

Policy Title: Whistleblower policy

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PURPOSE

To guide individuals when issues arise that may require them to raise concerns internally and when responding to any conduct that may pose a risk of harm to residents or staff, or to the operation of the organization and to ensure individuals feel safe in doing so.

POLICY STATEMENT

This policy has been developed to support Copernicus Lodges' mission, vision and values which require all staff, volunteers, students, and third-party providers to follow the highest standards of business conduct and to act with the highest degree of personal ethics, and honesty and integrity in the conduct of their duties. This policy will assist and guide staff when issues arise that may require them to raise concerns internally and is part of the organization's ongoing efforts to identify and respond to any conduct that may pose a risk of harm to residents or staff, or to the operation of the organization. In addition, Copernicus Lodge (CL) is committed to ensuring that all individuals abide by and adhere to the Long-Term Care Homes Act sections 24, 26, 105 and 107 regarding the identification and mandatory reporting of incidents.

This policy aims to:

- Encourage and enable reporting within the Organization relating to breaches or suspected breaches of the Organization's policies, procedures or standards, and legislation that applies to the Organization.
- Ensure that there is no retaliation against those who make reports in good faith under this policy.
- Ensure compliance with the reporting and whistle-blowing provisions of the LTCHA; and
- Ensure compliance with the Organization's Code of Conduct & Ethics.

Note: the definition of "Individual or Person" includes but is not limited to: (residents, families, guests, staff, volunteers, students, third party vendors)

All employees are required to report neglect and abuse and failure to do so can result in discipline up to and including dismissal.

SCOPE:

This policy applies to all individuals who witness or know of any suspected improprieties in matters relating to but not limited to abuse, neglect, threats, accounting or auditing or other business operational matters, breach of law; including but not limited to fraud, a breach of the CL Code of Conduct & Ethics or other ethical concerns.

POLICY:

It is the policy of the Organization that any individual who is aware of, or suspects any of the following must report it as soon as possible in accordance with the reporting procedures in this policy:

- Improper or incompetent treatment or care of an individual (resident, user of services, guest or other individual); or unlawful conduct that affects or may affect an individual.
- Abuse and or, neglect of any individual by another individual of the Organization. This includes but is not limited to misuse or misappropriation of resident property and other resources, physical, emotional/psychological, sexual, financial/exploitation and neglect.
- Verbal complaints concerning any aspect of the operation of the organizations, its staff, residents, visitors or other CL representatives.
- Breach of the Organization's policies, standards, procedures, or by-laws.
- Inappropriate business operational conduct such as fraud, accounting or auditing issues, embezzlement, waste, abuse of authority, mismanagement, or other wrongdoing
- All other areas where there is real, or potential harm, exposure to the organization, residents or other individuals, and ongoing operations.

Staff members, and other individuals must not do anything to discourage any of the following:

1. Reports under this policy,
2. Mandatory/immediate reports under the LTCHA, and
3. Disclosures to an inspector or the MLTC Director, ministry of labour or any other oversight or enforcement agency, the giving of evidence in a proceeding under the LTCHA or during a coroner's inquest.
4. Any investigative processes or procedures.

Reporting in Good Faith

In making a report under this policy, a person must not act maliciously or in bad faith. A person who makes a report maliciously or in bad faith may be subject to disciplinary action up to and including termination of employment, termination of placement or removal from his/her position.

Any individual or other party who reasonably believes that they are being asked to commit a wrongdoing, or who reasonably believes that a wrongdoing has been committed or is about to

be committed, may disclose the matter immediately to their supervisor/manager, Senior Leadership team member, CEO and/or the Director of the Human Resources Department.

No person, knowing that a document or object (including in electronic or digital format) is likely to be relevant to an investigation under this policy, shall:

- destroy, mutilate, or alter the document or object.
- falsify the document or make a false document.
- conceal the document or object.
- direct, counsel or cause any person to do anything mentioned above in any manner.

In making a report under this policy, a person must not act maliciously or in bad faith. A person who makes a report maliciously or in bad faith may be subject to disciplinary action, which may include termination or removal.

Staff Reporting and Mandatory/Immediate Reporting under the LTCHA

All employees are required to share their questions, concerns, suggestions or complaints with their immediate manager or the Senior Leadership Team (SLT) member of their department.

Staff and other individuals shall be aware that section 24(1), 26, 105, and 107 of the LTCHA requiring certain persons to make immediate reports to the MOH and MLTC Director where there is a reasonable suspicion that certain conduct or events occurred or may occur. (Section 24(1) is set out in Appendix A to this policy and for clarification about who must report see section 105 of the LTCHA regulation, which is included in the Appendix). Staff should immediately report through this policy any conduct or events that may lead to a mandatory/immediate report under section 24(1). Staff should also understand that it is an offence under the LTCHA to discourage or suppress a section 24(1) report.

Staff who fail to report may be subject to discipline up to and including dismissal.

