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**RETIREMENT HOMES REGULATORY AUTHORITY
(2020 ANNUAL REPORT, AUDITOR GENERAL)**

BACKGROUND MATERIALS*

Prepared for:

Standing Committee on Public Accounts

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- * Projects prepared by Legislative Research are designed in accordance with the requirements and instructions of the Committee making the request. The views expressed should not be regarded as those of Legislative Research or of the individual preparing the project.

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PREAMBLE

This research package has been prepared by Legislative Research with input from the Office of the Auditor General (the Auditor). It provides a brief summary and relevant documents for the Committee’s hearings on the “Retirement Homes Regulatory Authority” in the Auditor General’s *2020 Annual Report*. It is recommended that Members refer to the chapter (see Appendix item 1) when quoting the Auditor.

OVERVIEW

The Retirement Homes Regulatory Authority (Authority) was established in 2011 and oversees retirement homes under the *Retirement Homes Act, 2010* (Act). The Authority is a self-funded, not-for-profit administrative authority and is overseen by the Ministry for Seniors and Accessibility (Ministry). The Authority provides policy advice, grants licences, oversees compliance and enforcement, conducts inspections, responds to public complaints, educates retirement homes, consumers and the public about the Act, and maintains a public registry of licensed retirement homes. Prior to 2010, retirement homes were not regulated in Ontario. A history of concerns, inquests and media reports on select retirement homes prompted the introduction of the *Retirement Homes Act, 2010*.

The Act defines a retirement home as a residential complex or a part of a residential complex that includes rental units and is occupied primarily by persons aged 65 or older, occupied by or intended to be occupied by at least six people unrelated to the operator of the home, and where the home operator makes at least two care services available, whether directly or indirectly, to the residents. The definition excludes certain premises or parts of premises, such as those governed under the *Long-Term Care Homes Act, 2007* or funded under the Community Homelessness Prevention Initiative.

Retirement homes are privately owned by either for-profit (94% of all homes) or not-for-profit organizations (6%). Operators may be sole proprietors, partnerships or corporations.

As of March 2020, there were 770 licensed retirement homes in Ontario (a 2% increase from two years prior) with the potential capacity to provide care and accommodation for about 80,000 Ontarians. Of the approximately 38,000 people waiting to be placed in long-term care homes in March 2020, 26% (approximately 10,000) were waiting in licensed retirement homes.

COVID-19

The audit determined that the impact of COVID-19 on retirement homes has been significant, even though they have experienced fewer reported cases and deaths than long term-care homes. According to COVID-19 outbreak data collected by the Authority, 185 COVID-19 outbreaks were detected at 171 licensed retirement

homes, affecting 989 residents and 491 staff as of August 31, 2020. A total of 209 residents from 48 retirement homes had died as of that date. The audit noted that the incidents of infection and death in retirement homes highlight the residents' susceptibility to harm.

AUDIT OBJECTIVE AND SCOPE

The objective of the audit was to assess whether the Retirement Homes Regulatory Authority (Authority) has effective systems and procedures in place to:

- carry out its mandated activities, including licensing, responding to complaints, and engaging in inspections, enforcement and public education in accordance with the *Retirement Homes Act, 2010* and its regulation to protect retirement home residents from harm, including providing support to public health authorities with respect to infection prevention and control; and
- measure and publicly report on the effectiveness of its activities.

In addition, the audit assessed whether the Ministry for Seniors and Accessibility (Ministry) has effective systems and procedures in place to:

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

MAIN POINTS OF AUDIT

The audit concluded that the Authority does not yet have fully effective systems and procedures in place to carry out the evolving circumstances of its mandated activities to protect the security and safety of residents. These activities include licensing, complaint response, inspections, enforcement and public education in accordance with the *Retirement Homes Act, 2010* and its regulation.

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

The audit findings include:

- The care and accommodation of thousands of former hospital patients in retirement homes are not subject to Authority oversight, nor Ministry of Health inspections.

- Many retirement home residents have health profiles similar to patients in long term-care homes but such data is not routinely collected by the Authority.
- Retirement home staff and the public are often not aware that they should direct complaints to the Authority.
- The Ministry cannot properly assess whether the Authority has effectively met its mandate.

