

Chapter 2

Section 2.02

Ministry of Long-Term Care

Follow-Up on 2021 Value-for-Money Audit:

COVID-19 Preparedness and Management Special Report Chapter 5: Pandemic Readiness and Response in Long-Term Care

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		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable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	1	1				
Recommendation 2	3	2	1			
Recommendation 3	7		6	1		
Recommendation 4	4	1	2	1		
Recommendation 5	7	2	5			
Recommendation 6	4	4				
Recommendation 7	3	1	2			
Recommendation 8	1	1				
Recommendation 9	1				1	
Recommendation 10	3	2			1	
Recommendation 11	4	4				
Recommendation 12	2	2				
Recommendation 13	1		1			
Recommendation 14	4	2	1		1	
Recommendation 15	7	2	5			
Recommendation 16	3	3				
Total	55	27	23	2	3	0
%	100	49	42	4	5	0

Overall Conclusion

The Ministry of Long-Term Care (Ministry), as of October 30, 2023, has fully implemented 49% of

actions we recommended in our *2021 Special Report*, such as reassessing its long-term-care home licensing process to require home operators to renovate their facilities within a realistic but shorter defined time frame to be in compliance with current standards;

reassessing whether its long-term plan to add approximately 45,000 new or renovated beds by 2028 will be sufficient to meet future demands; working with the Ministry of Colleges and Universities to evaluate the personal support worker (PSW) training programs and establishing a standard training curriculum; requiring all long-term-care homes to conduct annual exercises that simulate infectious disease outbreaks and response; requiring public health units to co-ordinate and participate with long-term-care homes within their jurisdictions in these annual exercises; requiring all long-term-care homes to develop and regularly review and update a pandemic plan as part of its emergency planning; updating regulations to include pandemics in the list of emergencies for which long-term-care homes must develop a response plan; establishing the criteria for when inspectors will be required to do their work on-site during an emergency such as a pandemic; and having available a reliable supply of personal protective equipment and providing it to inspectors, along with the safety training.

The Ministry has made progress in implementing an additional 42% of the recommendations, such as developing and implementing a provincial staffing strategy addressing the root causes of staffing shortages in long-term-care homes; incorporating into a staffing strategy specific short- and long-term objectives and targets related to staffing levels and staffing mix in long-term-care homes; regularly monitoring the effectiveness of its staffing strategy against the established objectives and targets; developing and providing guidelines to homes regarding the appropriate staffing level and mix depending on the level of care required by residents; working with Ontario Health, the Ministry of Health and the Ministry of Labour, Immigration, Training and Skills Development to establish a long-term plan for the demand and supply of PSWs; annually monitoring and updating the demand and supply information of PSWs; establishing mandatory Infection Prevention and Control (IPAC) training requirements for long-term-care staff at the home level; conducting annual comprehensive inspections of all homes including specific issues of care that are the subject of ongoing complaints, incidents and previous issues of

non-compliance; and analyzing the nature and extent of the instances of non-compliance it has identified.

However, the Ministry has made little progress on 4% of the recommendations, including requiring its inspectors to annually assess whether homes have staffing plans in place and the reasonableness of those plans as well as confirming that homes are operating in accordance with those plans; and requiring inspectors to assess whether home operators are confirming that PSWs working in their homes are properly trained in current standards.

The remaining 5% of the recommendations will not be implemented, including revising the hiring criteria for future Assistant Deputy Ministers and Deputy Ministers of Long-Term Care to include knowledge and experience in the long-term-care sector; working with the Solicitor General to identify and establish agreements for alternative housing sites to facilitate proper cohorting; and developing an inspection protocol focused on directly inspecting residents' plans of care.

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

Background

This audit was one in a series undertaken by our Office on the Province's response to Coronavirus Disease 2019 (COVID-19). We looked at the preparedness and response of Ontario's long-term-care sector to COVID-19 between January 2020, when the first case was identified in Ontario, until December 31, 2020. During this period, 475 or 76% of long-term-care homes in Ontario reported cases of COVID-19 among their residents and staff.

Under section 1 of the *Fixing Long-Term Care Act, 2021* (Act), "a long-term care home is primarily the home of its residents and is to be operated so that it is a place where they may live with dignity and in security, safety and comfort and have their physical, psychological, social, spiritual and cultural needs adequately met." To satisfy this fundamental principle of the Act, the long-term-care sector has been given responsibilities in many areas that include providing appropriate

living settings, staffing levels, quality of care, access to family support and other community services, and oversight of homes by the Ministry of Long-Term Care (Ministry).

Long-standing systemic problems in the sector were quickly and starkly amplified at the onset and during the first and second waves of the pandemic, and were contributing factors to the outbreaks and spread of COVID-19 in long-term-care homes. Many other studies and reports, including some prior audit reports issued by our Office, have identified these long-standing systemic issues that have remained largely unresolved over the years. For example, as described in our 2019 value-for-money audit report, *Food and Nutrition in Long-Term-Care Homes*, the needs of residents in homes have become more complex over the last 10 years, with residents relying more on personal support workers. At the time of our audit, over 85% of residents needed extensive or 24/7 daily assistance; about one-third of residents had severely impaired cognitive abilities; and 64% had dementia.

Some of our significant findings were:

- Residents were living in rooms with three or four occupants. Our analysis of self-reported COVID-19 data from homes from March 19 to August 31, 2020—the initial wave of the pandemic—found that, of the long-term-care homes that experienced severe outbreaks (where more than 30% of residents became infected at the same time), almost two-thirds had bedroom designs that housed three or four residents in one room.
- The transfer of patients designated as alternate level of care (ALC) from hospitals to long-term-care homes contributed to crowding in homes. For example, in the month of March 2020, 761 transfers of patients designated as ALC were made from hospitals to long-term-care homes, 50% more than the average of 508 patients transferred per month throughout 2019. Given that homes were, on average, at 98% capacity prior to the pandemic according to the Ministry's occupancy data, these transfers added pressure to the homes, some of which were already struggling to contain the spread of COVID-19.
- Long-term-care homes had insufficient staff and staff training to provide appropriate care. Our analysis of the staffing shortages reported by homes to the Ministry from March 19 to June 30, 2020, found that the staffing shortage peaked in late April, when 36 homes—ranging from a small 56-bed home to a large 300-bed home—reported critical shortages to the Ministry on the same day. A total of 76 homes reported critical staffing shortages during this period.
- Infection prevention and control (IPAC) were not consistently practised in homes even prior to the COVID-19 pandemic. Our analysis of the results of Ministry inspections between January 2015 and December 2019 found that a total of 413, or about two-thirds of all homes, were cited for a total of 765 instances of non-compliance with IPAC requirements. During that period, 42% or 264 homes reported an annual average of two to 13 outbreaks in acute respiratory infections.
- A problematic enforcement practice culminated with the Ministry completely discontinuing, in fall 2018, its proactive comprehensive inspections of homes to focus on clearing a growing backlog of critical incidents and complaints. The number of compliance orders issued since our 2015 audit of the Ministry's inspection program increased from an average of 783 per year from 2012 to 2014 to 931 per year from 2015 to 2019. Despite this increase, the Ministry still had not implemented our 2015 recommendations aimed at addressing the issue of repeated non-compliance.
- Measures to contain COVID-19 were initially left up to home operators. The Chief Medical Officer of Health issued his first mandatory instruction to long-term-care homes on March 22, 2020, directing homes not to permit residents to leave the home for short-stay

absences and limit, *where possible* [emphasis added], the number of homes that employees were working at. When requirements were eventually issued to the long-term-care home operators, they were often unclear, ambiguous and open to interpretation. For example, contract staff—temporary staff who are hired through employment agencies to fill vacancies—were allowed to work in multiple homes. This appeared to be inconsistent with the intent of the order to restrict long-term-care home employees from working at multiple sites.

We made 16 recommendations, consisting of 55 action items, to address our audit findings. We received commitment from the Ministry of Long-Term Care, the Ministry of Health and the Secretary of the Cabinet that they would take action to address our recommendations.

Status of Actions Taken on Recommendations

We conducted assurance work between April 2023 and August 2023. We obtained written representation from the Ministry of Long-Term Care that effective October 30, 2023, it has provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

Long-Term-Care Homes Ill-Equipped to Prevent or Minimize COVID-19 Outbreaks Because of Long-Standing Facility, Staffing and Infection Prevention and Control Issues

Recommendation 1

So that all long-term-care home facilities provide residents with accommodations that meet current Ministry of Long-Term Care standards and are places where residents

live in security, safety and comfort, as envisioned in the Long-Term Care Homes Act, 2007, with the intent of preventing future disease outbreaks (such as respiratory infections and gastrointestinal infections), we recommend that the Ministry reassess its long-term-care home licensing process to require home operators to renovate their facilities within a realistic, but shorter defined time frame to be in compliance with current standards, as well as when home design standards change.

Status: Fully implemented.

Details

In our 2021 audit, we found that in order for home operators to obtain a licence for a new home or renew a licence for an existing one, they had to build the new home or renovate existing homes in accordance with current design standards. The Ministry released its latest residency standards in 1999 in its *Long-Term Care Design Manual*. However, home operators were not required to renovate an existing home until their licences expired, and licences are issued for terms of up to 30 years. As such, Ontario had many long-term-care homes that were operating under older design standards.

In our follow-up, we found that as part of the Ontario government's commitment to adding more than 30,000 new long-term-care beds in the province by December 31, 2028, the Ministry has reassessed its long-term-care home licensing process to require home operators to renovate their facilities in order to comply with the latest standards. In particular, the Ministry has been supporting homes with licences that are expiring in 2025 where only minor upgrades and renovations may be required to ensure that these homes can continue operations and provide a safe and comfortable home for residents.

As of August 2023, approximately 90% of homes with licences expiring in 2025 were scheduled to be redeveloped. The Ministry is working with the remaining homes, which have licences expiring in 2025 but have not submitted plans for redevelopment, to obtain a better understanding of their future plans of redeveloping or closing homes.

Recommendation 2

So that there will be sufficient beds available to meet the growing demand for long-term care (in conjunction with any future changes to home care, retirement home, and assisted living considerations), we recommend that the Ministry of Long-Term Care:

- *reassess whether its long-term plan to add approximately 45,000 new or renovated beds by 2028 (taking into account the number of expiring licences) will be sufficient to meet future demands, given the current wait-list backlogs and the projected growth in the number of individuals who will need long-term care in the next 25 years;*

Status: Fully implemented.

Details

We found in our 2021 audit that over 37,000 people were waiting to be placed in a long-term-care home as of September 30, 2020, and that Statistics Canada projected an increase in the proportion of the population aged 65 and over in Ontario from 16.9% in 2018 to as high as 26.1% in 2043. Ontario's aging population would, therefore, likely increase the demand for long-term care in the next 25 years unless additional long-term-care or home-care strategies were put in place.

In our follow-up, we found that the Ministry has annually reassessed and updated its long-term plan to ensure that future demands for long-term-care beds will be met. Subsequent to our 2021 audit, to help address the increasing demand for long-term care, the government committed to building 31,705 new beds and redeveloping 28,648 beds, totalling 60,353 beds, which exceeded the approximately 45,000 new and renovated beds initially noted in the Ministry's long-term plan during our 2021 audit.

