

Chapter 1

Section 1.12

Ministry for Seniors and Accessibility

Retirement Homes Regulatory Authority

Follow-Up on Value-for-Money Audit, 2020 Annual Report

RECOMMENDATION STATUS OVERVIEW						
	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	4		4			
Recommendation 2	4	2	1	1		
Recommendation 3	3	1	2			
Recommendation 4	1		1			
Recommendation 5	4	2	1	1		
Recommendation 6	3	3				
Recommendation 7	1		1			
Recommendation 8	3	1	2			
Recommendation 9	1	1				
Recommendation 10	2	2				
Recommendation 11	2		2			
Recommendation 12	4		4			
Recommendation 13	2	2				
Recommendation 14	2	2				
Recommendation 15	1		1			
Recommendation 16	3			3		
Recommendation 17	1		1			
Recommendation 18	5	4	1			
Recommendation 19	4	1	2	1		
Recommendation 20	2	1	1			
Recommendation 21	1			1		
Recommendation 22	1		1			
Recommendation 23	3	1	2			
Recommendation 24	3	3				
Recommendation 25	2		2			
Recommendation 26	1	1				
Total	63	27	29	7	0	0
%	100	43	46	11	0	0

Overall Conclusion

The Retirement Homes Regulatory Authority (Authority) and the Ministry for Seniors and Accessibility (Ministry), as of October 31, 2022, have fully implemented 43% of actions we recommended in our *2020 Annual Report*. The Authority and the Ministry have made progress in implementing an additional 46% of the recommended actions, and made little or no progress in implementing 11% of the recommended actions.

The Authority has fully implemented recommendations such as working with the Ministry to obtain the necessary approvals to collect needed information to strengthen the oversight of staffing and care services provided in retirement homes; putting processes in place to assess whether all retirement homes have appropriate practices on infection prevention and control; publishing outbreak data by retirement home; and confirming that all licensees have complied with the fire sprinkler installation requirement.

The Authority was in the process of implementing recommendations such as communicating the complaints process to residents and their families for residents in subsidized beds; supporting retirement homes to incorporate pandemic plans in their emergency plans; and establishing criteria for making emergency funding available should managers deployed to a retirement home under management order require justifiable financial resources.

The Authority has made little progress on recommendations such as recommending a regulatory change regarding a minimum amount of extra expense insurance coverage; and incorporating into its inspector training any lessons learned from public health inspections.

The status of actions taken on each of our recommendations is described in this report.

Background

The Retirement Homes Regulatory Authority was established in 2011 and oversees retirement homes

under the *Retirement Homes Act, 2010* (Act). Through the Act, the Authority has been delegated to promote and enforce consumer protection and safety of residents. The Authority is a self-funded, not-for-profit administrative authority and is overseen by the Ministry for Seniors and Accessibility.

Our 2020 audit found that a shift was occurring whereby thousands of beds in retirement homes were being occupied by individuals who had more intense health-care needs than the more active and independent seniors that many retirement homes were designed for. According to Ontario Health, as of March 31, 2022, of the approximately 39,900 (38,000, 2020) people waiting to be placed in long-term-care homes, 27% (26%, 2020) or about 10,800 (10,000, 2020), were waiting in licensed retirement homes.

As of March 31, 2022, there were 778 (770, 2020) licensed retirement homes in Ontario with the potential capacity to provide care and accommodation for about 85,000 (about 80,000, 2020) Ontarians. According to the Authority, 98 (101, 2020) or 13% (13%, 2020) of the licensed retirement homes share a location with long-term-care homes.

According to Ontario Health, in 2021/22, about 3,975 people (4,201, 2019/20) who lived in retirement homes were previously hospital patients who were designated as alternate level of care (ALC). Patients designated as ALC are discharged from a hospital because they no longer require acute care but can be in a condition where it may be suitable for them to be in a long-term-care home or other more appropriate alternative settings.

Some of our significant audit findings included:

- The care and accommodation of thousands of former hospital patients in retirement homes were not subject to Authority oversight, nor Ministry of Health inspections. In 2019/20, 4,201 patients designated as alternate level of care (ALC) were discharged from hospitals to retirement homes. Some of these patients stayed in retirement home beds under a program subsidized by the Ministry of Health. Neither the Ministry of Health nor the Local Health Integration Networks performed inspections or

systematically handled complaints for people in these subsidized beds to ensure patient security and safety.

- The impact of COVID-19 on retirement homes was significant, even though they experienced fewer reported cases and deaths than long-term-care homes. According to COVID-19 outbreak data collected by the Authority, as of August 31, 2020, 185 COVID-19 outbreaks were detected at 171 licensed retirement homes, affecting 989 residents and 491 staff. A total of 209 residents from 48 retirement homes died. As of March 31, 2022, an additional 1,154 outbreaks were detected. By then, a total of 600 licensed retirement homes, 7,774 residents and 5,324 staff had been affected, including 710 residents who had died since the beginning of the pandemic.
- Neither the Ministry for Seniors and Accessibility nor the Authority tracked the number of patients designated as ALC in retirement homes. This meant that we were unable to determine how many of the 209 COVID-19 deaths and 989 infections of residents in retirement homes during our audit were patients designated as ALC.
- Five retirement home operators had not installed fire sprinkler systems at the time of our 2020 audit. Another five retirement home operators had indicated to the Authority that they had installed the fire sprinkler systems but had yet to provide the final review report from engineers and municipal inspectors, before installation could be considered complete. As of January 2019, the Fire Code requires that retirement homes have automated fire sprinkler systems installed.

We made 26 recommendations, consisting of 63 action items, to address our audit findings.

We received commitment from the Retirement Homes Regulatory Authority and the Ministry for Seniors and Accessibility that they would take action to address our recommendations.

Standing Committee on Public Accounts

On April 21, 2021, the Standing Committee on Public Accounts (Committee) held a public hearing on our 2020 audit. In February 2022, the Committee tabled a report in the Legislature resulting from this hearing. The Committee endorsed our findings and recommendations, and made six additional recommendations. The Ministry reported back to the Committee on June 22, 2022, and again on August 12, 2022. The Committee's recommendations and our follow-up on its recommendations are found in **Chapter 3, Section 3.04** of our *2022 Annual Report*.

Status of Actions Taken on Recommendations

We conducted assurance work between April 2022 and August 2022. We obtained written representation from the Retirement Homes Regulatory Authority and the Ministry for Seniors and Accessibility that effective October 31, 2022, they have provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

Oversight Gap Leaves Vulnerable Residents More at Risk in Retirement Homes

Recommendation 1

To eliminate the inspection and complaint-handling gap and to protect residents in retirement home beds that are exempted from the Retirement Homes Regulatory Authority's oversight under the Retirement Homes Act, 2010, some of whom are designated as alternate level of care, from harm and neglect, regardless of who is funding the beds, we recommend that the Retirement Homes Regulatory Authority and the Ministry for Seniors and Accessibility, in conjunction with the Ministry of Health, the Local Health Integration Networks, and other

ministries, governments and parties that fund these spaces in retirement homes:

- *clarify the responsibility of inspection and complaint handling of spaces occupied by patients designated as alternate level of care and subsidized beds in retirement homes;*

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we noted that when beds are funded by ministries such as Health and Children, Community and Social Services under statutes or programs outlined in the *Retirement Homes Act, 2010* (Act), the Act specifies that those beds are not subject to oversight by the Authority. While the Authority responded to issues raised related to the conduct of a licensee irrespective of whether the home includes any patient designated as alternate level of care, it was not clear that the Authority could address the issues—such as through enforcement—where exemptions to the Act apply.

During our follow-up, we found that in November 2020 the Ministry for Seniors and Accessibility (Ministry) formed a cross-ministry internal advisory committee that includes representatives from the Ministry of Health, the Ministry of Long-Term Care, the Ministry of Municipal Affairs and Housing and the Ministry of Public and Business Service Delivery. The purpose of the committee is to build and enhance support for Ontario seniors living in retirement homes and other settings. As well, the Ministry established a working group to clarify the responsibility of inspection and complaints handling for spaces in retirement homes that are exempt from the Act. The working group reports into the internal advisory committee. The working group met in May, June and October 2021 and March 2022; the advisory committee met in May, September and December 2021 and January and March 2022.

The Authority has shared data, information and advice with the ministries on which retirement homes have subsidized suites and other pertinent information on subsidized programs throughout 2021.

The Ministry, in April 2021, confirmed via a memo to the Authority, that the Authority has full regulatory oversight responsibility for patients designated as alternate level of care who are transferred to a licensed retirement home under the Ministry of Health's transitional care program, which includes projects previously funded through the short-term transitional care model and targeted investment strategy programs. This responsibility encompasses the complaints and inspection provisions of the Act.

The Authority indicated that it will seek clarification from the ministries on the appropriate program authorities and service provider(s) for those subsidized beds that are exempt under the Act. Likewise, the Ministry informed us that, by December 2022, it will work with the Authority, the Ministry of Health, the Ministry of Long-Term Care and Ontario Health to facilitate the sharing of information with the Authority to support alternate level of care residents in retirement homes and communicate to residents and families the rights and protections afforded under provincial legislation.

