

## Questions and Answers

### Changes to the *Retirement Homes Act, 2010* and O. Reg. 166/11

**1. What changes to the *Retirement Homes Act, 2010* (RHA) are now in effect that did not come into force on Royal Assent?**

- A. While many legislative amendments to the RHA came into force on Royal Assent on December 9, 2021, several changes required further regulations to give them effect or time for the sector to prepare. The legislative amendments that were proclaimed into force effective March 16, 2022 include:

*Price lists:*

- requiring licensees to provide price lists for accommodation and services in print and/or electronic form upon request from an individual (e.g. current or prospective residents, their families or the public).

*Orders in extraordinary circumstances:*

- allowing the RHRA Registrar to issue the following orders in extraordinary circumstances (as prescribed in the proposed Regulation) where there is a harm or risk of harm to one or more residents:
  - a management order where the Registrar can assign a manager to a home to oversee or assist in the operation of the home;
  - an "other order" where the Registrar may require the licensee to do or not to do something to address the extraordinary circumstance, including comply with the advice of persons with expertise dealing with the extraordinary circumstance.

*Collecting contact information:*

- Permitting the RHRA to collect resident or substitute decision maker (SDM) contact information and SDMs from licensees and to require licensees to deliver written communication, on behalf of the RHRA.

**2. When will the newly proclaimed RHA changes and recent regulatory amendments be enforced? When do retirement homes have to implement these changes?**

- A. The legislative amendments that did not come into force on Royal Assent were proclaimed into force effective as of March 16, 2022. At the same time, regulatory changes also came into effect that support, expand on and give effect to the legislative amendments.

Requirements for many of the amendments are clear based on the wording in the corresponding sections of the RHA and Regulation. However, if there are areas which are identified as needing additional direction, the RHRA will develop supplemental resources to assist licensee to better understand the requirements. Any materials that are developed will be available on the RHRA website and staff, including RHRA inspectors, will be trained on new authorities and tools.

**3. Can the RHRA collect resident or SDM contact information for any reason?**

- A. The change in the RHA permits the RHRA to collect resident or SDM contact information to carry out their objectives, as set out in clauses (a) and (b) under s.16 of the RHA.

**4. What changes have been made to the requirement for retirement home operators to train occasional staff who do not provide direct care to residents (e.g. play music)?**

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- A. Section 14 of the Regulation has been amended to exempt, from training requirements, occasional staff who do not provide direct care to residents, such as people who come in to play music for residents. This means retirement home operators no longer need to provide the full suite of training to persons who only provide occasional maintenance or repair services, entertainment, religious or recreational services.. Operators would still be required to supervise such staff and provide them with key information, such as the policy to promote zero tolerance for abuse and neglect of residents, emergency plan and infection prevention and control program, before the person begins their work.

To qualify for a training exemption the staff member needs to be a person who:

- meets the definition of “staff” in the RHA, under s.2(1) clauses (b) or (c).
- only provides the home with occasional maintenance or repair services or entertainment, religious or recreational services.
- does not provide direct care to residents.

### **5. When are retirement home operators required to provide information to external care providers? What information needs to be provided?**

- A. Section 14.1 of the Regulation has been amended to require that retirement home operators provide external care providers with information on the home’s policy to promote zero tolerance for abuse and neglect of residents as soon as practical after the operator is made aware that the external care provider is providing care services to a resident in the home.

It is for the safety and protection of all residents, that anyone who provides direct care to a resident is informed about the home’s policy to promote zero tolerance for abuse and neglect of residents. While retirement home operators often work directly with agencies that supply external care providers to the home, they are not always aware when residents retain an individual to provide care, such as a foot nurse or a visiting companion. Therefore, when the operator becomes aware (e.g. through conversations with the resident, provider, family, etc.), they should provide the required information to the external care provider at the next opportunity.

This change strikes a balance between operators’ implementation requirements and the need to protect residents.

