

This Act is Current to August 19, 2015

This Act has "Not in Force" sections. See the [Table of Legislative Changes](#).

HOSPITAL ACT

[RSBC 1996] CHAPTER 200

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Schedule

Definitions

1 In this Act:

"board of management" means the directors, managers, trustees or other body of persons having the control and management of a hospital;

"chief inspector" means the chief inspector or an assistant chief inspector appointed under section 40;

"day's treatment" means necessary medical or surgical treatment in a hospital of a patient for a complete period of 24 hours commencing and ending at midnight, but the hours of necessary treatment in a hospital of a patient during the day of the person's admission and the day of the person's discharge must be counted together as one day's treatment;

"hospital", except in Parts 2 and 2.1, means a nonprofit institution that has been designated as a hospital by the minister and is operated primarily for the reception and treatment of persons

(a) suffering from the acute phase of illness or disability,

(b) convalescing from or being rehabilitated after acute illness or injury, or

(c) requiring extended care at a higher level than that generally provided in a private hospital licensed under Part 2;

"inspector" means any person appointed as chief inspector or inspector under section 40;

"practitioner" means a person registered as a member of a prescribed health profession.

Part 1 — Requirements for Hospitals

Requirements for hospitals

2 (1) A hospital, except a hospital owned by the government or by Canada, must do the following:

(a) provide for the representation of the government and the board of the regional hospital district on the board of management of the hospital to the extent and in the manner provided;

(b) have full control of the revenue and expenditure of the hospital vested in its board of management;

(c) have a properly constituted board of management and bylaws or rules thought necessary by the minister for the administration and management of the hospital's affairs and the provision of a high standard of care and treatment for patients;

(d) comply with further conditions prescribed by the Lieutenant Governor in Council.

(2) The constitution and bylaws or rules of a hospital, including medical staff bylaws, are not effective until approved by the minister.

(3) Despite the *Society Act*, a society that owns or operates a hospital must not exercise any of the borrowing powers conferred by the *Society Act* without the prior approval of the minister.

(4) Despite any other Act, or the constitution, bylaws or rules of a hospital, for the purposes of this section, the minister may appoint a person or persons to represent the government on the board of management of a hospital for a term not longer than 2 years or until the person's successor is appointed.

(5) to (8) [Repealed 1997-23-21.]

Treatment of communicable diseases

3 A person suffering from a communicable disease who is required to be isolated by an order made under the *Public Health Act* must not be admitted to a hospital unless it can be established to the satisfaction of the minister that

- (a) in the hospital there is accommodation and facilities for the isolation of persons suffering from communicable diseases, and
- (b) the person will not be housed or treated anywhere in the hospital except in that accommodation during the period the person is required to be isolated.

Duties of a hospital

4 (1) A hospital must not refuse to admit a person on account of the person's indigent circumstances.

(2) A hospital must take all reasonable measures to ensure that the limits on direct or extra billing established by Part 4 of the *Medicare Protection Act* are complied with in respect of service rendered to a beneficiary, as defined in section 1 of the *Medicare Protection Act*, by a medical practitioner at the hospital.

(3) Subject to the regulations, the Schedule to the *Community Care and Assisted Living Act* applies to

- (a) an adult patient who resides in a private hospital licensed under Part 2, and
- (b) an adult person who resides in an institution designated as a hospital for the treatment of persons referred to in paragraph (c) of the definition of "hospital".

(4) A hospital described in subsection (3) must

- (a) display in a prominent place in the hospital a copy of the rights applicable to adult patients as set out in the Schedule to the *Community Care and Assisted Living Act*, and
- (b) make the rights referred to in paragraph (a) known, orally and in writing, to adult patients and their representatives.

Conflicts of interest prohibited

4.1 (1) In this section:

"employee" includes a licensee, an employee, contractor and volunteer of an extended care facility or a private hospital;

"extended care facility" means a hospital described in paragraph (c) of the definition of "hospital" in section 1;

"patient" means a patient of an extended care facility or a private hospital;

"personal representative" includes the following:

- (a) a committee under the *Patients Property Act*;
- (b) an attorney acting under a power of attorney;
- (c) a representative under the *Representation Agreement Act*;
- (d) an executor under the *Wills Act*;
- (e) a trustee of an estate or part of an estate under administration;

"private hospital" means a hospital licensed under Part 2.

(2) An employee must not do any of the following:

- (a) persuade or induce, or attempt to persuade or induce, a patient to
 - (i) make or change the patient's will,
 - (ii) make a gift,
 - (iii) provide a benefit for an employee or the employee's spouse, relative or friend, or
 - (iv) conduct the financial affairs of the patient for the benefit of an employee or the employee's spouse, relative or friend;
- (b) require that a person seeking admission to an extended care facility or a private hospital, as a condition of admission, make any payment or donation other than as specified in a written contract;
- (c) act as a personal representative for a patient or former patient, unless the employee is a child, parent or spouse of the patient or former patient.

(3) A provision of a will, a change to a will, a gift, a provision of a benefit or another measure described in subsection (2) (a) (i) to (iv) is void if

- (a) it confers a benefit on an employee or the employee's spouse, relative or friend, and
- (b) the Public Guardian and Trustee has not given written consent to it.