The audit found that the Authority:

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

AUDITOR GENERAL'S RECOMMENDATIONS AND POSSIBLE COMMITTEE QUESTIONS

Oversight Gap Leaves Vulnerable Residents at Risk

The audit found:

- Beds governed or funded by other ministries under statutes or programs outlined in the Act are not subject to oversight by the Authority. The audit noted that this gap in oversight means there is no regulatory oversight body regularly inspecting the care of patients in these beds.
- The Authority does not collect data on the number of patients designated as alternate level of care (ALC) who are housed in a retirement home.
- Retirement homes may also house residents who are funded by the Ministry of Health's short-term transitional-care program, which began in 2017/18. However, neither the Ministry of Health nor the Authority inspected these retirement home beds.
- LHINs and the Ministry of Health, which subsidize these beds in retirement homes, do not systematically collect complaints related to these beds because they expect any complaints to be directed to the Authority.

Auditor's Recommendation 1

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 *Retirement Homes Act, 2010*, 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:

- clarify the responsibility of inspection and complaint handling of spaces occupied by patients designated as alternate level of care and subsidized beds in retirement homes;
- inspect homes with such residents as soon as possible to ensure that they are safe and are being properly cared for;
- regularly inspect these homes and track and address complaints related to subsidized beds; and
- clearly and effectively communicate the complaints process to residents and their families for residents in subsidized beds.

Possible Committee Questions

1. Has the Ministry clarified the responsibility of inspection and complaints for patients designated as alternate level of care and subsidized beds in retirement homes?
2. Has the Authority begun regularly inspecting subsidized beds in retirement homes and addressing complaints related to them?

Needed Level of Care Rising

The audit found that an increasing number of the retirement home residents who receive government-funded home-care services have needs similar to those who live in long-term care homes. The audit found that of the 48,545 clients receiving homecare services in retirement homes in 2019/20, many have high care needs:

- 52% are classified as chronic patients who have one or more health or chronic illnesses with direct care needs that are stable and predictable, compared with 43% who live in assisted living and 34% who live in their own home.
- 21% are classified as complex patients who have one or more health or chronic illnesses with direct care needs that are unstable and unpredictable, compared with 13% who live in assisted living and 14% who live in their own home.
- 86% who accessed home-care services required ongoing care.

The audit also found:

- The number of people waiting in a licensed retirement home for long-term care homes climbed 62% (from 6,201 to 10,074) between 2016 and 2020.
- Multiple concerns have been raised about insufficient staffing levels and unsuitable resident care, for example, residents not being provided with personal hygiene services.
- Residents at retirement homes may obtain care services from providers including retirement home staff, home-care staff funded by the LHINs, and/or privately hired care workers.

Auditor's Recommendation 2

To protect residents of retirement homes who may require increasing levels of care, and in some cases to the extent of the level of care provided in long-term-care homes, we recommend that the Retirement Homes Regulatory Authority work in conjunction with Ontario Health, the Ministry of Long-Term Care and the Ministry for Seniors and Accessibility to:

- resume and accelerate its work to develop different and appropriate approaches to regulate different types of retirement homes with consideration of the evolving resident health profiles;
- examine, reassess and identify the most efficient and cost-effective way to deliver support services in retirement homes for the safety and protection of residents;
- implement an inspection process (assigning clear roles and responsibilities) as soon as possible that sufficiently addresses the increasing complexities and levels of care required for residents in retirement homes; and
- take more timely and rigorous compliance support or enforcement actions against retirement homes that do not provide adequate care services to residents.

Possible Committee Questions

3. Has the Authority finalized its work to regulate the different types of retirement homes?
4. What progress has the Ministry made to identify a more cost-effective way to deliver support services in retirement homes?
5. What steps have been taken to ensure more timely and rigorous compliance support or enforcement actions against retirement homes that fail to provide adequate care to residents?

Authority Does Not Consistently Collect Needed Retirement Home or Resident Data

The Authority told the Auditor General's Office that based on its interaction with the retirement home sector, the level of care required by residents has been changing. However, the audit stated that the Authority does not have data to measure this change and assess its impacts. Other ministries and organizations such as the Ministry of Long-Term Care, the Ministry of Health, and Ontario Health collect information on retirement home residents, but the Authority does not obtain such information.

