

KEY FACTS TO KNOW ABOUT RETIREMENT HOMES

The role of the Retirement Homes Regulatory Authority (RHRA) is to protect the rights and wellbeing of seniors living in retirement homes. This information provides key facts to assist hospitals, health care providers, administrators and discharge planners supporting patients and residents in retirement homes.

Did you know?

Only licensed retirement homes are covered under the *Retirement Homes Act, 2010 (RHA)*.

Retirement homes that meet the definition in the RHA are required to be licensed to operate as a retirement home. The RHA defines a retirement home as:

- A residential complex, or part of a residential complex that is:
 - occupied **primarily by persons** who are **65 years** of age or older, AND
 - occupied or intended to be occupied by **at least six persons** not related to the operator, AND
 - where the operator makes **at least two care services** (listed in the RHA and its regulation, O.Reg. 166/11) available to residents.

The term “retirement home” is not a protected title. Some unlicensed homes may refer to themselves as retirement homes. Some licensed homes don’t use retirement home in their title, and may refer to themselves as seniors living, manor, residence, etc.

Check the Public Register at www.rhra.ca to find out if a home is licensed; the care services offered; and its status in meeting the requirements in the RHA.

Note: There are some exemptions to the definition: premises or parts of premises governed or funded by other legislation (e.g., Homes for Special Care Act, Public Hospitals Act); or programs (i.e. supportive housing and Community Homelessness Prevention Initiative. For full details see the RHA and its regulation.

Retirement home care services - what homes can offer residents

Each retirement home **chooses** at least two of the following **13 care services** listed in the RHA and regulation that it makes available to all of its residents:

- Assistance with bathing
- Assistance with personal hygiene
- Assistance with ambulation
- Assistance with feeding
- Provision of skin and wound care
- Continence care
- Administration of drugs or another substance
- Provision of a meal
- Dementia care program

- Assistance with dressing
- Any service that a member of the Ontario College of Pharmacists provides while engaging in the practice of pharmacy
- Any service that a member of the College of Physicians and Surgeons of Ontario provides while engaging in the practice of medicine
- Any service that a member of the College of Nurses of Ontario provides while engaging in the practice of nursing

If a retirement home offers a care service, it must meet minimum care standards and requirements in the RHA, including ensuring staff are properly trained.

Residents have the **choice** to purchase a care service from the retirement home if offered or to access external care (publicly funded, e.g. home and community care, or private pay) and these options must be allowed by a home.

Care services retirement homes cannot offer

The RHRA Public Register lists the care services offered by each home (licensed to provide). A home **cannot provide a care service** to a resident for which **it is not licensed to provide**. If a home decides to add a care service, it must update its licence for the care service with the RHRA and ensure that all standards of the care service are in place before providing the service to the resident.

Resident tenancy agreements in a retirement home

Retirement homes must have a written tenancy agreement with each resident that includes; a list of care services, meals and accommodation to be provided by the retirement home, and the cost the resident must pay for these services.

Written tenancy agreements are a requirement of the RHA, as well as the *Residential Tenancies Act, 2006* (RTA), which also governs retirement homes in Ontario. These two acts provide rights for seniors living in retirement homes.

The RTA governs the tenancy relationship between landlords (retirement homes) and tenants (residents), including rent, some matters relating to care services and privacy, and notice periods for terminating tenancy agreements. A resident who leaves the home temporarily, is still obligated to pay rent and for care services he or she has purchased from the home.

Returning to a retirement home from hospital

As a landlord, a retirement home cannot refuse a resident from returning to the home from hospital. However, before the resident returns to the retirement home from hospital, both the hospital and the retirement home have an obligation to ensure an appropriate plan of care is in place to meet all the care needs of the resident prior to the resident returning in order to prevent risk of harm to the resident.

If a retirement home can no longer meet a resident's care needs after a hospital stay, the home must provide information on the options available for the resident to obtain services they need, including:

- Purchasing additional services from the retirement home:
 - Each retirement home chooses which care services it makes available for purchase as outlined in the RHA.
 - The resident can purchase care services directly from the retirement home if offered and as outlined in the residential tenancy agreement.
- Applying for, or purchasing, services from an external care provider:
 - Publicly funded health care such as home and community care supports are available through the Local Health Integration Network (LHIN).
 - Care services can be purchased from a private service provider.
 - In either case, a retirement home cannot prevent or interfere with a resident seeking care or support from an external care provider of their choice.
- Alternatives to a retirement home:
 - Provide information about alternative accommodations e.g. other retirement homes offering care services required by resident.
 - If a resident's assessment indicates he or she may be eligible for long-term care, the retirement home must provide information about admission to a long-term care home.

