

Long-Term Care COVID-19 Commission Meeting

An Overview of the Long-Term Care Homes Act
on Thursday, September 3, 2020



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7	MEETING OF THE LONG-TERM CARE COVID-19 COMMISSION
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14	--- Held via Microsoft Teams Meeting, with all
15	participants attending remotely, on the 3rd day of
16	September, 2020, 3:00 p.m. to 5:00 p.m.
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1 BEFORE:

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3 The Honourable Frank N. Marrocco, Lead Commissioner

4 Angela Coke, Commissioner

5 Dr. Jack Kitts, Commissioner

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7 PRESENTERS:

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9 Kristin Smith, Counsel, Legal Services Branch,

10 Ministry of Health and Ministry of Long-Term Care

11 Michael J. Orr, Senior Counsel, Legal Services

12 Branch, Ministry of Health and Ministry of

13 Long-Term Care

14

15 PARTICIPANTS:

16

17 Alison Drummond, Assistant Deputy Minister,

18 Long-Term Care Commission Secretariat

19 Ida Bianchi, Counsel, Long-Term Care Commission

20 Secretariat

21 Kate McGrann, Counsel, Long-Term Care Commission

22 Secretariat

23 John Callaghan, Counsel, Long-Term Care Commission

24 Secretariat

25 Derek Lett, Policy Director, Long-Term Care

1 Commission Secretariat

2 Dawn Palin Rokosh, Director, Operations, Long-Term
3 Care Commission Secretariat

4 Judith Parker, Ministry of the Attorney General

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6

7 ALSO PRESENT:

8

9 Deana Santedicola, Stenographer/Transcriptionist

10 Lisa Di Felice, Administrative Assistant, Long-Term
11 Care Commission Secretariat

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1 -- Upon commencing at 3:00 p.m.

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3 KRISTIN SMITH: So I am happy to do
4 brief introductions, while Judith is - there she
5 goes - putting the presentation up on the screen.

6 So presenting today is myself and my
7 colleague Michael Orr. We are both Ministry of the
8 Attorney General counsel and we are seconded to the
9 Legal Services Branch of the two Ministries, Health
10 and Long-Term Care.

11 In my practice, I provide legal advice
12 and support to both Ministries and have worked
13 quite closely with the Long-Term Care Ministry and
14 before when it was a Long-Term Care Division when
15 the Ministries were together.

16 And I know Michael has given support to
17 the long-term care area for many, many more years
18 than I have, and out of respect to Michael, I will
19 just leave it at that.

20 So we will kick off and if we can jump
21 into the next slide.

22 Before we jump into content, I would
23 like to say that we are happy to take questions
24 from you as we go, from anybody who is on the call,
25 if you need anything clarified, so you can either

1 just interrupt us or feel free to use the hand
2 function in the Teams.

3 COMMISSIONER FRANK MARROCCO (CHAIR):

4 Well, I think what will happen then,
5 Kristin, is that the Commissioners will ask
6 questions as we go along, and then I will ask at
7 the end if there are any further questions.

8 KRISTIN SMITH: Okay, that sounds fine.

9 So as a bit of a background and context
10 for the Long-Term Care Homes Act and Ontario
11 Regulation 79/10 which is the Regulation under that
12 Act, the Act itself received Royal Assent in 2007
13 but did not come into force until July 1st, 2010.
14 That was to give time for the Regulation to be
15 drafted. And so they both came into force at the
16 same time.

17 That single statute and Regulation
18 replaced three statutes before. The Nursing Homes
19 Act was mostly for for-profit homes; the Charitable
20 Institutions Act covered all not-for-profit
21 corporations that had charitable objects; and the
22 Homes for the Aged and Rest Homes Act covered
23 municipal homes previously.

24 You may have seen already or you are
25 likely aware that in 2004 the Ontario Government,

1 through the Parliamentary Assistant at the time
2 Monique Smith, did a study of long-term care, a
3 report called Commitment to Care, A Plan For
4 Long-Term Care in Ontario. She made many
5 recommendations. One was to do the single statute,
6 which that recommendation was followed and
7 implemented.

8 [Court Reporter's Note: Temporary
9 technical difficulties.]

10 Sorry, it seems as though I am a little
11 frozen?

12 COMMISSIONER FRANK MARROCCO (CHAIR):

13 We can hear you now, I think. I think
14 you are unfrozen now.

15 KRISTIN SMITH: Okay, I am going to
16 turn off my camera for a little bit and see if that
17 helps.

18 Okay, so I will continue. I was just
19 mentioning about the 2004 report by Monique Smith.
20 She recommended a single statute which led to the
21 Long-Term Care Homes Act and the Regulation.

22 She also recommended... [inaudible -
23 audio cuts out] ...and resident-focussed standards.

24 She also made another two clear
25 recommendations that ended up getting incorporated

1 into the Act which we'll talk about today. She
2 recommended the need for clear outcome-based
3 expectations and best practices for all homes and
4 that reasonable efforts by operators to comply,
5 which was the previous standard, which was the
6 standard at that time in 2004, was not enough and
7 needed to be replaced with language in the statute
8 requiring them to comply.

9 COMMISSIONER FRANK MARROCCO (CHAIR):

10 Kristin, before you go any further,
11 Deana, did you miss something? Did you want to
12 ask? Go ahead.

13 [Court Reporter intervenes for
14 clarification.]

15 KRISTIN SMITH: Okay, yes, I can go
16 back to that.

17 So she also recommended
18 resident-centred standards, improved quality of
19 life for residents, treating them with respect and
20 dignity and resident-focussed standards.

21 There were two other key things that
22 she recommended that made its way into the statute
23 that we'll talk about today.

24 The first, as I was just saying, and I
25 don't know if you caught this, the need for there

1 to be clear expectations and best practices for the
2 homes, and the previous standard they were held to
3 which was the standard of reasonable efforts to
4 comply was not enough. They needed language in the
5 statute, in the law that said that they were
6 required and will comply with the standards.

7 She also said this new requirement to
8 comply had to be enforced by the Ministry by
9 creating an inspector function and changing the
10 culture that was previously existing of compliance
11 advisors who advised homes from the Ministry being
12 replaced with an enforcement regime of inspection.

13 So we see there on that slide some of
14 the resident-centred language that made its way
15 into the preamble as well as into the fundamental
16 principle in the Act.

17 If we can go to the next slide, Judith.

18 This is how the Act and the Regulation
19 is broken up. There is the ten parts. They mirror
20 each other in the Act and the Regulation to make it
21 easier to read and easy to follow.

22 Today I am going to cover Parts I to V.
23 Michael will cover VI, VII and VIII, and then I
24 will come back and cover IX and X, so we are going
25 to go in the same order of the statute.

1 All right, the next slide.

2 The Regulation covers a lot of very,
3 very specific requirements, so on this slide and
4 the next slide 5 we just set out a bit of an
5 overview of the type of very detailed requirements
6 that you would find in the regulation, things from
7 plan of care, various programs the home is required
8 to have, responsive behaviours, accommodation
9 services, et cetera.

10 So we'll jump to the next slide,
11 Judith.

12 Some of the other very specific
13 requirements that you see in the regulation are set
14 out here.

15 All right, so let's go to slide 6.

16 This slide I am just going to show you
17 at the moment but come back to it at the very end
18 of the presentation. This is a slide that sets out
19 for you changes to the Regulation and Emergency
20 Orders that came into effect since the middle of
21 March to address the pandemic in the long-term care
22 sector, so these are legal changes. We have got
23 the links there for you to the Regs and the
24 Emergency Orders on e-laws.

25 I am going to come back to this at the

1 end because it won't make sense knowing, for
2 example, what requirements were streamlined until I
3 set out for you what some of the specific
4 requirements are, but I'll come back to this and go
5 through it in some detail.

6 The only thing I'll flag right now is,
7 as you probably know, the Emergency Orders
8 throughout the Declaration of Emergency since March
9 17th were made under the Emergency Management Civil
10 Protection Act. Those Emergency Orders are now
11 Regulations under the new statute Re-Opening
12 Ontario, a Flexible Response to COVID-19 Act 2020,
13 and they are currently in place still until
14 September 22nd.

15 Okay, so we'll come back to this at the
16 end.

17 The preamble to the Long-Term Care
18 Homes Act sets out the key themes that we see in
19 the Act: as I was talking earlier, the belief in
20 resident-centred care; a commitment to and a
21 responsibility on the Ministry to take action, and
22 this is the inspection and enforcement regime;
23 access, it talks about access to long-term care
24 homes based on need, assessed need; and the last
25 one I'll just point out is a commitment by the

1 government of the day to the promotion of the
2 delivery of long-term care home services by
3 not-for-profit organizations.

4 Okay, the next slide, Judith.

5 What we see at the very beginning in
6 section 3 of the Act is the Residents' Bill of
7 Rights. It has got a number of very specific
8 rights that the residents have. It also says that
9 the residents can enforce the Bill of Rights
10 against the licensee as if it was a contract
11 between the resident and the licensee of the home.

12 Section 6 of the Act outlines a lot of
13 requirements that are supplemented by the
14 Regulations 24-29 about the plan of care for the
15 residents. Every resident has to have a plan of
16 care, and it needs to be very detailed, all the
17 staff need to know what is in it and they must
18 follow it and that plan of care has to be updated
19 on a regular basis.

20 One very important section of the Act
21 to the work that you are undertaking to know of us
22 is section 5. It is a requirement on every
23 licensee of a long-term care home to ensure the
24 home is a safe and secure environment for its
25 residents. This is not just safety in a physical

1 sense, but also health and wellness safety, so we
2 would be safe from a pandemic. That is how the
3 Ministry interprets that Regulation -- or sorry,
4 that provision in the statute.