Auditor's Recommendation 3

To allow it to make more effective, timely, data-driven decisions to strengthen the oversight of staffing and care services provided in retirement homes and support the Ministry for Seniors and Accessibility (Ministry) in developing policy on senior housing and care, we recommend that the Retirement Homes Regulatory Authority:

- work with the Ministry to obtain the necessary approvals to collect needed information as soon as possible;
- in conjunction with the Ministry, establish processes to collect data on residents and retirement homes from other relevant organizations with consideration of appropriate processes to respect the protection of personal health information; and
- commence the collection, analysis and use of this information to inform policy development in this sector.

Possible Committee Questions

6. What steps have the Authority and Ministry taken to collect data and information on residents and retirement homes?
7. What plans does the Authority have to incorporate more data-driven decisions into its work?

Inspections

The Act requires the Authority to inspect retirement homes at least once every three years for compliance with the Act and its regulation to protect residents. Inspections are supposed to focus on residents' rights, care and safety. There are four types of inspections for licensed retirement homes and one type for unlicensed homes.¹ For the last five years, the Authority received on average of 80 complaints a year.

¹ Types of inspections for licensed homes include: routine, complaint, mandatory report, and compliance. See page 15 of the audit for additional information.

Routine Home Inspections Based on Incomplete Factors

The audit stated that the Authority's risk assessment model does not consider factors outside of inspection history that could also influence the frequency of inspections; such factors include complaints, input from community partners, history of harm at a specific home where there are no violations related to the harm, provision of home care within retirement homes, or the number of residents in a retirement home waiting for long-term care. The audit explained that under the Authority's current model, retirement homes with risk factors that are not connected to a history of violations of the Act or its regulation are not required to be inspected more frequently than other homes.

Auditor's Recommendation 4

So that risks and harm to retirement home residents can be more effectively reduced through more frequent and risk prioritized inspections, we recommend that the Retirement Homes Regulatory Authority expand the factors considered, beyond just inspection history, in its risk model for selecting homes for more frequent inspection.

Possible Committee Questions

8. How has the Authority expanded the factors it considers in its risk model for selecting homes for inspection?

COVID-19 Risk Model

The Authority developed a COVID-19 risk assessment model to prevent and manage a potential public health outbreak and assess all homes' preparedness. This model was still being refined when the Auditor completed the audit in August 2020. It considers factors such as the retirement home's staffing level, supply of personal protective equipment, and information from community partners such as public health. The Authority prioritized its outreach to higher risk homes as assessed by the COVID-19 risk model and made more frequent contact with them.

Sharing Information on Infection and Prevention Control

Prior to COVID-19 the Authority did not check whether an infection prevention and control program had been created and was being followed at retirement homes unless concerns were observed while in the homes. In April 2020 the Authority introduced new inspection procedures to focus more on infection prevention and control. As of September 30, 2020, the Authority had assessed 31 retirement homes as being high risk in their ability to prepare for COVID-19. The Authority told the Auditor that it does not intend to inspect all retirement homes for infection prevention and control but will continue to inspect retirement homes based on tips it receives from the public or concerns from public health.

Auditor's Recommendation 5

To confirm that retirement homes have appropriate infection and prevention controls in place, we recommend that the Retirement Homes Regulatory Authority:

- put processes, including continuing use of its COVID-19 checklist, in place to assess whether all retirement homes have appropriate practices on infection prevention and control;
- routinely obtain data from public health officials on issues or concerns in retirement homes;
- regularly incorporate into its inspector training any lessons learned from public health inspections;
- going forward, request that retirement homes incorporate pandemic plans in their emergency plans that also address the requirement to include a personal protective equipment supply.

Possible Committee Questions

9. Has the Authority finalized the COVID-19 risk model? What factors are included in categorizing homes as high risk or low risk?
10. What type of compliance and enforcement action has the Authority taken to have all high COVID-19 risk retirement homes comply with requirements?
11. What steps has the Authority taken to ensure all retirement homes have appropriate practices in place regarding public health infection prevention and control?
12. Has the Authority established a process to obtain timely data from public health officials on public health issues in retirement homes?

