

Legislative
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STANDING COMMITTEE ON PUBLIC ACCOUNTS

VALUE-FOR-MONEY AUDIT: RETIREMENT HOMES REGULATORY AUTHORITY

(2020 ANNUAL REPORT OF THE OFFICE OF THE AUDITOR GENERAL OF
ONTARIO)

2nd Session, 42nd Parliament
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The Honourable Ted Arnott, MPP
Speaker of the Legislative Assembly

Sir,

Your Standing Committee on Public Accounts has the honour to present its Report and commends it to the House.

A handwritten signature in blue ink, appearing to read "Taras Natyshak".

Taras Natyshak, MPP
Chair of the Committee

Queen's Park
February 2022

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2nd Session, 42nd Parliament

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1st and 2nd Session, 42nd Parliament

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(October 28, 2019 - October 25, 2021)

DARYL KRAMP

(September 22, 2020 - October 20, 2021)

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INTRODUCTION

On April 21, 2021, the Standing Committee on Public Accounts held public hearings on the audit of the Retirement Homes Regulatory Authority (*2020 Annual Report* of the Auditor General of Ontario), administered by the Ministry for Seniors and Accessibility.

The Committee endorses the Auditor's findings and recommendations, and presents its own findings, views, and recommendations in this report. The Committee requests that the Ministry for Seniors and Accessibility and the Retirement Homes Regulatory Authority provide the Clerk of the Committee with written responses to the recommendations within 120 calendar days of the tabling of this report with the Speaker of the Legislative Assembly, unless otherwise specified.

ACKNOWLEDGEMENTS

The Committee extends its appreciation to officials from the Ministry for Seniors and Accessibility, and the Retirement Homes Regulatory Authority. The Committee also acknowledges the assistance provided during the hearings and report writing deliberations by the Office of the Auditor General, the Clerk of the Committee, and staff in Legislative Research.

OVERVIEW

The Retirement Homes Regulatory Authority (Authority) was established in 2011 and oversees retirement homes under the *Retirement Homes Act, 2010* (Act). The Authority is a self-funded, not-for-profit corporation and is overseen by the Ministry for Seniors and Accessibility (Ministry). The Authority provides policy advice, grants licences, oversees compliance and enforcement, conducts inspections, responds to public complaints, maintains a public registry of licensed retirement homes, and educates retirement homes, consumers, and the public about the Act.

The Act defines a retirement home as a residential complex, or a part of a residential complex, that includes rental units and is

- occupied primarily by persons aged 65 or older;
- occupied by or intended to be occupied by at least six people unrelated to the operator of the home; and
- where the home operator makes at least two care services available, whether directly or indirectly, to the residents.

Retirement homes are privately owned by for-profit (94% of homes) or not-for-profit organizations (6% of homes). Operators may be sole proprietors, partnerships, or corporations. As of March 2020, there were 770 licensed retirement homes in Ontario with the potential capacity to provide care and accommodation for about 80,000 Ontarians.

AUDIT OBJECTIVE AND SCOPE

The objective of the audit was to assess whether the Authority has effective systems and procedures in place to

- carry out its mandated activities, including licensing, complaint response, inspections, and enforcement in accordance with the Act and its regulation to protect retirement home residents from harm, including providing support to public health authorities with respect to infection prevention and control; and
- measure and publicly report on the effectiveness of its activities.

In addition, the audit assessed whether the Ministry has effective systems and procedures in place to

- oversee the Authority to ensure that it effectively administers the Act; and
- support and inform long-term strategic planning for seniors' services, including housing needs, to help seniors stay as independent, active, and socially connected as possible.

MAIN POINTS OF AUDIT

The audit report concluded that the Authority does not yet have fully effective systems and procedures in place to carry out its mandated activities to protect the security and safety of residents.

The audit found that a shift is occurring whereby thousands of beds in retirement homes are being occupied by individuals who have more intense health-care needs than the more active and independent seniors for whom many retirement homes were designed.

The audit findings include the following:

- The care and accommodation of thousands of former hospital patients in retirement homes are not subject to Authority oversight, or Ministry of Health inspections.
- Many retirement home residents have health profiles similar to patients in long term-care homes but such data is not routinely collected by the Authority.
- Retirement home staff and the public are often not aware that they should direct complaints to the Authority.
- The Ministry cannot properly assess whether the Authority is effectively meeting its mandate.

The audit found that the Authority

- acknowledged that the level of care required by residents has been changing, but it does not have data to measure this change or assess its impact;
- does not consider factors other than a retirement home's inspection history to determine inspection frequency;
- introduced new inspection procedures in April 2020 to focus more on infection prevention and control; and
- issued licences to homes despite identified red flags that operators did not meet the Authority's own licensing criteria.

ISSUES RAISED IN THE AUDIT AND BEFORE THE COMMITTEE

A number of issues were raised in the audit report and before the Committee. The Committee considers the following issues to be of particular importance.

The Ministry informed the Committee that it has begun to address all five of the audit report's recommendations and expects completion by the end of 2022. The Ministry has established an internal advisory committee with ministry partners to address cross-sector issues, worked to broaden the skills and competencies for Authority board members, begun discussions with the Authority to strengthen the memorandum of understanding between the Ministry and the Authority, and started to develop a cross-government strategy for supportive housing, seniors' housing, and long-term care homes.

The Authority told the Committee that it has been working collaboratively on an implementation plan for all of the recommendations, and is prioritizing those that can be implemented quickly during the pandemic. The audit report's recommendations align with the Authority's strategic areas, including improving the regulatory framework for compliance and providing information through data and analytics, among other things.

