

Authority:

Item 1, Committee of the Whole
Report 10-013 (PED10005(a))
CM: April 14, 2010

Bill No. 078

CITY OF HAMILTON

BY-LAW NO. 10-078

**To Amend By-law No. 07-170, a By-law to License and Regulate Various
Businesses**

WHEREAS Council enacted a by-law to license and regulate various businesses being City of Hamilton By-law No. 07-170;

AND WHEREAS this By-law provides for the replacement of Schedule 20 of City of Hamilton By-law No. 07-170;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Schedule 20 of By-law No. 07-170 is deleted and replaced with the new Schedule 20, entitled "Residential Care Facilities", attached as Appendix A to this By-law.
2. All licences issued under Schedule 20 which are current and valid on the day this By-law comes into force shall be deemed to be:
 - (a) current and valid under the new Schedule 20; and
 - (b) subject to all of the applicable provisions of By-law No. 07-170 and the new Schedule 20, including but not limited to expiring and being renewable as though they had been issued under the new Schedule 20.
3. All residential care facility operators shall comply with paragraph 5(1)(d) of Schedule 20 attached as Appendix A by submitting a premises plan to

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the Issuer of Licences upon this By-law coming into force and, if a premises plan is not submitted, the Issuer of Licences may make a recommendation under section 14 of the General Provisions of By-law No. 07-170.

4. This By-law comes into force on the day it is passed.

PASSED this 14TH day of April, 2010.


Robert Pasuta
Acting Mayor


Rose Caterini
City Clerk

Appendix A

SCHEDULE 20

RESIDENTIAL CARE FACILITIES

PART I: INTERPRETATION

1. In this Schedule:

- (a) **“activities of daily living”** means the activities of an individual that maintain their sufficient nutrition, hygiene, warmth, rest and safety;
- (b) **“additional care”** means community services such as long term care services, or rehabilitative services that can be provided to a tenant either in the residential care facility or in the community;
- (c) **“ambulatory”** means in respect of an individual, that they are independently mobile, by mechanical or any other means, or with minimal assistance of another person;
- (d) **“attic”** means the space between the roof and the ceiling of the top storey of a residential care facility or between a dwarf wall and a sloping roof of a residential care facility, which is not finished in such a way as to provide suitable habitation for tenants;
- (e) **“basement”** means a storey of a residential care facility located below the first storey which is more than 50 per cent below grade or which is not finished in such a way as to provide suitable habitation for tenants;
- (f) **“care services”** means advice, information, or supervision provided to tenants in the activities of daily living and may also include:
 - (i) periodic personal care, as required, such as the giving of medications, bathing assistance, assistance with feeding, incontinence care, dressing assistance, assistance with personal hygiene, and ambulatory assistance;

- (ii) provision of recreational or social activities, housekeeping, laundry services, and assistance with transportation;
 - (iii) personal emergency response services, including assistance in evacuating under emergency conditions due to mental limitations and/or developmental handicaps and limitations of the tenants;
- (g) **“drug”** means any substance or mixture of substances manufactured, sold or represented for use in:
- (i) the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical state, or the symptoms thereof, in an individual; or
 - (ii) restoring, correcting or modifying of organic functions in an individual;
- (h) **“Guidelines”** means the guidelines for the operation of facilities licensed under this Schedule, which the Medical Officer of Health is authorized to issue under subsection 57(a);
- (i) **“long term care facility”** means a nursing home under the Nursing Homes Act, an approved charitable home for the aged under the Charitable Institutions Act or a home under the Homes for the Aged and Rest Homes Act provided that on the day the Long-Term Care Homes Act, 2007 comes into force, “long term care facility” means a place that is licensed under that Act;
- (j) **“Officer”** means:
- (i) a building inspector of the Building Division of the Planning and Economic Development Department;
 - (ii) an inspector of the Fire Department;
 - (iii) a public health inspector employed in the Public Health Services Department;

