



Ontario Announces Enhanced Action Plan to Fight COVID-19 in Long-Term Care (LTC) Homes - Limiting Work to a Single LTC Home

April 22, 2020

Although there is still much that is unknown about COVID-19, one devastating fact has repeatedly been highlighted by public health authorities: the increased risk that the elderly and people with underlying chronic or immunocompromising medical conditions face with respect to the virus. Ontario is currently experiencing this reality first-hand: as of April 14th, there were over 1,200 positive cases in 114 of the 626 long-term care homes in the province. At least three (3) long-term care homes have experienced over 20 deaths each, and the situation continues to worsen by the day.

Since the declaration of a state of emergency in Ontario on March 17th, the provincial government has passed legislation and made a number of emergency orders to address the unique risk facing long-term care homes in the province. The actions taken by the provincial government, which have been discussed in greater depth in earlier Focus Alerts, have included amendments to the regulations under the *Long-Term Care Homes Act, 2007* to provide operational and administrative flexibility to long-term care homes during the pandemic, as well as two emergency orders under the *Emergency Management and Civil Protection Act*, primarily concerning work deployment measures in long-term care homes. Both emergency orders remain in effect until May 6th, though they are subject to renewal beyond that date if so required.

Unfortunately, despite these measures, long-term care homes continue to experience a significant number of cases of COVID-19, as reflected in the above statistics. Furthermore, these cases tend to result in poorer outcomes, presently comprising over half of all reported deaths in the province. As a result, on April 14th, Ontario premier Doug Ford announced that the province would be launching an enhanced action plan to fight COVID-19 in long-term care homes.

During his announcement, premier Ford indicated that the main goal of the action plan would be to prioritize getting staff and resources, including PPE, to long-term care homes experiencing outbreaks, particularly since hospitals are not currently experiencing the surge of COVID-19 cases they had anticipated and prepared for. As it related in particular to staffing, he indicated that this would mean:

- Matching available healthcare workers with long-term care homes;
- Providing funding to long-term care homes to cover additional staffing expenditures, including to provide part-time staff with expanded work hours and to bring in additional temporary staff;
- and,



- Mandating that workers only work in one long-term care home to prevent the transmission of the virus between long-term care homes.

In addition, premier Ford indicated that the enhanced action plan would also seek to redirect much-needed PPE to the long-term care home sector, as well as provide increased testing capabilities and improved infection control within long-term care homes.

Emergency Order - Limiting Work to Single Long-Term Care Home

On April 15, 2020, as part of the province's enhanced action plan, an emergency order was passed by the Ontario legislature - Ontario Regulation 146/20 - which limits a worker to working in a single long-term care home commencing at 12:01 a.m. on Wednesday, April 22, 2020, even where doing so might not be in compliance with the provisions of a collective agreement.

The Order applies to any person who performs work as an employee of a long-term care provider, which includes licensees and municipalities or boards of management that maintain long-term care homes within the meaning of the *Long-Term Care Homes Act, 2007*. However, the Order and related obligations apply only to the extent that the person also performs work for another long-term care home or health service provider. For the purposes of the Order, the term "health service provider" includes, for example, most hospitals, psychiatric facilities, retirement homes, physiotherapy services, not-for-profit community health centres, not-for-profit community mental health and addiction services, not-for-profit family health teams, not-for-profit nurse practitioner-led clinics, not-for-profit Aboriginal health access centres and not-for-profit palliative care services, amongst others.

Any person who performs work as an employee of a long-term care provider and who also performs work as an employee of any other long-term care home or health service provider was required by no later than 5:00 p.m. on Friday, April 17, 2020 to inform each of their employers that they are subject to the Order. Along with the requirement for subject workers to self-report, long-term care providers are also required to ensure that beginning on April 22, 2020, any employee who performs work in a long-term care home they operate or maintain is not also performing work in another long-term care home, or as an employee of any other health service provider.

Long-term care home providers are required to post a copy of the Order in a conspicuous and easily accessible location in each of the homes that they operate. Unless it is extended, the Order will be revoked on May 6, 2020.



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In Our View

Those working within the long-term care home sector are experiencing a troubling and uncertain time, and the Ontario government is clearly attuned to that reality. It is our sincere hope that these newly announced measures will help employers to better protect both long-term care home workers and residents, as well as to better manage new or ongoing COVID-19 cases within some of the most vulnerable populations, all with the overarching societal goal of “flattening the curve”. Emond Harnden LLP will continue to monitor relevant information as it becomes available, including with respect to the government’s efforts to manage COVID-19 in the long-term care home sector.

For further information or advice on your rights and obligations as an employer when dealing with COVID-19 and similar issues, please contact [Vicky Satta](#) at [613-940-2753](#), [Porter Heffernan](#) at [613-940-2764](#), [André Champagne](#) at [613-940-2735](#), [Lynn Harnden](#) at [613-940-2731](#), [Raquel Chisholm](#) at [613-940-2755](#) or [J.D. Sharp](#) at [613-940-2739](#).