



## INFORMATION BULLETIN – EXTENDICARE January 11, 2021

### WHAT IS WRONG WITH THIS PICTURE?

- On October 16, 2014 the U.S. Justice Department reported that Extendicare and its subsidiary Progressive Step Corporation were required to pay \$38 million to the United States and 8 states to resolve allegations that the company billed Medicare and Medicaid for “materially substandard nursing services that were so deficient that they were labelled effectively worthless”. So bad was the situation that Extendicare was required to “enter into a five year chain-wide Corporate Integrity Agreement”. <https://www.justice.gov/opa/pr/extendicare-health-services-inc-agrees-pay-38-million-settle-false-claims-act-allegations>
- In 2018, Extendicare was one of the companies named in a class action lawsuit brought by families alleging negligence. Premier Wynne called the allegations “extremely disturbing”. <https://www.ctvnews.ca/health/experts-blame-staffing-issues-poor-oversight-for-nursing-home-problems-1.3914580>
- In 2019 workers employed by Extendicare Falconbridge in Sudbury protested outside the facility citing profits of \$31.7 million in 2018 while short staffing their facilities. <https://www.thesudburystar.com/news/local-news/extendicare-workers-concerned-about-care-for-residents>
- January, 2020 – reports of woman abused by staff at an Extendicare facility in Alberta where she died of dehydration and was left sitting in wet diapers which caused a urinary tract infection <https://www.cbc.ca/news/canada/edmonton/extendicare-nursing-home-death-dehydration-1.5436277>
- April 2020 Outbreak declared at Extendicare Timmins <https://www.baytoday.ca/more-local/covid-19-outbreak-declared-at-timmins-longterm-care-facility-2242133>
- In May 2020 families of Orchard Villa residents were alleging neglect and demanding a criminal investigation after over 70 had died there. <https://www.durhamradionews.com/archives/126817>
- May, 2020 second outbreak declared at Extendicare Timmins <https://northernontario.ctvnews.ca/staff-member-at-long-term-care-home-in-timmins-tests-positive-for-covid-1.5192852>
- June 11, 2020 - NDP leader Jagmeet Singh expresses that he is appalled that Extendicare committed to pay \$10.7 million in dividends to shareholders while spending only \$300,000. Of its own money on its COVID-19 response. [https://www.huffingtonpost.ca/entry/extendicare-coronavirus-investor-payout-jagmeet-singh\\_ca\\_5ee2931ac5b62d56fb4d99fa](https://www.huffingtonpost.ca/entry/extendicare-coronavirus-investor-payout-jagmeet-singh_ca_5ee2931ac5b62d56fb4d99fa)
- Also in June, 2020, the Scarborough hospital system had to take over Extendicare’s troubled Guildwood facility after almost a third of its residents tested positive for COVID <https://www.thestar.com/politics/provincial/2020/06/16/scarborough-hospitals-take-over-troubled-guildwood-nursing-home.html>

- Also in June, 2020, the CBC was reporting that Orchard Villa the scene of a major COVID outbreak and over 70 deaths of residents had been in serious trouble for years  
<https://www.cbc.ca/news/canada/toronto/orchard-villa-inspection-report-1.5618424>
- July 2020 Outbreak declared at Extendicare in Timmins  
<https://www.timminspress.com/news/local-news/outbreak-declared-at-extendicare-timmins>
- August, 2020 another staff member at Extendicare Timmins tests positive  
<https://northernontario.ctvnews.ca/another-timmins-extendicare-employee-tests-positive-for-covid-19-1.5079931>
- August, 2020, Extendicare announces that 69 of its long term care and retirement facilities are in outbreak 69 <https://www.globenewswire.com/news-release/2020/08/13/2078290/0/en/Extendicare-Announces-2020-Second-Quarter-Results.html>
- In August, 2020 the Toronto Star reported that Extendicare’s subsidiary ParaMed applied for and got \$21 million under the Canada Emergency Wage Subsidy (CEWS)  
<https://www.thestar.com/news/canada/2020/08/15/extendicare-subsiary-gets-taxpayer-funded-wage-subsidy-while-dividends-paid-to-shareholders.html>
- In September, 2020 the Ottawa hospital had to take over two other Extendicare facilities – Laurier Manor and West End Villa <https://www.cbc.ca/news/canada/ottawa/ottawa-hospital-resident-care-west-end-villa-laurier-manor-1.5739682>
- October, 2020 Outbreak declared at Extendicare Peterborough  
<https://www.thepeterboroughexaminer.com/news/peterborough-region/2020/10/07/respiratory-outbreak-declared-at-extendicare-peterborough-riverview-manor-outbreak-declared-over.html>
- In October, 2020 a class action lawsuit was filed against West End Villa, alleging that Extendicare failed to provide PPE to its staff and that it was short staffed and failed to take adequate pandemic-related precautions. Staff were afraid to show up for work there.  
<https://www.globenewswire.com/news-release/2020/10/01/2102413/0/en/Class-Action-Commenced-Against-Extendicare-West-End-Villa.html> and  
<https://ottawacitizen.com/news/local-news/they-are-afraid-worker-says-staff-fear-showing-up-at-west-end-villa-long-term-care-home>
- November, 2020 Another staff member tests positive at Extendicare Timmins  
<https://northernontario.ctvnews.ca/staff-member-at-long-term-care-home-in-timmins-tests-positive-for-covid-1.5192852>
- In December, 2020 North York General hospital had to take over Extendicare managed Tendercare <https://toronto.ctvnews.ca/toronto-hospital-to-take-over-long-term-care-home-battling-deadly-covid-19-outbreak-1.5243253>
- December, 2020 the Saskatchewan Health Authority takes over management of Extendicare Parkside after 36 dead. <https://regina.ctvnews.ca/36th-covid-19-death-reported-at-extendicare-parkside-1.5247730> and