(4) If an employee acts as an attorney or a representative contrary to subsection (2) (c), the power of attorney or representation agreement, and any disposition made under the power of attorney or representation agreement, is void unless

(a) the employee is a child, parent or spouse of the patient or former patient,

(b) [Repealed 2010-6-164.]

(5) For the purposes of subsection (3) (a), a benefit conferred by a will, a change to a will, a gift, a provision of a benefit or another measure described in subsection (2) (a) (i) to (iv), is deemed to be conferred at the time the will, change, gift or provision is made or the other measure is taken.

Part 2 — Private Hospitals

Interpretation and definitions for Part 2

5 (1) In this Part:

"house" includes a building, tent or other structure, whether permanent or temporary, intended for human habitation;

"licensed hospital" means a private hospital for which a licence has been issued under this Act and the licence has not been revoked;

"licensee" means a person to whom a licence has been issued under this Part and the licence is still in force;

"occasional skilled care" means nursing or other services rendered intermittently or periodically to a person by a formally trained person under an arrangement approved by the inspector, in an amount or to a degree or with a frequency which, in the opinion of the inspector, is less than that which would necessitate the individual being lodged in a nursing home or hospital in order to be properly cared for;

"patient" means a person, including a mentally disordered person as defined in the *Mental Health Act*, who is under observation, treatment or care for illness, disease or injury, or who is receiving nursing care and attention, or a person who needs that care or treatment, but does not include a person who, in the opinion of the inspector, only needs or is receiving personal care or occasional skilled care, or both;

"personal care" means room and board, assistance with some of the activities of daily living, nonprofessional care and supervision and a planned program of social and recreational activities;

"private hospital" or **"hospital"** means a house in which 2 or more patients, other than the spouse, parent or child of the owner or operator, are living at the same time, and includes a nursing home or convalescent home, but does not include a hospital as defined in section 1.

(2) For the purposes this Part and of the definition of **"house"** in subsection (1), if there are 2 or more structures in the occupation of the same person, and located on the same piece of land, they are a single house.

Licence required for private hospital

6 (1) A person must not use a house as a private hospital except under the authority of a licence issued by the minister under this Act.

(2) An occupier or other person concerned in the management of a hospital who contravenes subsection (1) is liable to a penalty of not more than \$25 for every day during which the use is continued.

Application for private hospital licence

7 (1) An application for a licence to keep a private hospital must be made in writing to the minister, and must contain the following:

- (a) the full name, address and occupation of the applicant;
- (b) a statement of the estate or interest of the applicant in the house for which the licence is requested;
- (c) a statement showing the maximum number of patients that are to be lodged in the house and in each room of it at one time;
- (d) the legal description of the land on which the house is located;
- (e) a description of the location of the premises and the surrounding area, together with photographs showing clearly the exterior of the house;
- (f) a plan of each floor of the house of a scale and type satisfactory to the minister;

- (g) a statement of the length, breadth and height of every room or area in the house and the purpose for which it is to be used;
- (h) a statement of the sanitary arrangements, ventilation, heating, lighting and water supply of the house;
- (i) a full description of the fire escapes of the house and the facilities provided for use in case of fire;
- (j) a statement as to the classes of patients proposed to be received into the house.

(2) If the applicant proposes to construct a building for use as a private hospital, the application must contain the particulars specified in subsection (1) required by the minister, together with other information required by the minister.

(3) An application must be verified by the affidavit of the applicant, and must be accompanied by a fee of \$5.

(4) Before issuing a licence, the minister may require the applicant to establish that the house has been recently inspected by the fire commissioner, the building inspector and other inspectors and officials thought necessary by the minister.

Conditions for licence being granted

8 A licence must not be granted unless

- (a) the house is approved by the chief inspector as suitable for the purpose indicated in the application, and
- (b) the minister is satisfied as to the character and fitness of the applicant.

Licences

9 (1) Patients must be received and lodged in a licensed hospital, and their care and treatment provided for in it only in accordance with the provisions specified in the licence.

(2) A licensed hospital must be operated and managed by the licensee in accordance with the conditions specified by the minister.

(3) A licence must state the maximum number of patients who may be received and lodged in the hospital at one time.

(4) A licence may be limited to the reception of a particular class or classes of patients.

(5) A licensee must display the licence at all times in a prominent place in the licensed hospital.

(6) A licence continues in force until revoked in accordance with this Act.

Annual licence fee

10 The Lieutenant Governor in Council may prescribe

(a) the fee payable for a licence issued under this Part, and

(b) the manner in which the fee is to be paid.

Transmission of licence on death of one joint holder

11 If a licence has been issued to 2 or more persons jointly, and during the currency of it any of those persons dies leaving the other or others surviving, the licence remains in force and has the same effect as if it were granted to the survivor or survivors.

Transfer of licence on application of parties

12 (1) On application in writing signed by the licensee and by a person to whom the licensee wants the licence to be transferred, the minister may, by endorsement on the licence or otherwise in writing, transfer the licence to that person.

(2) A person to whom a licence is transferred under subsection (1)

(a) becomes the licensee of the hospital, and

(b) has the same rights and obligations as if the licence had been granted to that person.

(3) A transfer of ownership, mortgage, lease or other dealing with the land and improvements in which a private hospital business is being carried on is not effective until the written approval of the chief inspector is obtained.