Pandemic Created Inspection Backlog

In each of the years between 2017/18 and 2019/20, the Authority conducted an average of 500 routine inspections of retirement homes. As of February 2020, prior to the declaration of the pandemic, there was a backlog of only 16 proactive retirement home inspections. As of June 2020, the Authority had deferred 93 planned proactive retirement home inspections. About 95% (or 88) of these homes were assessed as low risk. Inspections of the remaining five homes, which were assessed as medium risk, have been delayed up to 14 months past their originally planned dates.

Auditor's Recommendation 6

To return to its proactive, routine inspection process focused on resident safety, care and choices about their care options, we recommend that the Retirement Homes Regulatory Authority:

- establish an appropriately prioritized action plan that includes targeted timelines to clear the backlog of proactive routine inspections, enhanced with additional infection prevention and control coverage;
- conduct the required inspections; and
- monitor its compliance with this plan.

Possible Committee Questions

13. Has the Authority established an action plan to clear the backlog of proactive routine inspections? If so, has the Authority begun to clear the backlog of proactive routine inspections?

Inspectors Assigned Varying Caseloads

The audit found that Authority inspectors had varying caseloads and the Authority did not monitor whether they were performing the expected number of inspections. It also found that, in 2019/20 (before COVID-19), almost all of the inspectors on average conducted fewer than the Authority's informal target of 10 inspections per month.

Auditor's Recommendation 7

To fully self-assess and monitor its inspection process for coverage and distribution of work, we recommend that the Retirement Homes Regulatory Authority continually monitor inspector caseloads, revisit caseload targets and reassign cases as needed.

Possible Committee Questions

14. Has the Authority developed a plan to monitor inspector caseloads or review inspector caseload targets?

Impact of COVID-19

Authority Took Over Two Retirement Homes; Revoked Licences

The Authority determined that operators of two retirement homes were not managing the homes properly or could not do so without assistance in the context of the COVID-19 pandemic; one on May 15 and the other on May 27. Both homes had numerous non-compliance issues prior to COVID-19. On May 29, 2020, the government issued an emergency order to allow the Authority to appoint a manager to a retirement home in the event of a COVID-19 outbreak.

However, the audit found that the Authority experienced significant challenges in finding qualified managers to take over the operations of these two homes amid staffing shortages in the health sector during COVID-19. Further, the effectiveness of the imposed managers was limited, as the operators were unwilling to co-operate.

Auditor's Recommendation 8

To minimize the safety, health and other impacts to residents and families of residents in retirement homes that undergo management orders, we recommend that the Retirement Homes Regulatory Authority:

- establish a back-up network of qualified management candidates that can be quickly deployed to retirement homes during times of crisis;
- establish criteria for making emergency funding available should managers deployed to a retirement home under management order require justifiable financial resources; and
- in conjunction with the Ministry for Seniors and Accessibility, ensure that residents in retirement homes are protected in a manner consistent with residents in long-term-care homes in circumstances of public health threats during and beyond the COVID-19 pandemic.

Possible Committee Questions

15. Has the Authority developed a network of qualified management candidates that could be quickly deployed to retirement homes if necessary?
16. How have the Authority and Ministry for Seniors and Accessibility worked together to ensure that residents in retirement homes are protected in a similar manner to residents in long-term care homes during public health threats?

Staffing Constraints during Pandemic

The audit found that during the COVID-19 pandemic, multiple Authority inspectors and industry representatives on the Authority's Board reported that external care providers refused to enter retirement homes for fear of infection. As a result, retirement homes lacked replacement staff for homes experiencing an outbreak. In addition, there was a directive issued by the Chief Medical Officer of Health that retirement homes be closed to visitors, except essential visitors. The Ministry of Health's definition of essential visitors denied access to family members who did not meet the definition. Between March 11 and August 31, 2020, during COVID-19 outbreaks, the Authority was notified a total of 219 times about improper or incompetent treatment or care that required an investigation or an immediate inspection of the home.

Auditor's Recommendation 9

To protect retirement home residents from the risk of neglect, we recommend that the Retirement Homes Regulatory Authority communicate and support retirement homes in ensuring that family members and friends providing critical personal care and support to retirement homes residents are able to do so during the pandemic, as long as appropriate infection prevention and control procedures are followed.