5 One thing I will point out before we
6 move on, if we can just jump back, Judith, section
7 5, as you see there, it starts with:

8 "Every licensee of a long-term
9 care home shall [...]"

10 As you read through the Act, you'll see
11 that over and over and over again. That was one of
12 the recommendations from Monique Smith saying that
13 licensees needed to be required to comply, so that
14 is how that recommendation was carried forward in
15 the statute, by making these requirements on the
16 licensee requiring them to comply.

17 Next slide.

18 Under the residents' rights, care and
19 services, there are a number of key services that
20 the licensee must provide. I have given you all
21 the statute references and Reg. references
22 throughout the presentation so you can look those
23 up when you need to, but the types of services and
24 programs that they must have are nursing and
25 personal support, so that is obviously fundamental

1 to the work of what a long-term care home does.

2 But very other important things,
3 because we have to remember that this is the home
4 of these residents, so things like recreational and
5 social activities, religious and spiritual
6 activities, their own accommodation services, and
7 then required programs for things that they may
8 need for care, falls prevention, skin and wound
9 care, pain management, et cetera, et cetera. So
10 the Regs and the legislation set out a lot of
11 standards there.

12 Okay, if we can jump to the next one,
13 Judith, thanks.

14 So abuse and neglect is a big part of
15 the statute and the Regulation. That was one of
16 the areas that Monique Smith recommended is making
17 sure there was a zero tolerance standard for abuse
18 and neglect, and that we see in section 19 of the
19 Act. It is a key section. It puts a duty on the
20 licensee and staff to protect residents from abuse
21 and ensure that they are not neglected.

22 The regulation specifically defines
23 "abuse" and "neglect", as well as specifically
24 defines "sexual abuse", "verbal abuse", "physical
25 abuse" and "emotional abuse", so it is a very

1 prescriptive area for the homes. Not just the duty
2 to protect, but they also have to have and
3 implement a policy to promote zero tolerance of
4 abuse and neglect and staff have to be trained on
5 that policy.

6 If they get a suspected, alleged or
7 witnessed incident of abuse or neglect, the
8 licensee has to immediately investigate and take
9 appropriate action. They have to then report the
10 results of that investigation and actions to the
11 Director in the Ministry. And in addition, a
12 recent amendment to the Act was that the licensee,
13 there is now an offence if they contravene the duty
14 to protect and section 19, they can be guilty of an
15 offence. So that is a provincial offence provision
16 in the Act now.

17 COMMISSIONER FRANK MARROCCO (CHAIR):
18 Kristin, does the individual employee
19 have the obligation to report?

20 KRISTIN SMITH: Yes, we are going to
21 get there on the next slide.

22 COMMISSIONER FRANK MARROCCO (CHAIR):
23 Okay.

24 KRISTIN SMITH: So what I have there on
25 the first bullet is section 24 which is the duty to

1 report, and that is, as you can see, a duty on
2 every person, so it includes licensee and staff,
3 but there is an exception to that. It is not a
4 duty on residents, right. So residents, they can
5 but they are not legally required to report if they
6 see abuse of another resident, for example.

7 The standard for reporting, they must
8 have reasonable grounds to suspect, so it is a
9 fairly low standard, that any of the following
10 occurred or may occur, they have to report their
11 suspicion and information upon which it is based to
12 the Director and the Ministry.

13 So the different things that they have
14 to report that are listed there in the sub-bullets
15 are improper care or treatment of a resident that
16 resulted in harm or a risk of harm; abuse of a
17 resident by anyone or neglect of a resident by the
18 licensee or staff that resulted in harm or risk of
19 harm to the resident; unlawful conduct; and then
20 related to the resident's money or funding.

21 The licensee must deal with any
22 complaints that they get and forward any written
23 complaints that they receive to the Director, so
24 that could be about any sort of complaints.

25 And then there is also a very broad

1 section in section 107 of the Regulation of a
2 number of different things called critical
3 incidents that the licensee is required to report
4 to the Ministry.

5 One of those that I have highlighted
6 here is they have to report an outbreak of a
7 disease or of public health significance or
8 communicable disease as defined in the Health
9 Protection and Promotion Act. And COVID-19, as you
10 know, is a communicable disease, so that once they
11 had an outbreak, they were required to report that
12 to the Ministry.

13 So that was very significant in the
14 earlier days, I would say, of the pandemic, to make
15 sure that the Ministry was aware what was going on,
16 as opposed to later into the pandemic when there
17 was more outbreaks and more knowledge across the
18 health care sector of what was going on in the
19 homes.

20 If we can go to the next slide, thanks.

21 In tandem with the section 24 duty to
22 report, there is a requirement on the Ministry to
23 make sure that it inspects or makes inquiries into
24 certain things when it gets information from any
25 source, so this could be from a report, from a

1 complaint to the Ministry's action line, any source
2 that they get the information from.

3 So I have set out there in the first
4 bullet and sub-bullets the types of things that the
5 Director must have either an inspection done or
6 inquiries made, but there is a second standard in
7 25(2) of the Act that says that the Director must
8 have an inspector immediately visit the home if
9 there is information from any source of serious
10 harm or significant risk of serious harm to a
11 resident that resulted from improper or incompetent
12 treatment or care, abuse or neglect or unlawful
13 conduct.

14 So as I said, there are certain things
15 where the Director has to make sure there is either
16 an inspection or inquiries done, but if it rises to
17 the level of serious harm or significant serious
18 harm to a resident, then the Ministry must ensure
19 that an inspector immediately visits the home.

20 Okay, so the next slide is a bit on
21 whistle-blowing. I think this is also a very key
22 tenet of this statute. There is whistle-blowing
23 protection for all persons, including staff,
24 residents and volunteers who disclose information
25 to the Director or to an inspector during an

1 inspection or who may give evidence in a proceeding
2 or inquest.

3 Staff members who believe they have
4 been retaliated against by an employer for
5 disclosing information or providing evidence have
6 two options. They can obviously report that to the
7 Ministry and an inspection can be done, but they
8 also have the option of filing a complaint with the
9 Ontario Labour Relations Board. So that protection
10 is there as well.

11 Okay, the next couple of slides are
12 about some of the care standards related to
13 restraining residents. These are very important in
14 terms of protecting the rights and security and
15 liberty of residents because, as we know, a lot of
16 residents have various health needs and needs and
17 assistance with their activities of daily living,
18 so there are certain specific requirements that the
19 licensee must follow when it feels that restraints
20 may need to be used. And one of those very
21 important requirements is ensuring they have
22 consent from the resident or substitute
23 decision-maker where the resident is not capable to
24 provide that consent and ensure that, where the
25 resident may be restrained by a physical restraint,

1 that that is set out clearly in the resident's plan
2 of care.

3 The next slide.

4 So this slide, the personal assistance
5 services devices, PASDs, this goes along with the
6 restraint requirements and provides more specific
7 requirements for a PASD. One example of a PASD I
8 would think of is a chair in a home that also has a
9 meal tray, and if that meal tray is in locked
10 position, the resident can't get out.

11 So that is a personal assistance
12 service device that could be used as a restraint,
13 and so when that happens, the requirements I was
14 showing on the previous slide about physical
15 restraints, they apply and need to be followed.
16 Again, consent and setting out the use of the PASD
17 in the plan of care are key elements here, or key
18 requirements I should say.

19 Okay, I am going to deal a bit more in
20 detail with some of the admissions processes,
21 because some of the admissions requirements were
22 some of the requirements that were revised, amended
23 during the pandemic in March and still are amended
24 slightly.

25 So the first thing about the admission

1 process is that it is not the Ministry who makes
2 admission decisions or handles the admission
3 process. There are designated placement
4 coordinators and they are the Local Health
5 Integration Networks, or otherwise known as the
6 LHINs, and only the placement coordinator can
7 authorize admission to the home.

8 The LHINs have the responsibility of
9 determining eligibility for admission, providing
10 applicants with information, prioritizing admission
11 and managing the wait lists, and then authorizing
12 admissions to the homes.

13 And they also, in making the
14 eligibility determinations about whether somebody
15 is eligible for a placement into a long-term care
16 home, there are certain requirements that they have
17 to follow with that.

18 If we can go to the next slide, Judith.

19 So there are a number of prerequisites
20 before admission can be authorized there, and they
21 primarily center around consent, which won't
22 surprise you.

23 I also wanted to set out that there are
24 a few different types of beds, and this is kind of
25 a precursor to some more detail Michael is going to

1 provide, but the Act sets out that there are
2 long-stay beds. There are also short-stay beds,
3 beds that are, for example, respite care limited to
4 60 days, convalescent care generally limited to 90
5 days, as well as there is other priority access
6 beds, things like high acuity, so residents that
7 are at high, high need of care assistance, and
8 re-unification priority access beds to re-unify
9 spouses or partners, and then there also can be
10 specialized units in homes.

11 And if we can just go back to that
12 slide, Judith, before we go on, I just wanted to
13 add a little bit more on - even though I don't have
14 it on the slide - on the waiting lists.

15 There are a number of different
16 prioritization criteria that you will see in the
17 Regulation starting at section 177. There is the
18 re-admission category, so this is somebody who has
19 possibly been on an absence in a hospital, for
20 example, and exceeded their absence allowance for
21 medical leave, which is 30 days. They would go
22 into the re-admission category.

23 There is other categories. Category 1
24 is a crisis; category 2, spouse and partner
25 re-unification, et cetera.

1 So there is a very complicated
2 procedure in the Regulation for how the waiting
3 list process works. If that is something that you
4 are interested in getting more details on how it
5 works on the ground, as opposed to what the
6 Regulation says, that would be something we would
7 want to talk with our colleagues at the LHIN about
8 in terms of getting you some of that information if
9 you think it is necessary for you to have a better
10 understanding of how that is working.

