# Long-Term Covid-19 Care Commission

Capital Development and Licensing
on Friday, September 18, 2020


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MEETING OF THE LONG-TERM CARE COVID-19 COMMISSION

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--- Held Virtually via Zoom, with all participants attending remotely, on the 18th day of September, 2020, 10:05 a.m. to 12:07 p.m.

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BEFORE:

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

PRESENTING:

Michelle-Ann Hylton, Director of the Capital Planning Branch within the Ministry of Long-Term Care

PARTICIPANTS:

Margaret Allore, Capital Planning Branch within the Ministry of Long-Term Care

Gary Thompson, Manager of the Programs and Policy Unit within the Ministry of Long-Term Care

Neil Vanderkooy, Manager of the Project Management Units within the Ministry of Long-Term Care

Alison Drummond, Assistant Deputy Minister, Long-Term Care Commission Secretariat

Derek Lett, Policy Director, Long-Term Care Commission Secretariat

Amy Leamen, Counsel, Legal Services Branch for the Ministries of Health and Long-Term Care

John Callaghan, Lead Counsel, Long-Term Care Commission Secretariat

Sunil S. Mathai, Counsel, Crown Law Office Civil.

PARTICIPANTS (cont'd):

Roopa Mann, Counsel, Crown Law Office Civil.

Ann Christian-Brown, Counsel, Crown Law Office Civil.

Lynn Mahoney, Counsel to the Ministry of Health and Long-Term Care.

ALSO PRESENT:

Judith M. Caputo, Stenographer/Transcriptionist

COMMISSIONER MARROCCO: Well, I think Ms. Hylton, Gary is connecting to audio so I think he's here.

Thank you very much for coming and making the presentation, it's very much appreciated by us. We're at the investigative stage of our proceedings and we're just trying to understand the environment in which we've been asked to report. And we very much appreciate your assistance in giving us a foundational briefing about your responsibilities in the Ministry. So thank you and we're ready when you are.

MS. HYLTON: Thank you. It is an absolute pleasure to be here. I should start off by saying I am a Director within the Capital Division of the Ministry.

My ADM, and I understand ADMs are typically the ones giving this presentation. Unfortunately, he's away on emergency leave, so I am acting for him for a few weeks here in his stead, and his name is Brian Pollard.

Perhaps if there is a reason that you may not hear from me directly again, it may be my ADM at another visit, but I wanted to put that on the table.

COMMISSIONER MARROCCO: Thank you.

MS. HYLTON: The Capital Division was recently created or established within the Ministry of Long-Term Care, really, with two areas of focus:

Licensing long-term care homes being one of them. And the other significant piece of our portfolio, everything related to LTC development.

COMMISSIONER MARROCCO: Ms. Hylton, I apologize for interrupting. I should have told you, we will ask questions as we go along rather than waiting until the end.

MS. HYLTON: No problem.

So again, the two main areas of focus, licensing and development. And so the first presentation today is really a 1-0-1 or foundational from a licensing perspective, and then we'll jump into the redevelopment program.

The two are very much intertwined, because the redevelopment program is heavily dependant on licensing. At the end of the day, we're only able to open successfully or redevelopment with the licence issued. So the two programs go hand-in-hand. Maybe we can jump to slide two. And I have a few notes in front of me,

so perhaps I may be looking down on my notes when I speak for the next few minutes.

Worth mentioning as we get started, the foundation of the licensing framework very much legislated, added a risk-base assessment framework that we utilize. It underlays any licence issued by the Ministry, or any approval provided to operate a home by the Minister.

That risk-base assessment, and really that framework is enshrined in the legislation, the Long-Term Care Homes Act and comprises a whole host of things. So checking compliance history of an organization; teaching external feedback; conducting financial review; as well as conducting what we call "public interest text".

So all of these pieces are part of a risk-base assessment framework that supports the issuance of a licence or approval by the Minister.

A bit of background information here. There are currently 627 homes licensed in the Province of Ontario, licensed by the Ministry. 626 in operation, as there is one home that is essentially offline due to an emergency that caused their beds to be closed for a period of time.

The licensing program, the licensing

arm the Ministry essentially has four key areas of focus at this point.

So number one, the majority of our work on a day-to-day basis now really supports the development and redevelopment of capacity across the Province.

So as I mentioned before, the redevelopment program, development of new beds, all of that has implications from a licensing perspective. As the licence is tied to the age of the bed and certainly is the what I would call essentially the piece of paper that facilities the flowing of funding from the Ministry to a home.

And so about 60 percent of our work at this point is really focused on building new capacity and facilitating the development of older capacity.

About 40 percent of our work, so beyond that, is really focused on what I would call "routine licence transactions".

So if you think of the 626 homes that are in operation, there is always some movement in the system. Always, you know, the opportunity perhaps to transfer licenses where operators are either getting out or coming into the business.

Oftentimes companies, organizations who hold licensing have made decisions around controlling interest. Oftentimes we have local partners requesting new beds, perhaps, to come on a temporary basis to alleviate pressure in a particular area of the Province.

We also have management contracts where operators may want an entity, or need an entity to come in, manage the day-to-day operations of a home.

All of these speak to routine licensing transactions for existing facilities within the system. And again, a critical part of the work of the licensing team. Margaret Allore, who is on the line, is my senior manager with responsibility for licensing as well.

The other areas are focused -- so the other two from our licensing perspective, really focused on what I would call modernizing the licensing system within the Province.

So looking at opportunities to increase efficiency, as well as opportunities to digitize the program.

Historically, licensing has been somewhat of a tedious process internally, certainly

felt by our stakeholders. And depending on the transaction, can take very long.

We've also applied, over the years, sort of a one-size-fits-all approach. So if you are looking to add two beds temporarily compared to building a net new home, historically, the program would have put an operator through the same steps than, of course, from an efficiency perspective and really a real estate perspective, that's not necessarily what's needed, depending on the transaction. So we are very much focused at this point in terms of opportunities to modernize the licensing program.

Lastly, and I will jump to the next slide. The licensing program is very much focused now on looking at opportunities to sustain capacity.

We have about a third of the capacity, so about 26,000 beds coming up for expiry. They hold licenses that will expire in 2025.

So from a licensing perspective, we need to ensure that we have a sense of next steps, that these operators -- will this capacity exist beyond 2025? Will they meet the criteria to hold a licence beyond 2025? And under the legislation, we're also required to provide them notice three

years before the expiry of the Ministry's intention to provide a licence beyond that upcoming date.

So quite a bit happening from a licensing perspective, and those are our areas of focus.

The next slide gives you --

COMMISSIONER MARROCCO: Excuse me, hold on a second. Commissioner Kitts?

COMMISSIONER KITTS: I have a question about the bed numbers.

So I understand that in the next five years we will expand the capacity of beds by an additional 15,000, right?

MS. HYLTON: Yes.

COMMISSIONER KITTS: And the current compliment is 78,890, so I add 15,000 to that.

But 26,000 beds may disappear in 2025. Is that what we're facing?

MS. HYLTON: Yes. We know that all 26,000 will not disappear. Because many of the operators of those 26,000 beds have indicated, either by way of applying through the development program, or through the licensing team directly, their intentions to redevelop and continue to operate.

But we do know that there are some that are really making decisions now as to whether or not they intend to continue to operate. But you're exactly right. We have 78,000, almost 79,000 beds in operation. Come 2025, 26,000 are holding a licence that will expire by that point in history.

And so the decision certainly have to be made, some have made the decision and have started the process to redevelop, or to even expand their homes; but there are some who are still deciding at this point.

But, yes, there is the potential to lose capacity to the tune of thousands, given the pending licence expiry.

COMMISSIONER KITTS: Are these 26,000 beds in what would be described as older homes, perhaps not meeting the design conditions that exist today?

MS. HYLTON: Yes. So the majority of these would be older beds. So beds that would've held a licence prior to the current legislation coming into force. And when the legislation came into force in 2010, they would have received a longer term licence that would expire come 2025.

So, yes, they are older beds.

COMMISSIONER KITTS: So the likelihood that a number may disappear is relatively high?

MS. HYLTON: Yes.

COMMISSIONER KITTS: One last thing. I understand that some of the homes to meet Public Health or IPAC requirements, have already decreased the number of beds to decrease the crowding and comply with the IPAC and public health structure.

Do you take those into account as well, are they counted in here, or are they just being looked at?

MS. HYLTON: They're not counted in here, because essentially those beds are still licensed.