As of June 30, 2023, 3,694 beds were opened, 5,291 beds were under construction, 9,355 beds were tendered, and 42,013 beds were in planning. The Ministry has been assessing its progress and implementing innovative measures to help accelerate development and meet the government's commitment.

In conjunction with this, the Ministry has been working with other ministries, including the Ministry

of Infrastructure, Ministry of Health, Ministry for Seniors and Accessibility, and Ministry of Municipal Affairs and Housing to continually assess the growing demand for long-term-care services. Another purpose of working with these ministries is to further explore innovative measures given that building long-term-care beds alone cannot keep pace with seniors' housing needs as the population ages.

- *assess how this plan will fit into an integrated plan with home care and alternative housing in retirement homes and assisted living facilities;*

Status: Fully implemented.

Details

Our 2021 audit found that it was unclear whether the Ministry's long-term plan to add beds also took into account the use of alternative options such as increasing home-care services, and/or increasing the use of assisted living or retirement home accommodations in Ontario.

In our follow-up, we found that the Ministry has assessed its long-term plan to ensure that the plan can fit into an integrated plan with home care and alternative housing in retirement homes and assisted living facilities through various initiatives. For example:

- The Ministry has been promoting integration through the Campus of Care Model (Model), which generally envisions a single location with a range of housing options, from independent housing to assisted living (or supportive housing) and long-term care. The concept of this Model provides opportunities for people to remain living in the same environment and neighbourhood despite their changing functional and health status. The Model also provides residents with health-care personnel and cultural resources, as well as community educational and volunteer programs.
- The Ministry's 2021 Call for Applications for its long-term-care home development program includes objectives such as innovation, flexible care structures (for medically complex residents), support for diversity through culturally

specific programs and specialized services (including Indigenous and Francophone), as well as integration and partnerships with health, social, educational, cultural, and linguistic organizations.

- The Ministry has established an internal working group with the Ministry of Health and Ministry for Seniors and Accessibility to identify ways to improve seniors' service access and experience in terms of service transitions with home care and other services, and to improve palliative care services and approaches.
- *annually revisit its long-term plan and update as necessary, integrating other potential options and supports to providing care, such as home-based care where feasible.*

Status: In the process of being implemented by December 2028.

Details

Our 2021 audit found that the Province's ultimate long-term goal was to develop a total of 30,000 new beds and redevelop 15,000 beds by 2028. However, as of the March 2021 Budget, the Province committed to developing about 20,200 new beds and redeveloping 15,900 beds.

In our follow-up, we found that the Ministry has annually revisited and updated its long-term plan, as evidenced by various initiatives introduced subsequent to our 2021 audit. These initiatives are ongoing and expected to be completed by December 31, 2028. For example:

- The Ministry has been working with the Ministry of Infrastructure to model the projected growth in demand for long-term-care services. As noted in the first action item of **Recommendation 2**, to help address the increasing demand for long-term care, the government committed to building 31,705 new and 28,648 redeveloped beds, totalling 60,353 beds, which exceeded the approximately 45,000 new and renovated beds initially noted in the Ministry's long-term plan during our 2021 audit.

- In addition to its regular build program, the Ministry has also introduced innovative initiatives to build capacity in high-demand areas of the province, particularly large urban areas, through its Surplus Lands for Social Outcomes Project and Accelerated Build Pilot Program. Specifically:

- The Surplus Lands for Social Outcomes Project looks to repurpose unused government land to advance key social outcomes. The Ministry has six surplus sites on the market.
- The Accelerated Build Pilot Program has been implemented in partnership with Infrastructure Ontario and hospital partners to develop beds on hospital-owned land in Toronto, Mississauga and Ajax. Up to 1,272 beds will be built across four sites, the first of which was opened in Ajax in 2022 with 320 new beds. The Ministry expects to complete the remaining homes in this pilot program by the end of 2023.
- The Ministry has also introduced a Loan Guarantee Program for Non-Municipal Not-For-Profit projects to help those projects secure lending from Infrastructure Ontario.

Recommendation 3

So that long-term-care homes can consistently have the necessary and appropriate overall staffing level and mix to provide a sufficient level and quality of care to residents, in compliance with the Long-Term Care Homes Act, 2007 (Act), we recommend that the Ministry of Long-Term Care (Ministry):

- *develop and implement a provincial staffing strategy addressing the root causes of staffing shortages in long-term-care homes as identified in the Ministry's July 2020 staffing study and as experienced during COVID-19 (including consideration of ways to further professionalize the role of PSWs, for example, by regulating the PSW profession);*

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

Details

We found in our 2021 audit some serious concerns that long-term-care staffing was not keeping pace with the increasing demand for long-term care and the increasing complexity of residents' care needs. According to the Ministry's July 2020 staffing study, a decreasing labour supply, challenging working conditions (including pay considerations), and a negative public image contributed to difficulties recruiting and retaining qualified staff.

In our follow-up, we found that the Ministry launched a multi-year (2021–2025) Long-Term Care Staffing Plan (Staffing Plan), called *A Better Place to Live, A Better Place to Work*. The Staffing Plan committed to increasing average direct-care time and improving the supply, recruitment and retention of staff through various initiatives. For example:

- The Ministry provided up to \$1.2 billion in 2023/24 to long-term-care homes to support staffing increases and to increase direct-care time. As part of the Staffing Plan, the Ministry set targets of achieving a provincial average of four hours of direct care provided by registered nurses (RNs), registered practical nurses (RPNs), and personal support workers (PSWs) per resident, per day by March 31, 2025. The Ministry also set provincial direct care targets for allied health professionals (AHPs) of 36 minutes per resident, per day by March 31, 2023 and to sustain thereafter.
- In 2021/22, the Ministry invested \$200 million to educate up to 16,200 PSWs at public colleges, private career colleges and district school boards.
- The Ministry introduced the Supervised Practice Experience Partnership Program and the Long-Term Care Staffing Pool to support internationally educated nurses in gaining experience and meeting requirements in long-term care.
- The Ministry invested \$893 million in 2022/23 to make the temporary wage enhancement for PSWs introduced in 2020 permanent for

applicable sectors. In long-term care, the PSW wage increase has been incorporated into a PSW base wage. Approximately 50,000 PSWs are receiving the permanent wage enhancement of \$3 per hour.

- The Ministry invested \$763 million for the Temporary Retention Incentive for nurses, including nurses working in long-term care, to provide a lump-sum retention incentive of up to \$5,000 per eligible nurse.
- On October 5, 2022, the Ministry launched the Hiring More Nurse Practitioners for Long-Term Care program, which will provide up to \$57.6 million over the following three years to recruit and retain up to 225 additional nurse practitioners in the sector.
- The Ministry collected three quarters of data from homes through the quarterly Long-Term Care Staffing Survey (Staffing Survey) for 2022/23. For the second quarter of 2022/23, the Ministry worked with the Treasury Board Secretariat (Secretariat) to enhance the Staffing Survey with a supplementary survey to collect workforce and compensation data. The Ministry will continue to partner with the Secretariat to collect this data annually.
- The Ministry is working toward publicly reporting its average direct-care targets annually, as well as toward data-sharing with stakeholders, such as Ontario Health.

Given that the Staffing Plan is a multi-year plan (2021–2025), the Ministry expects to fully implement this recommended action by March 2025.

- *after a period of time under the new standard of a provincial average of four hours of direct care from RNs, RPNs and PSWs per resident per day, revisit its operational sufficiency to confirm that residents are receiving the necessary care given the increasing complexity of residents' needs, which can vary between individuals and between homes;*

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

Details

In our 2021 audit, we found that in November 2020, the Province committed to increasing the hours of direct care for each long-term-care resident to an average of four hours per day. The commitment was based on *worked* hours (when staff are present at the home and available for work) instead of *paid* hours (which include vacations, statutory holidays and benefits in addition to worked hours). Using worked hours, the 2018 average was 2.75 direct-care hours by registered nurses (RNs), registered practical nurses (RPNs), and personal support workers (PSWs) per resident.

In our follow-up, we found that the Ministry of Long-Term Care launched a multi-year (2021–2025) Long-Term Care Staffing Plan (Staffing Plan), called *A Better Place to Live, A Better Place to Work*. As mentioned in the first action item of **Recommendation 3**, the Staffing Plan committed to increasing average direct-care time through various initiatives.

Apart from monitoring its progress against the key commitments of the Staffing Plan, the Ministry of Long-Term Care is also working with Ministry of Health to review what is required to sustain the province-wide average direct care targets and keep pace with the projected demand in staffing and growth in long-term care beds, while maintaining resident safety and quality of care.

Given that the Staffing Plan is a multi-year plan (2021–2025), the Ministry plans to revisit its operational sufficiency by March 2024 and March 2025 to confirm that residents are receiving the necessary care given the increasing complexity of residents' needs.

- *incorporate into a staffing strategy specific short- and long-term objectives and targets related to staffing levels and staffing mix in long-term-care homes (considering the necessary training and experience of employees, including training and experience in treating dementia and providing geriatric and palliative care);*
- *regularly monitor the effectiveness of its strategy against the established objectives and targets, and*

take corrective action when objectives and targets may not be met;

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

Details

In our 2021 audit, we found that staffing levels were insufficient to help residents with activities of daily living (such as bathing, toileting, dressing and feeding) to the extent needed for timely and fulsome care, even though the *Long-Term Care Homes Act, 2007* (Act) required homes to have a staffing plan in place that provided for a staffing mix that was consistent with residents' care and safety needs.

In our follow-up, we found that the Ministry's multi-year (2021–2025) Long-Term Care Staffing Plan (Staffing Plan), called *A Better Place to Live, A Better Place to Work* (as discussed in the second action item of **Recommendation 3**), committed to increasing average direct-care time. Several short- and long-term objectives and targets were also incorporated into the Staffing Plan. For example:

- The Ministry set targets of achieving a provincial average of four hours of direct care provided by registered nurses (RNs), registered practical nurses (RPNs), and personal support workers (PSWs) per resident, per day by March 31, 2025. The Ministry also set provincial direct care targets for allied health professionals (AHPs) of 36 minutes per resident, per day by March 31, 2023 and to sustain thereafter.
- The Ministry set objectives to expand enrolment in nurse practitioner programs by 38 additional students in September 2022, and to add up to 2,000 nurses to the long-term-care sector by 2024/25, through a \$100 million investment to develop Hybrid Flexible nursing programs (that is, hybrid online and in-person programs that provide greater flexibility for attendance) in public colleges; provide tuition and other supports to students seeking to bridge from PSW to RPN and RPN to RN; and expand enrolment capacity in bridging programs.

- To support culturally responsive nursing (RN and RPN) and PSW programs, the Ministry set an objective to educate up to 400 nurses (RNs and RPNs) and 400 PSWs over four years by investing \$34 million in six Indigenous institutes.

