Long-Term Care Homes Quality Inspection Program (LQIP)

Abuse Decision Trees:
Licensee Reporting of Abuse and Neglect

FAMILY COUNCILS’ PROGRAM
November 23, 2012

Performance Improvement & Compliance Branch
Ministry of Health and Long-Term Care
AGENDA

1. Background and development
2. The information package
3. Decision trees for licensee reporting
4. Communication and roll-out
5. Feedback and Questions
SOME BACKGROUND……

The implementation of LTCHA in July 2010 resulted in a large increase in the number of reports about abuse that Long Term Care Homes sent to the MOHLTC.

THIS WAS THE INTENDED EFFECT.
SOME BACKGROUND ....

The pendulum started swinging the other way – many LTC Homes seemed to be exhibiting an abundance of caution ….. “report everything”.
SOME BACKGROUND ....

- The sector and our inspectors were asking for clarification on the abuse definitions and licensee reporting requirements.

- Intent of the Reporting Decision Trees is NOT to dilute but clarify and keep everyone on the right track.
SOME BACKGROUND ....

Development of the Decision Trees was enhanced through consultation with:

- MOHLTC colleagues:
  - Legal Services Branch
  - Inspector and Manager focus groups
  - Inspector Support Team (IST)

AND .......
SOME BACKGROUND ....

- Police and justice representatives:
  - Sergeant Robin Sanders, Provincial Coordinator, Seniors Assistance, OPP
  - Tammy Rankin, Elder Abuse Advisor, Regional Municipality of Durham
  - Sergeant John Keating, Senior Support Coordinator, Durham Regional Police

AND ......
SOME BACKGROUND ….

- LQIP Advisory Committee which includes representatives from:
  - Family Councils’ Program
  - Ontario Association of Residents’ Councils
  - Advocacy Centre for the Elderly
  - Concerned Friends
  - Sector associations (OANHSS and OLTCA)
  - Ontario Long term Care Physicians group
  - MOHLTC Senior Managers, SAO Managers, consultants
DECISION TREES: LICENSEE REPORTING of ABUSE

- Intent and scope
- Underlying concepts
- Current status
BECAUSE.....
LICENSEE REPORTING DECISION TREES: INTENT

- Provide a visual aid to support (‘root’) decision-making about reporting of alleged, suspected, or witnessed abuse or neglect.
- Educate and guide licensees and sector staff to appropriately report as required in legislation.
- Educate and guide PICB Inspectors.
- Primary users: Licensees and PICB Inspectors.
- Licensees are not required to post.
LICENSEE REPORTING DECISION TREES: UNDERLYING CONCEPTS

- Provides tool and visual aid to guide decision-making about licensee reporting of abuse and neglect.
- Does not replace the need to understand and reference the legislation.
- “Harm” or “risk of harm” is implicit (a “given”) in situations of alleged, witnessed or suspected abuse or neglect.
- Definitive answers to the questions on the decision trees are not necessarily required in order to move to the next question or to determine “reasonable grounds” to give rise to the reporting requirement.
THE PACKAGE

- Covering letter from Director
- Legislative references chart
- Documents referenced in the trees:
  - August 2010 Director’s memo
  - March 29, 2012 Director’s memo
- Set of 6 Decision Trees
### ABUSE DECISION TREES: LEGISLATIVE REFERENCES

