

Understanding Our Law and Residents' Councils: Fixing Long-Term Care Act, 2021

Fixing Long-Term Care Act, 2021, & Ontario Regulation 246/22

The Fixing Long-Term Care Act, 2021 (FLTCA, 2021) maintains parts of the previous legislation that worked well and includes new provisions around staffing and care; new protections for residents through better accountability, enforcement and transparency; and streamlined development processes rooted in the philosophy of resident-centered care.

The following excerpts from the FLTCA, 2021, address specific clauses outlining the expanded rights, roles and responsibilities of residents as members of Residents' Councils. OARC has provided recommendations and resources in [blue text](#) to assist you in understanding these critical aspects of the law. OARC has developed this document to support Residents' Councils in understanding their full scope of influence as outlined in the FLTCA, 2021.

For more information about Fixing Long-Term Care Act, 2021 please visit
<https://www.ontario.ca/fr/lois/reglement/r22246>

For more information about Fixing Long-Term Care Act, 2021 Regulation 246/22, please visit
<https://www.ontario.ca/laws/regulation/r22246#BK480>

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Fixing Long-Term Care Act, 2021, S.O. 2021, c. 39, Sched. 1

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3. Residents' Bill of Rights	Residents' Bill of Rights (1) Every licensee of a long-term care home shall ensure that the following rights of residents are fully respected and promoted:	Check out: Residents' Bill of Rights translations Check out: Community Legal Education Ontario's – Your rights if you live in a long-term care home
	28. Every resident has the right to participate in the Residents' Council.	
	29. Every resident has the right to raise concerns or recommend changes in policies and services on behalf of themselves or others to the following persons and organizations without interference and without fear of coercion, discrimination or reprisal, whether directed at the resident or anyone else:	
	i. the Residents' Council	
	ii. the Family Council	
	iii. the licensee, and, if the licensee is a corporation, the directors and officers of the corporation, and, in the case of a home approved under Part IX, a member of the committee of management for the home under section 135 or of the board of management for the home under section 128 or 132.	
	iv. staff members	
	v. government officials	
	vi. any other person inside or outside the long-term care home	

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4. Mission Statement	Collaboration (3) The licensee shall ensure that the mission statement is developed, and revised as necessary, in collaboration with the Residents' Council and the Family Council, if any, and shall invite the staff of the long-term care home and volunteers to participate.	
	Updating (4) At least once every five years after a mission statement is developed, the licensee shall consult with the Residents' Council and the Family Council, if any, as to whether revisions are required, and shall invite the staff of the long-term care home and volunteers to participate.	
43. Resident and Family/Caregiver Experience Survey	Advice (4) The licensee shall seek the advice of the Residents' Council and the Family Council, if any, in carrying out the survey and in acting on its results.	
	Documentation (5) The licensee shall ensure that,	
	(a) the results of the survey are documented and made available to the Residents' Council and the Family Council, if any, to seek their advice under subsection (4);	
	(b) the actions taken to improve the long-term care home, and the care, services, programs and goods based on the results of the survey are documented and made available to the Residents' Council and the Family Council, if any;	
	(c) the documentation required by clauses (a) and (b) is made available to residents and their families; and	

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	(d) the documentation required by clauses (a) and (b) is kept in the long-term care home and is made available during an inspection under Part X.	
62. Residents' Councils	Residents' Council (1) Every licensee of a long-term care home shall ensure that a Residents' Council is established in the home.	Check out: What is a Residents' Council
	Only Residents (2) Only residents of the long-term care home may be members of the Residents' Council.	Check out: Fact Sheet Meeting Membership
63. Powers of Residents' Council	Powers (1) A Residents' Council of a long-term care home has the power to do any or all of the following:	Check out: Fact Sheet Residents' Council Pillars - Residents
	1. Advise residents respecting their rights and obligations under this Act.	Check out: Community Legal Education Ontario's – Your rights if you live in a long-term care home
	2. Advise residents respecting the rights and obligations of the licensee under this Act and under any agreement relating to the home.	
	3. Attempt to resolve disputes between the licensee and residents.	
	4. Sponsor and plan activities for residents.	Check out: Fact Sheet – Residents' Council Finances