- *inspect homes with such residents as soon as possible to ensure that they are safe and are being properly cared for;*

Status: In the process of being implemented by March 2024.

Details

In our 2020 audit, we noted that retirement homes might also house residents who are funded by the Ministry of Health's short-term transitional-care program, which began in 2017/18. However, neither the Ministry of Health nor the Authority inspected these retirement home beds.

At the time of our follow-up, the Ministry for Seniors and Accessibility (Ministry) provided \$5 million to the Authority in 2021 to conduct increased inspections and respond to emergency and crisis situations in retirement homes due to the COVID-19 pandemic. In addition, the Authority has identified that 39 retirement homes have subsidized beds. Since 2021, it has conducted at least one inspection at each of these retirement homes.

Also, in December 2021, legislative changes have permitted the Authority to receive data and information from retirement homes on beds occupied by people who are designated as alternate level of care or funded by subsidized programs that are subject to requirements under the *Retirement Homes Act, 2010*. The Authority plans to continue conducting inspections in retirement homes with residents designated as alternate level of care or in subsidized spaces and address allegations involving these residents on a case-by-case basis. The Authority indicated that it will seek clarifications from the ministries on the appropriate program authority and service provider(s) for subsidized beds that are exempt under the Act. It expects to collect information related to these beds from retirement home operators. Where possible, the Authority will collaborate with appropriate programs and service providers in order to conduct focused inspections at these homes by March 2024.

- *regularly inspect these homes and track and address complaints related to subsidized beds;*

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we noted that the Local Health Integration Networks (LHINs) and the Ministry of Health, which subsidize beds in retirement homes through the short-term transitional-care program, did not systematically collect complaints related to these beds because they expected any complaints to be directed to the Authority. While the Authority's position was that it receives and accepts complaints from subsidized residents in retirement homes, in practice, it informs complainants at the beginning of the complaints process whether their concerns are outside of the Authority's jurisdiction and advises them to contact the LHINs for further assistance.

At the time of our follow-up, the Authority had been tracking the number and types of complaints received since April 1, 2021. Two formal complaints have been received involving residents in subsidized beds. The Authority indicated that it plans to address complaints involving subsidized residents with available resolution

under the *Retirement Homes Act, 2010* and through referrals to appropriate agencies. The Authority has inspected retirement homes that have subsidized beds since 2021 and is engaging other ministries and agencies to attempt to obtain clarification at a program level to assist in determining whether a home or a portion of a home qualifies as an exemption of a retirement home according to the Act. The Authority plans to update its communications to outline the complaints process, where appropriate, by December 2022.

- *clearly and effectively communicate the complaints process to residents and their families for residents in subsidized beds.*

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we found that the LHINs and the Ministry of Health, which subsidize some beds in retirement homes, did not systematically collect complaints related to these beds because they expected any complaints to be directed to the Authority. Ontario Health noted that these arrangements were between hospitals and the retirement homes; the LHINs were not involved in the process. The Authority was responding to issues raised that related to the conduct of a licensee, irrespective of whether this conduct involved a subsidized patient; however, the Authority indicated that it was not clear that it could address issues relating to subsidized beds where exemptions to the Act applied.

Our follow-up found that, in July 2021, the Authority added new information to its website to clarify its oversight role and to refer complainants to the correct regulatory authority. The Authority noted that it will continue to monitor care programs in retirement homes when it becomes aware of them through its inspection process. The Authority is engaging with other ministries and agencies to seek clarification at a program level in determining whether a home or portion of a home qualifies as an exemption of a retirement home according to the Act. The Authority plans to update its communications about the complaints process, where appropriate, by December 2022.

Needed Level of Care Rising

Recommendation 2

To protect residents of retirement homes who may require increasing levels of care, and in some cases to the extent of the level of care provided in long-term-care homes, we recommend that the Retirement Homes Regulatory Authority work in conjunction with Ontario Health, the Ministry of Long-Term Care and the Ministry for Seniors and Accessibility to:

- resume and accelerate its work to develop different and appropriate approaches to regulate different types of retirement homes with consideration of the evolving resident health profiles;

Status: In the process of being implemented by March 2023.

Details

In our 2020 audit, we noted that an increasing number of the retirement home residents who received government-funded home-care services had needs similar to those who lived in long-term-care homes. However, the Authority did not collect information on the care needs required for retirement home residents. The Authority was also not aware of the specific types of care services that residents received from retirement homes, private care providers and government-funded home care.

From our follow-up we learned that the Authority assigned a project manager in fall 2021 to advance its licence classes evaluation project and develop the project charter. The Authority has identified data it needs to collect from licensed retirement homes to inform an assessment of evolving resident health profiles and plans to start collecting this data by fall 2022. It has also established a working relationship with McMaster University to help interpret data for recommendations on next steps.

By March 2023, the Authority expects to work with the Ministry for Seniors and Accessibility (Ministry) and other government agencies to develop an oversight model proportionate to a resident's care needs, provide advice to the Ministry in its review of the *Retirement Homes Act, 2010* to identify potential statutory amendments that would provide the Authority with flexibility

to address the evolving nature of care service delivery in retirement homes, and develop a purposeful approach to regulatory oversight, given varying and evolving business models, that ensures residents are protected from harm.

- examine, reassess and identify the most efficient and cost-effective way to deliver support services in retirement homes for the safety and protection of residents;

Status: Little or no progress.

Details

In our 2020 audit, stakeholder groups we spoke to indicated that an increasing number of people in retirement homes were waiting for long-term-care placements. More seniors with higher care needs were choosing to live in retirement homes, and retirement homes were providing accommodation and care services to people with higher care needs that, according to stakeholders, long-term-care homes were likely better suited and designed to provide. Both the Office of the Chief Coroner and the Ministry of Health raised concerns as early as 2009 about placing people with higher care needs in retirement homes that might not have sufficient resources and expertise to assist them.

At the time of our follow-up, the Authority noted that it had not implemented this action due to resource constraints but plans to address this audit recommendation by December 2023.

- implement an inspection process (assigning clear roles and responsibilities) as soon as possible that sufficiently addresses the increasing complexities and levels of care required for residents in retirement homes;

Status: Fully implemented.

Details

In our 2020 audit, we noted that an increasing number of the retirement home residents who receive government-funded home-care services had needs similar to those who lived in long-term-care homes. However, the Authority did not collect information on the complexity of care needs required for retirement home residents.

The Authority was also not aware of the specific types of care services that residents received from retirement homes, private care providers and government-funded home care. Also, inspectors from the Authority informed us that they had identified during inspections that retirement home staff had concerns over staffing ratios. The Act does not mandate staffing ratios, as the regulation focuses on setting care, safety and administrative standards that retirement homes must consider when determining staffing levels. As such, the Authority did not directly evaluate staffing ratios when it inspected retirement homes.

At the time of our follow-up, the Authority had increased the number of inspectors to 20 (in 2021/22) from 13, in the three years prior. It has hired inspectors with increased clinical knowledge to better understand and address issues related to the increasingly complex levels of care of retirement home residents. As well, it has updated its inspection approach to take into account the compliance history and a risk assessment of individual homes and their resident population.

- *take more timely and rigorous compliance support or enforcement actions against retirement homes that do not provide adequate care services to residents.*

Status: Fully implemented.

Details

In our 2020 audit, the Authority informed us that if a retirement home is not capable of providing the level of care required by a resident, the retirement home is required to assist the resident to access external care providers to meet their care needs. However, unlike long-term-care homes, residents of retirement homes may be evicted if the retirement home cannot provide the level of care required by the resident. From 2017/18 to 2019/20, the Authority received 20 formal written complaints related to residents being evicted from retirement homes or residents with care needs so intensive that they were required to transfer to long-term care.

During our follow-up we noted that the Authority restarted its compliance support processes in March 2021, to assist homes in understanding the

legislative requirements and ways to come into compliance outside of enforcement action. As well, between March 2021 and November 2021 the Authority added staff resources in the area of compliance support. These new positions were intended to assist retirement home operators in meeting compliance requirements; this may in turn mitigate the number of incidents requiring enforcement action. Between 2019/20 and 2021/22, the number of retirement homes that have participated in compliance support increased from 14 to 52.

Further, in July 2021 it implemented a new procedure to guide staff in the finance, compliance, licensing, inspections and complaints departments, as well as the Registrar or Deputy Registrar, to make discretionary referrals to the enforcement department. The procedure includes instructions on the type of information needed to refer, including a description of the issue and an assessment of urgency. Between 2019/20 and 2021/22, the number of enforcement actions taken increased from 24 to 61.

Recommendation 3

To allow it to make more effective, timely, data-driven decisions to strengthen the oversight of staffing and care services provided in retirement homes and support the Ministry for Seniors and Accessibility (Ministry) in developing policy on senior housing and care, we recommend that the Retirement Homes Regulatory Authority:

- *work with the Ministry to obtain the necessary approvals to collect needed information as soon as possible;*

Status: Fully implemented.

