



A Guidance Document for
**Abuse and
Neglect**

RHRA

Retirement
Homes
Regulatory
Authority

About This Document

This Guidance Document is designed to help licensees and operators understand the requirements of select portions of the [Retirement Homes Act, 2010](#) (the Act) and [Ontario Regulation 166/11](#) (the Regulation). The guidance is intended to provide operators and licensees with clarity on the RHRA's expectations related to compliance with the Act and Regulation. This Guidance Document does not replace the requirements set out in the Act and Regulation or the specific abuse and neglect training that must be conducted in each retirement home.

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Please note: information, directions, and recommendations included in this Guidance Document are for general assistance only and should be read in conjunction with the Act and Regulation. This Guidance Document only covers select aspects of the Act and Regulation, and in the event of any conflict between this Guidance and the Act and/or Regulation, the Act and/or Regulation prevails.

The guidance in this document may be changed at any time without notice.

Licensees should consult the Act and Regulation for current legislation and compliance requirements.

This Guidance Document does not constitute legal advice and users should consult their own legal counsel for the purposes of interpreting the Act and Regulation.

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Introduction

In Ontario, retirement home licensees and staff must operate the home as a place where residents live with dignity, respect, privacy and autonomy, in security, safety and comfort. The licensee's duty to protect residents from abuse and prevent neglect is fundamental to this obligation.

The Retirement Homes Regulatory Authority (or RHRA) offers this Guidance Document on protecting residents from abuse and preventing neglect to help build your understanding of the key elements required for compliance under the Act and Regulation.

The RHRA is currently developing scenario-based compliance assistance modules to compliment this Guidance Document, which will be released later in 2024.

Protection from Abuse and Prevention of Neglect – What and Why

Under the [Retirement Homes Act](#) (the Act) and [Ontario Regulation 166/11](#) (the Regulation), licensees must protect residents from abuse by anyone and prevent neglect by the home's staff. The licensee must have a written policy to promote zero tolerance of abuse and neglect of residents in the home and must ensure compliance with the policy. The prevention of abuse and neglect applies to abuse by "anyone", not only the retirement home's staff or the licensee. It is important to acknowledge that a resident's family members, friends, loved ones and others, such as external care providers and volunteers, may also be in a position to abuse.

What Constitutes as Abuse and Neglect

The Act and Regulation outlines and defines neglect and five different types of abuse.

Emotional Abuse

Emotional Abuse is defined as any threatening, insulting, intimidating or humiliating gestures, actions, behaviours or remarks, including imposed social isolation, shunning, ignoring, lack of acknowledgement or infantilization that are performed by anyone other than a resident. Any threatening or intimidating gestures, actions, behaviour or remarks by a resident that causes alarm or fear to another resident is also considered emotional abuse. There is a caveat that states that the resident performing the gestures, actions, behaviour or remarks understands and appreciates their consequence. This may require consideration for situations where mental illness or other conditions prevent the resident from understanding how their actions are affecting others. Considerations would include the resident's assessment, medical history, current diagnosis and cognitive ability.

Verbal Abuse

Verbal Abuse is defined as any form of verbal communication of a threatening or intimidating nature or any form of verbal communication of a belittling or degrading nature that diminishes a resident's sense of well-being, dignity or self-worth, if the communication is made by anyone other than a resident. Any form of verbal communication of a threatening or intimidating nature made by a resident that leads another resident to fear for his or her safety is also considered verbal abuse.

Factors such as the resident's assessment, medical history, current diagnosis and cognitive ability should be considered to determine if the resident making the communication understands and appreciates its consequences.

It is important to note that the capacity of a resident receiving a threat or communication should not be a factor if they fear for their safety at the time of the incident. A resident's inability to remember the details of an incident due to cognitive issues does **not** alleviate the licensee's responsibility to investigate and follow all requirements in the abuse policy.



Physical Abuse

Physical Abuse is defined as the use of physical force by anyone other than a resident that causes physical injury or pain, administering or withholding a drug for an inappropriate purpose, or the use of physical force by a resident that causes physical injury to another resident.

It is important to note that this does not include incidents where force is appropriate to the provision of care or assisting a resident with activities of daily living and is not excessive in the circumstances.