From a capital perspective, when we talk about development in our analysis that the Ministry is starting to undertake now from a development perspective, the discussions internally, when we think about where there will be a need to fluctuate capacity or boost capacity in certain areas, we will take into consideration expectations for beds to close, as per the 2025 expiry, as well as where capacity has been, or licence will be lost, as a result of reducing occupancy to deal with the pandemic. Because we

know that essentially many of those homes will likely never reopen all of those beds. They will likely stick to fewer numbers for better IPAC measures. And so from a capacity perspective, the development program certainly has to take that into consideration.

COMMISSIONER KITTS: Thank you.

COMMISSIONER MARROCCO: Ms. Hylton, as we sit here today, is there a waiting list for people to get in, or is that -- you're nodding yes.

So there is a waiting list?

MS. HYLTON: Yes. A waiting list for people to get into long-term care?

COMMISSIONER MARROCCO: Yes.

MS. HYLTON: Absolutely there is a waiting list. I don't want to speak to the numbers, but it's close to about 30,000 people waiting to get into long-term care at this point.

My colleague, Sheila Bristo, has responsibility of the operations division, she has oversight on those numbers, perhaps on a more frequent basis. But I know last I checked it was close to 30,000 waiting for long-term care.

COMMISSIONER MARROCCO: So then in addition to the fact that some of the 26,000 will

expire, there's also the 30,000 on the waiting list.

MS. HYLTON: Yes, absolutely.

The 30,000 on the wait list, very much distributed in different ways across the Province. So we know historically the waitlist is longer in urban areas, or in specific areas where there are fewer long-term care homes.

That doesn't necessarily jive with where all the capacity will be lost, or potentially could be lost. Again, some of these operators are still making those decisions as to whether or not they will continue to operate.

But, yes, we do have a waitlist to the tune of about 30,000. As well as the potential to move beds coming up in 2025, given the pending licence expiry.

COMMISSIONER MARROCCO: Does that sort of the overall circumstance that you've described, does that exert a pressure on the licensing of facilities in the sense that you kind of want them to be able to comply and -- at one level, want them to carry on because there's this numerical situation that you've described?

MS. HYLTON: Yes. Justice, I would say

that's a fair question. To some extent the Ministry has to take that into consideration, because we do want to add capacity. And part of the licensing risk assessment framework, we have to talk to external parties.

So closer to home, for example, we talked to Local Health Integration Networks. And they're responsible for placing applicants into long-term care. They are the holders of that waitlist.

So, yes, in speaking with them, there's always that strong need to look at opportunities, to open more beds or maintain capacity as best we can.

We have to, in the Ministry, though, strike an important balance, because the safety of residents, the safety of the structures, the financial health of the licensee and the organization as a whole, all of these -- I'm just giving you examples -- the access to different types of homes as per public interest tests.

Under the legislation, the licensing team, me especially as the director, I have to weigh all of those things. So not just the need for beds, but whether or not we are in a position

where we can safely licence beds and expect that these beds will continue to be in operation in a safe way over a period of time.

So a few things have to be taken into consideration. The need for beds is one, absolutely, that's one of the public interest tests that is done.

But, also, the safety of residents. The ability to operate to a certain level on the part of the licensee. Compliance, history of compliance of the organization. All of those are taken into consideration.

COMMISSIONER MARROCCO: You said that the LHIN controls the list.

MS. HYLTON: They hold the list, yes.

COMMISSIONER MARROCCO: What does that mean when you say "they hold the list"?

MS. HYLTON: When an individual is looking to apply to be put on the waitlist for long-term care, essentially, that application goes to and is processed by the local health integration network.

So there are 14 of them across the Province. And other than Regulation 7910, the LHIN has its rules set out in terms of how to organize

and manage the waitlist.

Essentially, they are responsible for the waitlist, so they do the assessment of applicants. They determine whether or not that applicant meets the criteria to go on the waitlist for long-term care. And if the individual does, they place that individual in the appropriate category of the waitlist.

COMMISSIONER MARROCCO: But how does the individual get into the facility, to the home? Who decides that?

MS. HYLTON: So there is choice made by the individual. So the applicant.

So they can choose to be on up to five waitlists at any particular time. So they can choose five different homes. Well, they can choose many homes, but they can only be on five waitlists at a time. So this is what they would communicate to the LHIN.

Typically, the LHIN would go to the person's home, or visit the person or their family in hospital or in an appropriate place, and conduct an assessment. Those homes would be identified.

So, for example, most applicants tend to identify homes that are close to where they

live, or where their families reside. They have the opportunity -- some homes provide virtual tours. Prior to COVID, I know family members would physically visit homes, and they would indicate to LHIN which homes they would like to be on the waitlist for.

I know sometimes LHIN recommends homes, depending on the person's situation. So an individual who perhaps might need specialized care like dialysis, the LHIN will likely recommend a home that provides that level of care; not all homes provide specialize services. And so that individual, if they agree -- consent and choice are foundational to the placement process of long-term care. If they agree, they can be put on the waitlist that ultimately they decide whether or not they go into the home.

The LHIN brokers with the home, once the application is made. The home has the opportunity to also decide "yes" or "no", based on their ability to care for the individual.

COMMISSIONER MARROCCO: Okay.

MS. HYLTON: I do know that, Sheila Bristo, again, the operations division, I just happen to have background around this, but this

day-to-day information perhaps more detail on placement, is certainly within the operations division portfolio.

COMMISSIONER MARROCCO: All right.

So go ahead.

MS. HYLTON: All right. So slide three captures, essentially, the four types of either licenses, or approvals on the part of the Ministry.

So this is related to any facility looking to provide long-term care services. So for a municipal or First Nation home, they are not licensed. They receive an approval, and that is issued by the Minister. It has no fixed terms, and it cannot be transferred to another entity.

So the Minister is responsible for approving, for example, the City of Toronto to provide LTC services up to the tune of ex-number of beds, or ex-number of homes. So that is in the realm of the Minister.

So the other three, so the orange, the yellow and the black, speak to licenses that are issued by me as director under the Act.

So most homes in the Province are operated under a typical long-term licence, which lasts for up to 30 years. And this is issued,

again, by me as director under the Act and it can be issued to a for-profit or not-for-profit entity. They are transferable, but within limits.

So for example, the legislation allows for beds to be transferred between sectors. So between -- or within sectors, rather. So within the for-profit sector, operators at for-profit operator may decide to transfer its licence to another for-profit, perhaps in the event of wanting to get out of the business or do something else. We certainly see that movement as well within the non-profit realm.

The Ministry under the legislation, really limits the movement of beds from the non-profit arm of long-term care, or the non-profit part of the sector to the for-profit by limiting transfers from not-for-profit over into the for-profit sector. Only when a non-profit home is going through a receivership exercise can that be allowed for. But, essentially, non-profit beds stay within the non-profit sector.

COMMISSIONER MARROCCO: You said there, you do see quite a lot of movement did you say? What does that mean exactly?

MS. HYLTON: So that means you have

operators who are choosing to do things depending on the strategic plan for the organization. So we have companies deciding either to get out of the business, or looking to grow their footprint within the business. So oftentimes you will see beds being purchased.

So operators might decide to purchase beds from a smaller operator who might want to get out of the business and take over a home. And so that would involve a licence transfer, because the previous licensee would be essentially handing over their licence to another organization to continue operating those beds.

So that is the type of movement, and we see that quite often in long-term care.

COMMISSIONER MARROCCO: Are you seeing that kind of thing only in the for-profit sector or do you see it in the not-for-profit sector as well?

MS. HYLTON: It's in both, absolutely. But I would say certainly my time in long-term care most prevalent within the for-profit realm.

COMMISSIONER MARROCCO: What do they do then? They don't want to be in the long-term care home business, if you like, what is driving that? What do they do then after, they've got a building,

they've got land; do you have a sense of that?

MS. HYLTON: Yes, yes. And that is one example of a circumstance under which a licence transfer could happen. But under that example, historically I can tell you within the last two to three years, I have certainly seen smaller, for-profit operators make the decision, or consider strongly stepping away from the business.

I have met with -- I can recall at least two or three for-profit operators, operating single homes, oftentimes in nonurban areas. So perhaps rural parts of the Province, and they tend to be smaller homes. As a general response, when asked, you know, why? What's the impetus behind this change? Many of them have operated the homes for years, and they themselves are looking to retire.

