

# Long-Term Care Home Licensing Framework and First Nations Homes

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# Purpose

To provide an overview of the Ministry of Long-Term Care's (ministry) licensing framework for Long-Term Care (LTC) homes in Ontario and information specific to First Nations LTC homes.

## Overview

- LTC Homes Sector
- Evolution of the LTC Sector and the Licensing Program
- Principles of LTC Licensing
- Licensing at a Glance
- Assessing Risks Related to Licence Requests
- Licensing Review
- Types of LTC Licenses and Approvals
- Placement

## First Nations LTC Homes

- Overview
- LTC Home Licence vs. Approval
- Other Considerations
- Placement

# Overview



# Long-Term Care Homes Sector



## Sector Profile

626 licensed LTC homes in Ontario with approximately 79,850 licensed beds.

## Top 10 LTC Home Licensees by Number of LTC beds

Ontario’s top 10 Licensees own approximately 40% of LTC beds with a total of 31,501 beds

Rank	Affiliate, Operator or Parent	Provider Type	# of Beds	# of Homes
1	Revera	For-Profit	5872	50
2	Sienna	For-Profit	5338	33
3	Extendicare	For-Profit	5140	34
4	Chartwell	For-Profit	2701	19
5	City of Toronto	Municipal	2641	10
6	Southbridge	For-Profit	2575	26
7	Schlegel Villages	For-Profit	2526	18
8	Responsive Group\Rykka	For-Profit	1690	11
9	Jarlette	For-Profit	1599	14
10	Omni	For-Profit	1419	17

## Sector Breakdown



For-profit beds: 41,724 52 %



Non-profit beds: 38, 126 48 %



For-profit LTC Homes: 353 56 %



Non-profit LTC Homes: 273 44 %

## Market Concentration

Provincial Index 220

Indexes <1,000 indicate the market is un-concentrated remains fairly competitive.

Market concentration is measured using the Herfindahl-Hirschman Index - an indicator of competition within an industry.

# Evolution of the LTC Sector and the Licensing Program

Pre-2010

2010

2010-2022

2022

2022 Onwards

- Prior to July 1, 2010, LTC homes, then known as *nursing homes*, *charitable homes for the aged* and *municipal homes for the aged*, were governed (respectively) by one of the following three acts:
    - Nursing Homes Act, 1990
    - Charitable Institutions Act, 1990
    - Homes for the Aged and Rest Homes Act, 1990
  - Under the *Nursing Homes Act*, licences were issued for a one-year term. If the licensee applied for a licence renewal and paid the fee the licence was deemed to continue until the renewal was granted or until a notice of proposal to revoke or refuse to renew the licence was issued by the Director under the Act.
- With the proclamation of the *Long-Term Care Act, 2007*, all LTC homes were governed under one Legislation.
  - All LTC licensees were now accountable and required to be compliant with the same requirements.
  - LTC homes now issued licence terms of up to 30 years, supporting redevelopment.
  - No longer issued automatic renewals and introduced improved due diligence processes (e.g., Concentration of Ownership calculations, financial reviews) to mitigate risk associated with issuing longer-term licences.
  - The LTC sector was relatively stable in terms of number of homes and For-Profit/Non-Profit composition during this time.
- The proclamation of the *Fixing Long-Term Care Act, 2021 (FLTCA)* introduces legislation to support improvements and accountability in the LTC sector and provides the authority to carry out licensing due diligence reviews.
  - Unlike previous decades, significant changes will be introduced to LTC sector capacity and Licensee composition.