Details

In our 2020 audit, we noted that the Authority acknowledged, based on its interaction with the retirement home sector, that the level of care required by residents had been changing, but it did not have data to measure this change and assess its impacts. At the time of our audit, the *Retirement Homes Act, 2010* allowed the Authority to collect data on the types of care services the licensee makes available in the home; clinical and functional profiles of residents of the home; and the licensee's operation of the home and compliance with

the Act, subject to established processes and criteria and the Minister's approval. The Act, however, required data collected on the profiles of residents of the home to be de-identified so as to preserve the privacy of residents.

At the time of our follow-up, legislative changes under the *Retirement Homes Act, 2010* to support the collection of resident and substitute decision-maker contact information came into effect in March 2022, following collaborative work between the Authority and the Ministry during 2021.

- *in conjunction with the Ministry, establish processes to collect data on residents and retirement homes from other relevant organizations with consideration of appropriate processes to respect the protection of personal health information;*
Status: In the process of being implemented by March 2023.

Details

In our 2020 audit, we noted that any information the Authority had on residents was derived from its inspections, inquiries from the public or mandatory reports made by retirement homes. Such information was, for the most part, self-reported by retirement homes or by complainants. We also found that the Authority did not systemically collect information from other ministries and organizations that also provide senior care in retirement homes. While other government organizations such as the Ministry of Long-Term Care, the Ministry of Health or Ontario Health collect such information, neither the Authority nor the Ministry for Seniors and Accessibility obtained access to it.

At the time of our follow-up, the Authority had been working with Ontario Health since September 2021 to obtain data on retirement home residents. It also began a data management project in September 2021 to establish data governance and security and perform a privacy impact assessment to ensure protection of all data, including personal health information. Further, it established an understanding with the Office of the Chief Coroner about data the Office has on retirement home deaths. Moreover, it established a Memorandum of Understanding with the Ministry of Finance

in January 2022 to set out the terms and conditions for the collection, use and disclosure of information between the two parties. By March 2023, the Authority expects to have a list of relevant organizations that collect information on retirement homes and their residents, with a focus on the services the residents receive, in order to assess the data quality and usefulness for internal use.

- *commence the collection, analysis and use of this information to inform policy development in this sector.*

Status: In the process of being implemented by October 2023.

Details

In our 2020 audit, we noted that any information the Authority had on residents was derived from its inspections, inquiries from the public or mandatory reports made by retirement homes. Such information was, for the most part, self-reported by retirement homes or by complainants. The Authority did not regularly collect comprehensive data on retirement home residents, including their care needs, care services provided either by retirement home staff or external providers, or fees charged for these services. The Authority was also not aware of the types of care services that residents received from retirement homes, private care providers and government-funded home care.

Since then, the Authority has, in September 2021, developed a stakeholder consultation plan to support a planned routine collection of data from licensed retirement homes, such as information on care services that residents receive. Following consultation with the sector, expected to begin in January 2023, the Authority will develop a framework for collecting this data and begin collecting it by October 2023. Ultimately, the data would be analyzed and used to inform policy development.

Inspections

Recommendation 4

So that risks and harm to retirement home residents can be more effectively reduced through more frequent

and risk prioritized inspections, we recommend that the Retirement Homes Regulatory Authority expand the factors considered, beyond just inspection history, in its risk model for selecting homes for more frequent inspection.

Status: In the process of being implemented by January 2024.

Details

In our 2020 audit, we noted that the Authority's risk assessment model for inspections determined the risk of harm for each subsection of the *Retirement Homes Act, 2010* and its regulation based on the severity of harm and number of violations at homes in the past. However, the Authority's risk assessment model did not consider factors outside of inspection history that could influence the frequency of inspections. Such factors include complaints; input from community partners; history of harm at a specific home where there are no violations related to the harm; provision of home care within retirement homes; or residents in a retirement home waiting for long-term care.

At the time of our follow-up, the Authority has been including instances of injuries reported to it within its risk model. As well, in January 2021, the Minister for Seniors and Accessibility approved the Authority's policy to request information such as clinical and functional profiles of residents and care services that the retirement home makes available in order to rank retirement homes based on risk of harm to residents. Furthermore, to further augment its risk model, in May 2022 the Authority requested data from Home and Community Care Support Services and began discussions with the Ministry of Finance about the process of sharing data according to the Memorandum of Understanding described in **Recommendation 3**. The Authority will be collecting additional resident data to update its risk model in January 2024.

Recommendation 5

To confirm that retirement homes have appropriate infection and prevention controls in place, we recommend that the Retirement Homes Regulatory Authority:

- *put processes, including continuing use of its COVID-19 checklist, in place to assess whether all retirement homes have appropriate practices on infection prevention and control;*

Status: Fully implemented.

Details

In our 2020 audit, we noted that the Authority's inspectors were checking whether a retirement home had infection prevention and control policies and whether retirement home staff were trained on the policies by reviewing training records prior to COVID-19. However, the Authority did not check whether an infection prevention and control program had been created and was being followed unless concerns were observed while in the home.

In our follow-up we found that the Authority, in November 2020, updated its inspection checklist to include a section on infection prevention and control. At that time, it developed guidelines to clarify how licensed retirement homes should conform with applicable legislative and regulatory requirements. It also shared with licensed retirement homes the compliance assistance materials available to support their implementation of sound infection prevention and control practices. As well, the Authority updated the COVID-19 checklist in June 2021 and again in September 2021 to align with Chief Medical Officer of Health directives, Authority directives and applicable legislation and regulations. Further, the Authority updated its routine inspections process in September 2021 to incorporate an assessment of infection prevention and control risks, to determine whether inspections of certain homes needed to be prioritized.

- *routinely obtain data from public health officials on issues or concerns in retirement homes;*

Status: In the process of being implemented by August 2023.

Details

In our 2020 audit, we noted that retirement homes are required under the *Retirement Homes Act, 2010* to complete an annual consultation with local public health units to ensure that their infection prevention

and control program was appropriate. The audit found that the Authority and public health units conducted separate inspections at retirement homes to assess compliance with infection prevention and control measures; according to public health units we interviewed, it was not always possible to perform joint inspections with the Authority.

At the time of our follow-up, to better incorporate the work of public health units in the Authority's inspections of retirement homes, the Authority came to an agreement with the Ministry of Health to obtain retirement home outbreak data until July 2022. The Authority has been receiving this data on a monthly basis. By June 2023, it aims to obtain information from the Ministry of Health information with respect to public health orders issued at licensed retirement homes. Pending receipt of compliance data, the Authority will review and incorporate relevant lessons learned from this data into its operational processes and training by August 2023.

- *regularly incorporate into its inspector training any lessons learned from public health inspections;*

Status: Little or no progress.

Details

In our 2020 audit, we noted that the Authority selected the 28 homes it inspected based on complaints received from the public or Public Health Ontario. According to the public health units we interviewed, it was not always possible to perform joint inspections of retirement homes with the Authority. The Authority was still in the process of assessing lessons learned when we completed our audit.

At the time of our follow-up, the Authority told us it will review information and lessons from public health compliance data and update its inspector training, including inviting public health units to provide training where appropriate.

- *going forward, request that retirement homes incorporate pandemic plans in their emergency plans that also address the requirement to include a personal protective equipment supply.*

Status: Fully implemented.

Details

In our 2020 audit, we noted that retirement homes were required to develop emergency plans as a part of their licence application. The Authority verifies whether retirement homes have planned for emergencies during proactive, routine inspections. Emergency plans were not intended to incorporate pandemic emergency plans.

At the time of our follow-up, the regulation under the *Retirement Homes Act, 2010* was amended, effective March 2022, to require that retirement homes test their emergency plans at least annually; these plans are to address pandemics and epidemics. The regulation also requires that emergency plans meet certain requirements, including maintaining an inventory of resources such as personal protection equipment so that they are readily available during an emergency. In September 2022, the Authority communicated guidance to the sector on compliance expectations to reflect the new regulatory requirement and provided training to its inspectors.

Recommendation 6

To return to its proactive, routine inspection process focused on resident safety, care and choices about their care options, we recommend that the Retirement Homes Regulatory Authority:

- *establish an appropriately prioritized action plan that includes targeted timelines to clear the backlog of proactive routine inspections, enhanced with additional infection prevention and control coverage;*
- *conduct the required inspections; and*
- *monitor its compliance with this plan.*

Status: Fully implemented.

Details

In our 2020 audit, we noted that the Authority suspended all proactive inspections in the first week of March 2020 because of the COVID-19 pandemic. The Authority indicated that a backlog of 93 planned, proactive retirement home inspections existed as of June 2020.

From our follow-up we found that the Authority updated its inspection checklist in November 2020 to include a section on infection prevention and control. A backlog of proactive routine inspections continued to accumulate from March–November 2020, when the Authority resumed its proactive inspections. By March 2021 the backlog had grown to over 450.

In April 2021, the Authority developed a prioritization plan to overcome this inspection backlog. The plan prioritized homes that were newly licensed or had not received a routine inspection within three years. The Authority hired 10 new inspectors between January 2020 and September 2021 (for a total of 23 inspectors) to help address the inspections backlog.

As of March 2022, the Authority had cleared the backlog from June 2020. Additionally, the Authority had developed a tracking spreadsheet to monitor any unexpected backlog of routine inspections beyond its normal throughput of work.