With respect to staffing models or staffing mix, the Ministry engaged key sector partners through the Long-Term-Care-Technical Advisory Table (LTC-TAT) Staffing Sub-Group to review the staffing flexibility provisions provided in Ontario Regulation 246/22 under the *Fixing Long-Term Care Act, 2021*. The Ministry plans to bring forward proposed amendments in late 2023, which, if approved, should provide appropriate flexibility for long-term-care homes to hire and retain staff to support overall resident quality of life. This work, which is expected to be completed by March 2025, will help the Ministry incorporate into the Staffing Plan specific short- and long-term objectives and targets related to staffing levels and staffing mix in long-term-care homes. The Ministry will then regularly monitor the effectiveness of its strategy against the established objectives and targets, and take corrective action when objectives and targets are not met.

- *develop and provide guidelines to homes regarding the appropriate staffing level and mix depending on the level of care required by residents as per the Case Mix Index;*
- *document the expected level of care required for a resident depending on their Case Mix Index in regulations that are reviewed and updated annually if needed, depending on the overall level of care of residents in long-term care homes;*

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

Details

In our 2021 audit, we found that the optimal staffing mix, staff-to-resident ratio, or hours of direct care would vary depending on the specific needs of residents. (The complexity of residents' medical needs can be measured using the Case Mix Index, the relative

measure of average resources required to provide for residents' needs.) Nonetheless, establishing and enforcing per resident standards (considering their specific level of care needs) would better ensure that residents received the minimum level of care and support they need. This was especially critical given that residents' needs had increased over the previous 10 years.

In our follow-up, we found that the Ministry has started using historical survey data and current quarterly staffing survey data to generate and analyze existing staffing mix ratios in long-term-care homes. The Ministry has also looked into the long-term-care sector in other provinces and internationally to better understand different approaches to staffing mix ratios.

Based on the Ministry's research and analysis, including stakeholder engagement, there is no one-size fits all approach and Ministry guidance and resources are geared toward providing long-term care homes with flexibility so they can adopt flexible staffing models that meet the needs of their residents and staff while maintaining safety and quality of care.

The Ministry brought forward a number of regulatory amendments, effective April 11, 2023, to staffing qualifications as part of the ongoing plan to fix long-term care. Overall, the amendments are intended to eliminate barriers that restrict qualified individuals from entering the sector, and provide appropriate flexibility for long-term care homes to hire and retain staff. As part of the recent regulatory amendments, the Ministry provided the sector with a best practice document in May 2023 for orienting food service workers and cooks with little or no long-term care experience. The Ministry plans to bring forward in the future proposed amendments for the remaining staffing qualification roles and to provide additional resources or guidance. It expects to complete this work by March 2025.

- *require its inspectors to annually assess whether homes have staffing plans in place, as required by the Act and the reasonableness of those plans; as well as confirming that homes are operating in accordance with those plans.*

Status: Little or no progress.

Details

In our 2021 audit, we found that even though the *Long-Term Care Homes Act, 2007* (Act) required homes to have a staffing plan in place that provided for a staffing mix that was aligned with residents' care and safety needs, staffing shortages were a long-standing issue that was highlighted as far back as a 2008 Ministry staffing report. The COVID-19 pandemic exacerbated this problem to critical levels; our analysis of staffing shortages reported by homes to the Ministry from March 19 to June 30, 2020, showed a peak in late April, when 36 homes (ranging from a small 56-bed home to a large 300-bed home) reported critical shortages on the same day; over the entire period, a total of 76 homes reported critical staffing shortages.

In our follow-up, we found that the Ministry has not required its inspectors to annually assess whether homes have reasonable staffing plans in place, and are operating in accordance with those plans. The Ministry informed us that it has been working on establishing a Long-Term Care Quality Centre (Quality Centre) to support long-term-care homes in improving their residents' quality of life and quality of care. It plans to use this work to inform its inspection protocols, including having inspectors annually assess whether homes have staffing requirements and plans in place.

Recommendation 4

So that the supply of Personal Support Workers (PSWs) needed is available and that PSWs are sufficiently trained to provide the necessary level and quality of care to residents, in compliance with the Long-Term Care Homes Act, 2007, we recommend that the Ministry of Long-Term Care:

- *work with Ontario Health, the Ministry of Health and the Ministry of Labour, Training and Skills Development to establish a long-term plan for the demand and supply of PSWs in Ontario as part of a provincial long-term care staffing strategy recommended in **Recommendation 3**;*

- *annually monitor and revisit and update the demand and supply information of PSWs to track to the long-term plan;*

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

Details

We found in our 2021 audit that PSWs faced more challenging working conditions than what they were prepared for through their training. The primary reasons for the gap were the rising complexity of residents' needs and staffing shortages, which often resulted in PSWs being given responsibilities for which they did not receive training.

In our follow-up, we found that as part of its Long-Term Care Staffing Plan, called *A Better Place to Live, A Better Place to Work* (as discussed in the first action item of **Recommendation 3**), the Ministry is developing a multi-year approach to further invest in PSW education, and to help increase the supply, recruitment and retention of nurses and PSWs in long-term care. This work is expected to be completed by March 2025. For example:

- Approximately 50,000 PSWs are receiving the permanent wage enhancement of \$3 per hour.
- In 2021/22, the Ministry invested \$200 million to educate up to 16,200 PSWs at public colleges, private career colleges and district school boards.
- To support culturally responsive nursing (RN and RPN) and PSW programs, the Ministry announced a \$34-million investment over four years at six Indigenous institutes to educate up to 400 nurses (RPNs and RNs) and 400 PSWs.
- The Ministry invested in a fully online, accelerated PSW education pilot with Humber College that enables existing staff to continue earning while they receive an education and advance their careers in long-term care. Fifty-seven students graduated from the Learn and Earn Accelerated Program for Personal Support Workers in Long-Term Care pilot program,

which was extended for three years in July 2023 through an investment of \$16.5 million to train up to 600 new PSWs across the province.

- The Ministry invested \$73 million in the Preceptor Resource and Education Program in Long-Term Care over three years to support clinical placements for PSW and nursing students by providing them with critical hands-on experience under the supervision of long-term-care staff.

The Ministry will continue to work with the Ministry of Health, the Ministry of Colleges and Universities, Ontario Health, educational partners and the long-term-care sector to explore innovative approaches to address staffing needs through the increased supply of health-care professionals. This includes the ongoing planning and data analysis of long-term-care staffing, which includes PSWs and all other care providers.

- *work with the Ministry of Colleges and Universities to evaluate the PSW training programs in Ontario and establish a standard training curriculum for use in the delivery of consistent training and practical experience requirements as part of its staffing strategy;*

Status: Fully implemented.

Details

In our 2021 audit, we found differences in how PSW educational programs were delivered in Ontario. We reviewed the full-time PSW certificate programs in Ontario offered by all 24 community colleges and the 15 private career colleges that had the highest enrolment, and noted that all community colleges offered two-semester programs that ran for about 24 to 30 weeks and included 140 to 438 hours of practical experience, while programs offered at private career colleges ran for about 29 to 52 weeks, totalling between 700 and 800 hours of practical experience.

In our follow-up, we found that the Ministry of Colleges and Universities completed a review of the program standard for PSW programs in Ontario. The review included consultations with stakeholders from

Ontario colleges, private career colleges, district school boards, other Ontario ministries, including the Ministry of Long-Term-Care, and external stakeholders involved in the field. The program standard outlines the vocational standards, essential employability skills, and minimum learning requirements of graduates of PSW programs in Ontario. All Ontario colleges, private career colleges and district school boards that offer a PSW program are required to follow the vocational standard.

- *require inspectors to assess, as part of annual long-term-care home inspections, whether home operators are confirming that PSWs working in their homes are properly trained on current standards.*

Status: Little or no progress.

Details

We found in our 2021 audit that Regulation 79/10 under the *Long-Term Care Homes Act, 2007* required that PSWs hired by long-term-care homes must have successfully completed a personal support worker program that met the standards set out by the then Ministry of Training, Colleges and Universities and comprised at least 600 hours of in-class instruction and practical experience combined. Given that PSWs comprise more than half of long-term-care home staff, and are responsible for the direct day-to-day care of vulnerable individuals with complex needs, verifying that they are properly trained would help ensure that residents are receiving appropriate care that is up to current standards.

In our follow-up, we found that the Ministry has not required inspectors to assess, as part of annual long-term-care home inspections, whether home operators are confirming that PSWs working in their homes are properly trained on current standards. As discussed in the last action item of **Recommendation 3**, the Ministry has been working on establishing a Long-Term Care Quality Centre to support long-term-care homes in improving their residents' quality of life and quality of care. It plans to use this work to inform its inspection

protocols, including having inspectors annually assess whether homes have staffing requirements and plans in place.

Recommendation 5

So that the required infection prevention and control (IPAC) programs and practices are in place and are effective in preventing and controlling infectious disease incidences and outbreaks at long-term-care homes, we recommend:

- *the Ministry of Long-Term Care consult with local public health units to:*
 - *develop and clearly communicate IPAC directives that outline clear and detailed requirements that all long-term-care homes must incorporate in their IPAC programs, including, for example, the level of IPAC education and experience required of the home's designated IPAC lead as well as initial and ongoing IPAC training requirements;*
 - *develop supporting guidance documents that provide additional resources for long-term-care homes to help them meet the requirements in the Long-Term Care Homes Act, 2007 (Act) and its regulations; and*
 - *establish mandatory IPAC training requirements for long-term-care staff at the home level, especially those involved in providing direct care to residents, to determine and address gaps and to have them provide continual training to coincide with their staff turnover.*

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

Details

We found in our 2021 audit that Ontario Regulation 79/10 under the *Long-Term Care Homes Act, 2007* specified the IPAC program requirements homes must meet, including having a designated IPAC lead, a system to monitor and analyze symptoms of infection, an outbreak-management system, a hand-hygiene program, and an immunization program for various infectious diseases. However, the regulation did not specify the level of IPAC education and experience that

was required of the designated IPAC lead, nor had the Ministry provided further guidance on this.

In our follow-up, we found that the Ministry has taken actions to improve IPAC practices in long-term-care homes, such as providing new IPAC funding to homes, introducing a new IPAC standard, providing targeted training and education activities, and working with local public health units, Public Health Ontario, hospitals, and other IPAC partners. Specifically:

- A new evidence-based Infection Prevention and Control Standard for Long-Term Care Homes (IPAC Standard) was issued in April 2022 and is referenced in the *Fixing Long-Term Care Act, 2021 (Act)*. The IPAC Standard includes detailed requirements for homes, including standards for staffing and related training and education.
- In addition to requiring homes to follow the IPAC Standard, the Act requires homes to have a dedicated IPAC lead with an appropriate IPAC certification. Among the IPAC lead's responsibilities is auditing IPAC practices in the home and conducting regular infectious-disease surveillance.
- The Ministry provided \$20 million for IPAC personnel in long-term-care homes in 2022/23 to improve IPAC capacity, including retaining IPAC professionals. An additional \$26.17 million was provided to the sector in November 2022 to train new and existing staff, certify staff, and to comply with the IPAC Standard.
- The Ministry's inspectors of long-term-care homes have reviewed the results of IPAC assessments and audits, and used this information to adapt training requirements and provide additional supports for homes.
- The Ministry developed a plan to enhance IPAC practices in long-term-care homes. The plan covers areas such as staffing; training and education; mandated standards for IPAC programs in homes; and roles and responsibilities among health system and other partners. The Ministry has engaged with key stakeholders, such

as local public health units and Public Health Ontario, to implement the plan, and discussed with them how to improve training and education (for example, by assisting IPAC leads in achieving certification, as well as training and education of other personnel in homes).

