

March 14, 2022

MEMORANDUM TO: Retirement Homes

FROM: Jacqueline Cureton
Assistant Deputy Minister
Seniors and Accessibility Programs, Policy and Strategy
Partnerships
Ministry for Seniors and Accessibility

SUBJECT: Update on De-escalation of COVID-19 measures for the
Licensed Retirement Home Sector

Following the peak of the Omicron wave, the province has seen a significant reduction in COVID-19 cases and indicators and has been taking continued steps toward reopening.

In the licensed retirement homes sector, due to the continued efforts of residents, staff, operators, local public health and other partners, the number of cases and outbreaks in the sector has continued to fall.

To date, over 96% of all residents in retirement homes have received their third dose of a COVID-19 vaccine and 51% of all residents have received their fourth dose. In addition, 79% of retirement homes report that 90% or more of their staff have been fully vaccinated and COVax reports over 80% of staff have received their third dose.

Given these positive indicators, the following additional steps are being taken to support the de-escalation of measures in the retirement homes sector.

Vaccination Requirements

As announced earlier this week, effective March 14, 2022, the Chief Medical Officer of Health (CMOH) is lifting the Letter of Instruction (LOI) originally issued to licensed retirement homes on August 31, 2021 and last updated on December 24, 2021. The LOI required licensed retirement homes to establish a COVID-19 vaccination policy. The lifting of the LOI brings the retirement home sector into alignment with the removal of the provincial proof of vaccination requirements for businesses and organizations as of March 1, 2022. Updates will be made to the CMOH Directive #3 and to the Retirement Homes Policy to Implement Directive #3 to reflect this change.

As a result of this change:

- Retirement homes will no longer be required to report vaccine data to the Retirement Homes Regulatory Authority (RHRA).
- As employers, retirement homes may mandate vaccination requirements for existing and new staff, students and volunteers, provided they comply with all applicable law, such as the Human Rights Code.
- Operators may determine whether to continue a policy on COVID-19 vaccinations for visitors provided they are in compliance the Retirement Homes Act, 2010 (RHA) and other applicable laws. This includes:
 - Subsection 51(1) of the RHA which outlines the Residents' Bill of Rights.
 - Subsection 61(2) of the RHA which prohibits licensees from interfering with the provision of care services to a resident by an external care provider (only subject to the licensee's duty to protect residents from abuse and to prevent the use of restraints).

Retirement homes may wish to obtain independent legal advice as they consider updates to their policies.

While the vaccination policy requirements have been lifted, vaccination for COVID-19 remains a critical measure to prevent transmission and serious illness in congregate settings. Retirement homes are encouraged to continue vaccination education for residents, staff and volunteers and reduce barriers to access by providing information on vaccine availability in the community and supporting on-site vaccinations in collaboration with community partners.

Asymptomatic Screen-Testing Requirements

The LOI also outlined asymptomatic screen testing and required rapid antigen test use for individuals entering retirement homes for work or visiting purposes. While these requirements will end with the revocation of the LOI, retirement homes must consult the forthcoming RHRA recommendations on continued rapid antigen testing for asymptomatic staff, contractors, students and volunteers.

Updates to the Policy to Implement Directive #3

Effective March 14, 2022, the Policy to Implement Directive #3 will be updated to reflect the above changes and to bring the retirement homes sector into closer alignment with provincial direction on reopening. The changes include:

- Language around limiting only fully vaccinated General Visitors and Essential Visitors to participate in dining, social gatherings, and organized events has been removed. Retirement homes may independently determine whether to allow all General Visitors and Essential Visitors to participate in dining, social gatherings, and organized events regardless of vaccination status.

- In alignment with the expiration of the LOI, section 8 of the policy regarding the requirement for retirement homes to collect data for determining vaccination rates has been removed and is no longer required.
- Residents who leave on short term (day) absences are no longer recommended to test upon return to the retirement home. Testing will continue for residents who have been exposed to a known COVID-19 case during their absences and residents who return from temporary (overnight) absences.
- Residents are no longer required to physically distance from other residents when participating in social gatherings, organized events, recreational services, or communal dining.

While these measures have been changed, it remains critical that retirement homes maintain Infection Control and Prevention Practices, including:

- Active screening for all individuals prior to entry;
- Use of appropriate personal protective equipment (PPE) and masking for all individuals working or visiting retirement homes;
- Staff and visitors must continue to physically distance from residents and other staff unless providing direct care or support to a resident;
- IPAC audits completed every two weeks if not in outbreak, or weekly if in outbreak; and
- Outbreak management practices, as directed by Public Health Units.

