

**Medical Health Officer Report to the Board:
Recommendation to Appoint an Administrator for Comox Valley Seniors Village, 4640 Headquarters
Road, Courtenay**

A Formal Facility Status Report (the “Licensing Report”) regarding Comox Valley Seniors Village long-term care facility (the “Facility”) was received from the Community Care Facilities Licensing Program on Sept 11, 2019. Based on evidence from Licensing’s investigation the Licensing Program is not confident in the ability of the Licensee to ensure the health and safety of persons in care is maintained and sustained and recommends the appointment of an Administrator. The Administrator would provide oversight, support and mentoring as well as “enable the organization to have one point of contact, responsible for ensuring statues, regulations, internal operating policies or procedures are met and persons in care are receiving care that meets or exceeds minimal health and safety” (Licensing Report, pg. 58).

On careful review and consideration of the Licensing Report it is my determination that the Licensee is either unwilling or unable to meet the minimal requirements of the *Community Care and Assisted Living Act* (the “CCALA”) and the expected standard as per s.7(1)(b)(i) to ensure the health, safety and dignity of persons in care is not being met.

Licensing’s application of progressive enforcement and the substantial supports from the Licensing Program has not resulted in the expected ability of the Licensee to meet legislated requirements. Short of cancelling the license, which would have a significant and negative impact resulting in the displacement of 136 individuals that live in the Facility, it is appropriate to now appoint an Administrator. It is thus my recommendation that the Board appoint an Administrator to work in the Facility and with the Licensee to build system stability and ensure compliance with all requirements of the CCALA for a minimum period of 6 months.

The purpose of this report is inform Island Health Board to the legislation, rationale and process as it relates to the recommendation for the appointment of an Administrator.

1.0 Power to appoint Administrator

The CCALA (s. 23) empowers the Minister to appoint an Administrator for a specified period of time, if the Minister has reasonable grounds to believe that there is a risk to the health or safety of persons in care. This duty has been delegated to the Boards of the health authorities.

The appointment of an administrator under s.23 is not considered an “action” for the purposes of reconsideration rights under s.17 of the CCALA. Consequently, the right of the Licensee to request the Medical Health Officer (the “MHO”) reconsider his or her decision, as in the usual process associated

with attaching terms and conditions to or varying terms and conditions of a license or suspending or cancelling a license, does not apply to the appointment of an Administrator.

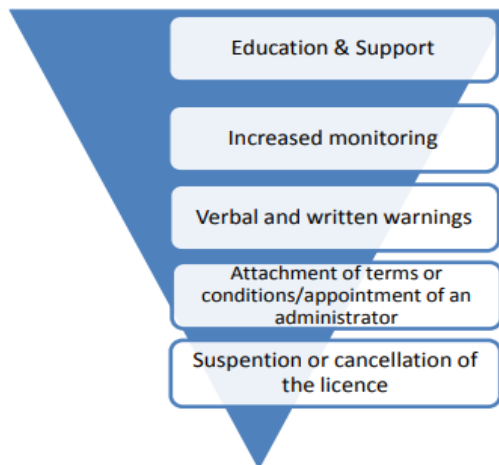
However, s.29 (2) of the CCALA does grant the Licensee a right to appeal the appointment of an Administrator within 30 days of receiving notification of that appointment to the Community Care and Assisted Living Board. The Board's decision to appoint an Administrator could be appealed pursuant to s. 29 of the CCALA.

Also, s. 23 of the CCALA says the Administrator's fees will be deducted from the fees paid by the persons in care. All services for persons in care paid for by the government are to be made directly to the Administrator. If these funds are insufficient the Minister (read Board) will make up the difference. Essentially, the Facility is responsible for payment.

2.0 Rationale and analysis

2.1 Adherence to progressive enforcement.

Progressive enforcement is a strategy to address non-compliance and involves the important principle of a gradual enforcement that introduces increasingly formal action to correct the lack of compliance with a legislated requirement, moving from least intrusive to the most intrusive action.