- The Ministry will continue to engage with licensees of long-term-care homes and other partners over the next few months to identify priority training and education needs.
- The Ministry will work with homes to help them develop their expertise, including in self-auditing and assessment as a component of evidence-based IPAC programs.

The Ministry expects the above activities to be fully implemented by March 2025.

- *the Ministry of Long-Term Care, in conjunction with the Ministry of Health:*
 - *require all long-term-care homes to conduct annual exercises, prior to the influenza season, that simulate infectious disease outbreaks and response;*
 - *require public health units to co-ordinate and participate with long-term-care homes within their jurisdictions in these annual exercises;*

Status: Fully implemented.

Details

We found in our 2021 audit that Ontario Regulation 79/10 under the *Long-Term Care Homes Act, 2007* did not require long-term-care homes to conduct regular exercises to simulate infectious disease outbreaks and response. We also noted that the comparatively effective management of COVID-19 in long-term-care homes in Kingston illustrated the value of conducting such exercises. Prior to the COVID-19 pandemic, in August 2019, long-term-care homes in Kingston participated in an exercise with other health-care providers to walk through how to prepare for a severe influenza season. As of December 31, 2020, there had been a total of only seven cases of COVID-19 in the 11 long-term-care homes in Kingston.

In our follow-up, we found that the Ministry has been working with local public health units, Public

Health Ontario, hospitals, and others to improve IPAC practices in long-term care homes (as mentioned in the first action item of **Recommendation 5**). As part of this work, new requirements for IPAC are included in the *Fixing Long-Term Care Act, 2021* (Act), including the new IPAC Standard, among other enhancements.

The Act includes new requirements for emergency planning and preparedness by licensees of long-term-care homes, including collaboration with local partners and public health units. The emergency plans must be evaluated and updated at least annually, and within 30 days of an emergency being declared. The emergency plans related to epidemics and pandemics (among others) must be tested on an annual basis. The Ministry has also provided guidance to licensees of long-term-care homes to help them meet these requirements. In addition, the Act introduced provisions that address preparations and responses to epidemics and pandemics.

- *require public health units to conduct at a minimum, annual IPAC assessments of all long-term-care homes within their jurisdictions, and provide such assessments to the Ministry of Long-Term Care; and*
- *the Ministry of Long-Term Care use the IPAC assessments conducted by public health units to inform its inspection process.*

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

Details

We found in our 2021 audit that the rapid spread of COVID-19 in some homes suggested that many initial IPAC efforts were insufficient. This was corroborated by the IPAC assessments conducted by Public Health Ontario from March to December 2020 in 76 long-term-care homes. The IPAC assessments, performed at the request of the homes, found 222 deficiencies in IPAC practices, including improper use of personal protective equipment, lack of cleaning products, and failure to follow hand hygiene best practices.

In our follow-up, we found that the Ministry has been working with local public health units, Public

Health Ontario, hospitals, and others to improve IPAC practices in long-term-care homes (as detailed in the first action item of **Recommendation 5**). As part of this work, new requirements for IPAC—such as conducting quarterly IPAC audits, monthly hand hygiene audits and an annual evaluation of each long-term-care home’s IPAC program—are included in the *Fixing Long-Term Care Act, 2021* (Act), along with the new IPAC Standard, among other enhancements.

With respect to IPAC assessments, the Ministry’s partners, including local public health units, have continued to perform assessments and audits in homes. The Ministry’s Long-Term Care Inspection Branch will continue to work to formalize an information-sharing relationship so that it can co-ordinate its regulatory oversight of long-term-care homes. The Ministry will work with homes to help them develop their expertise, including in self-auditing and assessment as a component of evidence-based IPAC programs.

The Ministry expects that these recommended actions will be fully implemented by March 2024 as part of ongoing work related to the implementation of new IPAC and emergency management requirements.

Long-Term-Care Sector Largely Disconnected from Rest of Health-Care System

Recommendation 6

So that long-term-care homes are better prepared to manage the impact of future infectious disease outbreaks including pandemics, we recommend that the Ministry of Long-Term Care work with the Ministry of Health, Ontario Health, and the Local Health Integration Networks to:

- *develop a pandemic plan for the entire long-term-care sector that clearly outlines roles and responsibilities, specific actions to be taken, and the timing of such actions in the event of a pandemic;*

Status: Fully implemented.

Details

We found in our 2021 audit that, at the outset of the pandemic, the Ministry of Long-Term Care (Ministry) did not have a plan in place to respond to emergencies related to human health and diseases, even though the Emergency Management Office’s 2019 Provincial Emergency Response Plan had required the Ministry to develop such a plan specifically for the long-term-care sector. Meanwhile, the Ontario Health Plan for an Influenza Pandemic did not require long-term-care homes to have emergency response plans in place, but only required they report respiratory infection outbreaks and laboratory-confirmed cases of influenza to the Ministry of Health. Also, we noted that Regulation 79/10 of the *Long-Term Care Homes Act, 2007* set out a list of emergencies for which homes must develop a response plan, but the list did not include a pandemic.

In our follow-up, we found that the *Fixing Long-Term Care Act, 2021* (Act), which came into effect in April 2022, includes preparations and responses to epidemics and pandemics. The Ministry engaged with partners in other ministries to develop expanded emergency planning requirements in the Act. The partners included the Office of the Chief Medical Officer of Health at the Ministry of Health as well as the Office of the Fire Marshal and Emergency Management at the Ministry of the Solicitor General. All long-term-care homes are required to comply with these requirements. In particular, Section 90 of the Act states that all long-term-care homes are required to have emergency plans in place, including for epidemics and pandemics. Ontario Regulation 246/22 under the Act includes details as to what each home’s pandemic plan must include, such as roles and responsibilities of staff members, actions to be taken, and timing of those actions.

The Ministry also developed and released a Long-Term Care Emergency Planning Manual on May 12, 2022. The manual is a supportive tool to aid homes in developing effective emergency and evacuation plans; help homes achieve, demonstrate, and maintain compliance with the legislation and regulation; promote quality improvement through sharing of best practices;

and connect homes with other resources. Emergency Management Ontario has also shared additional resources with the sector.

- require all long-term-care homes to develop and regularly review and update a pandemic plan as part of its emergency planning;

Status: Fully implemented.

Details

We found in our 2021 audit that emergency planning at long-term-care homes did not include pandemic or significant infectious-disease planning. The *Long-Term Care Homes Act, 2007* required all long-term-care homes to have emergency plans outlining how they would respond to emergencies such as fires, community disasters, bomb threats, chemical spills, and the loss of one or more essential services, but not to pandemics. While eight out of 10 long-term-care homes we contacted had written plans for responding to infectious disease outbreaks (such as influenza or norovirus), as required under Ontario Regulation 79/10 (covering topics such as maintaining an adequate amount of personal protective equipment (PPE) and collaborating with health system partners like public health units), they were not integrated as part of the homes' emergency planning to provide a clearer and more systematic way of responding to events like the COVID-19 pandemic.

In our follow-up, we found that the *Fixing Long-Term Care Act, 2021* (Act), which came into effect in April 2022, requires long-term-care homes to comply with the following regulations with respect to emergency planning:

- Ontario Regulation 246/22 s. 268 (8) states that emergency plans must be evaluated and updated at least annually and within 30 days of the emergency being declared, after each instance that the emergency plan was activated.
- Ontario Regulation 246/22 s. 268 (10)(d) states that licensees must keep a written record of emergency plan tests, as well as any planned evacuations of the homes, and any changes made to improve the plans.

- establish formal partnership agreements between long-term-care homes, local hospitals and public health units, with clear roles and provisions for sharing expertise and resources in specifically identified situations such as outbreaks of infectious disease and pandemics;

Status: Fully implemented.

Details

We found in our 2021 audit that most long-term-care homes did not have formal partnerships with local public health units and hospitals, even though their IPAC expertise would have benefitted the homes. Dr. Gary Garber, the former Medical Director of Infection Prevention and Control at Public Health Ontario, confirmed the disconnect between long-term-care homes and hospitals in his testimony at the Long-Term Care COVID-19 Commission, stating that, “until spring [2020], there was no real connection between hospitals and long-term-care regarding IPAC.”

In our follow-up, we found that the *Fixing Long-Term Care Act, 2021* (Act), which came into effect in April 2022, requires long-term-care homes to comply with the following regulations with respect to sharing expertise and resources with partners, and clarifying the role of each party:

- Ontario Regulation 246/22 s. 268 2 (ii) requires licensees to identify a safe evacuation location for which the licensee has obtained agreement in advance that residents, staff, students, volunteers and others can be evacuated to.
- Ontario Regulation 246/22 s. 268 (3)(a) states that as part of the development and updating of the plan, there shall be consultation with entities that may be involved in or are providing emergency services, including but not limited to community agencies and health service providers, as defined in the *Community Care Act, 2019*.
- Ontario Regulation 246/22 s. 268 (5) states the plan must include identification of the roles and responsibilities of specific staff at long-term-care homes without being limited to community

agencies and health service providers, as defined in the *Connecting Care Act, 2019*.

In addition, as mentioned in the first action item of **Recommendation 6**, the Ministry developed and released a Long-Term Care Emergency Planning Manual on May 12, 2022. The manual provides best practice guidelines, one of which is for homes to develop memorandums of understanding or contracts with emergency service providers to ensure that a response is assured, day or night.

- *update Regulation 79/10 to include pandemics in the list of emergencies for which long-term-care homes must develop a response plan.*

Status: Fully implemented.

Details

We found in our 2021 audit that under Ontario Regulation 79/10 of the *Long-Term Care Homes Act, 2007* long-term-care homes were required to have in place a written plan for responding to infectious disease outbreaks within the facility. However, we noted that the list of emergencies in Ontario Regulation 79/10 for which homes must develop a response plan did not include a pandemic.

In our follow-up, we found that on April 11, 2022, the *Long-Term Care Homes Act, 2007* and Ontario Regulation 79/10 were revoked and the *Fixing Long-Term Care Act, 2021* (Act) came into effect. The new Act requires homes to comply with Ontario Regulation 246/22 s. 268 (4), which specifies a list of emergencies for which long-term-care homes must have a plan. The list includes “outbreaks of a communicable disease, outbreaks of a disease of public health significance, epidemics and pandemics.”

Recommendation 7

To improve oversight of infection prevention and control (IPAC) programs and practices at long-term-care homes, we recommend that the Ministry of Long-Term Care work with the Ministry of Health to review and revise the Ministry of Long-Term-Care’s inspection program and the

*Ministry of Health’s Inspection Prevention and Control Protocol so that, as suggested in **Recommendation 5**:*

- *public health units are required to co-ordinate and participate with long-term-care homes within their jurisdictions in IPAC annual exercises;*

Status: Fully implemented.