Recommendation 7

To fully self-assess and monitor its inspection process for coverage and distribution of work, we recommend that the Retirement Homes Regulatory Authority continually monitor inspector caseloads, revisit caseload targets and reassign cases as needed.

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we noted that Authority inspectors had varying caseloads and the Authority did not monitor whether inspectors were performing the expected number of inspections. We also found that, in 2019/20 (before COVID-19), almost all of the inspectors conducted on average fewer than the Authority's informal target of 10 inspections per month.

At the time of our follow-up, the Authority has developed a report to monitor inspector caseloads and time taken to finalize inspections assigned to them each year. It has also developed estimates for the number of hours and days needed for each type of inspection, based on average times reported by inspectors. The Authority plans to review these metrics and revise

them as needed by December 2022 to deploy resources optimally and distribute inspection work based on individual skill sets, workloads and knowledge.

Impact of COVID-19

Recommendation 8

To minimize the safety, health and other impacts to residents and families of residents in retirement homes that undergo management orders, we recommend that the Retirement Homes Regulatory Authority:

- *establish a back-up network of qualified management candidates that can be quickly deployed to retirement homes during times of crisis;*

Status: Fully implemented.

Details

In our 2020 audit, we noted that the Authority issued orders to take over management of two homes to protect their residents; the Authority determined that the operators were unable to manage the homes properly without assistance in the context of the COVID-19 pandemic. However, the Authority experienced significant challenges in finding qualified managers to take over the operations of these homes amid staffing shortages in the health sector during the COVID-19 pandemic.

At the time of our follow-up, the Authority had provided advice to the Ministry during 2021, which contributed to the amendment of the *Retirement Homes Act, 2010*. Effective March 2022, the Registrar can serve an order on a retirement home operator to employ or retain one or more persons acceptable to the Authority to manage or assist in managing all or some of the operations of the retirement home in extraordinary circumstances as prescribed in the regulation, where there is a harm or risk of harm to one or more residents. Previously, the Act required that the Registrar find a contravention of the Act by the licensee and that the licensee is unwilling or unable to properly manage the home in order to issue a management order.

In August 2021, the Authority established a list of potential managers within its compliance monitoring

department such that suitable managers are accessible and can be deployed to retirement homes during times of crisis.

- *establish criteria for making emergency funding available should managers deployed to a retirement home under management order require justifiable financial resources;*

Status: In the process of being implemented by March 2023.

Details

In our 2020 audit, we noted that the effectiveness of the imposed managers was limited, as the operators were unwilling to co-operate. The managers were not able to access funding to hire qualified staff, upgrade facilities and purchase required supplies. In addition, one home that did not have a competent operator, in the Authority's view, had limited funds and could not afford to pay a manager. In this case, the Authority absorbed the expense and paid for the selected manager.

Our follow-up revealed that the Authority advised the Ministry, in January 2021, that the Authority lacks the ability to implement effective changes without co-operation, financial commitment and/or funding from the home operator needed to improve operation. The Authority recommended to the Ministry that they work together to explore various funding models for the costs associated with the use of a management order.

In August 2021, the Authority piloted a program to provide temporary crisis funding to retirement homes under a management order where financial constraints are a barrier for the manager to protect residents. The temporary crisis fund, of up to \$100,000 for each eligible retirement home that applies to this program, is funded by the Ministry. This funding was part of a \$5 million Ministry grant to the Authority in 2021 to conduct increased inspections and respond to emergency and crisis situations in retirement homes due to the COVID-19 pandemic. This program ended in March 2022. The Authority expects to hold additional discussions with the Ministry by March 2023 to determine in principle whether and how funding may apply after March 2022.

- *in conjunction with the Ministry for Seniors and Accessibility, ensure that residents in retirement homes are protected in a manner consistent with residents in long-term-care homes in circumstances of public health threats during and beyond the COVID-19 pandemic.*

Status: In the process of being implemented by March 2024.

Details

In our 2020 audit, we noted that the emergency order to allow a governing body to temporarily assume or appoint management of a long-term-care home in the event of a COVID-19 outbreak was enacted more than two weeks before the same emergency order was enacted for retirement homes. The Ministry advised us that the delay was due to legal considerations, but the government eventually concluded that the benefits would have outweighed the legal risk.

At the time of our follow-up, the Authority provided input to the Ministry in spring 2021 to develop guidance for retirement homes regarding visitors' policies. This guidance followed the Chief Medical Officer of Health's directive on long-term-care homes, which also applied to retirement homes. Similarly, the Authority issued recommendations and guidance to retirement homes about asymptomatic COVID-19 screen testing and vaccination in July 2021, September 2021 and March 2022. The Authority also distributed newsletter updates to retirement home operators and posted resources on its website regarding matters such as vaccination rollout and COVID-19 screening tools—these apply to both long-term-care homes and retirement homes. As well, throughout 2021 and 2022, the Authority provided feedback to the Ministry on matters related to modifying restrictions, such as when organized social activities were allowed to take place in retirement homes as compared to long-term-care homes. The Ministry worked with the Ministry of Long-Term Care and the Chief Medical Officer of Health to align policies where appropriate.

By March 2024, the Authority expects to continue to be supporting and advising the Ministry, as the province responds to the pandemic in a post-emergency

state, about recalibrating measures related to the COVID-19 pandemic.

Recommendation 9

To protect retirement home residents from the risk of neglect, we recommend that the Retirement Homes Regulatory Authority communicate and support retirement homes in ensuring that family members and friends providing critical personal care and support to retirement homes residents are able to do so during the pandemic, as long as appropriate infection prevention and control procedures are followed.

Status: Fully implemented.

Details

In our 2020 audit, multiple Authority inspectors and industry representatives on the Authority's Board noted in their interviews with us that in the early months of the COVID-19 pandemic in spring 2020, external care providers refused to enter retirement homes for fear of infection. As a result, retirement homes lacked replacement staff for homes experiencing an outbreak. We found that between March 11 and August 31, 2020, during COVID-19 outbreaks, the Authority was notified a total of 219 times about improper or incompetent treatment or care that required an investigation or an immediate inspection of the home. Our review of the Authority's analysis, using self-reported data from retirement homes, concluded that external care providers were not the primary source of infection in the majority of the outbreaks at retirement homes.

During our follow-up we found that the Authority had shared concerns about retirement home residents' physical and mental well-being with the Ministry and the Chief Medical Officer of Health in spring 2021. The concerns were based on feedback from residents and families regarding the timing and nature of restrictions placed on social activities. As well, between March 2020 and January 2022, the Authority supported the Ministry for Seniors and Accessibility in developing and posting guidance and the latest updates on visitors' policies to residents, families and operators. The Authority likewise communicates with and supports retirement homes via disseminating newsletters and resources on its website to help them adhere to

public health directives and guidance, such as appropriate infection prevention and control procedures for visitors. Lastly, the Authority took the step of referring 25 retirement homes to the Canadian Red Cross for support between January 2021 and March 2022; these independently operated homes were typically smaller, served individuals at the low end of the economic scale, and did not have the support from head offices, as do retirement homes that are part of a chain operation. These efforts were facilitated by the Ministry's contract with the Canadian Red Cross, at a ceiling price of \$1.5 million, to provide on-site mobile support teams to licensed retirement homes.

Recommendation 10

To better inform the public about the extent of COVID-19 cases in retirement homes, we recommend that the Retirement Homes Regulatory Authority:

- *work with the Ministry for Seniors and Accessibility and the Ministry of Health to obtain available validated data directly from the Ministry of Health or directly from local public health agencies;*

Status: Fully implemented.

Details

In our 2020 audit, the Authority indicated that it was unable to obtain case data from public health agencies because they did not release case data, citing reasons such as patient privacy. Instead, the Authority relied on self-reported data from licensed retirement homes that it had begun collecting regularly since April 15, 2020 in order to track COVID-19 cases in Ontario's retirement homes.

At the time of our follow-up, the Authority had been obtaining from the Ministry of Health (Ministry) COVID-19 outbreak data on a monthly basis since November 2020, pursuant to an information-sharing agreement established between the Ministry and the Authority in July 2020. The Authority uses the public health data to validate its own records and has updated its own data, for instance in September 2021, when it noted that the public health data contained information that it did not already have. However, Authority staff have found that overall, the data they collect

directly from retirement homes was more current, complete and reliable, primarily due to the public health units not consistently defining retirement homes and categorizing outbreak locations as retirement homes.

- *publish outbreak data on a weekly basis or more frequently as available, by retirement home, on the number of residents and staff who test positive or die.*

Status: Fully implemented.

Details

In our 2020 audit, we noted that while the Authority published daily on its website a list of homes where a COVID-19 outbreak has been declared, for the first six months of the pandemic, it did not make public the number of residents and staff who tested positive or died. The Authority started publishing total cumulative COVID-19 case data of both residents and staff, including deaths, in September 2020, but this data was not broken down by retirement home.

Our follow-up confirmed that the Authority began posting the number of resident and staff COVID-19 cases and deaths per retirement home on March 16, 2021. The Authority updates the “COVID-19 dashboard” daily from Monday to Friday, except on statutory holidays, based on information it obtains directly from retirement homes and direct inquiries.