Subsection 15(3) of the Regulation has been amended to require retirement homes’ policy to promote zero tolerance of abuse and neglect of residents also include an explanation of the prohibition on borrowing, receiving or holding a resident’s money or other property.

### **6. Who should retirement home operators advise of abuse or alleged abuse if the SDM is the alleged abuser?**

- A. Section 15 of the Regulation has been amended to exempt licensees from the duty to notify SDMs or any other person specified by the resident of instances of abuse or results of an investigation if the SDM or that person is reasonably believed to be the alleged abuser.

Retirement home operators must contact the appropriate authority (e.g. the Registrar, police, hospital, etc.) and can notify another person, named by the resident instead of the SDM.

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### 7. How do retirement homes test emergency plans related to epidemics and pandemics?

- A. Clause 24 (5) (a) of the Regulation has been amended to include epidemics and pandemics to the list of circumstances that all licensed retirement homes need to include in their emergency plans and test, at least, annually.

In response to the COVID-19 pandemic, retirement home operators may have developed emergency plans to address such circumstances as epidemics and pandemics. These plans should be included, as appropriate, in the home's ongoing emergency plan. If no plan was developed, homes need to develop one and include it in their emergency plan. To test emergency plans related to epidemics and pandemics, retirement homes may wish to look at test plans developed by similar congregate settings (e.g. hospitals or long-term care homes) or emergency / pandemic preparedness resources available from the [World Health Organization](#), [Centre for Disease Control and Prevention](#) or [Ontario Chamber of Commerce](#)

### 8. How can retirement home operators support residents with physical and/or cognitive limitations during emergency plan testing and/or planned evacuations of the retirement home?

- A. Section 24 of the Regulation has been amended to allow the use proxies to stand in for residents with physical and/or cognitive limitations in a planned evacuation of the retirement home, as these are not emergencies but are planned events. It is important, however, that a retirement home's emergency plan includes the necessary supports for residents who may need assistance (such as those with physical and/or cognitive limitations) during the emergency.

### 9. What other changes were made to the regulations related to emergency plans?

- A. Subsections 25 and 26 of the Regulation have been changed to clarify it is the home's *capacity* that determines the home's emergency plan requirements rather than the actual number of residents currently living/present in the home.

For example, a retirement home with capacity for more than 10 residents but only has 8 residents living in the home must include all requirements listed in subsections 24 and 25 of the regulation in the home's emergency plan. Similarly, a retirement home with capacity for up to 10 residents but currently only has 6 residents living in the home must include all requirements listed in subsections 24 and 26 of the regulation in the home's plan.

### 10. Why did the Ministry change the nutrition requirements for menus in retirement homes?

- A. Clause 40 (b) of the Regulation has been amended to reference the [Canada Food Guide](#) to provide greater clarity to retirement home operators about the minimum standards for meal preparation. This supports the government's goal of clear and plain-language regulations.

The Canada Food Guide is the national standard for healthy eating. Canada's Food Guide is based on scientific evidence and reflects Health Canada's consultation and engagement with stakeholders and Canadians. The Guide is flexible and takes into consideration cost, variety, cultural relevance and availability in many forms (e.g. fresh, frozen, canned or dried).

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### 11. Can retirement home staff accept money from residents?

- A. To further protect retirement home residents from abuse, the Regulation has been amended to explicitly prohibit licensees, staff, volunteers and external care providers from borrowing, receiving or holding a resident's money or other property with exceptions for receiving funds under section 72 of the Act (funds in trust) or for the payment of rent, care services or other legitimate charges connected to the retirement home.

This prohibition does not extend to people who are related to the resident (e.g. family members by birth, marriage or adoption, etc.) *unless* the retirement home's policy or the related person's employment agreement prohibits it.

### 12. In what types of circumstances can the RHRA issue a management order or other order without establishing a contravention of the RHA?

- A. The Act was amended to allow the Registrar of the RHRA to issue two new orders where there is an extraordinary circumstance that poses harm or a risk of harm to a resident of a retirement home and necessitates immediate action. One order allows the Registrar to appoint a manager to manage a retirement home and the other would allow the Registrar to order a retirement home operator to immediately do or not do something, in response to the extraordinary circumstance that prevents or alleviates the harm or risk of harm to residents, without a contravention of the RHA.