Details

In our 2021 audit, we surveyed the five public health units in the province with the largest population coverage—Peel, Toronto, York, Durham and Ottawa—and they reported varying levels of involvement in monitoring IPAC practices in long-term-care homes prior to the COVID-19 pandemic. For example, three public health units—Peel, York and Ottawa—stated that they had limited co-ordination with Ministry of Long-Term Care home inspectors. The other two public health units—Toronto and Durham—had not co-ordinated work with Ministry of Long-Term Care home inspectors prior to COVID-19.

In our follow-up, we found that the *Fixing Long-Term Care Act, 2021* (Act), which came into effect in April 2022, includes preparations and responses to epidemics and pandemics. The Ministry has engaged with partners in other ministries to develop expanded emergency planning requirements in the Act.

The Act includes new requirements for emergency planning and preparedness by long-term-care home licensees, including collaboration with local-level partners and public health units. The emergency plans must be evaluated and updated at least annually, and within 30 days of the emergency being declared. The emergency plans related to epidemics and pandemics (among others) must be tested on an annual basis. The public health units are also required to co-ordinate and participate with long-term-care homes within their jurisdictions in IPAC annual exercises. The Ministry has also provided guidance to long-term-care homes to help them meet these requirements. In addition, the Act introduced provisions that address preparations and responses to epidemics and pandemics.

- *public health units are required to conduct regular IPAC assessments of all long-term-care homes within their jurisdictions, and provide such assessments to the Ministry of Long-Term Care; and*
- *Ministry of Long-Term Care inspectors use the IPAC assessments conducted by public health units to inform their inspections.*

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

Details

We found in our 2021 audit that the Ministry of Health's Infection Prevention and Control Protocol (IPAC Protocol) required public health units to inspect all licensed child-care and personal-service settings at least once every 12 months for adherence to IPAC practices, but there was no such requirement for long-term-care homes. Inspectors from the Ministry of Long-Term Care told us that the *Long-Term Care Homes Act, 2007* and supporting regulation were not specific enough to allow inspectors to ensure that long-term-care homes had good IPAC programs in place. They also said that the inspection protocols needed to be improved to give inspectors a better understanding of what to look for when observing practices that should be included in a long-term-care home's IPAC program.

As mentioned in the first action item of **Recommendation 5**, we found that the Ministry of Long-Term Care (Ministry) has been working with local public health units, Public Health Ontario, hospitals, and others to increase the IPAC capacity in long-term-care homes. As part of this work, new requirements for IPAC are included in the *Fixing Long-Term Care Act, 2021* (Act), including the new IPAC Standard, among others.

With respect to IPAC assessments, the Ministry's partners, including the public health units, have continued to perform assessments and audits in long-term-care homes. The Ministry's inspectors have reviewed the results of IPAC assessments and audits, and used this information to adapt training requirements and provide additional supports for long-term-care homes. The Ministry will work with

homes to help them develop their expertise, including in self-auditing and assessment as a component of evidence-based IPAC programs. The Ministry will also continue to engage with long-term-care homes and other partners over the next few months to identify and respond to priority training and education needs.

The Ministry expects that these recommended actions will be fully addressed by March 2024 as part of ongoing work related to the implementation of new IPAC and emergency management requirements.

Recommendation 8

To improve oversight of infection prevention and control (IPAC) programs and practices at long-term-care homes, we recommend that the Ministry of Health update the Health Protection and Promotion Act to require local public health units to assist long-term-care homes in preparing and reviewing their outbreak response plans, which is currently in the Ministry of Health's Institutional/Facility Outbreak Management Protocol.

Status: Fully implemented.

Details

We found in our 2021 audit that the Ministry of Health's Infection Prevention and Control Protocol (IPAC Protocol) required public health units to inspect all licensed child-care and personal-service settings at least once every 12 months for adherence to IPAC practices, but there was no such requirement for long-term-care homes. Inspectors from the Ministry of Long-Term Care told us that the *Long-Term Care Homes Act, 2007* and supporting regulation were not specific enough to allow inspectors to ensure that homes had good IPAC programs in place.

In our follow-up, we found that, while the Ministry of Health has not updated the *Health Protection and Promotion Act*, the newly proclaimed *Fixing Long-Term Care Act, 2021* (Act) does require public health units to assist long-term-care homes in preparing and reviewing their outbreak response plans.

The Ministry of Health clarified that the *Health Protection and Promotion Act* provides the structure, governance, authority, and functions for public health

units in Ontario, while the Institutional/Facility Outbreak Management Protocol (Protocol) requires that public health units assist institutions (including long-term-care homes) in establishing and reviewing their written outbreak response plans at a minimum of every two years. The Minister of Health has published the Ontario Public Health Standards, which have already incorporated the Protocol. The Ministry of Health, through its Accountability Agreement, requires public health units to annually attest to delivering programs and services in accordance with the Ontario Public Health Standards. The Ministry of Health has also established a network of Infection Prevention and Control Hubs that support long-term-care homes with IPAC expertise and are accessible to the homes to support them in building their IPAC programs and addressing IPAC gaps.

The Ministry of Long-Term Care indicated that the proclamation of the *Fixing Long-Term Care Act, 2021* (Act) in April 2022 and Ontario Regulation 246/22 have strengthened the oversight of IPAC at long-term-care homes. Specifically:

- The Act requires long-term-care homes to have emergency plans for outbreaks of communicable diseases, as well as diseases of public health significance. These plans must be evaluated and updated on an annual basis with the relevant entities involved in the emergency response. In the case of an outbreak of a communicable disease, or a disease of public health significance in a long-term-care home, the relevant entity would include the public health units. Therefore, the public health units would be involved in evaluating and updating the outbreak emergency response plan of the home on an annual basis.
- The Act requires the Medical Officer of Health at each public health unit or their designate to be invited to participate in developing, updating, testing, evaluating, and reviewing any emergency plan related to a matter of public health.

Recommendation 9

To better inform the Ministry of Long-Term Care's decision-making, we recommend that the Secretary of the Cabinet include in the hiring criteria for this ministry that future Assistant Deputy Ministers and Deputy Ministers have knowledge and experience in the long-term-care sector.

Status: Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation.

Details

We found in our 2021 audit that a new Deputy Minister of Long-Term Care was appointed by the Secretary of the Cabinet on March 9, 2020, replacing the previous Deputy Minister. In July 2020, the position of Assistant Deputy Minister (ADM), responsible for overseeing long-term-care home operations, was also filled by a new individual. The ADM who previously oversaw the inspection process and long-term-care home operations was reassigned to be the ADM responsible for long-term-care capital projects. While these individuals needed to possess the administrative competencies to hold Deputy and Assistant Deputy Minister positions, having experience in the long-term-care sector would have given them on-the-ground understanding of the long-standing critical issues and challenges they would have to address during the pandemic.

In our follow-up, we found that the Secretary of the Cabinet will not implement this recommendation for the following reasons:

- Sector-specific knowledge and experience will continue to be part of the criteria used to assess candidates for senior executive roles, but selection decisions will always be made in consideration of all the leadership competencies of a candidate. In this regard, senior executives are able to rely on their teams for in-depth knowledge from subject-matter experts.
- Hiring decisions for senior executives in the Ontario Public Service take into consideration a wide variety of leadership qualities and competencies. Sectoral knowledge and experience

are an important part of the selection criteria for senior executives, along with other important qualities, such as innovative, responsible and collaborative leadership behaviours, that are essential for building a skilled, diverse and effective public service.

COVID-19 Pandemic Response Actions Had Unintended Consequences on Long-Term-Care Residents and Staff

Recommendation 10

To minimize the spread of infectious diseases when long-term-care homes are at capacity, we recommend that the Ministry of Long-Term Care, in developing its future pandemic plan (in Recommendation 6):

- *develop a strategy that would be followed for capacity and placement considerations in both long-term-care homes and hospitals regarding patients designated as alternate level of care;*

Status: Fully implemented.

Details

We found in our 2021 audit that transfers of patients designated as alternate level of care (ALC) from hospitals to long-term-care homes further contributed to crowding in homes that were already dealing with COVID-19 challenges. Given that homes were, on average, at 98% capacity prior to the pandemic, these transfers of patients designated as ALC added pressure to some homes already struggling to contain the spread of COVID-19.

In our follow-up, we found that actions have been taken to address this recommended action by developing a strategy or plan with respect to placement considerations in both long-term-care homes and hospitals for patients designated as alternate level of care.

As part of Ontario's Plan to Stay Open: Health System Stability and Recovery, the Ministry of Long-Term Care (Ministry), in collaboration with the Ministry of Health and Ontario Health, has led several initiatives to help address hospital capacity pressures

and ensure people receive the right care in the right place. This includes implementing the *More Beds, Better Care Act, 2022* (formerly Bill 7), which amended the *Fixing Long-Term Care Act, 2021* to facilitate the transition of eligible hospital patients designated as ALC into a temporary long-term-care home while they wait for placement in a preferred home. The amendments authorize a placement co-ordinator to take certain actions in the long-term-care admission process (such as determining eligibility, selecting a home or authorizing admission) without consent of the ALC patient or their substitute decision-maker.

As part of the process, the placement co-ordinator will continually engage the patient, family, and care-givers, making every effort to seek the patient's consent at each stage of the process. However, if consent is not provided, the placement co-ordinator is authorized to move forward with assessing the ALC patient's eligibility for long-term-care home admission, selecting appropriate homes and applying to those homes for admission. If a long-term-care home licensee approves the patient's admission, the placement co-ordinator can authorize the admission.

The changes aim to support a conversation between the patient who is eligible for long-term-care home admission, the hospital and the long-term-care placement co-ordinator about how the patient's needs can best be met outside of hospital, in a long-term-care home.

In addition, the Ministry implemented other actions to support the objective of right care, right place, such as an increased investment in Behavioural Supports Ontario to better assist individuals with the transition into long-term care homes, and a new Local Priorities Fund (managed by Ontario Health) to support local solutions that can reduce avoidable hospital visits, and better support transfers from hospitals to long-term-care homes.

- *work with the Solicitor General to identify and establish agreements for alternative housing sites to facilitate proper cohorting;*

Status: Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation.

Details

In our 2021 audit, our research found that other jurisdictions identified alternative placements for patients designated as ALC. For example, in April 2020 in Saskatchewan, some rural hospitals were specifically dedicated to house patients designated as ALC. In Quebec, about 200 “transition” beds were created for seniors in the previously closed l’Hôtel-Dieu de Montréal hospital between April and August 2020. In Ontario, we found one example of an alternative placement for patients designated as ALC: St. Joseph’s Continuing Care Centre in Sudbury transferred them to the Clarion Hotel beginning in April 2020.

In our follow-up, we noted that the Ministry will not implement this recommended action. The Ministry told us that the recommendation is not operationally appropriate. Instead, the Ministry has taken other actions to minimize the spread of infectious diseases. For example:

- Under the *Fixing Long-Term Care Act, 2021* (Act), long-term-care homes are required to prepare appropriately for emergencies by planning for evacuation and/or relocation of residents, identifying an area of the home to be used for isolating residents, and having a process to divide both staff and residents into cohorts to prevent the spread of infectious diseases.
- Long-term-care homes are required to work actively with local-level partners to plan for relocation and/or evacuation. This includes developing agreements with other homes and other community-based organizations.
- The Ministry is developing resources and tools for long-term-care homes to support future emergency planning related to the requirements under the new Act and its related regulations. It has consulted the Solicitor General while developing the regulations and will also engage with the Solicitor General when developing resources and tools in the future.

