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# ADMINISTRATIVE PENALTY ORDER SUMMARY TO BE MADE AVAILABLE IN HOME

Pursuant to the *Retirement Homes Act, 2010* S.O. 2010, Chapter 11, section 93.

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Butternut Manor Uxbridge Inc.  
o/a Butternut Manor  
3 Norm Goodspeed Drive  
Uxbridge, L9P 0B7

## ADMINISTRATIVE PENALTY ORDER 2024-T0070-93-01 – BUTTERNUT MANOR

The Deputy Registrar of the Retirement Homes Regulatory Authority (the “Deputy Registrar” and the “RHRA”, respectively) has reasonable grounds to believe that Butternut Manor Uxbridge Inc. (the “Licensee”) operating as Butternut Manor (the “Home”) has contravened sections of the *Retirement Homes Act, 2010* (the “Act”) and Ontario Regulation 166/11 (the “Regulation”).

The Deputy Registrar issues this Order to Pay an Administrative Penalty under section 93 of the Act to encourage the Licensee to comply with the requirements under the Act and Regulation.

### CONTRAVENTION

The Deputy Registrar has reasonable grounds to believe that the Licensee contravened the following sections of the Act and Regulation:

- Section 23(1)(a) & (b) of the Regulation – failing to develop and implement a written behaviour management strategy.
- Section 67(1) of the Act – failing to protect residents of the Home from abuse by anyone.
- Section 74(a)(i) of the Act – failing to immediately investigate every alleged, suspected or witnessed incident of abuse reported to the Licensee.

### BRIEF SUMMARY OF FACTS

On November 9, 2023, an RHRA inspector conducted an inspection at the Home, following a report alleging inappropriate behaviour by one resident towards another.

The resident who was the subject of the report had a history of inappropriate behaviour towards other residents, including entering resident rooms uninvited and non-consensual interactions with other residents. Despite that the home put a behaviour management plan in place, the resident’s problematic behaviour continued. The Licensee did not respond to concerns about the resident appropriately, including failing to properly investigate alleged

misconduct, and did not revise the behaviour management plan or implement effective behaviour management.

## **ADMINISTRATIVE PENALTY FACTORS**

The Deputy Registrar considered the factors contained in subsection 60.1(1) of the Regulation in determining the amount of the Administrative Penalty:

### **a) Severity of Adverse Effect / Potential Adverse Effect:**

The severity of the actual adverse effect on residents in this case is not entirely clear. There is evidence that residents reported being upset by the subject resident's behaviour. The potential adverse effects associated with the resident's behaviour and the licensee's conduct is significant. Incidents including non-consensual touching or entering a resident's private space without permission can result in major emotional, psychological, and in some cases physical harm. Additionally, had the Licensee responded to concerns appropriately and implemented effective behaviour management, the continued improper conduct may have been avoided. The Licensee also failed to investigate a report of possible abuse that involved a resident with an existing history of similar incidents. In light of the serious potential harm associated with the resident's behaviour, and the Home's failure to implement effective behaviour management strategies and interventions or properly investigate alleged, suspected, or witnessed incidents, the non-compliance in this case falls into the major range.

### **b) Mitigation of Contravention:**

Staff at the Home were made aware of a resident's problematic behaviour and were told to monitor his behaviour. Additionally, staff developed a behavioural management plan for the resident, which included certain interventions and other steps, such as locking resident suites. Those efforts have not been effective at managing the resident's behaviour. Since the inspection, the Licensee reached out to the resident's physician for assistance. The Licensee has created a check-in list for when staff will check on the resident as well as updating the resident's behaviour management plan. The Licensee is engaging in Compliance Support with the RHRA, focusing on plans of care and behaviour management. This factor serves to lower the overall quantum of the penalty.

### **c) Previous Contraventions:**

The Licensee has previously been cited with non-compliance relating to the same resident. The Licensee has previously been cited with behaviour management (s.23(1)(a) & (b) of the Regulation) on two occasions and failure to protect from abuse (s. 67(1) of the Act) on one occasion. Additionally, at a subsequent inspection conducted on March 6, 2024, the Licensee was cited

again with behaviour management contraventions (s.23(1)(a) & (b) of the Regulation). The history of contraventions is an aggravating factor in determining the administrative penalty quantum.

**d) Economic Benefit:**

The Licensee did not receive any direct economic benefit from this non-compliance, and so this is a neutral factor.

**e) Purpose of Administrative Penalty:**

The administrative penalty is required to maintain compliance with the Act and Regulations going forward and that future instances of this non-compliance will not be tolerated.

**Issued on May 24, 2024.**