

Zero Tolerance of Abuse and Neglect

Sample Policy and Procedures

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ABOUT THIS DOCUMENT

This package is intended to be used as a resource for OANHSS member homes to modify and customize as they view as appropriate.

Please note that the project team have compiled these materials during the winter of 2011, and the fall of 2012, and as a result, the information is based on the guidance available at this time. Members will need to regularly review the Ministry of Health and Long-Term Care (MOHLTC) Quality Inspection Program Mandatory and Triggered Protocols to ensure that internal policies and procedures align to these compliance expectations.

This document contains a sample policy and procedures to support compliance and meet the requirements of s. 20(1) and (2) of *the Long-Term Care Homes Act, 2007* and its Regulation.

This resource document has been divided into two parts:

- Part A provides the **policy statement**, definitions of Abuse and Neglect, and an **overview of the reporting and investigation obligations** under the *Long-Term Care Homes Act, 2007*. *The overview is not a comprehensive set of procedures, and should be read together with the procedures set out in Part B.*

- Part B provides **five sections** of procedures that support the implementation of the policy of Zero Tolerance of Abuse and Neglect including:
 - Prevention, education and training on the policy of zero tolerance of abuse or neglect of residents within a home,
 - The reporting and notification obligations of a home,
 - The investigations and responding actions to be taken when there has been an incident or an allegation of abuse or neglect of a resident,
 - The consequences for those who neglect or abuse residents,
 - Ensuring the compliance with the policy of Zero Tolerance of Abuse and Neglect.

Zero Tolerance of Abuse and Neglect

Mandate

Long Term Care Homes Act 2007	Sections 19, 20, 23, 24, 25, 26
O. Reg 79/10	Hereinafter referred to as "LTCHA Regulation"; s. 54, 96 to 99

It is a requirement of the *Long-Term Care Homes Act, 2007* (LTCHA), that a home must have a written policy regarding the Prevention of Abuse and Neglect for the purposes of promoting zero tolerance. In addition to the policy, a home must also ensure that the policy is complied with (LTCHA, s. 20).

Scope

This policy applies to all staff, contractors, students, volunteers, families, visitors, board members, and individuals that are involved with the care of the resident and/or the safe operation of the home.

PART A: POLICY

I. Policy Statement

All residents have the right to live in a home environment that treats them with dignity, respect and is free from any form of abuse or neglect at all times, and in all circumstances.

The home is committed to zero tolerance of abuse or neglect of its residents. Corrective action will be taken against anyone who abuses a resident or anyone who fails to immediately report witnessed or suspected abuse once it becomes known that he/she has been withholding such information.

This *Zero Tolerance of Abuse and Neglect* policy must be communicated and displayed in the home in a manner that is both highly visible and legible for all residents, staff and visitors.

II. Definition of Abuse and Neglect

This policy uses the definitions of "abuse" and "neglect" from the LTCHA and its Regulation. These definitions are as follows:

- **"Abuse"** in relation to a resident, means physical, sexual, emotional, verbal or financial abuse, as defined in the regulations in each case - LTCHA Regulation 79/10, s. 5. (See *Appendix A: Definition of Abuse and Neglect* for definitions of each of the above terms.)
- **"Neglect"** means the failure to provide a resident with the treatment, care, services or assistance required for health, safety or well-being, and includes inaction or a pattern of

inaction that jeopardizes the health, safety or well-being of one or more residents.”
LTCHA Regulation 79/10, s. 5.

III. Program for Preventing Abuse and Neglect

1. Management staff and the Board of Directors will ensure that the home has a program that complies with the LTCHA and its Regulation for preventing abuse and neglect - LTCHA Regulation, c. 8, s. 20 (2). The Home will ensure that the policy, definition and concept of abuse and neglect are reviewed with staff, volunteers, consultants and affiliates during orientation and training and annually thereafter.
2. Management staff will ensure that the policy to promote zero tolerance of abuse and neglect of residents is communicated to all staff, residents and residents' substitute decision-makers (SDM's) - LTCHA 2007, c. 8, s. 20 (3).

IV. Overview of Investigation & Reporting of Abuse and Neglect

a) Investigation and Reporting (including notification to SDM)

1. Staff will ensure that it takes appropriate action in response to any suspected, alleged or witnessed incident of resident abuse or neglect as outlined in the *Procedures*.
2. The Home will notify the resident's SDM, if any, and any other person the resident specifies:
 - (a) Immediately upon the Home becoming aware of an alleged, suspected or witnessed incident of abuse or neglect of the resident that resulted in physical injury or pain to the resident, or distress to the resident that has the potential to be detrimental to the resident's health and well-being; and
 - (b) Within 12 hours of becoming aware of any other alleged, suspected or witnessed incident of abuse or neglect of the resident.
3. Staff and board members must *immediately* report every alleged, suspected or witnessed incidents of:
 - (a) Abuse of a resident by anyone, and
 - (b) Neglect of a resident by the licensee, a staff member (or affiliate) of the Home.

Staff must follow two types of procedures (internal and external) for the reporting all alleged, suspected or witnessed incidents of abuse or neglect. Procedures are outlined within Part B Section Two and Section Three of this document. The internal home reporting procedures are distinct and based on the organizational roles and responsibilities. The external reporting procedures are those procedures outlined in the LTCHA and its Regulation regarding the mandatory reports that must be made to the MOHLTC, using the Critical Incident System.

4. Staff must investigate immediately all reports by staff and board members under this policy, and third party reports of abuse or neglect, in accordance with the investigation procedures in Part B Part Two: Reporting and Notifications. LTCHA Regulation, s. 23(1).
5. A report shall be made to the MOHLTC Director with the results of every investigation conducted under this policy, and any action the Home takes in response to any incident of resident abuse or neglect. LTCHA Regulation, s. 23(2).

The report to the MOHLTC Director must meet the requirements in the LTCHA, which are set out in Appendix B to this policy. LTCHA Regulation, s. 23(3).

6. Staff must notify the resident and the resident's Substitute Decision Maker (SDM), if any, and any other person requested by the resident of the results of the investigation immediately upon the completion of the investigation under #5 above.
7. If the resident's Substitute Decision Maker (SDM) is the individual being alleged of abuse, the home will ensure that this fact is included within the reports to the MOHLTC Director and the police (e.g. financial abuse) and the home is not required to advise the SDM of the results of the investigation.
8. Staff must notify the Medical Director and Police. The notifications to the police are guided by reference to the criminal code offences outlined in *Appendix F: June 13, 2012 MOHLTC Memo and Decision Trees (6) Regarding Abuse and Neglect*.

b) Mandatory Reporting under Section 24(1) of the LTCHA

1. LTCHA Regulation, s. 24(1) requires certain persons, including staff members, to make an immediate report to the MOHLTC Director where there is a reasonable suspicion that the following incidents occurred or may occur.
 - Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident.
 - Abuse of a resident by anyone or neglect of a resident by the licensee or staff that resulted in harm or a risk of harm to the resident.
 - Unlawful conduct that resulted in harm or a risk of harm to a resident.
 - Misuse or misappropriation of a resident's money.
 - Misuse or misappropriation of funding provided to a licensee under the LTCHA or the *Local Health System Integration*
2. It is an offence under the LTCHA to discourage or suppress a report of abuse or neglect, both internally in the home, or to the MOHLTC Director.

There are procedures in place to determine whether a report to the MOHLTC Director under LTCHA Regulation, s. 24(1) is required in response to an alleged, suspected or witnessed incident of abuse or neglect of a resident. These procedures are in Part B of this document and are informed by the MOHLTC Licensee Reporting Decision Trees of May 2012 (*See Appendix F: June 13, 2012 MOHLTC Memo and Decision Trees (6) Regarding Abuse and Neglect*).

V. Consequences for those who Abuse or Neglect Residents

The consequences for staff or board members who abuse or neglect a resident, or those who fail to report an incident or alleged abuse or neglect are outlined in the procedures section of this document.

VI. Compliance with the Policy for Zero Tolerance of Abuse and Neglect

Staff will ensure that the policy for zero tolerance of abuse and neglect of residents is evaluated for effectiveness annually and when an incident is suspected, alleged or has occurred to determine what improvements (clinical, operational, environmental, financial management or training) are necessary to prevent further occurrences. The details of this review are found in the procedures section.

PART B: PROCEDURES

The procedures and tasks identified within this section should be adapted to suit the particular staffing structure, roles and responsibilities within the home.

Section One: Prevention of Abuse and Neglect

Residents, Families and Substitute Decision Makers (SDMs)

The Home will ensure that residents, families and SDMs are aware of and receive written information at the time of admission regarding the Resident Bill of Rights and the Policy of Zero Tolerance of Abuse and Neglect of Residents.

Staff Education

The Residents' Bill of Rights and the Policy on Zero Tolerance of Abuse and Neglect will be reviewed with each new employee during orientation and annually thereafter.

The staff education and training will include:

- Policy and Procedures for Zero Tolerance of Abuse and Neglect including definitions of abuse and neglect (*see Appendix A: Definition of Abuse and Neglect*) and use of MOHLTC Licensee Reporting Decision Trees of May 2012 (*see Appendix F: June 13, 2012 MOHLTC Memo and Decision Trees (6) Regarding Abuse and Neglect*).
- Policy and Procedures on Reporting and Whistle-blowing Protection Against Retaliation
- Policy and Procedures for Managing Complaints
- Policy and Procedures for Minimizing Restraining and Use of PASDs
- Training related to Elder Abuse Prevention Strategies and Educational Tools (*see Appendix H: Additional Resources and Educational Materials on Prevention of Abuse*, including *Prevention of Elder Abuse Policy and Program Lens*, by the Prevention of Elder Abuse Working Group, published by the Ontario Seniors Secretariat).
- Training related to the following concepts:
 - Understanding the nature of employment in the Long-Term Care Home environment and how it demands an ongoing capacity for compassion and patience for residents.
 - Power imbalances in resident care and the potential for abuse and neglect by those in positions of trust.
 - Implementation strategies that promote trusting relationships and mitigate power imbalances.
 - Situations that may lead to abuse or neglect and how to avoid them.
- Training related to the provision in the LTCHA, its Regulation and the MOHLTC Quality Inspection Protocols that address zero tolerance for abuse and neglect of a resident.