Other individuals who fail to report may have their relationship with the organization terminated and/or if the incident warrants, their failure to report may be reported to the authorities.

No Retaliation or Discouragement of Reports

The Organization will protect individuals from harassment, coercion, penalty, or discipline in the context of the following:

- Reports in good faith under this policy, and
- Disclosure of issues relating to business operational conduct, or other operational issues to management and

- Disclosure to any relevant law enforcement or regulating agency.

For instances that fall under the LTCHA

The Organization will protect a resident (and his or her family members, Substitute Decision Maker (SDM), and persons of importance) against any threats or discrimination in connection with the resident's disclosure of anything to an inspector or the MLTC Director, or his or her giving evidence in a proceeding under the LTCHA or during a coroner's inquest.

A resident will not be discharged from a long-term care home, threatened with discharge, or in any way be subjected to discriminatory treatment (i.e., any change or discontinuation of any service to or care of a resident or the threat of any such change or discontinuation), even if the resident or another person acted maliciously or in bad faith, and no family member of a resident, substitute decision-maker of a resident, or person of importance to a resident shall be threatened with the possibility of any of those being done to the resident.

A resident shall not be discharged or retaliated against for disclosure of any of the serious occurrences listed in Appendix A to an inspector or the MLTC Director or giving evidence in a proceeding under the LTCHA or during a coroner's inquest.

Section 26 of the LTCHA forbids retaliation, or threats of retaliation against a person for disclosing anything to an inspector or the Ministry of Health and Long-Term Care Director, or for giving evidence in a proceeding under the LTCHA, or during a coroner's inquest. Under section 26, staff members, officers, and directors cannot discourage these disclosures

In all cases, a staff member, or other individual who retaliates, threatens, or discourages a report in breach of this policy shall be subject to disciplinary action, which may include termination or removal or may be brought before the appropriate external agency or authority.

DEFINITIONS:

Wrongdoing: A wrongdoing occurs if there is:

- Gross mismanagement*; *Gross mismanagement is defined as a deliberate act or an omission showing a reckless or willful disregard for the efficient management of significant Organization resources.
- An act or an omission that creates a substantial and specific danger to the life, health, or safety of a person.
- The taking of a reprisal/retaliation against an individual.
- A willful deliberate violation of any government legislative act or regulation.
- A significant deliberate violation of any Organization policy.

Retaliation: Encompasses direct actions, omissions, and threats.

- Evicting a resident.

- Subjecting a resident or other individual to discriminatory treatment.
- Imposing a penalty on any person.
- Intimidating, coercing, or harassing any person.

Reprisal: Reprisal action taken against an individual who has made a disclosure of wrongdoing in good faith includes:

- A disciplinary measure such as staff dismissal, discipline, and suspensions.
- Intimidating, coercing, or harassing an individual.
- Demotion of an employee.
- Any measure that adversely affects the employment or working conditions of an employee;
or
- A threat to take any of the previously identified measures.

Individual or Person includes but is not limited to: (residents, families, guests, staff, volunteers, students, third party vendors)

PROCEDURES:

A. Reporting

All disclosures must be made in written form unless there is imminent and serious danger.

CL will process and respond to verbal and written complaints through its complaint's policy/procedures. An issue reported under the LTCHA will abide by the timeframes set out there-in.

All reports under this policy should be to a staff member's immediate supervisor or manager. Where an immediate supervisor is implicated, or where a staff member is uncomfortable reporting to their supervisor or manager, the report should go to the next level of leadership (Senior Leadership Team member; Director of Human Resources and Customer Service) or CEO.

Reports concerning management staff members should be to the Chief Executive Officer (CEO); or if the report implicates the CEO, to the CL Board Chair.

Reports concerning conduct of professional staff or service providers (physicians and medical students, dentists, nurses in the extended class, Director of Care, supervisors) should be to the CEO.

Board members should report to their respective Chair or Vice-Chair, where appropriate if it implicates the chair or vice chair then the CEO should be contacted.

An individual (staff member or board member) who experiences any form of retaliation/reprisal before or after submitting a report should immediately inform their supervisor or a member of

the management team; or in the case of a board member, the CEO, Chair/Vice Chair of the Board.

B. Investigation

The person receiving the report will forward it for investigation to Human Resources and Customer Service (DHR). DHR will investigate and resolve the subject matter of the report. Where necessary, they will advise or involve members of Senior Leadership and/or the CEO.

Responsibility for investigation and resolution may be referred to Senior Leadership or the CEO if the complaint is regarding a member of Human Resources.

Staff members are expected to cooperate during any investigation and should not discuss the matter with anyone, including the person suspected of the wrongdoing or with any other staff member, resident, or family member and respect the confidentiality of the process.

Depending upon the severity of the issue and if necessary, CL may involve outside parties in the investigation, such as police or external agencies this may cause an extension to the investigative process. If feasible and appropriate, the Organization will inform the individual who made the report about the results of an investigation and the steps taken to address the conduct in question within 10 days.

