

Responses to the recommendations contained
in the New Brunswick Senior's Advocate Report
"He Deserved Better - One Man's Final Days in Long-Term Care"

February 18, 2022

Recommendation 1

It is recommended that the Department of Social Development develop evidence-based best safety practices for all nursing homes to implement. Nursing homes should be obligated to incorporate these practices as a minimum requirement to comply with the adequate care standards. Inspectors must review each nursing home's services description for compliance, and must interview random staff to determine if adequate care standards for safety are being followed in practice.

We are pleased to see the Seniors' Advocate recognizing the importance of having a set of evidence-based best practices for nursing homes to follow. The development of these practices is best suited to the nursing home sector which is responsible for determining how to ensure resident safety and well-being. The Department will continue to work with nursing homes to ensure the delivery of services based on individualized approaches to resident care and clinical judgment while continually evolving best practices. The Department will review roles and responsibilities of staff involved in the inspection process to determine whether this requirement could be enhanced.

Recommendation 2

It is recommended that the Department of Social Development undertake a thorough review of best practices in violence mitigation, and develop a comprehensive policy and practice structure, in collaboration with the Seniors' Advocate and representation from: nursing homes, the Nurses Association of New Brunswick, the New Brunswick Council of Nursing Home Unions, the Association of New Brunswick Licensed Practical Nurses, the New Brunswick Association of Nursing Homes and academic experts from New Brunswick post-secondary institutions.

Social Development wants New Brunswick nursing home residents to be as safe as possible and understands that is a concern for a lot of people. All nursing homes follow best clinical practices in aiming to reduce aggressive behaviour, including a person-centered approach by offering attention to individual residents to help relieve anxiety. We intend to work in collaboration with all our partners to reinforce this important component of nursing home services.

The Department already support nursing home staff to access professional development related to behaviour management. The Nursing Home Services Standards require operators to offer education and training on multiple topics including behaviour management, prevention of abuse, and dementia care. To make this more accessible to staff, the Department provides two electronic platforms, at no cost to each of the 71 nursing homes, which offer evidence-based training modules and eLearning on a variety of topics including dementia care.

Through the Nursing Home Services Standards, we have established guidelines to ensure that nursing home residents are receiving adequate care including individualized care plans, and behaviour management plans to avoid incidents of resident to resident abuse.

Recommendation 3

It is recommended that:

A. The Department of Social Development amend practice standards to obligate reporting of major incidents to both the Liaison Officer and Adult Protection within 24 hours, and ensure that there is staff available to respond.

We recognize the importance of the most efficient communication process to share information related to incidents in order to make an appropriate and timely response. Under the current Nursing Home Services Standards, nursing homes are required to report any major incident or accident that affects or may affect the health and safety of the residents or staff to the Department within 24 hours of the incident happening. The Department will review the process for possible enhancements for timely response to urgent issues.

B. As part of the annual inspection, the Department of Social Development require Liaison Officers to review with nursing home management their duty to report major incidents to Nursing Home Services and Adult Protection.

Ensuring operators and staff are following the Nursing Home Services Standards is part of the annual inspection of nursing homes. The Department will ensure that a review of the reporting requirements regarding major incidents continues to be done with nursing homes as part of this process.

C. The Department of Social Development develop a universal incident report form to be used by all nursing homes in the province, with Liaison Officers delivering training to nursing home management on how to use the form. This incident report form must be completed by nursing home staff for all incidents that cause harm to residents, and each completed form must be signed by a resident's family member. The incident report form must not include any identifying information about other residents.

We understand the importance of a universal reporting system and want reporting to be as efficient as possible for nursing home staff. The Nursing Home Services Standards require that nursing homes report all major incidents by telephone. The Department will continue to work with nursing homes to reinforce the required reporting of major incidents with nursing home management during annual inspections. In addition, the department will work towards ensuring that all major incidents are reported in a standardized manner. There are privacy concerns associated with requiring a resident/ their family member to sign an incident report; however, upon request, the Department can provide the resident/ family member with a redacted copy of the report to ensure the privacy of other residents.

D. The Department of Social Development's Nursing Home Services practice standards be amended to require mandatory inclusion of all major incidents in a resident's record whether they are the victim or aggressor, as part of the comprehensive care plan. This requirement should also be explicitly stated in the *Nursing Homes Act*.

While we understand the importance of a complete and comprehensive care plan, the Department will continue to require major incident reporting to be done separately from the resident's chart due to privacy concerns. Assessment and placement processes already contain measures to identify at-risk behaviours of residents and to share this information with those involved with the resident's case plan. For those individuals with more complex needs or issues, case consultations and plans are done collaboratively with other key departments, such as Public Safety or Health, prior to the person's placement.

Recommendation 4

It is recommended that beyond the transparency and accountability aspects of publishing individual annual nursing home inspections, the Department of Social Development report publicly, annually, on aggregate data resulting from inspections. Such reporting must identify nursing homes with multiple and persistent non-compliance with the law and practice standards.

