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Bill 235

An Act to amend the Fixing Long-Term Care Act, 2021 and the Retirement Homes Act, 2010

The Hon. N. Kusendova-Bashta
Minister of Long-Term Care

Government Bill

1st Reading December 4, 2024

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

SCHEDULE 1 FIXING LONG-TERM CARE ACT, 2021

The Schedule amends the *Fixing Long-Term Care Act, 2021*. Here are some highlights:

1. Licensees of long-term care homes are required to have organized programs respecting dementia care and services and cultural, linguistic, religious and spiritual needs.
2. New offences are added, including offences respecting abuse or neglect of a resident. Licensees are guilty of an offence for contravening or failing to comply with any provisions of the Act or regulations.
3. The Director is authorized to request a placement co-ordinator to submit reports to the Director on any matter concerning long-term care home placement and admission.
4. Currently, section 78 of the Act requires every licensee of a long-term care home to ensure the home has a Medical Director who must be a physician. The section is re-enacted to require every licensee of a long-term care home to ensure the home has a Clinical Director who must be a physician or a registered nurse in the extended class.

SCHEDULE 2 RETIREMENT HOMES ACT, 2010

The Schedule amends the *Retirement Homes Act, 2010* to add an additional right to the Residents' Bill of Rights set out in subsection 51 (1) of the Act, namely the right to ongoing support from caregivers, and to enable specified senior officials in the ministry of the Minister to provide binding direction as well as recommendations to licensees respecting the prevention and management of specified types of infectious diseases.

**An Act to amend the Fixing Long-Term Care Act, 2021 and
the Retirement Homes Act, 2010**

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Preamble

The Government of Ontario:

Recognizes that Ontario seniors deserve quality care as they age.

Recognizes that many challenges, such as dementia, exist and will need to be addressed as Ontario's senior population expands by more than 1.7 million by 2046.

Supports and protects seniors, enabling them to lead healthy, engaged lives while maximizing their independence, quality of life and social connections.

Believes that families and caregivers deserve support in caring for their loved ones as they age, that dementia care should be improved, that family and caregiver support should be enhanced, and that seniors should be protected while their social connections are fostered.

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Except as otherwise provided in this section, this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any of its provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Support for Seniors and Caregivers Act, 2024*.

**SCHEDULE 1
FIXING LONG-TERM CARE ACT, 2021**

1 Subsection 2 (1) of the *Fixing Long-Term Care Act, 2021* is amended by adding the following definition:

“provincial offences officer” means a person designated by the Minister under subsection 1 (3) of the *Provincial Offences Act*; (“agent des infractions provinciales”)

2 The Act is amended by adding the following section:

Dementia care

16.1 Every licensee of a long-term care home shall ensure that there is an organized program of dementia care and services for the home to meet the care needs of residents with dementia.

3 Section 18 of the Act is repealed and the following substituted:

Cultural, linguistic, religious and spiritual recognition

18 (1) Every licensee of a long-term care home shall ensure that there is an organized program for the home to recognize and respect, at a minimum, the cultural, linguistic, religious and spiritual needs of residents.

Religious and spiritual practices

(2) Without restricting the generality of subsection (1), every licensee shall ensure that residents are given reasonable opportunity to practise their religious and spiritual beliefs, and to observe the requirements of those beliefs.

4 Subsection 24 (3) of the Act is repealed.

5 The Act is amended by adding the following section:

Offence re abuse or neglect

24.1 (1) The following persons are guilty of an offence if they abuse or neglect a resident of a long-term care home:

1. The licensee of the home or a person who manages the home pursuant to a contract described in section 113.
2. A staff member of the home.
3. A volunteer of the home.
4. Any person who provides professional services to a licensee of the home in the areas of health, social work or social services work.
5. Any person who provides professional services to a resident of the home in the areas of health, social work or social services work.

If absent from the home

(2) Subsection (1) does not apply where the resident is absent from the home.

Same

(3) Despite subsection (2), subsection (1) applies in circumstances where the resident is receiving care or services from a person mentioned in paragraph 1, 2, 3 or 4 of subsection (1) while absent from the home.