The following list of extraordinary circumstances have been prescribed in the regulation:

- acts of God, including extreme weather events or other natural disasters;
- severe flooding (e.g. a burst pipe or other flooding that is unrelated to weather or natural disasters);
- staff shortages that rise to a critical level (regardless of the reason for the staff shortage);
- shortages of critical supplies or interruptions of essential services, including with respect to food, heat, water and electricity;
- fires or explosions and chemical or other dangerous spills or hazards;
- acts of terrorism;
- major failures or destruction of critical physical or technological infrastructure, including failures caused by ransomware or cyber attacks; and
- epidemics or pandemics, including any necessary quarantines.

### 13. How often will the RHRA ask retirement home operators to provide data related to infection prevention and control measures?

- A. The Regulation has been amended to permit the RHRA to collect de-identified data to support improved infection prevention and control measures. This change does not mean the RHRA must collect such data, but, if the data is needed and where retirement homes are the best source for this information, the RHRA is permitted to request it and retirement home operators are required to provide it. Such data may include active infection case counts and resident and staff vaccination and immunization data.

The collection of such information is subject to the RHRA's Request for Information Policy.

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### **14. When must retirement home operators notify the RHRA of a temporary closing or unplanned evacuation of the home?**

- A. Section 63 of the Regulation has been amended to require licensees to notify the RHRA, as soon as possible, in the event of a temporary closing of the home or unplanned evacuation.

Retirement home operators should notify the RHRA if

- the home is temporarily closed;
- part of the home is temporarily closed and it materially affects a resident's accommodation or the care services or other services provided to a resident (e.g. an outdoor recreation area is closed and residents have no other alternative for a safe outdoor space; a resident unit is closed; there was a fire in the kitchen, preventing residents from receiving meals from the home; etc.);
- the home experiences an unplanned evacuation (e.g. due to fire) that displaces residents for more than 6 hours;
- the retirement home or part of it is temporarily relocated to another (one or more) premises.

Retirement home operators' first priority is to the safety and protection of residents. This means that, in the event of a temporary closing of the home or unplanned evacuation, operators should ensure that all residents are safe and not at risk of harm. As soon as possible after the event and when it is safe and/or practical to do so, the retirement home operator should notify the RHRA. Notification must be made in writing (e.g. electronic mail).

### **15. How can retirement homes be sure that the entities with which the RHRA shares information will keep residents' personal and personal health information confidential?**

- A. The Regulation has been amended to expand the list of exemptions to the requirement to keep personal information confidential. The change permits the RHRA to share information with entities including other regulators and health sector partners, that generally are subject to similar requirements to protect personal information and privacy as must be observed by retirement homes. In addition, this change does not mean the RHRA must share information if requested by another entity but if the RHRA determines that the information should be shared, the RHRA is permitted to do so.

### **16. What changes were made to the regulations related to the Emergency Fund?**

- A. The amendment to clause 64.2 (1) (c) and the addition of subsection 64.2.1 to the Regulation separates the obligations of the resident to mitigate costs incurred to obtain alternative accommodation and care from those of the operator. They allow the RHRA to assist a resident (i.e. issue a payment from the Emergency Fund) without the operator being unfairly impacted in the event they do not meet their obligation to mitigate

### **17. Will any resident's personal health information, that the RHRA collects to be shared with other entities, be protected and kept private as required by the various privacy laws?**

A: Subsection 113(3) of the RHA includes provisions that restrict access to and protect the confidentiality of residents' personal health information. In addition, the Ministry for Seniors

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and Accessibility and the RHRA have a Memorandum of Understanding (MOU) that includes an Access and Privacy Code which must be approved by the Minister for Seniors and Accessibility. The Code restricts the circumstances in which the RHRA may share personal information and/or personal health information in its possession.