Recommendation 11

To identify alternative accommodations for patients should future waves of COVID-19 overwhelm long-term-care homes and hospitals, and for residents who need to be moved from retirement homes that are affected by outbreaks, we recommend that the Retirement Homes Regulatory Authority:

- *work with the Ministry for Seniors and Accessibility to require retirement homes to provide monthly occupancy information (and any related requirements) to the Retirement Homes Regulatory Authority;*

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we noted that, prior to April 2020, the Authority did not track the occupancy level of retirement homes. In May 2020, the Authority requested that retirement homes self-report their occupancy rate to help the Ministry for Seniors and Accessibility (Ministry) plan its strategy during the pandemic to provide for retirement home staff and resident testing.

At the time of our follow-up, the Authority had been collecting, between December 2020 and February 2022, occupancy information and vaccine data from retirement homes via a survey, and provided this information to the Ministry. By December 2022, the Authority plans to include occupancy data as part of its data collection plan and will undertake consultation to advise stakeholders of its intent to collect occupancy data.

- *collect occupancy rates of retirement homes on a monthly basis to be used for monitoring and planning outbreak responses that may be needed during the COVID-19 pandemic.*

Status: In the process of being implemented by March 2023.

Details

In our 2020 audit, we noted that the April 2020 collection of occupancy rate of retirement homes was a one-time exercise and retirement homes’ responses were optional: 54 retirement homes did not respond to the Authority’s survey. The Authority therefore had to estimate the occupancy rate for those 54 homes by assuming that they were 70% to 80% occupied. The Authority informed us that it was aware of the margin of error as the data was not verified, and that the Ministry for Seniors and Accessibility (Ministry)—to whom the Authority submitted this data on May 25, 2020—was aware that the data was self-reported.

During our follow-up, we learned that, in January 2021, the Authority requested the Ministry provide direction on the need for ongoing occupancy data collection and the frequency of such collection. The Ministry indicated in June 2021 that it expected the Authority to collect occupancy data in accordance with the request-for-information policy the Ministry had approved in January 2021. It proposed that the

Authority continue to collect occupancy data quarterly for the remainder of 2021/22. The Authority had not collected occupancy data from retirement homes on a regular basis since December 2020 but committed to consulting with the sector by December 2022 and collecting occupancy data, subject to the outcome of consultation, by March 2023.

Retirement Home Licensing

Recommendation 12

To strengthen the licensing process of retirement homes, and the safety and protection of residents that may require different levels of services as its primary focus, we recommend that the Retirement Homes Regulatory Authority:

- *accelerate and complete the development of its licence classes;*

Status: In the process of being implemented by March 2023.

Details

In our 2020 audit, we noted that all retirement homes are issued the same licence. The *Retirement Homes Act, 2010* (Act) did not distinguish between the different ways that retirement homes are run and different resident health-care needs. The Authority informed us that it began in January 2020 to develop and assess how separate retirement home licence classes could address the risk differences between homes with higher-risk residents and homes with more independent residents. The Authority put this work on hold because of the COVID-19 pandemic.

At the time of our follow-up, the Authority had received internal approval in December 2021 to resume work on the licence class project, which was reframed to look more broadly at assurance of quality. Following the completion of this work, the Authority expects to provide advice to the Ministry for Seniors and Accessibility regarding strengthening the licensing framework by March 2023.

- *update its licensing procedures to include conducting applicant background checks to identify*

any indication of financially irresponsible conduct and proof of financial viability;

Status: In the process of being implemented by March 2023.

Details

In our 2020 audit, we noted that one of the licensing criteria is that the past conduct of an applicant affords reasonable grounds to consider whether the home will be operated in accordance with the law, with honesty and integrity, and in a manner that is not prejudicial to the health, safety or welfare of its residents. However, we found that the Authority's licensing assessment criteria did not specifically include that the applicant must provide proof of financial viability to operate a retirement home. In fact, the Authority had issued a licence to an applicant whose family member had a history of financial mismanagement operating long-term-care homes that resulted in bankruptcies.

At the time of our follow-up, the Authority has revised its licence application forms in September 2021 to require an applicant to give consent to the Authority to collect, use and disclose personal information and to share any information in the course of determining qualification for a licence to allow for background checks. As well, the Authority has developed criteria in November 2021 to guide its staff in determining when background checks should be conducted for licensing applicants over and above the standard process so as to reduce the risk of financial solvency issues. It also updated its internal review process in October 2021 to include guiding questions to assess the financial health of applicants.

By March 2023, the Authority will explore methods to confirm applicants' financial viability and monitor homes' financial viability once licensed, identify indications of financial irresponsibility, and work with industry associations to develop an approach to inform and educate licensees about financial responsibility.

- *develop a communications strategy to remind applicants that they are obligated to monitor their licence conditions and report changes as needed to the Authority;*

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we noted that, in one instance, the Authority reviewed an application to transfer ownership of an existing home and found that the applicant provided false and misleading information. The conditions required the applicant to retain a person with experience in a senior position at the home to ensure compliance with the *Retirement Homes Act, 2010* and its regulation and to notify the Authority immediately of any changes in that individual's contractual status with the licensee. However, the retirement home failed to notify the Authority in late 2019 that the individual's contractual status changed, violating the home's licence condition.

At the time of our follow-up, the Authority was in the process of developing a communications strategy and will, by December 2022, communicate to retirement homes to remind them about financial responsibility and work with industry associations to understand what training and supports retirement homes may require to be better equipped to meet their licence conditions.

- *follow up on a timely basis on any licence conditions made.*

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we noted that, in one case, the retirement home failed to notify the Authority in late 2019 that an individual's contractual status changed, violating the home's licence condition. Although the Authority had inspected this home six times prior to July 2020, it was not until then that it became aware of this issue, over half a year later.

At the time of our follow-up, the Authority had expanded its capacity—including consulting with other regulators about the role of a compliance monitor and hiring an individual for this role at the Authority—to address issues related to ongoing compliance monitoring for certain issues, including compliance with licence conditions, in September 2020. Then, in September 2021, the Authority developed internal procedures to outline its compliance monitoring process so

as to more systematically follow up, apart from inspections. By December 2022, the Authority expects to have staff resources to better enable follow up on any licence conditions on a timelier basis.

Recommendation 13

To protect retirement home residents from the risk of fire, we recommend that the Retirement Homes Regulatory Authority:

- *impose a deadline for all licensees that have not completed the installation of their fire sprinkler systems to have this done as soon as possible; and*
- *if a licensee does not comply, follow up with enforcement action where appropriate.*

Status: Fully implemented.

Details

In our 2020 audit, we noted that as of August 2020, 12 retirement home operators had licence conditions stating that they had not yet installed automatic fire sprinkler systems. Effective January 1, 2019, automatic sprinkler systems are required under the Ontario Fire Code. These licence conditions required the home operator to provide a monthly progress report on the status of the installations. However, we found that the conditions did not include a time frame.

At the time of our follow-up, the Authority had imposed November and December 2020 deadlines for all licensees that had not completed the installation of their fire sprinkler systems. For some of these homes, the deadline was extended to September 2021.

Subsequent to the completion of our audit work, but before the publication of our 2020 audit report, the Authority informed us that five of the 12 homes mentioned above still did not have working sprinklers on either some floors or the entire facility. During our follow-up, we learned that three of the five remaining retirement homes that had not installed sprinklers had their licences revoked in 2021—one in August and two in November. Two other homes had complied with sprinkler requirements and remained open.

Recommendation 14

To protect consumers from unknowingly purchasing accommodation and care services from retirement homes that could possibly be unlicensed and unregulated under the Retirement Homes Act, 2010, we recommend that the Retirement Homes Regulatory Authority:

- expedite the completion of its strategy to follow up on the 234 retirement homes that may possibly require a licence and take appropriate enforcement actions as required;

Status: Fully implemented.

Details

In our 2020 audit, we noted that some congregate living settings in Ontario function similarly to a retirement home as defined in the *Retirement Homes Act, 2010* but because they did not meet the Act's strict definitions of a retirement home, they were not subject to the Authority's regulatory oversight. In our 2020 audit, we noted that, as of July 2020, the Authority was in the process of reviewing 234 homes it had previously assessed as not meeting the definition of a retirement home, to determine its next steps in reassessing whether these homes were operating as a retirement home without a licence.

From our follow-up, we learned that the Authority has been assessing, since June 2021, whether the 234 (ultimately 231) congregate settings may or may not be subject to the *Retirement Homes Act, 2010* due to a change in their circumstances. The assessment strategy guides staff on how to collect current information about these settings and on next steps, which may include follow-up and inspection. By August 2022, the Authority had assessed all 231 homes.

Also, the Authority indicated that the amended Act allowed it to better protect residents in unlicensed retirement homes. Effective December 2021, the Authority could impose requirements on licensees during the licensing application process in cases where the Registrar has issued an order to direct the operator of an unlicensed home to apply for a licence.

The Authority provided an update on the outcomes of the unlicensed homes review to the Ministry in

March 2022 and indicated it plans to provide an annual update thereafter.