- The Ministry continues to support homes in developing appropriate approaches to relocating residents, as well as other emergency management activities, including through educational sessions.

However, given the role of the Solicitor General in overseeing and co-ordinating the province’s emergency management through Emergency Management Ontario, we continue to support the recommendation to work with the Solicitor General to identify and establish agreements for alternative housing sites to facilitate proper cohorting.

- *develop emergency staffing plans to ensure that residents, whether in long-term-care homes or in alternative housing sites, receive proper care.*

Status: Fully implemented.

Details

We found in our 2021 audit that while the *Long-Term Care Homes Act, 2007* (Act) required homes to have a staffing plan in place that provided for a staffing mix that was aligned with residents’ care and safety needs, it did not specify any planning requirements for emergency situations, such as pandemics. As a result, at the outset of the pandemic, a series of reactionary steps were taken that ultimately put added pressure on long-term-care homes that were already struggling to contain the spread of COVID-19. For example, decision-makers, concerned about the risk of hospitals being overrun by an overwhelming influx of patients, took steps to transfer patients designated as alternate level of care (ALC) from hospitals to long-term-care homes. By the time the Ministry of Health, Ministry of Long-Term Care and Ontario Health ordered hospitals on April 15, 2020, to suspend transfers of patients designated as ALC to long-term-care homes, Public Health Ontario had reported that more than 933 residents and 530 staff had contracted COVID-19 in 104 different outbreaks.

In our follow-up, we found that the *Fixing Long-Term Care Act, 2021* (Act), which came into effect

in April 2022, includes, for the first time, preparations and responses to epidemics and pandemics. An accompanying regulation, Ontario Regulation 246/22, outlines additional emergency planning requirements.

Specifically, Ontario Regulation 246/22 s. 269 (1) states that long-term-care homes must have an emergency plan related to outbreaks of a communicable disease, outbreaks of a disease of public health significance, epidemics or pandemics. This plan should also include staffing contingency plans during an emergency for all programs required under the Act and Ontario Regulation 246/22.

The Ministry has also taken the following actions to address this recommendation:

- performed fall preparedness planning in collaboration with the Office of the Chief Medical Officer of Health;
- provided homes with additional guidance on home-level preparedness planning, including updates to the standard operating procedure in a COVID-19 outbreak and the need to have staffing contingency strategies in place;
- held webinars with homes to review the guidance; and
- performed targeted outreach with homes deemed higher-risk.

Recommendation 11

*So that measures taken to control the spread of COVID-19 and future infectious disease outbreaks in long-term-care homes do not result in significant staffing shortages nor contribute to the deterioration of residents' mental and physical conditions, should the homes be impacted by future serious infectious disease outbreaks, we recommend that the Ministry of Long-Term Care, in developing its pandemic plan (under **Recommendation 6**):*

- *identify and implement ways that residents' family caregivers and caregivers paid by residents' family members can continue to provide care to their loved ones while ensuring the health and safety of the home's residents;*

Status: Fully implemented.

Details

We found in our 2021 audit that the Chief Medical Officer of Health's directive limiting the number of people going into long-term-care homes had a negative impact on residents. Issued on March 30, 2020, the directive was intended to control COVID-19 outbreaks by limiting visitors to only those considered essential, such as food delivery, inspection, maintenance and health-care services; or those visiting a very ill or palliative resident. However, it also meant that residents' family members could not visit their loved ones for the months the directive was in effect (it was lifted on June 10, 2020). This lack of contact took an emotional toll on residents and their families, in many cases resulting in a deterioration in residents' physical condition.

In our follow-up, we found that the *Fixing Long-Term Care Act, 2021 (Act)* and Ontario Regulation 246/22, which came into force on April 11, 2022, include new requirements to address the challenges experienced by long-term-care residents in maintaining access to their caregivers when visitor restrictions were implemented in response to the COVID-19 pandemic.

Specifically:

- The Act has a section (Resident's Bill of Rights) that includes the right of all residents to have ongoing and safe support from their caregivers and assistance in contacting them. All long-term-care homes must respect and uphold this right.
- Ontario Regulation 246/22 includes a new definition for "caregiver" that specifically acknowledges and legitimizes the role played by caregivers (family members, friends and other persons of importance to a resident) in supporting the health and wellbeing of residents. All long-term-care homes must comply with the application of this definition to ensure consistency across all homes as to who may be designated as a resident's caregiver.
- Ontario Regulation 246/22 also requires all long-term-care homes to have a visitor policy that complies with the requirements set out in the regulation, including giving caregivers

continued access to homes during an outbreak, subject to any applicable laws.

- The new IPAC Standard issued under the Act includes requirements pertaining to the delivery of IPAC education and training to all staff, caregivers, volunteers, visitors, and residents.

The Ministry will also continue to monitor and support long-term-care homes, as they continue to implement the requirements set out under the Act and regulation.

- *based on lessons learned from the implementation of the single-site order in Ontario and other provinces, assess what approach can most effectively keep residents and staff safe while still allowing staff to work the hours they did prior to the single-site directive;*
- *develop backup staffing strategies that may be needed if staffing issues result from future outbreak and emergency situations;*

Status: Fully implemented.

Details

We found in our 2021 audit that there were concerns regarding the Province's single-site order, which restricted long-term-care staff from working in more than one home. The temporary order was issued on April 14, 2020, and was intended to control the spread of COVID-19. However, stakeholders expressed concerns that it further worsened the staffing shortage in the sector when home operators experienced difficulties hiring temporary staff to fill the vacant positions.

In our follow-up, we found that the single-site order was revoked on March 28, 2022, allowing employees to work at more than one long-term-care home. Also, under the *Fixing Long-Term Care Act, 2021* (Act) and Ontario Regulation 246/22, long-term-care homes are now required to define roles and responsibilities for staff during emergencies. All departments within each long-term-care home should understand the roles and responsibilities they will have, and what contingency plans they can use if there is a staff shortage.

In addition, we noted that Ontario Regulation 246/22 includes certain pandemic provisions related to backup staffing strategies. For example:

- Each home's staffing plan must comply with the following requirements:
 - Provide for a staffing mix that is consistent with residents' assessed care and safety needs that meets the requirements set out in the Act and this Regulation.
 - Include a backup plan for nursing and personal care staffing that addresses a situation when staff, including the staff who must provide nursing coverage required under subsection 11(3) of the Act, cannot come to work.
 - With respect to the 24-hour nursing requirement, some flexibility is provided, so that if a pandemic prevents a registered nurse from getting to the home, other staff may be specified as a sufficient substitute for the registered nurse, subject to certain requirements and conditions.

As well, the COVID-19 Guidance Document for Long-Term Care Homes in Ontario, along with the Ministry of Health's Contact Case Management, provides guidance to homes regarding safe ways for staff to work in multiple homes in an outbreak, in addition to providing opportunities for caregivers to support more than one resident.

- *assess whether monies provided to long-term-care homes for staffing remedies was used for the purposes intended.*

Status: Fully implemented.

Details

We found in our 2021 audit that the Ministry did not have information on the proportion of eligible workers who had not yet received their pandemic pay, and the Ministry did not track when monies were paid to eligible workers. The Province announced in late April 2020 that frontline workers would receive a temporary pandemic payment of a \$4-an-hour pay bump for 16 weeks, from April 24 to August 13, 2020, along with a monthly lump sum payment of \$250 for those working more than 100 hours in that month. The Ministry distributed the pandemic pay to the home operators, who were then responsible for paying their

staff. By June 30, 2020, however, \$105.7 million, or 30%, of the \$346.6 million that was approved had still not been paid to the homes.

In our follow-up, we noted that the Ministry has an annual accounting and reconciliation process (called the Long-Term Care Home Annual Reconciliation Report) in place to assess whether monies provided to long-term-care homes for staffing remedies was used for the intended purpose of increasing direct-care time for residents.

Through this process, the Ministry will match the funding provided to homes each calendar year against the expenditure reported in the Annual Report. Unused funds are required to be returned to and recovered by the Ministry in accordance with the annual reconciliation process.

Licensees of homes must ensure that the Annual Report is audited by a public accountant licensed under the *Public Accounting Act, 2004*, or in certain exceptions under the *Fixing Long-Term Care Act, 2021* or the *Long-Term Care Homes Act, 2007*, the Annual Report may be audited by the municipal auditor who audits the books of account and ledgers of the home.

Delays, Unclear Communications and Lack of Enforcement by Long-Term Care Ministry Hampered Effectiveness of Measures to Contain COVID-19

Recommendation 12

So that long-term-care home operators can effectively implement the measures to control the spread of COVID-19 and other potential future infectious diseases in a timely manner, we recommend that the Health Co-ordination Table, the Chief Medical Officer of Health and the Ministry of Long-Term Care:

- *in an expedient manner, clarify to whom the requirements and restrictions apply, and the precautions that must be taken by home operators where requirements allow for exceptions;*

Status: Fully implemented.

Details

In our 2021 audit, we heard from the stakeholder groups that the Chief Medical Officer of Health's first mandatory instruction (Directive #3, issued on March 22, 2020), which contained most of the mandatory instructions for long-term-care homes, included unclear language and guidance. This resulted in homes inconsistently interpreting the instructions (related to prohibiting residents from leaving homes for short-stay absences and limiting the number of homes that staff work at). For example, Directive #3's restriction on admissions to homes during the pandemic did not initially differentiate new admissions from readmissions. Therefore, in some cases, residents who left the home for an essential medical treatment were initially not able to return to it.

In our follow-up, we found that clarification has been provided to long-term-care homes in various ways with respect to whom the requirements and restrictions apply to, and the precautions that must be taken by home operators where requirements allow for exceptions. For example:

- The Ministry's Guidance Document for long-term-care homes in Ontario was released in May 2021 to help homes interpret and meet the government's requirements related to the pandemic. For example, the document sets out how homes can safely resume certain activities with precautions.
- Over the course of the pandemic, the Ministry updated guidance to the sector, based on advice from the Office of the Chief Medical Officer of Health.
- The Minister's Directive (COVID-19 Response Measures for Long-Term Care Homes) and the accompanying guidance documents (COVID-19 Guidance Document for Long-Term Care Homes in Ontario and COVID-19 Guidance: Long-Term Care Homes, Retirement Homes and Other Congregate Living Settings for Public Health Units) remain in effect and support homes in navigating the ongoing COVID-19 pandemic. The Directive outlines requirements outside of the *Fixing Long-Term Care Act, 2021* and the

regulations that homes must follow throughout the course of the pandemic to ensure the safety of residents and staff. These documents apply to all individuals entering long-term-care homes. Should there be an exception, applicable information follows throughout the document to ensure the safety of those living and working in long-term care. For example, homes are not permitted to prohibit visitors for palliative or end-of-life residents. If these individuals fail screening, they must be permitted entry, but homes must ensure that they wear a medical (surgical or procedural) mask and maintain physical distance from other residents and staff.