(4) A change in the ownership of shares in the corporation which owns or operates a private hospital is not effective until the written approval of the chief inspector is obtained.

(5) A corporation that is the licensee of a private hospital must

(a) annually, on payment of the fee under section 10, file with the chief inspector a report in duplicate listing the full name, address and occupation of each director and shareholder of the corporation and setting forth the person's interest in the corporation, and,

(b) within one month of receiving a request in writing, furnish an inspector with whatever information the inspector requests about

- (i) the ownership of shares in the corporation, or
- (ii) the operation of the private hospital.

Transfer or revocation of licence on death of licensee

13 (1) If the licensee or the sole surviving licensee dies, the minister may, by endorsement on the licence or otherwise in writing, transfer the licence to a person nominated by the executors or administrators of the deceased licensee.

(2) A person to whom a licence is transferred under subsection (1) becomes the licensee of the hospital, with the same rights and obligations as if the licence had been granted to that person.

(3) Unless the licence is revoked under this section or section 14, the hospital continues to be a licensed hospital, and for the purposes of this Part the superintendent and other officers continue in office in the same manner as if the licensee were still living.

(4) If the licence is not transferred under this section within 2 months after the death of the licensee or of the sole surviving licensee, the minister may, in writing, revoke the licence.

(5) If the minister revokes a licence under subsection (4), the minister must publish a notice of the revocation in the Gazette.

Revocation of licence

14 (1) A licence may at any time be revoked by the minister if any of the following conditions exist:

(a) the licensee has defaulted for 3 months in paying the annual licence fee;

(b) the licensee or superintendent has been convicted of an offence against this Act, or of an offence punishable by imprisonment;

(c) in the opinion of the inspector, the hospital premises are unsanitary, without proper fire protection or are otherwise unsuitable for hospital purposes, or the hospital is managed or conducted in such a manner that the revocation of the licence is required in the public interest.

(2) Before a licence is revoked under subsection (1), the minister must give notice to the licensee or superintendent of the ground on which it is proposed to revoke the licence, and must allow the person an opportunity to show why the licence should not be revoked.

(3) Despite subsection (1), the minister may revoke the licence of a licensed hospital if the following conditions are met:

- (a) the minister determines that
 - (i) the proper standard of care or treatment is not being provided for a patient in it,
 - (ii) any portion of the licensed hospital or its equipment or furnishings is unsatisfactory or unsuitable, or
 - (iii) the hospital is being operated contrary to a condition imposed under section 9 (1) or (2);
- (b) the minister has issued a notice to the licensee
 - (i) advising the licensee of the proposed revocation of the licence,
 - (ii) specifying the matters complained of, and
 - (iii) setting a period of time thought adequate by the minister for the correction of those matters;
- (c) the licensee fails to correct the matters complained of in the notice or fails to show why the licence should not be revoked, to the satisfaction of the minister, within the time set in the notice.

(4) A notice issued by the minister under this section, or a request or notice issued under this Part, may be served by delivering it personally to the licensee or superintendent, or by mailing it by registered mail to the licensee at the licensed hospital or the licensee's last known address.

(5) For the purposes of subsection (4), a notice or request sent by registered mail is deemed to be received by the licensee on the day on which it would reach the licensee in the ordinary course of mail, regardless of whether the licensee fails or refuses to take delivery of it.

(6) The revocation of a licence must be effected in writing by the minister.

(7) Notice of the revocation must be

- (a) served on the licensee as provided in this Act, and
- (b) published in the Gazette.

(8) The decision of the minister as to the revocation of a licence is final and conclusive, and may not be questioned in a court or a proceeding.

Restrictions on advertising

15 (1) Unless a place is licensed as a private hospital under this Part, is a hospital as defined in section 1, or is a Provincial mental health facility as defined in the *Mental Health Act* a person must not

(a) advertise or otherwise make a representation that

- (i) nursing care or attention, or
- (ii) observation or treatment of or care for illness, disease or injury

will be provided in the place under supervision by or with the approval or assistance of the government or an agency of it, or

(b) by the use or publication of the words "hospital", "nursing home" or "convalescent home", or any other words, imply or attempt to give the implication that

- (i) nursing care or attention, or
- (ii) observation or treatment of or care for illness, disease or injury

is or will be provided in any place under supervision by or with the approval or assistance of the government or an agency of it.

(2) A person who contravenes this section commits an offence and is liable on conviction to a fine of not more than \$100.

Alteration, addition or repairs to licensed hospital

16 (1) A structural alteration of or addition to a licensed hospital must not be made until a plan of the proposed alteration or addition has been submitted to and approved by the chief inspector.

(2) Any repair, alteration or addition to a licensed hospital or a house that is to be used for that purpose must be made in a proper manner with suitable materials,

(a) in accordance with the requirements of the chief inspector and of the municipality in which the licensed hospital or house is located, or

(b) if the licensed hospital or house is not located within a municipality, in accordance with the National Building Code of Canada and the requirements of the Provincial authorities specified by the chief inspector.

(3) Immediately on completion of a repair, alteration or addition, the owner or operator of the licensed hospital or house must

(a) have the work inspected by the inspectors or officials, either Provincial or municipal, required by law, or by the chief inspector, and

(b) submit to the chief inspector reports of the inspections required by the chief inspector.

