



**Retirement Homes Regulatory Authority
Risk Officer
Annual Report 2018**

Submitted by Nav Sandhawalia
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Introduction

The Retirement Homes Regulatory Authority, RHRA (“the Authority”) was established under the *Retirement Homes Act, 2010* (“the Act”), which also creates the accountability and oversight relationship between the RHRA and government. The Memorandum of Understanding (“MOU”) between the RHRA and the Minister of Seniors Affairs sets out further details of this relationship. The Authority is responsible for administering the Act, including licensing retirement homes and conducting inspections, investigations and enforcement.

The Act requires that an independent, statutory officer (i.e. Risk Officer) be appointed by the Authority. The duties of the Risk Officer are set out in section 24(3) of the Act as follows:

The Risk Officer:

- a) shall review and assess the effectiveness of the Authority’s administration of this Act and the regulations, including the Authority’s activities and proposed activities related to ensuring that licensees meet the care standards and safety standards set out in this Act and the regulations, and respect the rights of residents set out in the Act and regulations, and;*
- b) shall perform the other duties and exercise the other powers that are prescribed, 2010, c11, s 24(3)*

The Risk Officer is appointed by the Board of Directors of the RHRA, in accordance with provisions set out in the Act, the MOU between the RHRA and the Minister responsible for Seniors and Accessibility, and RHRA’s by-law Number 1; they are accountable to perform such duties and issue reports to the RHRA Board through its Governance and Regulatory Affairs Committee. Notwithstanding these reporting requirements, the Risk Officer role is established as both statutory but also an independent position, with clear expectations that the Risk Officer carries out their duties in an independent manner.

Overview, Scope and Approach

Prior to finalizing the scope for this report, a considerable amount of time was spent understanding the Authority, reviewing past Risk Officer reports, speaking with the Board, and speaking with RHRA Management. Through this process; a scope was formulated independently and is the subject of this report.

The focus of this report is the Compliance Support Program (“CS Program”). Officially launched on March 15, 2017, the CS Program is designed to assist licensed retirement homes (“homes”) better understand the obligations which are mandated to them under the Act and assist them in meeting those obligations. The CS Program is offered to homes which are assessed as higher risk based upon risk assessment criteria and participation in the program is voluntary. Once a home joins the CS Program, they are supported via phone and email with a goal of improving compliance of specific areas of concern. Although not specifically tied to a section or area of the

Act, the CS Program often supports homes better understand and meet the obligations outlined within Part IV of the Act (Residents' Rights, Care and Safety).

The work undertaken to arrive at the recommendations within this report included a number of discussions with RHRA management and staff, independent research and analysis, and discussions with a number of operators. Specifically, 10 homes (8 homes which participated in the CS Program and 2 homes that declined to participate in the CS Program) were interviewed. The homes chosen for interview ranged in size, operational maturity, geography, and success with the CS Program. The sample size of 10 homes, represents almost 12% of the homes that were invited to participate in the CS Program (as at July, 2018), which denotes a strong sample size. It should be noted that 2 homes that declined to participate in the CS Program were chosen, given that approximately 35% of homes invited to the CS Program have declined to engage. As discussed in more detail below, the recommendations are designed, in-part, to increase the participation of homes in the CS Program.

Prior to beginning in-depth fieldwork, a number of fundamental questions were developed which helped guide and focus the review process. Specifically, the questions guiding the review were:

- Is the CS Program designed effectively?
 - Is there adequate participation?
- Is the CS Program meeting objectives?
 - Should the objectives / scope of the Program be altered?
 - Has the CS Program improved compliance?
- Is there room for improvement?

More broadly, the goal of this report is to provide pragmatic and value-added recommendations to assist the Authority to more effectively administer the Act and in turn assist operators to meet their obligations under the Act.

Although there are a number of findings and recommendations below, I am glad to report the CS Program has been designed for success and is meeting the overall objective of improving compliance of participating homes. The recommendations noted below will help refine, expand and best position the CS Program for continued success into the future.

Findings and Recommendations

- 1) **Finding:** Based on risk, operators who qualify for the CS Program are sent a short letter inviting them to join the CS Program. The current 'invitation letter' may not provide operators with a comprehensive understanding of the CS Program and how it fits into other touch-points / mandate of the RHRA. Based on discussions with operators, the

initial communication was not entirely clear and only upon initial verbal discussion with CS Program staff, was the purpose of the CS Program fully understood.

Recommendation: Revise the 'invitation package' and enhance robustness to clearly define the purpose of the CS Program, how it connects with regulatory obligations and the support which will be made available through the CS Program. The package should also include program timelines, activities which are excluded, as well as other relevant information pertinent to the participation of the home; all of which should be provided in a user-friendly format. This recommendation will help decrease confusion at the outset and should help increase the acceptance rate into the CS Program.

- 2) **Finding:** The CS Program is designed to connect RHRA staff with operators via email and phone. Participants greatly value the support provided by these channels, however further guidance/reference material was noted as a tool that would be valued and may decrease the length and frequency of touch-points required with CS Program staff.

