Council Direction:

In February 2007, the Board of Health deferred the Residential Care Facilities Review (RCF) Schedule 20, Licensing Code By-law 01-156 SPH05032 (b) pending further information from the province which was anticipated to impact the by-law.

Information:

This report summarizes the current status of the RCF by-law review.

Background:

Residential Care Facilities provide 24-hour supervision and guidance for individuals who are elderly, developmentally delayed or suffer from mental illness or brain injury. In the City of Hamilton, Public Health Services and the Planning and Economic Development Planning Departments are responsible for the inspection, enforcement and licensing of facilities regulated under Schedule 20 of City of Hamilton Licensing Code By-law.

Provincial Actions to Date:

- The Ministry of Community and Social Services mandated the implementation of the Domiciliary Hostel Framework by Consolidated Municipal Service Managers (CMSMs) for subsidized beds. Standards were implemented in Hamilton in March 2007.
The Residential Tenancies Act (RTA) went into effect in January 2007. Legal Services has advised that any changes to amend the by-law will need to be considered within the context of the RTA.\textsuperscript{1}

In December 2006, the province announced plans to develop Retirement Home Standards of Care. Following province-wide public consultations and the release of preliminary outcomes (April 2007), future plans to implement provincial standards are still pending.

Public Health Actions:

In the absence of any further provincial information or clarification regarding proposed Ontario Retirement Home Standards, public health staff initiated a consultation with residential care facility stakeholders in the community\textsuperscript{2} December 2007- February 2008.

The intent of the consultation was to gather advice from facility operators, tenants, local agencies and physicians to inform the development of draft amendments and recommendations to improve the by-law and the inspection and licensing process.

Themes emerging from the consultation:

1. The scope of the by-law is very broad, serving resident populations with diverse needs (for example, elderly citizens, at-risk populations). The intent and mandate of the by-law requires clarification.

2. Clear and transparent lines of accountability will strengthen monitoring, licensing and enforcement practice.

3. Consistency in the interpretation of the by-law is needed.

4. A confidential formal complaint process and client satisfaction process needs to be developed to ensure alignment with related legislation. (E.g. The Residential Tenancy Act).

5. Agreement amongst physician respondents that tenant information forms (i.e. Opinion Form to Determine Tenant’s Level of Care, and the Tenant Assessment Form currently required under the by-law) should be streamlined, and that

\textsuperscript{1} For example: Residential Tenancies Act, 2006, Section 147. a landlord shall not, (a) do anything to prevent a tenant of a care home from obtaining care services from a person of the tenant’s choice that are in addition to care services provided under the tenancy agreement; or (b) interfere with the provision of care services to a tenant of a care home, by a person of the tenant’s choice, that are in addition to care services provided under the tenancy agreement. 2006, c.17, s.147. Section 148. (1) A landlord may apply for an order transferring a tenant out of a care home and evicting the tenant if, (a) the tenant no longer requires the level of care provided by the landlord; or (b) the tenant requires a level of care that the landlord is not able to provide. 2006 c. 17, s.148 (1).

The relationship between Schedule 20 and privacy legislation (MFIPPA, PHIPA) will need to be considered.

\textsuperscript{2} In total, approximately 81 participants engaged in the consultation including 6 staff, 10 agency representatives, 18 operators, 4 ex-tenants, 3 current tenants, 1- parent of a tenant, 38 physicians, and 1 provincial organization.
caregivers / family members (other than physicians) should be involved in determining the suitability of a placement with regard to meeting the individual needs of the client.

6. Definitions for frequently used terms such as ‘care’, ‘level of care’, ‘personal emergency response’ ‘eligibility’ and ‘supervision” would clarify intent and accountability.

7. By-law amendments to address identified program gaps need to be developed, and/or clarified.

Immediate Steps

- Staff from Public Health Services, Fire Prevention, Legal Services, Community Services, Economic Development and Planning are continuing to collaborate to find solutions to streamline procedures, and improve licensing and enforcement practice.

- Public Health staff are currently drafting by-law amendments to address consultation outcomes and gaps. Draft amendments will be vetted by staff from the above departments and reviewed by Legal Services.

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- All proposed by-law amendments will be submitted to the BOH in a report scheduled for September 2008.

Community Response to Proposed By-law Amendments

- A community consultation plan to ensure that all stakeholders have an opportunity to review and respond to proposed amendments is in development.

- All community partners including tenants, family members, operators and agencies will be invited to present and/or submit their comments to the proposed amendments through an arms length consultation process, October- November 2008.

- A report to the Board of Health summarizing consultation outcomes is planned for January 2009.

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