The Ministry and the Office of the Chief Medical Officer of Health will continue to work together to update the applicable documents to best reflect the changing status of the pandemic in the sector.

- *follow the precautionary principle when determining whether to make infectious disease containment measures voluntary versus mandatory.*

Status: Fully implemented.

Details

In our 2021 audit, we found that the delay in requiring long-term-care homes to implement containment measures was an example of the precautionary principle not being followed in as timely a manner as needed. (The precautionary principle dictates that, where there is reasonable evidence of an impending threat to public harm, reasonable efforts to reduce risk should be taken without waiting for scientific certainty.) For example, our report on Outbreak Planning and Decision-Making (see Chapter 2 of our Special Report on COVID-19 Preparedness and Management) noted that an Associate Medical Officer of Health at one of the public health units in Ontario emailed the Chief Medical Officer of Health on March 18, 2020, and stated that requiring long-term-care home workers to wear masks at all times while in the facility was an urgent priority. By the time the Chief Medical Officer of Health issued the directive to homes to require all staff and essential visitors to wear masks on April 8, three weeks later,

Public Health Ontario had reported 498 resident and 347 staff cases of COVID-19, and 86 resident deaths, in long-term-care homes.

In our follow-up, we found that the precautionary principle has been followed when determining whether to make infectious disease containment measures voluntary versus mandatory. For example:

- Ontario Regulation 246/22, which came into force in April 2022, states that a home's IPAC program must be implemented in a manner consistent with the precautionary principle as set out in the standards and protocols issued by the Director and the most current medical evidence. The IPAC Standard issued under the regulation also includes additional requirements for the application of the precautionary principle.
- Ontario Regulation 246/22 also states that the licensee shall implement (a) any surveillance protocols issued by the Director for a particular communicable disease or disease of public health significance; and (b) any standard or protocol issued by the Director with respect to infection prevention and control.
- In collaboration with Public Health Ontario and IPAC Canada, the Ministry hosted a webinar for long-term-care homes November 23, 2022, on Infectious Disease surveillance approaches and tools.

Recommendation 13

To confirm that long-term-care homes are sufficiently implementing mandated measures to control the spread of COVID-19 in long-term-care homes, we recommend that the Ministry of Long-Term Care work with public health units to clarify roles and responsibilities and work in formal partnerships to conduct inspections of long-term-care homes for compliance with Directive #3, which is issued under the Health Protection and Promotion Act.

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

Details

We found in our 2021 audit that confusion around the roles and responsibilities for enforcing Directive #3

(which contained most of the government’s mandatory instructions for long-term-care homes) had the potential to create a gap in promoting and enforcing IPAC principles in homes. Public health units consistently told us that more clarity was needed because they found that the oversight of long-term-care homes was unclear and fragmented. We were especially concerned about whether steps had been taken to ensure homes understood and stayed current with the various IPAC-related measures mandated in the many updates and iterations of Directive #3.

In our follow-up, we found that the Ministry’s Long-Term Care Inspections Branch has collaborated with public health units at the District Office level (formerly Service Area Office) to clarify roles and responsibilities and work in formal partnerships with respect to inspections of long-term-care homes.

Specifically, the Ministry’s Long-Term Care Inspections Branch has completed a new “ecosystem” document, in consultation with the Ministry of Health, Ministry of Labour, Immigration, Training and Skills Development, Ontario Health, and Public Health Ontario. This document provides an overview of the key government ministries, agencies, and other organizations (including public health units) that play a role in the long-term-care home “ecosystem” within Ontario, including those organizations that conduct inspections.

The Ministry’s Long-Term Care Inspections Branch will continue to explore the potential for more formal partnerships and to distribute the “ecosystem” document. This work is expected to be completed by March 2024.

Ministry’s Oversight of Homes Before and During COVID-19 Pandemic Ineffective in Addressing Repeat Non-Compliance

Recommendation 14

So that risks, systemic issues and instances of non-compliance at long-term-care homes are identified and addressed before they result in even more significant negative outcomes for residents, we recommend that the Ministry of Long-Term Care (Ministry):

- *determine the level of inspection staff needed to conduct proactive comprehensive inspections while also effectively addressing complaints and incident reports in the required timelines in accordance with legislation and Ministry policies;*

Status: Fully implemented.

Details

In our 2021 audit, we reviewed documentation provided to us by the Ministry regarding its decision to discontinue comprehensive inspections. We found that the decision was made by Ministry management in order to address the growing backlog of complaints and critical incident reports that required inspection or inquiry by the same staff that would have been involved in the comprehensive inspections. The Ministry did not have the level of staff needed to continue conducting comprehensive inspections while simultaneously addressing the backlog.

In our follow-up, we found that, as of February 2023, the Ministry has hired 193 new long-term-care inspections staff, including 156 new inspectors. These new hires double the number of inspectors in the field to proactively visit long-term care homes in the province, while continuing reactive inspections to promptly address complaints and critical incidents.

To determine the level of inspection staff needed to conduct proactive inspections while also effectively addressing complaints and critical incidents in the required timelines, the Ministry’s Long-Term Care Inspection Branch has developed a resource plan highlighting the number of additional inspectors required to sustain the total workload, while allocating those inspectors based on regional circumstances.

The total projected workload has been identified based on the following factors:

1. The average number of net new intakes per month.
2. The average number of backlogged intakes per month.
3. The number of new beds and homes that are expected to be onboarded by 2025/26.
4. The number of new proactive inspections to be completed.

- *conduct annual comprehensive inspections of all homes including specific issues of care that are the subject of ongoing complaints, incidents and previous issues of non-compliance with legislation and regulations;*

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

Details

We found in our 2021 audit that proactive comprehensive inspections could yield more meaningful information and result in more profound improvements to a home's systemic operations than complaint and critical incident inspections. The latter are reactive and occur only after a potentially harmful incident has occurred involving a resident, whereas the former can help identify risks and problems before they result in more serious outcomes for residents. However, complaints and incident reports require timely follow-up to protect residents from immediate concerns that cannot always wait for a comprehensive inspection.

In our follow-up, we found that the Ministry developed a new Proactive Inspection Program (PIP), which was launched on November 22, 2021. Under the PIP, inspectors will conduct a resident-focused proactive inspection using a prescriptive approach, including specific inspection protocols to determine compliance with the *Fixing Long-Term Care Act, 2021*.

The purpose of the PIP is to improve oversight of the sector and to improve resident quality of life and safety. The PIP emphasizes resident-centred inspections, which are based on direct discussions with residents or families, and focus on resident care needs and the home's programs and services.

A total of 124 Proactive Compliance Inspections (PCIs) were completed as of August 15, 2023. Data collected from the first six months of conducting PCIs indicates that PCIs have helped identify issues in the sector that would not have otherwise been found through Complaints or Critical Incident System inspections.

The Ministry expects that every home will receive a PCI by end of 2025. The PIP will continue to

evaluate the effectiveness of PCIs and all other types of inspection.

- *develop an inspection protocol focused on directly inspecting residents' plans of care;*

Status: Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation.

Details

We found in our 2021 audit that non-compliance related to residents' plans of care was identified as the number one issue through comprehensive inspections. However, we noted that the Ministry does not have a specific inspection protocol focused on reviewing a sample of plans of care to confirm that residents are receiving care in accordance with their plans of care.

In our follow-up, the Ministry informed us that this recommended action will not be implemented because questions related to plans of care have already been embedded into each of the 12 existing resident-centred inspection protocols, which include focused questions related to inspecting residents' plans of care around a specific issue (for example, continence care).

Therefore, for any inspections specifically related to the residents' plans of care, the existing Personal Care and Support Services Inspection Protocol can be used. This is a mandatory inspection protocol to be used in the new Proactive Compliance Inspections (PCIs), as discussed in the second action item of **Recommendation 14**.

Since the existing inspection protocol chosen by the inspector for the specific concern will already have questions related to the residents' plans of care embedded, a new inspection protocol is not required.

However, given that the Ministry's inspections have identified non-compliance related to residents' plans of care as the number one issue, we continue to support the implementation to develop an inspection protocol focused on this issue.

- *review and improve its triaging policy so that outbreaks reported by long-term-care homes are properly investigated.*

Status: Fully implemented.

Details

We found in our 2021 audit that, from 2016 to 2019, there were an average of 1,150 acute respiratory infection outbreaks per year at homes across the province. The Ministry responded to only 10% of these outbreaks, while the remaining 90% of reported outbreaks were deemed to require no further action or inspection because they did not meet the definition of a “trend” under the Ministry’s triaging policy. A trend was identified when there was a pattern or repetition of the same type of incident/issue that had occurred three times in a six-month period—for example, if a home reports three outbreaks within six months. So, under this triaging policy, a home that reported an outbreak in January and February and then again in November would not be inspected.

In our follow-up, we found that the Ministry has reviewed and improved its triaging policy so that outbreaks reported by long-term-care homes are properly investigated. The updated triage policy (called the Triage Policy and Disease Outbreak Assessment Guidance), which includes a new section related to triaging outbreaks, was approved and implemented by August 2023. The Disease Outbreak Assessment Guidance is a companion document to the triage policy, providing specific criteria and questions to be used to assess and triage an outbreak.

Recommendation 15

So that long-term-care home operators who repeatedly do not comply with legislative requirements to provide residents with a home where they may live with dignity and in security, safety and comfort, and have their needs met are appropriately held accountable, we recommend that the Ministry of Long-Term Care (Ministry):

- *analyze the nature and extent of the instances of non-compliance it has identified, including determining the root cause of the instances;*

Status: In the process of being implemented by March 2026.

Details

We found in our 2021 audit that the Ministry still had not implemented the recommendations from our 2015 report aimed at addressing the issue of repeated non-compliance by long-term-care home operators. This is despite an increase in compliance orders since 2016 (from an average of 783 compliance orders per year from 2012 to 2014 to an average of 931 per year from 2015 to 2019).

In our follow-up, we found that the new Proactive Inspection Program (PIP), as discussed in the second action item of **Recommendation 14**, is part of the Ministry’s plan to improve oversight of the long-term-care sector and to improve resident quality of life and safety. The results of the proactive inspections will assist the Ministry and long-term-care homes in determining areas of focus where the homes can benefit from additional tools such as guidance materials and best practices. This information can help guide the future Long-Term Care Quality Centre (Quality Centre) in determining priorities. The Ministry has consulted on the proposed Quality Centre’s scope of services, governance structure, program design and cost structure. Pending government direction, the Ministry is targeting the launch of the Quality Centre in 2024/25.

The Ministry started conducting proactive inspections in November 2021. A total of 124 Proactive Compliance Inspections (PCIs) had been completed as of August 15, 2023. Every home will receive a PCI by end of 2025. The Ministry will continue to evaluate the effectiveness of PCIs and all other types of inspection.

Data collected from the first six months of conducting PCIs indicates that the PCIs have helped identify issues in the sector that would not have otherwise been found through Complaints or Critical Incident System inspections. The Ministry will continue to analyze the nature and extent of the instances of non-compliance it has identified, including determining the root causes of the instances. It expects to complete this work by March 2026.