<https://www.saskhealthauthority.ca/news/releases/Pages/2020/December/SHA-enters-into-temporary-co-management-agreement-with-Extendicare-Parkside-.aspx>

- December, 2020 Saskatchewan Union of Nurses calls for an inquiry into Extendicare Parkside claiming the facility is dirty, unkempt, and equipment in ill repair.  
<https://regina.ctvnews.ca/sask-nurses-union-calling-for-inquiry-into-extendicare-parkside-conditions-1.5232929>
- December, 2020 outbreak declared at Extendicare, Kawartha Lakes  
<https://globalnews.ca/news/7511793/covid-19-extendicare-kawartha-lakes-lindsay-outbreak/>
- January, 2021 – Death rate continues to rise at Extendicare managed Tendercare  
<https://www.thestar.com/news/investigations/2021/01/09/its-the-seniors-who-suffer-73-residents-have-died-at-tendercare-grieving-families-ask-wheres-the-accountability.html>
- January, 2021 – Outbreak at Extendicare St. Catharines. <https://www.chch.com/niagara-region-is-reporting-multiple-covid-outbreaks-in-long-term-care-homes-including-extendicare-in-st-catharines/>
- January 7, 2021 – Outbreak reported at Extendicare Kapuskasing  
<https://www.timminstoday.com/coronavirus-covid-19-local-news/new-covid-case-reported-outbreak-declared-at-kapuskasing-extendicare-3241113>

### Government's Response?

- August, 2020 Extendicare announces receipt of \$10.2 million in revenue or expense recovery association with various provincial government programs, along with \$17.4 million in pandemic pay fully funded by the Ontario and Alberta governments to allow wage increases for front-line employees <https://www.globenewswire.com/news-release/2020/08/13/2078290/0/en/Extendicare-Announces-2020-Second-Quarter-Results.html>
- November, 2020, Extendicare Stittsville receives an additional 256 beds and an additional **investment of \$26,594.560 from the province for upgrading the 256 spaces.**  
<https://stittvillecentral.ca/stittville-extendicare-to-receive-26-5m-in-provincial-funding-for-new-long-term-care-facility/>
- November, 2020, Extendicare Kingston is given funding for a new 192 bed facility – 42 additional beds get upgrade funding <https://www.iheartradio.ca/radio-user-home/two-more-kingston-area-long-term-care-homes-get-expansion-funding-1.14012839>
- November, 2020, Extendicare awarded \$6 million from the provincial government for a rebuild of Extendicare Sudbury Falconbridge <https://northernontario.ctvnews.ca/extendicare-begins-construction-of-new-256-bed-long-term-care-home-in-sudbury-1.5194579?cache=>
- **In December the CBC reported that Extendicare and Sienna Senior Living Inc. paid a combined total of \$174 million in dividends while receiving \$157 million in federal and**

**province COVID-19 relief.** CBC reported that both paid a combined total of \$74 million in the year that more than 480 residents and staff at their care homes died of COVID-19.

<https://www.cbc.ca/news/canada/toronto/big-spend-long-term-care-aid-dividends-1.5832941>

- Extendicare’s average occupancy dropped to 90% in 2020, down from 2019 because of reduced admissions due to COVID-19, however, the revenue base was protected because full funding was preserved in Ontario for the remainder of the year and additional funding to offset the impact of COVID was also provided in each of the western provinces in which Extendicare operates. <https://ca.finance.yahoo.com/news/extendicare-announces-2020-third-quarter-223900644.html>