Two, I've heard quite a bit about the change of demographics of LTC applicants coming in. So the level of care, the level of service to be provided, quite different from what it had been historically.

An operator has mentioned to me recently, when they got into the business, long-term care residents were driving and parking

at the home, and they were able to walk to Tim Horton's by themselves.

The demographic in long-term care has changed drastically within the last few years. So, you know, the majority of LTC residents are living with dementia, so they require more care.

A third reason we have certainly heard, it's very much the need for more staffing support and the challenges from a staffing perspective. Especially depending on where you're located in the Province.

So very much hearing smaller, for-profit operators speak to their challenges in either recruiting or retaining staff on a long-term basis, attracting staff and different types of staff, depending on where they're located.

So those are some of the reasons why we know some operators are looking to leave.

COMMISSIONER MARROCCO: Thank you.

MS. HYLTON: Just speaking to the last two slides. So beyond a long-term licence, the Ministry has the ability under the legislation to issue two temporary licenses.

The one captured in the yellow flag here is what we refer to as a temporary licence.

This can be issued up to five years; this is not issued in an emergency situation, but typically is issued where there is an opportunity to open up capacity in an identified location for a specified period of time, oftentimes to deal with an important, but not necessarily urgent or an emergency situation.

So we see this across the Province, especially in areas where ALT pressures are higher, or alternative levels of care, hallway healthcare pressures are high. Or, where there is simply capacity available where an operator may not be entrusted in a long-term arrangement. And so we issue a temporary licence to cover beds for up to five years.

The temporary emergency licence, similar, but has different construct. The emergency licence is issued in an emergency situation, it can be issued to last for up to one year, and this is really where the Ministry steps in to allow for beds to be licensed to deal with an emergency.

So we have issued temporary emergency licenses for a host of reasons, certainly within the heights of Wave 1 of the pandemic. But prior

to that, in my history here, I have issued temporary emergency licenses to deal with floods, to deal with fires, those types of emergencies where we may need to create space very quickly in a location to facilitate getting residents either moved from another home, or another location on a very urgent basis.

COMMISSIONER KITTS: Can I just ask, in the temporary licence and temporary emergency, is it implied that the physical structure exists, you're just transferring the licence? Or do you have to build a ward? Can you just give me an idea how long that takes?

MS. HYLTON: Yes. So both temporary emergency and temporary licenses oftentimes are associated with existing structures. Most times they are beds that actually exist in a home that is already operating, but perhaps there's more space or a floor that was never licensed on an emergency basis. Oftentimes it's almost room created within an existing home.

So we have a situation that -- and this is certainly what happened this year during the pandemic. Homes have other needs that are created to support either family members of residents, or

even residents depending on the situation. So lots of homes have what we would call a palliative care room. So it's a room that is built to really accommodate a resident who might be at the end stage of life, and may want to, for privacy reasons, not be in a shared space, as an example.

But temporary emergency licence could be issued to cover that need, that palliative care room for a specified period of time, maybe to move someone into that room for up to a certain period to deal with an emergency. So they're existing spaces.

I think we can move to the next slide. Slide four speaks to just some base principles as it relates to the licensing framework. The licence provides the licensee, one, with the right to operate a long-term care as per the legislation and as it is defined under the legislation.

It also facilities funding on the part of the Ministry. So once we issue a licence, there is funding that is associated with an issued licence, either on a temporary basis or over that up to 30-year period for a long-term licence.

And then thirdly, a licence provides the operator with the ability to monetize the

licence. And this goes back to my comment around the potential to transfer or to sell, really, again subject to ministry approval, but under the Act there is room for licenses to be transferred or to be sold and, certainly, the licence has a value.

If someone holds a licence that doesn't expire for another 15 years compared to someone with a licence that expires in two years, the value, you can imagine, is quite different. If another entity is looking to purchase, it would likely want a licence that has a bit more time tied to it. Because there's that dedicated Ministry funding and perhaps give them time to make decisions about that home prior to a very -- a pending licence expiry.

The licence framework also enables what we call a due diligence process. Again, this speaks to determining competency on the part of the licensee to actually operate the home. Really with a focus of maintaining a certain standard of care for residents and maintaining a safe level of services across the board.

So at the core of our framework, we look and assess the competency of the applicant or the licensee, and we do that as mentioned before,

in a variety of ways. We speak to the public, by way of a public consultation. We conduct a financial review, looking at the financial health of the licensee, the organization.

We also seek external feedback. So we speak with a local health integration network, they're connected with operators on the ground and other healthcare operators. So they tend to know entities that are seeking approval for licenses, or seeking a licence.

We also speak to compliance. The licensing arm of the Ministry works hand-in-hand with the compliance branch. So we look at experience, not only on the part of that particular home, but the licensee as a whole.

So oftentimes in long-term care you will have a single licensee with responsibility for thousands of beds, or hundreds of beds and multiple homes.

So from a licensing perspective, we take into consideration, not only the history of that home, but also the history of the licensee.

COMMISSIONER MARROCCO: Were there requests for emergency licenses during the first wave of the pandemic?

MS. HYLTON: Yes.

COMMISSIONER MARROCCO: How long would it take to issue, assuming you decided to issue an emergency licence?

MS. HYLTON: A matter of days. A matter of days. A little later on in the presentation I will speak to that. But in the course of one month, we issued licenses to 69 homes, that was for the creation of 97 more beds or spaces within the period of one month.

And so we had, I would say, there's a bit of -- there was us coming into the Ministry by way of an application form that was created and sent out to the centre, but there was also work proactively done on the part of Ministry of Health, Ministry of Long-Term Care, local health integration network, Ontario Health and their regions to also try and identify spaces.

So temporary emergency licenses absolutely were issued throughout that period and especially at the beginning, and that was done within the period of one month.

COMMISSIONER MARROCCO: If you have a situation where you have too many people in the face of a pandemic -- too many people housed in,

say, one room. And so you want to create extra capacity, surge capacity; are you creating additional beds, or are you really just moving the same number of beds into a larger space, however you would do that. And if so, would you need a licence to do that?

MS. HYLTON: So, no, you wouldn't need a licence to do that.

So the home, given their responsibility under the Act, can make the decision within their current licence to move people around to ensure their safety.

Where licenses have been issued, it really is to add capacity to a home. So speaking through the 97 that were licensed, so the 69 homes that received licenses, this was really to create more space within a home. So if a home had room available where they needed to isolate, for example, we didn't necessarily need to create or issue a licence for the existing number of beds in the home.

If they wanted to add capacity to the home, for whatever reason, it could be for isolation, it could be for privacy reasons, whatever. Those circumstances would have warranted

the need for a temporary emergency licence. So it was really to add capacity to the home. But homes do have the flexibility to move folks around in keeping with the legislation and maintaining certain base access.

So, for example, if an operator were to move someone within the home to another space, no new licence, they're just making the decision, that operator is still expected under the Act to meet certain obligations, i.e., you know, access to things like a call bell system, safety measures related to constraints, bed rails, those would all still be expected to be upheld, even if that individual was moved to a different space.

COMMISSIONER MARROCCO: All right. Commissioner Coke.

COMMISSIONER COKE: I'm just curious what situation you've had where you haven't approved or issued a licence; is that something that happens often, or do you have to work with people so they meet the requirements?

MS. HYLTON: We have had situations where we have not issued licenses. For the most part, we tend to work with proponents.

One, to make sure they understand

exactly what a licence means, and in terms of responsibility on an ongoing basis.

We do get inquiries all the time, because I think generally speaking, the public seems to have its understanding of what long-term care means and the responsibilities. But very few people actually take the time to read the legislation and appreciate the responsibility that comes withholding a licence.

I can tell you there have been a handful of circumstances during my time in the Ministry, where a licensee simply did not meet the cut. So if there were concerns from a financial perspective, as an example, certainly compliance, we have had instances where we've had a licensee, perhaps an existing licensee, request a licence to open up more beds, perhaps in another area.

I have had the ability, with support from compliance to say "no". Because if their compliance history doesn't check out, if we're not satisfied, we're not comfortable, we absolutely have leverage to say, "no"; or, "not at this time given your compliance history". Or, "given our concerns related to your ability to properly manage the home financially speaking".

So there are instances where we say "no".

COMMISSIONER COKE: Thank you.

COMMISSIONER MARROCCO: One last question.

Does the local Medical Officer of Health figure into this process?