(4) Subsections (2) and (3) apply to a building being constructed for use as a private hospital.

(5) If a repair, alteration or addition is made in breach of this section, the licensee is liable on conviction to a fine of not more than \$100.

Superintendent of licensed hospital

17 (1) A licensed hospital must have a superintendent who is

(a) resident on the premises, and

(b) a medical practitioner, a member of the Registered Nurses' Association of British Columbia or a graduate nurse whose qualifications are approved by the chief inspector.

(2) The superintendent is responsible for

(a) the nursing care, treatment and other services provided to patients, and

(b) the supervision of staff dealing directly with patients.

(3) The superintendent is responsible for conducting the business affairs of the licensed hospital and the supervision of staff who do not deal directly with patients, unless some or all of those responsibilities have been assigned by the licensee to another person.

(4) The licensee may be the superintendent, but a person must not act as superintendent without the approval of the chief inspector.

(5) For the purposes of subsection (4), the chief inspector may specify that the superintendent is to be initially appointed on a probationary basis for a period not longer than 6 months.

(6) During the probationary period under subsection (5), the chief inspector may cancel the appointment if the chief inspector is of the opinion that the superintendent is not properly qualified, or is not performing the superintendent's duties in a satisfactory manner.

(7) The superintendent or acting superintendent must

(a) keep proof of his or her qualifications readily available in the licensed hospital, and

(b) permit the inspector to examine that proof on demand and without prior notice being given by the inspector.

(8) During the temporary absence, illness or incapacity of the superintendent, the licensee may appoint as acting superintendent, for a period not longer than 6 months, any person qualified under this section if the licensee notifies an inspector within 24 hours of the appointment of

(a) the full name and qualifications of the acting superintendent, and

(b) the circumstances necessitating the appointment.

(9) If the chief inspector approves the appointment, the acting superintendent, while he or she acts as the superintendent, is deemed for the purposes of this Part to be the superintendent.

(10) If a licensed hospital is used while there is no qualified superintendent, or while the superintendent is not resident on the premises, the licensee is liable to a penalty of not more than \$25 for each day during which it is so used.

(11) The chief inspector may, because of special circumstances, and on terms and conditions the chief inspector thinks fit, by warrant temporarily exempt a licensed hospital from the requirements of subsections (1), (2), (3) and (4).

(12) An exemption granted under subsection (11) may be withdrawn by notice from the chief inspector delivered to the licensee of the hospital.

Register of patients

18 (1) The licensee of a hospital must keep at the hospital a register of patients in a form prescribed by the chief inspector, in which the licensee must enter the following:

(a) the full name, age and usual address of every patient, the date of the patient's admission to the hospital and the name and address of the patient's next of kin;

(b) the name of the practitioner attending each patient;

(c) the date on which each patient is discharged from the hospital, or, in the event of the death of a patient in the hospital, the date of the patient's death;

(d) other particulars prescribed by the chief inspector.

(2) The particulars must be entered in the register as soon as practicable after the occurrence or event to which the entry relates.

(3) A person must not do any of the following:

- (a) knowingly make an untrue entry in the register of patients;
- (b) destroy, damage or mutilate a register of patients or any part of it;
- (c) delete or alter a true and correct entry appearing in a register of patients, or fail to make an entry required to be made under this Part.

(4) If the hospital ceases operation or if the licence issued under this Act for it is revoked, the register of patients must at once be surrendered to an inspector.

(5) A person who fails to comply with this section commits an offence and is liable on conviction to a fine of not more than \$100.

Inspection of licensed hospital and submission of reports to inspector

19 (1) To determine whether the patients in a licensed hospital are receiving adequate care under safe and satisfactory conditions, an inspector may at any time inspect every part of the hospital and its books and records personally, or by or with a Provincial or municipal official authorized by the inspector whom the inspector thinks it advisable to consult regarding the care or treatment of patients or the maintenance, operation or management of hospitals.

(2) The licensee or superintendent must provide the reports and information required by the inspector within the time specified by the inspector.

Removal of dead persons

20 An apparently dead person must not be removed from a licensed hospital until a medical practitioner or nurse practitioner has certified that the person is actually dead.

Inspection of unlicensed houses

21 (1) If an inspector believes or suspects that a house is used as a private hospital without being licensed under this Act, the inspector may, at any time during ordinary business hours, enter and inspect every part of the house personally, or by or with any Provincial or municipal official authorized by the inspector.

(2) If 2 or more persons lodged in the house appear to be patients, the inspector, or anyone authorized by the inspector, may inquire as to their

physical condition to determine whether they are patients within the meaning of this Part.

(3) A person who prevents or obstructs, or attempts to prevent or obstruct, any entry, inspection or inquiry under this section commits an offence and is liable on conviction to a fine of not more than \$200.

Unauthorized use of licensed hospital

22 (1) If a licensed hospital is used for the reception of a greater number of patients than is permitted by the licence, or for the reception of a patient of a class not authorized by the licence, the licensee and the superintendent each incur a penalty of not more than \$25 for each day during which it is so used.

(2) Despite subsection (1), the inspector may, if the inspector thinks it in the public interest, temporarily exempt a licensed hospital from subsection (1) by a written permit, specifying

- (a) the number of additional beds that may be put into use,
- (b) the conditions imposed by the inspector, and
- (c) the date and time at which the permit is issued by the inspector.