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>LTCHA Section 23</td>
<td>Licensee must investigate, respond and act; Reports of investigation; Manner of reporting</td>
</tr>
<tr>
<td>LTCHA Section 24</td>
<td>Reporting certain matters to Director</td>
</tr>
<tr>
<td>O. Reg. 79/10 Section 2</td>
<td>“Abuse” – definition</td>
</tr>
<tr>
<td>O. Reg. 79/10 Section 5</td>
<td>“Neglect” - definition</td>
</tr>
<tr>
<td>O. Reg. 79/10 Section 103</td>
<td>Complaints – reporting certain matters to the Director</td>
</tr>
<tr>
<td>O. Reg. 79/10 Section 104</td>
<td>Licensees who report investigations under s.23(2) of the Act</td>
</tr>
<tr>
<td>O. Reg. 79/10 Section 105</td>
<td>Non-application re certain staff</td>
</tr>
<tr>
<td>LTCHA 2007 (e-laws)</td>
<td><a href="http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_07l08_e.htm">http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_07l08_e.htm</a></td>
</tr>
</tbody>
</table>
### Criminal Code Offences that May Apply (information courtesy of Durham Regional Police)

<table>
<thead>
<tr>
<th>Financial Abuse</th>
<th>Physical Abuse</th>
<th>Sexual Abuse</th>
<th>Emotional Abuse</th>
<th>Verbal Abuse</th>
<th>Neglect</th>
</tr>
</thead>
<tbody>
<tr>
<td>Theft (Sec.322 C.C.)</td>
<td>Assault (Sec.265 C.C.)</td>
<td>Sexual Assault (Sec.271 C.C.)</td>
<td>Intimidation (Sec.423 C.C.)</td>
<td>Intimidation (Sec.423 C.C.)</td>
<td>Criminal negligence causing bodily harm or death (Sec.220 -21 C.C.)</td>
</tr>
<tr>
<td>Theft by holding Power of Attorney (Sec.331 C.C.)</td>
<td>Assault with a Weapon or causing bodily harm (Sec.267 C.C.)</td>
<td>Sexual Assault with a weapon, threats to a third party or causing bodily harm (Sec.272 C.C.)</td>
<td>Uttering Threats (Sec.264.1 C.C.)</td>
<td>Uttering Threats (Sec.264.1 C.C.)</td>
<td>Breach of Duty to provide necessities (Sec.215 C.C.)</td>
</tr>
<tr>
<td>Stopping Mail with Intent (Sec.345 C.C.)</td>
<td>Aggravated Assault (Sec.268 C.C.)</td>
<td>Harassing Telephone Calls (Sec.372.3 C.C.)</td>
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<td>Harassing Telephone Calls (Sec.372.3 C.C.)</td>
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</tr>
<tr>
<td>Extortion (Sec.346 C.C.)</td>
<td>Forcible Confinement (Sec.279 C.C.)</td>
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<tr>
<td>Forgery (Sec.365 C.C.)</td>
<td>Murder (Sec.229 C.C.)</td>
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<tr>
<td>Fraud (Sec.380 C.C.)</td>
<td>Manslaughter (Sec.234 C.C.)</td>
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</tbody>
</table>

Information used with permission of Regional Municipality of Durham and Durham Regional Police Service. The chart is intended as a guide and does not constitute legal advice. Please refer to LTCHA 2007, O.Reg.79/10, and Criminal Code for the complete requirements.
ABUSE DECISION TREES

- Licensee Reporting of Emotional Abuse
- Licensee Reporting of Financial Abuse
- Licensee Reporting of Neglect
- Licensee Reporting of Physical Abuse
- Licensee Reporting of Sexual Abuse
- Licensee Reporting of Verbal Abuse
Please refer to the printed decision trees in the event you find the following slides difficult to read.
Licensee becomes aware of alleged, suspected or witnessed emotional abuse of a resident.

Are there reasonable grounds to suspect that emotional abuse has occurred or may occur?

Yes

Licensee to immediately investigate & take action in response to incident [s.23(1)]

No

Licensee manages through internal process but need not report.

To determine

Immediately answer the following questions ***

Did a resident make threatening or intimidating gestures, actions, behaviour, or remarks to another resident?

Yes

Did it cause alarm or fear to another resident?

Yes

Did the resident performing the gestures, actions, behaviour or remarks understand and appreciate their consequences?

Yes

Licensee manages through internal process but need not report.

No

Licensee manages through internal process but need not report.