Officers, etc

(4) The following persons are guilty of an offence if they authorize, permit or concur in the commission of an offence under subsection (1) by a person mentioned in that subsection:

1. If the licensee of the long-term care home or a person who manages the home is a corporation, an officer or director of the corporation.
2. In the case of a home approved under Part IX, a member of the committee of management for the home under section 135 or of the board of management for the home under section 128 or 132.

6 The Act is amended by adding the following section:

Report

48.1 The Director may at any time request a placement co-ordinator to submit a report to the Director on any matter concerning long-term care home placement and admission, in a form acceptable to the Director, and the placement co-ordinator shall comply with such a request.

7 Section 78 of the Act is repealed and the following substituted:

Clinical Director

78 (1) Every licensee of a long-term care home shall ensure that the home has a Clinical Director.

Professional qualifications

(2) The Clinical Director shall be a physician or a registered nurse in the extended class.

Role

(3) The Clinical Director shall,

- (a) advise the licensee on matters relating to medical care in the long-term care home; and
- (b) perform the duties prescribed by regulation.

Must consult

(4) In performing their duties under subsection (3), the Clinical Director shall consult with the Director of Nursing and Personal Care and other health professionals working in the long-term care home, in accordance with the regulations.

8 (1) Clause 92 (2) (b) of the Act is repealed and the following substituted:

- (b) relating to the use of psychotropic drugs in long-term care homes, including requiring a licensee of a home to discuss the use of such drugs with the Clinical Director or with another staff member provided for in the regulations, and requiring the Clinical Director or other staff member, as applicable, to prepare reports and advise the licensee on the use of such drugs in the home;

(2) Subsection 92 (2) of the Act is amended by adding the following clauses:

(d.1) governing consultations for the purposes of subsection 78 (4);

.

(s.1) providing for any transitional matter that the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of the amendments made by the *Support for Seniors and Caregivers Act, 2024*;

9 The Act is amended by adding the following section:

Offence, general

104.1 Every licensee who contravenes or fails to comply with any provision of this Act or the regulations is guilty of an offence.

10 (1) Subsection 150 (1) of the Act is amended by adding the following clause:

- (f.1) may require, in writing, a licensee to cause examinations or tests to be conducted or taken, at the expense of the licensee, by a person possessing such expert or professional knowledge or qualifications as are specified by the inspector and to provide, at the expense of the licensee, a report or assessment by that person;

(2) Section 150 of the Act is amended by adding the following subsection:

No medical or health tests

(3.1) Nothing in clause (1) (f) or (f.1) authorizes an inspector to conduct or require examinations or tests to determine the medical or health condition of a resident.

11 (1) Subsection 151 (1) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Inspections with warrant

(1) Upon application made without notice by an inspector, a provincial judge or justice of the peace may issue a warrant authorizing an inspector named in the warrant to enter premises specified in the warrant and to exercise any of the powers mentioned in section 150, if the provincial judge or justice of the peace is satisfied on information under oath that,

.

(2) Subsection 151 (1) of the Act is amended by adding “or” at the end of clause (a), by striking out “or” at the end of clause (b) and by repealing clause (c).

(3) Subsection 151 (3) of the Act is amended by striking out “A justice of the peace” at the beginning and substituting “A provincial judge or justice of the peace”.

12 The Act is amended by adding the following sections:

INVESTIGATIONS

Investigations with warrant

153.1 (1) Upon application made without notice by a provincial offences officer, a provincial judge or justice of the peace may issue a warrant, if satisfied on information under oath that there are reasonable grounds to believe that a person has committed or is committing an offence under this Act and that there is,

- (a) information or evidence relating to the offence in any building, dwelling, receptacle or place; or
- (b) information or evidence relating to the offence that may be obtained through the use of an investigative technique or procedure or from doing of anything described in the warrant.

Powers under warrant

(2) A warrant authorizes a provincial offences officer to exercise the following powers, subject to any conditions contained in the warrant:

1. To enter or access the building, dwelling, receptacle or place specified in the warrant and seize, examine and remove anything described in the warrant.
2. To make reasonable inquiries of any person, orally or in writing, with respect to anything relevant to the investigation.
3. To use any data storage, processing or retrieval device or system located at the premises in order to produce a record, information or evidence described in the warrant, in readable form.
4. To require a person to produce the information or evidence described in the warrant and to provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce, in any form, the information or evidence described in the warrant.
5. To use any investigative technique or procedure described in the warrant or do anything described in the warrant.

