

**Purpose**

Section 108 of the Act authorizes the Registrar to request information from licensed retirement home at any time, subject to processes and criteria that the Authority establishes, and the Minister approves. This briefing note provides context to the Request for Information Policy (“Policy”) drafted by the RHRA and submitted to the Minister for approval. The Policy is attached to this briefing note as Appendix A. The RHRA seeks approval from the Minister of the processes and criteria set out in the Policy. An information schedule included in the policy spells out preliminary information the Authority seeks to request from licensees in accordance with the processes and criteria outlined in the Policy.

**Background**

The RHRA wishes to enhance its ability to collect and use information from licensed retirement homes. Currently, the RHRA routinely collects information required to be posted on the retirement homes database in accordance with section 106(1) of the Act. The Authority has also launched a [COVID-19 dashboard](#) which contains statistical information about COVID-19 outbreaks as well as a list of homes in outbreak as reported by homes in accordance with section 27(5)(a) of the Act. Additionally, the RHRA collects information in connection with its administration of the Act including information required for licensing, inspections, and enforcement.

The RHRA believes that information permitted to be requested pursuant to section 108(1) of the Act will enhance the Authority’s ability to fulfill its mandate to uphold the fundamental principle in the Act that a home is to be operated so that it is a place where residents can live with dignity, respect, privacy and autonomy, in security, safety and comfort and can make informed choices about their care options. Additionally, information from licensees as permitted by section 108 is necessary to assist the Authority fulfill its objects pursuant to section 16 of the Act, including to advise the Minister on policy matters relating to retirement homes.

**Legislative Context**

The Act permits the Registrar to request information from a licensee, in accordance with approved processes and criteria, provided that the information relates to:

- a) The types of care services that the licensee makes available in the home.
- b) Clinical and functional profiles of residents of the home if the profiles are de-identified,
- c) The licensee’s operation of the home and compliance with this Act.

To the extent that information that is required by the RHRA to fulfill its objects and mandate falls outside of the permitted categories, legislative amendment may be required. Examples of such information may include information about services provided by external care providers, missed care by LHIN personnel or other external care providers, residents residing in premises or parts of premises that are governed by or funded under the any of the acts set out in section 2(1)(d) of the Act and ancillary information regarding COVID-19 and other outbreaks.

**Expected Outcomes**

The Policy is expected to realize the following outcomes:

- Support improved compliance by homes and improved protections for residents.
- Improve the Authority's ability to provide policy advice to the Minister, including with respect to matters affecting quality of life of seniors residing in retirement homes.
- Reduce time and cost burdens associated with ad-hoc information requests.
- Provide more information to strengthen the RHRA's risk model.
- Allow the Authority to directly communicate with residents and better identify the seniors who reside in retirement homes in Ontario.

### **Overview of RHRA's Information Requests**

The information to be requested by the RHRA from licensees will include but not be limited to the following:

- Resident and substitution decision maker contact information.
- Resident profile information (de-identified) including care services.
- Home operational information including information about staffing, occupancy, residential tenancies and fees charged.
- Information pertaining to care services and quality of life

The policy includes an information schedule that outlines the type of information to be requested by the RHRA from time to time. The initial contents of the information schedule represent the most current information needs of the Authority, which may change over time. The RHRA believe this initial information schedule will add the most immediate impact to the Authority's ability to enhance delivery of its mandate. Note that nothing in the policy limits the ability of the RHRA to continue to collect, use and disclose information not specifically subject to section 108 of the Act.

### **Risk Analysis**

To address concerns regarding the privacy of personal information, the information provided by licensees in the process of RHRA's execution of the policy will be subject to the privacy provisions set out under section 113 of the Act and the information access and privacy code as set out in the MOU.

### **Implementation and Roll out Timelines**

Upon approval of the Request for Information Policy by the Minister, the RHRA will collaboratively develop an implementation schedule that will consider the following factors among others:

- The recommendations of the report of the Office of the Auditor General of Ontario.
- Ongoing work related to the comprehensive review of the legislation by the Ministry for Seniors and Accessibility. The Ministry will advise the RHRA on timelines related to this work.
- The evolution of the of the COVID-19 pandemic and related burden to homes and the impact this policy may have on retirement homes.

Having considered these factors, the RHRA will communicate an appropriate implementation date to the Minister.