11 Okay, so if we can move on from
12 admission, Judith, thanks.

13 You have probably heard of the
14 Residents' and Family Councils. They are set out
15 in the statute. The licensee of a home must
16 establish a Residents' Council in each home, but
17 they only need to establish a Family Council if
18 that has been requested.

19 The Residents' Council and Family
20 Council may report concerns and recommendations to
21 the Ministry. If they make complaints to the
22 licensee, the licensee is required to respond to
23 their complaints, and there is set time frames by
24 which they need to provide that response.

25 So they are a key elements of the

1 homes, and there is also a Residents' Council
2 Association and they are a quite strong and
3 effective and very important, I would say, advocacy
4 group in the sector.

5 All right, the next slide.

6 So I am going to do a bit here on the
7 requirements under staffing and training, a couple
8 of slides here on that, and this will give you a
9 bit of a sense of the kind of workers and staff
10 that you will see in a long-term care home.

11 There is a general requirement in the
12 Act that staff in the home have to have the proper
13 skills and qualifications to perform their duties
14 and possess the qualifications provided for in the
15 regulations.

16 So for some specific staff, as I have
17 listed out there on the slide in the indented
18 bullets, there are some specific qualifications and
19 responsibilities put on those staff, and for some
20 of them also some specific hours that they have to
21 work.

22 For example, Nurses, they have to have
23 a certification from the College of Nurses. The
24 licensee has to make sure they have that valid
25 certification for a Nurse.

1 There is specific qualifications for
2 personal support workers which, as you know, are an
3 unregulated profession.

4 Registered Dietitians are a required
5 staff and there are certain qualifications for them
6 in the Regulation.

7 Nutrition Manager is dealt with in the
8 Reg., and cooks and food service workers as well.

9 Two other very important members of the
10 long-term care home staff, this would be management
11 level, are the Administrator. Every home has to
12 have an Administrator who works full-time, and
13 there are certain qualifications around the
14 Administrator; and the Director of Nursing and
15 Personal Care, also sometimes known as the Director
16 of Care, so you will see "DOC" possibly a lot as an
17 acronym and that is the Director of Care of the
18 home, part of the home's management of the nursing
19 program, and the Director of Nursing and Personal
20 Care must be a Registered Nurse and must also be
21 full-time.

22 There also needs to be a Medical
23 Director who must be a physician.

24 And there is also a provision that
25 identifies for the licensee and requires them to

1 limit the use of agency, temporary or casual staff
2 in order to provide a stable and consistent
3 workforce and improve continuity of care for the
4 residents. That is in the statute. There are no
5 regulations that correspond with that section.

6 The next slide, Judith.

7 There is also screening requirements
8 that the licensee must go through before hiring
9 staff. That includes a police record check and a
10 vulnerable sector screen.

11 And there is also extensive training
12 and orientation requirements for the staff. There
13 is specific training staff must receive if they are
14 providing direct care to the residents, and that
15 training needs to be provided before they start
16 providing direct care to the residents and that
17 type of --

18 COMMISSIONER FRANK MARROCCO (CHAIR):

19 Kristin, if I could ask a question, who
20 provides the training?

21 KRISTIN SMITH: It is the licensee's
22 responsibility to provide the training, so if they
23 have somebody in-house on their staff who can
24 provide the training, as long as it is provided and
25 covers all the areas that the Reg. says it needs to

1 cover, then they will have met that requirement.

2 It is also fully open to them to bring
3 in an external company to provide the training, for
4 example. And for example, a large corporation like
5 Sienna or Extendicare, may decide to do that and
6 have somebody external do the training for them,
7 but as long as it meets the requirements the
8 Regulation says it has to cover, then it is
9 sufficient.

10 COMMISSIONER FRANK MARROCCO (CHAIR):

11 Thank you.

12 KRISTIN SMITH: You are welcome.

13 So the training is quite broad. It
14 covers things from the abuse policy, palliative
15 care, mental health issues, behaviour management,
16 caring for people with dementia, so some really
17 important types of training, and this is a key
18 tenet of the statute to make sure that the care
19 being provided is consistent for the residents.

20 COMMISSIONER ANGELA COKE: Sorry, if I
21 could just ask, so that would include IPAC training
22 and training --

23 KRISTIN SMITH: Yes, I don't have it
24 listed there, but IPAC is included, that's correct.

25 COMMISSIONER ANGELA COKE: Okay.

1 KRISTIN SMITH: Yes.

2 Okay, the next slide, Judith, please.

3 And just quickly, there is also the Act
4 just gives you -- this slide I like to say gives
5 you a sense of how broad the Act and the Regulation
6 are in the sense that they cover everything that
7 happens in a long-term care home, including quality
8 improvement. So the licensee has to conduct an
9 annual resident and family satisfaction survey and
10 make every reasonable effort to act on the results
11 of that survey and improve their services, and they
12 also have to develop and implement a continuous
13 quality improvement review for the home.

14 And I think at this point, the next
15 slide, I am going to turn it over to Michael. Oh,
16 no, I am not. I am going to do IPAC first.

17 So the infection prevention and
18 control, these are sections that you will probably
19 want to start committing to memory, I'm expecting,
20 and emergency planning provisions.

21 The section references are there for
22 you in the Act, section 86 to 87, and in the
23 Regulations section 229 to 230.

24 The licensee has to have an infection
25 prevention and control program, as well as

1 emergency plans. The IPAC program has to include
2 daily monitoring to detect infection in residents
3 and include measures to prevent transmission of the
4 disease.

5 I am just pausing to pull it up on my
6 screen, section 229.

7 And then I have put in here some
8 specific examples from section 229 of what the
9 infection prevention and control program has to
10 include.

11 It has to have an interdisciplinary
12 team approach in coordinating and implementing the
13 program. That team has to meet at least quarterly
14 and invite the local Medical Officer of Health to
15 their meetings.

16 They have to evaluate their program
17 annually and keep a written record of each of those
18 evaluations.

19 They also have to designate a staff
20 member to coordinate the program, the IPAC program,
21 who has education and expertise in IPAC practices,
22 including infectious diseases, cleaning and
23 disinfection, data collection and trend analysis,
24 reporting protocols and outbreak management.

25 Also, the licensee is required to

1 ensure that all staff participate in the
2 implementation of the IPAC program.

3 And the program also gets very granular
4 into the point where the licensee has to ensure
5 that on every shift, so not just every day, but
6 every shift that symptoms indicating the presence
7 of infection in residents are monitored in
8 accordance with evidence-based practices and the
9 symptoms are recorded and immediate action is taken
10 as required. So that is on every shift, and that
11 is the licensee is required to do that.

12 They have to then ensure that the
13 information they gather on each shift is analyzed
14 daily to detect the presence of infection and
15 reviewed at least once a month to detect trends for
16 the purpose of reducing the incidence of infection
17 and outbreaks.

18 COMMISSIONER ANGELA COKE: Could I just
19 ask a question?

20 In terms of that plan, would that be
21 something that would include the coordination with
22 their community partners in the health care system?

23 KRISTIN SMITH: That is certainly an
24 option to them. The Reg. doesn't require that.

25 Apologies, I think I froze there.

1 Deana, did I freeze there?

2 COMMISSIONER FRANK MARROCCO (CHAIR):

3 We were able to hear you, Kristin.

4 KRISTIN SMITH: Okay, great.

5 Yes, so Commissioner Coke, the Reg.
6 doesn't require that they in a sense consult or
7 collaborate with other partners in the health care
8 sector, minus that one requirement that I just
9 said, that when they have their quarterly meetings,
10 they have to invite the local Medical Officer of
11 Health from the Public Health Unit.

12 But we have to remember too that all of
13 these requirements that I am talking about today
14 that are in the Act and the Regulation are minimum
15 standards. There is nothing stopping the home from
16 doing more. So in this sense, nothing is stopping
17 them from collaborating more, but it is not
18 something that is a requirement in this section.

19 COMMISSIONER FRANK MARROCCO (CHAIR):

20 How do you know that they are doing
21 these things?

22 KRISTIN SMITH: So that is what I am
23 going to get to in Part X of the Act, which is
24 compliance and enforcement.

25 COMMISSIONER FRANK MARROCCO (CHAIR):

1 Okay.

2 KRISTIN SMITH: Okay, so I'll get to
3 that then.

4 And there are a number of other
5 sections. Section 229 is quite lengthy, and I am
6 not going to go through the whole thing, but I
7 would definitely suggest that you take a look at
8 it. If we have some time at the end, we can come
9 back to it, but it gets so detailed as to require
10 the licensee to ensure there is a hand hygiene
11 program in place and that they have immunization
12 and training measures, surveillance protocols, et
13 cetera, et cetera.

14 The next slide, Judith, please.

15 And now I will turn over to Michael.

16 MICHAEL ORR: Okay, thank you. Thank
17 you, Kristin.

18 I will follow pretty much the same
19 format, hopefully, and I am happy to take questions
20 as I go.

21 My areas of focus since I started
22 working in the long-term care homes area in 2002 is
23 licensing and funding, and with the funding, a
24 particular focus on funding for capital
25 re-development or development of new long-term care

1 home beds or old long-term care home beds that are
2 being re-developed.

3 So I am going to be focussing largely
4 on the structural aspects as opposed to the
5 operational aspects.

6 One of those, one of the key structural
7 pillars of long-term care homes in Ontario is
8 licensing and the other one is funding.

9 We'll start with funding. Section 90
10 of the Act contains a very broad and succinct power
11 of the Minister. It says:

12 "The Minister may provide
13 funding for a long-term care home."

14 And there are two things that are
15 notable about that, in my opinion.

16 One is it is very general. The
17 previous legislation, and Kristin referred to three
18 different Acts and so there were different
19 approaches, was a bit more restrictive for funding,
20 especially with respect to the for-profits and
21 capital funding. This is completely without
22 restrictions. All it has to be is funding for a
23 long-term care home. It doesn't even necessarily
24 have to be to a long-term care home.