- expedite the consideration and reduction of the potential risk to these homes in subsequent waves of COVID-19 by either addressing the risk or bringing these risks to the attention of the Ministry for Seniors and Accessibility.

Status: Fully implemented.

Details

When the COVID-19 pandemic began in March 2020, the Authority recognized that there was an increased risk to seniors and vulnerable residents, even in homes that did not require a licence. The Authority indicated that it planned to communicate with the Ministry for Seniors and Accessibility, public health and the Ministry of Municipal Affairs and Housing to bring awareness to unlicensed homes in subsequent waves of COVID-19.

At the time of our follow-up, the Authority had advised the Ministry for Seniors and Accessibility (Ministry), in January 2021, of its unlicensed home project in light of the COVID-19 pandemic. The advisement included details on the Authority's planned approach to address each category of unlicensed home, for example, those that might be in contact with other oversight bodies such as fire departments, municipalities, public health and Ontario Health, and those that did not strictly meet the definition of retirement homes in the Act.

Also, in July 2021, the Authority advised licensees via a newsletter that it updated its process for identifying unlicensed retirement homes and that it would inform community partners and the Ministry when a congregate setting falls outside of the Authority's jurisdiction.

Furthermore, the Authority began in June 2021 to engage with external organizations such as Elder Abuse Prevention Ontario, home and community care support services organizations, municipal housing and public health units to share updates on topics that are of mutual interest, including providing education on the unlicensed home project. As a result of

such engagements, the Authority received a tip on an unlicensed home from partners during 2021.

The Authority provided another update on the unlicensed home project to the Ministry in March 2022. In that update, the Authority presented to the Ministry preliminary results of its review of the over 200 unlicensed retirement homes, which identified a number of facilities to be potentially operating as a retirement home. The Authority advised the Ministry that it escalated these facilities internally for further action in accordance with standard procedures, such as to begin the licensing process for these facilities.

Recommendation 15

To improve the Retirement Homes Regulatory Authority's effectiveness in overseeing the retirement home sector and protect public safety, we recommend that the Authority work with the Ministry for Seniors and Accessibility to critically assess the effectiveness of its enforcement tools. In particular, an increase of the maximum administrative penalty amount allowed under the Retirement Homes Act, 2010 could be considered.

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we noted that the Authority had increased its enforcement efforts for managing retirement homes in the last three years; however, the tools it has at its disposal, such as turning down a licence application and imposing financial penalties, have not always stopped an owner from continuing to operate an unlicensed home. The *Retirement Homes Act, 2010* allows the Registrar to impose an administrative penalty of up to \$10,000 on retirement home operators who have contravened legislative requirements.

At the time of our follow-up, the Authority had, during 2021, provided advice and feedback to the Ministry for Seniors and Accessibility on administrative monetary penalties and enhanced management orders, which would allow the Registrar to act more expeditiously in emergency situations. The Ministry consulted with stakeholders in 2021 to consider increasing the maximum administrative monetary

penalty amount under the Act and did not proceed with amendments. The Authority will, by December 2022, further its efforts to assess the effectiveness of the administrative monetary penalty amounts as a compliance tool.

Recommendation 16

To reduce the risk to retirement home residents that could be affected by loss or damage to their homes, we recommend that the Retirement Homes Regulatory Authority:

- *request that retirement homes renew policies 30 days prior to expiry and notify the Authority that ongoing coverage of residents is available;*

Status: Little or no progress.

Details

In our 2020 audit, we reviewed all cases of expired extra expense insurance policies as flagged by the Authority's document management system in September 2020. We found that 25 retirement homes had expired policies. One home's policy had expired by over 334 days but the Authority informed us that this home was closed temporarily for renovations. The length of time that coverage had expired for the other 24 homes averaged 31 days, and ranged from two days to 130 days.

At the time of our follow-up, the Authority noted that, due to resource constraints, it plans to undertake work in relation to implementing this recommendation by March 2023. This work would include connecting with the insurance industry to better understand current renewal timing practices and assessing the potential for retirement homes to submit extra expense insurance certificates at least 30 days prior to expiry.

- *assess current research, and as necessary supplement, to derive an appropriate specific minimum amount of extra expense insurance coverage for licensees to obtain;*

Status: Little or no progress.

Details

In our 2020 audit, we noted that the regulation under the *Retirement Homes Act, 2010* does not require

licensed retirement homes to obtain a specified minimum amount of extra expense insurance. Extra expense insurance reduces the risk that a home would be unable to provide accommodation and care to its residents in the case of damage to the home, such as by a fire or flood.

At the time of our follow-up, the Authority noted that, due to resource constraints, it plans to undertake work in relation to implementing this recommendation by March 2023. This work would include completing an assessment of its current research on an appropriate minimum amount of insurance and undertaking further research as necessary to derive an appropriate minimum standard for implementation.

- *recommend a regulatory change that either specifies a minimum amount of extra expense insurance coverage to the Minister for Seniors and Accessibility or provides authority for the Authority to set a minimum amount of extra expense insurance coverage.*

Status: Little or no progress.

Details

In our 2020 audit, we noted that the regulation requires all retirement homes to have extra expense insurance that would cover the costs of alternative housing and care services for every resident for at least 120 days in the event there is a loss of or damage to the home (such as by a fire or flood) and the licensee is unable to safely provide other accommodation or continuing care to residents. We found that homes had no set coverage amount for this insurance, even though an expert consultant contracted by the Authority in July 2019 recommended that a minimum limit of \$7,500 per resident may be appropriate.

At the time of our follow-up, the Authority noted that, due to resource constraints, it plans to draft advice to the Ministry regarding a legislative amendment by March 2023.

Complaints

Recommendation 17

To enhance the public's knowledge and awareness of the Authority's oversight role for the retirement home industry and to minimize safety risks to retirement home residents, we recommend that the Retirement Homes Regulatory Authority develop a more comprehensive communications strategy to specifically target groups that include residents and families, retirement home staff, and the public about its role, emphasizing how complaints can be best brought to its attention or to the attention of other appropriate parties.

Status: In the process of being implemented by March 2023.

Details

During our 2020 audit, multiple stakeholder groups we spoke to said staff who work in retirement homes witness neglect and abuse but may not know that they can report these incidents to the Authority. This lack of knowledge about the Authority limits the Authority's ability to effectively execute its mandate to protect residents.

At the time of our follow-up, the Authority had used paid advertisement on social media, between September 2020 and March 2021, to target seniors and their family members who were either currently in or considering living in retirement homes. As well, a sponsored article about the Authority appeared in the media in December 2020. Further, in May 2021, the Authority commissioned a public relations firm to propose a communications strategy to help connect with the Authority's target audience. The communication campaign, as informed by the firm, ran for the remainder of 2021. The Authority will continue promoting its role on social media in fall and winter of 2022/23 to encourage health partners and other audiences to report complaints to it.

In terms of complaints, the Authority launched a new, plain-language complaint form on its website in March 2021. As well, it finalized its internal process in July 2021 and ran a social media campaign in September and October 2021 about referring matters to third-party authorities when a complaint falls outside of the Authority's jurisdiction.

The Authority has increased awareness with public health units and Home and Community Care Support Services of its mandate through meetings and distribution of the Authority's weekly e-newsletter to help amplify its messages regarding complaints and how to bring them to its attention.

Recommendation 18

To provide for more clarity and timely responses to retirement home residents, family members of residents, or other persons who may have concerns about retirement homes, we recommend that the Retirement Homes Regulatory Authority:

- *develop a form letter containing contact information for other regulatory bodies and send the letter to all complainants at the earliest opportunity before it investigates the complaints;*

Status: Fully implemented.

Details

In our 2020 audit, we noted that the Authority addressed complaints in retirement homes only if they relate to contraventions of the *Retirement Homes Act, 2010*. For other issues such as residential tenancy issues or concerns about incompetent care, the Authority would verbally inform complainants about its jurisdiction and other relevant regulatory authorities (such as the Landlord and Tenant Board and health regulatory colleges), but it did not inform them in writing until after it completed its investigation.

At the time of our follow-up, the Authority had updated its complaint intake procedures, as of June 2021, which now include sending an acknowledgement letter to the complainant to advise them of its complaint referral webpage and providing the contact information of the relevant agency if the complainant's concern is outside of the Authority's mandate or involves overlapping oversight with another regulator or agency.

- *establish a process to refer complaints not within its jurisdiction directly to the appropriate regulatory body and follow up with the complainant and the*

other regulatory body to ensure that the complaint has reached the appropriate organization;

Status: Fully implemented.

Details

In our 2020 audit, we noted that the Authority addressed complaints in retirement homes only if they relate to contraventions of the *Retirement Homes Act, 2010*. For other issues such as residential tenancy issues or concerns about incompetent care (within the purview of the related health regulatory college), the Authority gave general advice to the complainant who must then find the appropriate organization on their own, even though their concerns pertained to a retirement home.

At the time of our follow-up, the Authority had established a process in July 2021 to allow it to forward a complaint not within its jurisdiction directly to the appropriate regulatory body if the complainant was unable to independently do so, such as from lack of Internet access or a language barrier. The Authority requires that the complainant explicitly provides consent. Staff document the details in a case file.

