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Corporate Governance Insights: Ontario Long-Term Care

The David and Sharon Johnston Centre for Corporate Governance Innovation

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Introduction

In 2021, researchers at the David & Sharon Johnston Centre for Corporate Governance Innovation embarked on a project to learn and share insights about corporate governance in Ontario's long-term care organizations.

This report summarizes the findings of our research, in five parts.

In part one, a brief background on long-term care, and what the system looks like in Ontario. In part two, a discussion of our motivations for learning about how Ontario's long-term care organizations govern themselves. In part three, a summary of the Centre's approach to studying long-term care corporate governance. In part four, the insights we uncovered about long-term care corporate governance. And, in part five, the project's conclusions, and recommendations for further research.

Background

What is long-term care?

Long-term care is variably defined. According to the World Health Organization (WHO), it is “a means to ensure that older people with a significant loss of capacity […] can maintain a functional ability consistent with their basic rights, fundamental freedoms and human dignity” (2015, p. 127). Long-term care can be provided in different places—at home or in a facility—and by different caregivers, including unpaid family members and paid workers. The WHO recommends that the governance of long-term care begin at the national level, through legislation and coordination. However, “in most countries”, they note, “long-term care falls between different ministries […] this division affects the quality of long-term care services as it can lead to fragmentation and complex arrangements for financing, regulation, information systems and management of services” (2021, p. 12).

In Canada, the long-term care system closely mirrors the WHO’s assessment, as it is fractured by design. Under the Canadian Constitution, provinces and territories are responsible for delivering most health care services—including long-term care—which are funded by provincial or territorial and federal taxes (Government of Canada, 2019). As a result, long-term care is a regional patchwork assemblage, in its administration and delivery. “Jurisdictions offer a different range of services and cost coverage”, notes the Federal Government; “Consequently, there is little consistency across Canada in what facilities are called […] the level or type of care offered and how it is measured; and how facilities are governed or who owns them” (Government of Canada, 2004).

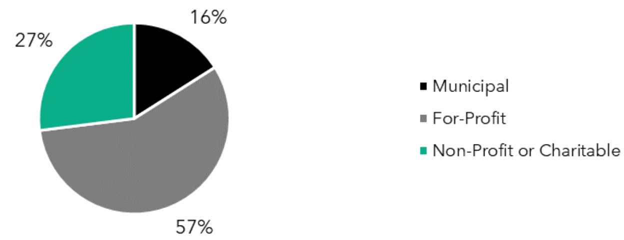
In Ontario, long-term care is further fragmented in its administration and delivery, via services and facilities that include in-home care, retirement homes, and long-term care homes. Long-term care homes in the province—which are the focus of this report—provide “help with most or all daily activities” and “access to 24-hour nursing and personal care” (Ministry of

Long-Term Care, 2022). Their scope aligns with the WHO's description of facilities-based long-term care, which "provide[s] a variety of services, including medical and assistive care, to people who are unable to live independently in the community" (WHO, 2021, p. 54).

Long-term care homes in Ontario are partially funded by the provincial government, which pays for nursing and personal care, while residents pay for "accommodation charges such as room and board"; the maximum monthly rate for a private room is CAD $2,701.61 (Ministry of Long-Term Care, December 21, 2021). Homes are regulated under the provincial *Long-Term Care Homes Act,* 2007 and must have a license to operate (Ministry of Long-Term Care, 2022). As dictated by the Act, an administrator "oversees the long-term care home and is responsible for its management", as the most senior member of staff (Ministry of Long-Term Care, December 20, 2021).

Ontario has a total of 627 long-term care homes (Canadian Institute for Health Information (CIHI), 2021a). As shown in *Figure 1*, licensees include several types of organizations: municipalities (16% of homes), for-profit corporations (57% of homes), and non-profit corporations (27% of homes, including those run by charitable organizations) (Government of Ontario, 2020). Throughout this report, licensees will be referred to as *organizations*.

Figure 1. Long-term care home types in Ontario (n=627)



Motivations

Why study long-term care corporate governance?

For over 20 years, the Johnston Centre has been the University of Toronto's home for research and insights about corporate governance. Last year, we ventured for the first time toward the study of long-term care, to learn more about how organizations offering facilities-based care in Ontario govern themselves.