Incidents of abuse where a drug is withheld applies where there is intent to withhold the drug without a physician's order or medical directive. Situations where a drug has been accidentally missed may constitute as neglect or a medication error, depending on the circumstances. In circumstances where a medication error has occurred, the home should ensure the policies and procedures for documenting and reporting medication errors are followed.

In contrast to verbal and emotional abuse, incidents of physical abuse between residents are to be treated the same no matter the cognitive ability of the residents involved. A resident's inability to remember the details of an incident due to cognitive issues does not alleviate the licensee's responsibility to investigate and follow all requirements in the abuse policy. Failure to take appropriate action, including taking appropriate steps to protect residents from further abuse could result in findings of non-compliance and enforcement action.



Sexual Abuse

Sexual Abuse is defined as any consensual or non-consensual touching, behaviour or remarks of a sexual nature or sexual exploitation that is directed towards a resident by a licensee or staff member or any non-consensual touching, behaviour or remarks of a sexual nature or sexual exploitation directed towards a resident by a person other than a licensee or staff member.

Touching, behaviour or remarks of a clinical nature that are appropriate to the provision of care or assisting a resident with activities of daily living does not meet the definition of sexual abuse.

Under the Regulation, it is not sexual abuse for a licensee/staff member and a resident to be in a consensual relationship and to engage in such acts consensually **if** that relationship started **before** the resident became a resident of the home or **before** the licensee/staff member was employed in the home.

In contrast to verbal and emotional abuse, incidents of sexual abuse between residents are to be treated the same no matter the cognitive ability of the residents involved. A resident's inability to remember the details of an incident due to cognitive issues does **not** alleviate the licensee's responsibility to investigate and follow all requirements in the abuse policy. Failure to take appropriate action could result in findings of non-compliance and enforcement action.

Financial Abuse

Financial Abuse is defined as any misappropriation or misuse of a resident's money or property. This includes incidents where a resident's money or property has been stolen, where a resident has been coerced, intimidated, or otherwise manipulated into providing money or property to another person.

While not defined in the Act and Regulation as financial abuse, licensees, staff, external care providers, and volunteers are prohibited from borrowing money or other property from a resident or receiving or holding a resident's money or other property except in trust or for legitimate charges connected with the retirement home. The intent of this is to prevent licensees from financially benefitting from the imbalance of power between residents and licensees/staff. It is not to prevent good-faith and consensual gift-giving between staff and residents.

Neglect

Neglect is defined as the failure to provide a resident with the care and assistance required for their health, safety or well-being and includes inaction or a pattern of inaction that jeopardizes the health or safety of one or more residents. This definition is broad, and it should be interpreted liberally.

This provision only applies to the licensee and staff of the home. However, if staff suspect that a resident is being neglected by an external caregiver and fail to intervene at all, the failure to intervene and report could itself meet the definition of "neglect" in the Act. This provision does not apply to residents who are absent from the home when the neglect occurs unless staff of the home or the licensee continue to provide care services during the resident's absence (i.e., a resident who receives assistance with ambulation goes on an outing with staff from the home. The staff are responsible to continue providing assistance with ambulation even though the resident is outside of the home).

Protection from Abuse and Prevention of Neglect Compliance

Key Elements

The protection from abuse and prevention of neglect in retirement homes is fundamental to RHRA's regulatory role and each incident should be taken seriously. When conducting inspections in response to reports of abuse or neglect, the RHRA examines and reviews a range of information, including how the home is meeting compliance requirements.

These include:

- The content and annual evaluation of the home's written zero tolerance policies
- The home's application of its policies including measures taken to protect residents and prevent abuse and neglect
- The obligations to investigate and respond to all incidents of alleged, witnessed, or suspected abuse or neglect, including the analysis of all incidents
- The mandatory duty to report

Create and Evaluate

Written Zero Tolerance Policy

Every licensee must create a written policy for the home that promotes zero tolerance of abuse and neglect of residents. This written policy must be in a readable, usable format that may be digital and must allow for a complete copy to be readily produced.