## APPENDIX A REQUEST FOR INFORMATION POLICY

### Background

Established in 2011, the Retirement Homes Regulatory Authority (RHRA) is an independent, self-funded, not-for-profit regulator mandated by the government to protect and ensure the safety and well-being of seniors living in Ontario's retirement homes. RHRA's oversight of industry is designed to ensure that licensed retirement homes are places where seniors can live safely, with dignity, and have the support needed to make informed choices about their care options. RHRA draws its mandate from the [Retirement Homes Act, 2010](#) and its [regulations](#) (the "Act").

As part of its day-to-day oversight activities, the RHRA collects information from licensed retirement homes. A wide variety of data is collected from homes, including basic information such as business names and addresses and more detailed information about activities and data regarding inspections, investigations and enforcement action. This information is essential to enable the RHRA to effectively carry out its mandate while ensuring operational and resourcing decisions are evidence-based.

RHRA's statutory mandate includes the following:

- Administering and enforcing compliance with the Act.
- Educating licensees, consumers and the public.
- Providing information about retirement homes.
- Advising the Minister on policy matters relating to retirement homes.
- Suggesting amendments to Ontario legislation that would further the purposes of the Act or assist the RHRA in administering the Act.
- Carrying out any other duties or powers assigned to it.

The RHRA employs a peer-reviewed risk-based regulatory framework based on information collected from inspections and other sources. The framework informs RHRA's regulatory activities and supports the delivery of regulatory outcomes by segmenting licensed retirement homes into high, medium or low risk based on the risk of harm to residents. The information collected is also used to assess resident quality of life and sector trends among other analysis. In order to fulfill its statutory objects, the RHRA requires reliable information from time to time from the sector.

### Purpose

The purpose of this Policy is to outline the processes and criteria the RHRA will employ to determine its information needs and requests for information from licensees. The information that can be requested from licensees is provided in the Information Schedule attached to this Policy.

### Legislative Framework

Under the Act, the RHRA may at any time request a licensee of a retirement home to provide information to the Registrar within a specified time period, in accordance with this Policy. The information requested may relate to:

- a) The types of care services that the licensee makes available in the home (“care services information”).
- b) Clinical and functional profiles of residents of the home if the profiles are de-identified (“resident profile information”).
- c) The licensee’s operation of the home and compliance with the Act (“operation and compliance information”).

The RHRA is required to preserve privacy with respect to any information, including personal information and personal health information, subject to certain exemptions permitting communication of information, including as may be required in connection with the administration of the Act, to the extent the information is available to the public under the Act and with the consent of the person to whom the information relates.

The Act permits the RHRA to maintain public registers of information and to publish statistical information. The RHRA is governed by its privacy policy forming part of the Memorandum of Understanding with the Ministry.

### **Definitions**

“De-identify” in relation to an individual, means to remove any information that identifies the individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify the individual.

### **Policy**

The RHRA will apply the process and criteria set out in this Policy to all requests for information from licensees.

### **Guiding Principles**

The request for information process and criteria will reflect the following principles:

- The request for information process will align with the categories of information as contemplated in S.108(1) (as identified above).
- The request for information process and criteria and the request for information schedule will be simple and clear, and accessible to operators and residents of retirement homes.
- The request for information process will be designed to minimize any additional administrative burden on licensed homes and will consider the variability in the ability of homes to respond to RHRA’s information requests.
- Stakeholders have an interest in the types of requests for information during consultations.
- Information requested may be made public on one or more public registers in accordance with the Act.
- Nothing in this Policy limits the ability of the RHRA to collect, use and disclose information as permitted or required by the Act.

### Request for Information Criteria

The RHRA will consider the following criteria in requesting information:

- Does the information assist the RHRA to administer the Act, including overseeing its enforcement?
- Does the information assist the RHRA to educate licensees, consumers, retirement home residents and the public about matters relating to the Act, including requirements applicable to licensees, care and safety standards for retirement homes, rights of residents and best practices for the operation of retirement homes?
- Does the information assist the RHRA to provide information about retirement homes?
- Does the information assist the RHRA to advise the Minister on policy matters relating to retirement homes?
- Does the information assist the RHRA to suggest to the Minister amendments to Ontario legislation that it considers would further the purposes of the Act or assist the RHRA in administering the Act?
- Does the information include or enable the voice/input of residents and their substitute decision maker/families?
- Does the criteria consider the capacity of homes to provide the information requested by RHRA?
- Does the information assist the RHRA in carrying out any other duties or powers assigned to it under any Act or by the Minister?

