

**Ministry for Seniors
and Accessibility**

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April 7, 2021

Christopher Tyrell
Clerk of the Committee
Standing Committee on Public Accounts
Procedural Services Branch
Legislative Assembly of Ontario
1405-99 Wellesley Street West
Toronto, Ontario M7A 1A2

Re: Value-for-Money Audit: Retirement Homes Regulatory Authority Status Report

Dear Mr. Tyrell,

Thank you for the invitation to meet with the Standing Committee on Public Accounts on April 21, 2021 to provide a response to the Auditor General of Ontario's December 7, 2020 value-for-money audit report on the Retirement Homes Regulatory Authority (RHRA).

Please find enclosed the Ministry for Seniors and Accessibility (Ministry) Status Report on audit recommendations including detailed progress on work underway. The audit includes a total of 26 recommendations and 63 actions items. Of these, 5 recommendations and 9 action items were directed to the Ministry for which we have provided detailed information in the attached.

I look forward to having the opportunity to answer questions from the Committee Members and discussing next steps.

Sincerely,



Denise Allyson Cole
Deputy Minister

- c. Taras Natyshak, MPP, Chair of the Committee
Bonnie Lysyk, Auditor General

Attachment: Value-for-Money Status Report

**Summary Status Table in Response to the
Report of the Auditor General of Ontario**
Retirement Homes Regulatory Authority
Section 4, 2020-21 Annual Report of the Auditor General
Ministry for Seniors and Accessibility

BACKGROUND/CONTEXT

The Auditor General of Ontario's Value for Money Audit: Retirement Homes Regulatory Authority was released on December 7, 2020 with recommendations to protect retirement home residents during COVID-19 and beyond.

The Ministry for Seniors and Accessibility (MSAA) is committed to improving the lives of seniors and providing the supports and resources to help them live independently, ensuring their safety and security, connecting them to the community and helping them achieve greater financial security and social connections. The Ministry recognizes the importance of the Retirement Homes Regulatory Authority (RHRA) in fulfilling its responsibilities as set out in the *Retirement Homes Act, 2010* in a manner that protects, enhances and improves resident safety and rights. The Ministry will work closely and collaborate with the RHRA and monitor the ongoing implementation of the Auditor General recommendations.

Over the past year, and in the several months since the release of the audit report, MSAA and the RHRA have invested significant effort and resources to respond to, prevent, and contain the spread of infection in retirement homes. These efforts have included progress on many of the action items noted in the audit report, in addition to other urgent COVID-19 initiatives beyond the audit's recommendations including:

- providing retirement homes with \$60.9 M in funding for increased infection prevention and control measures
- the amendment of the *Retirement Homes Act, 2010* regulation to require every retirement home's infection prevention and control program to follow guidance and recommendations given to retirement homes by the Chief Medical Officer of Health (CMOH). In addition, retirement homes need to take all reasonable steps to follow COVID-19-CMOH directives and guidance issued to the long-term care sector.
- the enactment of an emergency order to provide retirement homes with more flexibility to recruit and reassign staff to address the impacts of COVID-19 and to focus more resources toward implementing the protocols and procedures put in place to keep residents safe
- the enactment of an emergency order to protect retirement home residents and staff by restricting retirement home employees from working in more than one retirement home, long-term care home or health care setting
- the enactment of an emergency order to expand the authority of the RHRA to issue a management order to a retirement home in need and assign a manager chosen by the RHRA to oversee operations of the home including infection prevention and control (IPAC) and staffing
- the enactment of an emergency order to expand the authority of the RHRA to issue a compliance order for the purpose of preventing, responding to or alleviating the effects of COVID-19 where there is a risk of harm to residents
- providing temporary pandemic payments for staff in retirement homes

**Summary Status Table in Response to the
Report of the Auditor General of Ontario**
Retirement Homes Regulatory Authority
Section 4, 2020-21 Annual Report of the Auditor General
Ministry for Seniors and Accessibility

- providing access to government supply of personal protective equipment (PPE) to retirement homes that are unable to access PPE from private suppliers
- identifying retirement home frontline staff, residents and essential caregivers among the priority populations for the first phase of Ontario's three phase Vaccine Distribution Implementation Plan

MSAA has initiated a review of the regulatory framework for the retirement home sector, with the goal of identifying opportunities to strengthen the existing retirement homes regulatory regime. The review will also examine the role of the retirement homes sector within the continuum of care for seniors in Ontario, emerging housing models for older adults and the intersection with long-term care. The review will also provide an opportunity to respond to the challenges highlighted by the COVID-19 pandemic, and the recommendations made by the Auditor General. The result of the review could include amendments to the *Retirement Homes Act, 2010* and regulation, as well as complex, system-wide recommendations that lead to better system alignment and broader sector transformation.