The Committee heard that the Ministry is grappling with its role as a population-based ministry and exploring how to execute its responsibilities as a system-level steward to shape policies across the public service. The Ministry acknowledged a need to reconsider its role, strengthen oversight, and review the *Retirement Homes Act, 2010* to ensure retirement home residents are receiving safe and quality care from qualified individuals. The Ministry noted that the landscape for retirement homes has changed significantly over the last decade, and that the Act initially focused on consumer protection rather than resident care. The Authority explained that its work as a regulator is limited to ensuring compliance with the Act in its current form.

The Ministry stated that the audit report's recommendations have helped to inform its comprehensive review of the Act. As part of this regulatory review, the Ministry will work with the Authority and other key partners, including the Ministry of Health and the Ministry of Long-Term Care, to identify areas where the legislation needs to be strengthened.

COVID-19

The Committee heard that the pandemic caused stress throughout the retirement homes sector. Moreover, retirement homes were not initially considered a part of the health care system and the Ministry acted as a leader, bringing the needs and vulnerabilities of retirement home residents and staff to the forefront of policy discussion. The Ministry told the Committee that the working relationship between the Ministry, the Authority, and the Ontario Retirement Communities Association was critical to getting through the pandemic, focusing on the needs of residents and staff, and responding to issues collectively.

Regulatory changes during the pandemic included the following:

- amending O. Reg. 166/11 under the *Retirement Homes Act, 2010* to require all licensed retirement homes to follow the guidance, advice, and recommendations of the provincial Chief Medical Officer of Health;
- expanding emergency orders under the *Emergency Management and Civil Protection Act* to give the Authority power to issue management and compliance orders to homes where COVID-19 risked harm to residents; and
- amending the *Retirement Homes Act, 2010* to strengthen the Minister's powers to establish rules concerning membership of the Authority's board of directors and to require the Authority to advise the Minister of any information that could affect its ability to perform its duties and may require the Minister's action.

The government provided more than \$60 million in funding for increased infection prevention and control measures, personal protective equipment, and to assist with staffing levels in licensed retirement homes. The Ministry also provided \$5 million to the Authority to help offset financial pressures due to the pandemic, assist with infection prevention and control, and enhance inspections, among other things.

Oversight Gap Leaves Vulnerable Residents at Risk

The audit found that beds governed or funded by other ministries under statutes or programs outlined in the Act, such as alternate level of care (ALC) or short-term transitional-care, are not subject to oversight by the Authority. This gap in oversight means there is no regulatory oversight body regularly inspecting the care of patients in these beds.

The Committee asked several questions about the oversight gap and protections for patients. The Ministry acknowledged there are opportunities to improve its oversight of retirement homes and agreed with the importance of protections for residents in subsidized beds. The Authority added that it has continually shared the oversight challenges it faces with the Ministry.

The Ministry indicated it will work with the Authority, the Ministry of Health, Ontario Health, and other partners to clarify the roles and responsibilities for inspections and complaint-handling for subsidized beds. After consultations conclude, it will recommend an approach for inspections and complaint-handling for ALC and subsidized beds. It will also subsequently communicate the overview

of oversight responsibilities to residents and their families. The Authority noted that it has explored using licence classes to better understand the retirement homes sector and segment the market in order to improve oversight.

The Committee expressed frustration that the challenges for ALC patients and individuals in subsidized beds continue and urged the Ministry to resolve the oversight gaps that put vulnerable residents at risk as quickly as possible.

Committee Recommendations

The Standing Committee on Public Accounts recommends that

- 1. The Ministry for Seniors and Accessibility should work with other relevant ministries, as applicable, to clarify the responsibility of and establish a process for effective inspection and complaint-handling for individuals in retirement homes who were designated as alternate level of care (ALC) or who occupy subsidized beds.**
- 2. The Ministry for Seniors and Accessibility and the Retirement Homes Regulatory Authority should work together to raise public awareness regarding the complaints process for alternate level of care residents and individuals occupying subsidized beds.**
- 3. The Ministry for Seniors and Accessibility should require the Retirement Homes Regulatory Authority to publish performance indicators and data**
 - a. on alternate level of care patients and subsidized beds in retirement homes on a regular basis (e.g., bed occupancy, length of stays, percentage of residents admitted to long-term care homes); and**
 - b. on all other retirement home residents that are waiting for placements in long-term care homes (e.g., number of residents on long-term care placement waiting lists and length of time on waiting lists).**

Needed Level of Care Rising

The audit found that an increasing number of the retirement home residents who receive government-funded home-care services have needs similar to those who live in long-term care homes. The audit also found that the number of people waiting in a licensed retirement home for a long-term care bed climbed 62% between 2016 and 2020 (from 6,201 to 10,074).

The Committee asked how the Ministry is handling the increased levels of care needs among retirement home residents. The Ministry said that the Act requires an assessment to determine a plan of care when a resident moves into a retirement home, and a reassessment at least every six months. If an assessment indicates that the resident's care needs exceed what the retirement home can provide, the resident must be informed of alternative living arrangements, such as applying for publicly funded home and community care services. Both the Ministry and Authority indicated they support including reasonable care standards proportionate to a resident's needs in the Act.

The Authority is resuming its licence class evaluation project (which was paused during the pandemic) to better understand the sector, and received approval to collect aggregate resident information to create resident health profiles. The Ministry is working closely with partner ministries to develop evidenced-informed policy options for a seniors housing policy framework to improve the coordination of services for seniors.