No

No

Did anyone other than a resident make threatening, insulting, intimidating or humiliating gestures, actions, behaviour, or remarks to a resident, which may include imposed social isolation, shaming, ignoring, lack of acknowledgement or infantilization?

Yes

Licensee manages through internal process but need not report.

No

Send report including results of investigation & actions taken in response to incident via CIS within 10 days or earlier if requested by Director [s.104(3)]

No

Licensee manages through internal process but need not report.

Licensee to immediately report suspicion & information to Director via CIS as per memo; required to report by after-hours pager outside business hours [s.24(1)]

If not all required information is available within 10 days, send preliminary report within 10 days and provide final report within 21 days (time specified by Director) [s.104(3)]

LEGEND

s = LTCHA 2007, r = O, Reg. 7910

* Memo = Aug 4, 2010 memo from Director

** Memo = March 29, 2012 memo from Director

*** Answer “yes” if you have reasonable grounds to suspect that the answer is “yes.” (i.e., answer does not need to be definitive). As soon as reasonable grounds are suspected that abuse has occurred or may occur, the licensee must immediately report suspicion & information [s.24(1)].
LICENSEE REPORTING OF FINANCIAL ABUSE

Licensee becomes aware of alleged, suspected or witnessed financial abuse of a resident → Licensee to immediately investigate & take action in response to incident (s.24(1))

Are there reasonable grounds to suspect that financial abuse has occurred or may occur? To determine

No → Licensee manages through internal process but need not report

Yes → Immediately answer the following question***

Was a resident’s money or property misused or misappropriated? Yes → Licensee immediately reports suspicion & information to Director (via CIS as per memo*; not required to report by after-hours pager outside business hours. (s.24(1)(2))

No → Licensee manages through internal process but need not report

*** Answer ‘yes’ if you have reasonable grounds to suspect that the answer is ‘yes’ (i.e. answer does not need to be definitive). As soon as reasonable grounds are suspected that abuse has occurred or may occur, the licensee must immediately report suspicion and information (s.24(1)(2)).

LEGEND

s = LTCHA 2007       r = O. Reg 79/10
* Memo = Aug 4, 2010 memo from Director
** Memo = March 29, 2012 memo from Director
*** Answer ‘yes’ if you have reasonable grounds to suspect that the answer is ‘yes’ (i.e. answer does not need to be definitive). As soon as reasonable grounds are suspected that abuse has occurred or may occur, the licensee must immediately report suspicion and information (s.24(1)(2)).

This decision tree is intended as a guide and does not constitute legal advice. Please refer to LTCHA 2007 and O. Reg 79/10 for the complete requirements.

May 2012

Performance Improvement and Compliance Branch
Health System Accountability and Performance Division
LICENSEE REPORTING OF NEGLECT

Licensee becomes aware of alleged, suspected or witnessed neglect of a resident by licensee or staff:

Licensee to immediately investigate & take action in response to incident (s.23(1))

Are there reasonable grounds to suspect that neglect has occurred or may occur?

To determine

Yes

Immediately answer the following question***

NOTE: Can include instance or a pattern of inaction that jeopardizes the health, safety or wellbeing of one or more residents.

If yes:

Licensee to immediately report suspicion & information to Director (via CIS as per memo*; required to report by after-hours pager outside business hours) (s.24(1)(2))

Send report including results of investigation & actions taken in response to incident via CIS within 10 days or earlier if requested by Director (r.104(2))

If not all required information is available within 10 days; send preliminary report within 10 days and provide final report within 21 days (time specified by Director)*** (r.104(3))

Licensee manages through internal process but need not report.

No

Licensee manages through internal process but need not report.

Legend:
- s = LTCHA 2007
- r = O. Reg. 79/10
- Memo = Aug 4, 2010 memo from Director
- Memo = March 29, 2012 memo from Director
- *** Answer “yes” if you have reasonable grounds to suspect that the answer is “yes” (as answer does not need to be definitive). As soon as reasonable grounds are suspected that neglect has occurred or may occur, the licensee must immediately report suspicion and information (s.24(1)).