Possible Committee Questions

17. What steps has the Authority take to support retirement homes so that family members and friends providing critical personal care and support to residents are able to do so during the pandemic?

Authority Did Not Publicize the Number of COVID-19 Cases

The audit found that while the Authority daily publishes on its website a list of homes where a COVID-19 outbreak has been declared, for the first six months of the pandemic it did not make public the number of residents and staff who tested positive or died.

Auditor's Recommendation 10

To better inform the public about the extent of COVID-19 cases in retirement homes, we recommend that the Retirement Homes Regulatory Authority:

- work with the Ministry for Seniors and Accessibility and the Ministry of Health to obtain available validated data directly from the Ministry of Health or directly from local public health agencies; and
- publish outbreak data on a weekly basis or more frequently as available, by retirement home, on the number of residents and staff who test positive or die.

Possible Committee Questions

18. Has the Authority worked with the Ministry for Seniors and Accessibility and the Ministry of Health to obtain validated data about COVID-19 cases and share them publicly?

Authority Has Incomplete Data on Occupancy for COVID-19 Planning

Prior to April 2020, the Authority did not track the occupancy level of retirement homes. In May 2020, the Authority requested that retirement homes self-report their occupancy rate to help the Ministry for Seniors and Accessibility plan its strategy during the pandemic to provide for retirement home staff and resident testing. However, the audit found that 37 retirement homes reported having more residents than their reported capacity, and the Authority did not follow up.

Auditor's Recommendation 11

To identify alternative accommodations for patients should future waves of COVID-19 overwhelm long-term-care homes and hospitals, and for residents who need to be moved from retirement homes that are affected by outbreaks, we recommend that the Retirement Homes Regulatory Authority:

- work with the Ministry for Seniors and Accessibility to require retirement homes to provide monthly occupancy information (and any related requirements) to the Retirement Homes Regulatory Authority; and

- collect occupancy rates of retirement homes on a monthly basis to be used for monitoring and planning outbreak responses that may be needed during the COVID-19 pandemic.

Possible Committee Questions

19. Has the Authority worked with the Ministry for Seniors and Accessibility to require retirement homes provide monthly occupancy rates?
20. If so, has the Authority incorporated this new information into its planning throughout the pandemic?

Retirement Home Licensing

Level of Care Prompts Authority to Review Licences

The *Retirement Homes Act, 2010* does not distinguish between the different ways that retirement homes are run and different resident health-care needs. The Authority told the Auditor that after the audit began it started to develop and assess how separate retirement home licence classes could address the risk that the existing regulatory regime does not discern homes with higher-risk residents from homes with more independent residents.

Authority Issued Licences Despite Identified Red Flags

Between 2015/16 and 2019/20, the Authority issued a total of almost 300 new licences and refused eight applications at various stages of its decision-making process. In most cases, the Authority properly refused these applications because of concerns about the applicant's competence in operating retirement homes and the applicant's ability to operate the home with honesty and integrity. However, the audit found that the Authority granted licences after weighing the licensing criteria, in situations where it may have been prudent to refuse them.

Auditor's Recommendation 12

To strengthen the licensing process of retirement homes, and the safety and protection of residents that may require different levels of services as its primary focus, we recommend that the Retirement Homes Regulatory Authority:

- accelerate and complete the development of its licence classes;
- update its licensing procedures to include conducting applicant background checks to identify any indication of financially irresponsible conduct and proof of financial viability;
- develop a communications strategy to remind applicants that they are obligated to monitor their licence conditions and report changes as needed to the Authority; and
- follow up on a timely basis on any licence conditions made.

Possible Committee Questions

21. Has the Authority finalized the development of its separate licence classes?
22. Has the Authority updated the assessment criteria to include that the applicant must provide proof of financial viability to operate a retirement home?

Five Licensees Operating without Required Fire Sprinkler Systems

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

Auditor's Recommendation 13

To protect retirement home residents from the risk of fire, we recommend that the Retirement Homes Regulatory Authority:

- impose a deadline for all licensees that have not completed the installation of their fire sprinkler systems to have this done as soon as possible; and
- if a licensee does not comply, follow up with enforcement action where appropriate.

