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ONTARIO REGULATION 121/20

made under the

EMERGENCY MANAGEMENT AND CIVIL PROTECTION ACT

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ORDER UNDER SUBSECTION 7.0.2 (4) OF THE ACT - SERVICE AGENCIES PROVIDING SERVICES AND SUPPORTS TO ADULTS WITH DEVELOPMENTAL DISABILITIES

Whereas an emergency was declared pursuant to Order in Council 518/2020 (Ontario Regulation 50/20) on March 17, 2020 at 7:30 a.m. Toronto time pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act* (the “Act”) and has been extended pursuant to section 7.0.7 of the Act;

And Whereas the criteria set out in subsection 7.0.2 (2) of the Act have been satisfied;

Now Therefore, this Order is made pursuant to subsection 7.0.2 (4) of the Act, in particular paragraphs 8, 9, 10, 12 and 14 of that subsection, the terms of which are set out in Schedule 1;

And Further, this Order applies generally throughout Ontario;

And Further, this Order shall be in effect for the duration of the declared emergency, subject to section 7.0.8 of the Act.

SCHEDULE 1

WORK DEPLOYMENT, STAFFING AND STREAMLINED REQUIREMENTS

Definitions

1. For the purposes of this order, “service agency” and “service and support” have the same meanings as in the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008* (the “governing Act”).

Work deployment and staffing

2. Every service agency shall and is 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”).

Same

3. Without limiting the generality of section 2 of this Schedule, and despite any statute, regulation, order, policy, arrangement or agreement, including a collective agreement, service agencies are authorized to do the following:

1. Identify staffing priorities and develop, modify and implement redeployment plans, including the following:
 - i. Redeploying staff within different locations in (or between) premises where a service agency provides services and supports.
 - ii. Changing the assignment of work, including assigning non-bargaining unit employees or contractors to perform bargaining unit work.
 - iii. Changing the scheduling of work or shift assignments.
 - iv. Deferring or cancelling vacations, absences or other leaves, regardless of whether such vacations, absences or leaves are established by statute, regulation, agreement or otherwise.
 - v. Employing extra full-time, part-time or temporary staff or contractors, including for the purposes of performing bargaining unit work.
 - vi. Using volunteers to perform work, including to perform bargaining unit work.
 - vii. Providing appropriate training or education as needed to staff and volunteers to achieve the purposes of a redeployment plan.
2. Conduct any skills and experience inventories of staff to identify possible alternative roles in any area.
3. Require and collect information from staff or contractors about their availability to provide services for the service agency.

4. Require 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 and supports.
5. Suspend, for the duration of this Order, any grievance process with respect to any matter referred to in this Order.

Redeployment plans

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

Application of specific requirements

5. Without limiting the generality of section 2 of this Schedule, and despite any requirement set out in the governing Act or in Ontario Regulation 299/10 (Quality Assurance Measures) made under the governing Act (the “Regulation”) or in any policy directives made under the governing Act (the “policy directives”), service agencies are authorized to do the following, or are not required to do the following, as the case may be:

Reporting

1. Service agencies are not required to report any information to the Ministry as required by the Regulation or the policy directives, with the exception of the submission of serious occurrence reports as required by the policy directives.
2. For greater certainty, service agencies are still required to notify persons acting on behalf of the person with a developmental disability as required by a policy or procedure established under section 9 of the Regulation.

Documentation

3. Service agencies are not required to document information, unless it is necessary to ensure the safety, security and well-being of persons with developmental disabilities who receive services and supports from the service agency. For greater certainty, service agencies shall continue to,
 - i. maintain records and documentation respecting complaints, as required by the policy directives,
 - ii. prepare and maintain separate books of accounts and financial records for persons with developmental disabilities receiving assistance from the service agency, as required by subsection 6 (2) of the Regulation,
 - iii. document information relating to health promotion, medical services and medication for persons with developmental disabilities, as required by paragraph 3 of subsection 7 (1) of the Regulation, and
 - iv. document any alleged, suspected or witnessed incidents of abuse of persons with developmental disabilities in accordance with policies and procedures required by paragraph 1 of subsection 8 (1) of the Regulation.
4. Service agencies are not required to review or document any updates to the individual support plan of a person with a developmental disability as required under the Regulation, unless an update includes information relating to safeguards necessary to protect the health and safety of the person with a developmental disability when receiving services and supports.
5. Service agencies are not required to conduct a review of the behaviour support plan of a person with a developmental disability who has challenging behaviour as required under clause 18 (3) (f) of the Regulation unless there are significant changes related to the use of intrusive behaviour intervention strategies.

Staffing, volunteers and members of the board of directors

6. Where service agencies are not able to maintain support staff at a level identified in the person’s individual support plan as required by subsection 12 (2) of the Regulation, a service agency may adjust staffing levels and use other measures to address the safety, security and well-being of persons with developmental disabilities.
7. Where service agencies are not able to arrange for a police records check for all new staff members and volunteers as required by subsections 13 (2) and (3) of the Regulation, service agencies may defer this requirement provided that they adopt appropriate measures to ensure the safety of persons with developmental disabilities.
8. Service agencies are not required to provide any orientation, refreshers or reviews to members of the board of directors as required by the Regulation, with the exception of providing orientation to all new members of the board of directors on the service agency’s policies and procedures on abuse prevention, identification and reporting as required by clause 8 (2) (b) of the Regulation.
9. Service agencies are not required to meet the training and orientation requirements set out in the Regulation provided that they ensure staff and volunteers are sufficiently trained to meet the specific individual needs of the persons with developmental disabilities supported by staff and volunteers in a manner that promotes their health, safety and well-being while at the same time ensuring the personal safety of the staff and volunteers. However, physical restraints may only be used by staff and volunteers who have been trained in accordance with the requirements set out in the Regulation and the policy directives.

10. Where service agencies are not able to provide refresher courses, including theory and practice of all physical restraint holds, according to a retraining or recertification schedule developed by the training provider or as recommended by the training provider, service agencies may defer this requirement.

Care requirements

11. Service agencies are not required to provide any orientations for persons with developmental disabilities as required by the Regulation, with the exception of the mandatory education and awareness-building on abuse prevention and reporting.
12. For greater certainty, service agencies are still required to ensure that public health information is available and presented in a language and manner, and with the level of support, that a person with a developmental disability needs.

Temporary residential settings

13. In circumstances where alternate residential arrangements are needed, service agencies are not required to meet the requirements set out in section 26 of the Regulation, provided they adopt other measures to ensure the health and safety of persons receiving service.

Safe and secure environment

6. Nothing in this Order derogates from a service agency's responsibilities under the governing Act and its regulations, as well as any policy directives, to ensure a safe and secure environment for persons with a developmental disability.

Service agencies shall comply with *Health Protection and Promotion Act*

7. Despite anything in this Order, service agencies shall comply with any order or directive issued under the *Health Protection and Promotion Act* as it relates to a service agency.

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