Corporate governance can be defined as the structures and processes that are used to make decisions in an organization. One of the most common structures is a governing body, a group of people that have been given the authority to make decisions. A board of directors is one example of a governing body. While the duties and responsibilities of the board can vary, it is generally responsible for ensuring that management—including the CEO—is accountable for its decisions in implementing a strategy that has been approved by the board itself. A board of directors has the highest level of oversight in an organization.

We were motivated to take a closer look at corporate governance in long-term care for two key reasons: 1) public scrutiny on long-term care organizations in Canada and globally, which increased during the COVID-19 pandemic, and 2) a knowledge gap in publicly available information on long-term care corporate governance, which we observed during the early stages of our research. Each motivation will be discussed in further detail in this section.

The COVID-19 pandemic has disproportionately affected long-term care home residents in Ontario. While only 2% of total cases in the province have occurred among long-term care home residents (between January 15, 2020 and April 9, 2022), 35% of deaths from the virus were among residents of long-term care homes (Public Health Ontario, 2022).

The pandemic revealed and exacerbated vulnerabilities and gaps in the long-term care sector, highlighting inadequate staffing, funding, and infrastructure, and the risks of the care of older persons and of care in congregate settings (Applegate & Ouslander, 2020; D'Adamo et al., 2020; National Collaborating Centre for Methods and Tools, 2020).

At the Johnston Centre, the impact of the pandemic on long-term care home residents prompted questions around decision-making and oversight within long-term care organizations, including the structures and processes that constitute corporate governance.

Ontario long-term care organizations support and care for nearly 80,000 people (CIHI, 2021b). However, the discussion of corporate governance structures and processes within long-term care organizations is notably absent from discourse in both corporate governance research and long-term care research, which we observed when conducting a preliminary literature review in the early stages of the project. Very little research has been disseminated regarding how long-term care organizations govern themselves, within or beyond regulatory requirements.

This information scarcity spurred our curiosity, as we formulated research questions that included *What does corporate governance look like in Ontario's long-term care organizations? Are there differences in corporate governance among long-term care organizations? How does long-term care corporate governance compare to other sectors?*

While we did not expect to conclusively answer all our research questions, we aimed to spark further investigation that continues to address the knowledge gap we have observed in the study of long-term care organizations and of corporate governance. Ultimately, the intended outcome of our project is to share useful information about the corporate governance landscape of long-term care in Ontario, including insights for long-term care leaders that can support their decision-making and oversight.

Approach

How did we study Ontario long-term care corporate governance?

We designed the research project using a two-phase mixed-methods approach to data collection. First, we surveyed long-term care leaders, to gather foundational information about corporate governance in their organizations. Second, we interviewed some of our survey participants, to learn more about their survey responses, and to inquire further about the corporate governance structures and processes in their long-term care homes. We wanted to hear directly from providers about successes and challenges.

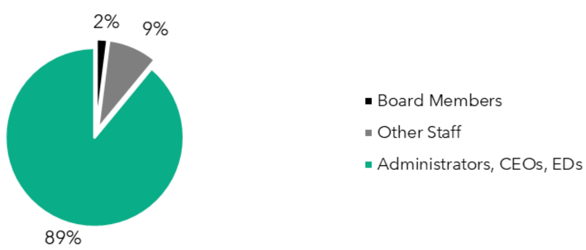
We created the survey using Qualtrics online software. In the summer of 2021, we distributed the survey via three channels: 1) a contact list of 570 administrator emails, which we sourced from long-term care organization websites, and from provincial health and social services directory thehealthline.ca, and 2) and 3) the online newsletters of project supporters and sector associations AdvantAge Ontario and the Ontario Long Term Care Association. Together, these organizations represent almost all long-term care homes in the province, through their membership bases. We based our sample size on the total number of long-term care homes in Ontario (627).

We invited participation from people with knowledge of the corporate governance structures and processes of their long-term care organizations. Potential participants included administrators and other senior staff, owners and executives, and board members. We primarily targeted administrators, as they are one of the most accessible groups within long-term care leadership, due to the public disclosure of their contact information via thehealthline.ca. We knew they were less likely to be board members, and that they might not have direct access to or regular interaction with the board (especially in the case of multi-home long-term care organizations). However, understanding an administrator’s perception of and interaction with the board of directors, is vitally important to understanding the corporate governance landscape in long-term care. Senior managers are (typically) integrally involved in sharing information with their boards of directors, and implementing processes and procedures approved by the board.