- *update its website to include contact information of relevant regulatory bodies to address concerns that the public commonly brings to the Authority's attention but are outside of the Authority's jurisdiction;*

Status: Fully implemented.

Details

In our 2020 audit, we noted the Authority informed the public on its website that it does not oversee issues relating to employer/employee relationships, rent and evictions, and power of attorney disputes. Accordingly, it referred the public to contact the appropriate parties, but it did not inform the public about other parties, such as the Local Health Integration Networks, the Office of the Fire Marshal or health regulatory colleges.

At the time of our follow-up, the Authority had updated its website in July 2021 to include the contact information of other applicable agencies and regulatory bodies.

- *establish a performance indicator to measure turnaround time for investigating and resolving complaints, set and review targets on an annual basis and monitor relevant performance;*

Status: Fully implemented.

Details

In our 2020 audit, we noted that the Authority did not set or publish targeted turnaround times to inform complainants on what to expect when they lodged a complaint about a retirement home. Between 2017/18 and 2019/20, the Authority took an average of four-and-a-half months to resolve formal written complaints it received.

At the time of our follow-up, the Authority had gathered data on its staff's turnaround time in February 2022 and established targets on the expected duration of time to investigate and resolve complaints. For example, the Authority aims to issue a Registrar decision following an inspection within 150 days of receiving a complaint, and refer a complaint to external agencies within 10 days of receiving it if it is not within its jurisdiction to investigate. The Authority established these targets by considering the significant variation in the complexity of complaints and accessibility of information-gathering to adjudicate complaints. The Authority plans to review and revise targets on an annual basis and monitor performance against these standards.

- *publish expected service standards about its complaint resolution process and its actual performance against these standards on its website.*

Status: In the process of being implemented by April 2023.

Details

In our 2020 audit, we noted that the Authority did not set or publish targeted turnaround times to inform complainants on what to expect when they lodge a complaint about a retirement home.

At the time of our follow-up, the Authority in September 2022 published on its website the expected service level standards about its complaint resolution process, and expects to publish metrics on how the

Authority is measuring against these standards by April 2023.

Recommendation 19

To more clearly and effectively communicate information about retirement home complaints to existing and future residents and family members, and to improve the effectiveness of retirement home inspection choices by inspectors, we recommend that the Retirement Homes Regulatory Authority:

- *publish data publicly and regularly on common complaint areas raised by consumers about the retirement home industry;*

Status: In the process of being implemented by June 2023.

Details

In our 2020 audit, we noted that the Authority's online database did not provide complaint information for individual homes or for all retirement homes in total. The Authority's practice was to publish complaint details within an inspection report after it validated a complainant's concerns that the retirement home had failed to comply with the *Retirement Homes Act, 2010* or its regulation.

At the time of our follow-up, the Authority had completed an analysis in June 2021 on the trends and patterns in complaints made from 2014/15–2020/21. It noted that the most common complaints did not vary much over the years: improper/incompetent care, abuse/neglect, complaints procedure, food, and building/maintenance. The Authority plans to publish its analysis of complaints and trends publicly by June 2023, and potentially more than once a year.

- *publish the nature and quantity of complaints filed with the Authority for each retirement home on the Authority's website while respecting the privacy of the complainant;*

Status: Little or no progress.

Details

In our 2020 audit, we noted that the Authority's online database did not provide complaint information for individual homes nor for all retirement homes in total.

At the time of our follow-up, the Authority plans to publish by March 2024 the nature and quantity of complaints for each retirement home when it takes enforcement action against a home where a complaint originated. It also plans to, by March 2024, incorporate the nature and quantity of complaints into the retirement home database in the context of the future development of a public report card, and consider increased transparency regarding the nature and quantity of complaints for each retirement home in the development of enhanced inspection reports and the report card.

- *analyze complaint trends to identify significant areas of focus and to better inform its selection of retirement homes for routine inspections;*

Status: Fully implemented.

Details

In our 2020 audit, we noted the Authority informed us that it had begun to track the category of complaints. However, as the Authority did not analyze complaints data, complaints that the Authority could not substantiate were not used in inspector training to identify areas of interest.

At the time of our follow-up, the Authority had completed an analysis in June 2021 on the trends and patterns in complaints made from 2014/15–2020/21. It noted that the most common complaints did not vary much over the years: improper/incompetent care, abuse/neglect, complaints procedure, food, and building/maintenance. To better inform the selection of retirement homes for earlier inspections, the Authority has amended its risk model to take into consideration reported incidents that did not result in inspections. The revised model was put in place in April 2022.

- *establish a training module for the retirement home sector and update training for its inspectors based*

on the most frequent and significant complaints raised to identify areas of focus for inspections.

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we noted that the Authority did not analyze complaints data; complaints that the Authority could not substantiate were not used in inspector training to identify areas of interest.

At the time of our follow-up, the Authority had compared common complaint areas against the current routine inspection process to determine whether additional focus areas needed to be added or amended, and completed inspector training in November 2021 incorporating the results of this analysis. The Authority will review data on significant, frequent complaints by December 2022 to identify any gaps in the current compliance assistance modules and update them for the retirement home sector.

Information on Pricing of Rent, Care Services and Performance History Not Easily Available to Consumers

Recommendation 20

To better inform and protect consumers when purchasing accommodation and care services from retirement homes, we recommend that the Ministry for Seniors and Accessibility:

- *evaluate whether the Retirement Homes Regulatory Authority should have oversight of retirement home care services fees and consider proposing amendments to the Retirement Homes Act, 2010, as appropriate;*

Status: In the process of being implemented by December 2022.

Details

During our 2020 audit, stakeholder groups indicated that affordability of housing is becoming a critical issue for seniors. There are no organizations or statutes that prevent retirement home residents from being charged unreasonably high prices for care services. Neither the

Retirement Homes Act, 2010 nor the *Residential Tenancies Act, 2006* define what constitutes a fair price for care services.

At the time of our follow-up, the Ministry for Seniors and Accessibility (Ministry) had researched analyses of comparisons between retirement homes and long-term-care homes in Ontario and retirement homes across Canada, as well as obtained research conducted by the Ministry of Health that examined the regulation of care service fees in retirement homes. The Ministry plans to conduct further analysis of the costs of care services and the role of various government authorities in other sectors with regards to oversight of fees. The Ministry intends to, by December 2022, make recommendations for care service fees to be considered for policy options, following consultation with stakeholders and partner ministries.

- *request the Authority to require all licensed retirement homes to make price lists (for rent and services) available—both in paper form and electronically—when asked by phone, online, through emails or in person.*

Status: Fully implemented.

Details

In our 2020 audit, we noted that the *Retirement Homes Act, 2010* indicates that residents have a right to know what care services are provided in the home and how much they cost. However, we found that 75% of the 20 sample retirement homes did not have pricing information available online.

At the time of our follow-up, the Ministry had made amendments to the *Retirement Homes Act, 2010* that were effective March 16, 2022. Retirement homes are to provide an itemized list in electronic and/or paper form of the different types of accommodation and care services provided in the retirement home, and their prices, to anyone upon request. On March 21, 2022, the Ministry and the Authority participated in a sector association webinar with retirement home operators to advise them of the legislative and regulatory amendments and to respond to inquiries.

Recommendation 21

To better inform and protect consumers when purchasing accommodation and care services from retirement homes, we recommend that the Retirement Homes Regulatory Authority accelerate its efforts to develop a public report card for each retirement home.

Status: Little or no progress.

Details

In our 2020 audit, we noted that the Authority was developing a public report card that was intended to provide real-time performance measurement data for each retirement home to assist potential residents and their families in selecting a reliable retirement home. At the completion of our audit, the Authority was still assessing its plan for a public report card.

At the time of our follow-up, the Authority had deferred its public report card development initiative to 2023/24.

Board and Ministry Lack Sufficient Oversight of Authority's Activities

Recommendation 22

To improve effective governance and the Board of Directors' oversight of the Retirement Homes Regulatory Authority's operation, we recommend that the Ministry for Seniors and Accessibility work with the Public Appointments Secretariat to propose appointees to the Board with seniors' interests in mind or request the Board Chair to consider such individuals as current directors' terms expire.

Status: In the process of being implemented by March 2023.

Details

In our 2020 audit, we noted that from 2016 to 2020 the Authority's Board of Directors had its full complement of nine members only between April 2016 and October 2017 and after July 2020. In addition, at the time of our 2020 audit, the Board did not have a member who represented either a seniors' organization or was an individual who advocated for seniors.

From our follow-up we found that the Ministry had worked with the Public Appointments Secretariat

in 2021 to appoint two individuals with insights into the needs and interests of seniors to serve on the Authority's Board. As well, the Ministry has included a provision in its updated Memorandum of Understanding (MOU) with the Authority that requires the Board to make reasonable efforts to include members who reflect a variety of perspectives, including consumer protection and public interest perspectives. The provision, expected to take effect by March 31, 2023, also requires the Authority to make the Board competency and selection criteria public.