Committee Recommendations

The Standing Committee on Public Accounts recommends that

- 4. The Retirement Homes Regulatory Authority should work with partner ministries to better protect retirement home residents who require increased levels of care by**
 - a. accelerating the Retirement Homes Regulatory Authority's work to develop different approaches to regulating different retirement homes, including finalizing the licence classes evaluation;**
 - b. determining the best practice of delivering support services in retirement homes while protecting the safety of residents;**
 - c. establishing an inspection process with clear roles and responsibilities to address the complexities and various levels of care for residents in retirement homes; and**
 - d. strengthening enforcement mechanisms for retirement homes that provide insufficient care services to residents.**
- 5. The Retirement Homes Regulatory Authority should improve data-driven decision-making to strengthen the oversight of staffing and care services by**
 - a. establishing a process to collect aggregate data on residents and retirement homes (including staffing); and**
 - b. establishing resident profiles for different levels of care using aggregate data and publishing this information publicly.**

Inspections

The Authority's risk assessment model for inspections determines the risk of harm for each subsection of the *Retirement Homes Act, 2010* and its regulation, based on the severity of harm and number of violations at homes in the past.

However, the audit found that the risk assessment model does not consider other factors, such as complaints or a history of harm at a specific home.

The Committee heard that the Ministry is reviewing opportunities to improve the inspection and complaint process as part of the review of the Act. The Authority stated that it has increased its inspection capacity, updated its routine inspections process to incorporate Infection Prevention and Control (IPAC) assessment, and developed and distributed IPAC Compliance Assistance

Material. The Authority acknowledged that it needs to develop its risk model to inform the frequency of inspections and include factors such as complaints or resident profile information. It noted that it has been refining its risk model and adding data to increase its robustness, indicating that improvements to the risk model will be an ongoing effort.

The Committee asked what actions could ensure that retirement homes are held accountable in situations of non-compliance. The Authority explained that its work as a regulator begins before non-compliance, by ensuring the right operators enter the sector through licensing. It works closely with applicants to mitigate risk and support compliance before enforcement action is required, because revoking licences and relocation is disruptive for residents. If operators fail to meet standards, the first step is to provide compliance support, ensuring the standards are clear and the operators understand their obligations and actions. If this fails, enforcement actions would be used.

Going forward, the Authority will continue IPAC compliance inspections on a risk-informed basis with priority for homes with public health orders. It intends to clear the backlog of inspections according to the risk models, and manage inspector caseloads as needed.

Committee Recommendations

The Standing Committee on Public Accounts recommends that

- 6. The Ministry for Seniors and Accessibility should work with other relevant ministries to ensure retirement homes with individuals designated as alternate level of care or who occupy subsidized beds are inspected on a regular basis and standards of care are enforced.**
- 7. The Retirement Homes Regulatory Authority should improve the inspections process by**
 - determining additional data needs, finalizing data collection, and updating the risk assessment model accordingly;**
 - regularly reviewing its risk assessment model and incorporating relevant data and updating the model accordingly;**
 - ensuring they have the information required (e.g., alternative level of care status or external care needs) to assess inspection needs; and**
 - publicly sharing the actions it takes to ensure compliance for homes that fail to provide adequate care and publish information about homes that fail to comply on its website to improve accountability.**
- 8. The Retirement Homes Regulatory Authority, in order to ensure that retirement homes have appropriate infection and prevention controls in place, should**

- a. **assess whether retirement homes have appropriate practices on infection and prevention control;**
 - b. **regularly collect data on retirement homes' practices and infection prevention control;**
 - c. **regularly incorporate any lessons learned from public health inspections into inspector training; and**
 - d. **request that retirement homes incorporate pandemic plans in emergency plans, including personal protective equipment supply.**
- 9. The Retirement Homes Regulatory Authority should**
- a. **clear the entire backlog of proactive routine inspections with enhanced infection and prevention controls; and**
 - b. **implement a plan for routine inspections to avoid future backlogs.**
- 10. The Retirement Homes Regulatory Authority should better manage inspector caseloads by regularly monitoring inspector caseloads, reassessing caseload targets, and reassigning cases if necessary.**

Impact of COVID-19

Authority

The Authority determined that operators of two retirement homes were not managing the homes properly or could not do so without assistance during the COVID-19 pandemic. In May 2020, the government issued an emergency order to allow the Authority to appoint a manager to a retirement home in the event of a COVID-19 outbreak. However, the audit found that the Authority experienced significant challenges in finding qualified managers to take over the operations of these two homes amid staffing shortages in the health sector during COVID-19.

The Authority told the Committee that since the pandemic started it established a formal roster of management candidates who could be quickly deployed. Further, it will work with the Ministry to develop criteria for allocating any available funds to homes under a management order. It also conducted a survey of all homes to inform vaccine allocations and supported homes' readiness for vaccinations.

Staffing Constraints

The audit found that external care providers refused to enter retirement homes for fear of infection. Retirement homes also had to comply with the government's directive and therefore denied access to family members who did not meet the definition of an "essential visitor." As a result, retirement homes lacked replacement staff for homes experiencing an outbreak.

The Ministry and the Authority stated that they collaborated and provided advice to the government on changes to the visitors policy for retirement homes. As previously mentioned, the government allocated more than \$60 million for

prevention measures and to assist with staffing levels in licensed retirement homes.

