

The Honourable Frank N. Marrocco, Chair
Angela Coke, Commissioner
Dr. Jack Kitts, Commissioner

L'honorable Frank N. Marrocco, président
Angela Coke, commissaire
Dr Jack Kitts, commissaire

December 4, 2020

Dear Minister Fullerton:

As is apparent, the province is in the midst of a second wave of the COVID-19 pandemic and residents in LTC homes continue to be at increased risk. Since the release of our interim letter and recommendations on October 23rd, over 100 homes are experiencing an outbreak and more than 300 residents have died.

This is our second interim letter with recommendations. It focuses on quality of resident care because of the continued vulnerability of LTC homes and further information based on evidence we have received since our first interim letter.

We are aware that there are many factors that increase the risk of this virus entering LTC homes and causing widespread infections and death. For example, we have heard that the prevalence and transmission of the virus in the community is a strong predictor of spread into LTC homes. However, some factors which may be effective in reducing risk and enhancing the quality of care for residents in LTC homes can be addressed in the short term. These factors include:

1. Effective leadership and accountability
2. Using performance indicators to assess each home's readiness to prevent and manage COVID-19 outbreaks, and
3. Focused inspections to assess compliance with measures known to reduce the impact of the virus.

1. Leadership and accountability in LTC homes

The fundamental principle defined in the *Long-Term Care Homes Act* states that "A home is primarily the home of its residents and is to be operated so that it is a place where they may live with dignity and in security, safety, and comfort and have their physical, psychological, social, spiritual and cultural needs adequately met." Effective leadership and accountability at all levels of the LTC sector are required to ensure that residents and staff live and work in an environment defined by this fundamental principle. In the coming months the Commission will continue to review leadership at all levels and its impact on resident care and staffing in LTC homes. For this interim letter we will focus on in-home leadership as a priority.

We learned from wave 1 that on-site leadership matters. We heard that homes where leaders were visible and provided clarity around staff roles and responsibilities fared better than those where leadership was less engaged. Homes with effective leaders were better prepared, had less outbreaks, and better contained outbreaks when they occurred.

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The Canadian Armed Forces' (CAF) interim and final reports on their observations in the LTC homes to which they were assigned in Ontario clearly identified poor leadership communication to staff, poor onboarding of new staff, inappropriate levels of supervision and concerns about the clinical skills and quality of care of residents as main contributors to the crises in those homes. The CAF interim report indicates that the LTC homes' management acknowledge that they need to improve.

On the other hand, we heard testimony that the leadership team of a not-for-profit home in Toronto, a location with high community spread, demonstrated leadership in preparing for, and managing through, the pandemic. The management team proactively monitored world events and the Canadian situation in early February to prepare for possible impacts. Senior management meetings were held to activate and review pandemic plans, based on their SARS experience. In early February, their assessment included reviewing staffing, food, IPAC and PPE supplies and the implementation of mandatory mask wearing, prior to the government direction. Regular leadership communication with staff and families (CEO walkabouts, etc.) was standard practice. This proactive and hands-on approach resulted in the home having zero resident COVID-19 positive cases in the first wave and zero cases so far in wave 2.

We have also heard there was confusion around who was responsible for maintaining resident quality of care in LTC homes during the pandemic. It was unclear to whom the responsibility fell in the LTC home's leadership team of the Executive Director, Director of Nursing and Personal Care and Medical Director and that these leaders were not always accessible or on-site. We have also received evidence about the education, training and financial resources that those leaders require to effectively assume and carry out their duties.

Experience demonstrates that effective leadership often requires difficult decisions. Cohorting, isolating and decanting are examples of the hard and timely decisions that leaders in LTC homes must make in the midst of an outbreak.

Since 40% of LTC homes have multi-bed wards in which the disease spreads rapidly and which have limited ability to cohort and isolate on-site, leaders in these homes need to work with their local healthcare partners, residents and families to develop contingency plans to decant residents, if necessary. The experience of the Windsor Regional Hospital and the Heron Terrace LTC home is instructive to illustrate how decisive leadership, planning and execution can be combined in a singular effort to save residents' lives when a home is experiencing a severe outbreak.

“It became obvious that Heron Terrace couldn't sustain their operations, even with some staffing support from home and community services, and discussions started rather rapidly about decanting the residents, for safety concerns.”