25 So that is one thing is the generality

1 of it, and the other thing is that it is
2 discretionary. Long-term care homes, the Long-Term
3 Care Homes Act sets out a licensing scheme for
4 long-term care homes, but it does not require the
5 Ministry to fund long-term care homes. The
6 Ministry is not legislatively required to fund
7 long-term care homes. There is a possibility - and
8 it has never, as far as I know, been taken up - but
9 there is a possibility for the Ministry to actually
10 licence long-term care homes that are not publicly
11 funded, but the Ministry has not done that.

12 So that is the foundation of funding.

13 Now, in terms of how it works, most of
14 the funding for long-term care is currently flowed
15 through Local Health Integration Networks, what we
16 call LHINs, and that is under the LHSIA, the
17 applicable legislation for LHINs, and there is a
18 Service Accountability Agreement, a funding
19 agreement between the LHIN and each home in its
20 area.

21 Now, what is interesting there, what is
22 notable is that under the Act there is a definition
23 of "requirements" under the Act, and those are
24 things that the licensee is required to comply with
25 legislatively and there is a definition and it

1 includes a condition of funding under section 90
2 and it also includes a condition of funding under
3 a -- or a requirement of funding under an LSAA, one
4 of the agreements between the LHIN and the home.

5 And the LSAA's, as it turns out, provide
6 for an obligation of the homes to follow what is
7 defined as "applicable policy", and that is really
8 all the Ministry financial policies.

9 So all of that becomes a condition of
10 the licence and it becomes something that the
11 Ministry can enforce from a compliance point of
12 view.

13 So the majority of the funding flows
14 through the LHINs. A smaller portion of the
15 funding for long-term care homes is provided
16 directly by the Ministry to each home, and it is
17 done under what we are calling a Direct Funding
18 Agreement or DFA between the Ministry and each
19 home.

20 There is also the possibility of
21 capital funding for the home. Homes that have
22 developed or re-developed will have a Development
23 Agreement with the Ministry under which they have
24 developed or re-developed the home. The typical
25 model for funding for the developed or re-developed

1 beds was that they would build them to our
2 specifications and we would provide them with a
3 per-bed per diem over the course of 20 or 25 years.
4 Currently it is 25 years.

5 Okay, so we'll go to the next slide,
6 "Resident Charges".

7 Now, so residents can be charged. It
8 is not just the government paying for long-term
9 care. There is also a significant element of
10 long-term care, definitely a minority, but a
11 significant element which is paid by the residents
12 themselves.

13 There is what is referred to as a
14 resident co-payment and that is paid by all
15 residents, and then there is a preferred
16 accommodation premium which is paid by those in
17 preferred accommodation, which is accommodation
18 that is classified as either private or
19 semi-private accommodation, and we are going to get
20 to that, we are going to get to the definitions of
21 those kind of accommodations a little bit more.

22 If the resident can't afford it, there
23 is something called rate reduction, so there is the
24 possibility of the amount being reduced but that
25 would just be the co-payment for basic

1 accommodation being reduced. That would not apply
2 to preferred accommodation.

3 There are restrictions in the Act,
4 requirements that limit the amount that a resident
5 can be charged for accommodation, for preferred
6 accommodation. And for anything else other than
7 accommodation it requires a written agreement
8 between the licensee and the resident.

9 Over in the next slide we are dealing
10 with structural classification. All long-term care
11 home beds, with a few exceptions, have structural
12 classifications and they are New or A, B, C, D or
13 Upgraded D, and I'll get into a little bit more
14 detail about what those mean.

15 By the way, the exceptions, the main
16 exceptions that I know of are homes with beds with
17 a temporary licence and beds that are called ELDCAP
18 beds. ELDCAP beds are long-term care home units in
19 hospitals in the north. There are a few of those.
20 They are specifically listed in section 187 of the
21 Act. There aren't so many of them, but I know that
22 people are curious when we say that there are a few
23 exceptions.

24 So where the classification is
25 mentioned, they are most comprehensively defined in

1 the 1999 Long-Term Care Construction Funding
2 Policy. They are also referred to in the
3 legislation, but not necessarily re-defined there.
4 "New Beds" are defined in section 187. We also
5 have Upgraded D Beds which were upgraded under the
6 Upgrade Option Guidelines referred to in section
7 187.

8 Now, I'll just give you a bit more of
9 an idea, try to give you a bit more of an idea of
10 what this really means.

11 So the New beds are beds that have been
12 developed or re-developed under a Design Manual,
13 and we'll come to what that means, but they are the
14 beds that are up to today's standard. They have
15 been developed or re-developed in accordance with a
16 Design Manual. The A beds are very close to that.

17 So if you are thinking about long-term
18 care beds, you have got sort of two halves: you
19 have got the New Beds and you have got the old
20 beds. The New Beds are the Design Manual or close
21 to it; the old beds are the B, C, D or Upgraded D
22 Beds. The B and C, the difference between B and C
23 and D is that the B and C comply with the 1972
24 Nursing Homes Act regulation structural
25 requirements. The D Beds do not.

1 I don't believe that there are any
2 plain D Beds anymore. If there are any D Beds in
3 the system, they would have been Upgraded D Beds.
4 The Ministry had a program starting in 2002 to
5 re-develop D Beds, and people would either
6 re-develop their D Beds and turn them into New beds
7 or they could upgrade their D Beds and that did not
8 necessarily mean -- that might mean bringing them
9 up to C standards, which means they comply with the
10 1972 Nursing Home Regulation, but it also might
11 have meant that they spent \$3,500 per bed on
12 improvements that the Ministry approved.

13 There are still a number of those
14 Upgraded D Beds around, and the Ministry is
15 currently looking to re-develop those beds together
16 with all the B and C Beds.

17 So those are the two. You have the New
18 Beds, complying with the Design Manuals, and you
19 have the old beds which don't comply with the
20 design manuals, and we'll come in a minute to some
21 of the practical differences between those two
22 worlds.

23 COMMISSIONER JACK KITTS: Michael, will
24 you also talk about the numbers of new beds versus
25 A, B, C, D?

1 MICHAEL ORR: I am not so familiar with
2 the numbers, to be honest.

3 COMMISSIONER JACK KITTS: Okay.

4 MICHAEL ORR: That is something that I
5 think is going to have to be a question for the
6 Ministry, and it is an important question. I am
7 not so conversant with it.

8 KRISTIN SMITH: Commissioner Kitts, it
9 is Kristin here. I was just going to let you know
10 that we are working on scheduling a presentation
11 from the Director in the Capital Development area
12 who will give you more of that on-the-ground,
13 in-the-field information.

14 COMMISSIONER JACK KITTS: Okay, and
15 just a quick question. I don't know if anyone
16 knows. Why wouldn't an Upgraded D either be New or
17 A, become either New or A?

18 MICHAEL ORR: Well, it hasn't been
19 re-developed up to the Design Manual standards.

20 What we were paying for a development
21 or a re-development was the equivalent \$120,000 per
22 bed. That was what we considered the per diem
23 payment to be. The original per diem was \$10.35
24 per bed per day, and that was considered the
25 equivalent of the current value of \$120,000 per

1 bed.

2 As I mentioned, the D Bed upgrade
3 program was not very demanding. You know, they
4 only needed to put \$3,500 into each bed, and what
5 they would get in return for that was a \$1.00 per
6 day per diem per bed. That was all. So it just
7 brought -- it upgraded them a little bit. It
8 didn't really turn them into new beds.

9 Now, just, you know, the practical
10 implication here is you will see it from how the
11 rooms are classified.

12 In the New Beds and A Beds, we have
13 private, semi-private and standard accommodation.

14 So across the board, the private rooms
15 are one per room. But in the new homes, a
16 semi-private room is a room with a shared bathroom.
17 You have one person in one room, one person in
18 another room, and you have a shared bathroom. That
19 is called semi-private.

20 Semi-private in the old system, in the
21 older beds, that is two people in a room. In the
22 New Beds, two people in a room, that is standard
23 accommodation. And in the older beds, standard
24 accommodation is three or more people in a room.

25 So you know, if you see four people in

1 a room, you know that is one of the older homes.
2 In the newer homes, you would have a maximum of two
3 people in a room and that would be in a situation
4 where people were not paying a premium for it.

5 So this flows into the discussion on
6 the next slide of classification of accommodation.
7 So we have referred to the different
8 classifications. We have got standard rooms,
9 private rooms and semi-private rooms. The term
10 "preferred" refers to both private and
11 semi-private.

12 Now, the classification is based, as
13 you can tell from my description, the
14 classification is partly based on structural
15 classification; so for example, as I mentioned in
16 the new homes, two per room is standard
17 accommodation and in the older beds two per room is
18 semi-private accommodation.

19 It also partly depends on the
20 designation by the licensee because, as set out in
21 the bottom point, a maximum of 60 percent of the
22 beds in the home can be designated as preferred
23 accommodation. So even if let's say all the rooms
24 in the home were private rooms, they couldn't
25 charge for private accommodation for more than 60

1 percent of those beds.

2 And the classification is also relevant
3 to how much residents can be charged. We talked
4 about resident charges before. For the older
5 homes, there is a differential co-payment.

6 Residents can't be charged as much for
7 their accommodation in the older homes. There are
8 different rates set out in fairness to residents
9 because, you know, the idea is that if you are in a
10 semi-private room with two people in it and you are
11 sharing a room with somebody, you shouldn't be
12 charged the same semi-private rate as if you are in
13 a semi-private room where you have got your own
14 room and all you are doing is sharing a bathroom.

15 Okay, so we'll go to the next slide
16 which deals with Long-Term Care Home Design
17 Manuals, which we have already referred to.