Authority Has Incomplete Data on Occupancy for COVID-19 Planning

Prior to April 2020, the Authority did not track the occupancy level of retirement homes. In May 2020, the Authority requested that retirement homes self-report their occupancy rate. However, the audit found that 37 retirement homes reported having more residents than their reported capacity, and the Authority did not follow up.

The Authority agreed that it is uniquely positioned to collect data on retirement homes and indicated it will work with the Ministry to determine its needs for occupancy data.

Committee Recommendations

The Standing Committee on Public Accounts recommends that

- 11. The Retirement Homes Regulatory Authority, in order to reduce the impacts to residents of retirement homes when implementing management orders, should**
 - a. maintain a formal roster of qualified management candidates that could be quickly deployed if necessary;**
 - b. determine guidelines for making emergency funding available for homes under management orders that require financial resources; and**
 - c. work together with the Ministry for Seniors and Accessibility to ensure residents in retirement homes are protected in a similar manner to residents in long-term care during public health emergencies.**
- 12. The Retirement Homes Regulatory Authority should ensure that family and friends providing caregiving services can continue to do so throughout a public health emergency while following appropriate public health measures.**
- 13. The Retirement Homes Regulatory Authority should better inform the public about the number of infections in retirement homes throughout a pandemic by**
 - a. working with the Ministry for Seniors and Accessibility to obtain data from the Ministry of Health or local public health agencies; and**
 - b. publishing COVID-19 data on a regular basis.**

14. The Retirement Homes Regulatory Authority should

- a. require retirement homes to report occupancy data on a monthly basis and enforce capacity limits set by their licence, as determined by the Authority; and**
- b. work with the Ministry for Seniors and Accessibility to establish a regular reporting schedule to share this information.**

Retirement Home Licensing

Level of Care Prompts Authority to Review Licences

The *Retirement Homes Act, 2010* does not distinguish between the different ways that retirement homes are run and the health-care needs of different residents. The Authority stated that it has started to develop and assess how separate licence classes could address the fact that the existing regulatory regime does not distinguish between homes with higher-risk residents and homes with more independent residents.

The Ministry told the Committee it will examine approaches to strengthening the licensing framework during the review of the Act. As previously mentioned, the Authority halted the review of licensing classes due to the pandemic. It noted it will resume its work on licence classes on a priority basis as part of its future plans.

Authority Issued Licences despite Identifying Red Flags

Between 2015/16 and 2019/20, the Authority issued almost 300 new licences and refused eight applications at various stages of its decision-making process. However, the audit found that the Authority granted licences after weighing the licensing criteria, in situations where it may have been prudent to refuse them.

Five Licensees Operating without Required Fire Sprinkler Systems

As of August 2020, 12 retirement home operators had licence conditions stating that they had not yet installed the automatic fire sprinkler systems that have been required under the Ontario Fire Code since January 1, 2019. Following the audit, five of these homes still did not have working sprinklers.

The Authority stated it has taken additional enforcement measures, including revoking one licence. It has also communicated timelines to retirement homes for them to comply with the Fire Code requirements.

Review of Retirement Homes Previously Deemed Not to Require a Licence

As of July 2020, the audit found that the Authority was in the process of reviewing 234 congregate settings it had previously assessed as not meeting the definition of a retirement home under the Act. The review was intended to determine the Authority's next steps in reassessing whether these congregate settings were operating as a retirement home without a licence, which could lead to licensing or enforcement action.

The Committee heard that the Authority has addressed 115 of the 234 congregate settings identified in the audit, pending a final review to ensure circumstances have not changed. It continues to assess the remaining congregate settings on a priority basis. The Authority has informed the Ministry of the scope and scale of the unlicensed homes and congregate care settings and the Ministry indicated it will engage other regulators beyond the Authority's oversight.

Committee Recommendations

The Standing Committee on Public Accounts recommends that

- 15. The Retirement Homes Regulatory Authority should improve the licensing process for retirement homes by**
 - a. revoking licences of homes which continually fail to meet all the requirements within a reasonable amount of time;**
 - b. finalizing work on its licence classes and submitting this work to the Ministry promptly;**
 - c. ensuring licensing procedures include a review of the application and the applicant's background checks;**
 - d. ensuring applicants monitor licence conditions and report updates or changes as necessary; and**
 - e. following up on licence conditions made.**
- 16. The Retirement Homes Regulatory Authority should ensure that all licensed retirement homes have installed fire sprinkler systems that are in working order. If homes do not comply, the Authority should take appropriate enforcement measures.**
- 17. The Retirement Homes Regulatory Authority should protect consumers from unknowingly purchasing accommodation and care services from unlicensed and unregulated retirement homes by finalizing its review of the 234 congregate settings identified in the audit that may require a licence and taking enforcement measures as appropriate to ensure all retirement homes are licensed according to the law.**

Imposing Penalties and Prosecuting Ineffective Deterrents

The audit found that the Authority has increased its enforcement efforts for managing retirement homes in the last three years; however, the tools it has at its disposal, such as turning down a licence application and imposing financial penalties, have not always stopped owners from continuing to operate unlicensed homes.

The Ministry stated that the comprehensive review of the Act will assess the effectiveness of enforcement tools and identify additional regulatory processes that could help ensure compliance.

