

Fixing Long-term Care Act, 2021- Phase 1 Regulations Briefing Note

February 7th, 2022

On January 18th, the MLTC released the proposed Phase 1 Regulation under the *Fixing Long-Term Care Act, 2021*, for feedback until February 17, 2022.

Regulations will be developed in stages. The first phase of regulation development (Phase 1) is focused on those provisions that are required to operationalize key components of the Act coming into force in April 2022, such as:

1. Emergency planning
2. Quality of care
3. Resident safety
4. Staffing
5. Accountability, enforcement, and transparency.

This approach means that many provisions from Ontario Regulation 79/10 will be carried forward to form part of the proposed regulation, however there are key changes being introduced through the proposed Phase 1 regulations, as follows:

- Enhancing emergency planning requirements to support greater sector preparedness in the event of an emergency, including outbreaks, epidemics, and pandemics.
- Defining “caregiver” and requiring all LTC homes to have a visitor policy that respects the Resident Bill of Rights and ensures that caregivers continue to have access to LTC during an outbreak.
- Requiring that integration of a palliative care philosophy include a holistic and comprehensive assessment of a resident’s needs and when needed, improvements to a resident’s quality of life, symptom management, psychosocial supports and end-of-life care, subject to a resident’s consent.
- Expanding and clarifying IPAC roles and requirements to improve resident safety and quality of life.
- Defining the calculation method for direct care targets as part of the commitment of an average of four hours of care per resident per day.
- Clarifying the roles/responsibilities of medical directors to improve oversight.
- Adding additional protection for whistleblowers.
- Addressing the amounts and criteria for issuing administrative monetary penalties as deterrents for non-compliance with the Act.

The second phase of regulation development (Phase 2) anticipated later in the year will focus on elements that require more focused consultation with residents, families, home operators, and other experts and/or more time to build operational capacity to support their implementation.

MLTC has estimated that the average annual direct compliance costs for all long-term care homes in Ontario are between \$20M to \$23.5M, or approximately \$36K on average for each long-term care home per annum. This estimate is likely very low, and consultations will inform a likely higher financial impact for homes.

Unless the final regulation contains a commencement provision, the regulations will come into force on the date they are filed, and licensees must comply with them as of that date (although the Ministry can decide whether and to what extent to inspect or monitor for compliance in early stages).

Certain provisions give the licensee additional time to comply with a provision, for example:

1. Cooks (82)
2. IPAC lead certification (102)
3. Establishing the continuous quality improvement committee (166)
4. Medical Director course (252)
5. Screening (253, 257)
6. Website (272)

All of the regulatory changes included in this phase have been outlined in the accompanying chart, and the most consequential changes are in red for quick reference.

AdvantAge Ontario will be consulting with members, advisory groups, and the Board of Directors in order to inform our submission to the Regulatory Registry for February 17th, and will be accepting feedback until February 14th.