- Training related to the consequences for abusing or neglecting a resident or failure to report under this policy.

Management staff

Management staff shall:

- Ensure that all staff and/or contracted individuals, students and volunteers have documented that they have read, understood, and agreed to the policy of Zero Tolerance of Abuse and Neglect. This documentation will be required following initial orientation, annual re-training or other educational events supported by the home.
- Maintain a tracking system to record the staff completion of the mandatory training on this policy of Zero Tolerance of Abuse and Neglect.
- Publicly post the home's policy on Zero Tolerance of Abuse and Neglect of Residents in an accessible location using at least 16 point font in a highly visible public area of the home. Include the contact information for the home's most senior manager or designate responsible for responding and the contact information for the MOHLTC Director (e.g. Mailing Address and MOHLTC toll-free Action Line).

Section Two: Reporting and Notifications about Incidents of Abuse or Neglect

Reporting an Incident

All staff, volunteers, contractors and affiliated personnel are required:

- To fulfill their legal obligation **to immediately and directly report** any witnessed incident or alleged incident of abuse or neglect to the MOHLTC. Note: A designate of the home is responsible for completing reports using Critical Incident System to the MOHLTC. This designate may make the MOHLTC report **together with** the person who witnessed the incident of abuse or neglect.
- To immediately report to the appropriate supervisor in the home on duty (or on call) at the time of a witnessed or alleged incident of abuse or neglect. Notwithstanding this, one should identify the person who is appropriate to receive this report depending upon their position (e.g. board member, to the Board Chair, or Staff person to the Director of Care or Manager to the Administrator) and the structure of the organization. *See Appendix I: for an Optional Sample of an internal reporting/documentation Form.*
- Maintain confidentiality regarding the report and names of all those involved in the incident.

If an incident of suspected, alleged or witnessed abuse or neglect meets the definitions of abuse in LTCHA s. 2(1) (see *See Appendix F: June 13, 2012 MOHLTC Memo and Decision Trees (6) Regarding Abuse and Neglect*, as a guide), a home must report the incident to the MOHLTC Director in the manner outlined in the MOHLTC Reporting Trees.

A staff member filing a report is protected under s. 26 of the LTCHA (Whistle-blowing protection) which forbids retaliation, or threats of retaliation, against a person for disclosing

anything to an inspector or the MOHLTC Director, or for giving evidence in a proceeding under the LTCHA, or during a coroner's inquest. Under section 26, employees, officers, and directors cannot discourage these disclosures. Staff will report any retaliation actions or threats of retaliation experienced related to the reporting of abuse or neglect under this policy.

Management Staff

When a manager/designate or other receives an internal report from an employee on a suspected or alleged, or actual incident of abuse or neglect, they will immediately report to the MOHLTC (LTCHA Regulation 79/10 s. 98). This immediate report may be completed **together with** the individual who alerted them of the incident or alleged incident of abuse or neglect. This report is submitted by using the Critical Incident System (CIS) form, under the "Mandatory Report Section". (See *Appendix E: MOHLTC Clarification of Mandatory and Critical Incident Reporting Requirements Memo – August 4, 2010*). Note: after hours (during weekends, statutory holidays and evenings), the report must be done by paging 1-800-268-6060. (See *Appendix D: Table 1 - LTCHA Section 24 (1) Reporting Certain Matters to the Directors*. Source: *MOHLTC Clarification of Mandatory and Critical Incident Reporting Requirements – August 4, 2010, p.2*).

Management staff will submit a report to the MOHLTC **within 10 days** or earlier if requested (LTCHA Regulation s. 104(2)) using the Critical Incident System that includes, but is not limited to, the results of investigation and any action(s) taken in response to the incident. If the Home cannot submit the report within 10 days, it must submit a preliminary report to the Ministry using the Critical Incident System and provide a final report within 21 days (LTCHA Regulation s. 104 (3)) (See *Appendix G: March 29, 2012 Clarification Memo from the MOHLTC Director Regarding Timelines for Reporting Abuse and Neglect*).

Management staff will report to the MOHLTC Director the results of every investigation the Home conducts under this policy, and any action the Home takes in response to any incident of resident abuse or neglect. LTCHA Regulation s. 23 (2).

The Ministry of Labour may need to be notified if a staff member has been physically injured as a result of the incident. (See *Appendix E: Appendix E: MOHLTC Clarification of Mandatory and Critical Incident Reporting Requirements Memo – August 4, 2010*.)

A Professional College must be reported to in writing, if the alleged person is a member of a professional College under the *Regulated Health Professions Act, 1991*, This duty to report does include a drugless practitioner under the Drugless Practitioners Act, and members of the Ontario College of Social Workers and Social Service Workers. (LTCHA Regulation s. 24 (4)).

Notification to SDM or any other person specified by the resident

Staff must notify the SDM, if any, or any other person specified by the resident immediately if the resident is harmed and within 12 hours of becoming aware of the alleged, suspected or witnessed incident of abuse or neglect of a resident for all other situations (LTCHA Regulation s. 97(1)(a) and (b)).

Staff must notify the SDM immediately upon completion of the investigation to share the results of the investigation (LTCHA Regulation s. 97(1-2)).

However, and despite the above, if the SDM is the alleged perpetrator of the abuse there is no obligation to report to the SDM any results of the investigation.

Reporting To Police

Staff must report to the police if the alleged, suspected or witnessed incident of abuse or neglect constitutes a criminal offence under the Criminal Code. To guide this process, staff are to refer to the MOHLTC Licensee Reporting Decision Trees of May 2012, which are located at Appendix F of this document.

The police will determine if there are 'reasonable grounds' for charges. (LTCHA Regulation s. 98).

Section Three: Investigating and Responding to Alleged, Suspected or Witnessed Abuse and Neglect of Residents

Staff who are reporting a suspected, alleged or witnessed incident of resident abuse or neglect:

- Intervene if safe to do so, or identify needed interventions (e.g. call 911) to ensure resident or staff safety and well-being, when an incident is occurring/or has occurred.
- Document or write a brief, factual note (e.g. not allegations or opinion) writing the details of the suspected, alleged or witnessed incident of abuse or neglect as soon as possible.
- Cooperate fully with those responsible for the investigation (e.g. home administrative staff, police, MOHLTC Inspector). Note: It is the right of an employee who witnesses or suspects alleged abuse or neglect to be accompanied by a co-worker (or legal or union representative) during the investigatory meeting.
- Seek supportive counseling or resources, if desired.
- Maintain confidentiality.

Management staff investigating the incident

Staff must investigate immediately all reports of abuse or neglect, in accordance with the investigation procedures set out in this document. LTCHA Regulation s. 23(1).

During the investigation this individual will need to consider:

- Whether the circumstances of the alleged, suspected or witnessed abuse or neglect meet the definitions within the LTCHA s. 2(1) (*also see Appendix A, C and F*). This includes a determination of whether the situation involved emotional and/or verbal abuse caused by a resident to another resident, was such that the resident causing either or both of these types of abuse understands and appreciates their consequences.
(Source: see *Appendix E: MOHLTC Clarification of Mandatory and Critical Incident Reporting Requirements Memo – August 4, 2010.*)
- Consider whether the incident relates to prohibited use of restraints.
- Who (which party) is the source of the report, including whether they are a resident, direct care or non-direct care staff member, board member, or third party (e.g. occasional employee, family member/significant person to a resident, volunteer, etc.).
- Whether the incident of abuse involved a physical injury to a resident, another resident, or a staff member. (Note: there may be reporting obligations to the Ministry of Labour if a staff member is injured. Source: see *Appendix E: MOHLTC Clarification of Mandatory and Critical Incident Reporting Requirements Memo – August 4, 2010.*)

Management Staff also must:

- Maintain the security and integrity of the physical evidence at the site of incident, including documenting this evidence appropriately.
- Fully investigate the incident, and complete the documentation of all known details of the reported incident.
- Determine the appropriate management action(s) to be taken as a result of the findings of investigation (e.g. education, discipline, policy revision, mandatory reporting to relevant professional college).
- Enforce appropriate consequences for anyone responsible for abuse of a resident. (e.g. suspension, dismissal, discipline, reporting to the police, etc.)
- Provide debriefs to the appropriate parties (e.g. Board Chair, MOHLTC Inspector, Senior Management Team, Staff Members) as necessary.
- Cooperate with police investigation (if applicable) in consultation with the home's legal advisor.
- Maintain confidentiality regarding the report and names of all those involved in the incident.

Clinical Staff Responsible for Care of the Resident (s) harmed by the abuse or neglect

- Ensure the resident or residents are reassured and supported immediately in the appropriate manner to ensure their safety and security

- Provide interventions for the resident or residents who have been or allegedly abused or neglected and their room-mates where appropriate.
- Ensure that the resident is not left in the responsibility of the person alleged to have caused the abuse or neglect.
- Ensure safety and protection of staff and resident(s) involved, and all other residents that may be exposed to the risk of harm.
- Conduct a head-to-toe physical assessment on the alleged victim and document findings if physical abuse is alleged.
- Contact physician if necessary, or other health practitioners for further assessment, treatment and follow-up, based on nursing assessment of injury, pain or suspected injury such as wounds, fractures or head injury.
- Document and communicate the status of the resident's health condition, further assessments arranged, and health investigation findings to the Manager/Administrator.
- Offer information about resources to residents and families involved in the alleged incident such as social work counseling, legal advice, pastoral care, CCAC, Physician, and Psychiatrist.
- Maintain confidentiality regarding the report and names of all those involved in the incident.

Staff Member alleged to have caused the abuse or neglect must:

- Document details as soon as possible including dates, times, witnesses.
- Maintain confidentiality regarding the report and names of all those involved in the incident.
- Understand the consequences for being responsible for abuse or neglect of a resident.
- Comply with human resources policies of the home.
- Cooperate fully with individuals or organizations responsible for the investigation.

