

INDUSTRY

Seniors Living and Healthcare Properties

Osler assists owners of senior living and long-term care properties with their planning, compliance and operational needs.



Related Expertise

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Osler is well positioned to advise on the strategic and day-to-day operational needs of owners, investors and operators in the seniors' living and long-term care property sector. Osler provides advice in three key areas: Strategic planning and growth, Regulatory compliance and Operational challenges.

Strategic planning and growth

Osler advises REITs and other healthcare-related service or facility providers on complex acquisitions and sales of large senior housing portfolios that include a blend of senior housing facilities, retirement homes, and long-term care facilities. We also provide advice as to when a particular facility should be registered or licensed and on the broad continuum of legal services related to governance and oversight, risk management, continuous quality improvement, and annual compliance certification following an acquisition.

Regulatory compliance and enforcement

Non-compliance can have serious repercussions on an organization's operations and can severely damage its reputation. Osler has particular expertise in advising on regulatory compliance and enforcement in connection with Ontario's Long-Term Care Homes Act (LTCHA) and the provincial regulatory regimes regulating seniors living facilities in Canada.

Long-Term Care Facilities

Long-term care facilities have unique and complex legal needs that includes management of significant risk profiles; non-compliance can significantly affect a facility's ability to operate and can include punitive actions. Osler routinely advises on all aspects of Ontario's *Long-Term Care Homes Act* (LTCHA). We advise on issues involving the Residents' Bill of Rights; plans of care and the provision of care and services; prevention of abuse and neglect; reporting and complaints; minimizing of restraining; admission of residents; residents' councils; general management and operations; and, funding and licensing. We also advise on achieving and maintaining compliance with the very granular regulations under the LTCHA. We have particular expertise in advising on issues surrounding regulatory enforcement, including responding to inspections, non-compliance notices and compliance orders, as well as appealing compliance orders, including to the Health Services Appeal and Review Board (HPARB).

We also advise long-term care facilities in their communications, negotiations and general relations with:

- the Ministry of Health and Long-Term Care (MOHTLC),
- Local Health Integration Networks (LHINs),
- Community Care Access Centres (CCACs),
- public hospitals, and
- other stakeholders, including the media and advocacy groups.

Assisted and non-assisted retirement homes

In addition to advising on asset acquisitions, dispositions and capital markets transactions, a significant portion of our practice involves advising retirement home owners and operators on provincial licensing or registration requirements. We routinely advise retirement home owners and operators on all aspects of *Ontario's Retirement Homes Act*, including the powers and duties of the Retirement Homes Regulatory Authority (RHRA); licensing obligations, residents' rights, care and safety, enforcement, inspections, complaints, compliance orders, revocations, and appeals of adverse decisions of the RHRA to the Licence Appeal Tribunal.

Operational challenges, emergencies and critical incident management

We regularly advise long-term care facilities, retirement homes, senior living/supportive housing facilities, and home care service providers on some of the most challenging operational and risk issues they face, as well as on emerging issues in elder law, including:

- Compliance with all applicable health laws and regulations and other applicable legislative and regulatory regimes including, the *Health Care Consent Act*, *Occupational Health and Safety Act*, *Patient Restraints Minimization Act*, the *Substitute Decisions Act* and the *Coroners Act*.
- Evolving patient care and management issues, including challenges in admissions, discharges and appropriate placements, responsive behaviours and intentional resident-to-resident abuse, appropriate use of restraints, detention and locked units, navigating health care consent, advance care planning and end of life decisions.
- Employee and labour relations.
- Enterprise risk management.
- Personal health information privacy, data protection, and civil liability exposure.
- Emergency and critical incident management.
- Conducting and managing investigations.
- Liaising with the Ontario Patient Ombudsman.
- Mandatory reporting obligations.

- Home care and the transitioning of many healthcare services from public hospitals to the private sector while respecting the "single-payor" public healthcare model.
- Telemedicine and the increasing portability and accessibility of healthcare services.
- Access to "medical-aid-in-dying" in the wake of the Supreme Court of Canada striking down the Criminal Code prohibitions on physician-assisted suicide in certain circumstances.