18 Now, the Long-Term Care Home Design
19 Manuals, they do not set out legislative
20 requirements. They are applicable to a home
21 contractually. If the home is developed or
22 re-developed, then under the Development Agreement
23 with the Ministry, the home is required to be built
24 to the standard of the Design Manual and they have
25 a continuing requirement in order to get the per

1 diem funding to maintain it in accordance with the
2 Design Manual.

3 There are really four Design Manuals
4 that are all pretty similar.

5 The first one was in 1999 when the
6 re-development funding model was developed. It was
7 a new model back then and it has been continued
8 really up to now.

9 The 2009, the 2015 Design Manual, and
10 back in 2002 there was what we called the Retrofit
11 Design Manual which that was an alternative to the
12 1999 Design Manual that allowed a little bit more
13 flexibility but it didn't give quite as much money.
14 They could cut certain corners. They were allowed
15 to cut certain corners. They were given certain
16 flexibility, but in return for using that
17 flexibility, they would have certain specific
18 amounts taken off their per diem.

19 Now, that continues, that continued
20 under the 2009 and 2015 Design Manuals, but that
21 was then brought within the one Design Manual, so
22 it was something that they would have an option of
23 doing.

24 Now, they had the option of doing that
25 only where they were re-developing old beds,

1 because the thought was if they are re-developing
2 an existing home, they might need some flexibility.
3 They don't have any flexibility for meeting the
4 design standards new homes. If they are doing a
5 new home and they are doing new construction, they
6 are required to build to the full standards. They
7 don't get any flexibility on that.

8 Okay, so we'll start on the next slide,
9 which is we are starting to talk about licensing
10 and approval.

11 So when I started speaking, I referred
12 to structural pillars, one of them being funding,
13 and the other structural pillar of long-term care
14 homes in Ontario is the concept of licensing and
15 the foundation of that is the prohibition to
16 operate without a licence. So there is a
17 prohibition in section 95 of the Act to operate a
18 residential premises for two or more unrelated
19 persons to receive nursing care without a licence
20 or approval under the Long-Term Care Homes Act.

21 Now, it is subject to a number of
22 exceptions. Hospitals are an exception, and
23 retirement homes are an exception. There are also
24 a number of types of premises listed in the
25 regulation, including homes for special care and

1 government-funded hospices.

2 So what do you need in order to get a
3 licence?

4 There are certain requirements from the
5 Minister and there is certain requirements from the
6 Director under Part VII of the Act, which is the
7 licensing section.

8 So before you can get a licence for a
9 long-term care home, the Minister has to make
10 public interest determinations. One is that there
11 is a need for that number of beds in that area, and
12 there is also an availability of funding for the
13 beds. So that is what is called the needs
14 determination.

15 And the Minister also has to make a
16 determination with respect to whether there are any
17 restrictions needed on who can be the licensee for
18 that home, and the Minister considers the
19 for-profit/not-for-profit balance in the sector and
20 also considers concentration of ownership. You
21 know, if there is let's say a chain that the
22 Minister feels has too much of a concentration of
23 ownership, the Minister can impose restrictions. I
24 don't believe that any restrictions have ever been
25 placed by the Minister, but it is a requirement

1 that the Minister considers making those
2 restrictions.

3 So that is on the Minister's part
4 before issuing a licence. And the Director under
5 Part VII then needs to make an eligibility
6 determination whether the licensee -- and that is
7 set out in section 98 of the Act, and there are a
8 number of different elements to it having to do
9 with whether the Director is satisfied that the
10 proposed licensee has sufficient integrity and has
11 sufficient demonstrated experience and will be
12 capable of providing the required services.

13 But even if somebody meets the
14 eligibility determination, getting a licence under
15 the Long-Term Care Homes Act is not a right. It is
16 not an entitlement. It is a privilege, and the
17 Director ultimately has discretion whether or not
18 to issue the licence.

19 A licence is issued with a term of up
20 to 30 years, and it may be subject to conditions.

21 There was one thing that I should
22 mention, now that I am thinking about licence
23 terms, and I think I omitted to mention it before.
24 I believe it is in one of the bullets that we
25 mentioned previously. But when the new Act came

1 into force in 2010, there was obviously transition
2 provisions that transitioned the older licences to
3 newer licences.

4 Under the previous Act, well, the
5 Nursing Homes Act, there were licences that
6 basically got renewed every year. Under the
7 Charitable Institutions Act, there were approvals
8 which were in perpetuity. And all of those got
9 turned into licences, and the licence term, one of
10 the main things in the new Act was that the licence
11 term was going to be for a fixed term based on the
12 structural classification of the home. So the
13 older homes got a shorter licence than the newer
14 homes, and that was with the idea that that would
15 give the Ministry a tool to require the older homes
16 to re-develop.

17 The C and B homes, which are the bulk
18 of the older homes currently, most of them have
19 licences that expire 15 years from the coming into
20 force of the Act, and so that is in 2025. So that
21 is a date to watch. In 2025 there are going to be
22 a lot of licence expiries.

23 Also in 2025 there are going to be
24 requirements under the Fire Code coming into force
25 that will require all care homes, including

1 long-term care homes, to be sprinklered, and since
2 some of the older homes I believe are not currently
3 sprinklered, that will affect a number of the older
4 homes too.

5 And so there are a lot of reasons why
6 the older homes are going to need to be
7 re-developed, and that is something that the
8 Ministry is working on.

9 But that was by way of a bit of a
10 digression.

11 I'll come to slide 29 now, "Licences
12 and Approvals of Long-Term Care Homes".

13 So we talked about the issuance of a
14 licence. There are a number of other things that
15 can happen with a licence that have processes that
16 require Ministry approval. There are amendments to
17 a licence, amendments to increase the number of
18 beds or extend the term, and that is pretty much
19 the equivalent of the issuance of a new licence
20 and have process requirements accordingly.

21 If somebody other than the licensee is
22 going to manage the home on behalf of the licensee,
23 if they are going to have a management company
24 coming in, that requires Director approval of the
25 management contract. One of the situations in

1 which that happens is where a security interest in
2 the licence is being exercised.

3 So obviously, it is a very
4 capital-intensive industry. You know, there is a
5 lot of land involved. There is a lot of assets
6 that one requires to run a long-term care home, so
7 there is a lot of lending and the lenders typically
8 take a security interest in the assets of the home,
9 which includes, you know, the physical assets and
10 it includes the licence of the home.

11 And in case the home goes insolvent,
12 the creditors can apply to exercise the security
13 interest. If they want to take over the home by
14 way of a receiver, they need to do so and they can
15 only do so with the approval of a Director and it
16 has to be by way of bringing in a management
17 company which will operate the home on behalf of
18 the licensee until it can be sold, typically until
19 it can be sold to a purchaser and then the money
20 can be used to pay off the creditors. Typically
21 the process takes quite a long time to make it all
22 happen. It doesn't happen very often, but it does
23 happen occasionally.

24 We have been talking mostly so far
25 about regular licences, which can be for a term of

1 up to 30 years. There is also temporary licences
2 which can be issued by the Director for a fixed
3 term of no more than five years. There are also
4 temporary emergency licences which can be issued
5 for a term of up to one year to accommodate persons
6 who are affected by a temporary emergency.

7 And we'll go over to the next slide,
8 which is really a continuation.

9 Director approval is required for
10 licence transfers. Now, that might be the transfer
11 of a home to a new licensee. It might be a turnkey
12 kind of transaction where one operator is going out
13 the door and another operator is coming in and
14 taking over the home, or it might be where a whole
15 home is moving to a different location, or it might
16 be just beds under the licence that are moving. In
17 all cases, it requires the Director's approval and
18 it really requires all the same requirements that
19 issuing a new licence would have.

20 There is a restriction on the transfer
21 of licences from non-profit homes to for-profit
22 homes. There is one exception set out in the
23 Regulation, but it is very narrow. It is really
24 where the home has gone through an insolvency and
25 the sale is coming about as a result of the

1 exercise of a security interest.

2 Most of the decisions of the Ministry
3 and the Director relating to licensing are within
4 their sole discretion and not subject to appeal.
5 There is an exception in the case of eligibility
6 determinations under section 98, that is subject to
7 appeal.

8 As well as transfers of licences, there
9 are requirements for closures of a long-term care
10 home. Licensees cannot just close a long-term care
11 home as they wish. The Regulation requires five
12 years' notice to the Director, although there is a
13 provision that the Director can shorten that period
14 if she sees fit.

15 Now, the five-year notice requirement
16 does not apply if the home is closing at the
17 licence expiry. So the homes closing in 2025, they
18 have already passed the five-year mark and just
19 because they haven't provided notice is not a
20 guarantee that they will be continuing after 2025.

21 There are requirements, as one gets
22 closer to the closure, there is a requirement for
23 an approved closure plan, an Approved Closure
24 Agreement within 14 months and 6 months
25 respectively before the closure. The Director has

1 discretion to shorten those periods, but obviously
2 closing a home is something that requires planning
3 and it requires notice to the residents. There are
4 a number of things that have to be done, so it is
5 not just an arbitrary question of how long the
6 notice period will be. There are a number of
7 things that need to be done.

8 And so as 2025 comes closer, this issue
9 of how it will be managed, you know, is something
10 that the Director needs to be involved with and
11 obviously is already planning for.

12 Typically, by the way, what happens
13 under section 103 of the Act, and we don't have a
14 note here to this effect, but three years before
15 the licence expires, by three years before the
16 licence expires the Ministry has to have conducted
17 a public consultation and made a decision on
18 whether or not it will be issuing a new licence to
19 the home, an undertaking for a new licence, or
20 whether it will be saying, okay, good-bye, we are
21 not issuing a new licence after this licence
22 expires.