And, he/she may also:

- Contact appropriate departments or organizations, e.g. human resource department, employee assistance program, union representative if applicable, legal advice as required.
- Seek supportive counseling if desired.

Administrator or Designate

The Administrator or designate oversees the completion of all steps required by the policy and procedures, in order to manage the case to resolution.

- Ensure that if necessary, the Board or Board Chair is informed.

- Oversee and ensure that reporting requirements to MOHLTC Director are undertaken.
- Ensure that the home's legal advisor has been contacted, particularly if the incident has the potential for lawsuit or criminal implications.
- Ensure that a copy of the documentation is stored within a secure area.

Section Four: Management and Enforcement of Consequences

Staff must ensure necessary actions are taken in response to any alleged, suspected or witnessed incident of resident abuse or neglect. LTCHA s. 20(2).

Anyone responsible for abuse of a resident, or a staff member responsible for neglect or abuse of a resident may face any or all of the following management and enforcement consequences:

- Retraining
- Discipline
- Dismissal
- Reporting to licensing body
- Charges under the criminal code

The home must communicate on a timely basis, the consequences applied to the person who has caused the abuse or neglect to the resident, the SDM or other person the resident specifies.

Section Five: Evaluation Policy and Procedures

Case Review

Management staff will evaluate the effectiveness of the policy for prevention of abuse and neglect when an incident has been alleged or has occurred and determine what improvements (clinical, operational or training) are necessary to prevent further occurrences.

Policy Review

Management staff will evaluate the effectiveness of the policy for prevention of abuse and neglect at least once per year to identify what changes and improvements are required to prevent further occurrences (LTCHA Regulation s. 99). The results of the analysis of every incident of abuse or neglect are considered in the evaluation.

Management staff will maintain a written record of the abuse prevention policy and program review results, including the date of the evaluation, the name and relevant discipline of the individuals participating in the review, a summary of any changes arising from the review, and an action plan outlining the timelines for the implementation of the changes, and the date the changes or improvements were implemented.

Management staff will ensure that the identified changes and improvements are promptly implemented and documented consistently.

The following indicators may be measured to determine trends and assess the effectiveness of the prevention strategies:

- Number of incidents of alleged resident abuse/neglect.
- Number of incidents of proven resident abuse/neglect.
- Number of recurrences.
- Trends regarding types of incidents, location, time of day.

APPENDIX A: DEFINITION OF ABUSE AND NEGLECT

Note: There are changes to the order the paragraphs LTCHA and some terms are in bold to make the definitions easier to follow.

“abuse”, in relation to a resident, means physical, sexual, emotional, verbal or financial abuse, as defined in the regulations in each case; (“mauvais traitement”)

“Abuse” — definition

2. (1) For the purposes of the definition of “abuse” in subsection 2 (1) of the Act,

“emotional abuse” means,

- (a) any threatening, insulting, intimidating or humiliating gestures, actions, behaviour or remarks, including imposed social isolation, shunning, ignoring, lack of acknowledgement or infantilization that are performed by anyone other than a resident, or
- (b) any threatening or intimidating gestures, actions, behaviour or remarks by a resident that causes alarm or fear to another resident where the resident performing the gestures, actions, behaviour or remarks understands and appreciates their consequences; (“mauvais traitement d’ordre affectif”)

“financial abuse” means any misappropriation or misuse of a resident’s money or property; (“exploitation financière”)

“physical abuse” means, subject to subsection (2),

- (a) the use of physical force by anyone other than a resident that causes physical injury or pain,
- (b) administering or withholding a drug for an inappropriate purpose, or
- (c) the use of physical force by a resident that causes physical injury to another resident; (“mauvais traitement d’ordre physique”)

(2) For the purposes of clause (a) of the definition of **“physical abuse”** in subsection (1), physical abuse does not include the use of force that is appropriate to the provision of care or assisting a resident with activities of daily living, unless the force used is excessive in the circumstances. O. Reg. 79/10, s. 2 (2).

“sexual abuse” means,

- (a) subject to subsection (3), any consensual or non-consensual touching, behaviour or remarks of a sexual nature or sexual exploitation that is directed towards a resident by a licensee or staff member, or
- (b) any non-consensual touching, behaviour or remarks of a sexual nature or sexual exploitation directed towards a resident by a person other than a licensee or staff member; (“mauvais traitement d’ordre sexuel”)

(3) For the purposes of the definition of “**sexual abuse**” in subsection (1), sexual abuse does not include,

- (a) touching, behaviour or remarks of a clinical nature that are appropriate to the provision of care or assisting a resident with activities of daily living; or
- (b) consensual touching, behaviour or remarks of a sexual nature between a resident and a licensee or staff member that is in the course of a sexual relationship that began before the resident was admitted to the long-term care home or before the licensee or staff member became a licensee or staff member. O. Reg. 79/10, s. 2 (3).

“**verbal abuse**” means,

- (a) any form of verbal communication of a threatening or intimidating nature or any form of verbal communication of a belittling or degrading nature which diminishes a resident’s sense of well-being, dignity or self-worth, that is made by anyone other than a resident, or
- (b) any form of verbal communication of a threatening or intimidating nature made by a resident that leads another resident to fear for his or her safety where the resident making the communication understands and appreciates its consequences. (“mauvais traitement d’ordre verbal”) O. Reg. 79/10, s. 2 (1).

“**Neglect**” — **definition**

5. For the purposes of the Act and this Regulation,

“neglect” means the failure to provide a resident with the treatment, care, services or assistance required for health, safety or well-being, and includes inaction or a pattern of inaction that jeopardizes the health, safety or well-being of one or more residents. O. Reg. 79/10, s. 5.

APPENDIX B: REPORTS TO THE DIRECTOR

Licensees who report investigations under s. 23 (2) of Act

[104. \(1\)](#) In making a report to the Director under subsection 23 (2) of the Act, the licensee shall include the following material in writing with respect to the alleged, suspected or witnessed incident of abuse of a resident by anyone or neglect of a resident by the licensee or staff that led to the report:

1. A description of the incident, including the type of incident, the area or location of the incident, the date and time of the incident and the events leading up to the incident.
2. A description of the individuals involved in the incident, including,
 - i. names of all residents involved in the incident,
 - ii. names of any staff members or other persons who were present at or discovered the incident, and
 - iii. names of staff members who responded or are responding to the incident.
3. Actions taken in response to the incident, including,
 - i. what care was given or action taken as a result of the incident, and by whom,
 - ii. whether a physician or registered nurse in the extended class was contacted,
 - iii. what other authorities were contacted about the incident, if any,
 - iv. whether a family member, person of importance or a substitute decision-maker of any resident involved in the incident was contacted and the name of such person or persons, and
 - v. the outcome or current status of the individual or individuals who were involved in the incident.
4. Analysis and follow-up action, including,
 - i. the immediate actions that have been taken to prevent recurrence, and
 - ii. the long-term actions planned to correct the situation and prevent recurrence.
5. The name and title of the person making the report to the Director, the date of the report and whether an inspector has been contacted and, if so, the date of the contact and the name of the inspector. O. Reg. 79/10, s. 104 (1).

(2) Subject to subsection (3), the licensee shall make the report within 10 days of becoming aware of the alleged, suspected or witnessed incident, or at an earlier date if required by the Director. O. Reg. 79/10, s. 104 (2).

(3) If not everything required under subsection (1) can be provided in a report within 10 days, the licensee shall make a preliminary report to the Director within 10 days and provide a final report to the Director within a period of time specified by the Director. O. Reg. 79/10, s. 104 (3).

APPENDIX C: LTCHA MANDATORY REPORTS

Reporting certain matters to Director

24. (1) A person who has reasonable grounds to suspect that any of the following has occurred or may occur shall immediately report the suspicion and the information upon which it is based to the Director:

1. Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident.
2. Abuse of a resident by anyone or neglect of a resident by the licensee or staff that resulted in harm or a risk of harm to the resident.
3. Unlawful conduct that resulted in harm or a risk of harm to a resident.
4. Misuse or misappropriation of a resident's money.
5. Misuse or misappropriation of funding provided to a licensee under this Act or the *Local Health System Integration Act, 2006*. 2007, c. 8, ss. 24 (1), 195 (2).

Non-application re certain staff

105. Paragraph 4 of subsection 24 (5) of the Act does not apply to a staff member who,
(a) falls under clause (b) or (c) of the definition of "staff" in subsection 2 (1) of the Act;
(b) only provides occasional maintenance or repair services to the home; and
(c) does not provide direct care to residents. O. Reg. 79/10, s. 105.