(3) A permit issued under section (2) is not valid for a period longer than 5 days.

Penalty

23 If a person commits an offence under this Part and no penalty is provided for the offence, the person is liable on conviction to a penalty of not more than \$25 for each offence.

Burden of proof

24 (1) For a prosecution, action or proceeding under this Part, the facts necessary to establish that a person is a patient within the meaning of this Part may be proved in court by production of an affidavit of a practitioner, without proof of the signature or qualification of the practitioner, and the burden of proving that a person living in a house is not a patient within the meaning of this Part is on the person charged.

(2) In a prosecution for an offence against this Part, the burden of proving that a licence is in force and of proving its terms, and that a person apparently having the charge, control or management of the hospital is

not the superintendent of it within the meaning of this Part, is on the person charged.

Part 2.1 — Hospitals Providing Abortion Services

Abortion services

- 24 . 1** (1) In this section "**qualified person**" has the meaning given to it in section 1 of the *Hospital Insurance Act*.
- (2) Each hospital listed in the Schedule to this Act must provide the facilities and services, and be operated and maintained, as necessary to allow a qualified person to receive abortion services at that hospital.
- (3) The Lieutenant Governor in Council may, by regulation, amend the Schedule to add to it any hospital in British Columbia.

Part 3

Repealed

25–39 [Repealed 2002-25-36.]

Part 4 — General

Power to appoint inspectors

- 40** (1) Subject to the *Public Service Act*, the minister may appoint a chief inspector, 2 assistant chief inspectors and the number of inspectors necessary for the purposes of this Act.
- (2) A hospital must be open to the inspection of the inspector and of a person appointed by the minister for that purpose.
- (3) An inspection under subsection (2) must include the accounts, books, buildings, medical appliances, drugs and any other thing in or about the hospital.

Certain actions for damages prohibited

- 41** (1) In this section, "**medical staff committee**" means a committee established or approved by a board of management of a hospital for

(a) evaluating, controlling and reporting on clinical practice in a hospital in order to continually maintain and improve the safety and quality of patient care in the hospital, or

(b) performing a function for the appraisal and control of the quality of patient care in the hospital.

(2) No liability for damages or other relief arises or may be enforced against a member of a medical staff committee for anything done or omitted to be done by the member in good faith in carrying out the duties and powers of a member of the committee.

Minister may require bylaws be revised

42 The minister may require that the bylaws or rules of a hospital or a society or corporation having among its objects the provision of hospital facilities or the operation of a hospital be revised in a manner satisfactory to the minister in order to meet changing conditions and policies, and to provide for greater uniformity and efficiency in all matters concerning the administration and operation of hospitals.

Reports and returns may be requested by chief inspector

43 The administrator of every hospital or the secretary of the board of management of a hospital must forward to the chief inspector returns and reports requested by the chief inspector, in the form and manner and at times specified by the chief inspector.

Special supervision of tubercular patients

44 All patients with tuberculosis of the respiratory tract treated at a hospital are subject to supervision by a medical health officer appointed by the Lieutenant Governor in Council.

Facilities for university medical students

45 (1) A hospital that provides primarily acute care must provide reasonable facilities in or near the hospital for giving clinical instruction to the medical students of The University of British Columbia by designated staff of the hospital and by professors and members of the teaching staff of the medical faculty of The University of British Columbia.

(2) If the authorities of the hospital and of the university are unable to agree as to the nature and extent of the facilities to be granted, or the rules under which they are to be made use of, they must be determined by the Lieutenant Governor in Council.

Hospital Appeal Board

46 (1) The Hospital Appeal Board, consisting of the members appointed under subsection (4), is continued for the purpose of providing practitioners appeals from

- (a) a decision of a board of management that modifies, refuses, suspends, revokes or fails to renew a practitioner's permit to practise in a hospital, or
- (b) the failure or refusal of a board of management to consider and decide on an application for a permit.

(1.1) and (1.2) [Repealed 2004-45-102.]

(2) The Hospital Appeal Board may affirm, vary, reverse or substitute its own decision for that of a board of management on the terms and conditions it considers appropriate.

(2.1) A practitioner may appeal to the Hospital Appeal Board if

- (a) the practitioner is dissatisfied with the decision of a hospital's board, or
- (b) a hospital's board fails to notify the practitioner of its decision within the prescribed time.

(2.2) A practitioner who wishes to appeal under subsection (2.1) is not required to first proceed by way of an application to the hospital's board.

(2.3) An appeal to the Hospital Appeal Board is a new hearing.

(3) The Hospital Appeal Board has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an appeal under this section and to make any order permitted to be made.

(3.1) A decision or order of the Hospital Appeal Board under this Act on a matter in respect of which the Hospital Appeal Board has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

(3.2) A practitioner who wishes to appeal under subsection (2.1) must deliver the notice of appeal

- (a) if the appeal concerns a board's decision under subsection (2.1) (a), not later than 90 days after the date that the board caused a notice of its decision to be sent to the practitioner, or
- (b) if the appeal concerns a board's decision under subsection (2.1) (b), not later than 210 days after the date that the practitioner applied for a permit in the prescribed manner.