Committee Recommendation

The Standing Committee on Public Accounts recommends that

- 18. The Retirement Homes Regulatory Authority should work with the Ministry for Seniors and Accessibility to assess the effectiveness of its enforcement tools, particularly the maximum administrative penalty, make changes if needed, and recommend measures to ensure the regulations are enforced.**

No Minimum Amount of Insurance Required to Cover Residents' Housing

The audit report noted that the regulation under the *Retirement Homes Act, 2010* does not require licensed retirement homes to obtain a specified minimum amount of extra expense insurance, which could reduce the risk that homes would be unable to provide accommodation and care to residents in the case of damage to a home.

The Authority stated it will examine the ability for homes to obtain renewed insurance certificates at least 30 days in advance of expiry, and explore recommending to the Ministry that the regulation be amended. It will also complete research on an appropriate minimum amount of insurance and determine a standard for implementation.

Committee Recommendation

The Standing Committee on Public Accounts recommends that

- 19. The Retirement Homes Regulatory Authority should reduce the risk to retirement home residents affected by loss or damage to their homes by**
- a. requesting retirement homes renew insurance policies 30 days prior to expiry and notify the Authority of continued coverage;**
 - b. determining the appropriate specific minimum amount of extra expense insurance coverage for licensees to obtain; and**
 - c. recommending a regulatory change that specifies a minimum amount of extra expense insurance coverage to the Ministry for Seniors and Accessibility or gives the Authority the ability to set the minimum amount of extra expense insurance coverage.**

Complaints***Unclear Public Communication Regarding Complaints***

The audit stated there is a general lack of public knowledge about the Authority, which limits its ability to effectively execute its mandate to protect residents.

The Authority told the Committee that it has been challenging to raise its public profile as a new regulatory body in a diverse sector. It explained that homes are

required to provide an information package to new residents that includes information on the Authority and how to file a complaint. However, the Authority acknowledged that this practice is inadequate.

Following a self-assessment, the Authority determined that the best opportunity to increase awareness is to establish a relationship with prospective consumers and individuals pursuing retirement homes as an option. The Authority has developed a multi-year digital campaign focused on increasing understanding of the role of the regulator, the bill of rights, and how to file a complaint. For example, the Authority launched a communications campaign in 2020 that increased website user traffic by 35%. It has also established a resident network to raise awareness; the network provides feedback and participants act as ambassadors for the Authority. The Ministry and the Authority indicated they will work together to address concerns and amend the Act to address direct communication to residents.

Authority Does Not Have Complaint Turnaround Time Targets

The audit found that the Authority does not set or publish targeted turnaround times to inform consumers of what to expect when they lodge a complaint about a retirement home.

The Authority agreed with the importance of providing clear and timely responses, and removing administrative barriers for consumers. It will update its website to include contact information and develop a framework to measure turnaround times.

Public Must Discern Where to Send Complaints outside of the Authority's Jurisdiction

The audit found that the Authority addresses complaints about the welfare of residents in retirement homes. For other issues, such as residential tenancy issues or concerns of incompetent care, the Authority gives general advice, but the complainant must find the appropriate organization for addressing such issues on their own.

The Authority stated that it is refining the existing complaints process to provide contact information for other regulatory bodies.

Committee Recommendation

The Standing Committee on Public Accounts recommends that

- 20. The Ministry for Seniors and Accessibility and the Retirement Homes Regulatory Authority should improve public understanding of the complaints process by**
 - a. establishing a process to refer complaints outside of its jurisdiction to the appropriate regulatory body, including necessary follow-up;**
 - b. including contact information for other relevant regulatory bodies in the retirement homes sector on its website;**

- c. **establishing a performance indicator to measure turnaround time for investigating and resolving complaints, reviewing such targets on an annual basis, and monitoring performance; and**
- d. **publishing service standards for its complaint resolution process and posting information about its performance against these standards on its website regularly.**

Complaints about Retirement Homes Difficult for Consumers to Access

The audit found that consumers cannot easily access information about complaints regarding a retirement home, which limits their knowledge when making choices about which retirement home to select as a residence.

The Committee heard the Authority maintains contact with a complainant throughout the formal complaints process. The complainant is informed by letter when the Authority has determined it can take no further action. At that time, the complainant has the opportunity to have the reasonableness of the decision reviewed by a complaints review officer, who independently reviews the decisions.

The Committee asked how the Authority's complaints process can be strengthened. The Authority explained that the complaints process and ability to raise concerns, by residents or family members, is a critical part of its regulatory oversight regime. It would like to implement changes to the formal written process and assess impacts to the independent complaints review officer process. It is also interested in understanding how people experience the complaints process and has implemented transactional surveys.

The Authority told the Committee that it will increase how often it publishes complaints and trends (they are currently published on an annual basis). It will also include the nature and quantity of complaints for each home when reporting enforcement measures. In addition, it will amend its compliance assistance module to include common complaints.

Committee Recommendations

The Standing Committee on Public Accounts recommends that

- 21. The Retirement Homes Regulatory Authority should increase transparency throughout the complaints process by**
 - a. **publishing the nature, quantity, and outcomes of complaints filed with the Authority at the aggregate level as well as for each retirement home on a monthly basis; and**
 - b. **establishing a training module for the retirement home sector, and updating training for inspectors with the most frequent and significant complaints.**
- 22. The Retirement Homes Regulatory Authority should analyze complaints for trends to identify areas of focus and better inform the selection process for routine inspection.**

- 23. The Retirement Homes Regulatory Authority should establish a network comprised of residents and/or family members of retirement home residents to improve awareness and provide feedback on retirement home challenges from their perspective.**

Consumer Information Not Readily Available

The audit found that publicly available information on prices for retirement homes, including rent and care services, was difficult to obtain online. However, the *Retirement Homes Act, 2010* indicates that residents have a right to know what care services are provided in the home and how much they cost. Further, neither the *Retirement Homes Act, 2010* nor the *Residential Tenancies Act, 2006* (RTA) define what constitutes a fair price for care services. (The RTA applies to the landlord and tenant relationship between a retirement home and a resident, and contains specific rules for retirement homes, which are known as “care homes” in the Act).