The audit includes a total of 26 recommendations and 63 actions items. Of these, 5 recommendations and 9 action items were directed to the Ministry and 21 recommendations and 54 action items were directed to the RHRA. In the formal response to the Auditor General:

- MSAA committed to implementing 3 action items in year one of the audit release (by December 2021) and 6 action items in year two (by December 2022), and
- the RHRA committed to implementing 29 action items in year one of the audit release (by December 2021); 20 action items in year two (by December 2022); and 5 action items in year three (by December 2023).

**Summary Status Table in Response to the
Report of the Auditor General of Ontario**
Retirement Homes Regulatory Authority
Section 4, 2020-21 Annual Report of the Auditor General
Ministry for Seniors and Accessibility

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4.1 Oversight Gap Leaves Vulnerable Residents More at Risk in Retirement Homes		
<u>Recommendation 1:</u> To eliminate the inspection and complaint handling gap and to protect residents in retirement home beds that are exempted from the Retirement Homes Regulatory Authority's oversight under the <i>Retirement Homes Act, 2010</i>, some of whom are designated as alternate level of care, from harm and neglect, regardless of who is funding the beds, we recommend that the Retirement Homes Regulatory Authority and the Ministry for Seniors and Accessibility, in conjunction with the Ministry of Health, the Local Health Integration Networks, and other ministries, governments and parties that fund these spaces in retirement homes: 1.1 clarify the responsibility of inspection and complaint handling of spaces occupied by patients designated as alternate level of care	The Ministry has indicated that it supports this recommendation and agrees with the importance of ensuring that there are appropriate protections for all residents in retirement homes, including those in subsidized suites, not currently regulated by the <i>Retirement Homes Act, 2010</i>. The Ministry has indicated that it will work with the Retirement Homes Regulatory Authority, the Ministry of Health, Ontario Health, and other partners to clarify responsibility for inspections and complaint-handling for these subsidized beds, address gaps in inspections and resident complaint-handling, and communicate oversight responsibility and the complaints process to these residents and their families. Action 1.1: The Ministry has established an Internal Advisory Committee with key ministry partners to discuss cross-sector issues, including how to address alternate level of care and subsidized beds in retirement homes:	<i>Lead and timelines for each action item:</i> 1.1 MSAA, year 2 1.2 RHRA, year 1 1.3 RHRA, year 2 1.4 RHRA, year 2 Action 1.1, to be completed in year 2: - MSAA will: - work with Internal Advisory Committee members to clarify responsibilities and determine recommended approach to inspection and complaint handling - consult with RHRA and key partners to assess feasibility/resourcing impacts as required - seek approval on recommended approach to clarify inspections and complaints handling in alternate level of care beds/subsidized suites - seek direction and approval to proceed with any legislative/regulatory changes as required - track the RHRA's implementation of the remaining actions under this recommendation - RHRA/key partners to implement any necessary changes

**Summary Status Table in Response to the
Report of the Auditor General of Ontario**
Retirement Homes Regulatory Authority
Section 4, 2020-21 Annual Report of the Auditor General
Ministry for Seniors and Accessibility

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and subsidized beds in retirement homes; 1.2 inspect homes with such residents as soon as possible to ensure that they are safe and are being properly cared for; 1.3 regularly inspect these homes and track and address complaints related to subsidized beds; and 1.4 clearly and effectively communicate the complaints process to residents and their families for residents in subsidized beds.	○ Terms of Reference were established identifying the committee's mandate, and roles and responsibilities of members ○ membership was established with representatives from Ministry of Health, Ministry of Long-Term Care, Ministry of Government and Consumer Services, and Ministry of Municipal Affairs and Housing ○ inaugural meeting was held November 2020, followed by ongoing engagement with Committee members ● The Ministry, in collaboration with the RHRA, is examining ways to eliminate statutory barriers to the sharing of information between agencies responsible for protecting residents (subject to a decision by government) Action 1.2 With respect to the recommendation, the Ministry has provided oversight to the RHRA as they:	Action 1.3, to be completed in year 2: ● The Ministry will work with the RHRA as they continue to address complaints involving subsidized residents with available resolutions under the Retirement Homes Act, 2010 and through referrals to appropriate agencies Action 1.4, to be completed in year 2: ● The Ministry will support the RHRA as they continue to proactively provide robust communications to residents and families regarding rights and protections, and the complaints process ● The Ministry will closely track the RHRA's implementation of Actions 1.2, 1.3 and 1.4

