



May, 2012

## ***Retirement Homes Act, 2010: Implementation Schedule Released***

The Ontario Government has just announced a five-phase schedule regarding the implementation of all remaining sections of the *Retirement Homes Act, 2010* (the “Act”), which is new legislation that establishes a comprehensive legal framework for the regulation of retirement homes in the Province of Ontario.

- **Phase 1: Licensing Process – April 15, 2012**, as of this date, the Retirement Homes Regulatory Authority (RHRA) will begin accepting applications for retirement home licences. The RHRA has posted the licence application forms on its website, [rhra.ca](http://rhra.ca), which require an applicant to provide detailed information about its ownership structure and present operations (Form 1), as well as applicable personal history reports (Form 2A and 2B). Using a risk-based approach, the RHRA will review applications based on the applicant’s past conduct, ability to provide care services and competency to operate the home in a responsible manner in accordance with the Act. After reviewing an application, the Registrar of the RHRA will do one of three things: (i) issue a licence; (ii) issue a licence with conditions, or (iii) refuse to issue a licence – which decision can be appealed.

As of **July 3, 2012**, date, a retirement home will only be allowed to operate if it has obtained a licence from the RHRA or if it has submitted a licence application to the RHRA. All operators who submit an application by this date are considered “deemed licensees” and must meet the standards set out for licensees as set out in the Act. An operator will continue as a “deemed licensee” until such point that the retirement home is awarded a licence or a decision to refuse a licence becomes final.

- **Phase 2: Implementation of Residents’ Rights and Safety Standards – July 1, 2012**, as of this date all operators must implement various residents’ rights and safety standards, including the following:
  - establish a Residents’ Bill of Rights and post a copy in the retirement home.
  - enter into a written agreement with every resident of the retirement home before the resident commences residency in the retirement home – which is to contain various prescribed provisions.
  - ensure that all residents are protected against abuse and neglect, including the establishment of a written “zero tolerance” policy.
  - establish written procedures, as prescribed, which set out the manner in which the operator is to handle and respond to complaints about the operation of the home.
  - provide every resident with an extensive package of information, the contents of which are set out in the Act, before the resident commences residency.
  - prohibit the use of “restraints”, unless immediate action is necessary to prevent serious bodily harm to the resident or to others.
  - permit the residents of the retirement home to establish a “Residents’ Council” for the home.

- ensure compliance with all prescribed safety standards (fire, safety, public health) and establish both an emergency plan and infection prevention and control program, in accordance with the prescribed requirements.
- ensure that all staff working in the retirement home have received training regarding various items set out in the Act, before they start to work in the home.
- **Phase 3: Establishment of Plan of Care & Implementation of Care Standards – January 1, 2013**, as of this date, the operator of a retirement home must ensure that every resident is assessed, as prescribed, when they commence their residency and that a detailed written plan of care is developed based on the assessment. Residents are to be reassessed at least every six months, or earlier under certain circumstances, and the plan of care is to be reviewed and revised.

In addition, operators must ensure that the care services provided to residents meet the standards set out in the Regulation.

- **Phase 4: On-Going & Additional Training of Staff – July 1, 2013**, as of this date, operators must ensure that all staff working in the retirement home receive on-going training and that direct care staff receive the additional training set out in the Act. Training of volunteers is also required by this date.
- **Phase 5: Formalization of Complaints Process – January 1, 2014**, as of this date, the RHRA will begin processing complaints with respect to retirement homes, in the manner set out in the Act. In this regard, the Act provides the RHRA with significant powers in the handling of complaints, including conducting an inspection of a retirement home and requesting that an operator provide additional information. Notwithstanding the implementation date of this phase, the RHRA is already required to immediately inspect a retirement home if it receives a report alleging improper or incompetent conduct that has resulted in the harm or abuse of a resident (or misuse of their money). In addition, the RHRA also already possesses the power to inspect a retirement home to determine if it is in compliance with the Act.

All present operators of retirement homes (and other prospective applicants) must act quickly to prepare and submit a licence application, as well as ensure that their retirement home is in compliance with the extensive obligations mandated by the Act, in accordance with the above implementation schedule. In this regard, Gardiner Roberts LLP is pleased to offer its extensive experience in the retirement home sector to assist operators with all aspects of the licensing and compliance process.

For further information, please contact:

John Atchison – 416-865-6647 – [jatchison@gardiner-roberts.com](mailto:jatchison@gardiner-roberts.com)

Zev Zlotnick – 416-865-6601 – [zzlotnick@gardiner-roberts.com](mailto:zzlotnick@gardiner-roberts.com)

Lad Kucis – 416-864-3114 – [lkucis@gardiner-roberts.com](mailto:lkucis@gardiner-roberts.com)



GARDINER ROBERTS