

WHAT IS AN EXEMPTION?



COMMUNITY CARE FACILITIES LICENSING PROGRAM

Licensed facilities may request an exemption from meeting the requirements of specific sections of the *Community Care and Assisted Living Act*, Child Care Licensing Regulation or Residential Care Regulation. The *Act* and Regulations are the minimum standards to be met to ensure the health and safety of persons in care in licensed community care facilities. Exemptions can only be approved if there is no increased risk to the health and safety of persons in care.

A Licensee should inform or consult with persons in care, the agents or personal representatives of persons in care or the spouses, relatives or friends of persons in care regarding the application for an exemption. Within 30 days after a decision is made under Section 16 to grant an exemption, all exemption approvals are subject to appeal to the Community Care and Assisted Living Board under Section 29(3) of the *Community Care and Assisted Living Act* by the following persons:

- (a) a person in care or the agent or personal representative of a person in care, or
- (b) a spouse, relative or friend of a person in care.

If the MHO attaches terms or conditions to the exemption without the agreement of the Licensee, the Licensee has the right to reconsideration of the decision under Section 17 of the *Community Care and Assisted Living Act*. To request reconsideration, the MHO must receive the Licensee's request for reconsideration of 30 days from the date of the MHO's decision.

Exemption denials are not subject to reconsideration or appeal by the Licensee.

For some sections of the Regulations, the Medical Health Officers have delegated their authority to make decisions to either your local Licensing Supervisor or Licensing Officer. Other decisions regarding exemptions are made at the Medical Health Officer (MHO) level.

It may take some time for Licensing to process your request for an exemption as Licensing staff are required to prioritize their workload according to risk, therefore, remember to allow sufficient time for Licensing to process your request. Licensees must remain in compliance with the requirements of the Regulations until they receive approval of their exemption request.

In making a decision regarding your exemption request, the decision maker is required by legislation to be satisfied that there is no increased risk to the health and safety of persons-in-care. They need to consider the following prior to making a decision:

- Any previous exemptions or variances granted to the Licensee;
- History of compliance of the Licensee;
- History of reportable incidents and critical hazards for the facility;
- Number of persons-in-care affected;
- Reasonableness of the alternate plan to ensure health and safety;
- Length of time for which the exemption is being requested;
- Other similar exemption requests and the decisions;
- Why the current legislation (minimum standards) cannot be met;
- Risk assessment scores for the facility;
- Hazard ratings for the facility;
- If the request is granted, are there other conditions/terms that should be imposed to ensure health and safety;
- Should the exemption requirement be posted beside the facility licence;
- Local policies;
- How the persons in care, the agents or personal representatives of persons in care, or the spouses, relatives or friends of persons in care were informed of, or consulted with by the Licensee in regards to the application for an exemption; and
- What the response was, or information received, from the above named parties by the Licensee in regards to the application for an exemption.

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Requests for a MHO exemption to a section of the *Community Care and Assisted Living Act* and Regulations should be addressed to your licensing officer.

In order to assist Licensing staff to process your request in a timely manner, please ensure that you include the following information in a comprehensive, but concise manner:

- Name and address of facility (including postal code).
- Licence category and maximum capacity.
- Name(s) of licensee and manager.
- State the specific section(s) of the Residential Care Regulation, Child Care Licensing Regulation or the *Community Care and Assisted Living Act* that the approval is being requested for, and the length of time for which it is required.
- Briefly outline the circumstances for the request.
- Briefly describe how approval of this exemption will impact the health and safety of persons in care, and what measures you will have in place to ensure their continuance. Health and safety considerations could include: staffing levels, staff qualifications, programming, physical plant – indoor and outdoor, equipment and furnishings, and enhancements to safety practices (e.g. hygiene).
- Briefly describe how the Licensee informed or consulted with the persons in care, the agents or personal representatives of persons in care, or the spouses, relatives or friends of persons in care regarding the application for an exemption. (Please remember to keep the privacy of persons in care in mind when informing/consulting with the above named parties regarding the application for exemption.) This informing or consulting process may be accomplished in a variety of ways, for example:
 - Distribution of a facility wide policy regarding medication self-administration exemption requests to all persons in care/families on admission;
 - Meetings with person in care/family councils;
 - Facility newsletters;
 - Letters/notices distributed to persons in care and the other parties named above; etc.
- Briefly describe what the response was, or information that was received from the persons in care, the agents or personal representatives of persons in care, or the spouses, relatives or friends of persons by the Licensee in care in regards to the application for an exemption.
- If the approval is specific to one or more persons in care, then a letter of support may be required from each person in care's parent/guardian/or representative.

If you have any further questions, please contact your licensing officer.

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