MS. HYLTON: Not formally. Part of our external consultation or taking feedback externally, allows for any member of the public to be able to provide their feedback, or their advice, by way of them either writing into the Ministry or speaking to us online or virtually. Or, by way of a public meeting depending on the nature of the transaction.

We do not formally seek input from a local medical officer of health, so...

COMMISSIONER MARROCCO: But they do have a responsibility if there's an infectious disease in their area?

MS. HYLTON: Yes. Local public health units would absolutely have a responsibility in terms of supporting homes, or providing guidance to homes, and they may have their ongoing relationship with homes, even outside of a pandemic, yes.

COMMISSIONER MARROCCO: So if you have

a home, and you have -- let's say it's too crowded. Can the local Medical Officer of Health make an order that they separate them? That's probably a crude way of putting it, because you can't separate them if you don't have the facility to separate them. But can the local Medical Officer of Health make an order that binds the home?

MS. HYLTON: To be frank with you, Justice, I am not the best person to answer that question. I don't know the specifics in terms of realm of responsibility at the public health unit level or more locally.

I do know, though, that certainly we saw this throughout the heights of Wave 1. Public Health, Ontario Health, as well as the compliance arm of the Ministry, have all worked together to really assess what's happening within a home.

I know that there were IPAC teams created that visited a couple of homes. Again, the operations division, perhaps best poised to speak to this. But they had visited homes, made an assessment; made recommendations; and some of those recommendations, I know there have been instances where relocation did come up as a recommendation or, you know, changes to some basic infrastructure

within the home to facilitate better IPAC.

But I do know that there have been combined efforts between public health, Ontario Health and the Ministry of Long-Term Care on the compliance side.

COMMISSIONER MARROCCO: Thank you.

COMMISSIONER KITTS: Just to follow up on that. So the LHINs are in the field, and they are Ontario Health. And they play a role in asking, I guess for licensing or requesting beds and licensing. So Ontario Health is involved. Your capital branch is in the Ministry of Health; am I correct.

MS. HYLTON: No, it's in the Ministry of Long-Term Care it moves in 2018.

COMMISSIONER KITTS: So there's Ontario Health and Ministry of Long-Term Care. Is the Ministry of Health involved in these decisions around licensing and expansion of beds as well, or is it clearly the Ontario Health and Ministry of Long-Term Care?

MS. HYLTON: For the most part, it is Ontario Health/LHINs given their responsibility under the Act. LHINs especially, their responsibility under the Act to support the

licensing assessment contribute to my decision making as director, as well as their responsibility to -- their responsibility to manage the waitlist.

LHINs also factor into the public interest text, again, part of the licensing assessment framework. Those tests are conducted by the Minister. But LHINs also contribute to the evidence, or the information provided to the Minister to make a decision related to the public interest tied to a licence transaction that ultimately comes to me as part of my body of evidence.

So LHINs Ontario Health, is very much critical to the licensing structure within the Ministry of Long-Term Care. We do interact with the Ministry of Health on a regular basis. I can give you an example, where we're talking about temporary licenses, so that yellow flag on the previous slide.

Sometimes those temporary licenses are coming about as a result of pressures being felt within the Ministry of Health and given their responsibility for, you know, all other healthcare services.

The Ministry of Health is very much, I

would call a canary on the mine, in terms of identifying pressures in the system and identifying where there are blocks, be it long-term care or home care.

So we have to work in tandem with the Ministry of Health. For example, when I talk about issuing temporary licenses to alleviate hallway healthcare pressures in an area, that is very much informed by the Ministry of Health.

COMMISSIONER KITTS: Okay.

MS. HYLTON: I will jump to the next slide, thank you. So the next slide speaks to the two decisions essentially that are made to facilitate a licence transaction.

The first two rows that you see there are decisions made by the Minister, and these are what we call the public interest test under the legislation.

So number one, the Minister needs to decide, come to agreement that there is a need for beds in the area. Again, this is where the LHINs factors in, or Ontario Health factors into that body of evidence that goes to the Minister.

Secondly, the Minister also has to consider the impact of concentration of ownership

as well as sector balance in the system.

So going back to first principles around for-profit, not-for-profit existence within a sector. So really wanting to ensure that there's a balance in terms of having for-profit, not-for-profit operators; and also paying close attention to what I would call how big of a share of the pie does 1, 2, 3, 4 operators have across the Province.

The Minister has to pay attention and make decisions as she's dealing with each licensing transaction related to those two things: Concentration ownership and sector balance.

The last two rows here speak to the decision and determination essentially that I have to make. I do that based on, again, reviewing past conduct, operational financial competency of the proposed licensee.

I also then take into consideration the public feedback, via consultation. That can either happen virtually, in writing, or in person via public meeting related to licensing proposals.

I should note that these apply to all transactions, except for the temporary emergency licence. The temporary emergency licence does not

require all of these steps. For example, on the part of the Minister given the speed with which we tend to make these decisions. We certainly bear that in mind, but we also know they are time-sensitive and very much short term.

The max temporary emergency licence is up to a year. On average, we tend to licence in an emergency situation for about three, three to six months.

If we can just go to the next slide.

The next slide speaks to the review process, and a bit of a recap of what I just spoke to. The left-hand side speaks to the public consultation, the Minister's determination, and essentially my determination.

And again, that feeds into the decision-making process. And there are two decisions. It could be to issue a licence or to facilitate a transaction, such as a management company coming in. And those are decisions that are approved by me or determination made by me. Then a Minister would approve specific to municipal and First Nation homes.

COMMISSIONER MARROCCO: In the past, in 2019, were there instances where licenses were

actually suspended?

MS. HYLTON: Licenses were not suspended, but the suspension piece would be part of the suite of compliance tools managed by the operations division.

So dating back to 2019, there was no suspension of licenses. What was in place from a compliance perspective, dealing with challenges specific to homes, you know, the compliance branch has a range of tools to choose from, increasing in severity depending on the nature of the situation.

I do know that they have ceased admissions to homes. So we rarely do away with a licence or suspend a licence. Typically what happens on the compliance side of the Ministry is that they would cease admissions. So they would limit the number of people who are able to come into a home that has a direct impact on a home from a funding perspective. They could also leverage other tools, like issuing compliance orders or what they would call a mandatory management order.

So a whole set of tools available for compliance to go in and say, "licensee, we're not comfortable with how things are operating". Or, "we are not satisfied, you are not meeting the

requirements under the Act. We require you to do X, Y, Z".

And that leads all the way up to the potential to essentially cancel or revoke the licence. Revocation, though, happens rarely within the Ministry. I know it happens quite rarely. But there are a host of other tools before revocation that have been employed. And I know that at least one home comes to mind for me, from a compliance perspective last year.

COMMISSIONER MARROCCO: Okay, thank you. I should tell you, Ms. Hylton, I'll probably take a short break around 11:15 or so.

MS. HYLTON: All right. So the next slide speaks directly to the two areas of licensing that were activated during the pandemic.

So number one, temporary emergency licenses, as I've mentioned. Between March 22nd and April 3rd, a total of 97 cases were licensed in 69 homes across the Province.

These beds were licensed, really, at that point in history, to support work happening on the part of the Ministry of Health, as well as in the Ministry of Long-Term Care really to prepare for what was expected to be an influx of COVID-19

intakes, potentially in hospital and, therefore, wanting to make sure that hospital beds were available for the expected influx.

Typically outside of the pandemic, outside of the circumstance this year, hospitals across the Province more so in different areas, deal with hallway healthcare pressures. Hence the government's commitment to address hallway healthcare.

Many people who wait in hospital are waiting for long-term care beds to become available, beds of their choice. Most people tend to prefer to wait until a bed of their choice comes up, as opposed to going to any bed that is available.

And so part of the issuance of temporary emergency licenses, March to April of this year, was really to facilitate opening up as many spaces as possible, in a state where at that point in history, to facilitate movement of folks out of hospital safely and into long-term care homes.

Those beds were also made available for folks who are coming in from community at the time. So you can either enter a long-term care via a

hospital or a community. There were limited people looking to move into long-term care, but still some certainly at that point in history.

So the beds weren't specific, or only for folks coming in from hospital, but the majority of folks at the time were, because folks were asking the LHINs to hold on placing them, they prefer to stay at home until things settle down.

COMMISSIONER MARROCCO: The temporary licenses, you said that they were issued between -- you pick the period, March 22nd to April 3rd -- I'm sorry.

MS. HYLTON: It's March 22nd to April 23rd.