A Guide to Community Care Facility Licensing in British Columbia, pg. 37.

Increasing inspections may be needed to ensure the Licensee is moving toward compliance. For the majority of Licensees this is the only strategy required to ensure correction of any outstanding identified issues by the Licensing Officer (the "LO"). A summary table below for the period of March 1 to Aug 23, 2019 identifies 45 inspections and investigations by the LOs for routine and follow up inspections for complaint investigations. This is an exceptional amount of monitoring visits to a Facility for this period of time. It is noteworthy that all 22 routine and follow up inspections have identified contraventions and that contraventions

continue. As well, of the 18 complaint investigations 8 have been completed and all 8 had substantiated contraventions. The remaining 10 investigations are still in process. This demonstrates a consistent and sustained pattern of non-compliance by the Licensee.

Non-compliance with the CCALE and its Regulations indicates that the minimal standards expected to ensure health and safety of persons in care are not being met. The volume of contraventions; lack of timeliness of responses to address contraventions; and the duration that contraventions continue demonstrates an unacceptable risk and potential for harm to persons in care. Additionally, the categories and continuance of contraventions are occurring across multiple areas including care planning, staffing and record keeping and this represents a widespread, systemic failure on the part of the Licensee that will not be remedied by isolated responses to single contraventions. Table 1 illustrates the licensing activity between March 1, 2019 and August 23, 2019.

Table of Licensing Activity for the period of March 1, 2019 to Aug 23, 2019

Date	Activity Category	Status	Contraventions
March 7, 2019	Routine Inspection	Follow Up Required	Yes
March 11, 2019	Allegation of Disease Outbreak	In report	Yes
March 13, 2019	Allegation of Emotional Abuse	Completed N-19-045	Yes
March 20, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
March 20, 2019	Allegation of Neglect	In current report	Yes
April 1, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
April 1, 2019	Allegation of Aggression between persons in care	In Process	Not determined
April 8, 2019	Allegation of Staffing	In current report	Yes
April 8, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
April 15, 2019	Allegation of Supervision	In current report	Yes
April 16, 2019	Complaint Inspection	In Process	In Process
April 17, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
April 25, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
April 29, 2019	Allegation of Neglect & Wound Care	In current report	Yes
May 3, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
May 9, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
May 17, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
May 21, 2019	Allegation of Physical Plant, Staffing	In Process	Not determined
May 23, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
May 23, 2019	Complaint Inspection	In Process	In Process
May 29, 2019	Allegation of Emotional Abuse	In current report	Yes
May 29, 2019	Allegation of Physical Abuse	In current report	Yes
May 30, 2019	Routine Follow Up Inspection	Follow Up Required	Yes

June 3, 2019	Allegation of Disease Outbreak, Training	In Process	Not determined
June 7, 2019	Complaint Inspection	In Process	In Process
June 14, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
June 20, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
June 24, 2019	Allegation of Physical Abuse, Neglect	In Process	Not determined
July 5, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
July 9, 2019	Allegation of Multiple Allegations	In Process	Not determined
July 10, 2019	Allegation of Neglect, Emotional Abuse	In Process	Not determined
July 10, 2019	Allegation of Physical Abuse	In Process	Not determined
July 11, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
July 23, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
July 23, 2019	Routine Inspection	Follow Up Required	Yes
July 25, 2019	Allegation of Neglect, Record Keeping	In Process	Not determined
July 31, 2019	Complaint Inspection	In Process	In Process
August 2, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
August 2, 2019	Complaint Inspection	In Process	Not determined
August 9, 2019	Allegation regarding Staffing	In Process	Not determined
August 9, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
August 14, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
August 15, 2019	Allegation regarding Staffing	In Process	In Process
August 15, 2019	Routine Follow Up Inspection	Follow Up Required	Yes
August 20, 2019	Routine Follow Up Inspection	Follow Up Required	Yes

In addition, Licensing has completed two Risk Assessments for the Facility, dated March 13, 2019 and August 1, 2019. Both assessments rated the Facility as High Risk [s.13, s.15](#)
[s.13, s.15](#)

On June 10th, the MHO imposed conditions on the Facility. The conditions were recommended by the Licensing Program as a direct result of areas of substantiated contravention from previous investigations. It was reasonable to expect full compliance with the imposed conditions within a 3 month period. However, the Licensee has not fully complied with the imposed conditions; the Licensee has not responded in a timely manner, nor demonstrated an understanding of or fully acted on the imposed conditions.