23 And typically, what the Ministry does,
24 there were a number of licences which were due for
25 expiry in 2020. Those were some of the really

1 older homes. And typically, I believe that the
2 Ministry issued an undertaking for a new licence,
3 but the undertaking, one of the conditions of the
4 undertaking was that the home would re-develop.
5 And obviously once they re-developed, then the
6 Ministry would be willing to issue them a new
7 licence for a term of 30 years. That is the
8 standard thing that the Ministry does when a home
9 re-develops.

10 If the home doesn't re-develop, I
11 believe that the homes that didn't re-develop were
12 for the most part issued temporary licences to kind
13 of bridge them through a period to where they would
14 be able to re-develop or where alternative plans
15 would be able to be made.

16 So we'll go over on to the next slide
17 which we are starting to deal now with Part VIII of
18 the Act. So we have licences under Part VII, and
19 we have approvals, which is kind of the equivalent
20 of a licence, under Part VIII.

21 Now, the approvals under Part VIII
22 apply to two types of homes, municipal homes and
23 First Nations homes.

24 There are lots of municipal homes. I
25 think they are almost a third of the sector. There

1 are no First Nations homes under Part VIII. There
2 are some First Nations homes with licences,
3 however.

4 So let's deal with municipal homes
5 first.

6 Municipal homes operate under the
7 authority of a Minister's approval, and the
8 difference from a licence is that the Minister's
9 approvals do not expire.

10 Now, there is, by the way, a power of
11 the Director to require that municipal homes
12 re-develop, so just because they don't expire
13 doesn't mean that we have to allow the old homes to
14 operate forever.

15 Southern municipalities, every southern
16 municipality, except for lower-tier municipalities,
17 are required to establish or maintain a long-term
18 care home or a joint home or participate in some
19 way with another municipality in providing
20 long-term care homes.

21 So all southern municipalities do that.
22 I think, you know, Toronto probably has a dozen
23 homes. There are a number of other municipalities
24 that have multiple homes, but all southern
25 municipalities are required to have a home or

1 participate in a home.

2 Northern municipalities with a
3 population of over 15,000 are allowed to establish
4 a home but they are not required to establish a
5 home.

6 Northern municipalities in territorial
7 districts, there is a process there. Territorial
8 districts are defined under the Territorial
9 Districts Act. Now, there are some tweaks to those
10 definitions in our Regulation with respect to the
11 districts, but what happens is where you have the
12 majority of the municipalities in a district saying
13 we want to operate a home, then a Board of
14 Management is established. A Board of Management
15 is a corporation, and it is established and it
16 takes over the operation of the home and that is
17 the function of the Board of Management. That is
18 the sole function of the Board of Management is to
19 operate that home, and they have the right to levy
20 the municipalities, all the municipalities in the
21 territorial district, even those who voted against
22 it, they have the right to levy those
23 municipalities to support the home.

24 Okay, so on the next slide, as I
25 mentioned, First Nations are permitted to establish

1 long-term care homes under Part VIII with Ministry
2 approval, Minister approval. They are not limited
3 to Part VIII, however. They can also get a
4 licence.

5 Now, there are currently no approved
6 First Nations homes under Part VIII, though there
7 are several non-profit entities related to First
8 Nations that operate licensed long-term care homes.

9 And there are provisions in the
10 Regulation and there is a specific exemption for
11 four or five homes that I would describe as First
12 Nations homes, licensed homes. The provision in
13 the Regulation allows them to conduct their own
14 placement. So they don't have to go by the
15 placement provisions under the Regulation. They
16 don't have to go by the placement coordinators
17 established by the LHINs. They can do their own
18 placements, and that is the accommodation that has
19 been provided to allow those organizations to
20 function in a somewhat more autonomous way than
21 long-term care homes are able to generally.

22 By the way, the reason why I think that
23 there are no First Nation homes under Part VIII is
24 because an approval under Part VIII cannot be
25 transferred. A licence, as we discussed under Part

1 VII, can be transferred with Ministry approval, so
2 lenders are much more willing to give loans based
3 on the security of a licence and are not so willing
4 to give loans for a home that is approved, because
5 that home cannot technically be transferred as a
6 going concern. So that I think is probably the
7 reason why there are no First Nations homes
8 approved under Part VIII.

9 So that is the end of my part of the
10 presentation. I hope that it has been relatively
11 understandable. And I certainly welcome follow-up
12 questions either now or later.

13 KRISTIN SMITH: Thank you, Michael.

14 COMMISSIONER JACK KITTS: I just have
15 one question for clarification. I think you said
16 that the Long-Term Care Home Design Manuals apply
17 only to homes built or re-developed with Ministry
18 funding.

19 Are the homes that are built without
20 Ministry funding, do they not have to comply with
21 the new Design Manuals?

22 MICHAEL ORR: That is correct, they do
23 not. They do not have to comply -- sorry, the
24 homes -- can you repeat the question? I just want
25 to make sure I have got the first part right.

1 COMMISSIONER JACK KITTS: Yes, I think
2 you have said that the Long-Term Care Home Design
3 Manuals apply only to homes built or re-developed
4 with Ministry funding.

5 MICHAEL ORR: Yes.

6 COMMISSIONER JACK KITTS: So I am
7 asking are the homes that are built I guess by
8 private sector, do they not have to comply with the
9 new Design Manuals?

10 MICHAEL ORR: Okay, so let me unpack
11 that, because I think this may be a -- I think I
12 have to be clearer about that.

13 The way that the re-development program
14 works is that whether it is a public sector home or
15 whether it is a private sector home, they apply for
16 Ministry funding to either develop or re-develop
17 beds, and if we approve them, we enter into a
18 Development Agreement with them and they build the
19 beds to our specifications, including their Design
20 Manual. And so they are the ones who are required
21 to comply with the Design Manual.

22 And we don't approve people. We don't
23 give funding for people to build beds that are not
24 to the Design Manual standards, and we don't have a
25 lineup of people also wanting to develop long-term

1 care homes without our funding, right. They are
2 not saying, We don't really want to build it to the
3 Design Manual standards, so therefore we are going
4 to do it on our own dime. We are going to pay for
5 the whole thing, but we don't have to comply with
6 the Design Manual. There really aren't -- that
7 category doesn't exist.

8 The two categories are the new homes
9 which are developed or re-developed with Ministry
10 funding and the older homes which were basically
11 there before the Ministry started to offer the
12 development or re-development funding.

13 COMMISSIONER JACK KITTS: Okay.

14 MICHAEL ORR: But to answer your
15 question more directly, so the Design Manual does
16 not apply to homes unless by way of a Development
17 Agreement, and Development Agreement means we are
18 paying for it.

19 So we paid for it, and so you have to
20 build it to our standards and you have to operate
21 it to our standards, our design standards.

22 The older homes, they don't have to
23 comply with the Design Manuals. I mean, you know,
24 whatever, it is what it is. In some cases, they
25 will -- let's say with respect to the sprinkling

1 and they will have to comply with the Fire Code by
2 2025, and they'll have to pay for that themselves,
3 unless the Ministry is going to give them money to
4 do it, which is obviously always a possibility but
5 not required.

6 But the older homes, you know, they
7 don't just magically get upgraded because of
8 amendments to the legislation. They comply with
9 whatever standards they complied with when they
10 were built, and they are not required to comply
11 with the new Design Manual.

12 Now, there are a few what you might
13 call design standards set out in the Regulation,
14 but they are very, very few. Like shower bars,
15 there is something about having shower bars,
16 something about windows. There are a few design
17 standards in the regulation, but there are very
18 few.

19 COMMISSIONER JACK KITTS: What I was
20 more concerned about is when it says Long-Term Home
21 Design Manuals apply only to homes who are being
22 built or re-developed with Ministry funding, and so
23 I am worried about how many homes are being built
24 not to the new Design Manuals, and I think you told
25 me virtually none.

1 MICHAEL ORR: I think the --

2 KRISTIN SMITH: Yes, I think what he
3 was saying is it is a bit of a fallacy to think
4 that there are homes out there that are being
5 developed without Ministry funding. It is not
6 really something that exists in this sector.

7 COMMISSIONER JACK KITTS: Yeah, that
8 was my concern. Thank you.

9 KRISTIN SMITH: Yes, okay.

10 MICHAEL ORR: Yes, and I should just
11 mention that if somebody were to come and want to
12 do that, they would also have to pass the
13 licensing, they would have to pass the licensing
14 threshold also.

15 And you know, the licensing could
16 easily say, and I think they would say, we are not
17 going to licence -- you know, if you are talking
18 about bringing new beds online, even if we didn't
19 fund them, we are not going to licence them for a
20 full 30-year term unless they meet, you know,
21 higher standards than, you know, what the older
22 beds have to meet. We are just not going to
23 licence them.

24 I mean, we might licence them
25 temporarily to maintain some capacity in the

1 system, but you know, we are not going to give you
2 a new 30-year licence unless you meet the new
3 design standards.

4 COMMISSIONER JACK KITTS: I understand,
5 thank you.

6 KRISTIN SMITH: Okay, great. So why we
7 don't we move on to the next slide, because I want
8 to make sure we don't run out of time here.

9 So I am going to jump into something
10 completely different - thanks so much, Michael,
11 that was great - and that is compliance and
12 enforcement.

13 So this is the inspection regime that
14 was brought into the statute. There are a number
15 of requirements here on the Ministry, and so we are
16 now jumping into requirements on the Ministry in
17 carrying out the compliance and enforcement program
18 that is established by the statute.

19 Some of those requirements are set out
20 here, including that a home is to be inspected at
21 least annually and inspections, when done, have to
22 be unannounced. There are few exceptions to the
23 unannounced inspections, very few, for example, if
24 the licensee asks the Ministry to come in and do an
25 inspection and that does not happen very often.