COMMISSIONER MARROCCO: Oh, 23rd. And when would the -- this occurred because the -- a particular home requested a temporary emergency licence or some facility requested it?

MS. HYLTON: So we had two things happening at the same time.

One, we had either homes or Ontario health regions and LHINs coming to the Ministry to indicate that there were spaces available in homes.

So we had information coming into the Ministry with requests coming in. And the Ministry

also took a proactive approach and reached out to either homes. For the most part, we reached out to local health integration networks, to LHINs and to OH regions.

So we had both things happening at the same time. I can tell you, for example, in certain parts of the Province, the OH region would've reached out to either my ADM, my deputy, or even myself, to say, "we have space available" or, "we know of a home where space is available; would you be willing to provide a temporary emergency licence?"

And then in other instances, we placed, and I think at the end of the day we ended up calling all LHINs just to cover our bases.

We did just formalize this approach and it's captured a little later on in the deck, there's even a screenshot of what was put forward.

There was what was called a "Temporary Emergency Capacity Form" created. This was put out to long-term care homes across the Province, so providing them with an opportunity, because not everyone was coming to the Ministry. We wanted to allow for an equitable process, and the homes had the opportunity, or felt they could safely open

beds through this emergency capacity form.

This provided a route for homes to write in to the Ministry and indicate, you know, the type and number of beds they were willing to operate on a temporary basis. And this was accompanied by a memo from the Minister out to the sector.

So this enabled information coming in, but the Ministry also reached out to LHINs and to OH region.

COMMISSIONER MARROCCO: And this March 22nd, is there a reason why that was when this first started to happen or not?

MS. HYLTON: So I can say, Justice, that middle of March, so just around the March break period, this is when the government was preparing to eventually make that declaration of emergency on March 17th, so that was a pivotal weekend. I think the 13th was a Friday.

So we started, Margaret and I on this call, and my licensing team. We started to proactively reach out in conversations with the Ministry of Health. This is when the command table was certainly getting off the ground and a host of measures were being considered to support the

Province as a whole in terms of responding to the pandemic.

So ensuring that hospitals were equipped, that they had room to match the potential influx I know was one of the priorities. And looking at opportunities to make sure the hospital had space certainly had an impact on long-term care and long-term care licenses.

So that was all coming to fruition that middle week, in the middle of March, that's the March 13th weekend. Declaration happened on March 17th, Declaration of Emergency by the Premier.

And so we had started our work really that weekend. So given the number of days it tends to take to process the application, verify information, by March 22nd, we had gotten into a groove where we can start to actually issue licenses.

COMMISSIONER MARROCCO: And nobody sounded the alarm before March 22nd, or March 16th or 17th, whenever the declaration, or State of Emergency -- or whatever you want to call it -- was made?

MS. HYLTON: Related to additional

space in long-term care? Not formally. I do know that the Ministry of Long-Term Care certainly prior to March 13th. My colleague director in the compliance area, Stacey Colameco and I were paying very close attention to what was happening in Seattle and DC, and very much keeping an eye, given the impact of long-term care.

And so I know, given the role of compliance and inspection in the Ministry, the compliance team had proactively gone to the Ministry of Health, gone to the Public Health arm of the Ministry of Health, really to ensure that long-term care was being thought about, was being considered given what we anticipated would come to the Province of Ontario. So that started prior to March 13th.

As it relates to issuing temporary emergency licenses, nothing formal, I would say, prior to that weekend. Because I think that's the weekend where decisions were being made about how to support hospitals, especially, what are the expectations of long-term care homes, where are there opportunities potentially to open up spaces. It was really around that weekend that those formal decisions started to be made.

COMMISSIONER MARROCCO: As you're paying attention to what's going on in Seattle, and in British Columbia as it relates to long-term care facilities; what's the concern? What concern are you responding to when you're doing that?

MS. HYLTON: I know from a compliance perspective, really paying attention to infection control measures. That, in particular, I can recall, you know, as part of internal discussions wanting to make sure that long-term care homes were prepared, or taking the necessary precautions.

So things related to supplies, PPE. These were some of the things that were being discussed early on. And really making sure, and for sure within the Ministry of Health, really making sure that homes were starting to think about or make arrangements for or access for things like PPE.

Those were the early kind of Ministry of Long-Term Care discussions and then those were formally brought to the Ministry of Health and that wandered to command table. That then started to meet on a regular basis, and then eventually long-term care became a standing item on managing that, as far as I know.

I did not sit at the command table, but I understand that LTC became a formal agenda item there, you know, being discussed on a regular basis.

COMMISSIONER MARROCCO: And so when was the concern about personal protective equipment and so on? When was that first articulated by the Ministry of Long-Term Care to the Ministry of Health. From your perspective. I appreciate, you know, in terms of what you know. I'm not asking you to pronounce on behalf of the entire ministry every phone call. But from your perspective, when was that first brought to the Ministry of Health's attention.

MS. HYLTON: From my perspective, and I want to make sure that I am not misrepresenting in any way, given that I would not have been the person to place the call. Those conversations were very much led by compliance at the time under the operations division.

I would suspect that these conversations started to happen early, earlier in March, or earlier than middle of March when the declaration of emergency was made. I know that week leading up to March 13th, that Friday, that

certainly was a critical turning point, I would say within the Ministry of Health, Ministry of Long-Term Care as we started to organize ourselves to respond to the pandemic.

So not necessarily sure I can commit to anything prior to that week, but I do know that that was a critical turning point. And I know that, you know, senior officials within the Ministry were certainly talking and being briefed throughout the course of that week, leading up to that Friday.

COMMISSIONER MARROCCO: And so these discussions and briefings related to the -- and you correct me if I'm wrong -- related to the need to be conscious of an outbreak in long-term care facilities?

MS. HYLTON: Yes, the potential. Given what we observed happening in other parts. So BC, as an example. So it was really, you know, preparing ourselves from a national standpoint. Ontario has the largest footprint of long-term care. We have the most number of beds.

So we certainly were looking at what was happening in other long-term care sectors, and being cognizant of the strong or high potential for

outbreaks within Ontario, just given how big of an LTC footprint we have here in the Province.

COMMISSIONER MARROCCO: And then the discussions around hospitals, and the adequacy of hospital facilities would be -- as far as long-term care is concerned, be trying to move long-term care patients out of the hospital into a long-term care facility because of the anticipation that hospital was going to be under pressure from people who were being admitted due to COVID-19.

MS. HYLTON: Yes.

COMMISSIONER MARROCCO: So you're faced with a risk associated with the spread of the disease in a long-term care facility, and also a pressure to receive people into the long-term care facility who have been moved out of the hospital to make room for the anticipated surge of patients as a result of the pandemic; have I captured that or no?

MS. HYLTON: Yes, you have. The only qualifying statement I would make is that the 97 beds licensed were not exclusive to hospital-based LTC applicants.

But certainly part of the decision-making related to opening up capacity

within long-term care homes was to try to offset what was anticipated to be potential pressures on long-term care facilities. Given, again, what the Ministries were seeing beyond Ontario. And, really, trying to prepare our hospitals locally to manage the potential influx of COVID-19 cases.

COMMISSIONER MARROCCO: Yes, Mr. Kitts?

COMMISSIONER KITTS: Just to follow up on that. I keep getting a notice my internet is unstable, so forgive me if I've missed this.

But I'm just going back to, I think you said that the increase in temporary emergency licenses began in March 22nd and ended in April 23rd, which allowed us to increase the beds in long-term care by 97 spaces in 69 homes; do I have that right?

MS. HYLTON: Yes.

COMMISSIONER KITTS: So the direction at that time was to create space in long-term care, so that the hospitals could decompress and have more beds, because that was where the expected need would be; is that correct?

MS. HYLTON: It was not exclusive to hospital pressures, but certainly part of the decision-making was to ensure that if someone did

not need to be in hospital, they could be routed to an appropriate setting.

And for some of those hospital patients at the time, they were waiting for long-term care. But those beds, the 97 beds were not exclusive to hospital patients only. There were still applicants from the waitlist in community asking for long-term care. So it was agreed to deal with, I would say, emergency admissions into long-term care.

COMMISSIONER KITTS: So the capacity was created to admit more patients, not to decompress the long-term care homes like the hospitals?

MS. HYLTON: Right. Yes, that's right.

COMMISSIONER KITTS: Was it April 23rd when that sort of thought process got reversed and said, "we need to now decompress the long-term care homes"?