The survey was active for a period of four weeks. 134 long-term care leaders took the time to submit complete or partially complete surveys, a response rate of 24% (relative to the number of people we contacted directly). To encourage participation and mitigate against biases, we did not require responses for any of the questions. As a result, participation rates varied among questions. Possible limitations in the targeted population group's knowledge of corporate governance structures and processes within their organization—as well as potential discomfort or hesitation around participating in the survey, given heightened public attention on long-term care homes during the pandemic—might explain both the overall response rate, and the variable response rates between questions.

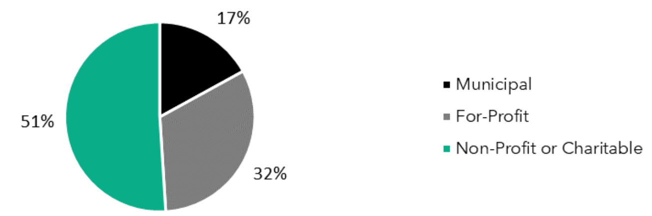
In the survey, we first asked participants to identify their role in the long-term care organization they represent. As shown in *Figure 2*, most respondents (n=134) identified as senior staff. 89% identified as administrators, CEOs, and EDs; 9% as other long-term care home staff; and 2% as board members. Therefore, the responses we received from participants to subsequent survey questions primarily represent the perspectives of senior managers, and their observations of or relationships to the board.

Figure 2. Survey participants by role (n=134)



Participants were also asked to identify the type of home they represent (*see Figure 3*). 51% of respondents (n=134) indicated that they represent non-profit (37%) or charitable (14%) homes, 17% identified as municipal representatives, and 32% as for-profit representatives.

Figure 3. Survey participants by long-term care home type (n=134)



Relative to the total distribution of long-term care homes in Ontario (see *Figure 1*), our respondent population skewed more heavily towards representing non-profit and charitable homes. 27% of homes (n=627) in Ontario are non-profit or charitable, while over half of our respondents identified as non-profit or charitable home representatives. In contrast, 57% of long-term care homes in Ontario are classified as for-profit, while 32% of our respondents identified as for-profit representatives. In summary, responses to our survey appear to disproportionately reflect the experiences of non-profit long-term care organization representatives, with almost all responses from administrators' perspectives.

We also asked participants to indicate if a governing body (such as a board of directors) is in place at their organization. If the participant indicated their organization has a board, we asked further questions about the board's members and activities, to learn more about the participant's understanding of their organization's corporate governance structure and processes. Questions included *How frequently does the governing body typically meet? Do members of the governing body visit the long-term care home(s) you represent? Does the governing body have a committee with a formal mandate to monitor and oversee long-term care home resident health, safety & satisfaction?*

At the end of the survey, we invited participants to indicate their interest in participating in follow-up interviews. We met with 15 leaders, to learn more about their survey responses, and to inquire further about governance structures and processes in their long-term care homes. It was important to hear directly from long-term care providers, and to bring their voices into the project.

Insights

What did we learn about Ontario long-term care corporate governance?

Early in the project's development—before we even gathered data—we observed significant differences in the corporate governance of long-term care organizations in Ontario. Although centrally regulated under the *Long-Term Care Homes Act,* 2007, and as discussed earlier in this report, the provincial system for facilities-based care includes a patchwork of different service providers that are licensed to operate long-term care homes (see *Figure 1* for a breakdown, by organizational type).

Each of these organizational types—whether by unique tradition or by varying applicable legislation—is defined and steered by a variety of different corporate governance structures and processes. For example, municipal long-term care homes in Ontario are under the authority of local municipal governments, in which the city council (typically a mayor and councillors) provides the highest level of oversight—via "overall stewardship of the municipality"—and "monitors the implementation of its approved policies and programs" (Ministry of Municipal Affairs and Housing, 2021). In private for-profit homes that are also publicly traded on a stock exchange, the board has legal obligations to its shareholders. And, the board members of non-profit and charitable homes are often volunteers, while the directors of other organizational types can be compensated for their board work.

These are just a few of the differences between long-term care organizations, through the lens of corporate governance. Each home has unique organizational needs and obligations, and serves and is accountable to a unique group of stakeholders and authorities. And yet, even with these differences, all long-term care providers in Ontario—regardless of organizational type—deliver (generally and broadly) the same services to the same population group, within the same funding structure and under the same legislation.

