

Ministry of Long-Term Care

Whistle-blowing protections

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 FLTCA continues the strong protections for whistle-blowers that were included in the (former) LTCHA, and expand these to apply to any disclosure by anyone to any personnel of the ministry and to a long-term care home's Residents' Council and Family Council, if any.

The whistle-blowing protections are intended to give anyone the confidence to bring forward anything about an LTC home, including the care of a resident, without fear of retaliation.

The FLTCA continues to require licensees to post in the LTC home an explanation of the whistle-blowing protections afforded under the legislation. They must also provide this information specifically to residents, staff and volunteers.

Prohibitions

The FLTCA prohibits anyone from retaliating or threatening to retaliate against someone else because of a disclosure to:

*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.***

Questions?

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- an inspector or the Director
- **any other personnel of the ministry [NEW]**
- **a residents' council [NEW]**
- **a family council, if any [NEW]**

This prohibition also applies where evidence has been or may be given in a proceeding.

A long-term care home cannot do anything that discourages someone from making a disclosure, nor can a home encourage someone to fail to make a disclosure.¹

Retaliation

The prohibited retaliation against another person includes acts or by omissions. It can include (without limiting its meaning):

- Dismissing, disciplining or suspending a staff member
- Imposing a penalty on any person
- Intimidating, coercing or harassing any person

The FLTCA gives protection to residents and family members from worrying that raising concerns or issues would affect the care or services that a resident receives.

If a resident or their family member makes a disclosure, the FLTCA prohibits:

- the discharge of the resident from the LTC home, including threat of discharge.
- in any way subjecting the resident to discriminatory treatment (such as change or discontinuation of any service or care to the resident),
- threats of doing or the possibility of doing any the former to the resident.

¹ This prohibition applies specifically to: a licensee or third party manager of an LTC home; officers and directors of licensees and third party managers if they are a corporation; staff of an LTC home; and members of a committee of management or board of management for a specific LTC home.

Disclosures

A disclosure can be about anything. Anyone can come forward at any time to an inspector or the Director. This includes when someone makes a mandatory report to the Director about certain serious matters under the FLTCA.

The FLTCA clarifies that a disclosure may be made by any method, such as by making a complaint to the ministry or by calling the ministry's action line.

For more information about a licensee's responsibilities for managing and dealing with complaints, see the LTC complaints fact sheet.

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