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PDD Safety Regulations - Standard 8
Summary, Impacts and Recommendations

While everyone agrees that the health and safety of individuals is important, and welcomes processes that support that outcome, it is less clear whether the new regulation is likely to achieve those aims.

The *Regulation* requires a range of formal inspections of housing and policies. Any infractions must be addressed by the service provider in order for the individual(s) living in that home to continue to receive PDD funding for support there.

Implementation of this *Regulation* has had unintended and, in some cases, serious consequences for those receiving PDD-funded services.

Whereas other safety regulations and codes identify the owner or landlord of the property as being responsible for meeting building safety standards, **the *PDD Safety Standards Regulation* identifies the service provider** as responsible for the safety of the home.

ACDS has commissioned a report based on an analysis and comparison of health and safety regulations and standards currently in place, interviews with eight service providers from across Alberta who have experience with the application of the regulation, and perspectives of self-advocates and allies of the Disability Action Hall.

This is a summary of that report. The complete document is available to ACDS members at ACDS.ca

Standard 8 and the new PDD Safety Regulations come into effect on April 1, 2015.

Potential Challenges

The *Persons with Developmental Disabilities Safety Standards Regulation* is relatively new safety legislation with a broad range of potential impacts on the lives of adults with significant disabilities, their families and service providers.

ACDS has identified a number of potential challenges with the addition of Standard 8 to the regulations:

- Only a portion of those with PDD-funded services are covered by *the Regulation*
- Service providers who are not the landlord or legal tenant have no power to enforce requirements found in inspection reports
- Inspection reports include requirements that have significant costs and do not enhance safety
- The increased administrative and paperwork burden takes away from support time
- Rights to privacy and control of the home environment are not respected
- Additional building code safety requirements make landlords less likely to want to rent to individuals with developmental disabilities
- Individuals are forced to choose between homes they love and services they need
- Service provider staff are frustrated by demands that deter inclusion and create anxiety for individuals they support.

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Service providers have a strong commitment to the safety *of those they support. They have policies and procedures for medication administration, bathing, and are diligent about training and supervision.*

They meet the CET safety standards. *They welcome the opportunity to show their commitment to service excellence to CET surveyors and work diligently to correct practices that deter the safety of individuals.*

The Creating Excellence Together (CET) Accreditation standards takes not only individual safety and good operational practices into account, but also broader principles driving services in the field, such as quality of life, inclusion and personal control.

Standards related to the home (1 & 12) require that the individual's home is safe, comfortable, has sufficient space and a functional layout. These standards also require that the person's home reflect their preferences and convey a sense of belonging.

Rights standards (4 & 15) require that staff support the individual's right to private space and awareness of rights, while personal control standards (5 & 16) require the individual to have control over his or her life and be as independent as possible.

Standards 10 and 21 address safety from physical harm in the individual's living environment. Not only is the individual's home required to be safe, but the individual and staff are required to practise safety exercises, such as how to get out of the home safely in the event of a fire.

Safe housing and accommodation are also governed by:
The *Safety Codes Act* (2012), the *Public Health Act,* additional rules that apply to secondary suites, the *Supportive Living Accommodation Licensing Regulation* (2010) under the *Supportive* PDD Safety Standards.

An Added Burden

Landlords or owners are required to meet all of the standards in the *Minimum Housing and Health Standards* of the *Public Health Act* regardless of the nature of the renter.

The *PDD Safety Standards Regulation* forces an inspection process regardless of whether the tenant is unhappy or there is reason to believe an infraction exists. Unlike health or safety codes inspections, which are triggered only by a request/complaint, or a history of infractions.

Furthermore, it shifts responsibility for seeing that infractions are addressed from the owner/landlord to the service provider, regardless of whether the service provider has any legal relationship or leverage with the owner/landlord.

Arbitrary Demands

In some instances, service providers have expressed concern that the inspectors they had worked with had different interpretations of requirements:

Some inspectors appeared focused on aesthetics like paint colour or the shape of furniture belonging to the individual, rather than safety during their inspection, although these issues did not appear in the report.

Inspectors vary in their interpretation of standards and there can be confusion over which building code applies in the case of older homes:

In one case, an inspector interpreted wheelchair accessibility as requiring a sprinkler system in the home.