David Musyj, President and CEO, Windsor Regional Hospital

This is consistent with our earlier recommendation that residents who are COVID-positive, especially in older homes, be given the option to transfer to alternate settings to avoid further transmission of the virus and to help them recover.

The on-site quality of care leader in each home should be required to work with their hospital, public health partners and others to put plans in place to quickly decant residents to other facilities, where necessary. The plan should identify these facilities in advance.

We have also heard that LTC homes in Ontario and in other jurisdictions (e.g. Hong Kong since 2004) where there was a trained, dedicated and designated staff person responsible for infection prevention and control were better able to prevent and/or control the spread of the virus.

“..the Government require(s) all nursing home(s) to have one staff, usually a nurse, to be designated as an infectious disease control officer in the nursing home.”

Professor Terry Lum, University of Hong Kong and interRAI

While the LTCHA regulation requires that each home have an IPAC Program Coordinator and progress has been made to improve access to IPAC expertise through the IPAC Centres of Expertise since our October recommendations, more still needs to be done in the individual homes.

We recommend that until the pandemic is over, you require that:

- **There is a clear lead for the quality of care** amongst the leadership team of the Executive Director, Director of Nursing and Personal Care and Medical Director in each LTC home. This individual must be on-site each day in a full-time position and be held accountable for resident quality of care and the Province provide the financial resources necessary to effectively support the lead for quality of care in carrying out their role and responsibilities.

2. Performance Indicators

The current six clinical indicators tracked in the LTC home performance reports, such as the percentage of residents who fell, experienced pain or were physically restrained, are a good first step in advancing transparency and flagging issues in homes. While valuable, this data does not provide other important insight on the quality of care received by residents and their experience in the home. Furthermore, the most recent figures are based on 2018/19 data and housed on a separate online platform from home inspection reports.

From a quality of care perspective, homes should monitor and report on other indicators that would provide additional important information to residents, families and the general public and against which homes can be assessed.

Indicators in areas such as staffing (e.g. staffing mix, ratio of residents to staff and ratio of residents to staff with clinical expertise, level of staff engagement, etc.), PPE supplies and resident and family satisfaction with care at the home should be monitored and publicly reported.

We understand that monitoring and compliance with public health practices, PPE, IPAC and staffing have taken on recent importance because of the pandemic and are not routinely monitored as other metrics. The responsibility and accountability for overseeing this task should fall to the home's on-site quality of care leader.

We therefore recommend that immediate action be taken to:

- **Include performance metrics such as resident and family satisfaction, staff engagement, staffing levels, and supply of PPE in the LTC home performance reports.**
- **Publicly post the home performance reports** in a single and centralized location so that the public and other homes can assess and compare homes to one another. This information should be updated more frequently and be presented with inspections

status of each home in a user-friendly manner so that the public can search and access a comprehensive picture of each home's performance.

3. Inspections

Questions and concerns have been raised about the effectiveness of the Province's oversight and inspections system, whose primary focus is to protect the vulnerable people in LTC homes.

Based on testimony before the Commission, information shared by government officials and research conducted by the Commission, several issues have surfaced that the Commission believes require urgent attention. These include the decision in fall 2018 to discontinue Resident Quality Inspections (RQIs) in all long-term care homes, the apparent lack of consistency in enforcement and the siloed approach to inspections by the MLTC, Ministry of Labour, Training and Skills Development (MLTSD) and Public Health inspectors.

a) The discontinuance of annual Resident Quality Inspections (RQIs)

In 2013, the MOHLTC recognized that comprehensive inspections would help identify systemic issues in homes and committed to completing an RQI in every home by the end of 2014 and each following year. Nearly all 626 LTC homes received RQIs in 2015, 2016 and 2017.

In addition, approximately 100 inspectors were hired over two years to support this effort, bringing the total up to 180 by 2015. We note that this number has remained largely the same over the last five years with 175 LTC inspectors currently working in the Long-Term Care Quality Inspections Program (LQIP).

In response to the Auditor General's 2015 recommendation "to prioritize comprehensive inspections based on LTC homes' complaints and critical incidents and other risk factors" in order to clear a backlog of almost 3,000 complaint and critical incident inspections, the Ministry introduced a risk-based approach to inspection and enforcement.

LTC homes deemed high risk were to receive more thorough annual inspections, although all homes were still to be inspected every year. In 2018, 329 LTC homes received an RQI. However, that number dropped to 27 homes in 2019.

