

## Reopening Ontario (A Flexible Response to COVID-19) Act, 2020

### ONTARIO REGULATION 74/20

*formerly under Emergency Management and Civil Protection Act*

#### WORK REDEPLOYMENT FOR CERTAIN HEALTH SERVICE PROVIDERS

**Consolidation Period:** From January 18, 2021 to the [e-Laws currency date](#).

Last amendment: 16/21.

Legislative History: 174/20, 379/20, 16/21.

*This is the English version of a bilingual regulation.*

##### Terms of Order

1. The terms of this Order are set out in Schedule A. O. Reg. 379/20, s. 3.

##### SCHEDULE A

1. This Order applies province-wide to health service providers within the meaning of paragraphs 1, 2 and 3 of subsection 1 (2) of the *Connecting Care Act, 2019*.

##### 1.1 In this Order,

“licensee” means,

- (a) in relation to a long-term care home, a licensee within the meaning of the *Long-Term Care Homes Act, 2007*, and
- (b) in relation to a retirement home, a licensee within the meaning of the *Retirement Homes Act, 2010*; (“titulaire de permis”)

“long-term care home” has the same meaning as in the *Long-Term Care Homes Act, 2007*; (“foyer de soins de longue durée”)

“retirement home” has the same meaning as in the *Retirement Homes Act, 2010*. (“maison de retraite”)

2. Health service providers shall and are authorized to take, with respect to work deployment and staffing, any reasonably necessary measure to respond to, prevent and alleviate the outbreak of the coronavirus (COVID-19) (the “Virus”) for patients, including, for greater certainty, by redeploying staff to another health service provider.
- 2.1 Despite any other statute, regulation, order, policy, arrangement or agreement, including a collective agreement, health service providers are authorized to assist long-term care homes including, without limitation, by providing assessments in relation to a long-term care home’s infection prevention and control program, by providing clinical supervision within a long-term care home and by providing nursing and personal support services, including assistance with feeding, to residents of a long-term care home.
- 2.1.1 Despite any other statute, regulation, order, policy, arrangement or agreement, including a collective agreement, health service providers are authorized to assist retirement homes including, without limitation, by providing assessments in relation to a retirement home’s infection prevention and control program, by providing clinical supervision within a retirement home and by providing nursing and personal support services, including assistance with feeding, to residents of a retirement home.
- 2.2 In the circumstances described in paragraphs 2 to 2.1.1, the following rules apply:
  - i. Staff of a health service provider who are deployed to another health service provider or who provide assistance within a long-term care home or retirement home remain staff of the deploying health service provider.
  - ii. The deployment or provision of assistance shall not impact whether the deploying health service provider, the receiving health service provider, the receiving long-term care home or the receiving retirement home, as the case may be, are treated as constituting one employer for the purposes of subsection 1 (4) of the *Labour Relations Act, 1995*.
  - iii. The deploying health service provider shall not, by virtue of deploying staff or providing assistance, be considered to have sold a part of its business to the receiving health services provider, the receiving long-term

care home or the receiving retirement home, as the case may be, for the purposes of section 69 of the *Labour Relations Act, 1995*.

3. Without limiting the generality of paragraph 2, and despite any other statute, regulation, order, policy, arrangement or agreement, including a collective agreement, health service providers shall and are authorized to do the following:
  - i. Identify staffing priorities and develop, modify and implement redeployment plans, including the following:
    - A. Redeploying staff within different locations in (or between) facilities of the health service provider or to different locations in facilities of another health services provider.
      - A.0.1 Redeploying staff to another health service provider.
        - A.1 Redeploying staff to provide assistance described in paragraph 2.1 within a long-term care home or a retirement home.
        - B. Redeploying staff to work in COVID-19 Assessment Centres.
        - C. Changing the assignment of work, including assigning non-bargaining unit employees or contractors to perform bargaining unit work.
        - D. Changing the scheduling of work or shift assignments.
        - E. Deferring or cancelling vacations, absences or other leaves, regardless of whether such vacations, absences or leaves are established by statute, regulation, agreement or otherwise.
        - F. Employing extra part-time or temporary staff or contractors, including for the purposes of performing bargaining unit work.
        - G. Using volunteers to perform work, including to perform bargaining unit work.
        - H. Providing appropriate training or education as needed to staff and volunteers to achieve the purposes of a redeployment plan.

For greater certainty, a health service provider may implement redeployment plans without complying with provisions of a collective agreement, including lay-off, seniority/service or bumping provisions.

- ii. Conduct any skills and experience inventories of staff to identify possible alternative roles in priority areas.
- iii. Require and collect information from staff or contractors about their availability to provide services for the health service provider.
- iv. Require the provision of and collect information from staff or contractors about their likely or actual exposure to the Virus, or about any other health conditions that may affect their ability to provide services.
- v. Cancel or postpone services that are not related to responding to, preventing or alleviating the outbreak of the Virus.
- vi. Suspend, for the duration of this Order, any grievance process with respect to any matter referred to in this Order.

O. Reg. 74/20, Sched. A; O. Reg. 174/20, s. 3, 4; O. Reg. 16/21, s. 1.

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