The zero tolerance of abuse policy must express that and explain how the home will:

- Protect residents of the home from abuse by anyone
- Ensure that the licensee and staff of the home do not neglect residents
- Protect residents from abuse and neglect who are absent from the home but who continue to receive care services from the home (i.e., residents receiving care services from the home while on a recreational outing)

The legislation also requires that the policy:

- Clearly sets out what constitutes abuse and neglect
- Communicate that abuse and neglect are not to be tolerated
- Provide a program for preventing abuse and neglect

- Explain the mandatory reporting duty
- Contain procedures for investigating and responding to alleged, suspected or witnessed abuse and neglect of residents
- Set out the consequences for those who abuse or neglect residents
- Outline staff training and retraining requirements (with respect to the policy)
- Identify how allegations will be investigated, including who does the investigation and who will be informed about it
- Training and retraining requirements for situations that may lead to abuse and neglect and how to avoid those situations

Compliance

The home must ensure compliance with its zero tolerance policy. In other words, it is not enough to simply have a written zero tolerance policy in place, the licensee must ensure that staff and all others at the home comply with the policy.

Once an alleged or suspected incident of abuse has been reported, the licensee must ensure that each step outlined in the zero tolerance policy is carried out. Failure to adhere to the policy in its entirety could result in a finding of non-compliance if the matter is subject to inspection.

If you are unsure whether an incident constitutes abuse or neglect or whether the zero tolerance policy applies, the retirement home should err on the side of caution and follow all applicable steps outlined in the zero tolerance policy.

Annual Evaluation

Licensees must evaluate the policy and its effectiveness at least once every calendar year. The evaluation must consider each incident of abuse or neglect that occurred during the year to determine what changes and/or improvements are required to prevent it from happening again. Completing the evaluation can help identify trends or root causes pertaining to specific residents and/or staff. The evaluation exercise can help identify areas where re-training is needed, such as [behaviour management](#) or if the policy needs to be updated.

The insight gained from this exercise provides opportunities for the licensee to make meaningful changes that help create a safer environment for residents. The licensee must prepare a written record of the evaluation, which includes:

- Date of the evaluation
- Names of the persons who participated

- Conclusions made, including, changes required, and improvements needed
- The date that changes and improvements were implemented

All changes and improvements identified in the evaluation must be implemented.

Protect and Prevent

Program Measures and Considerations

Licensees are obligated to have a program for preventing abuse and neglect. The program should include a comprehensive range of protection and prevention procedures, measures and considerations to maximize resident health and safety. The program should be an integral part of the home's staff orientation and ongoing training programs and contain the following considerations:

- Consequences
- New Employee Screening
- Appropriate Staffing
- Staff Training
- Care Services

Consequences

The home's policy must explain the consequences for anyone who abuses a resident. The policy should describe how the home will deal with and/or discipline any persons who have abused or neglected or allegedly abused or neglected a resident. Consequences should be reasonable and account for staff, volunteers, visitors, external care providers and anyone else who abuses a resident.

Employee Screening

When recruiting and hiring staff, the home must conduct appropriate checks to assist in verifying the authenticity of qualifications and skills being presented by a candidate. Licensees are also required to complete police checks such as the vulnerable sector screening. Additional screening can include reference checks, proof of professional memberships and whether there are any restrictions on their ability to practice. These records must be kept by the home in a format that can be readily produced upon request.

Appropriate Staffing

It is the licensee's responsibility to ensure the home is adequately staffed to provide care services and additional services residents are entitled to. These levels should be monitored and adjusted to ensure that the changing needs of residents are met.

Staff Training

The home must conduct staff orientation and re-training to ensure staff understand:

- The home's policy to promote zero tolerance of abuse and neglect of residents
- What constitutes abuse and neglect
- The power imbalance between staff and residents and the potential for abuse and neglect
- Situations that may lead to abuse and neglect and how to avoid such situations
- Staff roles and responsibilities in the prevention of abuse and neglect
- Possible signs of abuse and neglect
- Internal procedures for reporting witnessed or suspected abuse or neglect
- Mandatory reporting requirements and procedures regarding mandatory reporting to the RHRA
- Whistleblower protection measures

In addition, licensees must provide information on the abuse policy to external care providers. The RHRA recommends that a 'fact sheet' containing key elements of the abuse policy be provided, and records kept, indicating the date, time and name of the person to whom the fact sheet was provided.