So was it at that time that it sort of reversed and said, "we need to create space in long-term care for long-term care".

MS. HYLTON: Yes. I think a couple of things kind of came together within that first month. So kind of moving towards April 23rd.

We started to see, obviously being reported in the media, that the Ministry on the ground, hearing from Ontario Health regions on the ground as well, and directly from licensees, starting to hear about the major challenges now faced by long-term care homes.

Now I should note the decision-making around issuing temporary emergency licenses, we were very careful. We worked directly with Ontario Health regions, LHINs and the operators. The Ministry was very careful in terms of making decisions around issuing licenses only for homes that were not in outbreak, that would not have been an option. We would not have opened up spaces in homes that were in outbreak.

But, yes, within the course of the next month, there was certainly that -- I would call it rapid evolution of the spread of COVID across the long-term care sector in Ontario. And I think by way of, one, the Ministry recognizing that more and more homes were going into outbreak.

And two, really that the interest on the part of the sector as well as LHINs really being dried up, folks understood that long-term care, very much critical in terms of managing the

spread of the virus within the homes, and even outside and to other facilities, given movement of long-term care residents to hospitals.

So by the time we got to April 23rd, those two things came together really to, I would say halt any further issuance of any temporary emergency licenses for those particular reasons.

COMMISSIONER MARROCCO: Thank you. Go ahead.

All right. It's 11:11, from your perspective, is this an appropriate place to stop for a few minutes or no?

MS. HYLTON: Perhaps I can just close with this slide.

So this slide, on slide eight, just gives you a bit of an overview from a visual perspective. This is a timeline that shows, again, the licensing arm of the pandemic response. So the first bar, that yellow bar on top speaks to -- on the left-hand side, speaks to what happens in mid to late March going into April. And again, the focus there at the time, was really looking at the ability to open up stages within homes where it was safe to do so.

Going beyond that, by the time we got

to the month of May, given the evolution within the sector, within such a short period of time, working in tandem with the compliance branch of the Ministry, we moved into approving management contracts. And management contracts, I'm happy to speak to that in a bit more detail after the break.

But this was an opportunity to facilitate greater support for specific homes on the ground, either by way of a voluntary arrangement between a hospital and an operator, or what we call a mandatory management order; one of the tools within the toolbox of the compliance branch, where they can require an operation, depending on the circumstance, to bring in another entity to manage the day-to-day operations of the home, if the compliance branch is not satisfied with what's happening.

So we had three management contracts that were approved by me, by way of a mandatory management order being issued by the compliance branch. So those were the three homes, River Glen Haven, the bottom red bar, the first home there. So that's the May 29th was River Glen Haven.

Downsview and River Glen Haven was supported by South Lake Hospital. So they went

into South Lake to manage the operations of the home under a management contract.

Then we had Downsview long-term care home on June 1st, with Humber River stepping in to manage.

Camilla Care on June 4th, that did not come by way of a mandatory management order, but more of a voluntary agreement between the hospital, Trillium and CNM, who is responsible or holds the licence for Camilla Care, so that was June 4th.

And the third mandatory management order tied to the June 5th management contract between Forrest Heights Home and St. Mary's Hospital.

The rest, including Camilla Care, going to June 17th, those were voluntary arrangements where hospitals stepped in to these specific homes to manage for a specified period of time.

COMMISSIONER MARROCCO: And in this process that you've described in this chronology on page 8; is the local Medical Officer of Health engaged at all in these decisions; from your perspective?

MS. HYLTON: From the licensing perspective, not formally. My responsibility to

approve a management contract between two parties, in this case it would be one of the hospitals and a specific LTC home, we do -- we do not engage the Medical Officer of Health.

COMMISSIONER MARROCCO: Even in this type of situation?

MS. HYLTON: We would not, from a management contract arrangement perspective. The Ontario Health regions are certainly integral to this and would have been part of our discussions between the hospital, the operator to formalize a contract and get this off the ground.

From a compliance perspective, I don't want to speak for the operations team, but I know that there have certainly been very close contact between public health, the compliance branch of the Ministry, looking at specific homes and, especially, in cases where they have had to use such ancillary tool as a mandatory management order.

The extent to which public health was involved in the three I mentioned, the operations branch would perhaps be best poised to speak to that. I would not necessarily have been privy to those conversations.

But from a licensing perspective, our job is essentially to facilitate bringing a management company in. Once that has been identified as either being required through an MMO on the part of the compliance branch, or identified by the two parties, the hospital and the operator, essentially coming to the Ministry with this request.

COMMISSIONER MARROCCO: Okay. Yes, Commissioner Coke.

COMMISSIONER COKE: So these mandatory management orders, or voluntary orders, they have a specific timeframe, or what are the conditions under which this ends?

MS. HYLTON: Yes. So the management contracts do have a specific timeframe. So many of these, if not all of them were approved for about a 90-day period. So this month of September was actually a critical month in terms of the contracts coming up for expiry.

So, yes, they do have a specified timeframe that's typical for a management contract. Management contracts exist outside of this COVID response. We have management contracts in the system all the time, there are some operators who

hold the licence, but always have an operation managing the home. So this is typical.

The management contract is not limited to 90 days. In this circumstance, given the reasoning behind bringing in the hospitals and for all ten, they were related to dealing with the pressures of the pandemic outbreaks in the home, that specified period of about 90 days was identified for each.

So I do know that there is work underway now on the part of the compliance branch to connect in with the hospitals, connect in with the homes, gauge how the homes are doing and really make some decisions that will obviously come to me in licensing, about whether or not there's a continued need for the hospitals to continue to manage. Or, if the licensee can regain day-to-day management and take over day-to-day management of the home.

COMMISSIONER COKE: Thank you.

COMMISSIONER MARROCCO: I guess one final. You said a number of these contracts were coming due in September; were they extended?

MS. HYLTON: We're literally going through that process now. I know that a few of

them, especially through the voluntary approach, I don't have the list of all of them in front of me as I am getting them on a day-to-day basis from my team now. But the expectation, and I think there may be even communication that has gone out from the operations branch. Many of them will not be extended, by virtue of the Ministry on the operations side, given the interactions, the requirements for plans, operational plans by the management company and the operator. The compliance branch feeling that they are in a position to be returned in terms of operation back to the home.

So I suspect that many of them, if not perhaps all, I would be able to confirm that by about Monday when I see the full list. But I know so far what I've seen, quite a few of them will expire and the hospitals will leave the home and it will be returned to the operator.

COMMISSIONER MARROCCO: Okay.

We'll take ten minutes.

-- RECESS TAKEN AT 11:19 --

-- UPON RESUMING AT 11:30 --

COMMISSIONER MARROCCO: Okay.

All right, I think we're ready to go.

Ms. Hylton, go ahead.

MS. HYLTON: These last few slides in the licensing deck speak to the priorities of the licensing arm of the division and of the Ministry, that at least properties were established initially in 2018, so they are a work in progress but we've certainly seen some movement.

If you jump to the next slide, this slide just provides a bit of background and some context for the transformation and the change in priorities since 2018. We have processed just shy of 3,000 licence related transactions since this legislation has come into force. So dating back to 2010.

We have quite a bit of experience now, given almost 3,000 transactions. We've heard from stakeholders about their experience with the process, certainly concerns cited related to how intensive the process is from a timing perspective.

We have very much heard concerns around transparency. So operators or applicants wanting more information about where they are in the process, or whether or not things are moving forward.

Really wanting more confidence around

timelines, given the responsibility of elected officials like our Minister, as part of this process, you know, timelines and committing to timelines can sometimes be challenging externally, and so we certainly heard feedback in that respect.

We've also heard quite a bit about scope. So you know, this one-size-fits-all model where we have the same type of rigor afforded to a transaction that might cover the transferring of a handful of beds, compared to the building of a net new home and really applying the same rules or expectations; quite a bit of feedback from the sector in that respect.

And that has made for, I would call it, somewhat diminished stakeholder confidence in the system over the last few years. The work we have undertaken since 2018, and it's captured on the next slide, that really speaks to the efforts made by the Ministry given the feedback received and articulated. And we are definitely seeing a difference and hearing quite positive feedback from this sector.

The temporary emergency licence is an example of, you know, the fruition of changes made as a result of the transformation. It allows for

us to do things quickly, and to be responsive to the sector. For example, in an emergency situation like what we have lived through.

