

The Long-Term Care Homes Act

What does it mean for Family Councils?



The *Long-Term Care Homes Act, 2007* came into effect on July 1st 2010 and replaces three pieces of legislation which have been repealed: The *Nursing Homes Act*, *Charitable Institutions Act* and *Homes for the Aged and Rest Homes Act*. For the first time ever, Family Councils are included in the legislation governing Long-Term Care Homes in Ontario. This fact sheet provides information on some aspects of the Act, some changes from the previous legislations and what the Act means for Family Councils.

Q. What does the new Long-Term Care Homes Act mean for Family Councils?

For the first time ever, Family Councils are included in the legislation governing Long-Term Care Homes in Ontario. The inclusion of Family Councils in the new *Long-Term Care Homes Act* is a major development which recognizes the important contributions Family Councils make to Long-Term Care Homes and the Long-Term Care sector in general.

Q. What can a Family Council do? What are its powers under the Act?

The Act outlines several powers of a Family Council, such as providing assistance, information and advice to residents, family members of residents and persons of importance to residents, including when new residents are admitted to the Home; advising residents, family members of residents and persons of importance to residents respecting their rights and obligations under the Act; sponsoring and planning activities for residents; advise the licensee of any concerns or recommendations the Council has about the operation of the Home, and others. As each Family Council is unique, the activities of each Family Council will vary.

Q. What does the Act say about the membership of a Family Council?

The Act also indicates who can and cannot be a member of the Council. Persons who are not eligible to be members of the Council include the licensee of the Home, Home management, an officer or director of the licensee or of a corporation that manages the Long-Term Care Home on behalf of the licensee, a person with a controlling interest in the licensee, the Administrator of the Home, any staff member, and any person employed by or in a contractual relationship by the Ministry of Health and Long-Term Care.

As Family Councils are autonomous and self-governed, they are responsible for creating their own Terms of Reference which outlines the group's goals, structure and operating procedures, including membership. Each Council sets its own membership including who may be a member and how long people can be Council members.

Q. What role does the Long-Term Care Home play?

According to Section 65 of the Act, the licensee has a duty to cooperate with the Family Council and cannot interfere with the meetings or operations of the Council. Section 67

indicates that the licensee has a duty to consult regularly with the Family Council- at least every three months.

The Act says that every Home may have a Family Council and that a family member or person of importance to a resident may request that a Family Council be established. The licensee must assist in the establishment of a Family Council within 30 days of receiving a request from a family member or person of importance to a resident.

Many Family Councils have positive and productive relationships with the staff and administration of the Home. Many staff members and administrators go above and beyond what is prescribed in the Act. The relationship between the Council and Home staff and administration is important to a successful Family Council as it helps to ensure good communication and successful activities and initiatives of the Council.

Q. If my loved one has passed away, does that mean I can't continue to be a member of the Family Council?

No. Family Councils are self-led, autonomous groups who decide on their own membership within the framework provided in the LTCHA.

The Act Subsection 59(5) provides that a family member of a resident or a person of importance to a resident is entitled to be a member of the Family Council of a LTC Home and therefore cannot be refused membership. Subsection 59(6) of the LTCHA provides a list of the people that are not permitted to be a member of a Family Council (licensee, administrator, staff etc..). As such, the Council can set provisions within its Terms of Reference for continuing membership of a Family Council member who does not have a family member/friend who is a resident in the Home. It is important for your Council to have a Terms of Reference which defines its structure, operating procedure and membership.

The licensee does not have the authority to interfere with decisions relating to membership.

Q. What can you expect from the inspection process for Long-Term Care Homes?

The Ministry inspection process is being transformed to align with the requirements of the Long-Term Care Homes Act and Regulations.

- The new inspection process will use standardized and clinically validated methodology (QIS), creating a more structured and consistent approach. The Quality Indicator Survey (QIS) is a process developed by the University of Colorado that allows for a more evidence based inspection, less interpretive results and resident care outcomes to guide the inspection requirements.
- The inspection process will be resident-outcome and risk-focused. The compliance inspectors will begin with information gathering through interviews with the residents – to hear their views of quality of life and care in the home, and to determine if there is any risk to the residents.

- Important information will also be gathered through interviews with families, staff, Residents' Council and Family Council representatives.
- The inspectors will also be conducting mandatory audits, reviewing clinical records and policies and making observations during the time in the Home. They will be using new technology to organize and summarize data and findings.
- The new approach will allow for a shorter inspection process if the Home shows positive resident outcomes and target inspection resources on Homes with the largest number of quality concerns.
- Inspections will continue to be unannounced and annual inspections will be conducted on a randomized basis – all Homes will receive their first annual inspection under the LTCHA by December 31, 2011.

Q. Is the Program Manual still being used?

The *Long-Term Care Homes Program Manual* is no longer being used; it has been replaced by Act and accompanying Regulations. Many of the standards previously contained in the Program Manual are now included in the Regulations.

Q. Does the Act affect funding for Homes?

No. Funding is a separate issue; the Act does not deal with funding for Homes. The Ministry of Health and Long-Term Care is currently reviewing funding of Long-Term Care Homes separately from the new legislation.

Q. Where can I read the new Act and Regulations?

The Ministry of Health and Long-Term Care is asking all Long-Term Care Home licensees to make a copy of the Act and Regulations available in the Home and to provide a copy to both the Residents' and Family Councils.

You can view the *Long-Term Care Homes Act* on the e-laws website at this link:

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_07108_e.htm

The Regulations are available at this link:

http://www.e-laws.gov.on.ca/html/source/regs/english/2010/elaws_src_regs_r10079_e.htm

For more information about the new *Long-Term Care Homes Act* and what it means for Family Councils, please contact the Family Councils' Program.

Phone: 416-487-4355, toll-free 1-888-283-8806

Website: www.familycouncils.net

FCP Networking Coordinator, Lorraine Purdon: fcnetwork@selfhelp.on.ca

FCP Resource Coordinator, Samantha Peck: fcresource@selfhelp.on.ca