This reduction in RQIs which are intended to provide a holistic review of operations in the homes left the Ministry with an incomplete picture of the state of Infection Prevention and Control (IPAC) and emergency preparedness.

This is a key gap as RQIs are the only resident-focused inspections that must include a review of IPAC. By their nature, a complaint about day-to-day issues in a home is very unlikely to identify problems with equipment and processes that would be used in an emergency.

Importantly, we have found no indications that proactive RQIs were initiated by the MLTC when COVID-19 outbreaks began globally. From March 1 to October 15, 2020, only 11 LTC homes received a proactive inspection.

We recommend that the Ministry:

- **Reintroduce annual Resident Quality Inspections for all LTC homes and require all reactive inspections occurring during the pandemic to include an IPAC Program review.** This will ensure that all LTC homes receive an IPAC protocol review and assessment and that possible violations are identified whenever there is a MLTC inspection in the home during the pandemic.
- **Request appropriate funding in the upcoming 2021 provincial Budget to hire and train a new cadre of inspectors to implement the annual RQIs on each LTC home in the system.** These resources are important to address the current need as well as the anticipated demand that will be created with the additional new beds that will be coming on stream in the next two to five years.

b) Enforcement

In addition to the discontinuance of RQIs, we are concerned about the apparent lack of enforcement and follow-up verification of compliance with Orders issued by the ministry.

In 2019, the two most common enforcement actions were Written Notification and Voluntary Plan of Correction. Neither require mandatory follow-up or verification from the LTC home to illustrate compliance with the requirement under the Long-Term Care Homes Act (LTCHA).

From 2018 to 2020, Plan of Care has consistently been identified as the top area of non-compliance identified from complaint inspections. This illustrates the high volume of complaints that must have been made about a resident's Plan of Care. It is interesting to note that IPAC issues rarely made it into the list of the top ten areas of non-compliance identified from complaint inspections, showing that it was rarely a focus of any inspections.

Director Orders (DOs), seem only to be applied in extreme circumstances. There were only 21 issued between January 2019 and August 2020.

Also, it appears that fines or prosecution penalties for failure to comply with orders under the LTCHA are rarely applied as a form of corrective action, which may feed into the lack of urgency illustrated by LTC operators to come into compliance.

We recommend that the Ministry:

- **Improve enforcement by prioritizing timely responses to non-compliance with IPAC and Plan of Care orders.**

c) Coordination of Inspections

Finally, there appears to be an absence of a cohesive approach to inspections completed by the MLTC, MLTSD and Public Health Units.

This has likely occurred because inspectors from all three organizations tend to carry out their duties independently. If issues arise during inspections that are outside their respective mandates, they may inform or consult their counterparts but there is no clear or widely used protocol for information exchange or follow-up.

This disjointed approach to inspections proved extremely detrimental for IPAC in LTC homes. With the near elimination of RQIs and minimal inspections initiated by IPAC complaints or critical incidents, MLTC inspections provided little help in proactively identifying and addressing gaps in

infection control inside homes. MLTSD inspections were centered on occupational health and safety standards, such as access to PPE, but only as they related to staff, not residents. Public health agencies provided guidance on IPAC best practices but in some cases did not appear to have sufficient resources or capacity to support hands-on application in the home.

We therefore recommend the following immediate steps be taken to:

- **Eliminate the siloed approach to MLTSD, Public Health and MLTC inspections through cross training, the establishment of a centralized system of report sharing, and inspector teams to address specific cross-cutting issues.** Information sharing on intersecting legislative requirements, such as IPAC, would ensure the consistent communication and application of standards and cross training would enable inspectors from all three organizations to be dispatched to support homes in emergency situations.

Conclusion

As indicated in our previous letter that contained our first interim recommendations, unlike other Public Inquiries, our Commission's work is being conducted during the COVID-19 pandemic, and as a second wave of infections is occurring in the province, including in long-term care homes.

As with our first set of interim recommendations, this is not our last word on the issues raised in this letter.

Based on our ongoing investigation, our final report will provide an account of what happened throughout the pandemic and provide a broad range of recommendations that deal with pre-COVID systemic challenges and factors that contributed to the tragedy in long-term care homes.



The Hon. Frank N. Marrocco
Chair



Angela Coke
Commissioner



Dr. Jack Kitts
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cc. Hon. Christine Elliott, Deputy Premier and Minister of Health