**APPENDIX D: TABLE 1 - LTCHA SECTION 24 (1)
 REPORTING CERTAIN MATTERS TO THE DIRECTORS**

Excerpt from MOHLTC Clarification of Mandatory and Critical Incident Reporting Requirements
 Memo August 4, 2010

Type of Incident in LTC home	Section of the LTCHA	Action to be taken by LTC Home to notify MOHLTC		Reporting Time Frame
		Monday - Friday 8 a.m. - 5 p.m.	All other times and Statutory holidays	
Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident	LTCHA S. 24(1) 1.	Immediately initiate the on-line Mandatory Critical Incident System (MCIS) form using the mandatory report section	Phone the After Hours Pager #	Immediately upon becoming aware of the incident
Abuse of a resident by anyone or neglect of a resident by the licensee or staff that resulted in harm or a risk of harm to the resident*	LTCHA S. 24(1) 2.	Immediately initiate the on-line MCIS form using the mandatory report section	Phone the After Hours Pager #	Immediately upon becoming aware of the incident
Unlawful conduct that resulted in harm or a risk of harm to a resident	LTCHA S. 24(1) 3.	Immediately initiate the on-line MCIS form using the mandatory report section	Phone the After Hours Pager #	Immediately upon becoming aware of the incident
Misuse or misappropriation of a resident's money	LTCHA S. 24(1) 4.	Immediately initiate the on-line MCIS form using the mandatory report section	No after-hours reporting requirement	Immediately upon becoming aware of the incident
Misuse or misappropriation of funding provided to a licensee under the LTCHA or the <i>Local Health System Integration Act, 2006</i> .	LTCHA S. 24(1) 5.	Immediately initiate the on-line MCIS form using the mandatory report section	No after-hours reporting requirement	Immediately upon becoming aware of the incident

- ****Please ensure that the staff person reporting abuse of a resident has reviewed the definitions of abuse set out in the LTCHA, section 2(1) and the Regulation, section 2***
- ***Any person who is aware of an incident that must be reported to the Director under S. 24(1) of the LTCHA, 2007 and who does not have access to the home's critical incident reporting system should report using the toll-free Action Line # at 1-866-434-0144.***

APPENDIX E: MOHLTC MEMO OF AUGUST 4, 2010 REGARDING CLARIFICATION OF MANDATORY AND CRITICAL INCIDENT REPORTING REQUIREMENTS

**Ministry of Health
and Long-Term Care**

Health System Accountability and
Performance Division
Performance Improvement and
Compliance Branch

55 St. Clair Avenue West, 8th Floor
Toronto ON M4V 2Y7
Telephone: (416) 327-7461
Fax: (416) 327-7603

**Ministère de la Santé
et des Soins de longue durée**

Division de la responsabilisation et de la
performance du système de santé
Direction de l'amélioration de la performance
et de la conformité

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Télécopieur : (416) 327-7603



MEMORANDUM TO: Licensees, Long-Term Care (LTC) Homes

COPY TO: Administrators, LTC Homes
Directors of Nursing and Personal Care, LTC Homes

FROM: Tim Burns
Director
Performance Improvement and Compliance Branch

DATE: August 4, 2010

RE: Clarification of Mandatory and Critical Incident Reporting
Requirements

The *Long-Term Care Homes Act, 2007* (LTCHA) and O. Regulation (Reg.) 79/10 came into effect on July 1, 2010. The previous long-term care home Acts and the regulations under them have been repealed and revoked, respectively.

The purpose of this memorandum is to clarify:

- the Mandatory Reporting to the Director under section 24 (1) of the LTCHA;
- the Licensee's reports of its investigations under section 23 of the LTCHA of alleged, suspected or witnessed incidents of abuse or neglect of residents
- the Reporting of Critical Incidents under section 107 of O. Reg. 79/10, and;
- the actions to be taken by the Licensees or others in relation to the reporting requirements.

LTCHA Section 24 (1) - 'Reporting Certain Matters to the Director'

A person who has reasonable grounds to suspect that any of the following has occurred or may occur shall **immediately** report the suspicion and the information upon which it is based to the Director:

- Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident (LTCHA S. 24(1) 1).
- Abuse of a resident by anyone or neglect of a resident by the licensee or staff that resulted in harm or a risk of harm to the resident (LTCHA S. 24(1) 2).
- Unlawful conduct that resulted in harm or a risk of harm to a resident (LTCHA S. 24(1) 3.).
- Misuse or misappropriation of a resident's money (LTCHA S. 24(1) 4).
- Misuse or misappropriation of funding provided to a licensee under the Act or the *Local Health System Integration Act, 2006* (LTCHA S. 24(1) 5).

Table 1 in Appendix A, attached, highlights the actions to be taken by licensees or others in reporting the above matters.

LTCHA, section 23 – Licensee must investigate, respond and act & Reg., s. 104 – Licensees who report investigations under s. 23(2) of Act

The licensee is required to investigate alleged, suspected or witnessed incidents of abuse of a resident by anyone or neglect of a resident by the licensee or staff that are known by or reported to the licensee. (Please refer to the definitions of abuse and neglect set out in the LTCHA and Reg.) Appropriate action must be taken in response to these incidents. Licensees must report to the Director the results of the investigation and the actions taken in response **within 10 days** of the licensee becoming aware of the incident or at an earlier date if required by the Director. Section 104 of the Regulation sets out the requirements for the report to the Director. The on-line Mandatory Critical Incident System (MCIS) form may be used by licensees to forward the required report to the Director (see note at the bottom of Table 2).

Additional Clarification Regarding Reporting of Abuse of Residents:

In determining whether a mandatory report under section 24 relating to abuse of a resident is required or if section 23 applies, LTC Home licensees and staff should review the definitions of abuse set out in section 2(1) of the LTCHA and section 2 of the Regulation. In relation to the action of a resident towards another resident, the following definitions of abuse are relevant:

LTCHA, section 2(1):

"Abuse", in relation to a resident, means physical, sexual, emotional, verbal or financial abuse, as defined in the regulations in each case", **and**

Regulation, section 2, for example:

"Emotional Abuse" means:

(b) Any threatening or intimidating gestures, actions, behaviour or remarks by a resident that **causes alarm or fear to another resident where the resident performing the gestures, actions, behaviour or remarks understands and appreciates their consequences**;

"Physical Abuse" means:

(c) the use of physical force by a resident that causes **physical injury** to another resident;

"Verbal Abuse" means:

(b) any form of verbal communication of a threatening or intimidating nature made by a resident **that leads another resident to fear for his or her safety where the resident making the communication understands and appreciates its consequences**.

Under section 24 of the LTCHA, licensees are NOT required to report an assault on a staff member by a resident. There may be requirements to report these incidents to the Ministry of Labour

Reporting Critical Incidents

This reporting is outlined under section 107 of the Regulation.

Reg., s.107 (1) - report of critical incident immediately

The following critical incidents must be reported to the Director **immediately**, in as much detail as possible, followed by the written report referred to in s. 107 (4) – see Appendix B:

- An emergency, including loss of essential services, fire, unplanned evacuation, intake of evacuees or flooding.
- An unexpected or sudden death, including a death resulting from an accident or suicide.
- A resident who is missing for three hours or more.
- Any missing resident who returns to the home with an injury or any adverse change in condition regardless of the length of time the resident was missing.
- An outbreak of a reportable disease or communicable disease as defined in the *Health Protection and Promotion Act*.
- Contamination of the drinking water supply.

Reg., s. 107(2)

After normal business hours, the immediate report of the above incidents must be made using the Ministry's after hours emergency contact (i.e. pager).

Reg., s. 107(3) - report of critical incident within one business day

The following critical incidents must be reported to the Director within **one business day**, followed by the written report referred to in s. 107 (4) – see Appendix B:

- A resident who is missing for less than three hours and who returns to the home with no injury or adverse change in condition.
- An environmental hazard, including a breakdown or failure of the security system or a breakdown of major equipment or a system in the home that affects the provision of care or the safety, security or well-being of residents for a period greater than six hours.
- A missing or unaccounted for controlled substance.
- An injury in respect of which a person is taken to hospital.
- A medication incident or adverse drug reaction in respect of which a resident is taken to hospital.

The report under s. 107 (4) must be made within 10 days of the licensee becoming aware of the incident or at an earlier date if required by the Director. Table 2 in Appendix B, attached, highlights the actions to be taken by licensees or others in reporting critical incidents under both s. 107 (1) and (3).

Tables 1 and 2 summarize the reporting requirements for critical incidents, mandatory reporting under section 24 and reports of the licensee's investigations of abuse/neglect and actions taken under section 23

If you have further questions related to this memorandum, please contact your Service Area Office.
Thank you for your attention to this matter.

Sincerely,



Tim Burns, Director
Performance Improvement and Compliance Branch

- c: Ken Deane, ADM, Health System Accountability & Performance Division, MOHLTC
Donna Rubin, CEO, OANHSS
Christine Bisanz, CEO, OLTCA
Gary Switzer, CEO, Erie St Clair LHIN
Micheal Barrett, CEO, South West LHIN
Sandra Hanmer, CEO, Waterloo Wellington LHIN
Mimi Lowi-Young, CEO, Central West LHIN
Bill MacLeod, CEO, Mississauga Halton LHIN
Bonnie Ewart, Interim CEO, Toronto Central LHIN
Kim Baker, CEO Central LHIN
Deborah Hammons, CEO, Central East LHIN
Paul Huras, CEO, South East LHIN
Dr. Robert Cushman, CEO, Champlain LHIN
Bernie Blais, CEO, North Simcoe LHIN
Louise Paquette, CEO, North East LHIN
Laura Kokocinski, CEO, North West LHIN
Pat Mandy, CEO, Hamilton, Niagara, Haldimand, Brant LHIN
Kathryn McCulloch, (A) Director, LLB, MOHLTC
Cathy Crane, Manager, MOHLTC
Ann-Marie Case, Manager, MOHLTC
Mary Diamond, Manager, MOHLTC
Carole Comeau, Manager, MOHLTC
Linda Toner, Manager, MOHLTC

Appendix A: TABLE 1: LTCHA Section 24 (1) - Reporting Certain Matters to the Director

Type of Incident in LTC home	Section of the LTCHA	Action to be taken by LTC		Reporting Time Frame
		Monday - Friday 8 a.m. - 5 p.m.	Home to notify MOHLTC All other times and Statutory holidays	
Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident	LTCHA S. 24(1) 1.	Immediately initiate the on-line Mandatory Critical Incident System (MCIS) form using the mandatory report section	Phone the After Hours Pager #	Immediately upon becoming aware of the incident
Abuse of a resident by anyone or neglect of a resident by the licensee or staff that resulted in harm or a risk of harm to the resident*	LTCHA S. 24(1) 2.	Immediately initiate the on-line MCIS form using the mandatory report section	Phone the After Hours Pager #	Immediately upon becoming aware of the incident
Unlawful conduct that resulted in harm or a risk of harm to a resident	LTCHA S. 24(1) 3.	Immediately initiate the on-line MCIS form using the mandatory report section	Phone the After Hours Pager #	Immediately upon becoming aware of the incident
Misuse or misappropriation of a resident's money	LTCHA S. 24(1) 4.	Immediately initiate the on-line MCIS form using the mandatory report section	No after-hours reporting requirement	Immediately upon becoming aware of the incident
Misuse or misappropriation of funding provided to a licensee under the LTCHA or the Local Health System Integration Act, 2006.	LTCHA S. 24(1) 5.	Immediately initiate the on-line MCIS form using the mandatory report section	No after-hours reporting requirement	Immediately upon becoming aware of the incident

