

Goodmans^{LLP} Update

Amendments to Long-Term Care Legislation Aim to Modernize Public Consultation Process

In connection with Bill 66, *Restoring Ontario's Competitiveness Act, 2019*, the Ontario Ministry of Long-Term Care (the “**Ministry**”) implemented a series of changes to its public consultation process for long-term care (LTC) license transactions (the “**Amendments**”) as set out under the *Long-Term Care Homes Act, 2007* (Ontario) (the “**Act**”). The Amendments, which came into force on July 1, 2019, seek to achieve the dual purposes of streamlining the consultation process for LTC home operators, while expanding the ability of the public and other industry stakeholders to participate in such consultations.

The Amendments generally provide the director under the Act (the “**Director**”) with discretion to determine the circumstances under which a public consultation is required, and to determine whether such consultation requires a public meeting in addition to the opportunity for the public to provide its written feedback.

The Need for Change

Before the Amendments, the Act required that the Director hold a public consultation in connection with each of the following transactions:

- issuance of a license for a new LTC home;
- undertaking to issue a license for a LTC home;
- renewal of an existing LTC home license;
- transfer of an existing LTC license, or beds under a new license; and
- amendment to an existing LTC license to increase the number of beds.

In each case, the public was entitled to participate in at least one public meeting in the location of the affected LTC home (notice of which would be published in a local newspaper) and a 45-day period to provide written feedback.

As a result of low attendance and engagement rates in public meetings, as well as the significant allocation of resources required from both the Ministry and LTC home operators to facilitate public consultations, the Ministry determined it appropriate to implement the Amendments. The Amendments are aimed at modernizing the consultation process to align with established consultation processes in other ministries and streamlining the licensing process to reduce administrative burdens on the Ministry and on LTC home operators.

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The New Framework

The Amendments afford the Director discretion to determine the circumstances under which a public consultation is required and the appropriate form of such consultation (i.e., public meeting or written submissions). The Amendments also authorize the Director to implement a policy setting out the requirements related to public consultations. As communicated by the Ministry, among other things, the policy and guidelines will provide:

A. Exceptions to the Requirement for a Public Consultation

A public consultation will not be required:

1. When amending an existing LTC license to increase the number of beds without any increase to the LTC license term;
2. Where a public consultation has already been held for the same purpose; or
3. Where the Director determines that a public consultation is not required.

B. When a Public Consultation Must Include a Public Meeting

A public meeting will be required in connection with:

1. A LTC transaction involving a new licensee in Ontario; or
2. A LTC transaction that would result in a decrease in the number of LTC beds in a particular area.

C. Public Consultation Process and Notification Methods

A LTC home operator must post a notice of its public consultation in the affected LTC home (if applicable) as well as notify family and resident counsels established under the Act. Operators are still required to deliver a communications plan to the Ministry. If a public meeting is required in connection with the public consultation, notice of the meeting must also be published in a local newspaper and the LTC home operator must attend the meeting. The Amendments afford the Director discretion to provide for a shorter period to accept written feedback (10-30 days, rather than 45 days).

Notice to the general public will be made via the Ministry's [Twitter page](#), the Ministry's LTC homes online portal, and a new LTC licensing public consultation [online registry](#) launched by the Ministry. The registry will feature details on the LTC transaction, public consultation process determined by the Director and any decisions made by the Director.

Looking Forward

The Ministry has begun implementing the Amendments, and current LTC transactions are featured on the registry. For further information related to the Amendments or other health care law issues, please contact the authors.