With these unique constraints and organizational juxtapositions at play, we were very curious to learn more about how long-term care organizations govern themselves. Recognizing that the data we collected—and the analysis shared in this report—represents only a glimpse into the long-term care landscape in Ontario, participant responses to our survey and interview questions helped us begin to understand what corporate governance looks like in long-term care organizations. We uncovered three insights.

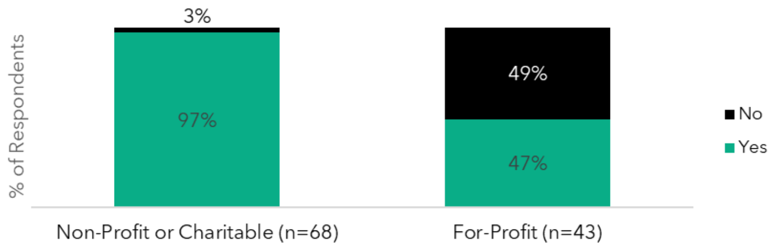
Insight One

Ontario non-profit long-term care organizations appear more likely to have a board of directors compared to their for-profit counterparts

Some aspects of corporate governance are described as *good*—generally accepted structures and processes that have been formalized through legislation or authoritative recommendations or codes of compliance (Watson et al, 2021). The adoption and use of a formal corporate governance structure (such as a board of directors) has traditionally and persistently been considered a requirement for good corporate governance.

For this reason, we were interested to find out how many long-term care organizations have a formal governing body, such as a board of directors. Our survey results suggest that it is a common aspect of corporate governance in the sector. 77% of for-profit and non-profit (including charitable) respondents (n=111) indicated that their organization has a governing body, and 94% (n=86) said that the term “board of directors” best identifies their governing body. If these statistics are indicative of the whole sector, they suggest adoption—at high levels—of a foundational element of corporate governance.

Figure 4. Proportion of Ontario long-term care homes with a governing body, by organizational type



As shown in *Figure 4* (which excludes municipal homes, due to their unique organizational structure; as discussed above, all municipal long-term care homes have a governing body in their municipal government), almost all respondents that reported the absence of a board were from for-profit organizations.

The finding prompted our curiosity around questions including *What does corporate governance look like when there is no formalized or working fiduciary board of directors? What does corporate governance look like when senior managers are not familiar with or do not interact with the board?*

It is not clear if the survey result stems from a lack of interaction between administrators and boards of directors in some for-profit homes, or if in fact there is a significant difference in board use (an active, working board that extends beyond an organization's legal requirement to have a board) between non-profit and for-profit organizations, and if it exists more widely in the long-term care sector. Further study would be required to better understand the gap we observed.

Insight Two

Ontario long-term care organizations with a board of directors appear to use generally accepted good governance practices

Certain elements of good governance are required by law, while others are encouraged through guidelines and recommendations. For example, Canadian Securities Administrators (CSA)—the national regulatory body for publicly-listed corporations—recommend that a board's mandate include responsibility for "the identification of the principal risks of the issuer's business, and ensuring the implementation of appropriate systems to manage these risks" (2005). In a framework for board oversight of risk—commissioned by Chartered Professional Accountants of Canada—the author argues that "While boards should not be involved in day-to-day risk management […] boards must take a more active and direct role in risk assessment well beyond traditional oversight of typical risk management processes" (Caldwell, 2020, i-ii). Caldwell also recognizes that "[…] there are no standards for risk oversight and few, if any, authoritative sources on which boards may rely" (2020, ii). Caldwell recommends that risk oversight be a full-board responsibility: "risk oversight is a team sport and the full board must take an active role because the nature of risks requires the full capabilities of the board" (2020, p. 125).

The oversight of risk—both financial and non-financial—has become a foundational element of good governance since the CSA published its guidelines in 2005. However, its formal adoption at the board level has not always been observed, in the long-term care sector and beyond. In their 2014 study of corporate governance frameworks and practices in 27 countries, the Organisation for Economic Co-operation and Development (OECD) observed that "[…] the cost of risk management failures is still often underestimated, both externally and internally" (p. 7). Further, "It is not always clear that boards place sufficient emphasis on potentially 'catastrophic' risks, even if these do not appear very likely to materialize" (OECD, 2014, p. 8). We were curious to learn if and how the boards of long-term care organizations in Ontario oversee risk. The COVID-19 pandemic illustrated the need for robust risk oversight, especially in organizations that are responsible for the care of vulnerable people.