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	5. Collaborate with community groups and volunteers concerning activities for residents.	
	6. Advise the licensee of any concerns or recommendations the Council has about the operation of the home.	Check out: Template – Residents’ Council Minutes, Section 2.5
	7. Provide advice and recommendations to the licensee regarding what the residents would like to see done to improve care or the quality of life in the home.	
	8. Report to the Director any concerns and recommendations that in the Council’s opinion ought to be brought to the Director’s attention.	Check out: Ministry of Long-term Care - Complaints Process
	9. Review,	
	i) inspection reports and summaries received under section 152,	Check out: Reports on Long-term Care Homes
	ii) a written plan for achieving compliance, prepared by the licensee, that the Director has ordered in accordance with clause 155 (1) (b) following a referral under paragraph 4 of subsection 154 (1),	When a home is issued a compliance order following an inspection, the home must prepare and follow a plan to re-achieve compliance. These plans are to be reviewed by the Council as they come up.
	iii) the detailed allocation, by the licensee, of funding under this Act, the <i>Local Health System Integration Act, 2006</i> and the <i>Connecting Care Act, 2019</i> and amounts paid by residents,	The MLTC fiscal year ends on March 31 st . LTC homes are required to submit an annual reconciliation report and audited statements to the MLTC. These documents are to be reviewed by the Council on an annual basis, or when requested by Council.

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	iv) the financial statements relating to the home filed with the Director under the regulations or provided to a local health integration network or to the Agency, and	
	v) the operation of the home.	
	1. Exercise any other powers provided for in the regulations.	
	Duties (2) The Residents' Council shall comply with any duties provided for in the regulations	
	Duty to Respond (3) If the Residents' Council has advised the licensee of concerns or recommendations under either paragraph 6 or 8 of subsection (1), the licensee shall, within 10 days of receiving the advice, respond to the Residents' Council in writing.	For clarification, the 10 days refer to 10 calendar days and not 10 business days. Check out: Template – Residents' Council Minutes, Last Page
	Minister to Consult (4) The Minister shall consult, in a manner the Minister considers appropriate, with organizations that represent the interests of Residents' Councils on an annual basis.	OARC is the only organization mandated to represent the interests of Residents' Councils – connect with us!
64. Residents' Council Assistant	Residents' Council Assistant (1) Every licensee of a long-term care home shall appoint a Residents' Council assistant who is acceptable to that Council to assist the Residents' Council. Duties (2) In carrying out their duties, a Residents' Council assistant shall take instructions from the Residents' Council, ensure confidentiality where requested and report to the Residents' Council.	Check out: Fact Sheet Residents' Council Pillars - RCAs

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68. Licensee to co-operate with and assist Councils	Licensee to co-operate with and assist Councils A licensee shall co-operate with the Residents' Council, the Family Council, the Residents' Council assistant and the Family Council assistant and shall provide them with such financial and other information and such assistance as is provided for in the regulations.	Check out: Fact Sheet Residents' Council Pillars - Administrator
69. Licensee duty to meet with Council	Licensee duty to meet with Council If invited by the Residents' Council or the Family Council, the licensee shall meet with that Council or, if the licensee is a corporation, ensure that representatives of the licensee meet with that Council.	
70. Attendance at meetings – licensees, staff, etc.	Attendance at meetings – licensees, staff, etc. A licensee of a long-term care home shall attend a meeting of the Residents' Council or the Family Council only if invited, and shall ensure that the staff, including the Administrator, and other persons involved in the management or operation of the home attend a meeting of either Council only if invited.	
71. No interference by licensee	No interference by licensee A licensee of a long-term care home,	
	(a) shall not interfere with the meetings or operation of the Residents' Council or the Family Council;	
	(b) shall not prevent a member of the Residents' Council or Family Council from entering the long-term care home to attend a meeting of the Council or to perform any functions as a member of the Council and shall not otherwise hinder, obstruct or interfere with such a member carrying out those functions;	