RHRA expects that this information is provided prior to or at the start of the person's work in the home. For staff employed or retained in the case of emergencies or exceptional and unforeseen circumstances, the licensee shall provide training on the abuse policy within one week of the time the staff commenced performing their duties in the home.

The key elements should include:

- Definitions of abuse and neglect as per the Act
- The responsibility to immediately report incidents of abuse and/or neglect, and to whom

- The licensee's procedures for reporting and responding to suspicions, allegations, and witnessed incidents of abuse and/or neglect
- Consequences for those who have been found to have abused or neglected a resident

Care Services

The home must have mechanisms in place to ensure care services are documented and provided as per [plans of care](#). When a resident requires additional care services to maintain their health and wellbeing, the home must ensure assessments are completed, plans of care are updated and discussions with responsible parties occur to have the care services provided. These discussions should happen in a way that protects resident privacy. If the resident consents to the sharing of their personal health information, the details of care services provided by external care providers should be outlined in the plan of care.

In situations where the home becomes aware that resident care needs are not being met, even if the home does not directly provide the care service, the home is obligated to take steps to ensure the resident receives the care needed. For example, if a resident receives care from external care providers (ECPs), but that care is missed due to the ECP being absent or scheduling issues, the home must immediately address this with the care provider organization if applicable and, if necessary, provide the care or take immediate steps to have someone qualified provide the care if not available in the home.

Difficult situations may arise when residents or families refuse to accept or pay for services that may be necessary to protect resident wellbeing. In these situations, the home should document:

- Details and dates of related conversations that occurred with the resident, their family or power of attorney and the physician
- The steps recommended to protect the resident and options that may be considered
- In situations where all options have been exhausted and the required care cannot be arranged or provided by the home, the home must provide a list of alternate accommodations

Ensure the Resident is Protected

When there is a report of suspected abuse or neglect, the licensee must take immediate steps to ensure the resident is protected. The zero tolerance policy should contain procedures to safeguard and support residents when suspected abuse or neglect occurs. These steps may include immediate separation of the resident from the alleged abuser, physical and mental assessment, medical attention, counseling and increased monitoring. A lack of action or the failure to protect residents from further harm in incidents of alleged abuse could result

in findings of non-compliance, even if the incident cannot be confirmed. It is important to remember that the kinds of actions that need to be taken to respond to the incident can differ depending on the situation and type of abuse or neglect that is alleged to have occurred.

Investigate

Licensees have an obligation to immediately investigate all alleged, suspected or witnessed incidents of abuse or neglect. Incidents of abuse do not have to be confirmed for an investigation to ensue. A reasonable investigation requires the licensee or staff member carrying out the investigation to obtain relevant information to make an informed decision about the allegation or suspicion. An investigation may require interviewing multiple people (including the alleged victim), taking photographs of evidence, reviewing records, documents and video footage and keeping copies. Homes may choose to develop investigation forms, templates or checklists to ensure all steps of the policy are covered. The investigation process is key in gathering evidence to confirm the details of the incident and is integral in preventing future incidents of abuse from occurring.

Documentation

Written documentation is essential. The home should document its investigation and all evidence gathered during the investigation. Homes should consider keeping separate files for each investigation. This documentation should be in a format that can be produced upon request during an inspection.

Interviews

Investigations require that thorough and accurate information be gathered through interviews and other available sources of information and documented. At minimum, the licensee or delegate should interview the alleged victim, the alleged abuser and any witnesses to provide their version of the events. If the police are involved and advise that it is not appropriate to interview someone due to an ongoing investigation, this advice should be documented in detail.

External Resources

For matters outside the typical scope of a licensee's ability to effectively investigate, they are encouraged to consider the use of external resources to ensure investigations are thorough, effective and complete.

Notification and Analysis

Notification

The home must notify the resident or the resident's substitute decision maker or other persons of importance, such as family members, immediately if the incident of abuse or neglect has resulted in a physical injury, pain or distress to a resident that could potentially be detrimental to a resident's health or well-being.