This slide just identifies our five key areas of focus, as we strive to transform the licensing arm of the Ministry.

So number one, the licensing piece of the development story. So we want to facilitate the building of new beds, the redevelopment of older capacity. And there is a heavy dependance on licensing, because even if these buildings are built, if they don't meet the actual standards, they will not receive a licence. So facility development of LTC capacity is critical.

And so really looking to identify synergies and optimize licensing and development functions to make for a smoother experience for our operators, very much critical from a licensing perspective.

We've looked quite recently at the legislation and made changes to the legislation related to the public consultation part of the licensing process.

So the ability now, and we have certainly leveraged this through the experience

over the last few months. But the Ministry is now only since last year, able to facilitate the comprehensive public consultation for a transaction where it is required by leveraging technology. So the internet or doing things virtually. Whereas before, we were literally required to go out in person to host meetings. And lots of members of the public either would not be able to physically get to a meeting at a specified time, and would have wanted to be able to capitalize on technology. So that's another change made.

The other three speak to refinement that support or review of licensing transactions. So, for example, our financial reviews which I mentioned is an important component of my determination for a licence transaction.

We have made significant changes to that process. Really making sure we are adequately capturing the information that's needed. And the Ministry leverages a third party Deloitte at this point, to support the review of financial information related to an organization. And so we send information, advice, recommendations, as it relates to the financial health of an organization before we issue a licence.

So we've made changes there with the support and the feedback from Deloitte, given what they've observed.

Lastly, we have identified and started work on process, as well as program improvements to the licensing arm of the Ministry. So, for example, really looking to optimize the review process, maximize value, maintaining integrity in the system.

So we have identified within the last year -- under Margaret's leadership, my team has been able to pinpoint every step of every licensing transaction, and really leverage leading principles to be able to identify, question, change, modify or accept, really with an ear to, what is adding value? What is inherently supporting the expectations that the Ministry and the operator as per the legislation? And really wanting to build and maintain integrity of the licensing system. So significant changes certainly on the way in that respect.

And as it relates to our program itself --

COMMISSIONER MARROCCO: Ms. Hylton, just a second. Commissioner Coke?

COMMISSIONER COKE: I'm just curious.

In addition to this business process improvement that are underway, do you feel you have adequate resources and capacity within your own area? Is that a challenge in any way?

MS. HYLTON: Absolutely. The rapid development of the development program in particular, given the emphasis on building new beds, to redeveloping capacity, there are direct implications for licensing. That's why that's flag number one on this slide. And you can see a direct connection then between needing sufficient resources to be able to manage and handle the workload, the experience of the pandemic, the ongoing day-to-day transactions for the existing homes, those don't stop, those are always happening.

So, absolutely, I think resources have been and continue to be a challenge for the licensing team and certainly the capital division as a whole.

I do know that by virtue of establishing our division, the capital's division, and that's happened quite recently within the last three months, I think that is a step in the right direction for the Ministry. And so securing

adequate resources is absolutely something we advocate for on a frequent basis, but it is critical to get the job done.

COMMISSIONER COKE: Thank you.

COMMISSIONER MARROCCO: Is there anything in the licence that allows you to insist that an existing facility change itself in response to improved medical knowledge, for example, or something -- you know, something of that nature.

MS. HYLTON: If an entity holds the licence, if there is an existing licence, it would really be through the compliance arm of the Ministry where those expectations or requirements would be made.

It wouldn't necessarily necessitate a change in the licence, but there is certainly the option of revoking the licence if those changes aren't made, or made to the satisfaction of the compliance branch. And they, therefore, see concerns of the ongoing operations of a home that already has a licence.

There is always room, especially when a licence is being issued, or reissued. There is always room, and we work with our legal team internally, if there are any requirements or

stipulations we would want to put on a specific licence.

But, typically, if someone holds a licence, the compliance arm would really be that route to hold them accountable to making those changes. And then as it relates to issuing or reissuing, we have the option to put in stipulations. But before we go there, the Ministry's first response likely would be not to issue the licence.

So we would want the confidence in the design, in the delivery of the services, we would need the confidence from the compliance branch. So our first step likely would be not to issue the licence, as opposed to issuing the licence with an expectation that changes are to come.

COMMISSIONER KITTS: Quick question.

From the time you decide to, let's say offer a licence to a new person to build a long-term care home. If your transformation is as successful as you predict, how long would it be to go from, "we want to give a licence" to opening that new home's doors?

MS. HYLTON: That's a great question. There are several steps in between. And licensing

is one part of it. There is the development arm of that transaction as well.

So generally speaking, it takes about 36 months after an operator has identified land and secured financing. Physically get the building built and to be ready to turnkey to take occupancy.

We issue a licence only when they are ready for occupancy. But prior to that, so as they are moving through the process, they are under construction, or they are trying to secure financing, etcetera, there are reassurances the Ministry can provide, what we call a licence undertaking. And he can do that, perhaps even within a couple of months, if the operator has things in order.

So we can provide what we call an undertaking. In some respects it's a promise of a licence in the event the operator, by the time they get to occupancy, have met the necessary criteria. For example, they have built the building to our standards. They have received the necessary municipal approvals, etcetera.

But that promise of a licence, which many of our operators look forward to, because they know the licence won't come until the building is

ready, that can be issued sometimes as early as a few months if we have the necessary documentation. As captured earlier, to conduct the public interest tests. To be able to gauge the public feedback, etcetera. So that can be done in a matter of months.

COMMISSIONER KITTS: So 36 months is the, I guess, the building time. So am I to assume that it's probably all in about four years?

MS. HYLTON: I think that is fair. I would say, as I want to double down on this, I know my team would be in my ear here.

A lot of that window as it relates to development, a lot of that is dependent on the operator.

Securing financing, it is one thing to hear from government in terms of approval or an allocation of new beds, or approval to move forward with the development project. But the time it takes the operator to secure land, to firm up or hone in on financing, to tender the project, all of these steps -- to execute an agreement with us in government, all of these steps happen before construction starts. I have seen quite a bit of variation there.

So operators who are very organized, seem to be able to do that certainly within a year I would say. So 12 months I think is reasonable. Hence me saying four years is fair.

But I have also seen that take a lot longer. Sometimes it is beyond the control of the operator. Or they have opted to lobby for a particular piece of land and wait out the municipality, you know, wait out a whole bunch of things before they move forward with construction.

So a lot of it is dependent on the operator.

COMMISSIONER KITTS: Thank you.

MS. HYLTON: Slide 13 just gives you a bit of overview of some of our improvements to date as per the rural map before.

Number one, there's multistream licensing review on the left-hand side towards the bottom of the page, speaks to us applying this risk based multistream licensing model.

So this again, very much tied to the development arm of our organization, and the licensing component being an enabler.

So back to the previous question related to how long it takes before a licence can

actually be issued or an undertaking.

One of the things we have done as part of our improvement or our slate of improvement, is to really look at operations from a risk-based model. Is there operators who have strong compliance history? They have history, operating long-term care history with construction. We have quick access to their financial information, we're able to move forward in a couple of months with issuing a licence, a licence undertaking as an example. Whereas some operators, especially if you're net new, you do not have strong compliance history, we would not necessarily advance those as quickly, because the Ministry would want to take its time, do our due diligence internally, allow the Minister sufficient time, etcetera, to make the decision.

The last two here to speak to again are other examples in terms of changes we've made so far. Improving transparency has been one of my priorities here. Modernizing the system actually is my priority, but improving transparency is near and dear to my heart, given my experience working outside of government.

And so we have leveraged our

connections with operators to use the opportunity to sit with them at the outset, walk them through our processes, document our processes, create documentation to go up online so it's readily available for folks to understand the steps, if they are looking to undertake a licensing process to appreciate the documentation that is required beforehand.

It's important to me and to my team, to the Ministry, that operators understand not only the responsibility that comes with holding a licence, but the steps that are required to get there.

I certainly don't want this to be deemed as impossible, or difficult. We have a responsibility on the part of the Ministry to licence operators who we feel can provide a certain level and quality of care. And so we want to ensure that we are being transparent in terms of our expectations and can help proponents and applicants plan.

Lastly, as I mentioned, the legislative change related to the public consultation. Another example of a recent change made to the project.

So these are examples, there are a few

more we can speak to, but these are some tangible examples that are already in place.

The last slide -- sorry.