- (iv) a registered nurse employed in the Public Health Services Department;
 - (v) an officer appointed by the Issuer of Licences.
- (k) “**operator**” means a person licensed under this Schedule to operate a residential care facility;
- (l) “**physician**” means a legally qualified medical practitioner;
- (m) “**prescribed**”, when used with reference to a drug or mixture of drugs, means that a legally qualified medical practitioner or a dentist has directed the dispensing of the drug or mixture of drugs to a named individual;
- (n) “**prescription drug**” means a drug that may be dispensed by a pharmacist only upon the direction of a physician or dentist;
- (o) “**rehabilitative services**” means services for a person with a physical, mental, or developmental handicap, and includes,
- (i) homemaker services,
 - (ii) day care,
 - (iii) training and rehabilitation,
 - (iv) casework and counselling, and
 - (v) training in life skills;
- (p) “**residential care facility**” means a residential complex that is occupied or intended to be occupied by four or more persons for the purpose of receiving care services, whether or not receiving the services is the primary purpose of the occupancy, and the term “facility” has a corresponding meaning;
- (q) “**residential care facility information package**” means an information

package that contains the information required to be contained in an information package under section 140 of the Residential Tenancies Act, 2006 including notice that a complaint about the operation of the facility may be made by telephoning the City of Hamilton's Public Health Services at 905-546-2063;

- (r) **"single facility incident"** means a situation, or the likelihood of an impending situation, which could reasonably be expected to have an abnormal effect on the health, safety, welfare, or personal property of one or more tenants of a facility, and which, because of its nature or magnitude, requires a controlled and co-ordinated response by the operator;
- (s) **"tenant of a facility"** means a person, other than an operator or employee, who
- (i) resides in a residential care facility, and to whom the operator provides care services;
 - (ii) is ambulatory; and
 - (iii) has decreased physical or mental functional ability;
- and the term "tenant" has a corresponding meaning; and
- (t) **"volunteer"** means a person, other than an operator or an employee, who, as part of an organized volunteer program, provides services or work at a residential care facility for no wage or salary.

PART II: LICENSING

GENERAL

2. No person shall operate a residential care facility without a licence.
3. A licence shall not be issued for a facility established after October 1, 1980, which is situated in a location where, at any hour, the noise level exceeds 58 decibels.

4. The authorized capacity of a facility, as determined by the Medical Officer of Health, and the provisions of the applicable zoning by-laws, shall be endorsed on the licence issued to the facility.

INFORMATION TO BE PROVIDED BY APPLICANT

- 5.(1) Every applicant for a licence, in addition to complying with the General Provisions of this By-law, shall submit, before the licence may be issued:

- (a) a signed form certifying that the applicant is at least eighteen years of age at the time of application;
- (b) a copy of an Ontario Secondary School Graduation Diploma or evidence satisfactory to the Issuer of Licences of equivalent standing from the Ontario Ministry of Education and Training;
- (c) evidence satisfactory to the Issuer of Licences of employment experience in work comparable to the administration of the facility which they propose to operate;
- (d) a premises plan of the residential care facility showing all buildings or other structures, parking areas and walkways on the property where the residential care facility is located and all entrances/exits, bedrooms, beds, clothes closets, dining areas, sitting rooms and toilet facilities, sitting rooms in the residential care facility; and
- (e) a single facility incident plan satisfactory to the Medical Officer of Health which shall include the premises plan under paragraph (d).

- (2) Paragraph (1)(b) does not apply to a person who was the holder of a licence to operate a residential care facility under a by-law of a former area municipality on July 10, 2001, the date that the City of Hamilton Licensing Code, By-law 01-156, came into force.