**Summary Status Table in Response to the
Report of the Auditor General of Ontario**
Retirement Homes Regulatory Authority
Section 4, 2020-21 Annual Report of the Auditor General
Ministry for Seniors and Accessibility

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	• resumed routine inspections (in November 2020); during COVID-19 the RHRA focused on mandatory report and compliance inspections. Routine inspections include homes which have subsidized beds. • initiated work to identify a means to confirm which homes have Alternative Level of Care beds • continued to conduct reactive inspections where allegations involving subsidized residents may impact the care and safety of residents • have taken steps to increase inspection resources to enable more inspections to be completed. Inspection focus areas and response will continue to evolve if there are changes in legislation as a result of government decision or/and recommendations from the Internal Advisory Committee are considered • Additionally, the Ministry has provided targeted funding to support increased inspection of retirement homes to ensure quality and safety of care.	

**Summary Status Table in Response to the
Report of the Auditor General of Ontario**
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Section 4, 2020-21 Annual Report of the Auditor General
Ministry for Seniors and Accessibility

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4.7 Information on Pricing of Rent, Care Services and Performance History Not Easily Available to Consumers		
<u>Recommendation 20:</u> To better inform and protect consumers when purchasing accommodation and care services from retirement homes, we recommend that the Ministry for Seniors and Accessibility: 20.1 evaluate whether the Retirement Homes Regulatory Authority (RHRA) should have oversight of retirement home care services fees and consider proposing amendments to the <i>Retirement Homes Act, 2010</i>, as appropriate; and 20.2 request the Authority to require all licensed retirement homes to make price lists (for rent and services) available—both in paper form and electronically—when asked by phone, online, through emails or in person.	The Ministry has indicated that it agrees that there is an opportunity to enhance the information available to consumers when making decisions about their care and accommodation options. The Ministry also plans to evaluate whether the RHRA should have oversight of retirement home care services fees. Retirement homes are subject to both the <i>Retirement Homes Act, 2010</i>, which governs care and safety in retirement homes, and the <i>Residential Tenancies Act, 2006</i> (RTA), which governs the landlord-tenant relationship, including rents and fees in retirement homes (referred to as “care homes” in the <i>Residential Tenancies Act, 2006</i>), including service fees. The <i>Retirement Homes Act, 2010</i> reinforces and reiterates the obligations and protections of landlords and tenants under the <i>Residential Tenancies Act, 2006</i> and notes the primacy of the <i>Residential Tenancies Act</i>. Given this regulatory framework, the Ministry has committed to work with the Ministry of Municipal Affairs and Housing, which has primary	Action 20.1, to be completed in year 2: MSAA will: • conduct research and analysis on whether regulation of care service fees is an appropriate role for the RHRA and develop recommendation • seek approval on recommendation and potential implementation Action 20.2, to be completed in year 2 MSAA will: • explore measures to better inform and protect consumers purchasing accommodation and care services from retirement homes • consult with stakeholders and the RHRA to assess feasibility/resourcing impacts • confirm recommended approach and seek policy approval to proceed with any required legislative or regulatory changes • work with the RHRA to implement changes (e.g. education and outreach to sector)

**Summary Status Table in Response to the
Report of the Auditor General of Ontario**
Retirement Homes Regulatory Authority
Section 4, 2020-21 Annual Report of the Auditor General
Ministry for Seniors and Accessibility

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	responsibility for the <i>Residential Tenancies Act, 2006</i>, to explore measures to better inform and protect consumers purchasing accommodation and care services from retirement homes. Action 20.2: MSAA has: • conducted a legislative scan, research and analysis on Canadian jurisdictions • developed initial policy options and consulted with partner ministries on preliminary proposals	
4.8 Board and Ministry Lack Sufficient Oversight of Authority's Activities		
<u>Recommendation 22:</u> To improve effective governance and the Board of Directors' oversight of the Retirement Homes Regulatory Authority's operation, we recommend that the Ministry for Seniors and Accessibility work with the Public Appointments Secretariat to propose appointees to the Board with seniors' interests in mind or request the Board	The Ministry has indicated that it recognizes that there is an opportunity to work with the Retirement Homes Regulatory Authority to broaden the list of skills and competencies to include consumer/resident/tenancy knowledge.	Recommendation 22, to be completed in year 2: MSAA will: • engage with Public Appointments Secretariat and the RHRA to discuss recommendation and approach to implementation • provide direction to the RHRA on any changes to the board appointment process