Dwellings

(3) The power to enter a premises described in paragraph 1 of subsection (2) with a warrant shall not be exercised to enter a premises that is used as a dwelling, except if the provincial judge or justice of the peace is informed that the warrant is being sought to authorize entry into a dwelling and the provincial judge or justice of the peace authorizes entry into the dwelling.

Conditions on warrant

(4) The warrant shall contain the conditions that the provincial judge or justice of the peace considers advisable to ensure that any search authorized by the warrant is reasonable in the circumstances.

Assistance

(5) The warrant may authorize persons who have special, expert or professional knowledge, and such other persons as may be necessary, to accompany and assist the provincial offences officer in respect of the execution of the warrant.

Expiry of warrant

(6) The warrant shall state a date of expiry that is no later than 30 days after the warrant is issued, but a provincial judge or justice of the peace may extend the date of expiry for an additional period of no more than 30 days upon application without notice by a provincial offences officer.

Time of execution

(7) An entry or access under a warrant issued under subsection (1) shall be made between 8 a.m. and 8 p.m., unless the warrant specifies otherwise.

Use of force

(8) A provincial offences officer may call upon police officers for assistance in executing the warrant and may use whatever force is reasonably necessary to execute the warrant.

Copies of seized items

(9) A provincial offences officer who seizes anything under this section or section 153.2 may make a copy of it.

Admissibility

(10) A copy of a document or record certified by a provincial offences officer as being a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value.

Further warrants

(11) A provincial judge or justice of the peace may issue further warrants under subsection (1).

Seizure of things not specified

153.2 A provincial offences officer who is lawfully present in a place pursuant to a warrant or otherwise in the execution of their duties may, without a warrant, seize anything in plain view that the provincial offences officer believes on reasonable grounds will afford evidence relating to an offence under this Act.

Searches in exigent circumstances

153.3 (1) A provincial offences officer may exercise any of the powers described in subsection 153.1 (2) without a warrant if the conditions for obtaining a warrant exist but, because of exigent circumstances, it would be impracticable to obtain one.

Same

(2) Subsections 153.1 (5), (9) and (10) and section 153.2 apply, with necessary modifications, to a search under this section.

Use of force

(3) A provincial offences officer may, in exercising any of the powers given by this section, call upon police officers for assistance and use whatever force is reasonably necessary.

Report to provincial judge or justice of the peace, things seized

153.4 (1) A provincial offences officer who seizes anything under the authority of section 153.1, 153.2 or 153.3 shall bring it before a provincial judge or justice of the peace or, if that is not reasonably possible, shall report the seizure to a provincial judge or justice of the peace.

Procedure

(2) Sections 159 and 160 of the *Provincial Offences Act* apply, with necessary modifications, in respect of a thing seized under the authority of section 153.1, 153.2 or 153.3 of this Act, reading the reference in subsection 160 (1) of that Act to a document that a person is about to examine or seize under a search warrant as a reference to a thing that a provincial offences officer is about to examine or seize under the authority of section 153.1, 153.2 or 153.3 of this Act.

Production order

153.5 (1) On application without notice by a provincial offences officer, a provincial judge or justice of the peace may at any time issue a production order to a person, other than a person under investigation for an offence, requiring the person to,

- (a) produce documents or data, or copies of documents or data certified by affidavit to be true copies; or
- (b) prepare a document based on documents or data already in existence and produce it.

Contents of order

(2) A production order must stipulate when, where and how the documents or data are to be produced, and to whom they are to be produced.

Grounds

(3) A provincial judge or justice of the peace may make a production order if satisfied by information given under oath or affirmation that there are reasonable grounds to believe that,

- (a) an offence under this Act has been or is being committed;
- (b) the document or data will provide evidence respecting the offence or suspected offence; and
- (c) the person who is subject to the order has possession or control of the document or data.

Conditions

(4) A production order may contain any conditions the provincial judge or justice of the peace considers advisable.