# Principles of LTC Licensing

**The Fixing Long-Term Care Act, Ontario Regulation 246/22 and related policies are what guide the licensing review**

- A LTC Home Licence provides the Licensee with:
  1. The rights to operate the home; and,
  2. A committed funding stream; and,
  3. The ability to monetize the licence.
- The issuance of a licence or an approval represents the ministry's affirmation that a LTC Operator may run a LTC Home and triggers a long-term partnership (up to 30 years for licences and no expirations for approvals) between the ministry and LTC Operator that includes a commitment to provide funding in exchange for LTC services by the LTC Operator.
- Due to this significant commitment, the ministry undertakes a licensing review process to confirm the ministry's comfort for the LTC Operator to enter or continue operating in the LTC Sector.
- The legislation sets out the requirements related to licensing and the Licensing Unit carries out a due diligence process to determine the competency of the Licensee to operate a LTC home without compromising the delivery of care and services to residents.
- At the core of the licensing review are three key decision variables:
  1. An assessment of the competency of the Applicant/Licensee
  2. Public interest tests including public consultation
  3. A decision by the Director to issue a licence or the Minister to issue an approval

# Licensing at a Glance

Except for temporary emergency licences, the legislation stipulates that the same approval requirements are met regardless of the scale or magnitude of activity, however flexibility exists in sequencing and how the requirements are met.

A licence or approval can only be issued by the Ministry once these requirements are met.



Changes to the ownership or controlling interest of a licence, location of beds, or management of a home, will trigger a licence review.



The Minister agrees that there is a need for beds in the area.



The Minister establishes that the impacts of concentration of ownership and sector balance are in the public interest



The Director reviews the past conduct, operational and financial competency of the proposed licensee, including any individual with controlling interest in the licensee.

