



# COVID-19 UPDATE



**April 1, 2020**

## **Memo to Unifor long-term care members regarding Ford Government's March 27 emergency order**

Ontario Minister of Long-Term Care Merrilee Fullerton notified Unifor on the same day the change was to take place that the Ontario Government was going to issue another temporary order in the fight against COVID-19 that would impact long-term care workers, including Unifor members.

This new order comes out less than a week after the government released an emergency order that allowed long-term care homes the limited ability to circumvent collective agreement provisions for 14 days in order to carry out measures related to staffing, scheduling and volunteers (see Unifor March 24 memo for more information).

This second order temporarily (for 14 days) removes a number of requirements for facilities under the Long-Term Care Homes Act (LTCHA) and Ontario Regulation 79/10, while authorizing facilities to implement particular measures if needed during the COVID-19 emergency.

### Summary of changes in the emergency order:

- Reporting:
  - No requirement to report any complaints or other information to the Director, other than critical incident reports and mandatory reports required under the LTCHA and Regulation 79/10.
- Documentation:
  - No requirement to document information unless it involves an incident of a significant nature or is required to ensure the proper care and safety of a resident;
  - No requirement to immediately document changes to a resident's plan of care required under the LTCHA unless they involve changes of a significant nature or unless there are changes that staff members and others need to be aware of immediately.
  - No requirement to conduct any survey.
  - No requirement to post any information in the facility except for essential information, such as material related to COVID-19.
  - Regulated documents under the LTCHA are not required to be certified by a lawyer.
- Staffing:
  - "Licensees may fill any staff position with the person who, in their reasonable opinion, has the adequate skills, training and knowledge to perform the duties required of that position."
  - No requirement to ensure that the minimum number of staffing hours set out in the LTCHA and Regulation 79/10 are met for a position provided that all of the care requirements associated with the position are met.
  - No requirement to meet the screening measures set out in the LTCHA and Regulation 79/10 provided that they adopt other measures that ensure resident and safety.
  - No requirement to meet the training and orientation requirements set out in the LTCHA and Regulation 79/10 provided that they ensure staff and volunteers take measures to ensure resident care and safety.

- Care requirements:
  - No requirement to hold care conferences at intervals set out in Regulation 79/10 provided that they ensure conferences take place based on the clinical needs of the resident.
  - No requirement to ensure that a physical examination of a resident occurs annually, but only that it occurs within a reasonable period of time after the resident's last examination.
- Admissions, transfers and discharges: Licensees may use flexible processes for the admission, transfer and discharge of persons but still needs to follow the requirements under the LTCHA to seek consent from such persons.
- Licences and management contracts: No requirement to follow all steps under the LTCHA and Regulation 79/10 when seeking approval from the Director to obtain a licence or management contract under the LTCHA, unless otherwise required by the Director.
- Administration of drugs: Licensees may adopt flexible practices related to the administration of drugs to residents provided that the practices are consistent with and within the scope of practice of the person administering the drug.

### Concerns

The emergency bill is intended to give long-term care homes much more operational flexibility by allowing them to forego certain reporting, documentation and care obligations. Facilities also temporarily have much more flexibility with regard to who they hire and do not have to meet legislative requirements around training and orientation for new staff and volunteers.

While the Ministry's intention may be to reduce the amount of time facilities spend on paperwork, removing a number of rules that are meant to hold facilities accountable for proper care may end up leaving long-term care residents even more vulnerable.

The flexibility that is now being afforded to facilities regarding hiring and training are even more concerning for both residents and workers. These changes could open the floodgates for untrained people working in facilities where infection control is a top priority. During a time where additional safety measures and qualified staff are needed, the Ministry should be taking measures to make it safer for people working in these facilities.

With the continued shortage of PSWs and other qualified staff in the sector, and the unwillingness of long-term care homes to provide premium pay during this crisis, there are questions about where facilities will be finding new people to work. It is possible that facilities will rely on recruiting low-paid workers and/or volunteers to do work – without proper training – that is typically performed by qualified staff.

Local unions should closely monitor employers' actions and ensure that resident care is not compromised by the use of unqualified staff or volunteers, and that existing members are prioritized in filling staffing needs.

While this order does override some provisions of your collective agreement, it is our position that it should only be enforced if absolutely necessary and there are no alternative solutions. Your grievance procedure, while temporarily suspended, is not eliminated and grievances should still be brought to the attention of your committee. The majority of the articles in the collective are still in effect and being utilized by the union. None more important than health and safety obligations to hold employers accountable in keeping workers safe.

Unifor will continue to provide updates as information becomes available at [unifor.org/COVID19](https://unifor.org/COVID19). Please sign up for the union's weekly newsletter at [unifor.org/subscribe](https://unifor.org/subscribe) and download the Unifor mobile app on the Google Play store or the Apple App Store on your smartphone.