Accountability is an important component of the nursing home standards and inspection process. We want to make as much information available to the public as we can and understand how important it is to keep the public informed. All inspection reports are publicly available for any citizen to review compliance information for any particular home. Additionally, the Department has invested in the InterRAI LTCF instrument, which allows for public reporting of quality indicators through the Canadian Institute for Health Information (CIHI) for all licensed nursing homes.

Recommendation 5

It is recommended that:

A. The Department of Social Development create a standardized complaint process, in consultation with the Seniors' Advocate, to ensure a consistent province-wide system for nursing home complaint, response and appeal processes with fidelity to administrative fairness and rights-respecting practices. The Department also ensure effective monitoring of this complaint process system by establishing a Provincial Nursing Home Complaints Committee.

We are pleased that the Seniors' Advocate underlines the importance of having a complaint process to help improve the services to nursing home residents. Reporting incidents should be part of an efficient process to help address issues in the most timely manner. Nursing homes are required to have policies and procedures in place for the submission of a complaint or concern and follow-up must be carried out and documented within 30 days of receiving the complaint/concern. Compliance with these requirements will continue to be checked during the annual inspection. The Department will work with staff to determine whether this requirement could be enhanced by implementing other measures.

B. The Department of Social Development ensure that each nursing home appoints its own Complaints Committee to hear complaints that have not been satisfactorily addressed by the nursing home, and that these committees are comprised of individuals from the Board of Directors, family members, and residents. Each nursing home Complaints Committee must report regularly to the Provincial Complaints Committee on issues raised within the nursing home.

We know how important it is for family members, board members, and residents to be involved in the nursing home community. This is one of the many ways they can keep important discussions happening. The Nursing Home Services Standards require a resident and family committee to be in place at each nursing home. The role of that committee is clearly defined in the Standards. Quarterly meetings are also mandated. Nursing homes are required to have a policy and procedures in place for the submission of a complaint or concern and follow-up must be carried out and documented within 30 days of receipt of the complaint/concern. Compliance with these requirements will continue to be verified during the annual inspection.

C. The Department of Social Development confirm that Resident/Family Committees are in place in each nursing home as per the Standards. The role of these Resident/Family Committees must be clearly defined in the Standards. In addition to providing orientation and communication to new residents and their families, the Resident/Family Committees should offer a platform for members to share concerns regarding resident care, with a responsibility to forward issues to the nursing home Complaints Committee as needed. If a resident/family is still not satisfied and is seeking further recourse even after speaking with the nursing home's Liaison Officer, they should be advised to contact the Office of the Seniors' Advocate. All nursing homes must prominently display posters with information about how to reach the Seniors Advocate's Office and include the Seniors' Advocate brochure in all resident registration packages.

We know how important it is for families and residents to have a voice when it comes to discussions involving everyday life at nursing homes. The Nursing Home Services Standards require a resident / family committee to be in place at each nursing home, the role of which is defined, and mandates quarterly meetings. Nursing homes are also required to have a policy and procedures in place for the submission of a complaint or concern and follow-up must be carried out and documented within 30 days of receipt of the complaint/concern. Compliance with these requirements will continue to be verified during the annual inspection. The Department will consider whether this requirement could be enhanced by the implementation of other measures.

We are happy to make information about the Seniors' Advocate's Office available in all nursing homes. On February 4, 2022, a memo was sent to all nursing home operators to outline the roles and responsibilities of the Senior's Advocate. They will also be provided with posters, bookmarks and information sheets for the purpose of familiarizing their employees and residents with the roles and responsibilities of the Seniors' Advocate. All nursing home operators must also explain to residents their right to contact the Seniors' Advocate and prominently display contact information for the Senior's Advocate Office within the facility. Moving forward, Social Development will ensure that nursing homes include information around the role of the Seniors' Advocate in all resident admission packages.

Recommendation 6

It is recommended that the Department of Social Development guarantee comprehensive training for all nursing home staff on violence-reduction interventions, with mandatory reporting to the Department to ensure that all staff have received training.

The Nursing Home Services Standards require the training that operators must provide to staff on an annual basis. This includes topics such as behaviour management, prevention of abuse and dementia care. To make education and professional development more accessible, the Department provides two electronic platforms, at no cost to all 71 nursing homes, which offer evidence-based training modules and eLearning on a variety of topics including dementia care. The Department will work with staff to see if this requirement could be enhanced by the implementation of other measures.

Recommendation 7

It is recommended that the Department of Social Development's Adult Protection investigations in nursing homes take measures to ensure a comprehensive harm prevention approach informs all investigations, in order to assess and address the risk to all residents, even if the Adult Protection referral relates to only one or a few residents. The Adult Protection investigator must ensure comprehensive documentary disclosure is obtained to make certain that all relevant information (e.g., charts and incident reports) for all affected residents is considered. Formal interviews must also be conducted with affected residents, their family members, as well as staff who provide direct care, rather than addressing all questions to management staff. Adult Protection investigations should follow a template to ensure that comprehensive harm prevention approaches are enforced and that the scope of review is not unreasonably limited. Staff training should be offered to guarantee that more robust investigation techniques are adopted consistently in accordance with the practice standards.

