensee shall,

- Contact the hospital within three calendar days after the occurrence of the incident to determine whether the injury has resulted in a significant change in the resident’s health condition; and
- Where the licensee determines that the injury has resulted in a significant change in the resident’s health condition or remains unable to determine whether the injury has resulted in a significant change in the resident’s health condition, inform the Director of the incident no later than three business days after the occurrence of the incident, and follow with the report required under subsection (4) [s. 107(3.1)]

Regulation, subsection 107(2) – reporting after hours

Normal business hours of CIATT are 8:30 a.m. - 4:30 p.m. After normal business hours, the immediate report of the above incidents must be made using the Ministry’s after-hours emergency contact (i.e. 1-800-268-6060 Spills Action Centre (SAC) pager). **This pager number is only to be used by LTC Home licensee/staff and only for purposes of after-hours reporting.**