In our survey, we asked participants to indicate their level of agreement on three specific statements concerning risk oversight, using a scale ranging from strongly disagree to strongly agree. According to our results, almost every surveyed long-term care home representative (n=109) identified that their board of directors regularly assesses financial risks facing the organization, regularly assesses non-financial risks facing the organization, and approves reports on organizational risks. We also learned that 50% of long-term care organization boards (n=86) meet monthly, and over 90% (n=86) meet at least quarterly. In addition, we asked participants if they were aware of site visits, by the board, to their long-term care home. Over three quarters of respondents (n=109) indicated that their board visits their organization. When considered together, we interpret the responses to these three groups of questions to be positive indicators, as they suggest formal processes are in place for the board to provide ongoing and structured oversight of risks, to meet regularly, and to communicate with staff (and possibly residents) via site visits.

As discussed above, the risks inherent within long-term care homes have been particularly highlighted during the COVID-19 pandemic, and sustained engagement by the board on the issue suggests that governance—including the governance of risk—has become a formal process. A formal governance structure and process can help to ensure that the board is informed, proactive, and can effectively oversee difficult circumstances.

We also wanted to learn about the structures used by a long-term care board to oversee risk. We found that it was common for a long-term care organization's board to use one or more committees for the oversight of risk. Furthermore, 60% of respondents (n=84) reported that their board uses a committee to oversee non-financial risk, including resident health, safety, and satisfaction.

In our interviews, one participant provided further detail about one such committee, and highlighted the involvement of residents and family members. "We have the Quality Care board committee", they shared, "that includes members from the Family and Resident councils. All the information gets reported back to the full board […] These board members are hearing directly from representatives of the people that we serve". A standing committee can provide the board with the ability to spend extra time on the details of specific items without detracting from valuable or limited board meeting time, where discussions are focused on strategy and decision-making.

Effective risk oversight depends on the quantity—and quality—of communication between management and the board. We asked survey respondents to indicate the frequency with which their organization's management reports to the board of directors.

Just over half of participants (n=86) shared that their long-term care organizations report to the board at least monthly. However, 60% of respondents (n=20) from for-profit long-term care organizations were not sure how often the organization reports to the board. It is unclear why the most senior staff member in a long-term care home is unfamiliar with the reporting process. It might suggest that administrators report indirectly to the board, through an intermediary. In the case of multi-home operators, this could be particularly applicable; and indeed, 41% of respondents (n=111) indicated that they represent a multi-home licensee. In additional open text survey responses, three participants from for-profit multi-home long-term care organizations disclosed that they do not interact with the board. Further study would be required to learn and develop more conclusive insights.

> "We have the Quality Care board committee that includes members from the Family and Resident councils. All the information gets reported back to the full board by the chair of the Quality committee. These board members are hearing directly from representatives of the people that we serve"
>
> (CEO, long-term care organization)

We also followed up with long-term care leaders to find out more about the information the board receives from administrators. In our interviews, they shared that administrators provide the board with a considerable amount of information in different reports that discuss finances, critical incidents, inspections, satisfaction surveys, and quality care. With our findings that most boards meet at least quarterly, and most administrators report monthly to the board, participant responses suggest that administrators (or other managers) report organizational risks to the board every time the board meets.

Insight Three

Expertise in elderly care appears to be one of many board member attributes in Ontario long-term care organizations

To make effective decisions for its organization, it is important that any board includes a complement of skills among its members that meet the needs of the organization and its stakeholders at any given time. These needs may be unique to each organization and its sector. For these reasons, we were curious to learn if elderly care expertise and experience are common skills found among long-term care organization board members. 70% of our survey participants (n=46) reported that their board has at least one member with that expertise, and 64% reported at least two members, indicating that most respondents identified representation of skills in elderly care on the board.

It is not clear why 30% did not identify any elderly care expertise on the board, or why the response rate to this question was low. It is possible that non-board members (the majority of the respondent group) were not knowledgeable about the skills represented on the board, that some participants had varying thresholds or levels of understanding for considering someone on the board to have expertise (we did not define the term for participants), that expertise in elderly care is in fact not represented at the board level, or that other skills (such as medical knowledge and experience) are present and may overlap with expertise in elderly care.

