

**Medical Health Officer Report to the Board:
Recommendation to Appoint an Administrator for Victoria Chinatown Care Centre,
555 Herald Street, Victoria, BC V8W1S5**

1. Introduction and Summary

The Island Health Community Care Facilities Licensing Program (Licensing Program) forwarded to me, on September 15, 2023, a memorandum (Licensing Program memorandum) regarding investigations at Victoria Chinatown Care Centre along with additional concerning information that was received during the course of the investigations. The investigations covered the period between February 22, 2023 and August 24, 2023 during which time seven complaints or incident reports were received and investigated. A summary of the allegations associated with these complaints or incident reports is included in section 2.1 and Table 1.

During the course of the investigations the Licensing Program was made aware, on August 22, 2023, of concern regarding the status of facility staff, specifically resignations of the full leadership team by September 29, 2023. On August 23, 2023, the Licensing Program requested that the Licensee Contact for Victoria Chinatown Care Centre submit a health and safety plan by August 29, 2023 regarding staffing coverage for the resigning leadership positions. As of September 15, 2023, the Licensing Program has not received information from the Licensee about confirmed candidates for any of the leadership positions.

Based on the findings of the investigations and the departure of key leadership staff, there is concern about the Licensee's ability to comply with minimum standards as required by legislation. The Licensing Program has therefore recommended that action be summarily taken against the licence of Victoria Chinatown Care Centre in order to maintain the health and safety of persons in care at the facility.

The duties and powers of the Medical Health Officer related to the *Community Care and Assisted Living Act* (the *Act*) are listed in sections 13 through 16 of the *Act*. Some of these roles have been delegated to Licensing Officers working for the Island Health Licensing Program.

Section 13 of the *Act* allows the Medical Health Officer to suspend or cancel a licence, attach terms or conditions to a licence or vary the existing terms and conditions of a licence. Cancelling the licence would have a considerable negative impact on the 31 residents living in the facility. It is my opinion, based on review of the Licensing Program memorandum, that attaching terms and conditions to the licence for Victoria Chinatown Care Centre will not effectively address the current risks to health, safety and dignity of persons in care.

Section 23 of the *Act* empowers the Minister to appoint an Administrator for a specified period of time, if the Minister has reasonable grounds to believe that there is a risk to the health or safety of persons in care. This duty has been delegated to the Boards of the health authorities.

Section 29 (2) of the *Act* grants the Licensee a right to appeal the appointment of an Administrator within 30 days of receiving notification of that appointment to the Community Care and Assisted Living Board. The Board's decision to appoint an Administrator could be appealed pursuant to section 29 of the *Act*.

Section 23 of the *Act* states that the Administrator's fees will be deducted from the fees paid by the persons in care. All services for persons in care paid for by the government are to be made directly to the Administrator. If these funds are insufficient the Minister (read Board) will make up the difference and this difference becomes a debt owed by the Licensee to the government, payable on demand. Essentially, the Facility is responsible for payment.

Based upon the Licensing Program's investigations, the Program has concluded that there is an immediate risk to the health and safety of persons in care. The Licensing Program has recommended that an Administrator be appointed to Victoria Chinatown Care Centre for a minimum of six months. Following careful review of the evidence provided to me in the Licensing Program's memorandum, I agree with this recommendation.

It is therefore my advice that the Board of Vancouver Island Health Authority immediately appoint an Administrator as per Section 23 of the *Act* for Victoria Chinatown Care Centre for a period of time of not less than six months. The Administrator would be expected to work with the Licensee to ensure compliance with all requirements of the *Act* and to rebuild system stability and confidence in the operation of the facility.

2. Review of Evidence

Victoria Chinatown Care Centre received an operating licence effective January 20, 1982, with the most recent reissue date effective August 12, 2022. The Licensee for the facility is the Victoria Chinatown Care Society which consists of a volunteer board. The facility has no current conditions on its licence, and the most recent risk rating was low.

2.1 Summary of Investigations and Routine Inspections.

Table 1 summarizes the findings from investigations and routine inspections conducted by the Licensing Program at Victoria Chinatown Care Centre since February 2023 to date. During this time period, seven allegations were investigated for which six had contraventions of the *Act* or the Residential Care

Regulation (Regulation) substantiated by the Licensing Program. Contraventions of the Act or Regulation were also found during two routine inspections.

