

**Caution:**

*This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.*

**CONSULTATION DRAFT**

**ONTARIO REGULATION**

to be made under the

**RETIREMENT HOMES ACT, 2010**

Amending O. Reg. 166/11

(GENERAL)

- 1. Sections 4.1 and 4.2 of Ontario Regulation 166/11 are revoked.**
- 2. Section 5 of the Regulation is revoked and the following substituted:**

**Application for licence**

**5. (1)** For the purposes of section 34 of the Act, an application for a licence to operate a specific retirement home shall be submitted to the Registrar in the form and manner that the Registrar specifies and shall include the following documents and information:

1. The applicant's name and address.
2. The name of the primary contact person for the applicant and, if available, additional contact information for the applicant, such as e-mail address, telephone number, fax number and website address.
3. The name of every person who has a controlling interest in the applicant.
4. The name of the person, if any, that the applicant has employed or retained to manage the operations or most of the operations of the retirement home.
5. The retirement home's name and address.
6. A statement whether there is an automatic sprinkler in the room of each resident or elsewhere in the retirement home and, if so, information about the sprinklers.
7. The number of residents that the retirement home can accommodate.

8. The care services that the applicant, when licensed, will make available to the residents.
9. Disclosure of all non-arm's length relationships between the applicant and external care providers that are currently providing care services to a resident or that the applicant intends to have provide care services to a resident.
10. Signed declarations from each of the persons mentioned in subparagraphs 1 i, ii, iii and iv of section 35 of the Act disclosing the following:
  - i. Every offence with which the person has been charged under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada), the *Food and Drugs Act* (Canada) or the *Cannabis Act* (Canada) and the outcome of the charge.
  - ii. Every order of a judge or justice of the peace made against the person in respect of an offence under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada), the *Food and Drugs Act* (Canada) or the *Cannabis Act* (Canada), including a peace bond, probation order, prohibition order or warrant to arrest.
  - iii. Every offence of which the person has been convicted under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada), the *Food and Drugs Act* (Canada) or the *Cannabis Act* (Canada).

(2) An application for a licence shall include payment of the application fee set by the Authority that is in effect on the date the applicant makes the application.

**3. Subsections 5.1 (2) and (2.1) of the Regulation are amended by striking out “beginning no later than January 1, 2014” wherever it appears.**

**4. Paragraph 6 of subsection 11 (1) of the Regulation is amended by striking out “subject to section 114 of the Act” at the end.**

**5. Section 14 of the Regulation is amended by adding the following subsections:**

(2.1) Subject to subsection (2.2), a licensee is exempt from subsections 65 (2) and (4) of the Act and subsections (1) and (2) of this section with respect to a person who meets the following criteria and who is to perform work at the retirement home:

1. The person falls under clause (b) or (c) of the definition of “staff” in subsection 2 (1) of the Act.

2. The person is only to provide occasional maintenance or repair services to the home or entertainment or religious or recreational services in the home.
3. The person is not to provide direct care to residents.
4. The person is to be monitored and supervised by the licensee in accordance with written policies that the licensee has prepared to monitor and supervise persons who provide occasional maintenance or repair services in the home or entertainment or religious or recreational services in the home.

(2.2) The exemption set out in subsection (2.1) applies only if the licensee provides the person described in that subsection with information, before the person performs work at the retirement home, with respect to the home's policy to promote zero tolerance for abuse and neglect of residents, emergency plan and infection prevention and control program.

**6. The Regulation is amended by adding the following section:**

**Information for external care providers**

**14.1** (1) The licensee shall ensure that as soon as is practical after the licensee is made aware that an external care provider is or will be providing care services to a resident in the home, the external care provider is provided with information with respect to the home's policy to promote zero tolerance for abuse and neglect of residents.

**7. (1) Subsection 15 (3) of the Regulation is amended by adding the following clause:**

- (a.1) contain an explanation of the prohibition on borrowing, receiving or holding a resident's money or other property, as set out in section 57.1;

**(2) Clause 15 (3) (d) of the Regulation is amended by adding "subject to subsection (4)," at the beginning.**

**(3) Clause 15 (3) (e) of the Regulation is amended by adding "subject to subsection (4)," at the beginning.**

**(4) Section 15 of the Regulation is amended by adding the following subsection:**

(4) The policy is not required to provide, and a licensee is not required to ensure, that the resident's substitute decision-maker or any other person specified by the resident is notified about the alleged, suspected or witnessed incident of abuse or neglect of the resident or about the result of an investigation described in clause 67 (5) (e) of the Act if the licensee has reasonable grounds to suspect that the substitute decision-maker or the other person is responsible for the abuse or neglect.

**8. Subsection 20 (4) of the Regulation is revoked and the following substituted:**

(4) The licensee shall ensure that whenever food is prepared in the retirement home, at least one person involved in preparing the food,

- (a) holds a current certificate in food handler training from a local board of health or an agency of the board of health; or
- (b) has recently successfully completed a food handler training program equivalent to that offered by a local board of health or an agency of the board of health.

**9. (1) Clause 24 (5) (a) of the Regulation is amended by striking out “and” at the end of subclause (iii) and by adding the following subclause:**

(iii.1) epidemics and pandemics, and

**(2) Section 24 of the Regulation is amended by adding the following subsection:**

(6) When conducting a planned evacuation of a retirement home as required under clause (5) (b), the licensee may use a stand-in or proxy for a resident if, in the licensee’s opinion, the resident’s participation in the evacuation may cause harm or risk of harm to the resident’s health or safety.