6. Every applicant for a licence or a licence renewal, in addition to complying with the

General Provisions of this By-law, shall submit to the Issuer of Licences before the licence is issued or renewed, the following:

- (a) upon applying for a licence and every third year thereafter, upon applying for a licence renewal, a certificate from the Electrical Safety Authority that the facility complies with the Ontario Electrical Safety Code;
 - (b) a certificate from the Medical Officer of Health, that the facility complies with the health and safety standards in this Schedule;
 - (c) a certificate from the insurer of the facility, that the insurance coverage required under subsection 12(i) of this Schedule is in effect for the facility; and
 - (d) documentation as required under section 14 as to the age and education of the operator's employees.
7. Every applicant for a licence renewal, in addition to complying with the General Provisions of this By-law, shall submit to the Issuer of Licence before the licence is renewed an updated single facility incident plan satisfactory to the Medical Officer of Health.
8. Where the applicant for a licence or for a licence renewal is a corporation or a partnership, at least one officer or director of the corporation or one partner of the partnership shall submit, in respect of themselves, the certificates or other documents required to be submitted by an individual under the General Provisions of this By-law or under this Schedule.
9. Every operator shall advise the Issuer of Licences immediately in writing of any change to the information required to be filed in respect of their licence under the General Provisions of this By-law or this Schedule.

EXPIRATION

10. No licence issued under this Schedule is transferable.
11. Where:

- (a) by a transfer of existing shares, by an issue of new or existing shares, or by some other means, the controlling interest in a corporation holding a licence is determined by the Issuer of Licences to have changed hands; or
- (b) one or more partner in a partnership holding a licence is determined by the Issuer of Licences to have ceased to be a partner or the partnership is determined by the Issuer of Licences to have ceased to exist,

a licence issued under this Schedule shall be deemed to have expired.

PART III: OPERATOR

GENERAL

12. The operator shall:

- (a) ensure that the provisions of this Schedule, including the Guidelines, are complied with;
- (b) provide a certificate from the Electrical Safety Authority that the facility complies with the Ontario Electrical Safety Code as required by the Issuer of Licences;
- (c) keep a copy of the single facility incident plan in the facility in a readily accessible location;
- (d) ensure that there are no firearms and no prohibited or restricted weapons, as set out in federal statutes, regulations, Orders in Council or otherwise by the federal government, kept in the facility;
- (e) ensure that access to a telephone is available at all times within the facility;
 - (i) for employees and volunteers; and
 - (ii) for tenants of the facility:
 - 1. with its own, separate line;

2. in a private setting, not including a lobby, hallway or passageway;
3. where a tenant using the telephone cannot be easily overheard;

(f) post in a conspicuous place in the facility:

(i) the current licence for the facility;

(ii) a notice stating the name of the operator or an employee who is present at the facility and has the primary duty of supervising the tenants as required under paragraph 17(2)(a);

(iii) a notice stating the operator's name, address and telephone number, and the name, address and telephone number of the employee who has been designated under paragraph 17(2)(a);

(iv) a notice stating the operator is licensed by the City of Hamilton and that a complaint about the operation of the facility may be made by telephoning the City of Hamilton at 905-546-2063;

(v) rules for the conduct of employees and tenants of the facility;

(vi) a notice of the collection of personal information in a form approved by the Issuer of Licences which contains:

1. the legal authority for the collection of personal information about tenants and employees of the facility by Officers;
2. the principal purpose or purposes for which the personal information is intended to be used; and
3. the title, business address and business telephone number of an officer or employee of the City who can answer questions from individual tenants and employees of the facility about the collection of their personal information;

(g) comply with all applicable access to information and protection of privacy

legislation;

- (h) ensure that the authorized capacity of the facility is not exceeded; and
- (i) ensure that a policy of commercial general liability insurance, including coverage for bodily injury and property damage resulting from the operation of the facility, with an inclusive limit of at least one million dollars (\$1,000,000) per claim or occurrence, is in force at all times when one or more tenants is present in the facility.

EMPLOYEES AND VOLUNTEERS

- 13.(1) The operator shall give every employee and volunteer a notice of the collection of information in a form approved by the Issuer of Licences and the Medical Officer of Health which describes the procedures under this Schedule for the collection of personal information about employees and volunteers, at the time when an individual commences employment or volunteering at the facility.
- (2) The notice under subsection (1) shall also contain:
 - (a) the legal authority for the collection of personal information about employees or volunteers by Officers;
 - (b) the principal purpose or purposes for which the personal information is intended to be used; and
 - (c) the title, business address, and business telephone number of an officer or employee of the City who can answer questions from an employee of or a volunteer at the facility about the collection of the employee's or volunteer's personal information.
- (3) Where the operator has not given an employee or volunteer a notice under subsection (1), the operator shall give the employee or volunteer a letter in a form approved by the Issuer of Licences and the Medical Officer of Health which contains the information set out in subsections (1) and (2), within seven days after being directed to do so by the Issuer of Licences.