- *determine, based on the results of this analysis, when a supportive approach can be taken, including*

the reasons why it would be better than taking firm enforcement action;

- *develop a strategy for providing the necessary supports where a supportive approach is necessary and appropriate;*

Status: In the process of being implemented by March 2026.

Details

In our 2021 audit, we found that homes had continued to be non-compliant with legislative requirements since our 2015 audit of the Ministry's inspection program. During follow-up work for our 2015 audit, the Ministry told us that it had decided to not implement any fines or penalties for instances of non-compliance; instead, it would take a "supportive" approach to overseeing homes (for example, by providing more funding for increased staffing or training). We had significant concerns about this decision. First, the Ministry could not explain what its supportive approach entailed or how it intended to implement it. Second, in our view, the increasing levels of and trends in non-compliance suggested underlying issues that needed to be addressed.

In our follow-up, we found that the *Fixing Long-Term Care Act, 2021* (Act) and Ontario Regulation 246/22, which were brought into force on April 11, 2022, gave the Ministry some new tools to help it implement its preferred supportive approach to overseeing long-term-care homes. First, the Act enables the creation of the Long-Term Care Quality Centre (Quality Centre); second, it enables inspectors to order long-term-care homes to require their staff to undergo training.

The Ministry consulted with relevant stakeholders from January to March 2023, and plans to analyze this feedback to help it determine the proposed Quality Centre's mandate, governance structure, scope of services, program design and cost structure. Pending government direction, the Ministry is targeting the launch of the Quality Centre in 2024/25. Together with its work to analyze the nature and extent of the non-compliance instances it has identified, including determining their root causes (as discussed in the first action item of **Recommendation 15**), the Ministry

expects to determine when a supportive approach can be taken to address instances of non-compliance in long-term-care homes, and to develop a strategy for providing the necessary supports to correct them. It expects to complete this work and implement these recommendations by March 2026.

- *monitor the extent to which better outcomes result from a supportive approach (in other words, establish using clear evidence whether or not a supportive approach demonstrably improves residents' quality of life and decreases the incidence of conditions and events that diminish quality of life);*

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

Details

We found in our 2021 audit that, while some issues may be better addressed using a supportive approach that, for example, provides additional funding, staffing, training or guidance to long-term-care homes, other issues may require the firmer hand of enforcement to ensure that homes are places where residents live with dignity and in security, safety and comfort, and where residents' needs are met, as envisioned in the *Long-Term Care Homes Act, 2007*. For example, our 2015 audit of the Long-Term-Care Home Quality Inspection Program highlighted instances of sexual harassment and verbal and physical abuse of residents that were not resolved for four to eight months after the Ministry issued the initial compliance order, with the Ministry having to subsequently issue another compliance order.

In our follow-up, we found that the Ministry has started identifying and developing quality-of-care and quality-of-life indicators as part of the development of a Quality Framework for Long-Term Care (Quality Framework). The Quality Framework will offer a consistent definition of quality of life and quality of care, and will identify recommended performance metrics by which the government and sector partners can assess the performance of long-term-care homes. The Ministry completed a draft Quality Framework and identified potential indicators using a Delphi process, which is a process used to arrive at a group opinion or decision by consulting a panel of experts. The Ministry

is consulting experts in the long-term-care sector on the draft Quality Framework and the (more than 70) indicators identified with a view to focusing on key initial indicators. It expects to complete this work by June 2024.

- *take stronger enforcement actions where monitoring shows that a supportive approach has not led to better outcomes;*

Status: In the process of being implemented by March 2026.

Details

We found in our 2021 audit that, despite the increase in compliance orders since 2016, the Ministry still had not implemented the recommendations from our 2015 report aimed at addressing the issue of repeated non-compliance by long-term-care home operators. One of those recommendations was that the Ministry strengthened its enforcement processes to promptly address repeated non-compliance, including determining when to escalate to stronger levels of enforcement actions. However, the Ministry told us during our 2020 continuous follow-up work that it would be taking a “supportive” rather than a punitive approach to over-seeing homes.

In our follow-up, we found that the *Fixing Long-Term Care Act, 2021* (Act) and Ontario Regulation 246/22, which were brought into force on April 11, 2022, include enhanced enforcement options (for example, administrative monetary penalties, licence suspensions, increased fines for offences) available to the inspectors and Director if repeated non-compliance is found, as well as a new process where inspectors can note in their reports the incidents of non-compliance that were remedied before the end of the inspection.

As discussed in the second action item of **Recommendation 15**, the Act also enables the creation of the Long-Term Care Quality Centre (Quality Centre). The Ministry consulted on the proposed Quality Centre’s scope of services, governance structure, program design and cost structure. Since the Quality Centre would be one part of a supportive approach, and would help the Ministry define when stronger enforcement actions should be used if a supportive approach has

not led to better outcomes, this recommended action would require the Quality Centre to be established in order to fully implement. Pending government direction, the Ministry is targeting to launch the Quality Centre in 2024/25.

- *revisit proclaiming the 2018 amendments to the Long-Term Care Homes Act, 2007 that would allow the Ministry to issue penalties; and*
- *establish the criteria and circumstances when home operators must pay penalties with the proclamation of the outstanding 2018 legislative amendments.*

Status: Fully implemented.

Details

We found in our 2021 audit that, despite the increase in compliance orders since 2016, the Ministry still had not implemented the recommendations from our 2015 report aimed at addressing the issue of repeated non-compliance by long-term-care home operators. One of those recommendations was that the Ministry evaluate the use of other enforcement measures, such as issuing fines or penalties to long-term-care homes. In 2018, the Province passed amendments to the *Long-Term Care Homes Act, 2007* and Ontario Regulation 79/10 to allow fines and penalties. However, at the time of our 2020 continuous follow-up, the amendments had not yet been proclaimed. The Ministry told us during our 2020 continuous follow-up work that it had decided against implementing fines or penalties in favour of using a supportive approach to fixing issues of non-compliance.

In our follow-up, we found that Section 158 of the *Fixing Long-Term Care Act, 2021* (Act) and Section 349 of Ontario Regulation 246/22 provide for a regime of administrative penalties that inspectors are required to issue where non-compliance has been found and the long-term-care home had also failed to comply with that same requirement at any time during the previous three years. Each time the home fails to comply with the same requirement, the amount of the penalty would increase. The regime also provides authority for the Director of Inspections to issue a penalty on the first compliance order.

Between April 11, 2022 and August 24, 2023, 104 administrative monetary penalties at a total dollar value of \$428,100 have been served to non-compliant long-term-care homes, and 12 reinspection fees at a total dollar value of \$6,000 have been served.

Recommendation 16

So that the Ministry of Long-Term Care (Ministry) can better utilize its inspection function in cases of infectious disease outbreaks and other types of emergencies, we recommend that the Ministry:

- *immediately establish the criteria for when inspectors will be required to do their work on-site during an emergency such as a pandemic and what type of work they will be required to do;*

Status: Fully implemented.

Details

We found in our 2021 audit that the first on-site inspection began on May 8, 2020—51 days after the first case of COVID-19 involving a long-term-care home resident was recorded on March 18, 2020. We reviewed the reports for all 30 inspections conducted from May 8 to May 31, 2020 and noted that half were still conducted remotely from inspectors' homes and not on-site. In one-third of cases, inspectors performed a portion of their inspections on-site and others remotely or off-site. In summer 2020, the Ministry updated its inspection policy and guideline, which outlined the inspection approach, including when inspections could be conducted off-site, during the COVID-19 pandemic. The policy left the decision of when an inspection could be conducted off-site up to the inspectors and their managers and did not outline criteria to be considered.

In our follow-up, we found that the Ministry has developed two new policies with criteria on when long-term-care home inspectors will be required to conduct their inspections during an emergency or a pandemic:

1. Preparing On-site Inspections During an Emergency Policy.
2. Preparing On-site Inspections During a Pandemic Policy.

These documents will assist the Ministry's Long-Term Care Inspections Branch staff to prepare for a potential emergency or pandemic, and to determine whether all appropriate safety measures are in place before inspectors enter long-term-care homes for inspections during an emergency or pandemic. In particular, the Preparing On-site Inspections During a Pandemic Policy outlines specific requirements during different stages of a pandemic. For example:

- The Manager of the Policy and Specialized Services Unit will lead the review of the Ontario Public Service (OPS)-wide or Ministry pandemic plan, and have a team meeting every August to review for any updates.
- The Manager of the Training and Development Unit will ensure that new and existing staff are trained in the procedures of inspecting during a pandemic.

- *immediately prioritize and conduct required on-site inspections of long-term-care homes, such as those related to infection prevention and control and repeated non-compliance, based on assessed risks;*

Status: Fully implemented.

Details

We found in our 2021 audit that inspectors could not adequately address complaints received from residents and family members because they were not able to conduct on-site inspections during the first months of the pandemic. Inspectors were instructed to call long-term-care homes to determine whether there were non-compliance issues related to the complaints, but they could not verify whether the information the homes gave them—including whether the issues were addressed—was complete and accurate.

In our follow-up, we found that the Ministry has made the following changes to inspection processes that help immediately prioritize high-risk complaints and critical incidents:

- A risk level is assigned once information about the homes is received. Such information will be monitored by each District Office (formerly Service Area Office) to ensure benchmark

timelines are met. Where serious harm or immediate risk is identified, an immediate on-site inspection is initiated.

- Where an inspection has resulted in a compliance order, a follow-up on-site inspection is prioritized within 30 business days of the compliance due date. These high-risk inspections are monitored by each District Office with additional oversight by the Senior Management Team.
- As of January 18, 2021, each newly initiated inspection for any reason must also include an on-site inspection of Infection Prevention and Control (IPAC) measures using an IPAC Observational Checklist depending on the home's status of being in a declared COVID-19 outbreak or other outbreak.

- *in cases of infectious disease outbreaks, have available a reliable supply of personal protective equipment and provide it to inspectors, along with the safety training required for them to conduct effective on-site home inspections.*

Status: Fully implemented.

Details

We found in our 2021 audit that inspectors were not fully trained and equipped with personal protective equipment (PPE) to safely conduct inspections until May 1, 2020. According to the Ministry, sending inspectors without appropriate preparation into homes that had COVID-19 outbreaks would have put inspectors, residents and staff at risk. This concern was also raised by the Ontario Public Service Employees Union in April 2020. As a result, there were no on-site inspections until May 8, 2020.

In our follow-up, we found that the Ministry's inspectors have been equipped with a supply of PPE since May 2020 and each inspector is responsible for monitoring and notifying the respective Administrative Assistant within their District Office (formerly Service Area Office) when the PPE supply is low. Each District Office is responsible for monitoring and reordering PPE to maintain an adequate inventory.

On October 14, 2021, each District Office made a PPE inventory list, and they are expected to update this each year as part of the Preparing for On-site Inspections During a Pandemic Policy.

In addition, inspectors were required to complete IPAC training in April 2020 before doing an inspection. Since then, the Ministry provided staff with an updated IPAC Training Offering Checklist (including newly added resources) in April and May 2021. All new staff are required to complete the same training during onboarding.