

Ministry of Health
and Long-Term Care

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HLTC2980AC-2011-366

MEMORANDUM TO: LHIN CEOs

FROM: Ruth Hawkins
Assistant Deputy Minister (A)
Health System Accountability and Performance Division

DATE: February 23, 2011

RE: Crisis Designation and First Available Bed Policy

The Ministry has been made aware of the Erie St. Clair LHIN's decision to establish "a temporary crisis designation" within Essex County and for local hospitals to reinstate a "first available bed" policy on an ongoing measure. While the ministry understands the pressures faced by the region and the challenges of maintaining hospital bed flow, this situation can only be addressed with policies and practices that comply with legislation, including the *Long-Term Care Homes Act, 2007*, and not at the expense of patient consent and choice.

Hospitals do not have the authority to require applicants waiting for a bed in a long-term care home to take the first available bed because this practice is not consistent with the *Long-Term Care Homes Act, 2007*.

In addition, with respect to hospital co-payments, section 10 of Regulation 552 under the *Health Insurance Act* provides that a hospital patient who requires chronic care and is more or less a permanent resident of a hospital or other institution - including a patient waiting for an available long-term care home bed - may be charged a regulated co-payment of \$53.23 per day.

The attending physician is responsible for determining whether a patient is no longer in need of treatment in the hospital and thus must be discharged. A patient who has been discharged but refuses to leave the hospital may be charged an unregulated amount at the discretion of the hospital. Charges to patients who do not leave the hospital after being discharged in accordance with the *Public Hospitals Act* and its regulations are not regulated or controlled by the Ministry. The hospital can set its own rate (sometimes referred to as the "full daily rate"). However, the Ministry would expect that the hospital would start discharge planning early on and discuss the options with patients and their families. This would include referrals to the CCACs for those patients who may require admission to a LTC home. CCACs would also be expected to work with patients and their families and inform them about the various options available in the community after discharge, including admission to LTC homes.

Patients who have been charged in a manner that does not comply with the applicable legislation should be reimbursed.

Under the *Long-Term Care Homes Act, 2007* (LTCHA) which came into effect July 1st, 2010, all persons seeking admission to a Long-Term Care (LTC) home must contact the Community Care Access Centres (CCAC) in the person's area. As the designated placement co-ordinator, the CCAC is responsible for determining eligibility for admission, priority for admission, monitoring waiting lists and authorizing admissions to LTC homes. Hospitals do not have this authority.

The maximum number of LTC home waiting lists on which an applicant can be placed has increased from three to five (unless the person is in the crisis category on the waiting list.) A hospital cannot choose a LTC home for a person. Before an admission can be authorized by the CCAC, the person (or if the person is incapable, their substitute decision-maker) must provide valid consent to the admission.

The regulations under the LTCHA provide that a person who is applying for admission to a LTC home can be placed in category 1 of the waiting list (crisis category) if the:


1. person is a hospital patient;
2. person requires alternate level of care (ALC);
3. person requires an immediate admission to the LTC home; and
4. LHIN has verified to the CCAC in writing that the hospital is experiencing severe capacity pressures and has set out the period of time for which the verification applies.

The LHIN determines whether to make the verification and in doing so must take into account consultation with the affected hospital and the CCAC. The CCAC then determines whether each applicant meets the requirements above. Category 1 (crisis) is the highest of the numbered waiting list categories. Persons in this category are ranked in accordance with urgency of need. The crisis category includes persons in the community who require an immediate admission as a result of a crisis arising from their condition or circumstances.

The content of the February 15, 2011 news release from the Erie St. Clair LHIN is not consistent with the provisions set out above. Therefore, the LHIN cannot continue to implement the policies and procedures described in the news release. Neither the hospital nor the LHIN have the authority to override the legislative and regulatory provisions referred to above. Patients, including those waiting for a bed in long-term care homes, must only be charged what is allowed under the law and the admission process for homes must be conducted in accordance with the LTCHA and its regulations.

I trust that this clarifies the position of the Ministry and I trust that you will take immediate steps to rectify this situation and bring your policies into compliance.

Thank you for your support and co-operation.


Ruth Hawkins

- c: Tom Closson, President and Chief Executive Officer, Ontario Hospital Association
Betty Kuchta, Chief Executive Officer, Erie St Clair CCAC
Sandra Coleman, Chief Executive Officer, South West CCAC
Kevin Mercer, Chief Executive Officer, Waterloo Wellington CCAC
Melody Miles, Chief Executive Officer, Hamilton Niagara Haldimand Brant CCAC
Cathy Hecimovich, Chief Executive Officer, Central West CCAC
Caroline Brereton, Chief Executive Officer, Mississauga Halton CCAC
Stacey Daub, Chief Executive Officer, Toronto Central CCAC
Cathy Szabo, Chief Executive Officer, Central CCAC
Don Ford, Chief Executive Officer, Central East CCAC
Jackie Redmond, Chief Executive Officer, South East CCAC
Gilles Lanteigne, Chief Executive Officer, Champlain CCAC
Bill Innes, Chief Executive Officer, North Simcoe Muskoka CCAC
Richard Joly, Chief Executive Officer, North East CCAC
Tuija Puiras, Chief Executive Officer, North West CCAC