- (4) Notwithstanding subsection (1), the operator shall give a notice of the collection of personal information to an employee or volunteer within seven days after being directed to do so by an Officer.
14. The operator shall provide evidence satisfactory to the Issuer of Licences, within seven days after an employee commences employment, that the employee:
- (a)(i) is sixteen years of age but less than eighteen years of age; or
 - (ii) eighteen years of age or older;
 - (b) if the employee is eighteen years of age or older;
 - (i) has an Ontario Secondary School Certificate, or equivalent standing; or
 - (ii) employment experience, satisfactory to the Issuer of Licences, in comparable work;
 - (c) whose duties require communication with the tenants, is able to communicate clearly and effectively with the tenants.
- 15.(1) The operator shall provide evidence satisfactory to the Issuer of Licences within thirty days after an employee commences employment that the employee has successfully completed of the new staff in-service orientation training as described in the Guidelines.
- (2) Where an employee's duties involve the supervision of tenants, the operator shall provide evidence satisfactory to the Issuer of Licences within thirty days of each six month period after the employee commences employment that the employee has successfully completed at least five hours of continuing education as described in the Guidelines.
16. The operator shall provide evidence satisfactory to the Issuer of Licences,

within seven days after an employee commences employment or a volunteer commences volunteering, that the employee or volunteer has had a negative TB test not more than thirty days before commencing employment or volunteering.

RESPONSIBILITY FOR OPERATION AND SUPERVISION

17.(1) In this section “employee” means an employee who is eighteen years of age or older.

(2) The operator shall ensure:

- (a) that one employee is designated as the individual responsible for the operation of the facility and can be contacted immediately at the telephone number posted for that employee under subsection 12(f) at any time when the operator cannot be contacted immediately at the telephone number posted for the operator under subsection 12(f);
- (b) that at all times, the operator or an employee is present at the facility who has the primary duty of supervising the tenants and is able to carry out this duty without interference, including but not limited to any interference caused by other duties or by distractions; and
- (c) the safety of the tenants while the tenants are at the facility.

OPERATIONS AND MAINTENANCE

Water Supply

18. The operator shall ensure that there is an adequate supply of potable and of hot water:

- (a) which can provide at least 227.303 litres (50 gallons) for each tenant and employee, per day;

- (b) of at least .362 kilograms pressure per square centimetre (8 pounds per square inch), when a fixture is in use; and
- (c) for water serving all bath tubs, showers and hand basins used by tenants, of a temperature of not more than 49° Centigrade (120° Fahrenheit) and controlled by a device, inaccessible to the tenants, that regulates the temperature.

Bedrooms and Storage

19. The operator shall ensure that:

- (a) a bedroom for a tenant or tenants in a facility established before October 1, 1980 provides a minimum of 16.8 cubic meters (600 cubic feet) of air space and 6.96 square meters (75 square feet) of floor space for each tenant;
- (b) a bedroom for a tenant or tenants in a facility constructed, renovated, added to or altered on or after June 1, 1980 provides a minimum, exclusive of the space provided for built-in or portable clothes closets, of:
 - (i) 10.22 square meters (110 square feet) of floor space in a single-bed unit, provided that this area may be reduced to 9.30 square meters (100 square feet) where the facility provides a living room and one or more dining area;
 - (ii) 16.72 square meters (180 square feet) of floor space in a two-bed unit;
 - (iii) 25.08 square meters (270 square feet) of floor space in a three-bed unit;
 - (iv) 29.73 square meters (320 square feet) of floor space in a four-bed unit;
- (c) a bedroom for more than one tenant shall be arranged so that all beds are at least .91 meters (3 feet) apart;
- (d) a bedroom for one or more tenants:
 - (i) has one or more windows to the outside that:

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1. except where another means of ventilation is provided, can be opened to provide an open area of at least 5% of the floor area of the room;
 2. is not less in total area than 10% of the floor area of the room; and
 3. is screened from May 1 to October 31;
- (ii) is not to be part of a lobby, hallway, passageway, closet, bathroom, stairway, basement, attic, kitchen, storage room, boiler room, laundry room, activity room, utility room, chapel, sitting room, administrative office, or tenant examination room;
- (e) a bedroom is provided with a door and a lock which is of a type that can be:
- (i) secured by the tenant or tenants of the bedroom when they are inside or outside of the bedroom; and
 - (ii) opened from the outside by the operator or an employee in case of an emergency;
- (f) every bed provided for a tenant of a facility is of a minimum width of 91.44 centimetres (36 inches);
- (g) a bedroom in a facility in respect of which a licence was not issued under a by-law of a former area municipality on July 10, 2001, the date that the City of Hamilton Licensing Code, By-law 01-156, came into force, does not contain more than two beds;
- (h) where more than one bed is located in a bedroom, a moveable partition is provided between the beds to ensure the privacy of each tenant, unless the tenants who occupy the bedroom jointly inform the operator that they do not require such a partition;
- (i) sufficient clean towels, face cloths and bed linen are provided for use of the tenants of a facility, with a supply of such linen:
- (i) available at all times in the facility: and

- (ii) changed at least one a week;
- (j) a clothes closet is provided for each tenant in their bedroom;
- (k) secure storage space, no less than 0.15 m³ in size and accessible only to the tenant and the operator, is provided for each tenant; and
- (l) a rack on which to hang towels and face cloths is provided for each tenant.

Dining Area

20. The operator shall ensure that one or more dining areas is provided, with a minimum floor space of 1.85 square meters (20 square feet) per tenant and capable of accommodating at least one half of the authorized capacity of the facility at one time.

Sitting Rooms

21. The operator shall ensure that:

- (a) one or more sitting rooms is provided within each facility;
- (b) the minimum total space for a sitting room shall be the greater of:
 - (i) an area equal to 1.39 square meters (15 square feet) of floor space for each tenant; or
 - (ii) 11.148 square meters (120 square feet).

Toilet Facilities

22. The operator shall ensure that:

- (a) a toilet room or bathroom are not within, or open directly into, any dining room, kitchen, pantry, food preparation room, or storage room;

- (b) a toilet is not located within a bedroom;
- (c) toilet facilities are provided in at least the following ratios:
 - (i) for an authorized capacity of four to seven tenants: one wash basin, one flush toilet, and one bath tub or shower;
 - (ii) for an authorized capacity of a fraction of seven tenants beyond the first seven: one wash basin and one flush toilet; and
 - (iii) for an authorized capacity of each additional seven tenants beyond the first seven: one wash basin, one flush toilet, and one bath tub or shower;
- (d) a bathroom, toilet, or shower room is provided with a door and a lock which is of a type that can be readily released from the outside in case of an emergency;
- (e) one bathroom toilet and shower room shall be of a type that is suitable for use by persons confined to wheelchairs, where one or more such persons have been admitted to the facility as tenants;
- (f) the bottom of each bath tub is furnished with non-skid material; and
- (g) each bath tub and each toilet is furnished with at least one grab bar or similar device of a type that will ensure the safety of tenants.

Waste

23. The operator shall ensure that waste is stored in receptacles which are:

- (i) insect and rodent-proof;
- (ii) water-tight;
- (iii) provided with a tight-fitting cover; and

(iv) kept clean.

Lighting

24. The operator shall ensure that lighting of the exterior and interior of the facility complies with ANSI/IESNA RP-28-07 (the "Recommended Practice for Lighting and the Visual Environment for Senior Living" approved by the Illuminating Engineering Society of North America) as amended or replaced from time to time.