Possible Committee Questions

23. Has the Authority ensured that all licensees have completed the installation of all their fire sprinkler systems? If not, when is this expected to be completed?

Retirement Homes Previously Deemed Not Requiring Licence Under Review

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

Auditor's Recommendation 14

To protect consumers from unknowingly purchasing accommodation and care services from retirement homes that could possibly be unlicensed and unregulated under the *Retirement Homes Act, 2010*, we recommend that the Retirement Homes Regulatory Authority:

- expedite the completion of its strategy to follow up on the 234 retirement homes that may possibly require a licence and take appropriate enforcement actions as required; and
- expedite the consideration and reduction of the potential risk to these homes in subsequent waves of COVID-19 by either addressing the risk or bringing these risks to the attention of the Ministry for Seniors and Accessibility.

Possible Committee Questions

24. What is the current status of the Authority's review of the 234 homes assessed as not meeting the definition of a retirement home?
25. Has the Authority taken appropriate licensing and enforcement actions as required?

Imposing Penalties and Prosecuting Ineffective Deterrents

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

Other audit findings include:

- legislation allows the Registrar to impose an administrative penalty of up to \$10,000 on retirement home operators who have contravened legislative requirements; the audit found that other authorities set higher maximum amounts.
- the Authority is mindful of the enforcement measures which would add pressure to struggling homes; the audit stated that there is the risk that the Authority may be inadvertently weighting the financial welfare of the operators higher than the Authority's mandate to protect residents of these homes.

Auditor's Recommendation 15

To improve the Retirement Homes Regulatory Authority's effectiveness in overseeing the retirement home sector and protect public safety, we recommend that the Authority work with the Ministry for Seniors and Accessibility to critically assess the effectiveness of its enforcement tools. In particular, an increase of the maximum administrative penalty amount allowed under the *Retirement Homes Act, 2010* could be considered.

Possible Committee Questions

26. Has the Authority worked with the Ministry for Seniors and Accessibility to assess the effectiveness of its enforcement tools?

27. If so, please detail what additional enforcement tools have the Authority and the Ministry considered?

No Minimum Amount of Insurance Required to Cover Residents' Housing

The audit found that the regulation under the *Retirement Homes Act, 2010* does not require licensed retirement homes to obtain a specified minimum amount of extra expense insurance to reduce the risk that they would be unable to provide accommodation and care to residents in the case of damage to a home. The Auditor reviewed all cases of expired extra expense insurance policies as flagged by the Authority's document management system in September 2020 and found that 25 retirement homes had expired policies.

Auditor's Recommendation 16

To reduce the risk to retirement home residents that could be affected by loss or damage to their homes, we recommend that the Retirement Homes Regulatory Authority:

- request that retirement homes renew policies 30 days prior to expiry and notify the Authority that ongoing coverage of residents is available;
- assess current research, and as necessary supplement, to derive an appropriate specific minimum amount of extra expense insurance coverage for licensees to obtain; and
- recommend a regulatory change that either specifies a minimum amount of extra expense insurance coverage to the Minister for Seniors and Accessibility or provides authority for the Authority to set a minimum amount of extra expense insurance coverage

Possible Committee Questions

28. What steps has the Authority taken to require retirement homes to provide an appropriate minimum of extra expense insurance coverage?

Complaints

Unclear Public Communication Regarding Complaints

Multiple stakeholder groups told the Auditor that staff who work in retirement homes have witnessed neglect and abuse, but may not know that they can report these incidents to the Authority. The audit noted that this lack of knowledge about the Authority limits its ability to effectively execute its mandate to protect residents. The Authority conducted a brand awareness survey in 2019, which found that only 2% of the approximately 1,500 respondents knew that the Authority is responsible for protecting seniors living in retirement homes in Ontario.

Auditor's Recommendation 17

To enhance the public's knowledge and awareness of the Authority's oversight role for the retirement home industry and to minimize safety risks to retirement home residents, we recommend that the Retirement Homes Regulatory Authority develop a more comprehensive communications strategy to specifically target groups that include residents and families, retirement home staff, and the public about its role, emphasizing how complaints can be best brought to its attention or to the attention of other appropriate parties.