We are pleased to see the Seniors' Advocate recognizing the importance of a well informed and complete investigation. In 2015, an Adult Protection Investigative Guide was developed by the Department. This guide was reviewed and updated in 2018, and again in 2020, along with the delivery of training on the guide. This guide includes three separate investigation checklists, including one specific to nursing homes. The Department intends to conduct another review and update the guide, in the near future. Any changes resulting from that review will be communicated to staff, along with the provision of necessary training.

Recommendation 8

It is recommended that:

- A. The Department of Social Development create new, detailed Adult Protection practice standards for nursing homes, that adequately address the particular situations of abuse and neglect that can occur in these facilities, and provide guidance as to how to curb and address resident to resident violence so as to minimize all risks of harm.**
- B. The Department of Social Development establish a behavioural incident review process wherein monthly reports of all critical injuries and behavioural management incidents in long-term care are produced and reviewed at the provincial level through monthly meetings of Adult Protection officials with the participation of the Seniors' Advocate's Office.**

To address both A and B components of recommendation 8, Departmental staff will review the Adult Protection Practice Standards to consider any enhancement measures. As a reminder, the Nursing Home Services Standards require operators to provide education and training on behaviour management, prevention of abuse, and dementia care. The Department also provides training modules and eLearning on a variety of topics including dementia care.

Recommendation 9

It is recommended that the Province enact amendments to the *Child, Youth and Senior Advocate Act* to give a clear legislative mandate to the Advocate to carry out geriatric death and critical injury reviews arising from reported cases of abuse or neglect in nursing home and long-term care in New Brunswick and that additional resources be allocated to the Seniors Advocate to allow for the hire of additional staff to effectively carry out this new mandate.

Since the *Child, Youth and Senior Advocate Act* is not under the mandate of the Department of Social Development, this recommendation will be forwarded to the Executive Council Office for consideration and appropriate action.

Recommendation 10

It is recommended that the Department of Social Development ensure Adult Protection social workers undergo mandatory initial and annual training on the Practice Standards, and in all investigations they should complete a checklist document to ensure the Standards have been followed.

Like nursing home staff, we know how important it is for social workers to keep their skills up-to-date. With a review of the Adult Protection Investigative Guide planned, we intend to update this guide and offer any changes along with any necessary training to staff. The Department will continue to ensure that staff within Adult Protection Services undergo all initial, mandatory, and annual training.

Recommendation 11

It is recommended that the Department of Social Development ensure that prior to notice of discharge of any resident of a nursing home, the nursing home must be required to notify both the Department and the Seniors' Advocate, with contact information for the resident and/or the resident's substitute decision-maker. The Department should then be required to institute a rapid response procedure to assess the validity of the discharge. When there is no irremediable safety concern, a process of mandatory mediation should be instituted between family and nursing home. The Department should also engage in a consultation with the Seniors' Advocate and other relevant stakeholders in regard to a review of protections in the *Nursing Homes Act* to guard against unfair discharge practices.

We feel that recent amendments to the discharge provisions in the *Nursing Homes Act*, based on consultation with stakeholders, respond to this recommendation. The amendments which went into effect in December 2021, increased the notification prior to discharge to 30 days. Additionally, the Department is working to make related changes in the General Regulation under the *Nursing Homes Act* to establish a limit on the allowable circumstances for discharge from a nursing home. As a result of these changes, nursing homes will no longer be able to discharge a resident for any reason at all; rather, any resident discharges must fit within the circumstances prescribed by regulation which provides parameters and accountability.

The "reasonable efforts" referred to in the proposed regulatory change will include a requirement, which will be contained in the Nursing Home Services Standards, for facilities to have a dispute resolution process for purposes of trying to reach an agreement regarding the resident's care.

Recommendation 12

It is recommended that the Department of Social Development amend Nursing Home Services practice standards to ensure supportive interactions with family and insist upon the compassionate care needed to uphold human dignity, including throughout the grieving process and in relation to funeral rites.

The Nursing Home Services Standards currently require nursing homes to provide an environment that allows residents, staff, family, advocates or representatives raising issues and making suggestions and complaints (verbally or in writing) in a spirit of openness and partnership and without fear of adverse consequences.

Recommendation 13

It is recommended that a Committee comprised of senior management from the Department of Social Development and the Department of Health should lead a comprehensive consultation with all relevant stakeholders, with the goal of thoroughly amending the Nursing Homes Act, Regulations, and Practice Standards, to ensure protection of human rights.

We are always happy to collaborate with our partners to ensure the well-being and safety of residents. The *Nursing Homes Act*, the regulations thereunder and the Nursing Home Services Standards are solely under the mandate of the Department of Social Development. The Department reviews its legislation, regulations, policies, and standards regularly. This can be seen in the recent amendments to the *Nursing Homes Act* and the General Regulation, which were undertaken after consultation with stakeholders and a review of similar legislation across Canada.