Ventilation

25. The operator shall ensure that every room shall be adequately ventilated by natural or mechanical means and shall be so designed and installed that it meets the applicable requirements of the Ontario Building Code.

Ramps and Stairways

26. The operator shall ensure that guard, handrail and slip-resistance requirements for ramps and stairways shall be so designed and installed that they meet the applicable requirements of the Ontario Building Code.

Floors

27. The operator shall ensure that non-skid finishes and coverings are installed on every floor.

Balconies

28. The operator shall ensure that balustrades for balconies shall be so designed and installed that they meet the applicable requirements of the Ontario Building Code.

Construction and Zoning

29. The operator shall ensure that:

(a) no construction, renovation, addition or alteration of a facility is carried out,

except in compliance with this Schedule, ANSI/IESNA RP-28-07 as amended or replaced from time to time, the Ontario Building Code, the Ontario Fire Code, and under a valid building permit; and

(a) the applicable zoning by-laws are complied with.

30. The operator:

(a) shall submit to the Issuer of Licences an operational plan, addressing the operation of their facility during construction, renovation, addition or alteration, a minimum of 90 days before commencing such construction, renovation, addition or alternation; and

(b) shall not commence construction, renovation, addition or alteration of a facility until the Issuer of Licences has given them written approval of the operational plan submitted under subsection (a).

General Health and Safety

31. The operator shall ensure that:

(a) the facility is kept in a clean and sanitary condition, including but not limited to providing for professional pest control as needed;

(b) the facility is free from hazards to the safety of tenants of the facility, employees, volunteers or visitors;

(c) the facility is supplied with heat in accordance with City of Hamilton By-law 04-091 with respect to the supply of adequate and suitable heat for rental residential premises;

(d) all food storage, preparation and service areas meet the requirements of the Food Premises Regulation under the *Health Protection and Promotion Act*; and

(e) the facility meets all requirements of the Building Code under the *Building Code Act, 1992* and of the Fire Code under the *Fire Protection and Prevention Act*,

1997.

PART IV: ADMISSION OF TENANTS

- 32.(1) The operator shall give every individual a notice of the collection of personal information in a form approved by the Issuer of Licences and the Medical Officer of Health which describes the procedures under this Schedule for the collection of personal information about tenants before obtaining an assessment of the individual under section 33.
- (2) The notice under subsection (1) shall also contain:
- (a) the legal authority for the collection of personal information about tenants by inspectors;
 - (b) the principal purpose or purposes for which the personal information is intended to be used; and
 - (c) the title, business address, and business telephone number of an officer or employee of the City who can answer questions from a tenant of the facility about the collection of his or her personal information.
- (3) Where the operator has not given a individual the notice under subsection (1) and the individual has been admitted as a tenant, the operator shall give the individual a letter in a form approved by the Issuer of Licences and the Medical Officer of Health, which contains the information set out in subsections (1) and (2), within seven days after being directed to do so by the Issuer of Licences.
- (4) Notwithstanding subsection (1), the operator shall give a notice of the collection of personal information to a tenant within seven days after being directed to do so by a registered nurse employed in the Public Health Services Department.
- 33.(1) Prior to admitting an individual as a tenant of a facility, the operator shall obtain an up-to-date assessment from a physician or other member of a regulated health profession employed by a referring agency designated in the Guidelines, which provides an opinion as to the level of care services the individual

requires.

- (2) An operator shall determine on the basis of the assessment referred to in subsection (1), and the criteria for admission set forth in the Guidelines, whether the level of care services which is provided in the home is adequate to meet the individual's needs in relation to the activities of daily living.
34. An operator shall not admit an individual as a tenant who is not ambulatory, who for the protection of themselves or others requires placement in a locked unit or who requires a level of care services which the operator is not authorized to provide in the facility, except in accordance with the Guidelines.
35. An operator shall not admit an individual as a tenant without:
- (a) their consent; or
 - (b) the consent in writing of their next-of-kin, or attorney for personal care, as the case may be, if the individual has been declared mentally or physically incapable of giving consent.
36. The operator shall enter into a written tenancy agreement with each individual who is admitted as a tenant of the facility and shall give each such individual a residential care facility information package prior to entering into the tenancy agreement.