For all other incidents of abuse and neglect, the home must notify the substitute decision maker or other persons of importance, such as family members, within 12 hours.

Immediately upon completion of the investigation, the home must also notify the resident and/or the resident's substitute decision maker of the investigation's outcome. Ensuring that notification is provided to substitute decision makers and family members provides them with an opportunity to offer support to their loved ones and to determine whether they wish to find an alternative living arrangement.

Analysis

To ensure the safety of all residents, visitors and staff, an analysis of every incident of abuse and neglect of a resident must be conducted promptly once the licensee is aware of it. The analysis must be documented and include:

- Date of the analysis
- Names of persons involved
- Conclusions made
- Changes and/or improvements required
- The implementation dates of any changes and improvements required

Report

Mandatory Reporting to the RHRA

One of the ways the law protects retirement home residents is by requiring people to immediately report to the RHRA if they have reasonable grounds to suspect harm or risk of harm to a resident has occurred or may occur. This requirement is called mandatory reporting. Mandatory reporting must happen immediately and should not wait until an investigation has been completed. For a list of all mandatory reporting requirements, please see [s. 75 of the Act](#).

Who Must Report Abuse or Neglect

In the legislation, anyone other than a resident who sees or suspects an abusive or neglectful situation that harms or puts a resident at risk of harm must report the situation to the RHRA.

The duty to report to the RHRA applies to any person other than residents. It does not just apply to licensees. Regulated Health Professionals such as doctors, nurses and social workers must also report incidents of harm or risk of harm to the RHRA, even if the information is confidential. Family members, substitute decision makers, retirement home staff, external care providers, volunteers and visitors all have the same responsibility to help protect residents in retirement homes by reporting to the RHRA.

Whistle-blowing Protection

It is important to remember that it is a contravention of the Act to retaliate or threaten to retaliate against another person, whether by action or omission, because that person has disclosed anything to the Registrar or an inspector or has provided evidence. This means that a licensee cannot take action such as the following because of disclosure to the Registrar or because they have provided evidence to the RHRA:

- Dismissing, suspending or disciplining a member of the staff of a retirement home
- Evicting a resident from a retirement home
- Subjecting a resident of a retirement home to discriminatory treatment
- Imposing a penalty on any person
- Intimidating, coercing or harassing any person
- Licensees who fail to uphold whistle-blowing protection are non-compliant with the legislation and put resident safety at risk.

How to Report

If you see or suspect a retirement home resident is being harmed or is at risk, please call the RHRA at 1-855-275-7472.

In order for RHRA to properly follow up on a report of harm, as much detail as possible must be communicated, including:

- The name of the home
- A description of what happened
- When and where the situation or incident happened, whether inside or outside the home
- Who was involved

Each home must post information that explains this mandatory reporting requirement in a conspicuous and easily accessible place.

When to Report

A person who has reasonable grounds to suspect abuse or neglect must immediately report the suspicion and the information upon which it is based to the RHRA. A person has “reasonable grounds to suspect” when they have information that would lead an average person, using normal and honest judgment, to believe that abuse or neglect occurred or may occur. A person is not obligated to independently report if they know another person has already reported a suspicion or incident.

Reporting to Health Care Regulators

Regulated Health Professionals (RHP) have obligations to report to their regulators in certain circumstances. In any case of neglect involving an RHP’s clinical judgment, or abuse involving an RHP, the home is encouraged to contact the RHP’s regulatory body to determine if the home should be reporting that health care provider.

Reporting to the Police

The Act and the Regulation require that the home must also immediately notify the police of any alleged, suspected or witnessed incident of abuse or neglect of a resident that the licensee or staff of the home believe may constitute a criminal offence. Residents or family members do not determine when and if police are to be called, as it is the home’s obligation to do so.

Conclusion

To maximize your home’s preparedness and the health and safety of your home’s residents, always be mindful of the compliance requirements and your responsibilities. Protecting residents from potential abuse, preventing neglect and following required measures once aware of incidents is not only required to comply with the Act, but also helps to maintain residents’ rights to live with dignity in a safe environment.