**10. (1) Subsection 25 (1) of the Regulation is revoked and the following substituted:**

**Emergency plan—retirement home with capacity for more than 10 residents**

(1) The emergency plan for a retirement home that has the capacity to accommodate more than 10 residents shall, in addition to the requirements in section 24, meet the requirements set out in this section.

**(2) Paragraph 1 of subsection 25 (3) of the Regulation is amended by adding the following subparagraph:**

v.1 epidemics and pandemics,

**11. Section 26 of the Regulation is amended by striking out the portion before paragraph 1 and substituting the following:**

**Emergency plan—retirement home with capacity for 10 or fewer residents**

**26.** The emergency plan for a retirement home that has the capacity to accommodate 10 or fewer residents shall, in addition to the requirements in section 24, meet the following requirements:

**12. Clause 40 (b) of the Regulation is amended by striking out “and are consistent with standards of good nutrition in Canada” and substituting “and are consistent with Canada’s Food Guide, as it exists from time to time”.**

**13. The Regulation is amended by adding the following section:**

**Prohibition on borrowing, etc.**

**57.1** (1) A licensee, staff member, external care provider or volunteer of a retirement home shall not,

- (a) borrow money or other property from a resident; or
- (b) receive or hold a resident’s money or other property except in accordance with section 72 of the Act or for the payment of rent, care services or other legitimate charges connected to the retirement home.

(2) Subsection (1) does not apply if the licensee, staff member, volunteer or external care provider is related to the resident.

(3) Despite subsection (2), subsection (1) applies if one or both of the following documents prohibits persons related to a resident from borrowing money or other property from a resident or receiving or holding a resident’s money or other property:

- 1. A written policy of the retirement home.
- 2. A contract or agreement between the licensee and a staff member or an employment agency or other third party in respect of the staff member, a volunteer or an external care provider.

(4) A person who is related to another person for the purposes of subsections (2) and (3) includes a person related through adoption, marriage or conjugal relationship outside marriage.

**14. The Regulation is amended by adding the following sections:**

**Extraordinary circumstances**

**60.0.1** The following are prescribed as extraordinary circumstances for the purposes of subsection 92.1 (1) of the Act:

- 1. Acts of God, including extreme weather events or other natural disasters.
- 2. Severe flooding.
- 3. Staff shortages that rise to a critical level.

4. Shortages of critical supplies or interruptions of essential services, including with respect to food, heat, water and electricity.
5. Fires, explosions, chemical spills or similar major hazards.
6. Acts of terrorism.
7. Major failures or destruction of critical physical or technological infrastructure, including failures caused by ransomware or cyber attacks.
8. Epidemics or pandemics, including any necessary quarantines.

#### **Surrender of terminated licence**

**60.0.2** A licensee shall surrender their licence to the Registrar immediately after the licence is terminated under section 48 of the Act.

#### **Surrender of revoked licence**

**60.0.3** In an order revoking a licence under section 95 of the Act, the Registrar shall require the licensee to surrender the revoked licence to the Registrar on or before the date specified in the order.

### **15. The Regulation is amended by adding the following section:**

#### **Registrar requests for information**

**62.1** (1) The following matters are prescribed for the purposes of clause 108 (1) (d) of the Act:

1. Infection prevention and control measures in a retirement home, including the number of active infections and the number of residents and staff members who have received a vaccination or immunization against a particular infectious disease.

(2) Information relating to the matters described in paragraph 1 of subsection (1) must be de-identified before being given to the Registrar.

(3) In subsection (2),

“de-identify” has the same meaning as in subsection 108 (2) of the Act.

### **16. Section 63 of the Regulation is amended by adding the following paragraphs:**

3. A temporary closure of the retirement home or part of the retirement home.
4. An unplanned evacuation of residents from the retirement home for a period of greater than 6 hours.

5. A temporary relocation of the retirement home or part of the retirement home to one or more other premises.

**17. The Regulation is amended by adding the following section:**

**Disclosure of information**

**63.1** The communication of information to the following persons or entities is prescribed for the purposes of subsection 113 (3) of the Act:

1. A ministry, department, agency or administrative authority of a government engaged in the administration of legislation similar to the Act or legislation that protects consumers, or any other entity to which the administration of legislation similar to the Act or legislation that protects consumers has been assigned.
2. The chief medical officer of health, a medical officer of health or the Minister, all as defined in the *Health Protection and Promotion Act*.
3. The fire marshal, the fire chief of a fire department or the clerk of a municipality, all within the meaning of the *Fire Protection and Prevention Act, 1997*.
4. An entity or organization engaged in the protection of consumers in Ontario if the purpose of the communication is consumer protection.
5. The governing body of a profession regulated under Ontario legislation if the purpose of the communication is consumer protection or public health and safety.
6. An entity or organization that provides or facilitates the provision of a care service, if the purpose of the communication is public health and safety.

**18. (1) Subsection 64.1 (6) of the Regulation is amended by adding “Subject to subsection (6.1) ” at the beginning.**

**(2) Section 64.1 of the Regulation is amended by adding the following subsection:**

(6.1) The Authority may, from time to time, invest in accordance with the *Trustee Act* any money that is surplus to the Fund’s immediate requirements.

**19. Clause 64.2 (1) (c) of the Regulation is amended by striking out “the individual and the operator have taken, both before and after the event giving rise to the claim arose” and substituting “the individual has taken”.**

**20. The Regulation is amended by adding the following section:**

**Operator's mitigation of costs**

**64.2.1** The operator of a retirement home must take all reasonable steps to mitigate the costs mentioned in clause 64.2 (1) (b).

**Commencement**

**21. [Commencement]**