PART V: CARE SERVICES

37. The operator shall provide care services to each tenant in a facility in accordance with the Guidelines.

DRUGS

38. The operator shall ensure that all prescription drugs:
- (a) are kept in one or more locked drug cabinets, unless the drug requires

refrigeration, or must be kept with the tenant for immediate use; and

(b) are made available only:

- (i) to those tenants for whom they have been prescribed, as directed by a physician;
- (ii) in a unit-dose medication dispensing system as described in the Guidelines.

39. The operator shall allow self-medication by the tenants of a facility under specified conditions set out in the Guidelines.

40. If a tenant is prescribed a drug that is a controlled substance as defined in the Controlled Drugs and Substances Act (Canada) and the operator has not completed a medication course as described in the Guidelines within the preceding twelve months, then they shall complete such a medication course no more than thirty days after the drug has been prescribed.

NUTRITIONAL CARE

41. The operator shall ensure that the tenants of a facility are served daily sufficient food of good quality and adequate nutritional and caloric value as described in the Guidelines.

INFECTION CONTROL

42. The operator shall ensure that all requirements for the control of infectious diseases that are set forth in Guidelines are complied with, including recommendations for tuberculosis screening, immunization programs, reporting requirements, and outbreak control measures.

MEDICAL CARE

43.(1) Each tenant of a facility or their next-of-kin, or attorney for personal care, as the case may be, shall arrange for emergency medical care for the tenant, as

required.

- (2) Where the tenant, their next-of-kin, or attorney for personal care is unable to arrange for emergency medical care, or where such emergency medical care is unavailable, the operator shall arrange for emergency medical care for the tenant.

44. The operator shall allow a tenant's physician or a member of a regulated health professional who is providing care or treatment to a tenant to enter the facility at any reasonable time for the purpose of attending to the health of the tenant.

ADDITIONAL CARE

45.(1) Wherever the tenant's physician, the operator, the Medical Officer of Health, or a member of a regulated health profession who is employed by a referring agency designated in the Guidelines, determines that a tenant requires additional care services for their special needs and the tenant, their next-of-kin, or attorney for personal care has not arranged for such additional care, the operator shall ensure that such additional care is made available to the tenant while the tenant continues to reside in the facility.

(2) In ensuring that additional care services are provided under subsection (1), the operator shall:

(a) consult with the tenant, their next-of-kin, attorney for personal care and/or a community worker, and prepare a plan which shall include a description of the health issue and the services being provided to address that health issue and which may include additional care services, such as additional personal care services and/or rehabilitative services;

(b) ensure that additional personal care services are provided through a referral to a community care access centre or to a private community agency;

(c) where the tenant requires rehabilitative services, support the tenant's rehabilitative goals in the facility and in the community, which may include assisting tenant with meal preparation, laundry, household duties and self-

medication.

46. The operator or the employee designated under paragraph 17(2)(a) shall inform the tenant, as soon as possible, of the provisions of section 148 of the Residential Tenancies Act, 2006 and may arrange for the transfer of the tenant:

(a) to a long term care facility or other appropriate living arrangement, with the agreement of the tenant, where an operator is informed by:

- (i) a community care access centre that a tenant of a facility is eligible for admission to a long term care facility;
- (ii) the tenant's physician or the Medical Officer of Health, that the tenant no longer requires the level of care services which the facility is authorized to provide; or
- (iii) the tenant's physician or the Medical Officer of Health, that the tenant requires a level of care services that the operator is not authorized to provide; or

(b) to a long term care facility, with the agreement of the tenant, where a tenant requires placement in a locked unit for the protection of themselves or others.

47. The operator shall ensure that no facility is equipped with a locked unit provided that the Operator of any facility with a locked unit on date of passage shall make the necessary changes such as removing locks as soon as possible to eliminate such locked units.