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	(c) shall not prevent a Residents' Council assistant or a Family Council assistant from entering the long-term care home to carry out their duties or otherwise hinder, obstruct or interfere with such an assistant carrying out those duties; and (d) shall ensure that no staff member, including the Administrator or other person involved in the management or operation of the home, does anything that the licensee is forbidden to do under clauses (a) to (c).	
72. Immunity – Council members, assistants	Immunity – Council members, assistants No action or other proceeding shall be commenced against a member of a Residents' Council or Family Council or a Residents' Council assistant or Family Council assistant for anything done or omitted to be done in good faith in the capacity as a member or an assistant.	
73. Duty of licensee to consult Councils	Duty of licensee to consult Councils A licensee has a duty to consult regularly with the Residents' Council, and with the Family Council, if any, and in any case shall consult with them at least every three months.	For clarification, it's the licensees duty to consult with the Council at least every three months, however the Council can request more frequent consultations.
74. Regulations	Regulations (1) The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Part. Specific Inclusions (2) Without restricting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,	

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	(a) requiring a licensee to assist in the formation of Residents' Councils and Family Councils, and governing the assistance that the licensee is required to provide to those Councils; (b) respecting and governing the duties of Residents' Councils and Family Councils; (c) defining "detailed allocation" for the purpose of subparagraph 9 iii of subsection 63 (1) and subparagraph 7 iii of subsection 66 (1); (d) providing for anything that under this Part may or must be provided for in regulations, or that is to be done in compliance with or in accordance with the regulations.	
84. Information for residents, etc.	Contents (2) The package of information shall include, at a minimum, (a) the Residents' Bill of Rights (o) information about the Residents' Council, including any information that may be provided by the Residents' Council for inclusion in the package;	Check out: Residents' Council Brochure Template
85. Posting of information	Posting of information (1) Every licensee of a long-term care home shall ensure that the required information is posted in the home, in a conspicuous and easily accessible location in a manner that complies with the requirements, if any, established by the regulations. Communication (2) Every licensee of a long-term care home shall ensure that the required information is communicated, in a manner that complies with any	For clarification, homes should consider that it is not enough to post the information – it needs to be easily accessible to residents. Councils and home operators can work together to improve accessibility of required information.

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	requirements that may be provided for in the regulations, to residents who cannot read the information.	
	Required Information (3) The required information for the purposes of subsections (1) and (2) is,	
	(a) the Residents' Bill of Rights;	
	(p) the most recent minutes of the Residents' Council meetings, with the consent of the Residents' Council;	
146. Annual inspection	Annual Inspection Every long-term care home shall be inspected at least once a year.	Check out: Slide Deck Introduction to MLTC Inspection – What Residents Can Expect
148. Meeting with Councils	Meeting with Councils Where an inspection is required under section 146, the inspector may meet with the Residents' Council or the Family Council, if requested or permitted to do so by the Council.	
152. Inspection report	Inspection report (1) After completing an inspection, an inspector shall prepare an inspection report and give a copy of the report to the licensee and to the Residents' Council and the Family Council, if any.	Update: Hardcopies of inspection reports are no longer mailed to the attention of the Residents' Council. The home is required to print a copy of the report to share with the Council.
	Summaries to Councils (2) Where the inspection is required under section 146, the inspector shall prepare a summary of the inspection report and provide it to the Residents' Council and the Family Council, if any.	Public copies of inspection reports are accessible on the MLTC website .