1 The inspector has to prepare an
2 inspection report after they complete their
3 inspection, and if they find non-compliance -- and
4 so when we say non-compliance here, we mean they
5 did not comply with a requirement under the Act.
6 Michael talked about that definition. Requirement
7 under the Act, it includes everything in the Act
8 and the Reg, plus conditions on the licence,
9 funding policies, et cetera.

10 If the inspector finds non-compliance,
11 they have to document it in an inspection report
12 and they have to take action.

13 Sections 152 to 157 set out the various
14 actions that the inspector and/or Director can
15 take. They include a written notification of
16 non-compliance. This is also colloquially known as
17 a "WN" in the sector. It literally writes up what
18 the non-compliance is that was found.

19 The second level of action or sanction
20 is a request to the licensee for a written
21 voluntary plan of correction. That is also
22 colloquially known as the "VPC", voluntary plan of
23 correction, all done voluntarily by the licensee.

24 And then we get into orders. So there
25 are compliance orders in section 153 an inspector

1 or Director can make. There are two types of
2 compliance orders.

3 The first type of compliance order is
4 an order requiring the home to do or refrain from
5 doing anything to achieve compliance with the
6 requirement under the Act.

7 And the second type of compliance
8 order, type B, is a requirement that the home
9 develop a plan of how they are going to come into
10 compliance and implement that plan. In some cases,
11 where the home knows its operations better, it
12 makes more sense to get them to develop the plan
13 and implement it. That plan still needs to be
14 submitted to the inspector for their review.

15 There are also work and activity orders
16 that an inspector or Director can make, but they
17 have not been used under the Act. This would be,
18 for example, if some construction needed to be done
19 or equipment needed to be put into the home to come
20 into compliance.

21 The Director can make an order that
22 funding be returned or withheld from the home.
23 There are requirements that the Director has to --
24 grounds, I should say, that a Director has to meet
25 to make that order. That is in section 155.

1 In section 156 the Director can make a
2 mandatory management order. We also refer to that
3 as an "MMO". So I am just giving you the acronyms
4 in case you start to see them in documents.

5 And the Director can also make or can
6 also revoke the licence under section 157. There
7 are specific grounds that the Director has to meet
8 to be able to revoke a licence, and when the
9 Director revokes a licence, she also has the power
10 to put in place an interim manager to manage the
11 home until all the residents have been moved out of
12 the home and it has closed down. So a revocation
13 of a licence, it is important to note, is
14 essentially resulting in the gradual closure of
15 that home through interim management.

16 The mandatory management --

17 COMMISSIONER ANGELA COKE: I have just
18 have a question. I am just curious, how many
19 regulations and requirements are they required to
20 comply with?

21 KRISTIN SMITH: Oh, that is a really
22 good question. I would say in terms of the Act and
23 the Regulation plus funding policies, I would
24 ballpark it probably around 400 to 500 or more. It
25 is highly regulated.

1 COMMISSIONER ANGELA COKE: And the
2 annual inspection, was it always an annual
3 inspection?

4 KRISTIN SMITH: So there is different
5 types of inspections. I will give them to you
6 overall briefly because I know what they are, but
7 we are planning a briefing for you from the
8 Long-Term Care Inspections Branch and they can give
9 you much more detail on the types of inspections
10 that they conduct and how they conduct them.

11 COMMISSIONER ANGELA COKE: Okay.

12 KRISTIN SMITH: There are three
13 different types of inspections that they conduct.

14 The first is called a complaint
15 inspection, and so that is literally what it is,
16 that they have received a complaint through their
17 action line or an email or something to that effect
18 and they are looking into that complaint.

19 The second is a critical incident
20 inspection, and so this is what I was referring to
21 before where a critical incident has been reported
22 to the Director or, for example, an abuse or
23 neglect report has been made to the Director and
24 they are going in to look at that critical incident
25 that was reported to the Ministry.

1 The third type of inspection is a more
2 what Commissioner Gillese called a systemic
3 inspection, and that is the resident quality
4 inspection or the RQI and that is an inspection
5 that is -- there is two different types of RQIs
6 that are done depending on the risk level, the
7 Ministry's risk level assigned to the home, but it
8 does look at a bunch of different areas. It is a
9 more broad-ranging inspection. It is not
10 specifically focussed on the issue either raised in
11 the complaint or the critical incident.

12 The mandatory management order, the
13 grounds that the inspector -- or sorry, that the
14 Director has to have under section 156 to issue a
15 mandatory management order is that she first has to
16 find a finding of non-compliance, and in addition
17 to that, she has to have reasonable grounds to
18 believe that the home cannot or will not be managed
19 properly without a manager coming in or without
20 assistance from a management company. So she has
21 to be able to form those grounds before she can
22 make that order.

23 She can also cease admissions to the
24 home, and this is in section 50 because it falls
25 under the admissions part of the Act, and this is

1 something that the Director has done many times.
2 So it is a suspension of admissions essentially to
3 give breathing room to the home to come into
4 compliance where they have had a long string of
5 non-compliance and on follow-up inspections an
6 ability to show that they have been able to comply
7 with orders, and it gives them that sort of space
8 by not having more people come in through new
9 admissions.

10 And also, as you probably know,
11 inspection reports and orders have to be published,
12 and I have given you the public reporting website.
13 That is a requirement under the Act that they be
14 published on the website.

15 Let's go to the next slide, Judith,
16 please.

17 So this is the first of two diagrams
18 that we have put in here just to show you these
19 types of actions and sanctions that I was just
20 talking about and to help you see that the
21 inspector can do certain things and the Director
22 can also do certain things.

23 But just to be clear, again, that the
24 inspector must do at least one of these actions if
25 they find non-compliance. There is no discretion

1 there for the inspector.

2 The different sanction options, this is
3 essentially the slide or the circle of escalation,
4 I would call it, where you have got a compliance
5 order. And if you move around clockwise, you would
6 see the different types of orders that the Director
7 may look to make in escalation where you have got a
8 home that is not complying repeatedly with
9 requirements but also not complying with the orders
10 that have been made by an inspector.

11 The next slide, Judith.

12 The Regulation has a few provisions in
13 it related to compliance and enforcement. One very
14 important one is it tells the inspectors and the
15 Director that they have to take into account three
16 factors in determining which one of those actions
17 in those diagrams that they take, and it says
18 specifically in the Regulation they can only take
19 these three factors into account. So we have got
20 the severity of the non-compliance, the scope of
21 the non-compliance so how widespread it is in the
22 home, and looking at the licensee's history of
23 compliance. So those are the factors that the
24 inspector must look at when they decide what action
25 they need to take.

1 The Act also tells the inspector and
2 the Director that there are certain things they
3 cannot consider when they are deciding which action
4 to take or finding non-compliance. They can't
5 consider due diligence, so reasonable efforts by
6 the home to comply, and they can't consider mistake
7 of fact. This even applies in terms of there is no
8 defence of due diligence or mistake of fact for an
9 offence for failing to comply with an order.

10 The next slide, Judith.

11 Where an inspector makes a compliance
12 order, the licensee has some review and appeal
13 options. They can first request that the Director
14 review the inspector's order. That is a written
15 review, and no hearing held on that, written or
16 oral hearing held on that.

17 The Director's decision or Director's
18 order can be appealed to the Health Services Appeal
19 and Review Board, and then there is a further
20 appeal to the Divisional Court.

21 The Act specifically says that the
22 licensee cannot use as a defence in any of these
23 reviews or appeals to argue that they didn't have
24 enough funding to be able to comply.

25 And then further to that, the Act sets

1 out that the order, that there is only certain
2 situations where the compliance order or the
3 decision of the Director can be stayed if there is
4 a review or an appeal undertaken.

5 The next slide, Judith.

6 This slide sets out and kind of brings
7 together in one slide for you the different
8 offences that are in the Act, and these are all
9 provincial offences. There are, as I mentioned
10 before, failure to comply with the duty to protect,
11 failure to report abuse, et cetera, et cetera,
12 whistle-blowing and other offences.

13 So I just want to go back to, before I
14 leave some of the compliance and enforcement
15 slides, one of the questions that Commissioner
16 Marrocco asked which is how does the Ministry know
17 that homes are complying with the IPAC, Act
18 provisions and regulations that we were talking
19 about earlier.

20 And you know, the Ministry may look at
21 that on an inspection. If it was a complaint
22 inspection, they may look at it in an inspection on
23 a complaint that the requirements aren't being met.
24 They may also look at it as part of their resident
25 quality inspection.

1 So I'll leave that to the Ministry's
2 inspection program to dive in more deeper, but that
3 to say that when we look at the statute itself, any
4 of those requirements related to IPAC are
5 requirements under the Act. If an inspector finds
6 that any of them are not being met, the inspector
7 has to note the non-compliance in their inspection
8 report and must take action to address that
9 non-compliance if it is found.

10 The next slide, Judith, please.

11 So the last slide on this deck talks
12 about operational and policy directives that the
13 Minister can make. This is a relatively new
14 provision. It came in a few years ago. It is in
15 section 174.1. And the Minister has made two
16 directives under this section so far. I have given
17 you the links to those directives. They are
18 online. The first one was in relation to the
19 Gillese Report, and then the second was more
20 recently during the pandemic and it was related to
21 directing long-term care homes to accept assistance
22 from hospitals when provided.

23 So what I would like to do now, Judith,
24 if we can jump back to slide 6, this is the one I
25 said I was going to go back to, and this is the

1 slide that sets out the Regulations and Emergency
2 Orders that were made since March to adjust or I
3 would say give some more flexibility to some of the
4 requirements under the statute.

5 So while Judith is getting us there,
6 the first Regulation, the purpose of it was to
7 provide flexibility for some of the requirements,
8 and this was made very soon and right around the
9 time of the declaration of emergency on March 17th
10 by the province.