(3.3) A notice of appeal must

- (a) be in writing or in another form authorized by the rules of the Hospital Appeal Board and directed to the chair of that board,
- (b) set out the grounds for appeal,
- (c) state whether or not the appellant waives an oral hearing of the matter,
- (d) state the outcome requested,
- (e) contain the name, address and telephone number of the appellant, and, if the appellant has an agent to act on the appellant's behalf in respect of the appeal, the name of the agent and a telephone number at which the agent may be contacted during regular business hours,
- (f) include an address for delivery of notices in respect of the appeal,
- (g) be signed by the appellant or the appellant's agent,
- (h) include reference to any correspondence, documents and memoranda relating to the matter in issue, and
- (i) if applicable, include a copy of the order or decision being appealed.

(3.4) Unless both parties have waived an oral hearing of an appeal, the Hospital Appeal Board must as soon as practicable set a time and place for the hearing and promptly notify the parties in writing.

(3.5) If the parties have waived an oral hearing of an appeal, or in an interim or preliminary matter, the Hospital Appeal Board may hold any combination of written, electronic or oral hearings.

(3.6) On written application by either party, the Hospital Appeal Board may extend the time for doing anything required under this section except the time for the bringing of an appeal under subsection (3.2).

(3.7) If a notice of appeal is deficient, the chair of the Hospital Appeal Board or the chair's delegate may allow a reasonable period of time within which the notice may be corrected.

(4) Subject to subsection (4.1), the minister must appoint 10 members of the Hospital Appeal Board as follows:

- (a) one member designated as the chair;

(b) one member designated as the vice chair after consultation with the chair;

(c) other members appointed after consultation with the chair.

(4.1) For the purposes of subsection (4), the members of the Hospital Appeal Board must be appointed as follows:

(a) one member selected after a merit based process from among 3 or more individuals nominated by the executive body of the College of Physicians and Surgeons of British Columbia;

(b) one member selected after a merit based process from among 3 or more individuals nominated by the executive body of the College of Dental Surgeons of British Columbia;

(c) one member selected after a merit based process from among 3 or more individuals nominated by the executive body of the College of Midwives of British Columbia;

(d) one member selected after a merit based process from among 3 or more individuals nominated by the executive body of the British Columbia Medical Association;

(e) 6 other members selected after a merit based process.

(4.2) Sections 1 to 20, 25 to 35, 37 to 39, 42, 44, 46.2, 47 to 56, 57, 58, 60 (a), (b) and (d) to (f) and 61 of the *Administrative Tribunals Act* apply to the Hospital Appeal Board.

(5) [Repealed 2004-45-102.]

(6) All information or evidence

(a) about an application for a practitioner's permit to practise in a hospital, or contained in the decision of a board of management resulting from the application, or

(b) received by, or presented to, the Hospital Appeal Board for an appeal

is privileged and an action must not be brought against a person for it.

(7) [Repealed 2003-47-33.]

(8) Before giving a decision on an appeal, the Hospital Appeal Board may refer a matter to a professional or other organization in the health field to obtain expert assistance or a formal report.

(9) [Repealed 2003-47-33.]

Information admissible in Hospital Appeal Board proceedings

- 46.1** (1) The Hospital Appeal Board may receive and accept information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.
- (2) Despite subsection (1), the Hospital Appeal Board may exclude anything unduly repetitious.
- (3) Subject to subsections (6) and (7), nothing is admissible before the Hospital Appeal Board that is inadmissible in a court because of a privilege under the law of evidence.
- (4) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence.
- (5) Notes or records kept by a person appointed by the Hospital Appeal Board to conduct a dispute resolution process in relation to a proceeding are inadmissible in Hospital Appeal Board proceedings.
- (6) For the purposes of section 51 of the *Evidence Act*, a proceeding before the Hospital Appeal Board is a proceeding before a board of management.
- (7) Information that is inadmissible before a court under section 51 of the *Evidence Act* is admissible in a proceeding before the Hospital Appeal Board.

Power to withhold amounts payable to hospitals

- 47** The Lieutenant Governor in Council may withhold the amounts payable under this or any other Act to a hospital including a hospital under Part 2.1, if its board of management refuses or neglects to comply with this Act or the regulations, or fails to administer the hospital in a manner satisfactory to the minister.

Conditions applicable to hospital receiving financial assistance

- 48** (1) If the government has granted financial assistance toward the planning, constructing, reconstructing, purchasing and equipping of a hospital as defined in section 1 or 5, or the acquiring of land or buildings for hospital purposes, the owner or operator of it must do the following:
- (a) secure the written approval of the minister before making
 - (i) a structural alteration to an area in the hospital used for housing or serving patients, if the total cost of labour

and materials exceeds an amount determined by the minister, or

(ii) an increase or decrease in the space used for housing patients, or in the number of beds ordinarily maintained for patients, or before using an area designed for housing patients for any other purpose;

(b) if the hospital premises or equipment is damaged or destroyed, set aside from the payment received under an insurance policy covering the loss or from other compensation received in regard to the loss a sum determined by the minister to be proportionate to the amount of financial assistance granted by the government;

(c) secure the written approval of the minister to a proposed lease or transfer of the hospital land, building or equipment, or any part of it, to another person and if a lease or transfer is made, there must be set aside from the consideration or purchase price a sum determined by the minister in the manner set out in paragraph (b);

(d) if the hospital land, building or equipment ceases to be used for hospital purposes, set aside a sum determined by the minister to be proportionate to the amount of financial assistance granted by the government.