- **Please ensure that the staff person reporting abuse of a resident has reviewed the definitions of abuse set out in the LTCHA, section 2(1) and the Regulation, section 2*
- *Any person who is aware of an incident that must be reported to the Director under S. 24(1) of the LTCHA, 2007 and who does not have access to the home's critical incident reporting system should report using the toll-free Action Line # at 1-866-434-0144.*

Appendix B: TABLE 2: Critical Incident Reporting under O. Reg. 79/10 s. 107 (1) and (3)

Type of incident in LTC home	Section of O. Reg. 79/10	Action to be taken by LTC Home to notify MOHLTC		Reporting Time Frame
		Monday - Friday 8 a.m. - 5 p.m.	All other times and Statutory holidays	
An emergency, including loss of essential services, fire, unplanned evacuation, intake of evacuees or flooding	S. 107 (1)1.	Immediately initiate the on-line Mandatory Critical Incident System (MCIS) form	Phone the After Hours Pager #	Immediately upon becoming aware of the incident; full report within 10 days of becoming aware of the incident*
An unexpected or sudden death, including a death resulting from an accident or suicide.	S. 107 (1) 2	Immediately initiate the on-line MCIS form	Phone the After Hours Pager #	Immediately upon becoming aware of the incident; full report within 10 days of becoming aware of the incident
A resident who is missing for three hours or more.	S. 107 (1) 3.	Immediately initiate the on-line MCIS form	Phone the After Hours Pager #	Immediately upon becoming aware of the incident; full report within 10 days of becoming aware of the incident
Any missing resident who returns to the home with an injury or any adverse change in condition regardless of the length of time the resident was missing.	S. 107 (1) 4.	Immediately initiate the on-line MCIS form	Phone the After Hours Pager #	Immediately upon becoming aware of the incident; full report within 10 days of becoming aware of the incident
An outbreak of a reportable disease or communicable disease as defined in the Health Protection and Promotion Act.	S. 107 (1) 5.	Immediately initiate the on-line MCIS form	Phone the After Hours Pager #	Immediately upon becoming aware of the incident; full report within 10 days of becoming aware of the incident

Type of Incident in LTC home	Section of O. Reg. 79/10	Action to be taken by LTC Home to notify MOHLTC		Reporting Time Frame
		Monday - Friday 8 a.m. - 5 p.m.	All other times and Statutory holidays	
Contamination of the drinking water supply.	S. 107 (1) 6.	Immediately initiate the on-line MCIS form	Phone the After Hours Pager #	Immediately upon becoming aware of the incident; full report within 10 days of becoming aware of the incident
A resident who is missing for less than three hours and who returns to the home with no injury or adverse change in condition.	S. 107 (3) 1.	Initiate the on-line MCIS form	No after-hours reporting requirement	Within one business day of becoming aware of the incident; full report within 10 days of becoming aware of the incident
An environmental hazard, including a breakdown or failure of the security system or a breakdown of major equipment or a system in the home that affects the provision of care or the safety, security or well-being of residents for a period greater than six hours.	S. 107 (3) 2	Initiate the on-line MCIS form	No after-hours reporting requirement	Within one business day of becoming aware of the incident; full report within 10 days of becoming aware of the incident
A missing or unaccounted for controlled substance.	S. 107 (3) 3	Initiate the on-line MCIS form	No after-hours reporting requirement	Within one business day of becoming aware of the incident; full report within 10 days of becoming aware of the incident
An injury in respect of which a person is taken to hospital.	S. 107 (3) 4	Initiate the on-line MCIS form	No after-hours reporting requirement	Within one business day of becoming aware of the incident; full report within 10 days of becoming aware of the incident
A medication incident or adverse	S. 107 (3) 5	Initiate the on-line MCIS form	No after-hours	Within one business day of becoming aware of the incident

Type of Incident in LTC home	Section of O. Reg. 79/10	Action to be taken by LTC Home to notify MOHLTC		Reporting Time Frame
		Monday - Friday 8 a.m. - 5 p.m. form	All other times and Statutory holidays reporting requirement	
drug reaction in respect of which a resident is taken to hospital.				becoming aware of the incident; full report within 10 days of becoming aware of the incident

Please note that the Mandatory Critical Incident System form can also be used to report the results of the investigation undertaken by the licensee under Section 23 (1) of the Act with respect to an alleged, suspected or witnessed incident of abuse of a resident by anyone and neglect of a resident by the licensee or staff.
 * The full report under s. 107 (4) must be made within 10 days of the licensee becoming aware of the incident or at an earlier date if required by the Director.

APPENDIX F: JUNE 13, 2012 MEMO FROM THE DIRECTOR AND DECISION TREES (6) REGARDING ABUSE AND NEGLECT

Ministry of Health
and Long-Term Care

Health System Accountability and
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Performance Improvement and
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Télécopieur : (416) 327-7603



DATE: June 13, 2012

MEMORANDUM TO: Licensees, Long-Term Care (LTC) Homes

COPY TO: Administrators, LTC Homes
Directors of Nursing and Personal Care, LTC Homes

FROM: Karen Slater
Director (A)
Performance Improvement and Compliance Branch

RE: **Information Package: Licensee Reporting of Resident Abuse**

I am pleased to provide you with the attached information package to support licensee decision-making regarding the reporting of abuse and neglect as defined in the LTCHA, 2007 and O.Reg. 79/10.

The information package contains the following documents:

- 6 Decision Trees for Licensee reporting:
 - Licensee Reporting of Emotional Abuse
 - Licensee Reporting of Financial Abuse
 - Licensee Reporting of Neglect
 - Licensee Reporting of Physical Abuse
 - Licensee Reporting of Sexual Abuse
 - Licensee Reporting of Verbal Abuse
- Legislative references chart
- Copies of documents referenced in the decision trees:
 - Director's memo of August 2010 (CIS and Mandatory Reporting)
 - Director's memo of March 29, 2012 (Timeframe of Final Report)

The purpose of the Decision Trees:

- Provide a visual aid to support licensees and inspectors in decision-making about licensee reporting of alleged, suspected, or witnessed abuse or neglect.
- Educate and guide licensees and sector staff to appropriately report as required in legislation.
- Educate and guide PICB inspectors.

.../2

- 2 -

Please note the following fundamental concepts which apply to the decision trees:


- The decision trees do not replace the need to understand and reference the legislation.
- "Harm" or "risk of harm" is implicit (a "given") in situations of alleged, witnessed or suspected abuse or neglect.
- Definitive answers (i.e. a definite "yes" or "no") to the questions on the decision trees are not necessarily required in order to move to the next question or to determine "reasonable grounds" to give rise to the reporting requirement.

You are not required to post the materials; however, if you do post them to assist your staff, please ensure that the after-hours pager number is not posted in public areas – the pager contact is for the use of the licensee only.

The information package and an accompanying slide deck will also be the topic of a provincial webinar to be presented on three separate occasions:

July 12th – 9:00 a.m. to 10:30 a.m.
July 23rd – 1:00 p.m. to 2:30 p.m.
July 26th – 9:00 a.m. to 10:30 a.m.

The materials will also be posted electronically on www.ltchomes.net to coincide with the educational webinars.