Administrative Costs

Service provider staff are expected to contact individuals, families and landlords to explain the regulation, obtain permission for inspections and communicate follow-up requirements.

Service providers are required to submit paperwork requesting the inspections annually, and submit paperwork to PDD reporting inspection results.

When repairing a deficiency, paperwork is required for temporary permission to continue services, and for extensions if contractors can't be found to complete the work within 30 days. More forms are completed when work is done.

No additional funding accompanies the extra administrative work, so staff time must be shifted from direct service to individuals.

A Right to Privacy

Service providers have sometimes spent considerable time reinforcing with individuals their right to privacy in their home and control over who comes in and what they do there.

Then the *PDD Safety Standards Regulation* comes into effect and the service provider staff must now tell the individual that they must let the inspector into their home. This interferes with the trust relationship between service provider and client.

Discrimination & Displacement

The rental housing market has limited stock with vacancy rates below 1% in some Alberta communities. The number of properties that are suitable for people with disabilities with a low income is even more limited.

Self-advocates have expressed concern that if additional burdens are placed on landlords, people with developmental disabilities will be evicted and landlords will not want to rent to anyone with a developmental disability.

People are already being affected:

In one known case, an individual had nowhere to go except into Alberta Hospital when the window in her home of many years was judged inadequate as an emergency exit.

In another instance, a basement window in an older home was judged to be an inch too small, but no one sleeps in the basement.

In yet another instance, two roommates who had lived in an older home together for over 20 years were given 90 days' notice to move out when the owner received a report with more repairs than he was prepared to make.

Rents for some people with overnight support are being raised as a result of the *PDD Safety Standards Regulation*.

Only those who either do not live on AISH or who have well-off families can afford to pay for sprinkler systems or other changes that are required because they have a disability, but which would not be required otherwise.

Non-profit service providers also have limited resources.

Who Is and Isn't Covered?

The *PDD Safety Standards Regulation* applies to a small set of individuals and leaves others seemingly unprotected.

Exempt from mandatory inspections are:

- Albertans who receive funded supports outside of the PDD system
- Persons who are married or living with a relative
- Family-managed services
- PDD-funded individuals who *do not* receive overnight supports.

Recommendations
Which you can use when speaking to MLAs and Government officials.

The current version of the *PDD Safety Standards Regulation* has good intentions but produces unintended consequences:

- Assigns responsibility for housing safety to service providers regardless of whether they have legal control over the housing.
- Requires a set of multiple inspections that overlap considerably in nature without an evident increase in safety.
- Whatever benefit in safety accrues is limited only to those who have overnight support without family-managed services.
- This leaves a large number of people with PDD-funded services without the supposed safety protection offered to peers by the *Regulation*. Why is more regulation required for those supported overnight by accredited organizations?

If PDD chooses to address safety issues with regulatory measures, here are some potential recommendations:

1. **Require only one inspection that addresses standards in both the *Alberta Building Code* and *Minimum Housing and Health Standards* of the *Public Health Act*.** Once safety issues have been addressed, there is little to justify additional intervention by the PDD system.

2. **Provide more explicit and detailed information to service providers about the standards that will be addressed in inspections.** Service providers often have a disconnect between what they read in the *PDD Safety Standards Regulation* and what inspectors identify as issues because the inspections are based on what is in the *Public Health Act's Minimum Housing and Health Standards* and in the *Alberta Building Code*.

3. **Recognize what is and is not under the control of service providers by virtue of their legal relationship to property owners or landlords.** Assign responsibility for action to the party with the power to take effective action. In the case of services and related policies identified within the regulation, responsibility falls to the service provider. In the case of property, responsibility belongs to the owner.

4. **Respect the rights of owners/landlords and individuals with disabilities to control their property.** Both parties have rights to be informed and involved in the inspection. Creating an adversarial relationship is not in the best interests of individuals with developmental disabilities, their families and service providers when the goals are inclusion, respect and improved quality of life.

5. **Consider a moratorium on full application of the *Regulation*.** Engage individuals, families, and service providers in discussions about the best means to ensure the safety of all individuals supported by PDD-funded services prior to April 1, 2015.

6. **Review applicable standards to better reflect home-based, community services.** Alberta has been a leader in embracing inclusion and community living. Standards and regulations should reflect that people with disabilities are living and receiving services in their own private residences.