In our interviews, participants offered some insights. We asked interviewees to identify the top 2-3 skills needed on their boards. Elderly care expertise was not specifically mentioned by anyone. However, experience in health care was discussed. As one CEO summarized, “There’s always at least one nurse on the board". Several participants discussed a shift in priorities, away from representation- or sponsor-based recruitment, towards a focus on the qualifications of potential candidates. “In the last few years”, shared one interviewee, “we started moving towards a skills-based recruitment method”. This may suggest that the identification and disclosure of skills is a work-in-progress for some long-term care organization boards.

We were also curious to learn how the board interprets quality care reports or resident satisfaction surveys, without the presence of elderly care expertise on the board. One CEO shared that the board finds ways to fill skills gaps—when possible—by relying on staff with specific expertise to assist in discussions. “We’re missing healthcare background”, they disclosed, “but we supplement it with having staff like the Director of Medical attend meetings to interpret clinical realities”. While information flow between staff and the board is essential to ensure effective and informed oversight, over reliance on staff to fill in knowledge gaps could increase risk around the board’s abilities to ask challenging questions and make informed decisions.

> “We’re missing healthcare background [on the board], but we supplement it with having staff like the Director of Medical attend meetings to interpret clinical realities”
>
> (CEO, long-term care organization)

Interview participants also identified the benefits of having expertise on the board that is specific to the circumstances of their organization. For example, one of our participants identified an understanding of a specific religious tradition and mission as a meaningful and important characteristic for board members at their faith-based non-profit long-term care home. Participants also discussed the importance and benefits of having a broader range of expertise that is unique to the sector generally, including experience in healthcare, government relations, and real estate development, in addition to more traditional or standard board skills, such as strategic thinking and planning, leadership, and financial literacy.

Although our survey findings suggest that non-profit organizations are more likely to have a board of directors (or that their administrators are more familiar with or knowledgeable about the board), interviewees from non-profit organizations highlighted unique challenges with non-profit board recruitment. 6 out of 12 interviewees from non-profit organizations identified difficulties attracting appropriately skilled and suitable volunteers to sit on the board. “[It is] hard to find qualified board members”, shared one participant; “The most difficult thing the board has is to recruit new members”, disclosed another.

The varied interview responses above highlight some of the complexities of long-term care corporate governance, including board recruitment and skills.

Conclusion

In this report, we highlighted three insights that provide a glimpse into how Ontario long-term care organizations govern themselves, via administrator perceptions and perspectives. The aim of our project—to gather and share foundational information about the corporate governance landscape of long-term care—has been realized.

We learned that most of our participants are aware of the governing body within their long-term care organization, and of some aspects of the governing body's processes and structures, including the skills of its members and its meeting frequency, for example. We also learned that facilities based long-term care is delivered by different organizational types in Ontario. As a result, one organization's corporate governance may look different from another organization's corporate governance.

For example, we observed differences between for-profit and non-profit long-term care organizations in the adoption and use of a board; additional work would be required to further probe this insight. Or, we learned that the ideal set of skills for directors may not be the same for all long-term care organization boards. With respect to the latter, while the foundations of good corporate governance can be important tools for effective corporate governance, each long-term care organization is unique, and may need unique processes and structures to serve their community.

We also identified what we have inferred to be varying levels of understanding about corporate governance structures and processes among administrators and other senior managers, as suggested by variable response rates to individual questions, indications of uncertainty about a topic in response selections, and the overall response rate to our survey. While it is difficult to extrapolate conclusive insights about the extent of administrators' knowledge of the board—due to the survey's response rate, and the disproportionate representation of organizational types—our results suggest potentially significant and concerning gaps in the corporate governance literacy of Ontario's long-term care home leaders. We hope our findings spur further research into this issue. Information flows between the board and management (in both directions) are vitally important to ensure effective corporate governance of an organization, including the risk oversight that is critical in a long-term care home.

Throughout this project—and despite the many differences among long-term care organizations—we also observed shared or similar corporate governance structures and processes. We intend for our findings to demonstrate that the foundations for good corporate governance are in place among many long-term care organizations, and that long-term care organizations can learn from one another, when it comes to implementing and using effective corporate governance.

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The David and Sharon Johnston Centre for Corporate Governance Innovation is the University of Toronto, Rotman School of Management's home for research and insights about corporate governance.

We focus on publicly listed and family business corporate governance challenges, to make boards more effective.

For more information about the Johnston Centre and our projects, visit www.rotman.ca/johnstoncentre

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