11 And one of the requirements in the Act
12 is that they must have a 24/7 Registered Nurse who
13 is a member of the regular nursing staff. That is
14 very important for continuity of care, et cetera.

15 So there was some additional exceptions
16 added to that if there was a situation where the RN
17 could not get to the home because of the pandemic.
18 Some of those exceptions that were added in were
19 that the RN could be an agency RN or could be an
20 RPN if they had an RN that they could consult. So
21 there was some flexibility there around the 24/7 RN
22 requirement.

23 In terms of the police record and
24 vulnerable sector screen, the requirement was
25 amended slightly so that the licensee didn't need

1 to get a new police record check or VSS before the
2 person came on, but the staff member coming on
3 could provide the licensee with a signed
4 declaration disclosing specified offences since the
5 last police record check they had received or a
6 declaration setting out and disclosing all offences
7 if they had never got a police record check. So
8 there was some flexibility added there just to make
9 sure that staff could get brought on quickly.

10 In terms of some of the training
11 requirements, as I said earlier, there was a number
12 of different training that has to be done before
13 the staff start working and providing direct care.
14 Instead, they were given a bit of leeway there to
15 make sure that the training would be provided
16 within one week of when that staff started working,
17 and that was training in things like zero tolerance
18 of abuse and neglect, the duty under section 24 to
19 report, IPAC, et cetera.

20 All other training, they were to make
21 sure they were provided within three months of when
22 that person started.

23 The other change that was made under
24 this Regulation number 1 was with respect to the
25 hours for the Director of Nursing and Personal

1 Care. The number of hours that they were required
2 or are required to work in that position was
3 amended and reduced so that they could focus
4 instead on frontline activities, because as you'll
5 recall, the DON, the Director of Nursing and
6 Personal Care is an RN, so that it would allow them
7 to have some flexibility and fill the frontline
8 duties if they needed to.

9 Regulation number 2 came literally on
10 the heels of Regulation number 1 in March and
11 related to admissions and discharges. The purpose
12 of this Regulation was to help address the severe
13 capacity pressures being faced by hospitals by
14 expediting the discharge to long-term care homes of
15 eligible patients through a truncated placement
16 process.

17 Some of the changes that were brought
18 in in this Regulation to make that happen were
19 reducing the number of forms that the placement
20 coordinator had to complete. Hospital patients who
21 were waiting for a long-term care bed would be
22 offered admission to the home that was selected by
23 the placement coordinator as opposed to the
24 applicants selecting the home themselves, but still
25 placement would only be authorized with the consent

1 of the applicant. So the whole idea of the
2 applicant consenting to where they are going and
3 getting admitted to was maintained.

4 If the applicant did not consent to the
5 home that they were offered by the placement
6 coordinator, the placement coordinator would go
7 back and identify other homes. If the patient did
8 not accept any of the homes provided, they would be
9 put into that category one crisis category on the
10 waiting list until something else came up.

11 Also they could be, under this
12 Regulation they could be put in preferred
13 accommodation even if they requested basic, and the
14 licensee must still give them the basic
15 accommodation rate.

16 Wait lists, just so you know, wait
17 lists for preferred accommodation are generally
18 shorter than those for basic accommodation based on
19 the difference in cost, and permitting placement of
20 people waiting for basic into preferred would help
21 move those patients out of the hospital beds
22 faster, and so that was the idea there.

23 And there was also in this Regulation
24 that it would enable the residents to leave the
25 long-term care home if they wished to do so,

1 current residents, due to COVID-19 and expedite
2 their return when they needed to go back, and also
3 gave the licensee the ability to use the bed by
4 another person if a resident is away from the home
5 for an extended period of time, which is not
6 usually not allowed during resident absences.

7 Following that Regulation, there were a
8 number of different Emergency Orders. As you know,
9 there were a lot of Emergency Orders that the
10 province made, but I have got four listed here that
11 specifically related to the long-term care home
12 sector.

13 Emergency Order Number 1 related to
14 work deployment measures in long-term care homes.
15 The purpose here for this EO was to allow the
16 long-term care homes to take any reasonably
17 necessary measures with respect to work deployment
18 and staffing.

19 It allowed the homes to identify
20 staffing priorities and develop, modify and
21 implement any re-deployment plans. It essentially
22 put on hold some of the provisions in Collective
23 Agreements that did restrict the re-assignment of
24 staff in long-term care homes.

25 It allowed the homes to implement

1 re-deployment plans without complying with the
2 Collective Agreement, including without complying
3 with layoffs, seniority, service or bumping
4 provisions.

5 It could allow homes to re-deploy staff
6 where the home has a number of different locations,
7 change the assignment of work, change scheduling of
8 work or shift assignments, defer or cancel
9 vacations or leaves of absences, employ extra
10 part-time or temporary staff that would perform
11 bargaining unit work, et cetera.

12 Emergency Order Number 2 was another
13 streamlining requirement similar to Regulation
14 number 1, and this was responding to concerns that
15 had been raised by the long-term care home sector
16 to the Ministry in the early days of the pandemic
17 response, and they had indicated that they were
18 facing significant challenges with respect to
19 availability and flexibility of the long-term care
20 workforce to respond to the pandemic.

21 So some of the streamlining
22 requirements under Emergency Order Number 2 were
23 that it limited the types of things that the home
24 had to report. They no longer had to report
25 complaints but definitely still had to make

1 mandatory reports of abuse and neglect and report
2 critical incidents.

3 It took away some of the documentation
4 information that licensees are required to do under
5 the Act and the Regulation.

6 Also it allowed the licensees to fill
7 any staff position with the person who in their
8 reasonable opinion has the adequate skills,
9 training and knowledge to perform the duties, and
10 they were not required to ensure that the minimum
11 number of staffing hours for staff were met.

12 And then in terms of care requirements,
13 it reduced the frequency by which they had to
14 update the care plan for the residents and allowed
15 more flexibility to the homes to use their clinical
16 judgment as to when an annual physical exam needed
17 to take place and where a care plan should be held
18 in developing that care plan.

19 Emergency Order Number 3, the purpose
20 of it was to prohibit long-term care employees from
21 working in any other long-term care home, health
22 service provider or any retirement home. This one
23 came in in mid-April. It did not apply to contract
24 workers, for example, physician services, temporary
25 agency staff or volunteers, but all of those

1 people, those agency staff, volunteers and
2 physicians who come into the home temporarily would
3 be subject to the essential visitor screening
4 protocols before being permitted entry into the
5 long-term care home.

6 And this EO Number 3 also made
7 corresponding amendments to the Emergency Order
8 Number 2 to clarify that an employee is not able to
9 provide services at more than one long-term care
10 home.

11 The last EO I am going to talk about is
12 the mandatory management order, MMO EO. The
13 purpose of this one, and it was done in roughly
14 mid-May, and the purpose was to enhance the
15 Ministry's ability to address management issues in
16 long-term care homes that are experiencing a
17 COVID-19 outbreak.

18 What it essentially said or did - and
19 it is still in effect at this time, as I mentioned
20 earlier - is it changed the grounds that the
21 Director had to have to issue a mandatory
22 management order. It allowed the Director to issue
23 a mandatory management order to any home that is in
24 outbreak. And "outbreak" is defined as a positive
25 test for COVID-19 for either a resident or staff

1 member in a home.

2 It also allowed the Director to specify
3 the period of time that the MMO was in effect, and
4 it also allowed the Director to essentially name
5 the person or corporation that would be managing
6 the home.

7 Any questions about those legal
8 instruments?

9 COMMISSIONER JACK KITTS: So from my
10 perspective, that is a lot of information on a very
11 important Act that obviously the Commissioners have
12 to pay a lot of attention to.

13 I want to compliment you on the content
14 of the slides, they were excellent, but also the
15 delivery of the presentation. It is not easy to
16 get up and deliver, I don't know, 30-some slides
17 over the course of almost two hours, and I think
18 you did an excellent job.

19 I don't have any questions, just the
20 comment that well done and much appreciated.

21 As you know, Commissioner Marrocco had
22 to leave early, but Commissioner Coke is here, so
23 did you want to say something, Commissioner Coke?

24 COMMISSIONER ANGELA COKE: Just to
25 thank everybody. It was very helpful and the right

1 level of detail, so I appreciate that very much.
2 So thank you both.

3 KRISTIN SMITH: You are welcome. It is
4 our pleasure to do it.

5 And I'll just reiterate what Michael
6 said, which is if you have follow-up questions on
7 the legal scheme or the legal instruments, we are
8 here and we are happy to answer them for you.

9 And I know some of your counsel are on,
10 and we are happy to take questions from them now or
11 later as well, because we had pitched this as well
12 as a bit of a briefing for Commission counsel. I
13 know Ida knows everything about the Long-Term Care
14 Homes Act already, but we are happy to help bring
15 you up to speed as fast as we can. We know you
16 have a monumental task ahead of you.

17 IDA BIANCHI: To be fair, I learned a
18 lot from Michael about the infrastructure piece
19 which didn't figure as prominently in the Gillese
20 Inquiry, so thank you, Michael, very much, it was
21 very informative. And thank you, Kristin, it was
22 great.

23 COMMISSIONER JACK KITTS: Does anyone
24 else, other counsel have any questions or comments
25 for Kristin?

1 Then I think we are at the end of this,
2 so I will reiterate again, thank you very much,
3 much appreciated, and enjoy the rest of your day.

4

5 -- Adjourned at 4:50 p.m.

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1 REPORTER'S CERTIFICATE

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3 I, DEANA SANTEDICOLA, RPR, CRR,
4 CSR, Certified Shorthand Reporter, certify:

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

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

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

13
14
15
16 Dated this 3rd day of September, 2020.

17
18 

19
20 _____
21 NEESONS, A VERITEXT COMPANY

22 PER: DEANA SANTEDICOLA, RPR, CRR, CSR
23
24
25

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