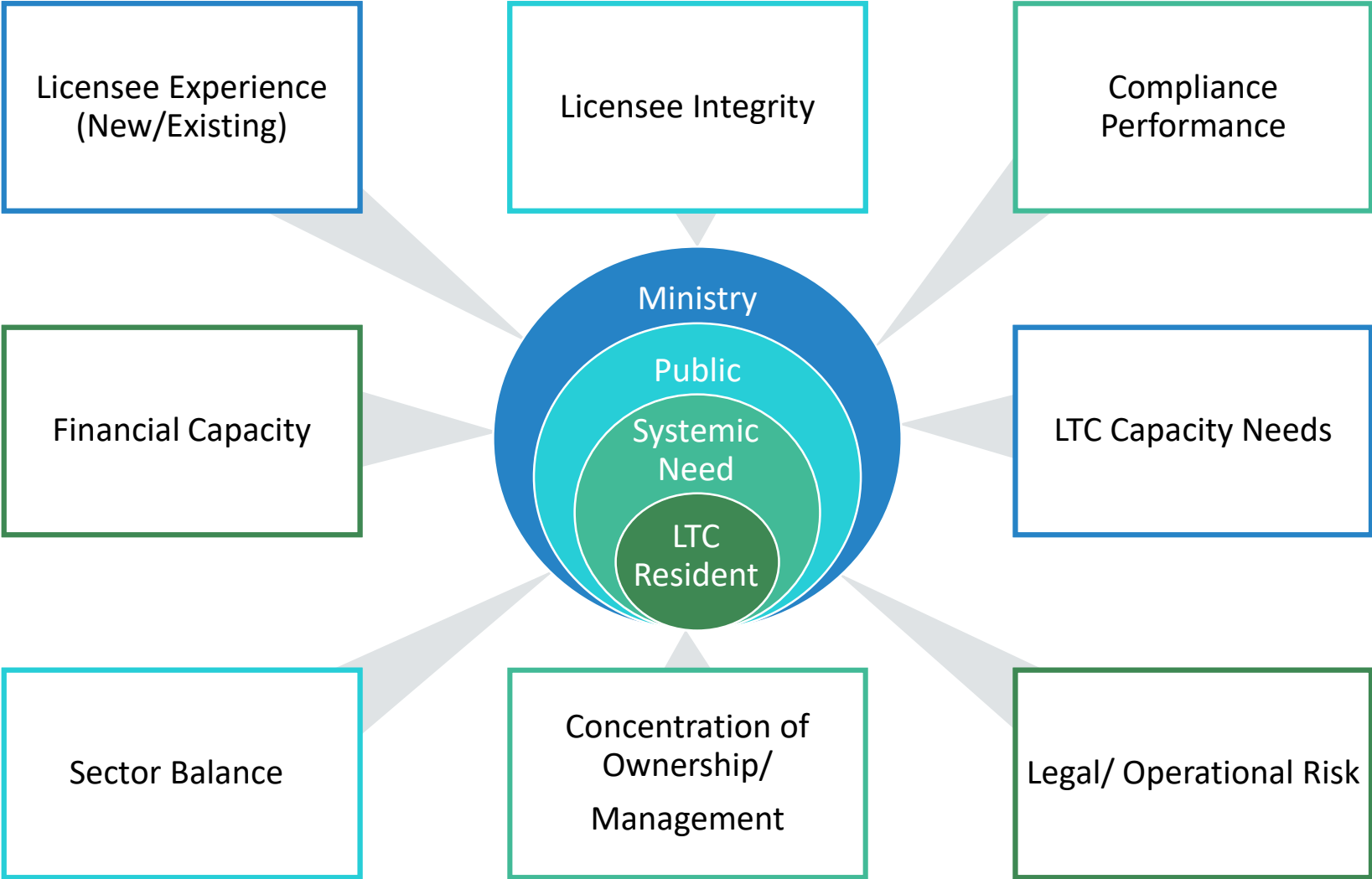


The Director has considered any feedback from a public consultation relating to the licensing proposal.



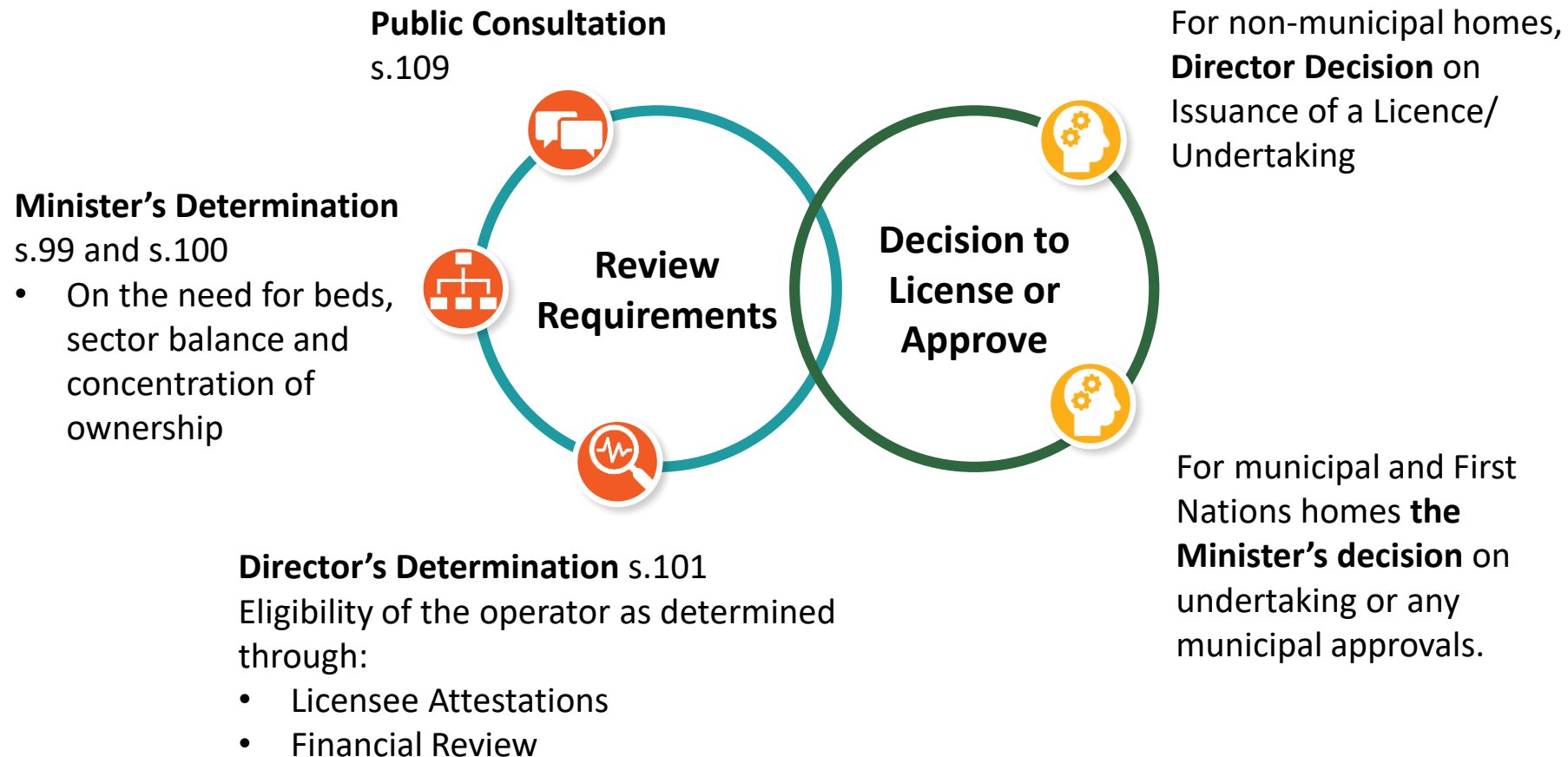
# Assessing Risks Related to Licence Requests