**Summary Status Table in Response to the
Report of the Auditor General of Ontario**
Retirement Homes Regulatory Authority
Section 4, 2020-21 Annual Report of the Auditor General
Ministry for Seniors and Accessibility

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Chair to consider such individuals as current directors' terms expire.		
<u>Recommendation 23:</u> To improve its ability to oversee the Retirement Homes Regulatory Authority (Authority) to confirm that it is operating in accordance with the <i>Retirement Homes Act, 2010</i> and the Memorandum of Understanding between the Authority and the Ministry for Seniors and Accessibility (Ministry), we recommend that the Ministry: 23.1 develop a schedule of reporting requirements with input from the Authority and update the memorandum of Understanding accordingly; 23.2 request the Authority establish targets for its performance indicators, and require the Authority to publish actual versus targeted performance annually; and	The Ministry has indicated that it recognizes that effective oversight processes and measures are important tools to assess whether the Retirement Homes Regulatory Authority is achieving its mandate under the <i>Retirement Homes Act, 2010</i>. The Ministry has indicated that it will continue to work closely with the Retirement Homes Regulatory Authority to review and strengthen the Memorandum of Understanding and respond to the recommendations by: • developing as part of the Memorandum of Understanding, a schedule of reporting requirements with input from the Retirement Homes Regulatory Authority that includes a formalization of current practices; • requesting the Retirement Homes Regulatory Authority establish targets for its performance indicators, and publish actual versus targeted performance each year in its annual report; and • deciding whether to require the Retirement Homes Regulatory Authority to pay a fee to cover the costs of Ministry oversight and	Action 23.1, to be completed in year 1: MSAA will: • undertake a Memorandum of Understanding refresh that includes the development of a schedule for reporting requirements • consult with MGCS on Administrative Authority modernization/performance reporting • engage with RHRA on revised Memorandum of Understanding • approve and sign revised Memorandum of Understanding Action 23.2, to be completed in year 1: MSAA will: • consult with MGCS on Administrative Authority modernization/standardized Administrative Authority performance measures • engage with RHRA on performance measures and targets • finalize approach

**Summary Status Table in Response to the
Report of the Auditor General of Ontario**
Retirement Homes Regulatory Authority
Section 4, 2020-21 Annual Report of the Auditor General
Ministry for Seniors and Accessibility

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23.3 assess the level of resources it requires to oversee the Authority and determine whether it needs to levy an oversight fee—if not, the Memorandum of Understanding should be updated to reflect this fact.	updating the Memorandum of Understanding accordingly. Action 23.1: MSAA has: engaged with the Ministry of Government and Consumer Services on its Administrative Authority Modernization initiative and its refresh of administrative agreements/ memoranda of understanding with its administrative authorities to ensure consistency in approach (ongoing).	Action 23.3, to be completed in year 1: MSAA will: - review resource requirements and seek approval of approach to oversight fees - seek approval of option - reflect decision in refreshed Memorandum of Understanding
<u>Recommendation 25:</u> To improve the co-ordination and effectiveness of overall services to seniors in Ontario in an environment where multiple ministries are involved in providing services and care to this population group, we recommend that the Ministry for Seniors and Accessibility: 25.1 seek the responsibility to serve as the lead ministry that will work with all applicable ministries that	The Ministry has indicated that it acknowledges the need for a co-ordinated seniors' housing policy framework and will work with all applicable ministries to determine how to implement the recommendation. In the 2019 Ontario Budget: Protecting What Matters Most, the government announced that "the Province will be developing a new cross-government strategy to improve the lives of seniors and provide the supports and resources to help them live independently, ensure their safety and security, connect them to the community and	Action 25.1, to be completed in year 2: MSAA will: - explore procurement of a third-party expert to provide advice on the current continuum of senior care in Ontario and obtain recommendations for change that will result in the best outcomes for seniors while providing good value for money to government. - if applicable, use findings and recommendation from the report to inform policy options for consideration - incorporate input received from the MMAH Supportive Housing Consultations and Best Brains

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Report of the Auditor General of Ontario**
Retirement Homes Regulatory Authority
Section 4, 2020-21 Annual Report of the Auditor General
Ministry for Seniors and Accessibility

