

Ministry of Long-Term Care

Enhanced Screening Measures in LTC Homes

As of April 11, 2022, the *Fixing Long-Term Care Act, 2021* (FLTCA) and Ontario Regulation 246/22 have replaced the previous *Long-Term Care Homes Act, 2007* (LTCHA) and Ontario Regulation 79/10 as the governing legislation for long-term care in Ontario.

The new Regulation under the FLTCA introduces enhanced screening requirements for staff, volunteers, and members of the licensee's board of directors, its board of management or committee of management or other governing structure.

These include restrictions on hiring staff, accepting volunteers, and establishing and maintaining relationships with members of a licensee's board of directors, its board of management or committee of management or other governing structure based on offences against vulnerable individuals, and acts of professional misconduct by a regulated professional.

This document provides an overview of the screening requirements with which each licensee must comply.

Introduction

The FLTCA includes requirements that licensees must comply with for screening measures that enhance requirements for police record checks under the previous LTCHA as well as

*This document is for informational purposes only. It is intended to highlight some of the new aspects and requirements of the Fixing Long-Term Care Act, 2021 and its regulation. Licensees are responsible for ensuring compliance with the requirements of the Fixing Long-Term Care Act, 2021 and its regulation. In the event of a conflict or inconsistency between this document and the Act or regulation, the Act or regulation will prevail. **This document does not constitute legal advice or interpretation. Users should consult their legal counsel for all purposes of legal advice and interpretation.***

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mltc.correspondence@ontario.ca

- **Prohibiting the hiring of staff if they have been convicted of offences** prescribed in the regulations,
- or **found guilty of an act of professional misconduct** prescribed in the regulations.
- The legislation also states that a licensee shall not permit persons convicted of such prescribed offences or found guilty such acts of professional misconduct **to be a member of the licensee's board of directors, its board of management or committee of management or other governing structure.**
- The prohibition is time limited.

The Regulation under the FLTCA includes the following enhanced screening requirements:

- Provisions setting out **screening processes for members of a licensee's board of directors, its board of management or committee of management or other governing structure.**

Types of Offences that Prohibit the Hiring an Individual

The Regulation prohibits the hiring staff, accepting volunteers, and on members of a licensee's board of directors, its board of management or committee of management or other governing structure if they have been convicted of prescribed offences or found guilty of an act of professional misconduct as prescribed in the regulation.

Prescribed offences that indicate a risk of harm to long-term care residents restrict hiring a person, including those involving **abuse or neglect, improper or incompetent treatment or care, or misuse or misappropriation of an individual's money.**

Additional restrictions set out in the Regulation are based on findings of guilt for **offences under precursor legislation**, a specified section under the *Criminal Code*

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(Canada) which include **offences for which there can be no conditional sentence**, and offences under the ***Cannabis Act (Canada)***, the ***Controlled Drugs and Substances Act (Canada)*** or the ***Food and Drugs Act (Canada)***.

The prohibition is time limited and is in place until five years after the end of the persons sentence, if any, and until five years after the consequences, if any for the professional misconduct expired.

Professional Misconduct that Prohibits the Hiring an Individual

The regulation under the *Fixing Long-Term Care Act, 2021* sets out the prescribed acts of act of professional misconduct. Some of these acts include an act of misconduct as a member of a health profession or as a member of a regulated profession as prescribed. The prohibition would be time limited and would be in place until five years after the consequences, if any, for the professional misconduct expired.

*Regulations also set out requirements for retaining records to facilitate compliance with enhanced screening measures.

Screening for Members of a Licensee's Board of Directors, its Board of Management or Committee of Management or Other Governing Structure

To ensure that persons convicted of prescribed offences or found guilty of professional misconduct defined in the Regulation do not serve as members of a licensee's board of directors, its board of management or committee of

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mltc.correspondence@ontario.ca

management or other governing structure, **generally, a police record check is to be conducted within six months before the person becomes a member of the licensee's governing structure.**

Where a person will become a member of the governing structure as a result of their election under the *Municipal Elections Act, 1996*, that person must provide a police record check as required that was conducted no earlier than six months prior to the date their term of office begins. However, this requirement does not apply if their term of office ends on November 14, 2022.

When a person becomes a member of the licensee's board of directors, its board of management or committee of management or other governing structure during a pandemic, there are exceptions that may apply. For example, a police records check conducted within six months before the person becomes a member of the licensee's board of directors, its board of management or committee of management or other governing structure would not be required.

There are exceptions for members of a licensee's board of directors, its board of management or committee of management or other governing structure. The licensee will have six months from the date the regulation came into force to comply with the police record check and signed declarations.

Please refer to the regulation for additional details.

Limited Exceptions to Screening Requirements

Licensees are required to ensure that individuals are screened in accordance with the legislative and regulatory requirements, The police records check and declarations do not apply in limited circumstances such as:

If person who is, or who is being hired to be, a staff member who will be performing work at the home:

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- a) is working in the home pursuant to a contract or agreement with the licensee, or pursuant to a contract or agreement between the licensee and an employment agency, or other third party;
- b) will only provide occasional maintenance or repair services to the home;
- c) will not provide direct care to residents; and
- d) will be monitored and supervised, in accordance with the licensee's policies and procedures to monitor and supervise such persons while they provide services to the home.

A vulnerable screening check may not be required upon hiring for certain professions where it may be required upon registration or for the regulatory colleges. However, licensees must ensure that **these persons provide signed declarations** as required.

Individuals hired **during a pandemic** must be **screened in accordance with the requirements for police record checks within three months of being hired or accepted as a volunteer**. For individuals who were hired or accepted before the Regulation under the FLTCA came into force, licensees have three months from the in-force date to ensure these individuals are screened in accordance with these requirements.