Evidence

(5) A copy of a document or data produced under this section, on proof by affidavit that it is a true copy, is admissible in evidence in proceedings under this Act and has the same probative force as the original document or data would have if it had been proved in the ordinary way.

No return of copies

(6) Copies of documents or data produced under this section are not required to be returned to the person who provided them.

Compliance required

(7) A person to whom a production order is directed shall comply with the order according to its terms.

Obstruction, etc.

153.6 Every person is guilty of an offence who,

- (a) hinders, obstructs or interferes with or attempts to hinder, obstruct or interfere with a provincial offences officer executing a warrant under section 153.1 or serving a production order under section 153.5;
- (b) otherwise impedes a provincial offences officer in exercising their powers or carrying out their duties under this Act; or
- (c) destroys or alters a record or other thing that is relevant to the investigation being conducted.

13 Subsection 181 (5) of the Act is amended by striking out “clause 150 (1) (f)” and substituting “clause 150 (1) (f) or (f.1)”.

14 (1) Subsection 192 (1) of the Act is amended by striking out “subsection (2)” in the portion before clause (a) and substituting “subsection (2) or (3)”.

(2) Subsection 192 (3) of the Act is repealed and the following substituted:

Directors, etc.

(3) Every person who is convicted of an offence under subsection 75 (3) is liable to a fine of not more than \$200,000 for a first offence, and not more than \$400,000 for a subsequent offence.

(3) Subsection 192 (8) of the Act is amended by striking out “section 151” in the portion before clause (a) and substituting “section 151, 153.1, 153.4 or 153.5”.

(4) Subsection 192 (10) of the Act is repealed and the following substituted:

Limitation period

(10) A prosecution for an offence under this Act shall not be commenced more than four years after the day evidence of the offence first came to the attention of a provincial offences officer.

15 Subsection 193 (2) of the Act is amended by adding the following paragraph:

25.1 governing the provision of information required under this Act in English and French, including,

- i. prescribing information,
- ii. specifying licensees that must make prescribed information available in both English and French or in one language only,
- iii. prescribing the content, form and manner in which the prescribed information must be made available;

Commencement

16 (1) Except as otherwise provided in this section, this Schedule comes into force on the day the *Support for Seniors and Caregivers Act, 2024* receives Royal Assent.

(2) Sections 2, 3, 7 and 8 come into force on a day to be named by proclamation of the Lieutenant Governor.

**SCHEDULE 2
RETIREMENT HOMES ACT, 2010**

1 Subsection 51 (1) of the *Retirement Homes Act, 2010* is amended by adding the following paragraph:

12. The right to ongoing support from individuals who are, as determined in accordance with the regulations, the resident's caregivers to support the resident's physical, mental, social and emotional well-being and quality of life.

2 The Act is amended by adding the following section:

Directions and recommendations re infectious diseases

Definition

60.1 (1) In this section,

“designated senior employee” means a person employed in the ministry of the Minister as a deputy minister, an associate deputy minister, an assistant deputy minister or a director or in a prescribed position.

Direction or recommendation

(2) A designated senior employee may provide direction or recommendations to all or a class of licensees respecting the prevention and management of infectious respiratory diseases or infectious gastrointestinal diseases.

Implementation of directions

(3) A licensee who receives a direction under subsection (2) shall ensure that the direction is implemented in the retirement home.

Consideration of recommendations

(4) A licensee who receives a recommendation under subsection (2) shall ensure that the recommendation is considered and that a decision as to whether to implement the recommendation in the retirement home is made.

Conflict

(5) In the event of a conflict between a direction or recommendation under subsection (2) and any of the following, any of the following prevail to the extent of the conflict:

1. Any applicable advice or recommendations of a local medical officer of health or designate respecting an outbreak of a communicable disease.
2. An order issued under the *Health Protection and Promotion Act*.
3. Anything else that is prescribed.

Non-application of *Legislation Act, 2006*, Part III

(6) Part III of the *Legislation Act, 2006* does not apply to a direction issued under subsection (2).

Commencement

3 (1) Except as otherwise provided in this section, this Schedule comes into force on the day the *Support for Seniors and Caregivers Act, 2024* receives Royal Assent.

(2) Section 1 comes into force on a day to be named by proclamation of the Lieutenant Governor.