

The Fixing Long-Term Care Act, 2021

What does it mean for family councils?

The **Fixing Long-Term Care Act, 2021** came into effect on April 11th 2022 and replaced one piece of legislation which was repealed: *The Ontario Long-Term Care Homes Act (2007)*. *The new Act includes recommendations generated after two years of increased attention on the sector, public consultation with residents, families, and staff and recommendations from reports including the Ontario Patient Ombudsman and the Long-Term Care COVID-19 Commission. Family Councils remain an integral element of the updated legislation governing long-term care homes in Ontario. This fact sheet provides information on some of the notable updates and changes in the Act, including enhanced quality improvement mechanisms, licensee responsibilities, enforcement tools, and what the Act means for Family Councils.*

Q. What does the Fixing Long-Term Care Homes Act mean for Family Councils?

The role of Family Councils as partners in care remains evident in the updated legislation governing long-term care homes in Ontario. Family Councils were first included in the Long-Term Care Homes Act, 2007 to recognize the important contributions Family Councils make to long-term care homes and the long-term care sector. The Fixing Long-Term Care Homes Act provides homes with additional guidance to ensure the voice of the Family Council is present and heard as part of the Quality Improvement committee.

Q. What can a Family Council do? What are its powers under the Act?

The Act outlines several powers of a Family Council, such as providing assistance, information and advice to residents, family members of residents and persons of importance to residents, including when new residents are admitted to the home; advising residents, family members of residents and persons of importance to residents about their rights and obligations under the Act; advising residents, family members of residents and persons of importance to residents about the rights and obligations of the licensee under the Act; attempting to resolve disputes between the licensee and residents; sponsoring and planning activities for residents; collaborating with community groups and volunteers concerning activities for residents ; reviewing the following: (a) inspection reports and summaries received under section 152, (b) a written plan for achieving compliance prepared by the licensee that the Director has

ordered in accordance with clause 155(1)(b) following a referral under paragraph 4 of subsection 154(1), (c) the detailed allocation by the licensee of funding under the Act and the Connecting Care Act, 2019 and amounts paid by residents, and (d) the operation of the home; advising the licensee of any concerns or recommendations the Council has about the operation of the home, and other powers. As each Family Council is unique, the activities of each Family Council will vary.

Q. What does the Act say about the membership of a Family Council?

The Act also indicates who can and cannot be a member of the Council. According to 65(5) and (6), any family member or person of importance to a resident is entitled to be a member of the Family Council. Persons who are not eligible to be members of the Council include the licensee of the home, home management, an officer or director of the licensee or of a corporation that manages the long-term care home on behalf of the licensee, a person with a controlling interest in the licensee, the Administrator of the home, any staff member, and any person employed by or in a contractual relationship by the Ministry of Long-Term Care.

As Family Councils are autonomous and self-governed, they are responsible for creating their own Terms of Reference which outline the group's goals, structure and operating procedures, including membership. Each Council sets its own membership rules/guidelines, including who may be a member and how long people can be Council members.

Q. What role does the Long-Term Care Home play?

According to Section 65(1) of the Act, every long-term care home may have a Family Council. When a Family Council does not exist at the long-term care home, a family member or person of importance to a resident may request that a Family Council be established 65(2). The licensee shall assist in the establishment of a Family Council within 30 days of receiving a request from a family member or person of importance to a resident 65(3). When a Family Council is established, the licensee shall notify the Director or anyone else provided for in the regulations within 30 days of the establishment of a Family Council 65(4).

According to Section 68 of the Act, the licensee has a duty to cooperate with the Family Council. As outlined in Section 69, when invited by the Family Council, the licensee has an obligation to meet with the Council or ensure that a representative of the licensee can meet with the Council. A licensee cannot interfere with the meetings or operations of the Council. This includes preventing a member of a Family Council from entering the

long-term care home to attend a Council meeting or perform any function as representative of the Council. Section 73 indicates that the licensee has a duty to consult regularly with the Family Council- at least every three months.

Many Family Councils have positive and productive relationships with the staff and administration of the home. Many staff members and administrators go above and beyond what is prescribed in the Act. The relationship between the Council and home staff and administration is important to a successful Family Council as it helps to ensure good communication and successful activities and initiatives of the Council.

Q: How long does the licensee have to respond after a Council advises them of a concern or recommendation?

Once a Council advises a licensee of a concern or recommendation under paragraph 8 or 9 of sub-section (1), the licensee shall within 10 days of receiving the advice, respond to the Family Council in writing.

Q. If my loved one has passed away, does that mean I can't continue to be a member of the Family Council?

No. Family Councils are self-led, autonomous groups who decide on their own membership rules within the framework provided in the Act. As such, the Council can set provisions within its Terms of Reference for continuing membership of a Family Council member who does not have a family member/friend who is a resident in the home. It is important for your Council to have a Terms of Reference which defines its structure, operating procedures, and membership.



The licensee does not have the authority to interfere with decisions in relation to Family Council membership.

Q. Does the Fixing Long-Term Care Act impact - funding for LTC homes?

No. Funding is a separate issue; the Act does not deal with funding for homes. The Ministry of Long-Term Care reviews funding of long-term care homes separately from the legislation.

Q. What can you expect from the inspection process for Long-Term Care Homes?

The Ministry inspection process was transformed to align with the requirements of the Long-Term Care Homes Act and Regulations. The Fixing Long-Term Care Act, 2021 showcases the government’s commitment to improving public accountability by conducting thorough and regular inspections. More details on the inspection process and expectations for Long-Term Homes will be highlighted in a stand-alone FCO document.

- The current inspection process uses standardized and clinically validated methodology (QIS), creating a structured and consistent approach. The Quality Indicator Survey (QIS) is a process developed by the University of Colorado that allows for a more evidence-based inspection which yield results that are less likely to be based on subjective interpretation/observations. The QIS creates a focus on resident care outcomes to guide the inspection requirements.
- The inspection process is focused on resident outcomes and risk. Inspectors begin by gathering information through interviews with the residents to hear their experiences and understand their views associated with quality of life and care in the home. These interviews help inspectors to determine if there is any risk to the residents.
- Information will also be gathered through interviews with families, staff, Residents’ Council and Family Council representatives.
- The inspectors also conduct mandatory audits, review clinical records and policies, and make observations during their time in the home. They will be using new technology to organize and summarize data and findings.

Q. Is the Program Manual still being used?

The *Long-Term Care Homes Program Manual* is no longer being used; it has been replaced by the Act and accompanying Regulations. Many of the standards previously contained in the Program Manual are now included in the Regulations.

You can view the *Long-Term Care Homes Act* on the e-laws website at this link:
<https://www.ontario.ca/laws/statute/21f39#BK83>

For more information about the *Fixing Long-Term Care Act* and what it means for Family Councils, please contact :

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