Ontario Regulation 246/22: GENERAL

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23. Cooling Requirements	Cooling Requirements (1) Every licensee of a long-term care home shall ensure that a written heat related illness prevention and management plan for the home that meets the needs of the residents is developed in accordance with evidence-based practices. O. Reg. 246/22, s. 23 (1).	
	(2) The heat related illness prevention and management plan must, at a minimum,	
	(e) include a protocol for appropriately communicating the heat related illness prevention and management plan to residents, staff, volunteers, substitute decision-makers, visitors, the Residents' Council of the home, the Family Council of the home, if any, and others where appropriate. O. Reg. 246/22, s. 23 (2); O. Reg. 66/23, s. 3 (1).	
77. Menu Planning	Menu Planning (2) The licensee shall ensure that, prior to being in effect, each menu cycle,	Check out: Webinar Empowering Change: How can Residents' Councils Support Collaboration with Menu Planning and Pleasurable Dining in Long-Term Care
	(a) is reviewed by the Residents' Council for the home;	
	(3) The licensee shall ensure that a written record is kept of the evaluation under clause (2) (b) that includes the date of the evaluation, the names of the persons who participated in the evaluation, a summary of the changes made and the date that the changes were implemented. O. Reg. 246/22, s. 390 (1).	

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	(7) The licensee shall ensure that meals and snacks are served at times agreed upon by the Residents' Council and the Administrator or the Administrator's designate. O. Reg. 246/22, s. 390 (1).	
<u>166.</u> Continuous quality improvement committee	Continuous quality improvement committee (1) Every licensee of a long-term care home shall establish a continuous quality improvement committee. (2) The continuous quality improvement committee shall be composed of at least the following persons: 9. One member of the home's Residents' Council.	Check out: Fact Sheet Continuous Quality Improvement Committees
<u>168.</u> Continuous quality improvement initiative report	Continuous quality improvement initiative report (1) Every licensee of a long-term care home shall prepare a report on the continuous quality improvement initiative for the home for each fiscal year no later than three months after the end of the fiscal year and, subject to section 271, shall publish a copy of each report on its website. (2) The report required under subsection (1) must contain the following information: 5. A written record of, iii. how, and the dates when, the results of the survey taken during the fiscal year under section 43 of the Act were communicated to the residents and their families, Residents' Council, Family Council, if any, and members of the staff of the home.	

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	6. A written record of,	
	i. the actions taken to improve the long-term care home, and the care, services, programs and goods based on the documentation of the results of the survey taken during the fiscal year under clause 43 (5) (b) of the Act, the dates the actions were implemented and the outcomes of the actions,	
	ii. any other actions taken to improve the accommodation, care, services, programs, and goods provided to the residents in the home's priority areas for quality improvement during the fiscal year, the dates the actions were implemented and the outcomes of the actions,	
	iii. the role of the Residents' Council and Family Council, if any, in actions taken under subparagraphs i and ii,	
	iv. the role of the continuous quality improvement committee in actions taken under subparagraphs i and ii, and	
	v. how, and the dates when, the actions taken under subparagraphs i and ii were communicated to residents and their families, the Residents' Council, Family Council, if any, and members of the staff of the home.	

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	(3) The licensee shall ensure that a copy of the report is provided to the Residents' Council and Family Council, if any.	
267. Visitor Policy	Visitor Policy (3) Every licensee of a long-term care home shall ensure that the current version of the visitor policy is provided to the Residents' Council and Family Council, if any.	
268. Emergency Plans	Emergency Plans (3) In developing and updating the plans, the licensee shall, (c) consult with the Residents' Council and Family Council, if any. (6) The licensee shall ensure that the communications plan referred to in paragraph 3 of subsection (5) includes a process for the licensee to ensure frequent and ongoing communication to residents, substitute decision-makers, if any, staff, volunteers, students, caregivers, the Residents' Council and the Family Council, if any, on the emergency in the home including at the beginning of the emergency, when there is a significant status change throughout the course of the emergency, and when the emergency is over.	For clarification: Emergencies include outbreaks, loss of essential services, outside threats, and more. Homes must communicate with residents at the beginning, during, and after an emergency.