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REPORT
Regional Council

DATE: June 18, 2010

REPORT TITLE: **LONG TERM CARE HOMES ACT PROCLAIMED**

FROM: Janette Smith, Commissioner of Health Services

RECOMMENDATION

That 4.7 additional Full-Time Equivalent (FTE) positions be approved as an in year approval to meet specific staffing requirements set out in the *Long Term Care Homes Act*;

And further, that staff be directed to provide Regional Council, as part of the 2011 budget deliberations with a further costing analysis for compliance with the *Long Term Care Homes Act,* and of provincial funding commitments to offset these expenses;

And further, that the report of the Commissioner of Health Services, dated June 18, 2010, titled "Long-Term Care Homes Act Proclaimed" be sent to the Intergovernmental Relations Advisory Committee for direction around future advocacy that highlights the need for adequate one-time and ongoing operational funding to LTC operators transitioning to the *Long Term Care Homes Act.*

REPORT HIGHLIGHTS

- New legislation governing the entire Long Term Care home sector is a central part of the transformation agenda for Long Term Care.
- The *Long-Term Care Homes Act, 2006* (the *Act*) repeals the *Nursing Homes Act*, the *Charitable Institutions Act*, and the *Homes for the Aged and Rest Homes Act.*
- In April 2010 the Ministry of Health and Long-Term Care released the final version of the new regulations under the *Act* to all long term care home operators, to come into effect on July 1, 2010.
- The *Act's* fundamental principle is that the long term care home is a home for its residents, a place where they may live in dignity and in security, safety and comfort
- Peel LTC is completing a detailed review of the *Act* and the new regulations which has already identified some areas of operation that will require resources.
- Peel Long Term Care (LTC) staff will develop a prioritized workplan to achieve changes required in the *Act* and its regulations.
- Specific requirements to increase food service hours in some locations must be implemented by January 1, 2011.
- Staff will bring forward additional operational requirements for inclusion in the 2011 budget deliberations.

DISCUSSION

1. Background

The long term care home sector in Ontario is a key component of the broader health system providing care and support services to a rapidly growing senior's population. Like many other parts of the health system, this sector is undergoing a major system transformation affecting many policy areas.

a) New Governing Legislation for the Long Term Care Sector

New legislation governing the entire long term care home sector is a central part of the transformation agenda for long term care. As reported to Regional Council in January 2007, the Ministry of Health and Long-Term Care (MOHLTC) introduced legislation designed to consolidate oversight of the entire sector, and to introduce new rules governing all long-term care homes.

The *Long-Term Care Homes Act, 2006* (the *Act*) repeals the *Nursing Homes Act*, the *Charitable Institutions Act*, and the *Homes for the Aged and Rest Homes Act*, replacing these statutes with a single system of governance for over 600 for-profit, non-profit, and municipal long-term care homes in Ontario.

The *Act*'s fundamental principle is that the long term care home is a home for its residents, a place where they may live in "dignity and in security, safety and comfort".

Major sections of the *Act* include:

- A Resident's Bill of Rights;
- Detailed requirements for preventing abuse and neglect of residents, and licensee support for family and resident councils;
- Complaint procedures and strengthening whistle-blower protections;
- Detailed procedures concerning home admissions, the use of restraint procedures, and admission to secure units;
- Provisions on MOHLTC monitoring and obtaining compliance; and
- Rules guiding the review and appeal processes available to licensees/operators.

In April 2010, Council received communication from the MOHLTC that the *Act* and new regulations governing this sector would come into force on July 1, 2010.

As the *Act* consolidates and updates laws governing the long term care sector, it is central to a series of reforms aimed at improving the quality of care for residents and accountability within the sector. Most notably, Long-Term Care Service Accountability Agreements between long term care homes and Local Health Integration Networks (LHINs) came into effect on July 1, 2010. As reported to Council in June 2010, these Agreements set performance expectations for long term care homes.

All long term care home operators are also adapting to several important provincial initiatives that will integrate care planning and seniors services across many parts of the health system. These initiatives include:

- Local planning and integration activities led by LHINs to address provincial priorities, including Alternate Level of Care beds in hospitals, and emergency department wait times;

- A new inspection process to increase accountability and the capacity of homes to monitor performance with respect to compliance with resident care standards;
- Implementing the common assessment and care planning system (Resident Assessment Instrument) that determines client care requirements and eligibility for services;
- Introducing public reports on quality indicators in long term care by the Ontario Health Quality Council; and
- Introducing a standardized electronic Management Information System to ensure consistent and accurate financial reporting by all long term care homes.

While Peel applauds the intent of the reforms, there is concern for the resources long term care home operators will need to effectively adapt to these changes.

b) Review of the *Long-Term Care Homes Act*

As reported to Council in 2007, Peel LTC is well–positioned to take on many of the challenges that result from this legislation with respect to its high standards of resident care, accountability to residents and their families and transparency of operations.

Region of Peel's specific concerns with the *Act* were documented in the staff report tabled at January 18, 2007 General Committee. This report was provided as Region of Peel comments on the draft legislation to the Ontario Legislature's Standing Committee on Social Policy. Among the concerns with the draft legislation was:

- The *Act's* increased administrative and documentation requirements placed on all homes, including those with good compliance results.
- A Residents' Bill of Rights that focuses almost exclusively on individual rights at the expense of the rights of other residents.