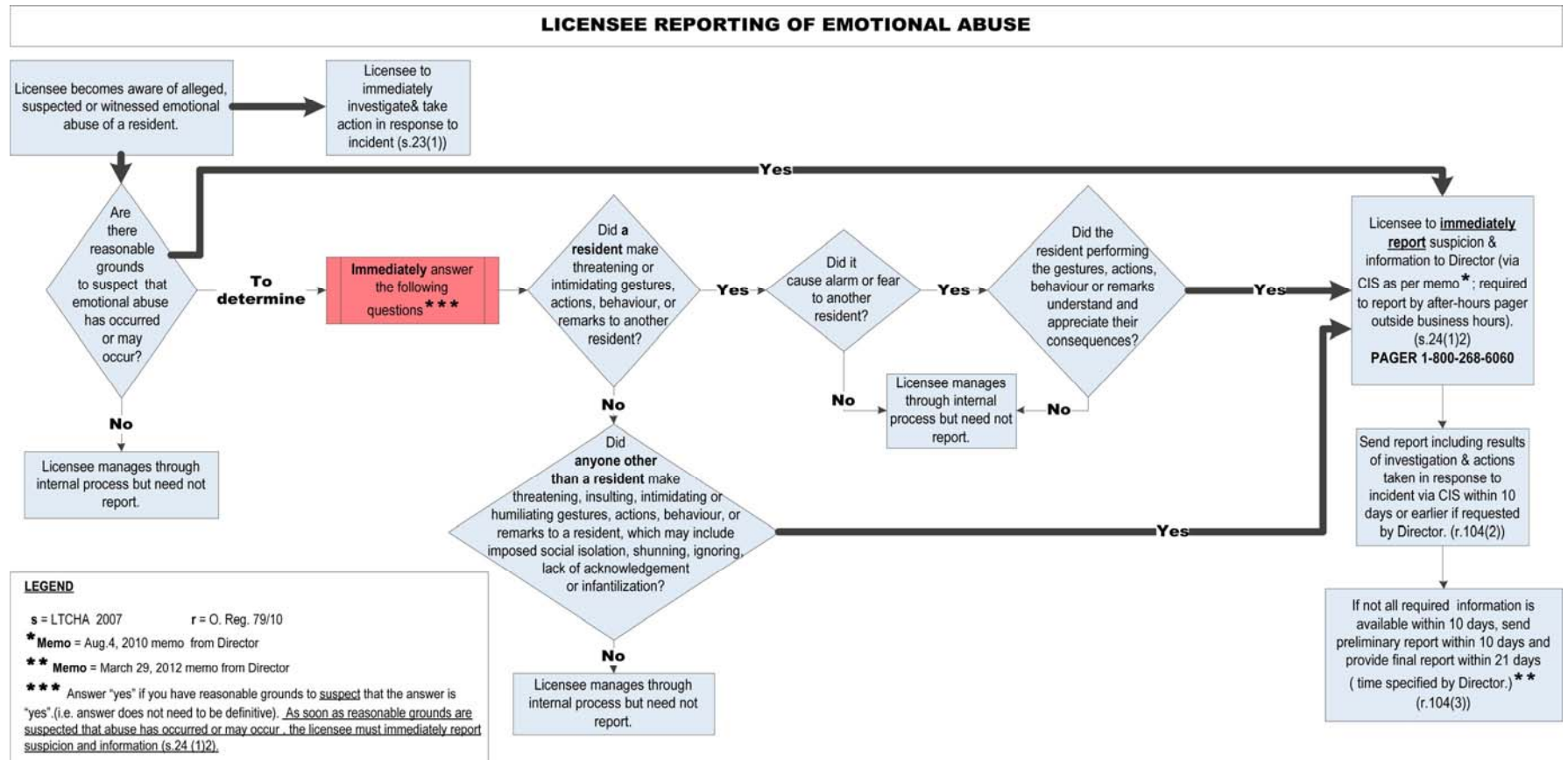
Karen Slater

c: Rachel Kampus, Acting Assistant Deputy Minister
Mary Nestor, Senior Manager
SAO Managers
Kathryn Pilkington, OANHSS
Nancy Cooper, OLTCA
Jane Meadus, Advocacy Centre for the Elderly
Sergeant Robin Sanders, OPP
Sergeant John Keating, Durham Regional Police
Tammy Rankin, Regional Municipality of Durham

ABUSE DECISION TREES : LEGISLATIVE REFERENCES

LTCHA Section 23	Licensee must investigate, respond and act; Reports of investigation; Manner of reporting
LTCHA Section 24	Reporting certain matters to Director
O. Reg. 79/10 Section 2	"Abuse" –definition
O. Reg. 79/10 Section 5	"Neglect" -definition
O. Reg. 79/10 Section 103	Complaints – reporting certain matters to the Director
O. Reg. 79/10 Section 104	Licensees who report investigations under s.23(2) of the Act
O. Reg. 79/10 Section 105	Non-application re certain staff
Criminal Code (Department of Justice)	http://laws-lois.justice.gc.ca/eng/acts/C-46/
LTCHA 2007 (e-laws)	http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_07108_e.htm
LTCHA 2007 Regulations (e-laws)	http://www.e-laws.gov.on.ca/html/source/regs/english/2011/elaws_src_regs_r11363_e.htm

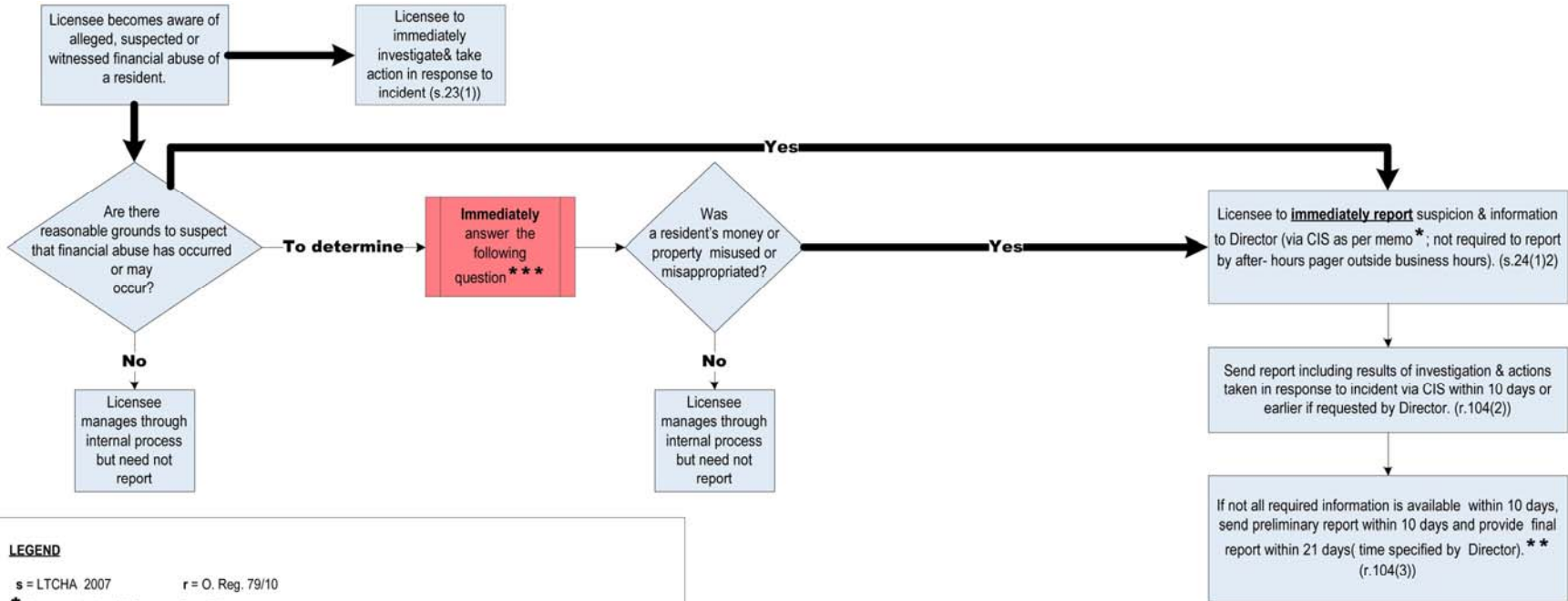




This decision tree is intended as a guide and does not constitute legal advice. Please refer to LTCHA 2007 and O. Reg 79/10 for the complete requirements.



LICENSEE REPORTING OF FINANCIAL ABUSE



LEGEND

s = LTCHA 2007 r = O. Reg. 79/10

* Memo = Aug.4, 2010 memo from Director

** Memo = March 29, 2012 memo from Director

*** Answer "yes" if you have reasonable grounds to suspect that the answer is "yes".(i.e. answer does not need to be definitive). As soon as reasonable grounds are suspected that abuse has occurred or may occur, the licensee must immediately report suspicion and information (s.24 (1)2).

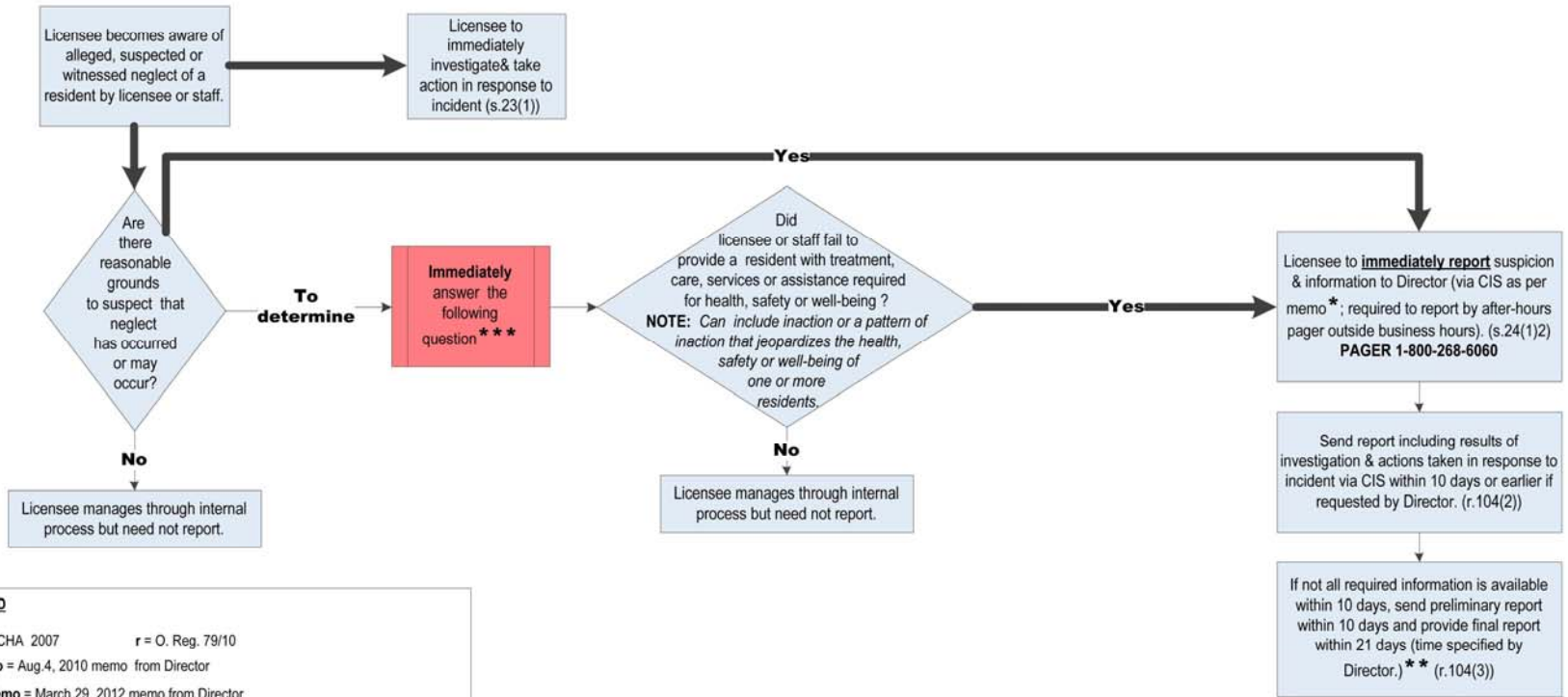


This decision tree is intended as a guide and does not constitute legal advice. Please refer to LTCHA 2007 and O. Reg 79/10 for the complete requirements.