Table 1. Licensing Activity at Victoria Chinatown Care Centre, February 22, to September 15, 2023

Date of Allegation or Inspection.	Category	Status	Contraventions Y/N
February 22, 2023	Allegation of Neglect and Staffing	Complete	Yes
March 14, 2023	Allegation of Physical Plant / Equipment	Complaint Inspection April 4, 2023	No
March 22, 2023	Complaint Inspection	Evidence Collection only	
May 8, 2023	Allegation of Emotional abuse	Complete	Yes
May 17, 2023	Routine inspection	Follow up required	Yes
July 6, 2023	Allegation of Neglect	Complete	Yes
July 27, 2023	Complaint Inspection	Evidence Collection only	
July 27, 2023	Routine follow up inspection	Follow up required	Yes
July 28, 2023	Allegation of Nutrition and food service	Complete	Yes
August 9, 2023	Complaint Inspection	Evidence Collection only	
August 22, 2023	Complaint Inspection	Evidence Collection only	
August 22, 2023	Routine follow up inspection	No follow up required	No
August 24, 2023	Allegation of Neglect	Complete	Yes
August 24, 2023	Allegation of Neglect and Health and Safety	Complete	Yes
August 26, 2023	Complaint Inspection	Evidence Collection only	
August 29, 2023	Complaint Inspection	Evidence Collection only	
September 8, 2023	Routine follow up inspection	No follow up required	No
September 14, 2023	Routine follow up inspection	No follow up required	No

From the Licensing Program’s investigations summarized in Table 1, the substantiated contraventions of the Act and Regulation, based on a balance of probabilities, include:

- *Community Care and Assisted Living Act:*
 - Section 7(1)(b)(i) related to staff demonstrating the skills and abilities to carry out the duties assigned and health and safety was cited as noncompliant on five occasions.

- Section 7(1)(b)(ii) related to the Bill of Rights for persons in care was cited as noncompliant on two occasions.
- Residential Care Regulation:
 - Section 21(c) related to equipment in good repair was cited as noncompliant on one occasion.
 - Section 52(1)(a)(i) related to emotional abuse on one occasion.
 - Section 52(1)(a)(iii) related to neglect was cited as noncompliant on three occasions
 - Section 82 related to implementation of care plans for persons in care was cited as noncompliant on five occasions.

Persons in care in British Columbia have the right to the promotion and protection of their health, safety and dignity, and Licensees have requirements to this effect under the *Act* and its regulations. Licensees are required to develop, implement, review and modify, as needed, care plans for each resident in long term care facilities. Licensees are also required to have written policies and procedures for the purposes of guiding staff in all matters relating to the care and supervision of persons in care; and ensure that policies are implemented by staff.

As outlined above, a number of contraventions that impact the health, safety and dignity of persons in care at Victoria Chinatown Care Centre have been substantiated. The areas of noncompliance crossed multiple areas including implementation of care plans, neglect, and emotional abuse. Some care practices associated with noncompliance occurred on repeat occasions and were repeated even after a corrective action plan was developed. It is an expectation that Licensees develop corrective action plans to address substantiated contraventions, provide these plans to the Licensing Program, and ensure that the plans are followed. As of the date of this report, two corrective action plans remain pending, and follow-up regarding the status of the corrective action plans remain outstanding for four other areas of substantiated allegations from 2023.

2.2 Resignation of Leadership Staff

During the course of investigating allegations at Victoria Chinatown Care Centre, the Licensing Program received information from onsite facility Leadership that further increase concerns regarding risks to the health and safety of persons in care. These include the resignation of all key leadership positions at the facility as follows:

On August 23, 2023, the Licensing Program requested a health and safety plan from the Licensee Contact regarding staffing coverage for the resigning leadership positions by August 29, 2023. Subsequent to this, as outlined in the Licensing Program memorandum, there have been a number of communications between the Licensing Program and the Licensee Contacts, regarding the need for a health and safety plan. The Licensing Program has concerns that the responses submitted by the Licensee referenced that the Island Health Long Term Care Program would submit or contact the Licensing Program directly to resolve the issue. The submission of health and safety, and corrective action plans for investigations is the responsibility of the Licensee.