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have a mandate to provide or oversee the provision of seniors' congregate living and care services to develop a coordinated seniors' housing policy framework that defines the health, independence and financial profile of seniors for whom these settings are intended, or identify another ministry that will act as the lead; and 25.2 incorporate in its seniors' strategy specific actions to undertake to achieve various goals and a timetable for these actions.	help them achieve greater financial security and social connections." This commitment was reiterated in the 2019 Fall Economic Statement. To inform the cross-government strategy, the Ministry for Seniors and Accessibility undertook extensive, province-wide consultations in the summer of 2019 and has collected feedback to inform the strategy and improve the lives of older Ontarians to: • Age at home and in communities; • Remain healthy, active and socially engaged; • Stay safe and secure; and • Participate in the labour market and economy, if they choose. The Strategy is being developed with multiple ministry partners including Ministry of Health (MOH), Ministry of Municipal Affairs and Housing (MMAH), Ministry of Long-Term Care (MLTC) who have the accountability for supportive housing, seniors housing and long-term care homes.	exchange into future policy initiatives administered by MSAA or in partnership with other Ministries. • engage MOF with respect to tax-based solutions for seniors housing and other supports necessary to age in place. • create an evidence base to inform government's seniors and congregate housing policy direction in collaboration with partners (MMAH, MOH, MCSCS). Action 25.2. to be completed in year 2: • MSAA will continue to engage partners to develop responsive solutions which provide older adults with more affordable housing options (MMAH) and supports to remain at home (MOF) as the Strategy is further developed in year 2. • More detail about these approaches will be released pending public release of the strategy (date TBD).

**Summary Status Table in Response to the
Report of the Auditor General of Ontario**
Retirement Homes Regulatory Authority
Section 4, 2020-21 Annual Report of the Auditor General
Ministry for Seniors and Accessibility

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	Action 25.1: MSAA's mandate is to be a steward across government focused on the needs of older adults, seniors, and people with disabilities. The Strategy is the foundation for the ministry's work with accountable ministries, partners, and stakeholders inform and influence policy and program decisions that impact our populations. With reference to housing, MSAA works with partners Ministries (e.g. MMAH, MOH, etc.) to support coordination of housing for seniors. For example, MSAA has recently undertaken numerous activities in partnership with relevant ministries to support the provision of seniors' congregate living and care services and the development a coordinated seniors' housing policy framework. These actions include: <u>MOH - Best Brains Exchange</u> In January 2021, MSAA along with the Canadian Institute for Health Research and MOH, held the Best Brains Exchange, an initiative that brought together researchers from across Canada and Europe to discuss governance,	

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Section 4, 2020-21 Annual Report of the Auditor General
Ministry for Seniors and Accessibility

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	innovation and improvement opportunities in the retirement home sector. • A primary focus of this event was to share information and ideas which could lead to innovative policy solutions in supportive seniors housing in both jurisdictions (Canada and Europe). • In this respect, MSAA provided and received input on: ○ Co-locating older retirement home residents ○ Impact of COVID on retirement home residents in Ontario ○ Non-traditional nursing home and housing options ○ Regulation of the Ontario retirement home sector ○ Cost-effective and sustainable virtual LTC options. <u>MMAH, MOH and MCCSS - Supportive Housing Consultations</u> • In January 2021, MMAH initiated a series of regional stakeholder and partner engagement sessions to seek feedback on improving Ontario's supportive housing system.	

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Report of the Auditor General of Ontario**
Retirement Homes Regulatory Authority
Section 4, 2020-21 Annual Report of the Auditor General
Ministry for Seniors and Accessibility

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	- On January 14, 2021, MMAH hosted a population-specific session for seniors focused on 5 Themes: Supply, Access, Efficiency, Complex Needs & COVID-19. - MSAA staff and stakeholders attended the session and provided input into the consultation, summarizing key discussion points that were heard to inform future work. - MSAA continues to collaborate with MMAH to highlight the needs of seniors with respect to market, rent geared to income, and supportive housing to ensure that their needs are considered in policy development and program implementation. Action 25.2: - As noted above, MSAA is currently developing a cross-Ministry strategy to support the needs of Seniors in Ontario (the Strategy). One of the four pillars of the Strategy is "Aging at Home and in Communities", which aims to: - Strengthen supports in homes and the community - Improve and increase affordable and supportive housing options	

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Report of the Auditor General of Ontario**
Retirement Homes Regulatory Authority
Section 4, 2020-21 Annual Report of the Auditor General
Ministry for Seniors and Accessibility

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	○ Provide caregivers with the tools and resources they need ○ Create safe, accessible, inclusive, and culturally-appropriate, social and built environments ● MSAA has launched the Inclusive Communities Grants program to create age friendly communities across Ontario in under-served populations and has updated the Age Friendly Community Guide to support municipalities and local organizations to plan, implement and evaluate inclusive communities. ○ With specific reference to seniors housing, MSAA has committed to work with partners to provide older adults with more affordable and supportive housing options (MMAH) and financial assistance to remain at home (e.g. Seniors Tax Credit - MOF)	