The last slide of this deck -- and I will close off here for licensing -- but this speaks to another critical priority I mentioned before, this is about sustaining capacity. And again, going back to the almost 26,000. So just over 26,000 beds that are set to expire in 2025.

The Ministry, from a licensing perspective, we are literally reaching out to every licensee that holds a licence that will expire in 2025. We started this process earlier this year by way of a survey. We surveyed the entire -- the entire sector with a keen eye for asking specific questions to those with 2025 expiries. We were trying to get an appreciation for what their plans were; the current state of their homes, etcetera.

We are now literally calling every single licensee holding a 2025 expiry, if we are not aware of their plans to redevelop, etcetera, to make sure that we meet our requirement by 2022, to provide notice to these homes as to whether or not we intend to licence them beyond their expiry date.

So this is a critical piece of work for

licensing. And as identified before, there is a potential here for loss of a significant number of beds in the next few years.

If we aren't working in tandem with the sector to be able to help them along to either redevelop or to make plans for what happens beyond 2025.

COMMISSIONER COKE: Sorry, I just want to understand. So if these are places that are not able to come to the new standard by that time, they wouldn't be licensed?

MS. HYLTON: Yes. Their licence will expire. So regardless, they hold a licence that expires as of 2025. So there are two main reasons that are driving the potential for someone with a licence expiry of 2025, not being able to continue to operate after that time.

One is the fact that the licence will expire. If you have an expired licence, you are then not considered an active operating LTC home, in the eyes of the Ministry and, therefore, would not be funded.

The other critical piece here, are changes and requirements on the part of the fire marshal. These changes were communicated quite

some time ago, I think perhaps dating back to a decade now to both retirement homes and long-term care homes to meet specific requirements about these sprinklers by the year 2025.

So the fire marshal would have responsibility if a long-term care home by 2025 is not sprinklered, in terms of being able to approve their ongoing operations. And then coupled with that, the Ministry also happens -- and it just happens to be the same year -- we also have licenses expiring in 2025.

So many of these licenses that are set to expire, are not necessarily sprinklered at this point. Part of why redeveloping these beds would be such a critical piece, part of the redevelopment process would mean that they are brought up to the Ministry's standards, as well as the fire marshal's standards.

Thank you.

COMMISSIONER KITTS: We understand that most of these would be in the much older homes who don't meet the design standards of the Ministry or perhaps even the fire marshal, including Public Health and IPAC.

Do you have an idea of how many can be

renovated to meet the design standards, versus need to build new because the infrastructure is just so old; do you have an idea?

MS. HYLTON: Well, it's a fair question. I can tell you that what we've heard from the sector, and the reason I don't necessarily -- I won't give a figure here is -- we've heard quite explicitly from the sector over the last year especially.

The majority of homes that are housing older beds that are set to expire will likely redevelop a net new build, a greenfield project anyway. So that the likelihood of renovating the existing space, very low.

The figure given by the sector back in January when we held consultations on development, was in and around 90 to 95 percent of redevelopment projects being greenfield projects. So that's, essentially, all of them being greenfield.

So space, and the footprints seem to be a critical driving factor, and the need to modernize just a basic infrastructure for many of these homes seem to be pushing the sector towards building net new.

And this is one of the reason why we

know there's been limits in terms of how quickly these homes, or these operations have moved forward with redevelopment. They are limited in terms of leveraging the existing homes, and so either leading to find land, or to create a plan where they can move their residents out for a period of time, not gotten a home and build net new, all of those are things they have to take into consideration.

But generally speaking, we've heard over 90 percent of these older homes to be redeveloped would be as a result of net new builds.

COMMISSIONER KITTS: So if I just quickly do the math, it takes four years to build a home and open it. And we need to, looks like maybe 257 long-term care homes need to be built.

Plus we have to increase the base number by 15,000 more beds. So that's a lot of long-term care homes that need to be built.

MS. HYLTON: Yes, absolutely.

COMMISSIONER KITTS: In the next four years.

(Experienced virtual connection difficulties).

MS. HYLTON: I apologize, I didn't hear

the question.

COMMISSIONER KITTS: The question was:

Is there some concern about the ability to transition to 2025 without a significant shortage of long-term care beds in that transition?

MS. HYLTON: Yes. I think it's worth saying here that the 257, with licenses coming up for expiry in 2025, we know that some of these homes will close, and we're hearing as they're making their plans, or they do not intend to operate.

What we have heard through our surveys, and we're verifying this through the calls. The majority of these operators, though, have expressed interest in continuing to operate.

So they know they will either need to redevelop, or bring their homes to a place where they can meet certain base standards. For example, the fire marshal standards. So the sector is very much aware of that.

The realty, though, that you've outlined is correct. The Ministry is tasked with working with the sector to create a plan and facilitate as best we can, maintaining capacity given the 2025 date. Building net new, and

certainly working to address and try to meet the demand or come closer to meeting the demand for long-term care.

As the timelines are very tight, once we get to the next deck, you will see that there have been a host of successive attempts on the part of the Ministry dating back to maybe almost 20 years ago at this point to facilitate redevelopment of beds. So this did not start in 2018.

There are a host of challenges, as I mentioned, perhaps finding land or securing financing; but there are also, you know, there's also onus on the part of the operators as well. And we've seen some moves, some are starting to redevelop, or they've already redeveloped. Some have plans in place; and then there are others who are yet to have their plans in place.

COMMISSIONER COKE: I'm just curious, what extent are we offering up government land to help with this process?

MS. HYLTON: That is a critical part of our development program, and as part of our work and we will -- we can certainly shift to this deck, and you will see that captured here.

But back in 2018 coming into 2019, this government -- and I must say under the previous government, this was identified as well -- very much promoted on the part of this government in 2018, interest in leveraging government surplus lands to be able to facilitate the development of long-term care facilities.

So you will see in the next deck, once we transfer to that, that surplus land is a critical part of the modernization of the development program. Given the reality we know operators are facing in terms of trying to find land, especially in urban areas.

So the GTA, absolutely. The GTHA, I would say in particular, areas of great concern. And there are a host of other measures that the Ministry have put in place.

Perhaps this might be an appropriate time to speak to the other deck. But you'll see as we go through that deck, other efforts made on the part of government quite recently to try to incent development and move folks forward as quickly as possible.

MR. MATHAI: Commissioner, it's Sunil Mathai here. I'm cognizant of the time, it's now

12 o'clock, which is the original time that we had scheduled.

I think you're going to be as engaged with the next presentation which is capital development. And I'm just wondering, rather than rushing through that deck in order to meet your time schedule, I'm wondering if we should find some time on Monday. I understand there's time available between 3:00 to 5:00 or Tuesday between 9:00 to 11:00 a.m. That might be a better -- more time to present on these issues? We're in your hands on that. I just wanted to flag that as a possibility.

COMMISSIONER MARROCCO: I was thinking the same thing. Let me just ask the other Commissioners.

Do you want to reschedule the second piece, which deals with long-term care home development framework?

Commissioner Coke?

COMMISSIONER COKE: Yes, I think we should give it the time that it's due. So rather than rush it.

COMMISSIONER MARROCCO: All right. Commissioner Kitts?

COMMISSIONER KITTS: Yes, I agree completely.

COMMISSIONER MARROCCO: All right. So then Mr. Mathai, why don't we do it this way.

Ms. Drummond and yourself can work out when you come back.

MR. MATHAI: Will do, thank you Commissioners.

COMMISSIONER MARROCCO: Okay. Well, Ms. Hylton, thank you very much for the first presentation. As you can appreciate, we were all engaged with it. And I believe we found it very informative, and thank you for the straightforward presentation. We look forward to the second act when you come back, thank you.

MS. HYLTON: Thank you. Thank you for having me.

COMMISSIONER KITTS: Thank you.

COMMISSIONER COKE: Thank you.

-- Meeting adjourned at 12:07 p.m.

REPORTER'S CERTIFICATE

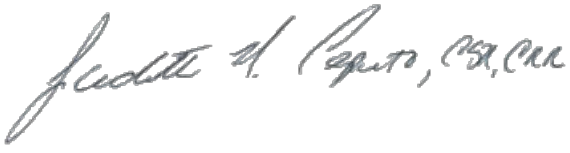
I, JUDITH M. CAPUTO, RPR, CSR, CRR, Certified Shorthand Reporter, certify;

That the foregoing proceedings were taken before me at the time and place therein set forth;

That all remarks made at the time were recorded stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes so taken.

Dated this 21st day of September, 2020.



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