Recommendation: Continue developing interpretive standards and creating a user-friendly online education presence. This enhanced library of information can be a starting point for CS Program participants to help rectify noted issues / concerns. This 'self-help' enablement would also decrease the dependency on CS Program staff and reduce length and frequency of contact with CS Program staff. This approach may allow the CS Program to support additional homes without a further need for additional staff. This continued focus on education also aligns with RHRA's mandate as noted within the Act (i.e. Part II, 16(b)).

- 3) **Finding:** The CS Program is currently designed to offer support to a maximum of 24 homes at any given time. This 'cap' was put in-place at the outset of the CS Program given limited resources. It should be noted that the 24 home 'cap' is rarely imposed, as the number of homes in the CS Program is often below this 'cap'; however, there have been instances where admission into the program was not possible for new participants due to the maximum participation rate.

Recommendation: Re-evaluate the imposed 'cap' and provide flexibility for inviting homes into the CS Program. The additional time commitment on CS Program can be mitigated if other recommendations within this report are also implemented (e.g. additional online self-help).

- 4) **Finding:** The CS Program is currently only available to homes that meet certain risk criteria(s) and in the case of new licensees, the CS Program is generally only offered if they have completed at least 3 inspections (other than in critical circumstances at the direction of the Registrar). Newly licensed homes or those homes which have

transferred licensees are not provided the opportunity to participate in the CS Program, despite potentially known risk factors.

Recommendation: Based on specific criteria, the RHRA should consider offering the CS Program to all higher risk homes despite being a new or transferred licensee. For example, if ownership of a high-risk home is transferred, there may be a case to offer the CS Program to the new licensee given previous findings. This approach will help newly licensed homes improve compliance from the outset, which in-turn may reduce inspection findings and help establish a strong relationship with the new licensee / home.

- 5) **Finding:** Each home within the CS Program is treated separately and distinctly from each other (with respect to ultimate ownership). The rationale is to allow the CS Program to provide targeted support based on concerns/issues to each specific home. This approach does not allow the analysis of broader cross-home issues or systemic concerns for homes with a common licensee.

Recommendation: For participants in the CS Program with a common licensee, consider elevating the support and related discussions to the licensee, as opposed to providing support only at the individual home level. This approach will help ensure a licensee with multiple homes is able to address concerns across all owned homes and improve regulatory adherence. This top-down approach will also help the RHRA further build collaborative relationships with both the operators and licensee.

Other observations / comments:

- The CS Program is currently evaluated / monitored using two key indicators, namely: participation rate and improvement in inspection findings post CS Program support. The participation rate indicates a willingness of an operator to work with RHRA to improve their adherence with the Act, while the post support review helps evaluate the effectiveness of an operator's ability to benefit from the CS Program. Both of these statistics provide evidence (at least infer and provide some correlation) of the CS Program's effectiveness and should continue to be monitored.
- Discussions with operators during the course of my review revealed an overall sense of satisfaction of the CS Program and ability to receive guidance / feedback from RHRA staff. Some positive feedback also came from operators who did not see an immediate positive impact of the program or who did not participate in the CS Program. These discussions and feedback are a testament to the CS Program itself and CS Program staff.
- Each home has ultimate accountability to meet the obligations noted within the Act. The CS Program has been designed to support homes better understand their obligations and support their efforts in meeting the Act, however the CS Program (and RHRA)

should not directly undertake activities on behalf of homes. For example, if a home has not met a policy-based requirement, the CS Program can help clarify specific requirements and provide feedback on draft policies, however should not draft the policy for the home. There is a fine line which, if crossed, could impair the integrity of the CS Program. In discussions with various stakeholders this specific topic was addressed in an attempt to understand whether the CS Program was potentially overstepping its bounds. I am pleased to note that CS Program staff have been very vigilant. I encourage RHRA to continue training staff to ensure they are aware of the boundaries of support within the mandate of the CS Program.

Concluding Remarks

The Compliance Support Program developed and implemented by the Authority has been a strategic tool to support homes in a proactive manner and demonstrates the Authority's recognition of the collaborative relationship they hold with operators. The CS Program helps the Authority align with the fundamental principle outlined within the Act, which is to ensure each retirement home is 'operated so that it is a place where residents live with dignity, respect, privacy and autonomy, in security, safety and comfort and can make informed choices about their care options.'

Overall, the CS Program is improving compliance of participating homes. As with any voluntary initiative, some operators are not taking advantage of the support due to lack of understanding or interest. However, active participants of the CS Program are benefiting and the RHRA has been able to continue building a robust trustworthy relationship with operators. As the CS Program evolves, the Authority should consider the recommendations noted above to better refine, expand and best position the CS Program within their broader regulatory regime going forward.

Furthermore, the CS Program is a proactive tool which aligns with a progressive approach to regulation. I encourage RHRA management to consider using the same proactive principle-based thinking for other areas within its broader regulatory regime.

Finally, I would like to thank Jay O'Neill, CEO and Registrar of the Authority and his management team, for their support throughout my review. Their openness and willingness to support my work in a transparent and collaborative manner helped ensure that my recommendations are practical, aligned with the Act, and best positioned to further solidify the value of the CS Program.

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