

## Information for Retirement Home Operators and Licensees: Managing Residents Transitioning from Hospital

The Retirement Homes Regulatory Authority (RHRA) protects the rights and wellbeing of seniors living in retirement homes. One of the ways we do this is by monitoring emerging issues affecting residents and working with operators, licensees and other care providers to ensure residents are safe and their care needs are met.

Retirement homes in Ontario are governed by the *Retirement Homes Act, 2010* (Act), as well as the *Residential Tenancies Act, 2006* (RTA). Therefore, operators and licensees have a dual role as operators and as landlords. These two Acts also protect the rights of seniors living in retirement homes in Ontario.

The information below provides answers to questions operators and licensees may have about residents transitioning back to their home from another setting such as a hospital.

### 1. If a hospital discharges a resident back to a retirement home and his or her care needs have changed what steps should be taken?

As a landlord, a retirement home cannot refuse a resident from returning to the home from hospital. However, before a resident returns to the retirement home from hospital, both the hospital and 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 to prevent risk of harm to the resident.

If a resident needs a higher level of care than previously, the home must provide information on the options available for the resident including:

- **Purchasing services from retirement home:**
  - The resident can purchase care services from the retirement home as outlined in the residential agreement.
- **Apply or purchase services from an external care provider:**
  - Publicly funded health care such as home and community care supports are available through Local Health Integration Networks.
  - There are options to purchase private care from a private service provider.
  - In both cases, a retirement home cannot prevent or interfere with a resident seeking external care providers of their choice.
- **Alternate Level of Care** - If a resident's assessment indicates they may be eligible for long-term care, the retirement home must provide information about applying to a long-term care home.

**2. To ensure there are no gaps in the resident’s care needs, can a retirement home share the resident’s personal health information with other health providers to assist in developing integrated care plans?**

Retirement homes, as defined by the Retirement Homes Act (RHA), are identified as 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 can share information with health system partners, which would allow for the development of integrated care plans to ensure there are no gaps in the resident’s care needs.

**3. If a patient is being discharged from hospital to a retirement home and his or her condition poses concerns regarding resident safety and staff safety what options does the retirement home have?**

See answer to question 1 and 8.

**4. Can a representative from the retirement home go to the hospital and assess the patient/resident before being discharged to ensure the home can meet the resident's needs?**

The retirement home can only assess the patient in the hospital if he/she provides formal consent to the assessment.

**5. If the resident needs to be transferred to a long-term care facility, shouldn't they remain in hospital instead of coming back to the home?**

The retirement home cannot refuse to allow the resident to return to the home before being transferred to a long-term care facility.

**6. Can the operator tell the hospital that a patient is no longer able to return to their home once they have been admitted to the hospital?**

No. The retirement home cannot refuse to allow the resident to return. Please see information from question 1.

**7. What does a retirement home need to coordinate with the hospital discharge planner before the patient is transferred to the home?**

- Ensure that the hospital discharge plan includes a patient assessment and plan of care to meet patient/resident care needs.
- The retirement home must become informed of the resident’s full spectrum of care needs Noting that:
  - Residents have choice on whether to have an assessment completed by an external provider. The home may only complete an assessment with resident consent.
  - Plans of care must be created by the retirement home for each resident. Ideally, this should be done as part of the discharge process to ensure the home can accommodate the resident's needs, either through purchased care services from the home or an external provider.

- Sharing personal health information requires resident consent.
- There needs to be clear accountability of who is providing which care service to meet resident's needs before the residency commences. Consider:
  - Is there an appropriate plan of care in place which has been reviewed prior to transfer?
  - What has the LHIN committed to delivering?
  - What is the retirement home providing?
  - Are there any gaps in care?
  - Are there mitigation strategies if the LHIN service provider doesn't show up at the home?
- Ensure the home can provide the care services to which it has committed:
  - Does the home have appropriate equipment to meet care needs, (e.g., two-person lift required)?
  - Does the home offer the care service? If not, what is the plan to provide it?
  - Can the resident afford to purchase care services from the home?
  - Does the home have a short-term residential agreement in place, if the stay is not long-term (i.e., it is short term for transitional reasons)?

#### **8. If a home is considering eviction because it is not able to provide the appropriate level of care:**

- The first step is to fully inform the resident that the home cannot meet his or her care needs and ensure the resident understands that it is unsafe to remain in the home.
- The home may contact the Landlord and Tenant Board (LTB) for information on the eviction application process and procedures.
- If the resident is unwilling to accommodate a move to a more appropriate setting, the home may begin the eviction process as outlined in the *Residential Tenancies Act (RTA)*.
- If a home does need to apply to LTB to evict the resident, steps should only be taken after communication with the resident has taken place to try and resolve the issue. LTB will issue an Order if it is satisfied that appropriate alternative accommodation is available with the required level of care.

For additional tools and resources on this topic, please visit:

<http://www.cleo.on.ca/en/publications/carehome/eviction>

[http://www.sjto.gov.on.ca/documents/lbt/Brochures/Care%20Homes%20\(EN\).html](http://www.sjto.gov.on.ca/documents/lbt/Brochures/Care%20Homes%20(EN).html)

#### **9. What should a retirement home do if a resident appears not to have the capacity to make financial decisions about the cost of additional care services?**

If a retirement home is concerned about a resident's ability to make financial decisions, and there is no substitute decision maker (power of attorney) or a family member available to make application for capacity assessment, the home could contact the Office of the Public Guardian and Trustee, who has the authority to conduct an investigation as part of its mandate.

#### **Other Important facts about a retirement home's obligations:**

- Retirement homes must have written tenancy agreements that include a list of care services, meals, and accommodation to be provided by the landlord and the amount the tenant must pay for these services (also a requirement under the Residential Tenancies Act).

- The Retirement Homes Act (RHA) requires retirement homes to complete an initial assessment within two days of commencing residency (e.g., assess cognitive ability, the risk of harm to self/others, the risk of wandering), a full assessment within 14 days (e.g., assess behavioural issues) and to develop corresponding plans of care. There is the possibility that additional care service requirements could be identified shortly after the tenancy agreement was signed and residency commenced.
- The RHA requires every home to develop and implement 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.

**For more information contact RHRA at:**  
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