The appropriate application of progressive enforcement by the Licensing Program and the MHO has not been sufficient in bringing the Licensee into compliance with the CCALA and its Regulations. There are reasonable grounds to believe that currently there is a risk to the health and safety of persons in care at the Facility.

In order to ensure the expected minimal standard of health and safety for persons in care is met it is reasonable to now appoint an Administrator. The appointment of an Administrator would provide comprehensive onsite responsibility for the daily operation and management of the Facility. This would include mentoring and support for critical functions such as care planning, staff recruitment and orientation, development and implementation of audit tools, reporting, developing policies and procedures and overall compliance with the legislation.

2.2 Sustainable systems are essential for health and safety of individuals in care

Efficient and sustainable systems are critical to enable staff to develop their professional competencies, adhere to and implement facility policies and procedures, demonstrate skill and knowledge in the provision of care to persons in care according to the person in care's specific health needs and ensure that the standards of the legislation are met at all times. The Licensee has not been able to develop sustainable systems to ensure that the health and safety of persons in care are maintained at all times.

The multiplicity of deficiencies related to care plans: Care plan development for specific needs of persons in care, care plan revision and updates, care plan audits and care plan comprehension by staff demonstrates a serious system failure. Care plans are critical to ensuring the health and safety of persons as they enable the Facility staff to appropriately know, provide and respond to unique needs for those in care. Care plans exist to ensure the right care for the right person all the time. The absence or inaccuracy of care plans and the lack of knowledge of care plans by staff puts persons in care at risk of harm.

Evidence collected by Licensing substantiates multiple examples of lack of documentation or failing to ensure appropriate and sufficient documentation as it relates to employees, care for residents and Facility policies. Timely and accurate recording is fundamental in ensuring qualifications and expectations of staff are met and continuity of care for residents is achieved. The general inability of the Licensee to achieve consistent and appropriate documentation demonstrates a serious system failure which puts persons in care at risk of harm.

With identified contraventions on inspection or investigation the Licensee is asked to submit a corrective action plan. The Licensee has not demonstrated an ability to ensure consistency in implementing, adhering to and sustaining. The intention of a corrective action plan is for the Licensee to act and implement the plan they have submitted, not simply to provide a plan. This provides another example of a serious systemic failure. The corrective action plans are requested in response to identified contraventions and non-

compliance with the CCALA and when these plans are not implemented the area of contravention continues unabated and the health and safety of persons in care is at risk.

An appointed Administrator would assist in creating necessary system stability and linkages between systems and processes such as the implementation of audit tools, education and training of staff and that corrective action plans are achievable and complied with. The Administrator would also assist in identifying ineffective practices and build on successful practices such that systems are successfully understood and implemented by staff.

2.3 Staffing

Without staff in sufficient number, training and experience persons in care are at significant risk of harm from either no care or insufficient care to meet their needs.

The Licensee has been unable to ensure required staffing levels and has not provided a concrete strategy or details on how they will address recruitment and retention. There has also been a high turn over of staff which has resulted in the hiring of inexperienced staff. Through Licensing monitoring it has been identified that staff are often not aware of policies, procedures and care plan. This demonstrates that staff are not being appropriately orientated.

Monthly reporting by the Licensee shows that the number of staff attending education and training is low. These low numbers not sufficient to ensure that staff are appropriately trained and oriented to the systems and policies and procedures.