Next Steps

It is anticipated that all directives issued by the Chief Medical Officer of Health, including Directive #3 and #5, may end as of April 27. The Ministry is actively working with the RHRA and the Office of the Chief Medical Officer of Health to consider requirements and guidance that will remain in place after April 27. Further updates will be communicated as we work through these changes.

As of March 1, 2022, the province exited the Modified Step 3 of the Roadmap to Reopen Ontario and moved to the Roadmap Exit Step of O. Reg. 364/20 under the Reopening Ontario (A Flexible Response to COVID-19) Act, 2020 (ROA). As a result, the emergency orders that were made under the ROA and another made under the Emergency Management and Civil Protection Act (EMCPA) as temporary measures that allowed retirement home licensees to respond flexibly and urgently to COVID-19 will expire or be revoked.

The following emergency orders made under the ROA will continue as follows:

- **O. Reg. 118/20 (Work Deployment Measures in Retirement Homes)**
Permits retirement homes to take any necessary work deployment and staffing measures to prevent, respond to and alleviate COVID-19 outbreaks. It grants staffing and scheduling flexibility to retirement homes to enable labour flexibility despite requirements in collective agreements. O. Reg. 118/20 has been

extended to March 28, 2022. The latest date this order may be extended to is April 27, 2022.

- **O. Reg. 158/20 (Limiting Work to a Single Retirement Home)**
Prohibits staff from working in more than one retirement home or in another health care setting. However, O. Reg. 158.20 was amended to exempt fully vaccinated retirement home staff from this restriction. O. Reg. 158/20 has been extended to March 28, 2022. It is anticipated that this will be the final extension and that the measure will expire after March 28, 2022.
- **O. Reg. 240/20 (Management of Retirement Homes in Outbreak)**
Grants authority to the Retirement Homes Regulatory Authority (RHRA) to issue an order to appoint and select a manager to oversee retirement home operations during a COVID-19 outbreak where there is a risk of harm to residents of the home. If an operator is unable or unwilling to manage the operations of the home during the outbreak, the RHRA can act quickly without having reasonable grounds to believe that a contravention of the *Retirement Homes Act, 2010* (RHA) has occurred. O. Reg. 240/20 is set to be revoked on March 16, 2022.

Retirement homes will need to plan ahead in anticipation of the eventual expiry of these emergency orders. Being mindful of existing collective agreements, and working with labour partners and staff, homes should update their emergency plans to include those provisions that would support the ability to respond appropriately to critical staffing needs in an emergency, such as experienced through the pandemic.

Additionally, the emergency order under the EMCPA will be revoked as of March 16, 2022:

- **O. Reg. 55/21 (Compliance Orders for Retirement Homes)**
Grants authority to the RHRA to make mandatory compliance orders to the licensees of retirement homes for the purpose of preventing, responding to or alleviating the effects of COVID-19 where there is a risk of harm to residents of the home. These orders are not subject to an application for a stay and may require the licensee to comply with the advice, recommendations and instructions of:
 - (a) their local medical officer of health or designate;
 - (b) hospitals; and
 - (c) a manager appointed under section 91 of the RHA for their retirement home.

Proposed legislative changes to the RHA to provide the RHRA with similar authority to that in **O. Reg. 240/20** and in **O. Reg. 55/21** were introduced as part of Bill 37 – *the Providing More Care, Protecting Seniors, and Building More Beds Act, 2021*. Bill 37 received Royal Assent on December 9, 2021. It is anticipated that these particular amendments to the RHA and the regulatory amendments to complement the legislative changes will come into force on March 16, 2022.

As we take this next step towards gradual reopening, the Ministry for Seniors and Accessibility will continue to work with the Office of the Chief Medical Officer of Health, key sector partners and operators to monitor and address the needs of the retirement homes sector to respond as necessary to any new or emerging issues related to the pandemic.

I want to extend my thanks for your continued efforts to protect the health and safety of retirement home residents and staff during the COVID-19 pandemic. The Ministry for Seniors and Accessibility will continue to ensure that the sector remains informed of the transition process as this next phase of the pandemic unfolds.

As always, should you have any questions about these changes or next steps, please contact us at RHInquiries@ontario.ca.

Sincerely,

Original signed by

Jacqueline Cureton
Assistant Deputy Minister

c: Carlene Alexander, Deputy Minister, Ministry for Seniors and Accessibility
Jay O'Neill, Chief Executive Officer and Registrar, Retirement Homes Regulatory Authority
Cathy Hecimovich, Chief Executive Officer, Ontario Retirement Communities Association
Lisa Levin, Chief Executive Officer, AdvantAge Ontario