If a retirement home is unable to meet the care needs, and is unable to find a solution with the resident or LHIN, the home may feel it must proceed with the eviction process. The *Residential Tenancies Act, 2006* (RTA) sets out the process and obligations the retirement home must follow. The RTA allows a home to apply to the Landlord and Tenant Board (LTB) “to transfer a tenant out of home” (i.e. eviction). The LTB will issue an eviction Order if it is satisfied that the home has proven it is not able to provide the level of care the resident requires (combined with community-based services), and that there is appropriate alternative accommodation available to the resident, elsewhere. For additional tools and resources on this topic please visit:

[http://www.sjto.gov.on.ca/documents/ltb/Brochures/Care%20Homes%20\(EN\).html](http://www.sjto.gov.on.ca/documents/ltb/Brochures/Care%20Homes%20(EN).html)
<http://www.cleo.on.ca/en/publications/carehome/eviction>

Coordination of care and information sharing

Health care professionals have long known that coordination is key to ensuring safe transitions of patients when their health needs change and they move back and forth between care settings.

Coordination and information sharing may be especially important in the retirement home setting, as retirement homes may not be informed about the full spectrum of the person’s care needs, given:

- Assessments – the home must ensure a resident is assessed but **only with his or her consent** (if the resident refuses to an assessment, the home is not authorized to conduct one); residents have the choice to have an assessment completed by the home or an external provider.
- Plans of care – must be created by the retirement home for each resident. The resident’s needs can be met through purchased care services directly from the home or from external providers (either private pay or publicly funded). The plan of care is to include: care services provided by home (details/goals); and only with resident consent, care services provided by external provider (details/goals).
- The home may or may not be aware of the full spectrum of resident care needs and external care services being provided, as this requires resident consent and disclosure, and could potentially result in gaps in the resident’s care needs.

Retirement homes, as defined by the Retirement Homes Act, are identified as a Health Information Custodians under the *Personal Health Information Protection Act* (PHIPA) Sec. 3(1) 4(ii).

Therefore, with the consent of the resident, a retirement home may share information with health system partners, and provide opportunity for coordination and development of integrated care plans to meet the resident's care needs.

Transition to a retirement home – sample checklist

Health care professionals and associations have developed tremendous resources and tools to support the safe transition of patients as they move back and forth between care settings (e.g. Ontario Hospital Association and the Ontario Association of Community Care Access Centres “Managing Transitions: A Guidance Document”).

Additional questions to consider specific to transitions to a retirement home include:

- Is there an appropriate plan of care in place which has been reviewed prior to transfer?
- Is there clear accountability of who is providing which care service to meet the resident’s needs before residency commences? For example: What has the retirement home committed to providing and what is the role of the LHIN?
- Can the retirement home provide the care services to which it has committed:
 - Does the home have the appropriate equipment (e.g., a two-person lift if required)?
 - Does the home offer, and is it licensed to provide the care service required? If not, what is the plan to provide it?
 - Is the resident able to afford to purchase care services from the home?
- Does the home have a short-term (e.g. less than 3 months) residential tenancy agreement in place, if the stay is not long-term?

Legal duty to report harm to the RHRA

Under the RHA, everyone, other than the retirement home resident, who sees or suspects a situation that harms or puts a resident at risk of harm, must report it to the RHRA. This is known as mandatory reporting, and includes:

- abuse or neglect of a resident;
- improper or incompetent treatment or care of a resident;
- unlawful conduct;
- misuse or misappropriation of a resident’s money.

Family members, substitute decision makers, retirement home (staff, contractors, etc.), visitors, all have the same obligation to help protect the resident. Regulated health professionals such as doctors, nurses and social workers must also report to the RHRA, even if the information is confidential.

Mandatory reports may be made anonymously. The RHA also provides whistle-blowing protections.

Reports should be made by calling **1-855-275-7472**.

Other important facts about the obligations of retirement homes

- The RHA requires homes to ensure the resident is assessed and that a plan of care is developed. Assessments can only be completed with resident consent; by the home or, if the resident wishes, an external care provider. An initial assessment is to be completed within two days of commencing residency (e.g., cognitive ability, risk of harm to self/others, risk of wandering) and a full assessment within 14 days (e.g., behavioural issues) and corresponding plans of care developed. There is the possibility that additional care service needs could be identified after the tenancy agreement is signed and residency commenced.
- The RHA requires every home to develop, implement and train direct staff on a written behaviour management strategy, that includes:
 - techniques to prevent and address resident behaviours that pose a risk to the resident or others in the home;
 - strategies for interventions to prevent and address resident behaviours that pose a risk to the resident or others in the home;
 - strategies for monitoring residents that have demonstrated behaviours that pose a risk to the resident or others in the home; and
 - protocols for how staff and volunteers shall report and be informed of resident behaviours that pose a risk to the resident or others in the home.
- The retirement home is required to have a behavior management strategy. However, offering a Dementia Care Program is a care service the retirement home may or may not provide.

The RHRA can help

If you have questions regarding retirement homes obligations and/or issues you'd like help to resolve, contact us.

For more information contact RHRA at:
Telephone: 1-855-ASK-RHRA (275-7472)
Fax: 416-487-1223
Email: info@rhra.ca