(2) For the purposes of subsection (1) (c), if the minister determines that a lease or transfer is in the public interest and is made for consideration or purchase price that is less than the leasehold or market value,

(a) the minister may direct that no sum be set aside, and

(b) the minister may further direct that this section applies to a subsequent lease or transfer.

(3) A lease or transfer of hospital land, building or equipment for which the government has granted financial assistance is not effective unless approved by the minister.

(4) For the purposes of subsection (1) (d), the minister may direct that no sum need be set aside if the minister determines that the land, building or equipment is to be used for a purpose that is in the public interest, and, in that case, the minister may require the owner or operator to subsequently set aside a sum if the land, building or equipment is leased or transferred or ceases to be used for a purpose that is in the public interest.

(5) If the sum determined by the minister to be set aside under subsection (1) (b), (c) or (d) is not acceptable to the owner or operator of the

hospital, the sum to be set aside must be submitted to arbitration under the *Arbitration Act*, and the sum determined by the arbitration board is the sum to be set aside under subsection (1) (b), (c) and (d).

(6) A sum required to be set aside under subsection (1) (b) or (c) must be paid into the consolidated revenue fund within one month of the day on which the owner or operator of a hospital receives full or partial payment of insurance money or other compensation, or the proceeds of a lease or transfer.

(7) A sum required to be set aside under subsection (1) (d) must be paid into the consolidated revenue fund by the owner or operator of the land, building or equipment in the manner determined by the minister and within a period specified by the minister which must not be longer than one year, or a longer period specified by the Lieutenant Governor in Council, from the date on which the minister notifies the owner or operator of the sum to be set aside.

Extended application of section 48

49 (1) Section 48 applies, with the necessary modifications, to the owner or operator of a hospital in respect of financial assistance provided under the *Hospital District Act*.

(2) The determination under this section of the sum to be set aside under this section, including sums related to money provided to the owner or operator of a hospital by the board of a regional hospital district in payment of items of expense determined to be the sole responsibility of the regional hospital district under the *Hospital District Act*, must be made by the minister and, subject to proceedings under the *Arbitration Act*, must be paid to the board of the regional hospital district in which the hospital is located within the appropriate period specified in section 48.

(3) The board of a regional hospital district must hold each sum received under this section separate from all other money, and use each sum only for purposes approved by the minister.

Further application of section 48

50 (1) The minister may designate as a hospital for the purposes of section 48 any community care facility, as defined in the *Community Care and Assisted Living Act*, which

(a) is licensed under that Act,

(b) is owned or operated by a corporation incorporated or registered under the *Society Act*, and

(c) receives financial assistance from the government including financial assistance for the retirement of debt arising out of the planning, constructing, reconstructing, equipping or acquiring land or buildings for the purposes of the facility.

(2) If the minister designates a community care facility as a hospital under subsection (1),

(a) the provisions of section 48 apply to that facility, and

(b) a notice that is required to be or may be filed in a land title office, indicating that the hospital land of a hospital as defined in section 1 or 5 is subject to section 48 (1) (c) and (d), may be filed in respect of community care facility land, even though the regulation providing for filing does not refer to community care facilities or community care facility land.

Records

51 (1) A record regarding a patient that is prepared in a hospital by an employee or by a practitioner is the property of the hospital.

(2) A copy of a hospital record certified to be true and correct by the administrator of the hospital or by another officer of it is admissible as evidence in a court without proof of the official position or signature of the administrator or officer.

Appointment of examining board or public administrator

52 (1) If the minister considers it necessary in the public interest, the minister may appoint an examining board to

(a) examine any aspect of the planning, construction or operation of a hospital, and

(b) hear and receive evidence about it.

(2) An examining board appointed under this section must

(a) proceed in accordance with instructions issued by the minister, and

(b) report in writing to the minister within a time specified by the minister.

(3) If, in the opinion of the minister, the circumstances warrant, the minister may refer to the Lieutenant Governor in Council the report mentioned in subsection (2), together with recommendations the minister thinks appropriate.

(4) Despite the *Society Act* and the *Business Corporations Act*, or any other Act or document of incorporation, the Lieutenant Governor in Council may appoint a public administrator to manage the property and affairs of a hospital society or corporation that owns, operates or is planning or constructing a hospital defined under section 1, if the Lieutenant Governor in Council considers it in the public interest to do so.

(5) The Lieutenant Governor in Council may give a public administrator appointed under subsection (4) the exclusive right to exercise all of the powers of the society or corporation, the board of directors or trustees, and the members of the society or corporation, together with exclusive control and disposition of the property, assets and revenues of the society or corporation.

(6) On the appointment of a public administrator under subsection (4), the trustees or directors of the hospital society or corporation cease to hold office unless otherwise ordered by the Lieutenant Governor in Council.

(7) The Lieutenant Governor in Council may specify the terms and conditions governing any of the following:

(a) the powers, duties and responsibilities of a public administrator appointed under subsection (4);

(b) the management of the property and affairs of the society or corporation during the transitional period preceding the termination of the appointment of the public administrator;

(c) the planning, construction or operation of the hospital after the termination of the appointment of the public administrator.