Under Section 7(1)(d) of the *Act* a licensee must appoint a manager for a community care facility, and under section 8(3)(b) of the Regulation, if the manager of a community care facility resigns, the licensee must replace the manager. As of the date of this report, a valid plan addressing the resignations of manager and other leadership staff has not been presented to the Licensing Program by the Licensee.

2.3 Meeting the Requirements of the Community Care and Assisted Living Act.

The Licensee has the primary responsibility to operate a facility in compliance with the *Act* and Regulation. The Licensee has, however attempted to deflect and defer their responsibility to the Island Health Long Term Care program to act in a timely and responsive manner to mitigate concerns, and to ensure a consistent and effective transition of the leadership team on site. However, it is the Licensee who has an obligation to ensure the health and safety of the persons in care at all times, which includes consistent onsite leadership and safe and appropriate care practices are maintained.

3. Options, Analysis, Rationale and Recommendation

Based upon the number and nature of contraventions outlined in the Licensing Program memorandum, along with imminent resignations of the full leadership team for which a health and safety plan has not been provided, it is my opinion that action is required to protect the health, safety, and dignity of persons in care at Victoria Chinatown Care Centre.

Summary actions that a Medical Health Officer can take under the *Act* include suspending or cancelling a licence, attaching terms or conditions to a licence or varying the existing terms and conditions of a licence. Given the impending loss of leadership, it is my opinion that placing conditions on the licence would be ineffective. Further, given the considerable negative impact that cancelling the licence would have on the 31 residents living in the facility, I do not recommend this option.

Following careful review of the evidence provided to me in the Licensing Program memorandum, I agree with the recommendation from the Licensing Program that an Administrator be appointed to Victoria Chinatown Care Centre for a minimum of six months. The appointment of an Administrator will provide:

- Oversight, guidance and mentoring in the creation of effective onboarding and education tools to strengthen competencies of the leadership and care staff teams for sustainability.
- Oversight and mentoring to support consistency in communication with staff.
- Support all care staff and leadership during the transitional period to ensure healthy, safe and dignified care is provided to persons in care at all times.
- Re-training to care staff to ensure acceptable care is provided that is in compliance with the *Act*, Regulation, and Residents Bill of Rights.
- A collaborative approach to support the Licensee in ensuring compliance with the legislation.

I therefore recommend to the Board of the Vancouver Island Health Authority that an Administrator be appointed through their delegated authority under section 23 of the *Act*. Further, I recommend that this appointment continue for a time period of not less than six months.

4. Regarding the Administrator

Recommended Administrator: In consultation with the Island Health Long Term Care Program, the recommended Administrator is Derek Haynes. Contact information and qualifications are enclosed as Appendix A.

5. Terms of Reference for Administrator

A draft terms of reference for the prospective Administrator is enclosed as Appendix B. It is recommended that the letter appointing the Administrator include the following terms:

- That the Administrator is a representative of Island Health and may not make any statements to the press.
- The Administrator's contact person at Island Health will be: Lisa Grant, Residential Senior Licensing Officer, at 201-771 Vernon Avenue, Victoria BC.
- That the Administrator is to take his or her instructions from the Board; and
- A clause in which the Board may terminate the appointment of the Administrator earlier than the termination date of the appointment in its sole discretion.

6. Notice to Licensee and Persons in Care

Once the Board has made a decision to appoint an Administrator, it must serve notice of that appointment to the Licensee.

Enclosed as Appendix C is a draft letter giving the Licensee notice of the appointment of an Administrator.

It is recommended that a written notice of the appointment be sent to the Minister of Health although this is not a statutory requirement.

The Board should also plan to notify the individuals in care and their families of the appointment of an Administrator.

Sincerely,

A handwritten signature in blue ink that reads "Murray Fyfe". The signature is written in a cursive style with a large initial 'M' and a stylized 'Fyfe'.

Murray Fyfe, MD, MSc, FRCPC
Medical Health Officer.