May 2012

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LICENSEE REPORTING OF NEGLECT



LEGEND

s = LTCHA 2007 r = O. Reg. 79/10

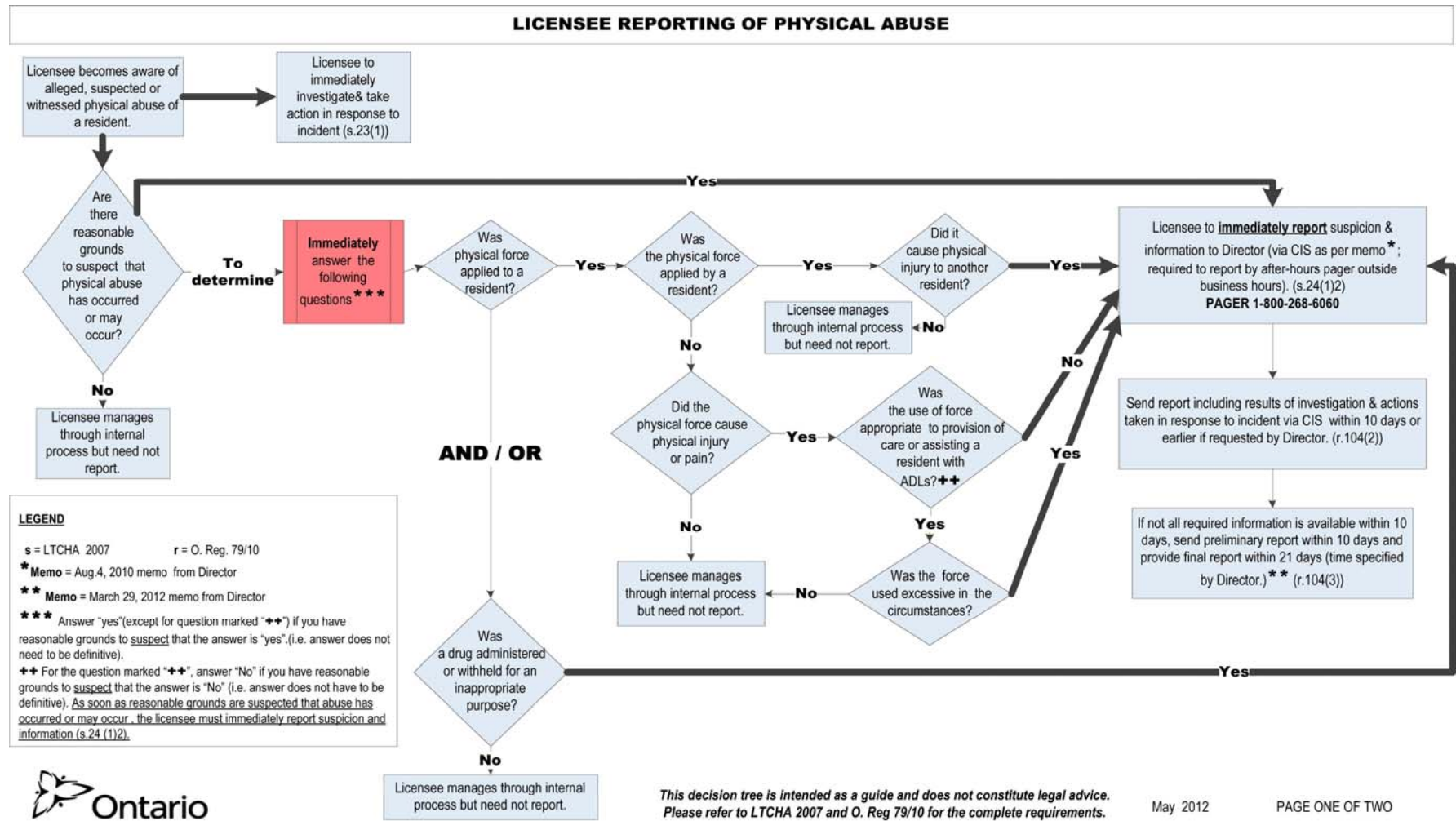
* Memo = Aug.4, 2010 memo from Director

** Memo = March 29, 2012 memo from Director

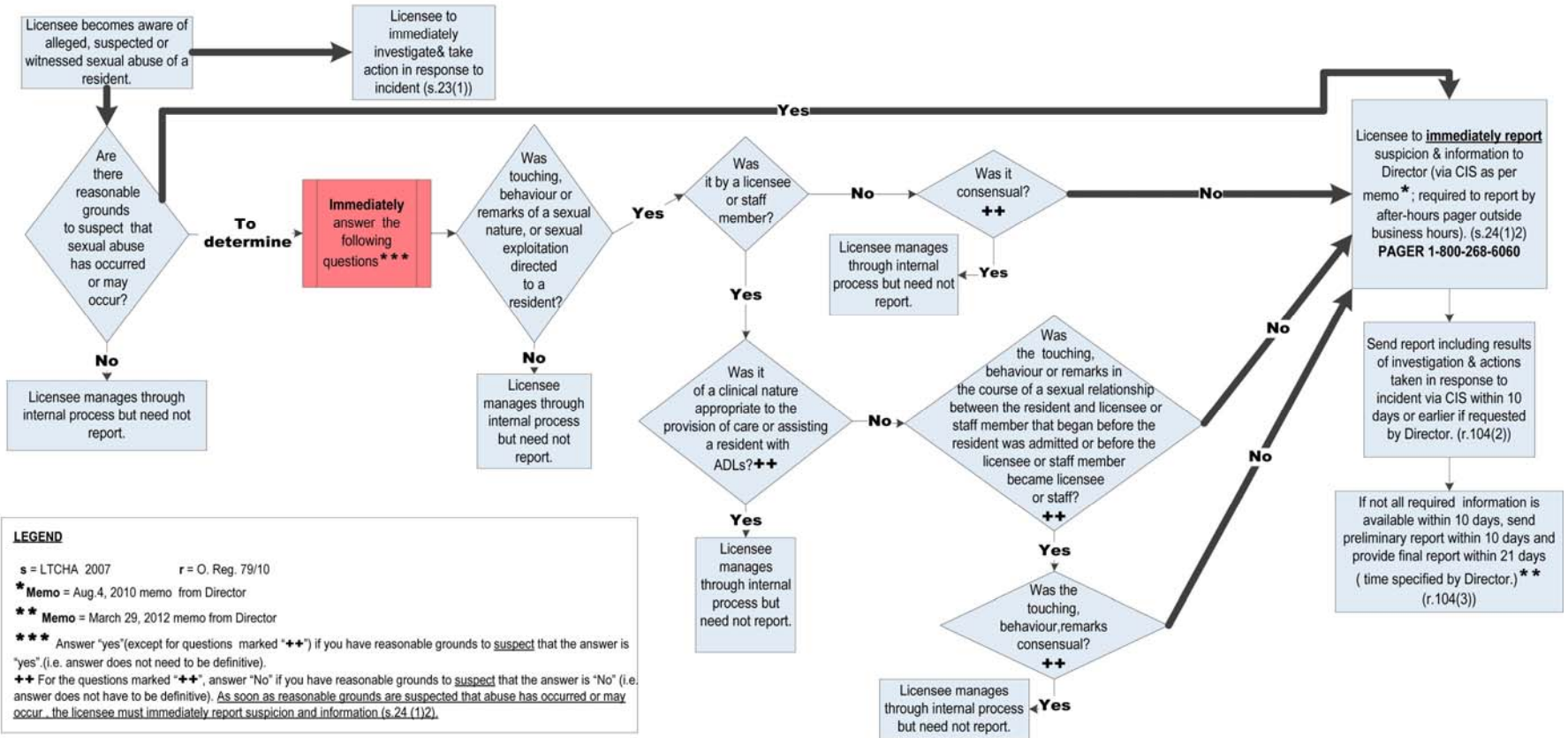
*** Answer "yes" if you have reasonable grounds to suspect that the answer is "yes", (i.e. answer does not need to be definitive). As soon as reasonable grounds are suspected that neglect has occurred or may occur, the licensee must immediately report suspicion and information (s.24(1)2).



This decision tree is intended as a guide and does not constitute legal advice. Please refer to LTCHA 2007 and O. Reg 79/10 for the complete requirements.



LICENSEE REPORTING OF SEXUAL ABUSE



LEGEND

s = LTCHA 2007 r = O. Reg. 79/10

* Memo = Aug.4, 2010 memo from Director

** Memo = March 29, 2012 memo from Director

*** Answer "yes" (except for questions marked "++") if you have reasonable grounds to suspect that the answer is "yes". (i.e. answer does not need to be definitive).