Recommendation 23

To improve its ability to oversee the Retirement Homes Regulatory Authority (Authority) to confirm that it is operating in accordance with the Retirement Homes Act, 2010 and the Memorandum of Understanding between the Authority and the Ministry for Seniors and Accessibility (Ministry), we recommend that the Ministry:

- *develop a schedule of reporting requirements with input from the Authority and update the Memorandum of Understanding accordingly;*

Status: In the process of being implemented by December 2022.

Details

In our 2020 audit, we noted that, as outlined in the *Retirement Homes Act, 2010*, the Ministry had a Memorandum of Understanding (MOU) in effect with the Authority which was last reviewed in October 2018. The Authority was required to submit certain documents such as its annual report and business plan to the Ministry on a regular basis for oversight purposes. The MOU had a placeholder schedule for the Ministry to further define the documents it expected the Authority to submit on a regular basis for its review. But the Ministry had not specified what those documents were when we completed our 2020 audit.

At the time of our follow-up, the Ministry had worked with the Authority in 2021/22 to update the MOU between the two parties, including the development of a schedule for corporate planning and reporting. This schedule, which the Ministry and the Authority have agreed to have in place by

December 2022, will include minimum requirements for corporate reporting documents required by the MOU, including a business plan and an annual report.

- *request the Authority establish targets for its performance indicators, and require the Authority to publish actual versus targeted performance annually;*

Status: In the process of being implemented by September 2025.

Details

In our 2020 audit, we noted that the Ministry had not requested the Authority develop benchmarks to measure its performance toward effective operation. While the Authority published key activity data with prior-year comparisons in its annual report, it did not set benchmarks for this data. This means the Ministry did not have an appropriate baseline to which it could compare the Authority's performance in key risk areas.

At the time of our follow-up, the Ministry and the Authority had revised their Memorandum of Understanding (MOU) to include a provision that requires the Authority to establish performance measures regarding the administration of the *Retirement Homes Act, 2010* to enable year-to-year comparison. The MOU further requires the Authority to provide the Minister with performance targets and results on an annual basis.

In March 2022, the Ministry and the Authority established an implementation timeline for performance measures and targets to support the achievement of these provisions. The Ministry will monitor implementation and expects that by April 2023, the Authority will establish new or additional performance measures; by April 2024, the Authority will begin collecting data for performance measures; by April 2025, the Authority will begin collecting data for targets; and by September 2025, the Authority will publish performance against targets in its annual report.

- *assess the level of resources it requires to oversee the Authority and determine whether it needs to levy an oversight fee—if not, the Memorandum of Understanding should be updated to reflect this fact.*

Status: Fully implemented.

Details

In our 2020 audit, we noted that the Ministry did not charge the Authority oversight fees as required in the Memorandum of Understanding (MOU). The MOU states that the Authority is to pay the Ministry oversight fees. The administrative authority model is meant to be cost neutral to the government. The purpose of an oversight fee is to recoup the government's cost to provide legislative and accountability oversight.

At the time of our follow-up the Ministry had assessed, in fall 2021, the level of resources it requires to oversee the Authority and determined that it would continue to not charge the Authority oversight fees, considering factors such as the operational efficiency review of the Authority that was under way and the transfer payments it provided to the Authority at inception and during the COVID-19 pandemic. The updated MOU, which took effect on March 31, 2022, provides discretion for the Minister to charge fees.

Recommendation 24

To improve the safety and protection of retirement home residents and to support the work and effectiveness of the Risk Officer, we recommend that the Retirement Homes Regulatory Authority:

- *establish targeted time frames to phase in the Risk Officer's recommendations;*

Status: Fully implemented.

Details

In our 2020 audit, the Authority indicated that its business plans incorporate the Risk Officer's recommendations but may not establish a targeted time frame to phase them in.

At the time of our follow-up, the Authority had implemented time frames to phase in the Risk Officer's recommendations, giving consideration for the complexity of the action proposed in the recommendation, organizational priority and available resources. Authority management reported to the Risk Officer in April 2021, September 2021 and March 2022 on the status of any prior recommendations, including time frames for implementation.

- *track the enactment of these recommendations;*

Status: Fully implemented.

Details

In our 2020 audit, we noted that while the Board received and reviewed the Risk Officer's annual report, the Authority did not report to the Board the status of implementation of the Risk Officer's recommendations.

At the time of our follow-up, the Authority had developed a tracker to monitor its implementation of the Risk Officer's recommendations.

- *report this information to the Board of Directors and to the Ministry for Seniors and Accessibility semi-annually.*

Status: Fully implemented.

Details

In our 2020 audit, we noted that while the Board received and reviewed the Risk Officer's annual report, the Authority does not report to the Board the status of implementation of the Risk Officer's recommendations; the Ministry for Seniors and Accessibility also did not ask for any updates regarding the status of implementation of the Risk Officer's recommendations.

At the time of our follow-up, the Authority had regularly reported its implementation status of the Risk Officer's recommendations to the Ministry in April 2021, September 2021 and March 2022 and to the Governance, Regulatory Affairs and Nomination Committee of the Board in February 2021, June 2021 and November 2021.

Recommendation 25

To improve the co-ordination and effectiveness of overall services to seniors in Ontario in an environment where multiple ministries are involved in providing services and care to this population group, we recommend that the Ministry for Seniors and Accessibility:

- *seek the responsibility to serve as the lead ministry that will work with all applicable ministries that have a mandate to provide or oversee the provision of seniors' congregate living and care services to develop a co-ordinated seniors' housing policy*

framework that defines the health, independence and financial profile of seniors for whom these settings are intended, or identify another ministry that will act as the lead;

Status: In the process of being implemented by December 2023.

Details

In our 2020 audit, we noted that despite taking responsibility for the seniors' strategy, the Ministry for Seniors and Accessibility (Ministry) informed us that it is not responsible for determining policy relating to seniors' housing or congregate care. The Ministry indicated that it will consider exploring and investing in new models of seniors' housing when a new seniors' strategy is implemented, but the Ministry of Municipal Affairs and Housing will lead the seniors' housing strategy.

At the time of our follow-up, the Ministry had established, in November 2020, an internal advisory committee with key ministry partners including the Ministry of Health, the Ministry of Long-Term Care, the Ministry of Public and Business Service Delivery and the Ministry of Municipal Affairs and Housing to discuss cross-sector issues, including how to improve co-ordination along the continuum of care and housing for seniors.

In January 2021, the Ministry participated in a discussion session hosted by the Ministry of Municipal Affairs and Housing that focused on seniors. Also in January 2021, the Ministry, together with the Ministry of Health and the Canadian Institute of Health Research, held a two-day session to facilitate exchanging of information and ideas on options in service delivery models and regulatory approaches to improve the health and safety of older Ontarians living in care settings.

Furthermore, the Ministry in February 2022 established a working group with representatives from the Ministry of Municipal Affairs and Housing, the Ministry of Health, the Ministry of Long-Term Care, the Ministry of Children, Community and Social Services and the Authority to develop a policy framework on seniors' housing and care. Between March 2022 and July 2022, the working group developed a "blueprint

document" that describes all of the ministries, legislation and regulations, as well as policies and guidelines that govern housing and care for seniors. The working group also developed draft "journey maps" that describe how diverse seniors access housing and care settings, exposing the challenges faced by seniors in doing so. The Ministry expects this information will inform the development of a seniors housing and care policy framework. The working group also discussed applying a health equity impact assessment tool in the development of the framework to ensure health equity is considered.

By December 2023, the Ministry expects to have created a policy framework to improve the co-ordination and effectiveness of the housing and care sectors, addressing the evolving needs of the retirement home sector and promoting the development of innovative housing and care models.

- *incorporate in its seniors' strategy specific actions to undertake to achieve various goals and a timetable for these actions.*

Status: In the process of being implemented by March 2023.

Details

In our 2020 audit, the Ministry had not yet finalized its work on an updated seniors' strategy, although it expected to communicate more details publicly at the end of 2020 or early 2021.

At the time of our follow-up, the Ministry had updated the seniors' strategy to incorporate lessons from the COVID-19 pandemic. Although not publicly released, the Ministry indicated that the strategy guides the work of the province and progress is being made through many government initiatives that align with and support the strategy pillars. The Ministry informed us that it was updating the strategy and aimed to obtain central agency approval by March 2023.

Authority Lacks Financial Capacity to Fully Meet Regulatory Mandate

Recommendation 26

To collect sufficient fees to cover the Retirement Homes Regulatory Authority's mandated activities to protect current and former retirement home residents, we recommend that the Retirement Homes Regulatory Authority annually reassess the appropriateness of its fees or identify other revenue sources to cover its operating expenses in performing more inspections and other mandated activities.

Status: Fully implemented.

Details

In our 2020 audit, we noted that the Authority did not receive funding from the Ministry. It financed its operations primarily by collecting fees from the retirement homes that it regulates. The Authority operated with an annual surplus between 2015/16 and 2018/19 and incurred an annual deficit in 2019/20.

At the time of our follow-up, in September 2022, after the Minister's review and stakeholder feedback, the Authority's Board approved changes to the fee schedule effective January 1, 2023. The most significant change is the new annual fee per suite. The Authority indicated that this change will help it attain financial stability in 2023/24. The Authority notified the sector of the 2023 fee changes in early October.