In addition, Region of Peel staff with support from the Ontario Association of Non-Profit Homes and Services for Seniors and the Association of Municipalities of Ontario have been assessing the impact of provisions in the *Act*, and in providing input on the new regulations under the *Act*.

2. Findings

In April 2010 the MOHLTC released the final version of the new regulations under the *Act* to all long term care home operators, to come into effect on July 1, 2010. The MOHLTC and the long term care homes sector have been working towards this deadline, and Peel LTC has begun to implement many of the provisions in the *Act*.

The Ontario Association of Non-Profit Homes and Services for Seniors has been working with Ministry staff to complete a sector-level analysis of the costs of compliance with the *Act*. Given that the finalized regulations were released in April, Peel LTC is also completing its own detailed review and compliance planning. This comprehensive gap analysis of the regulations under the *Act* has commenced and has already identified some areas of operation that will require resources:

a) Buildings and Equipment

Regulations under the *Act* include both new and revised facilities requirements to provide a safe and secure home. Requirements relate to enhanced door alarm systems, emergency generators, elevators restricting resident access to non-resident areas, and

equipment safety features concerning bed rails and window openings, as examples. While Region of Peel buildings are continuously maintained at a high standard, some modifications are anticipated in the range of $150,000.

b) Staffing

Regulations prescribe specific hours of work in food services and staffing plans for operations throughout the long term care home. Additions to food service staffing must be in place by January 1, 2011 at an estimated cost of $336,016.

The regulations also prescribe qualifications and training requirements across a range of functions within homes, including:

- Food services;
- Therapy and restorative care staff;
- Social workers;
- Maintenance;
- Volunteer services and administration.

The regulations include new requirements for training and orientation of staff. Education of staff is completed on an ongoing basis. Class-style training programs make it necessary to replace staff in their regular duties. One day of training for all employees costs $150,000. The means by which new requirements will be met are under review.

c) Policies and Procedures

Many new requirements in the regulations will be developed into operational practices, including implementation and instruction of staff designed to provide a safer and better experience for residents, and those who are awaiting admission to a long term care home. These changes will be introduced to staff in conjunction with new staff education requirements. Regulations are likely to impact policies and procedures in areas such as:

- Reporting and complaints;
- Protocols for personal care, nutrition and daily activities as well as programs to promote a restorative care philosophy;
- Staff records management;
- Admissions procedures;
- The use of restraints, and
- Administration of family councils.

d) New Inspection System

The focus of the new system of compliance monitoring of long term care homes by MOHLTC inspectors will be less collaborative than in the past. More effort will be required for long term care homes to monitor and track outcomes and to provide evidence to ensure achievement of compliance. Resident measures and outcomes information must also be submitted to a central repository for analysis and review by inspectors, and eventually public reporting through the Ontario Health Quality Council. This inspection system will include processes across three areas:

- Nursing
- Dietary
- Environmental.

Documentation of long term care home practices and detailed recording of care interventions for individual residents is an increased expectation which will require additional effort and resources. Completion of these changes will be integrated into work plans and instruction will be included within the new staff education requirements.

Peel LTC management is investigating the means to achieve expectations, including both electronic charting and additional staff resources to focus on the documentation of resident services to deliver consistent and comprehensive care to each person. At this stage of the analysis, the cost of these improvements includes one-time costs of approximately $150,000 for electronic documentation equipment as well as additional staff resources.

e) Resident Billing

Regulations under the *Act* now permit long term care home operators to apply reasonable interest charges for missed, incomplete or late payments on their approved monthly fee. For Peel LTC, such fees may be integrated into existing standard Region of Peel practices.

3. Proposed Direction

While regulations were not made available to operators until April 2010, Peel LTC has launched an internal project to assist with the transition to the new regulations, including a full cost analysis of the resources needed to achieve compliance. A work plan will prioritize activities on risk-oriented activities such as care related protocols. Staff will provide Regional Council with a full accounting of all transition costs in the 2011 budget documents, based on findings from this project.

While a full costing of the transition to the *Act* and new regulations will be prepared in the coming months, specific requirements to increase food service hours in some homes must be implemented starting in January 1, 2011. However, Regional Council approval for the 2011 budget is not expected before the end of February 2011. To ensure compliance with new regulations, Peel LTC seeks approval to begin recruitment of the new positions (4.7 FTE) in the fall of 2010 to be ready to start January 1, 2011.

The implementation of the new provincial inspection system to monitor compliance is currently in a pilot phase with training for both inspectors and operators continuing through the summer months and into the fall of this year. Additionally, the Region's Tall Pines LTC home has been selected to participate in a pilot implementation of the new Compliance Inspection System.

FINANCIAL IMPLICATIONS

The one-time and ongoing costs of compliance with the new regulations are not unique to Peel LTC. Sector-wide analysis by home operators is advising the MOHLTC that implementing the new regulations will be far from cost-neutral. The long term care sector estimates the ongoing annualized costs (2011-12) to be approximately $53 million.

It is anticipated there will be some limited provincial government funding to partially offset some transition costs, though details have yet to be released. The MOHLTC has announced $30 million to the long term care homes sector to assist with implementation of the *Act* and regulations. It is understood that $21.7 million will be provided directly to long term care home operators.

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To implement the additional required dietary service hours for both Dietary Services Supervisors and Food Service Workers, the annualized cost is $336,016. Staff will include this additional cost in the 2011 Long Term Care budget request. Costs for 2010 will be managed within the current approved budget.

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Commissioner of Health Services

Approved for Submission:

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