48.(1) Where a tenant is transferred from a residential care facility to a long term care facility or to another facility licensed under this By-law, the operator shall request the tenant, or, if they are unable to act, their next-of-kin or attorney for personal care, to complete an authorization in Form 1 for the release of information pertaining to the tenant to the long term care facility or other licensed residential care facility.

- (2) Where a tenant is transferred from a residential care facility to another facility licensed under this By-law, or to a hospital, the operator shall complete a transfer in Form 2.

PART VI: RECORDS AND REPORTS

- 49.(1) The operator shall maintain an up-to-date, alphabetical list of the tenants of a facility which includes the name, sex, date of birth, age and date of admission of each tenant.
- (2) The operator shall maintain a separate file for each tenant, which contains the following information:
- (a) sex, date of birth, age, date of admission and date of discharge or death;
 - (b) name, address and telephone number of next-of-kin;
 - (c) name and telephone number of the tenant's attorney for personal care, if any;
 - (d) the name and telephone number of the tenant's physicians;
 - (e) completed assessment;
 - (f) the name, address and telephone number of any community agency which is providing support to the tenant;
 - (g) tuberculin or chest x-ray testing results, and the dates thereof;
 - (h) a brief medical history of the tenant, in respect of the care services provided by the operator under the tenancy agreement (section 36) or any additional care services made available by the operator (subsection 45(1)), from the date of their admission, including medication information, laboratory results, physicians' orders and staff notes or other records necessary to determining the level of care services provided;

- (i) a residential care facility information package;
- (j) particulars of each accident suffered by the tenant while in the facility; and
- (k) any completed Form 1, Form 2 or Form 3.

50. The operator shall make a record in Form 3 of every occurrence with respect to a tenant of assault, injury or of death that has been reported to coroner, and shall place the completed Form 3 in the tenant's file and keep it available for inspection by the Medical Officer of Health.

51. The operator shall ensure that any document or other record of any kind which contains personal information about a tenant, other than the personal information described in subsections 49(1) and (2) and section 50, is maintained in a file which is separate from the file which is maintained pursuant to subsection 49(2) or any other provisions of this Schedule or the Guidelines.

52. The operator shall ensure that any document or other record of any kind which contains personal information about the performance of duties by an employee of their facility, other than personal information described in sections 14, 15 and 16 and subsections 12(f), is maintained in a file which is separate from the file which is maintained pursuant to the provisions of this Schedule or the Guidelines.

53. The operator shall ensure that documents or records which are kept pursuant to this Schedule or the Guidelines are kept for at least one year after the tenant, employee or volunteer ceases to be a tenant, employee or volunteer respectively.

PART VII: INSPECTION AND ENFORCEMENT

54.(1) The Medical Officer of Health, the General Manager of Planning and Economic Development, the Chief Fire Prevention Officer, the Chief of the City of Hamilton Police, the Issuer of Licences, or an Officer, at all reasonable times, may inspect any facility and the list of tenants required by subsection 49(1).

(2) The Medical Officer of Health or a member of a regulated health profession

authorized by them, at all reasonable times, may inspect the file of any tenant required by subsection 49(2).

55. The operator shall allow the Medical Officer of Health or a member of a regulated health profession authorized by them, as often as they deem reasonably necessary, to make inspections of the facility and its operation in order to determine compliance with this Schedule.

56. The Medical Officer of Health, the Issuer of Licences, the General Manager of Planning and Development and the Chief Fire Prevention Officer are authorized to enforce the provisions of this Schedule which are within their respective jurisdiction, and to serve such notices and make and serve such orders as may be necessary to ensure compliance by the operator.

57. The Medical Officer of Health may:

- (a) issue Guidelines for the operation of facilities licensed under this By-Law, including any matters relating to the health, safety, and well-being of the tenants of a facility, and shall provide a copy of any such Guidelines and any subsequent additions or revisions to the operator of each facility licensed under this By-Law;
- (b) prescribe the format and content of any forms or other documents required under this Schedule;
- (c) designate the referring agencies which may employ a member of a regulated health profession for the purposes of making an assessment under subsection 33(1) and making a determination under subsection 45(1).