Possible Committee Questions

29. What steps has the Authority taken to enhance the public's knowledge about its role?

Authority Does Not Have Complaint Turnaround Time Targets

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

Public Must Discern Where to Send Complaints Outside Authority's Jurisdiction

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

Auditor's Recommendation 18

To provide for more clarity and timely responses to retirement home residents, family members of residents, or other persons who may have concerns about retirement homes, we recommend that the Retirement Homes Regulatory Authority:

- develop a form letter containing contact information for other regulatory bodies and send the letter to all complainants at the earliest opportunity before it investigates the complaints;
- establish a process to refer complaints not within its jurisdiction directly to the appropriate regulatory body and follow up with the complainant and the other regulatory body to ensure that the complaint has reached the appropriate organization;
- update its website to include contact information of relevant regulatory bodies to address concerns that the public commonly brings to the Authority's attention but are outside of the Authority's jurisdiction;
- establish a performance indicator to measure turnaround time for investigating and resolving complaints, set and review targets on an annual basis and monitor relevant performance; and

- publish expected service standards about its complaint resolution process and its actual performance against these standards on its website.

Possible Committee Questions

30. What steps has the Authority taken to improve its communication around the complaints process to the public?
31. Has the Authority established a process to refer complaints not covered by the *Retirement Homes Act, 2010* to the appropriate body?
32. Has the Authority established a performance measure to track turnaround time for investigating and resolving complaints?

Complaints about Retirement Homes Difficult for Consumers to Access

Consumers cannot easily access information about complaints regarding a retirement home, which the audit stated limits their knowledge when making choices on which retirement home to select as a residence. The audit found that the Authority's online database does not provide information about complaints for individual homes nor for all retirement homes in total.

Furthermore, the audit analyzed the Authority's data on complaints and found that 56 homes were subject to multiple complaints between 2017/18 and 2019/20. However, only 15% of the complaints related to those homes were deemed valid after investigation and therefore disclosed in published inspection reports on the Authority's website.

Auditor's Recommendation 19

To more clearly and effectively communicate information about retirement home complaints to existing and future residents and family members, and to improve the effectiveness of retirement home inspection choices by inspectors, we recommend that the Retirement Homes Regulatory Authority:

- publish data publicly and regularly on common complaint areas raised by consumers about the retirement home industry;
- publish the nature and quantity of complaints filed with the Authority for each retirement home on the Authority's website while respecting the privacy of the complainant;
- analyze complaint trends to identify significant areas of focus and to better inform its selection of retirement homes for routine inspections; and
- establish a training module for the retirement home sector and update training for its inspectors based on the most frequent and significant complaints raised to identify areas of focus for inspections.

Possible Committee Questions

33. What steps has the Authority taken to increase transparency regarding retirement home complaints?
34. Does the Authority have plans to track complaints and the data for trends in order to better inform its selection of homes for routine inspections?

Consumer Information Not Readily Available

The audit found that publicly available information on prices for retirement home services was difficult to obtain online. However, the *Retirement Homes Act, 2010* indicates that residents have a right to know what care services are provided in the home and how much they cost.

Auditor's Recommendation 20

To better inform and protect consumers when purchasing accommodation and care services from retirement homes, we recommend that the Ministry for Seniors and Accessibility:

- evaluate whether the Retirement Homes Regulatory Authority should have oversight of retirement home care services fees and consider proposing amendments to the *Retirement Homes Act, 2010*, as appropriate; and
- 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.

Auditor's Recommendation 21

To better inform and protect consumers when purchasing accommodation and care services from retirement homes, we recommend that the Retirement Homes Regulatory Authority accelerate its efforts to develop a public report card for each retirement home.

Possible Committee Questions

35. Has the Ministry determined if the Authority should have oversight of retirement home care services fees?
36. Has the Ministry requested the Authority to require all licensed retirement homes to make price lists easily accessible?
37. Has the Authority accelerated its efforts to develop a public report card? If so, please detail the nature of report card.

Board and Ministry Lack Sufficient Oversight of Authority's Activities

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

In January 2020, the Authority had three provincial appointment vacancies on its nine-member Board (one since December 2017 and the remaining two from December 2019). During the audit, all three vacancies were filled: The Minister appointed one director in May 2020 and the remaining two directors in July 2020.