### How Did Extendicare Do Financially?

- October, 2020 announcement of a cash dividend of \$0.04 per common share for the month of October, 2020. <https://ca.finance.yahoo.com/news/extendicare-announces-october-2020-dividend-120000973.html>
- “Revenue up 10.1% or \$27.2 million to \$296.8 million; driven by COVID-19 funding of \$28.7 million, LTC funding enhancements and growth in retirement living and other operations, partially offset by a 9.9% decline in home health care average daily volumes (ADV).” <https://ca.finance.yahoo.com/news/extendicare-announces-2020-third-quarter-223900644.html>
- “Earnings from continuing operations up \$29.3 million to \$34.6 million; primarily driven by CEWS, as noted above for ParaMed (\$37.3 million net of tax), partially offset by estimated COVID-19 costs in excess of funding (\$6.4 million net of tax) and the volume driven decline in NOI of the home health care segment.” <https://ca.finance.yahoo.com/news/extendicare-announces-2020-third-quarter-223900644.html>
- “AFFO<sup>(1)</sup> of \$42.8 million (\$0.48 per basic share), up \$29.1 million; reflecting the increase in earnings from continuing operations (including impact of CEWS and estimated costs of COVID-19 in excess of funding, net of tax, of \$30.9 million or \$0.35 per basic share).” <https://ca.finance.yahoo.com/news/extendicare-announces-2020-third-quarter-223900644.html>
- **Nine Months 2020** - Revenue up 5.7% or \$46.0 million to \$847.6 million; earnings from continuing operations up \$16.7 million to \$27.0 million; primarily driven by CEWS (\$37.3 million net of tax) and largely offset by estimated COVID-19 costs in excess of funding (\$14.5 million net of tax) and the volume driven decline in NOI of home health care operations; Earnings from discontinued operations up \$1.5 million to \$9.7 million; reflecting releases of the Company’s captive’s reserves of \$9.5 million compared to \$6.4 million in the prior year, and a \$1.9 million reduction in foreign exchange and fair value adjustments; Dividends declared of \$32.2 million in 2020, representing approximately 56% of AFFO. <https://ca.finance.yahoo.com/news/extendicare-announces-2020-third-quarter-223900644.html>

## STATEMENT OF CLAIM – WILL DAVIDSON LLP.

<https://www.willdavidson.ca/statement-regarding-our-ongoing-investigation-into-orchard-villa-retirement-residence/>

“We are attaching a copy of our Amended Statement of Claim which adds Extendicare (Canada) Inc. as a party defendant. Extendicare (Canada) Inc. began managing Orchard Villa starting January 25, 2015.

Gary Will, who is lead counsel on the case and is Managing Partner of Will Davidson LLP, confirmed that the Amended Statement of Claim was issued on June 23, 2020 naming Extendicare (Canada) Inc. as a co-defendant.

According to Mr. Will:

“In 2013, the US Department of Justice prosecuted Extendicare under the False Claims Act. According to the US Department of Justice, Extendicare’s violations included billing both Medicare and Medicaid for materially substandard nursing; failure to meet Federal and State standards; and failure to provide enough skilled nurses for patients requiring their services.”

“To settle the suits, in October 2014 Extendicare agreed to pay \$38,000,000.00 to the Federal government and eight US states. This was the largest failure of care settlement in the US Justice Department’s history.

As a further term of the agreement, Extendicare also had to enter a chain-wide five year corporate integrity agreement with the Department of Health and Human Services.

“On November 7, 2014, Extendicare announced the sale of its American portfolio of senior care communities for \$870,000,000.00. It did this with a view to growing and expanding its business in Canada.”

“A few months later the defendant Southbridge Healthcare Inc. announced that they had hired Extendicare who they described as a recognized leader in quality clinically based services to work at Orchard Villa.”

“From 2015 onwards, residents and family members of residents at Orchard Villa noticed a significant decline in the level of services. Orchard Villa was investigated by the Ministry of Long Term Care on nineteen occasions from 2017 to 2019 in response to specific complaints concerning serious deficiencies in the level of care at Orchard Villa. The Ministry spent over 43 days at Orchard Villa investigating the complaints. The Ministry issued 65 written warnings, 32 voluntary plans of correction, 13 compliance orders and referred 3 matters to the Director.”

According to Mr. Will:

“What due diligence did Southbridge Care Home Inc. perform before hiring a company like Extendicare to manage the home at Orchard Villa? Extendicare was prosecuted by the US Department of Justice for materially substandard nursing services that were so deficient that they were effectively worthless. Extendicare then pays one of the largest failure of care settlement in US Justice Department history in October 2014 and within three months they are operating Orchard

Villa. Yet Southbridge Care Home Inc. describes Extencicare as a recognized leader in quality clinically based services.”

“After mismanaging Orchard Villa for many years leading up to the outbreak of Covid-19, when Covid-19 hit both the owners and managers of Orchard Villa were woefully unprepared to dealing with the crisis. Orchard Villa has the very highest death rate in a long term care facility in Ontario with 85 deaths and a total of 269 infections. This home was grossly mismanaged. Extencicare and Southbridge need to take responsibility for what they have created. These companies must be held to account and there must be justice for the residents and their families.”

The Representative Plaintiff, Sylvia Lyon had the following statement:

“I noticed care at Orchard Villa started to decline in 2015 after Southbridge took over and contracted Extencicare to manage the health care side of their operations. But until now, I had no idea that Extencicare had been sued in the US for not providing proper care to American residents. So why in the world would Southbridge hire Extencicare after they paid the largest fine in US history”

**Full Statement of Claim can be found here: <https://www.willdavidson.ca/wp-content/uploads/2020/06/2005030-Amended-Statement-of-Claim.pdf>**