The ministry considers a number of risks as part of decision-making given the significance of the licensing decision on quality, access, capacity and availability of LTC services in communities:



# Licensing Review

Licence activity and requirements of the legislation vary by the type of LTC home provider: some or all of the activities below will be included in the ministry's licence review.



# Types of LTC Licences and Approvals

The Ministry is able to address immediate and longer-term capacity needs through distinct licensing approaches.

## Approval

- Issued by the Minister.
- Authorizes premises to be used for a Municipal or **First Nations Homes** only for a specified # of beds
- No fixed term
- Cannot be transferred

## Licence

- Issued by the Director.
- Applies to for-profit and non-profit homes
- Transferrable (subject to Ministry approval)
- Term of up to 30 years

## Temporary Licence

- Issued by the Director to a LTC home or stand-alone home
- Used to authorize:
  1. Premises to be used as a LTC home on a temporary basis
  2. Temporary additional beds at a LTC home
- Term of up to 5 years and cannot be transferred

## Temporary Emergency Licence

- Issued by the Director to any LTC home or stand alone
- Used to authorize:
  1. Premises to be used as a LTC home on a temporary basis
  2. Temporary additional beds at a LTC home
- Term of up to 1 year

# LTC Placement Process

- FLTCA requires that a placement coordinator consider a person's preferences relating to admission based on ethnic, religious, spiritual, linguistic, familial and cultural factors when placing an applicant on a LTC home waitlist.
- The Regulation sets out criteria for waitlist prioritization for placement into a LTC home, which includes categories 3A and 3B that consider the religious, ethnic and/or linguistic needs of an eligible applicant.
- If the LTC home has a unit or area of the home that serves the interest of people of a particular religion, ethnic origin or linguistic origin, and not the entire home, the placement co-ordinator also must keep a separate waitlist for applicants that choose to be placed in that unit/area.
- In addition, **LTC homes may self-identify** to their respective Home and Community Care Support Services **as serving cultural, religious or linguistically diverse residents**.
- These LTC homes are funded and licensed like all other LTC homes but have decided to tailor services to meet the needs of a particular religion, ethnic origin or linguistic origin.

# First Nations LTC Homes



# First Nations LTC Homes

- Part IX of FLTCA provides for the establishment of First Nation LTC homes by a Council of a Band upon approval of the Minister where operated by a board of management. Currently there are no homes approved under this provision.
- There are five licenced LTC homes that are operated by First Nations communities (with a total of 319 beds).
- Four of these five homes have special recognition/exemption granted under O. Reg 246/22, which allows them to conduct their own placement processes.