At the time of the audit, the Authority was developing a public report card to provide real-time performance measurement data for each retirement home to assist consumers in selecting a reliable retirement home. The report card project was paused in February 2020 due to the pandemic. The Authority told the Committee it plans to resume development of the report card in its 2021/2022 business plan.

The Committee expressed concern that although the government provided funding to retirement homes to offset the costs of IPAC, retirement homes still charged residents fees for COVID-19 costs. The Committee asked about mechanisms to protect seniors from unnecessary rate increases. The Ministry explained that under the *Residential Tenancies Act, 2006*, retirement homes are required to provide 90 days’ notice for any changes. The Authority explained that as a regulator, its role is limited to enforcing legislation as it stands. It noted that other disputes, such as those related to fees, are adjudicated under the RTA by the Landlord and Tenant Board.

The Authority explained that it will evaluate all of the areas that it is responsible for in the Act and assess those that relate to care, including financial matters, and make recommendations to the Ministry based on its observations. The Ministry said it is working with the Ministry of Municipal Affairs and Housing, responsible for the administration of the RTA, to explore measures to better inform and protect consumers purchasing accommodation and care services.

Committee Recommendation

The Standing Committee on Public Accounts recommends that

24. The Ministry for Seniors and Accessibility should

- a. recommend amending the *Retirement Homes Act, 2010* to provide the Retirement Homes Regulatory Authority with oversight of retirement home care services fees;**
- b. amend the *Residential Tenancies Act, 2006*, and/or the *Retirement Home Act, 2010*, to protect retirement home**

residents from price gouging by setting fair limits on price increases for care services;

- c. recommend that the regulatory framework for the Retirement Homes Regulatory Authority be amended so that the Authority can determine fair and reasonable ancillary costs that retirement homes can charge residents;
- d. request that the Retirement Homes Regulatory Authority require all licensed retirement homes to make price lists for rent and services available; and
- e. include retirement home prices for rent and services in its public report cards.

Board and Ministry Lack Sufficient Oversight of Authority's Activities

Board Had Vacancies for More than 30 Months between 2017 and 2020

In January 2020, the Authority had three provincial appointment vacancies on its nine-member Board (one since December 2017 and the remaining two from December 2019). During the audit, all three vacancies were filled.

Board Has No Consumer Protection Representation

The audit stated that while the Authority's Board members collectively met the competencies and governance requirements, the Board did not have a member who either represents a seniors' organization or advocates for seniors' interests as of August 2020.

The Committee expressed concern that the Authority's Board of Directors did not include any residents, family members, or seniors' advocates. The Ministry acknowledged that there is an opportunity to work with the Authority to broaden the skills and competencies of the Board to include consumer and resident knowledge.

Ministry Cannot Properly Assess whether the Authority is Effectively Meeting its Mandate

The audit report stated that the Ministry does not fully monitor the Authority to confirm that it is meeting all of its obligations under the Memorandum of Understanding (MOU) between the two parties.

The Ministry told the Committee that it will continue to work closely with the Authority to review and strengthen the MOU, and develop a schedule of reporting requirements that includes a formalization of current practices. It will request that the Authority establish targets for its performance indicators and publish actual versus targeted performance annually. In addition, the Ministry will determine whether to require the Authority to pay a fee to cover the costs of Ministry oversight.

Authority Did Not Monitor Implementation of Risk Officer Report Recommendations

The audit found that the Authority does not have a standard targeted time frame for enacting recommendations provided in Risk Officer Reports, or have a specific process to track the application of these recommendations. As a result, some recommendations were either not yet implemented or implemented several years later.

The Committee asked about the status of implementing the Risk Officer's recommendations. The Authority stated that it has implemented timelines to incorporate recommendations from the Risk Officer, considering complexity, organizational priority, and resources. It has also started tracking implementation and will review outstanding recommendations quarterly. Further, it has reported more regularly on the Risk Officer's recommendations to the Board and the Ministry.

Ministry Has Limited Role in Determining Policy for Seniors on Housing and Delivery of Care Services

The audit found that the Ministry for Seniors and Accessibility had not finalized its work on an updated seniors' strategy.

The Ministry acknowledged the need for a coordinated seniors' housing policy framework, and stated that the framework is being developed with multiple ministry partners. The Ministry noted that it completed province-wide consultations to inform the Province's new cross-government strategy to improve the lives of seniors.