The appointment of an Administrator would result in the development of staff recruitment strategies that ensure staff hiring in a manner such that the regulatory requirements for staff number, training and experience are met. They would also provide oversight, support and mentoring to identify and develop training and education for staff such that their competency aligns with their professional designation. The Administrator would build on existing practices to further develop and implement a sustainable and effective orientation for new staff.

2.4 The Licensee is required to meet the requirements of the CCALA.

The Licensee has the primary responsibility to ensure the health, safety, and dignity, of persons in care and to operate a facility in compliance with the CCALA and Regulations. In order to assist the Licensee to meet their mandate Licensing has invested significant time and support, including attending the Facility on a weekly basis since April 8, 2019 and twice weekly since August 2, 2019.

I am concerned that where the Licensee has complied with the CCALA and Regulations to date this is partially due to the frequency of Licensing's weekly onsite inspections and their specific requests for documentation. I do not have confidence that the Licensee would be able to continue to comply even as little as it has without Licensing's intervention.

While important to acknowledge that the Licensee has made some progress, the Licensee is required to fully satisfy the requirements of the CCALA, not just partially satisfy them.

The majority of licensed long term care facilities are able to meet or exceed the minimal requirements of the CCALA with little to no application of progressive enforcement. Yet the Licensee continues to move too slowly toward full compliance. This indicates to me that the Licensee is either unable or unwilling to meet their mandated responsibility of ensuring health, safety and dignity of persons in care.

An appointed Administrator would act as a bridge between the Licensee and Licensing to empower the Licensee with the tools and systems for sustained and independent provision of competent and compliant care.

2.5 Imposed conditions June 10, 2019

The Licensee has not demonstrated timely fulfillment of their responsibility to meet the June 10th conditions. Information reported by Licensee is often not clear, lacks detail and contains discrepancies. This does not provide confidence that the Licensee understands what is required of them or that the information reported back is accurate. It is concerning that Licensing has identified that facility staff including key leadership positions were largely unaware of the requirements of the conditions.

An appointed Administrator would be able to build on progress to date in meeting full compliance with June 10, 2019 MHO imposed conditions.

3.0 Regarding the Administrator

Recommended Administrator: Susan Abermann. Contact information and qualifications are enclosed as Appendix A.

4.0 Terms of Reference for Administrator

A draft terms of reference for the prospective Administrator is enclosed as Appendix B. It is recommended that the letter appointing the Administrator include the following terms:

- That the Administrator is a representative of Island Health ^{s.13}
- The Administrator's contact person at Island Health will be Jenna Boehm, Residential Licensing Officer, 29-1925 Bowen Road Nanaimo.
- That the Administrator is to take his or her instructions from the Board; and
- A clause in which the Board may terminate the appointment of the Administrator earlier than the termination date of the appointment in its sole discretion.

5.0 Notice to Licensee and Persons in Care

Once the Board has made a decision to appoint an Administrator, it must serve notice of that appointment to the Licensee.

Enclosed as Appendix C is a draft letter giving the Licensee notice of the appointment of an Administrator.

It is recommended that a written notice of the appointment be sent to the Minister of Health although this is not a statutory requirement.

The Board should also plan to notify the individuals in care and their families of the appointment of an Administrator.

Summary

Adhering to the principles of progressive enforcement it is now appropriate to appoint an Administrator to work with the Licensee in ensuring all aspects of the CCALA are in full compliance as well as to help build resilient systems in the Facility that will sustain compliance. The volume of identified contraventions and breadth of issues that represent significant system failures coupled with the slow and partial response by the Licensee, even with significant support from the Licensing Officer and prescribed conditions, puts the health and safety of persons in care at ongoing risk. I do not have confidence this Licensee is either willing or able to come into compliance with the CCALA on their own accord.

Charmaine Enns, MD, MHSc, FRCPC
Medical Health Officer
Island Health

Pages 9 through 14 redacted for the following reasons:

s.13

s.22