Hospital land exempt

53 (1) Land that is vested either in a person who owns a hospital, as defined in section 1, or in a district incorporated under the *Hospital District Act*, is not liable to be entered on, used or taken by a municipal or other corporation, or by a person possessing the right of taking land compulsorily, except with the written approval of the minister.

(2) No power to expropriate enacted after April 3, 1970 extends to the land described in subsection (1), unless in the Act conferring the power it applies in express terms to that land.

(3) Nothing in this section prohibits the protection of a heritage site or heritage object under the *Heritage Conservation Act*, the *Local Government Act* or the *Vancouver Charter*.

Penalty

54 A person who contravenes this Act or the regulations commits an offence and is liable on conviction, unless a penalty is expressly provided by this Act, to a penalty of not more than \$200.

Recovery of penalty

55 Except as otherwise provided in this Act, the penalties imposed under this Act are recoverable under the *Offence Act*.

Power to make regulations

56 (1) The Lieutenant Governor in Council may make any regulations deemed necessary for the carrying out of the provisions of this Act to meet any contingency not expressly provided for in it, and providing for the returns to be rendered by the secretary or other executive officer of a hospital.

(1.1) The Lieutenant Governor in Council may, by regulation, prescribe a health profession for the purpose of the definition of "practitioner" in section 1.

(2) [Repealed 1999-12-7.]

(3) The power to make regulations under this section extends to prescribing, for any hospital as defined under any of the provisions of this Act, any of the following:

(a) the proportion of the accommodation which is to be used as public or standard ward accommodation;

(b) the number or proportion of persons

(i) to or for whom income assistance is provided under the *Employment and Assistance Act* or disability assistance is provided under the *Employment and Assistance for Persons with Disabilities Act*, and

(ii) who are to be provided with the necessary care and accommodation;

(b.1) the rates payable for the persons referred to in paragraph (b);

(c) the rules or standards for the ownership, capital debt, construction, maintenance, operation and management of hospitals or licensed hospitals;

(d) the issue, by the board of management, of permits authorizing the treatment of patients by practitioners;

- (e) the establishment of medical staff organizations and other bodies comprised of persons to whom permits are issued under paragraph (d) and the promulgation, by a board of management, of bylaws or rules governing those organizations or other bodies;
- (f) the requirements governing the admission to and discharge from hospitals of patients;
- (g) the rules or standards regarding the care and treatment of patients;
- (h) the records and documents respecting patients to be kept by a hospital or supplied by a practitioner to a hospital, and the minimum period for the retention of those records and documents by a hospital;
- (i) the powers, duties and responsibilities of a public administrator appointed under section 52, and any matter respecting a hospital corporation for which the appointment is made;
- (j) the terms and conditions of the planning, construction and operation of a hospital following public administration under section 52.

(3.01) For the purposes of section 4 (3), the Lieutenant Governor in Council may make regulations as follows:

- (a) providing for the application to this Act of a word or expression used in the Schedule to the *Community Care and Assisted Living Act*;
- (b) for the purpose of promoting the rights of adult patients, requiring a hospital described in section 4 (3) to comply with one or more requirements of a regulation made under the *Community Care and Assisted Living Act* and modifying those requirements as the Lieutenant Governor in Council considers advisable.

(3.1) The Lieutenant Governor in Council may make regulations adding any hospital in British Columbia to the Schedule.

(4) If regulations are made,

- (a) a hospital to which the regulations apply must observe them, and
- (b) the person in charge of admissions to a hospital to which regulations made under subsection (3) (b) apply must, if the

number or proportion of the persons to whom that paragraph refers accommodated in that hospital is less than the number or proportion prescribed, give preference of admission to those persons.

Schedule

[section 24.1]

- 1 Bulkley Valley District Hospital
- 2 Burnaby Hospital
- 3 Campbell River and District General Hospital
- 4 Cariboo Memorial Hospital
- 5 Cumberland Health Care Facility
- 6 Dawson Creek and District Hospital
- 7 Eagle Ridge Hospital and Health Care Centre
- 8 Fort St. John General Hospital
- 9 Golden and District General Hospital
- 10 G.R. Baker Memorial Hospital
- 11 Kelowna General Hospital
- 12 Kimberley and District Hospital
- 13 Kitimat General Hospital
- 14 Kootenay Lake District Hospital
- 15 Lions Gate Hospital
- 16 Maple Ridge Meadows Hospital and Health Care Centre
- 17 Mills Memorial Hospital
- 18 Mission Memorial Hospital
- 19 Nanaimo Regional General Hospital
- 20 Peace Arch District Hospital
- 21 Prince George Regional Hospital
- 22 Prince Rupert Regional Hospital
- 23 Queen Victoria Hospital
- 24 Royal Columbian Hospital
- 25 Royal Inland Hospital
- 26 Royal Jubilee Hospital
- 27 St. Mary's Hospital (Sechelt)
- 28 Surrey Memorial Hospital
- 29 Trail Regional Hospital
- 30 U.B.C. Health Sciences Centre Hospital
- 31 Vancouver General Hospital
- 32 Vernon Jubilee Hospital

33 Victoria General Hospital
34 West Coast General Hospital

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