Committee Recommendations

The Standing Committee on Public Accounts recommends that

- 25. The Ministry for Seniors and Accessibility should work with the Public Appointments Secretariat to propose appointees to the Retirement Homes Regulatory Authority's Board with seniors' interests in mind or request the Board's Chair consider such individuals as current Board members' terms expire.**
- 26. The Ministry for Seniors and Accessibility should finalize a schedule of reporting requirements with input from the Retirement Homes Regulatory Authority and update the Memorandum of Understanding between the two parties by**
 - a. requiring the Authority to establish targets for its performance indicators;**
 - b. requiring the Authority to publish actual versus targeted performance indicators annually; and**
 - c. determining an appropriate oversight fee.**

- 27. The Ministry for Seniors and Accessibility should improve the coordination and effectiveness of overall services to seniors in Ontario and act as a leader in the sector by**
- a. assuming its role as the lead ministry to provide or oversee the provision of seniors' congregate living and care services;**
 - b. working with partner ministries to develop a coordinated seniors' housing policy framework that defines the health, independence, and financial profile of seniors; and**
 - c. finalizing a cross-ministry seniors' strategy.**

Authority Lacks Financial Capacity to Meet Regulatory Mandate

The Authority received about \$8 million in revenue in 2019/20, \$7.6 million of which was from annual fees that all retirement homes are required to pay. The Authority operated with an annual surplus between 2015/16 and 2018/19, but incurred a deficit in 2019/20, primarily due to increased expenses. The MOU between the Authority and the Ministry permits the Authority to adjust its fees to provide modest revenues for contingencies and unplanned events.

The Committee asked who makes the decisions to increase the annual fees that retirement homes are required to pay. The Authority explained the fee-setting policy is part of the MOU: the Board of Directors makes specific fee decisions and the CEO assembles and submits the budget to the Board for approval. To increase annual fees over the rate of inflation, the Authority must engage in a process to gather stakeholder feedback. The Committee expressed concern that the protection and oversight of retirement home residents was subject to the decisions of the Authority's Board of Directors.

Committee Recommendations

The Standing Committee on Public Accounts recommends that

- 28. The Retirement Homes Regulatory Authority should collect adequate fees to cover its mandated activities and annually reassess the appropriateness of its fees or identify other revenue sources in order to protect current and former retirement home residents.**
- 29. The Ministry for Seniors and Accessibility should recommend legislative changes to the *Retirement Homes Act, 2010* to better ensure retirement home residents receive safe and quality care.**
- 30. The Ministry for Seniors and Accessibility should conduct a review to assess whether the Ministry should disband the Retirement Homes Regulatory Authority and take over its responsibilities.**

CONSOLIDATED LIST OF COMMITTEE RECOMMENDATIONS

The Standing Committee on Public Accounts recommends that

- 1. The Ministry for Seniors and Accessibility should work with other relevant ministries, as applicable, to clarify the responsibility of and establish a process for effective inspection and complaint-handling for individuals in retirement homes who were designated as alternate level of care (ALC) or who occupy subsidized beds.**
- 2. The Ministry for Seniors and Accessibility and the Retirement Homes Regulatory Authority should work together to raise public awareness regarding the complaints process for alternate level of care residents and individuals occupying subsidized beds.**
- 3. The Ministry for Seniors and Accessibility should require the Retirement Homes Regulatory Authority to publish performance indicators and data**
 - a. on alternate level of care patients and subsidized beds in retirement homes on a regular basis (e.g., bed occupancy, length of stays, percentage of residents admitted to long-term care homes); and**
 - b. on all other retirement home residents that are waiting for placements in long-term care homes (e.g., number of residents on long-term care placement waiting lists and length of time on waiting lists).**
- 4. The Retirement Homes Regulatory Authority should work with partner ministries to better protect retirement home residents who require increased levels of care by**
 - a. accelerating the Retirement Homes Regulatory Authority's work to develop different approaches to regulating different retirement homes, including finalizing the licence classes evaluation;**
 - b. determining the best practice of delivering support services in retirement homes while protecting the safety of residents;**
 - c. establishing an inspection process with clear roles and responsibilities to address the complexities and various levels of care for residents in retirement homes; and**
 - d. strengthening enforcement mechanisms for retirement homes that provide insufficient care services to residents.**

5. **The Retirement Homes Regulatory Authority should improve data-driven decision-making to strengthen the oversight of staffing and care services by**
 - a. **establishing a process to collect aggregate data on residents and retirement homes (including staffing); and**
 - b. **establishing resident profiles for different levels of care using aggregate data and publishing this information publicly.**
6. **The Ministry for Seniors and Accessibility should work with other relevant ministries to ensure retirement homes with individuals designated as alternate level of care or who occupy subsidized beds are inspected on a regular basis and standards of care are enforced.**
7. **The Retirement Homes Regulatory Authority should improve the inspections process by**
 - a. **determining additional data needs, finalizing data collection, and updating the risk assessment model accordingly;**
 - b. **regularly reviewing its risk assessment model and incorporating relevant data and updating the model accordingly;**
 - c. **ensuring they have the information required (e.g., alternative level of care status or external care needs) to assess inspection needs; and**
 - d. **publicly sharing the actions it takes to ensure compliance for homes that fail to provide adequate care and publish information about homes that fail to comply on its website to improve accountability.**
8. **The Retirement Homes Regulatory Authority, in order to ensure that retirement homes have appropriate infection and prevention controls in place, should**
 - a. **assess whether retirement homes have appropriate practices on infection and prevention control;**
 - b. **regularly collect data on retirement homes' practices and infection prevention control;**
 - c. **regularly incorporate any lessons learned from public health inspections into inspector training; and**
 - d. **request that retirement homes incorporate pandemic plans in emergency plans, including personal protective equipment supply.**