Authority's Board Has No Consumer Protection Representation

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

Auditor's Recommendation 22

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 Chair to consider such individuals as current directors' terms expire.

Possible Committee Questions

38. Has the Ministry proposed appointees with seniors' interests in mind to the Authority's Board of Directors?

Ministry Cannot Properly Assess whether Authority Effectively Met Mandate

The audit stated that the Ministry does not fully monitor the Authority to confirm that it meets all of its obligations under the Memorandum of Understanding between the two parties. The audit highlighted that the Ministry:

- has not fully defined what further documents it needs the Authority to regularly submit for oversight purposes;
- has not requested the Authority to develop benchmarks to measure the Authority's performance toward effective operation; and
- does not charge the Authority oversight fees as required in the MOU.

Auditor's Recommendation 23

To improve its ability to oversee the Retirement Homes Regulatory Authority (Authority) to confirm that it is operating in accordance with the *Retirement Homes Act, 2010* and the Memorandum of Understanding between the Authority

and the Ministry for Seniors and Accessibility (Ministry), we recommend that the Ministry:

- develop a schedule of reporting requirements with input from the Authority and update the Memorandum of Understanding accordingly;
- request the Authority establish targets for its performance indicators, and require the Authority to publish actual versus targeted performance annually; and
- 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.

Possible Committee Questions

39. Has the Ministry implemented reporting requirements and updated the Memorandum of Understanding accordingly?
40. Has the Ministry requested the Authority establish targets for its performance indicators?

Authority Did Not Monitor Implementation of Risk Officer Report Recommendations

The audit found that the Authority does not have a standard targeted time frame for enacting recommendations provided in Risk Officer reports, nor does it have a specific process to track the application of these recommendations. As a result, the audit found that some recommendations were either not yet implemented or implemented several years later. The Risk Officer reports directly to the Authority's Board on the effectiveness of the Authority's administration of the Act and its regulation.

Auditor's Recommendation 24

To improve the safety and protection of retirement home residents and to support the work and effectiveness of the Risk Officer, we recommend that the Retirement Homes Regulatory Authority:

- establish targeted time frames to phase in the Risk Officer's recommendations;
- track the enactment of these recommendations; and
- report this information to the Board of Directors and to the Ministry for Seniors and Accessibility semi-annually.

Possible Committee Questions

41. What steps has the Authority taken to better implement, report and track the Risk Officer's recommendations?

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

Multiple ministries are responsible for delivering services to seniors in a variety of settings, including long-term-care homes, retirement homes and in the community. The audit found that the Ministry for Seniors and Accessibility had not finalized its work on an updated seniors' strategy. The Ministry told the Auditor that it is not responsible for determining policy relating to seniors' housing or congregate care.

Auditor's Recommendation 25

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:

- seek the responsibility to serve as the lead ministry that will work with all applicable ministries that 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
- incorporate in its seniors' strategy specific actions to undertake to achieve various goals and a timetable for these actions.

Possible Committee Questions

42. What progress has the Ministry made on the seniors' strategy?

43. What steps has the Ministry taken to develop a coordinated seniors' housing policy framework?

Authority Lacks Financial Capacity to Meet Regulatory Mandate

The Auditor stated that the Authority operated with an annual surplus between 2015/16 and 2018/19 and incurred an annual deficit in 2019/20. The audit noted there was a general decline in annual surplus between 2015/16 and 2019/20, primarily because expenses increased 40% during this period while revenue increased by 8%.

Auditor's Recommendation 26

To collect sufficient fees to cover the Retirement Homes Regulatory Authority's mandated activities to protect current and former retirement home residents, we recommend that the Retirement Homes Regulatory Authority annually reassess the appropriateness of its fees or identify other revenue sources to cover its operating expenses in performing more inspections and other mandated activities.

Possible Committee Questions

44. Does the Authority have plans to annually reassess the appropriateness of its fees or identify other revenue?

APPENDICES

1. Auditor General, “[Retirement Homes Regulatory Authority](#)” in *2020 Annual Report*.
2. Auditor’s [News Release](#).
3. Auditor’s News Release [Summary of Report](#).