This decision tree is intended as a guide and does not constitute legal advice. Please refer to LTCHA 2007 and O. Reg. 79/10 for the complete requirements.
Licensee Reporting of Verbal Abuse

1. Licensee becomes aware of alleged, suspected or witnessed verbal abuse of a resident.
2. Licensee to immediately investigate & take action in response to incident (s.23(1)).
3. Are there reasonable grounds to suspect that verbal abuse has occurred or may occur?
   - No: Licensee manages through internal process but need not report.
   - Yes: To determine.
4. Immediately answer the following questions:***
   - Did a resident make any form of verbal communication of a threatening or intimidating nature?
     - Yes: Did it lead another resident to fear for his/her safety?
       - Yes: Licensee manages through internal process but need not report.
       - No: Did the resident who made the verbal communication understand & appreciate the consequences of their communication?
         - Yes: Licensee to immediately report (as per memo*, required to report by after-hours pager outside business hours) (s.24(12)).
         - No: Send report including results of investigation & actions taken in response to incident via CIS within 10 days or earlier if requested by Director (r.104(2)).
     - No: Did someone other than a resident make any form of verbal communication that was of a belittling or degrading nature which diminished the resident’s sense of well-being, dignity or self-worth?
       - Yes: Licensee manages through internal process but need not report.
       - No: If not all required information is available within 10 days, send preliminary report within 10 days and provide final report within 21 days (time specified by Director)** (r.104(3)).
DISTRIBUTION

- Package was sent in mail and posted on Itchomes.net.
- MOH/OPP collaboration on guidelines for s.98/CC.
- Collaborative education activities.
- Communication and roll-out to stakeholders.
SPREADING THE WORD

PICB (May and June 2012)
- Education sessions at SAO level for all inspectors
- SAO Managers continue to review with SAO team and monitor consistency in application
- Materials available on electronic reference folder for use anytime.

External (June/July/Sept 2012)
- Education material and decision trees on LTCHomes.net
- Province-wide mail-out
- Speaking engagements at conventions/education sessions as invited (on-going)
- Provincial webinars/teleconferences
<table>
<thead>
<tr>
<th>DATES</th>
<th>ACTIVITY</th>
<th>AUDIENCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>May and June</td>
<td>Provincial webinars.</td>
<td>MOHLTC</td>
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<tr>
<td>June-Sept</td>
<td>Presentations at OANHSS Elder Abuse Education Days (Toronto-London-Sudbury-</td>
<td>OANHSS LTC Home representatives</td>
</tr>
<tr>
<td>(4 dates)</td>
<td>Scarborough).</td>
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</tr>
<tr>
<td>Mid to late</td>
<td>Posted (ltchomes.net) and mailed out to all LTC Homes and stakeholders.</td>
<td>All LTC Homes and stakeholder representatives</td>
</tr>
<tr>
<td>June</td>
<td>Presentation at Ontario Association of Residents’ Councils (OARC) Board</td>
<td>OARC Board Members</td>
</tr>
<tr>
<td>June 26</td>
<td>Meeting</td>
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<tr>
<td>July (3</td>
<td>Provincial webinars</td>
<td>LTC Homes</td>
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<tr>
<td>sessions)</td>
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<tr>
<td>Sept</td>
<td>MOHLTC Centralized intake and Triage Team Orientation</td>
<td>New MOHLTC staff</td>
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<td>Sept</td>
<td>Participated in/ shared Trees with RNAO Best Practice Focus Group</td>
<td>National focus group</td>
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<tr>
<td>November</td>
<td>Presentation at Family Councils’ Program</td>
<td>Family Councils representatives</td>
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</tbody>
</table>
FEEDBACK?
QUESTIONS?
Thank You

Donna.Corbett@ontario.ca

Merci