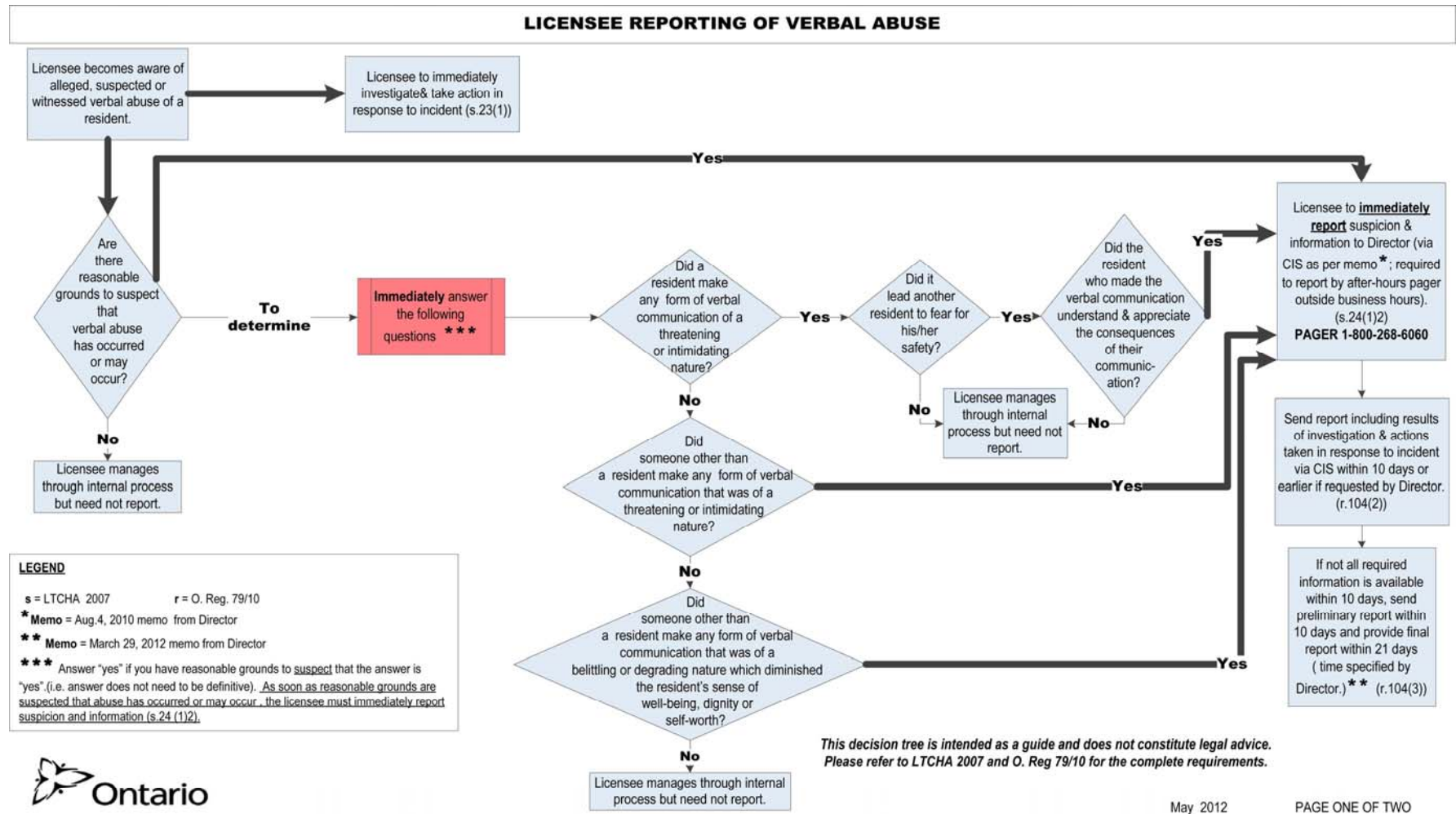
++ For the questions marked "++", answer "No" if you have reasonable grounds to suspect that the answer is "No" (i.e. answer does not have to be definitive). As soon as reasonable grounds are suspected that abuse has occurred or may occur, the licensee must immediately report suspicion and information (s.24 (1)2).

This decision tree is intended as a guide and does not constitute legal advice. Please refer to LTCHA 2007 and O. Reg 79/10 for the complete requirements.

May 2012

PAGE ONE OF TWO





OANHSS LTCHA Implementation Member Support Project
 Zero Tolerance of Abuse and Neglect: Policy and Procedures Package

O.Reg.79/10,s.98 Every licensee of a long term care home shall ensure that the appropriate police force is immediately notified of any alleged, suspected or witnessed incident of abuse or neglect of a resident that the licensee suspects may constitute a criminal offence.					
LTCHA 2007					
Financial Abuse	Physical Abuse	Sexual Abuse	Emotional Abuse	Verbal Abuse	Neglect
Criminal Code Offences that May Apply					
Theft (Sec.322 C.C.) Theft by holding Power of Attorney (Sec.331 C.C.) Stopping Mail with Intent (Sec.345 C.C.) Extortion (Sec.346 C.C.) Forgery (Sec. 365 C.C.) Fraud (Sec. 380 C.C.)	Assault (Sec.265 C.C.) Assault with a Weapon or causing bodily harm (Sec.267 C.C.) Aggravated Assault (Sec.268 C.C.) Forcible Confinement (Sec.279 C.C.) Murder (Sec.229 C.C.) Manslaughter (Sec.234 C.C.)	Sexual Assault (Sec.271 C.C.) Sexual Assault with a weapon, threats to a third party or causing bodily harm (Sec.272 C.C.) Aggravated Sexual Assault (Sec.273 C.C.)	Intimidation (Sec.423 C.C.) Uttering Threats (Sec.264.1 C.C.) Harassing Telephone Calls (Sec.372.3 C.C.)	Intimidation (Sec.423 C.C.) Uttering Threats (Sec.264.1 C.C.) Harassing Telephone Calls (Sec.372.3 C.C.)	Criminal negligence causing bodily harm or death (Sec.220 -21 C.C.) Breach of Duty to provide necessities (Sec.215 C.C.)

Information used with permission of Regional Municipality of Durham and Durham Regional Police Service.
 The chart is intended as a guide and does not constitute legal advice.
 Please refer to LTCHA 2007, O.Reg.79/10, and Criminal Code for the complete requirements.

APPENDIX G: MARCH 29, 2012 CLARIFICATION MEMO FROM THE MOHLTC DIRECTOR REGARDING TIMELINES FOR REPORTING ABUSE AND NEGLECT

**Ministry of Health
and Long-Term Care**

**Health System Accountability and
Performance Division
Performance Improvement and
Compliance Branch**

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**Ministère de la Santé
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**Division de la responsabilisation et de la
performance du système de santé
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DATE: March 28, 2012

MEMORANDUM TO: Licensees, Long-Term Care (LTC) Homes

COPY TO: Administrators, LTC Homes
Directors of Nursing and Personal Care, LTC Homes

FROM: Karen Slater
Director (A)
Performance Improvement and Compliance Branch

RE: **Reporting Investigations Under LTCHA S. 23(2) and
Timeframe of Final Report Under O. Reg. 79/10 S.104 (3)**

The *Long-Term Care Homes Act, 2007* (LTCHA) section 23 requires the licensee to investigate and take appropriate action relating to every alleged, suspected or witnessed incident of abuse or neglect of a resident that is known by or reported to the licensee / the staff of LTC Home. The results of the investigation and the action taken must be reported to the Director.

Any person who has reasonable grounds to believe that a resident has been abused or neglected must immediately report this suspicion to the Director under section 24 of the LTCHA.

Section 104 of the Regulation sets out the information that must be included in the report to the Director. The licensee must provide this report within 10 days of becoming aware of the alleged, suspected or witnessed incident, or earlier if required by the Director. If the Home cannot provide a report within 10 days that includes all of the types of information, it must send in a preliminary report within 10 days and provide a final report within the time specified by the Director.

The purpose of this memorandum is to clarify that the time specified by the Director, referenced in section 104(3) of the Regulation is twenty-one (21) days, unless otherwise specified by the Director.

As a reminder, the licensee should use the Critical Incident System form to provide any preliminary reports and the final report.


Karen Slater

APPENDIX H: ADDITIONAL RESOURCES AND EDUCATIONAL MATERIALS ON PREVENTION OF ABUSE

College of Nurses of Ontario:

Abuse Prevention Program: [One is One Too Many](#)

Ontario Network for the Prevention of Elder Abuse

[Training Tools](#)

posted on the Ontario Network for the Prevention of Elder Abuse website

Ontario Seniors Secretariat

[Prevention of Elder Abuse and Neglect – Policy and Program Lens](#)

published by the Ontario Seniors Secretariat

Registered Nurses' Association of Ontario:

[Promoting the Awareness of Elder Abuse in Long-Term Care](#)

Amanda Waring Film, What Do You See?

<http://www.amandawaring.com/films/what-do-you-see>

Ontario Provincial Police

Mandatory Training Video regarding Long-Term Care – TBC

APPENDIX I : OPTIONAL SAMPLE DOCUMENTATION TOOL FOR INTERNAL REPORTING OF AN ALLEDGED, SUSPECTED OR WITNESSED ABUSE OR NEGLECT OF A RESIDENT/CLIENT

Information	
Resident Name (against whom the alleged, suspected or witnessed abusive action or neglect was committed)	
Date of incident (YYYY/MM/DD)	Time of incident (HH/MM)
Name of the person who is alleged, suspected or witnessed to have committed the abusive action or neglect of a resident	

Witness Information (any residents, staff or other individuals who may have knowledge of the incident)
Name
Name
Name

Incident Information	
Location of Incident	
<input type="checkbox"/> Resident Bathroom <input type="checkbox"/> Dining Room <input type="checkbox"/> Hall <input type="checkbox"/> Bedroom	<input type="checkbox"/> Lounge <input type="checkbox"/> Outdoors <input type="checkbox"/> Administrative (ie. Financial) <input type="checkbox"/> Other
Type of Alleged, Suspected or Witnessed Abusive Action or Neglect (Check All those that apply)	
<input type="checkbox"/> Emotional <input type="checkbox"/> Financial <input type="checkbox"/> Physical	<input type="checkbox"/> Sexual <input type="checkbox"/> Verbal <input type="checkbox"/> Staff Failure to provide

Description of the Incident (including the events leading up to the incident)

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Staff Information (staff members who responded or are responding to this incident)

Name and Title
Name and Title
Name and Title

Physician or Registered Nurse (extended class) Information

Please provide Physician or Registered Nurse (extended class) information	Physician / Registered Nurse (extended class) Notified	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Name of Physician / RNEC
	Date Notified (YYYY/MM/DD)			Time Notified (HH/MM)

Supervisor / Management Information

Please provide Supervisor/ Registered Nurse or other management staff information	Notified	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Name of Supervisor/ Nurse / Manager
	Date Notified (YYYY/MM/DD)			Time Notified (HH/MM)

Authorities Information (ie. police)

Name and Title
Name and Title

SDM or person named by the resident Contact Information

Please provide information on the Resident, SDM, or person named by the resident	Name and relationship	Notified:	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	Date Notified (YYYY/MM/DD)	Time Notified (HH/MM)		

Immediate Actions Taken (What care was given or action taken as a result of the incident, and by whom)

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Completed By

Name and Title	Signature	Date (YYYY/MM/DD)

Submitted To/Received By

(May be received by: insert title(s)/roles to receive this report)

Name and Title	Signature	Date (YYYY/MM/DD)