To: Mayor and Members Board of Health

From: Elizabeth Richardson, MD, MHSc, FRCP, Medical Officer of Health Public Health Services

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Date: February 14, 2007

Re: Deferral of Schedule 20 of the Licensing Code Review (Residential Care Facilities) SPH05032(b) (City Wide)

Council Direction:

The Board of Health approved a revised process (06/2006) to review Schedule 20 of the Licensing Code By-Law 01-156 (20) with respect to Residential Care Facilities in June 2006 as presented in report SPH05032 (a).

Information:

In June 2006, Public Health Services (PHS) assumed the lead role to review Schedule 20 of the Licensing Code. PHS struck an inter-departmental working group with representatives from Health Protection, Community Services, Legal Services and the Licensing Division. Staff reviewed pending and proposed provincial legislation and consulted with front-line inspection staff to identify enforcement challenges. This consultation identified that pending provincial standards of care have a significant impact on the Schedule 20 Licensing Code Review:

1. MCSS Policy Implementation Framework

In October 2006, the Ministry of Community and Social Services (MCSS) released the Domiciliary Hostel Framework\(^1\) identifying forty categories of standards that Consolidated Municipal Service Managers\(^2\) (CMSM) must implement by March 2007.

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\(^1\) The domiciliary hostel program is a homelessness prevention program primarily delivered by for-profit operators. The program is cost-shared (80%) provincial and (20%) municipal. In Hamilton, these facilities are known as Residential Care Facilities.
The standards are mandatory for subsidized beds. The current by-law and subsidy agreement ensures compliance with thirty-eight\(^3\) of the forty MCSS standards. All standards will be in place by March 2007.

2. **Residential Tenancies Act**

The Residential Tenancies Act (RTA) went into effect in January 2007. While the province has been advised of local concerns, it is not yet known how (in practice), the RTA will impact facilities.

3. **Ontario Retirement Home Standards**

In December 2006, the province announced a plan to improve standards in retirement homes. These standards will impact senior citizens living in residential care facilities. A province wide public consultation is taking place in twelve cities across Ontario (including Hamilton), January to March 2007. The outcomes of the consultation will be known in April 2007. A final provincial report is due in October 2007. At this early stage it is difficult to know how the province will implement standards or how standards will impact Schedule 20.

4. **Long Term Care Act**

The proposed *Long-Term Care Act* was introduced in 2006. If passed, the legislation would strengthen enforcement and improve care and accountability in the long-term care home sector. Government hearings on long-term care legislation concluded in January 2007. Outcomes are pending. It is not currently known how this legislation might impact care for the frail elderly living in the community or in other facilities such as Residential Care or Retirement Homes.

Staff advise that it would be prudent for PHS to delay the review of Schedule 20 of the licensing code under these conditions:

- it will be difficult to obtain informed legal advice on any proposed by-law changes without knowing the direction of the province;
- proposed changes to address by-law enforcement challenges will be difficult to evaluate without knowing what recommendations the province will make to advance Ontario standards in retirement homes and in long-term care.

PHS will closely monitor local activities as new legislation, policies and standards are implemented. Staff will also monitor provincial outcomes and identify gaps before proceeding with a by-law review. The current by-law will continue to function as the enforcement mechanism to support the subsidized and privately funded beds in

\(^2\) In Ontario, Consolidated Municipal Service Managers (CMSMs) are the service system managers for homelessness. CMSMs either deliver homelessness prevention services directly or contract with local operators and/or agencies to provide the services for them.

\(^3\) Two outstanding standards on heat levels in the summer and a complaint process will be implemented by March 2007.
residential care facilities, pending further provincial information. Staff are participating in upcoming consultations. Staff will submit a status report to the Board of Health in November 2007.

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