Long-Term Care Home	Long-Term Care Beds	Ontario Health Region	Location
Iroquois Lodge Nursing Home	50 “C” structural classification beds	Ontario Health West	Ohsweken
Wiwemikong Nursing Home	59 “C” structural classification beds	Ontario Health North East	Wiwemikong
Tsi Ion Kwa Nonh So:Te	20 “New” structural classification beds 30 “A” structural classification beds	Ontario Health East	Cornwall
Oneida Nation of the Thames Long-Term Care Home	64 “New” structural classification beds	Ontario Health West	Southwold
Wiigwas Elder and Senior Care (new license Oct. 2021) – no exemption	96 “C” structural classification beds	Ontario Health North West	Kenora

- **Note:** There are currently 10 projects from First Nations organizations to develop/redevelop LTC capacity and 20 other projects that propose to provide cultural and linguistic specific programs and specialized services.

# LTC Home Licence vs. Approval

First Nations Homes receive an approval to operate.

	Licence (Part VIII of the FLTCA)	Approval - "First Nations Home" (Part IX of the FLTCA)
Licensee/Operator	Licensees are for-profit or non-profit entities. Typically a licensee is a corporate entity. A licence can also be issued to the “Council of a Band” or non-profit corporation controlled by a Council of a Band.	A First Nations Home approval under Part IX of the Act can <b>only</b> be issued to a “council of a band” (or by two or more such councils) and must then be operated by a board of management established by O. Reg 246/22 to own and operate the home.
Issuance	A licence is issued by the Director under s. 102 of the Act, following the Minister’s determinations,(s. 99/100), and Director’s determination of eligibility (s.101). Prior public consultation is required.	The Minister provides the approval of a First Nations Homes pursuant to ss.132 and 133 of the FLTCA. Prior public consultation is required.
Term	The licence can be issued with a maximum fixed term of 30 years.	There is no fixed term/expiry associated with an approval.
Transferability	A licence is transferable, subject to the requirements of FLTCA (s. 108 etc.) and Regulation.	An approval is not transferrable.
Security Interest	Provisions exist in FLTCA (s.110) and regulations to permit the exercise of a security interest in a licence, subject to applicable approvals/requirements.	There are no provisions to permit an exercise of a security interest in an Approval. (since the approval cannot be transferred). This can be a consideration for financing arrangements.

# Other Considerations

Things for new licensees/operators to keep in mind for operating a LTC home.

## Management Contracts:

- New Licensees/Operators that do not have experience in operating a LTC home in Ontario are required to secure an experienced management company for at least a year.
- A Management Contract is subject to approval of the Director under section 113 of FLTCA and must meet the requirements set out in the Regulation.
- A Licensee that is required to retain a management company may request self-management after a year of operating experience and knowledge.

# First Nations Homes and Placement Process

- As noted, the Regulation exempts four named LTC homes in Indigenous communities from most requirements under Part IV of FLTCA, which effectively allows the Licensee of each home to be the placement coordinator for admissions, with their own placement methodology.
  - Additions to the exemptions listed in O. Reg 246/22 can only be created by means of an amending regulation approved by the Lieutenant-Governor in Council.
  - Justification for the exemption would need to be provided.
  - There is no assurance that such exemptions to the regulation would be approved, and within what timeframe that may occur.
  - Requests for exemptions to permit Licensee-placement of residents is subject to review and regulation approval.
  - A change to the Regulation is separate from the licence/approval review process.
  - Decisions on a request for and amending regulation to provide an exemption may affect project timelines if the exemption is essential to the project.
- As a reminder, LTC homes may self-identify to their respective Home and Community Care Support Services as serving cultural, religious or linguistically diverse residents.

**Questions?**

