

Ministry of Long-Term Care

Approach to Compliance and Enforcement

Overview

As a modern regulator, the Long-Term Care Inspections Branch follows the [Regulators' Code of Practice](#), which commits to honesty, integrity, respect, objectivity, confidentiality, continuous learning and timeliness.

Our inspectors are trained to take the following approach:

- **Be Transparent:** Provide clear information about our compliance approaches and [publicly post inspection reports](#);
- **Be Proportionate:** Enforcement actions should be proportionate to the circumstances with progressive escalation for repeated non-compliance;
- **Be Targeted:** Take a risk-based approach to target our efforts; and
- **Be Professional:** Cooperate with licensees, long-term care home staff and administration.

Enforcement Actions

See the [Compliance and Enforcement Fact Sheet](#) for an overview of the compliance and enforcement tools under the *Fixing Long-Term Care Act, 2021* (FLTCA).

If an inspector finds non-compliance with the FLTCA during an inspection, they are required by the Act to take the following factors into account:

This document is for informational purposes only. It is intended to highlight for licensees, long-term care staff, and relevant sector stakeholders, some of the new aspects and requirements of the Fixing Long-Term Care Act, 2021 and its regulation. Licensees are responsible for ensuring compliance with the requirements of the Fixing Long-Term Care Act, 2021 and its regulation.

This document does not constitute legal advice or interpretation. Users should consult their legal counsel for all purposes of legal advice and interpretation.

Questions?

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- Severity;
- Scope; and
- Compliance History.

Inspectors receive standardized training on how to decide appropriate enforcement actions so they can:

- Make fair, consistent decisions across the province;
- Determine the most appropriate enforcement action; and
- Document their findings in an inspection report.

Severity

An inspector determines severity based on:

1. The **impact** to the resident(s) as a result of the finding of non-compliance;
2. The **risk** to the resident(s) at the **time of the non-compliance**; and
3. The **risk** to the resident(s) at the **time of the inspection** (when relevant).

Scope

An inspector determines scope based on how many residents were affected by the non-compliance. For example, is the finding of non-compliance an isolated incident or a broader issue in the home.

Compliance History

A licensee is considered to have a history of non-compliance related to a finding if they have a previous finding of non-compliance on the same specific legislative reference (or equivalent in the *Long-Term Care Homes Act, 2007*) in the past 36 months.

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Actions

Remedied Non-Compliance

When a non-compliance is identified as having no impact and no or low risk to residents, it may be considered **Remedied Non-Compliance** by the inspector with no further actions issued if:

- The long-term care home demonstrates that they have remedied the non-compliance during an inspection, and
- The inspector is satisfied that the long-term care home is now in compliance.

Written Notification

A Written Notification may be issued when a non-compliance is identified as low impact or risk to a resident.

Compliance Order

A Compliance Order will be issued when a non-compliance is identified as significant impact or risk to a single resident's health, safety or quality of life, or moderate impact or risk to multiple residents.

Administrative Monetary Penalty (AMP) and Re-Inspection Fee

An inspector is required to issue an AMP if a licensee:

- Has not complied with a Compliance Order made under the Act; or
- Has not complied with a requirement under the Act that results in a Compliance Order being issued, and the licensee has received at least one other Compliance Order for non-compliance with the same requirement within a three-year period.

The AMP amount is set out in the FLTCA and Ontario Regulation 246/22 based on the nature of the non-compliance and the compliance history.

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A Re-Inspection Fee is issued for the second follow-up inspection for the same Compliance Order. It is a flat rate of \$500.

Inspectors have no discretion on whether to issue an AMP / Re-Inspection Fee or the amount of the AMP / Re-Inspection Fee. They must follow the legislation as written.

Provincial Offences

Serious and/or repeat findings of non-compliance, including not complying with a Compliance Order, may result in an investigation, and could lead to a licensee or director or officer of a corporation being charged with a provincial offence.

Director Referrals

Inspectors may issue a Director Referral for:

- Repeated non-compliance;
- Non-compliance with a Compliance Order for the second time;
- Inability to achieve compliance: If an inspector has concerns that the licensee cannot or is unwilling to achieve compliance; and/or
- Action required beyond the inspector's authority that requires the Director's involvement.

The Director's involvement may result in further enforcement action(s) such as:

- Director's Order;
- Administrative Monetary Penalties;
- Order Requiring Management;
- Cease of Admissions; and/or
- Licence suspension or revocation and appointing supervisor.

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Compliance Due Date

The Compliance Due Date (CDD) is the deadline for a licensee to comply with a Compliance Order. The CDD may vary depending on the:

- The urgency to remedy the situation
- The severity of the risk to the resident(s) / operations of the home; or
- The scope of the issue.

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