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- 9. The Retirement Homes Regulatory Authority should**
 - a. clear the entire backlog of proactive routine inspections with enhanced infection and prevention controls; and**
 - b. implement a plan for routine inspections to avoid future backlogs.**
 - 10. The Retirement Homes Regulatory Authority should better manage inspector caseloads by regularly monitoring inspector caseloads, reassessing caseload targets, and reassigning cases if necessary.**
 - 11. The Retirement Homes Regulatory Authority, in order to reduce the impacts to residents of retirement homes when implementing management orders, should**
 - a. maintain a formal roster of qualified management candidates that could be quickly deployed if necessary;**
 - b. determine guidelines for making emergency funding available for homes under management orders that require financial resources; and**
 - c. work together with the Ministry for Seniors and Accessibility to ensure residents in retirement homes are protected in a similar manner to residents in long-term care during public health emergencies.**
 - 12. The Retirement Homes Regulatory Authority should ensure that family and friends providing caregiving services can continue to do so throughout a public health emergency while following appropriate public health measures.**
 - 13. The Retirement Homes Regulatory Authority should better inform the public about the number of infections in retirement homes throughout a pandemic by**
 - a. working with the Ministry for Seniors and Accessibility to obtain data from the Ministry of Health or local public health agencies; and**
 - b. publishing COVID-19 data on a regular basis.**
 - 14. The Retirement Homes Regulatory Authority should**
 - a. require retirement homes to report occupancy data on a monthly basis and enforce capacity limits set by their licence, as determined by the Authority; and**
 - b. work with the Ministry for Seniors and Accessibility to establish a regular reporting schedule to share this information.**

- 15. The Retirement Homes Regulatory Authority should improve the licensing process for retirement homes by**
 - a. revoking licences of homes which continually fail to meet all the requirements within a reasonable amount of time;**
 - b. finalizing work on its licence classes and submitting this work to the Ministry promptly;**
 - c. ensuring licensing procedures include a review of the application and the applicant's background checks;**
 - d. ensuring applicants monitor licence conditions and report updates or changes as necessary; and**
 - e. following up on licence conditions made.**
- 16. The Retirement Homes Regulatory Authority should ensure that all licensed retirement homes have installed fire sprinkler systems that are in working order. If homes do not comply, the Authority should take appropriate enforcement measures.**
- 17. The Retirement Homes Regulatory Authority should protect consumers from unknowingly purchasing accommodation and care services from unlicensed and unregulated retirement homes by finalizing its review of the 234 congregate settings identified in the audit that may require a licence and taking enforcement measures as appropriate to ensure all retirement homes are licensed according to the law.**
- 18. The Retirement Homes Regulatory Authority should work with the Ministry for Seniors and Accessibility to assess the effectiveness of its enforcement tools, particularly the maximum administrative penalty, make changes if needed, and recommend measures to ensure the regulations are enforced.**
- 19. The Retirement Homes Regulatory Authority should reduce the risk to retirement home residents affected by loss or damage to their homes by**
 - a. requesting retirement homes renew insurance policies 30 days prior to expiry and notify the Authority of continued coverage;**
 - b. determining the appropriate specific minimum amount of extra expense insurance coverage for licensees to obtain; and**
 - c. recommending a regulatory change that specifies a minimum amount of extra expense insurance coverage to the Ministry for Seniors and Accessibility or gives the Authority the ability to set the minimum amount of extra expense insurance coverage.**

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- 20. The Ministry for Seniors and Accessibility and the Retirement Homes Regulatory Authority should improve public understanding of the complaints process by**
- a. establishing a process to refer complaints outside of its jurisdiction to the appropriate regulatory body, including necessary follow-up;**
 - b. including contact information for other relevant regulatory bodies in the retirement homes sector on its website;**
 - c. establishing a performance indicator to measure turnaround time for investigating and resolving complaints, reviewing such targets on an annual basis, and monitoring performance; and**
 - d. publishing service standards for its complaint resolution process and posting information about its performance against these standards on its website regularly.**
- 21. The Retirement Homes Regulatory Authority should increase transparency throughout the complaints process by**
- a. publishing the nature, quantity, and outcomes of complaints filed with the Authority at the aggregate level as well as for each retirement home on a monthly basis; and**
 - b. establishing a training module for the retirement home sector, and updating training for inspectors with the most frequent and significant complaints.**
- 22. The Retirement Homes Regulatory Authority should analyze complaints for trends to identify areas of focus and better inform the selection process for routine inspection.**
- 23. The Retirement Homes Regulatory Authority should establish a network comprised of residents and/or family members of retirement home residents to improve awareness and provide feedback on retirement home challenges from their perspective.**
- 24. The Ministry for Seniors and Accessibility should**
- a. recommend amending the *Retirement Homes Act, 2010* to provide the Retirement Homes Regulatory Authority with oversight of retirement home care services fees;**
 - b. amend the *Residential Tenancies Act, 2006*, and/or the *Retirement Home Act, 2010*, to protect retirement home residents from price gouging by setting fair limits on price increases for care services;**

- c. recommend that the regulatory framework for the Retirement Homes Regulatory Authority be amended so that the Authority can determine fair and reasonable ancillary costs that retirement homes can charge residents;
 - d. request that the Retirement Homes Regulatory Authority require all licensed retirement homes to make price lists for rent and services available; and
 - e. include retirement home prices for rent and services in its public report cards.
- 25. The Ministry for Seniors and Accessibility should work with the Public Appointments Secretariat to propose appointees to the Retirement Homes Regulatory Authority's Board with seniors' interests in mind or request the Board's Chair consider such individuals as current Board members' terms expire.
- 26. The Ministry for Seniors and Accessibility should finalize a schedule of reporting requirements with input from the Retirement Homes Regulatory Authority and update the Memorandum of Understanding between the two parties by
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