### Process

- RHRA to determine information requirements on an as needed basis.
- RHRA to develop proposed use case and conduct privacy impact analysis (if necessary)
- RHRA to engage in stakeholder engagement appropriate and relevant to the specific information submission being contemplated. This may include:
  - Outreach to stakeholders through various media re: consultation awareness
  - Specific outreach for resident voice through RHRA's Stakeholder Advisory Council and residents' network, retirement home resident councils, clinician groups, seniors' advocacy organizations
  - Materials available to public on [www.rhra.ca](http://www.rhra.ca)
  - Publicly available documentation of consultation processes and outcomes, including potential submissions from RHRA Stakeholder Advisory Council, resident panels or advocacy groups, industry associations, government, expert working groups, clinicians, licensed homes, residents, substitute decision-makers/family and other RHRA stakeholders
- Notify the Minister
- RHRA to publish Information Schedule

### Review

The RHRA will review this request for information policy annually or more frequently as determined by the RHRA, considering the criteria above and identifying regulatory, legislative, sector or other environmental changes or other pertinent information and data. The RHRA will provide the Minister

with written notice of any new information requests 15 days prior to consulting stakeholders. The notice will include a proposed rationale for the information requests and other pertinent information that is aligned with this policy.

**Consultation**

The information request process will be open and transparent and include engagement and feedback opportunities that are relevant and appropriate to the information RHRA proposes to collect, and give due consideration to advice from (as is relevant in the circumstances), residents, substitute decision-makers/family, the RHRA Stakeholder Advisory Council, resident panels or councils, senior advocacy or clinician groups, industry associations, government, expert working groups, licensed homes, and other RHRA stakeholders, as appropriate.

RHRA will make materials available on RHRA’s website and will notify stakeholders of consultation through various channels such as email, special advisories, social media, partner organizations, etc. Specifically, RHRA will make meaningful and best efforts to seek resident, substitute decision-maker and family perspectives, and to carefully consider the resident voice. A formal consultation plan will be developed to outline specific processes and timelines.

This consultation will identify the types of data/information being requested by the RHRA, detail how the information will be collected and the use and purposes for which the information will be used, identify any additional burden on businesses where necessary and highlight measures put in place to protect the privacy of personal information. RHRA will provide relevant stakeholders a minimum 30 days to provide feedback and will notify the Minister of the outcome of the consultation. Consultation materials, feedback, and outcomes will be made public on RHRA’s website. Stakeholders will be kept informed of significant developments and milestones throughout the process.

The RHRA shall notify the Ministry 5 days prior to publishing any updated information schedule. No new or revised information schedule will normally be effective until 30 days’ notice has been given to industry stakeholders.

RHRA Board Chair *Peter H. Harris*

Date January-26,-2021

Minister for Seniors and Accessibility *Raymond Chan*

Date Jan 20/21

**Preliminary Information Schedule as Amended from Time to Time in Accordance with this Policy**

Date last reviewed: November 25, 2020

S. 108 Category	Information Type	Example	Proposed Use	Frequency
Resident profiles	Resident information	De-identified resident demographic data such as <ul style="list-style-type: none"> <li>• age</li> <li>• gender</li> <li>• care services received</li> <li>• fees paid</li> </ul>	<ul style="list-style-type: none"> <li>• Enhance risk model</li> <li>• Inform licence class framework</li> <li>• Enhance outbreak analysis</li> <li>• Facilitate regulatory decision making</li> <li>• Provide policy advice to MSAA</li> </ul>	Annually
Operations and compliance	Home operational data	Operational data such as <ul style="list-style-type: none"> <li>• Staffing levels and turnover rate</li> <li>• Occupancy rates</li> <li>• Residential tenancy and care service rates</li> <li>• Full-time vs. part-time staff, outsourced services, etc.</li> <li>• Staff training and certifications</li> <li>• # of alternate level care (ALC) / short-term transitional care (STTC) beds</li> </ul>	<ul style="list-style-type: none"> <li>• Enhance risk model (financial issues)</li> <li>• Facilitate regulatory decision making</li> <li>• Inform licence class framework</li> <li>• Enhance outbreak analysis</li> <li>• Provide policy advice to MSAA</li> </ul>	As needed
Resident profiles	Resident and substitute decision-makers' contact information	<ul style="list-style-type: none"> <li>• Telephone and email information</li> </ul>	<ul style="list-style-type: none"> <li>• Develop direct relationship with the retirement home residents of Ontario</li> <li>• Provide policy advice to MSAA</li> <li>• Facilitate consultation and better understand resident point of view</li> </ul>	Annually