The CEO will be informed of the results of the investigation and if necessary, will report on the matter to the Board if an infraction of this policy has occurred.

C. Confidentiality

The Organization will accept reports under this policy on an anonymous or confidential basis. The Organization's normal procedure will be to keep all reports confidential to the extent possible, subject to the need to conduct an effective investigation or to take action to comply with the LTCHA or other law. The Organization will not tolerate any attempt by a person or group to identify a person who submits a report in good faith on an anonymous or confidential basis.

D. Staff Orientation and Training

Staff members will receive orientation and annual re-training on the reporting obligations under the LTCHA, the Organization's internal procedures for reporting, and the whistle-blowing protections within this policy and within the LTCHA.

APPENDIX A

LTCHA MANDATORY/IMMEDIATE REPORTS

The first excerpt sets out the serious matters that must be immediately reported to the MLTC Director - section 24(1). The second excerpt sets out certain staff to which this requirement does not apply – section 105 of the regulation and the definition of “staff” from the LTCHA.

Reporting certain matters to Director

24. (1) A person who has reasonable grounds to suspect that any of the following has occurred or may occur shall immediately report the suspicion and the information upon which it is based to the Director:

1. Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident.
2. Abuse of a resident by anyone or neglect of a resident by the licensee or staff that resulted in harm or a risk of harm to the resident.
3. Unlawful conduct that resulted in harm or a risk of harm to a resident.
4. Misuse or misappropriation of a resident’s money.
5. Misuse or misappropriation of funding provided to a licensee under this Act or the Local Health System Integration Act, 2006. 2007, c. 8, ss. 24 (1), 195 (2).

Non-application re: staff to which this does not apply

105. Paragraph 4 of subsection 24 (5) of the Act does not apply to a staff member who,

- (a) falls under clause (b) or (c) of the definition of “staff” in subsection 2 (1) of the Act;
- (b) only provides occasional maintenance or repair services to the Organization; and
- (c) does not provide direct care to residents. O. Reg. 79/10, s. 105.

“staff”, in relation to a long-term care Organization, means persons who work at the Organization,

- (a) as employees of the licensee,
- (b) pursuant to a contract or agreement with the licensee, or
- (c) pursuant to a contract or agreement between the licensee and an employment agency or other third party; (“personnel

APPENDIX B TABLE: MANDATORY REPORT

Types of Incidents that must be reported to immediate supervisor/manager and/or the Ministry of Long-Term Care:

Type of Incident Reporting	Time Frame
Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident	Immediately upon becoming aware of the incident
Abuse of a resident by anyone or neglect of a resident by the licensee or staff that resulted in harm or a risk of harm to the resident	Immediately upon becoming aware of the incident
Unlawful conduct that resulted in harm or a risk of harm to a resident	Immediately upon becoming aware of the incident
Misuse or misappropriation of a resident's money	Immediately upon becoming aware of the incident
Misuse or misappropriation of funding provided to a licensee under the LTCHA or the Local Health System Integration Act, 2006	Immediately upon becoming aware of the incident

The MLTC has an online reporting system for both mandatory reports and critical incidents (section 107 of the Regulation) that is used by the Home. Mandatory Critical Incident System (MCIS) forms should be used by the Home to file both the initial and follow-up reports for the types of incidents identified in the table above.

Section 107 of the LTCHA

The following are incidents requiring mandatory reporting under section 107 of the LTCHA they are but are not limited to:

Reporting Abuse and Neglect and other Significant Matters

The below noted must be reported within 10 days of becoming aware of incident or sooner if required by Director

- Abuse, Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident.

- Unlawful conduct that resulted in harm or a risk of harm to a resident
- Misuse or misappropriation of a resident's money
- Misuse or misappropriation of funding provided to a licensee under the LTCHA or under the Local Health System Integration Act, 2006

Mandatory Critical Incidents

The below noted must be reported within 10 days of becoming aware of incident or sooner if required by Director

- Emergency including loss of essential services, fire, unplanned evacuation, intake of evacuees or flooding
- Environmental hazard including a breakdown or failure of the security system or a breakdown of major equipment or a system in the Home that affects the provision of care or the safety, security or well-being of residents for a period greater than six hours
- Unexpected or sudden death including a death resulting from an accident or suicide
- Resident who is missing for three hours or more
- Resident who is missing for less than three hours and who returns to the Home with no injury or adverse change in condition
- Any missing resident who returns to the Home with an injury or any adverse change in condition regardless of the length of time the resident was missing
- Outbreak of a reportable disease or communicable disease as defined in the Health Protection and Promotion Act
- Contamination of the drinking water supply
- A medication incident or adverse drug reaction in respect of which a resident is taken to hospital.

Any person who is aware of an incident listed in the table above and who does not have access to the Home's Mandatory Critical Incident Reporting System should report using the toll-free Long-Term Care ACTION Line at 1-866-434-0144.