

1980

c 388 Prepaid Hospital and Medical Services Act

Ontario

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CHAPTER 388

Prepaid Hospital and Medical Services Act

1. In this Act,

Interpre-
tation

(a) "association" means any company or corporation incorporated for the purpose of establishing, maintaining and operating a hospital or medical service or providing prescription drugs on a non-profit prepayment basis, whereby any one or more of hospital, medical, surgical, nursing or dental services or provision of prescription drugs or payment therefor may be provided to persons who become subscribers with, or members of, such company or corporation, or for these and similar purposes, but does not include an insurer licensed under the *Insurance Act* or a pension fund or employees' mutual benefit society incorporated under Part V of the *Corporations Act*;

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cc. 218, 95

(b) "pharmacist" means a person registered as a pharmaceutical chemist under Part VI of the *Health Disciplines Act*;

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c. 196

(c) "prescription drug" means a drug as defined in Part VI of the *Health Disciplines Act* dispensed upon the prescription of a legally qualified medical practitioner or dentist to a named person, and includes such drug mixed with any other drug or substance;

(d) "Superintendent" means the Superintendent of Insurance under the *Insurance Act*. R.S.O. 1970, c. 360, s. 1; 1974, c. 47, s. 168 (2).

2. Every association registered under this Act is exempt from the *Insurance Act*. R.S.O. 1970, c. 360, s. 2.

Registered
associations
exempt from
R.S.O. 1980,
c. 218

3. No letters patent granting a charter to an association under the *Corporations Act* and no articles of incorporation of an association under the *Business Corporations Act* shall be issued without the written approval of the Superintendent. R.S.O. 1970, c. 360, s. 3.

Incorporation
R.S.O. 1980,
c. 54

4. No association shall, in Ontario, contract to furnish hospital, medical, surgical, nursing or dental service or prescription

No association
to carry on
business
unless
registered

drugs, or any combination of them, on a prepayment basis or make payment therefor unless registered under this Act. R.S.O. 1970, c. 360, s. 4.

Application
for regis-
tration

5.—(1) Every application for registration shall be made in writing to the Superintendent and shall be accompanied,

- (a) by the prescribed fee;
- (b) by a certified copy of the Act or other instrument of incorporation of the association and of its constitution, by-laws and regulations;
- (c) by a copy of every contract or proposed contract with a hospital, physician, pharmacist and other person for the rendering of services to subscribers or members;
- (d) by a copy of every form of contract or proposed contract with subscribers or members;
- (e) by a certified list of rates charged or to be charged to subscribers or members together with details of the benefits that the association contracts to furnish to subscribers or members;
- (f) by a copy of the balance sheet of the association and a statement of income and expenditures as of the close of its last fiscal year, certified by the president, or vice-president, and the managing director or some other principal officer of the association and reported on by its auditor;
- (g) by such information or material as the Superintendent may require.

Registration
to be
granted by
Superin-
tendent

(2) The Superintendent shall grant registration to an association if he is satisfied,

- (a) that the applicant is established as a *bona fide* association;
- (b) that the contracts and proposed contracts with hospitals, physicians, pharmacists or other persons for the rendering of service to subscribers or members and the contracts or proposed contracts with subscribers or members are fair and reasonable;
- (c) that the applicant has established and has such working capital and reserves as the Superintendent considers adequate;

- (d) that the rates charged or to be charged to subscribers or members are not excessive, inadequate, unfairly discriminatory between risks or otherwise unreasonable; and
- (e) that the applicant has complied with the provisions of subsection (1). R.S.O. 1970, c. 360, s. 5.

6.—(1) Every application for renewal of registration shall be made in writing to the Superintendent on or before the 21st day of March in each year and shall be accompanied by the prescribed fee and such information and material as the Superintendent may require.

Application for renewal of registration

(2) The Superintendent shall grant renewal of registration to an association if he is satisfied,

Renewal of registration

- (a) that the contracts and proposed contracts with hospitals, physicians, pharmacists or other persons for the rendering of service to subscribers or members and the contracts or proposed contracts with subscribers and members are fair and reasonable;
- (b) that the applicant has such working capital and reserves as the Superintendent considers adequate;
- (c) that the rates charged or to be charged to subscribers or members are not excessive, inadequate, unfairly discriminatory between risks or otherwise unreasonable; and
- (d) that the applicant has complied with subsection (1). R.S.O. 1970, c. 360, s. 6.

7.—(1) An association shall file with the Superintendent any proposed change in rates at least thirty days prior to the effective date of the change, together with particulars as to how any such rate is made up, and shall furnish such other further information with respect thereto that the Superintendent may require.

Filing of proposed rate change

(2) The Superintendent may, within thirty days of the filing with him of any notice of a proposed change in rates, by order prohibit the proposed change in rates if, in his opinion, such proposed change in rates would be excessive, inadequate, unfairly discriminatory between risks or otherwise unreasonable. R.S.O. 1970, c. 360, s. 7.

Order of prohibition

8. Every registration and renewal of registration lapses on the 31st day of March in each year. R.S.O. 1970, c. 360, s. 8.

Termination and renewal of registration

Suspension
and cancel-
lation

9.—(1) The Superintendent may suspend or cancel any registration upon any grounds that would justify refusal to grant registration or renewal of registration or where the association fails to comply with any provision of this Act.

Conditional
or limited
registration

(2) Any registration, or renewal of registration, may be granted by the Superintendent subject to such limitations and conditions relating to the operations of the association that the Superintendent considers necessary to give effect to this Act or for the protection of persons, subscribers or members of any association in Ontario.

Application
of s. 7,
ss. 12-17

(3) Where the registration of a registered association lapses or is suspended or cancelled and where the Superintendent considers it necessary for the protection of persons, subscribers or members, the Superintendent may designate the association as one to which this Act continues to apply and, until the designation is revoked, section 7 and sections 12 to 17 apply to such designated association in the same manner as to a registered association.

Winding up
R.S.O. 1980,
cc. 95, 54

(4) The Superintendent may apply to the court under section 244 of the *Corporations Act* or section 209 of the *Business Corporations Act* as appropriate for an order winding up an association that has ceased issuing contracts to its members or subscribers and sections 243 to 271 of the *Corporations Act* or sections 207 to 237 of the *Business Corporations Act*, as the case may be, apply thereto. R.S.O. 1970, c. 360, s. 9.

Cancellation
by request of
association

10. The Superintendent may at the request of an association, evidenced as he directs, cancel its registration. R.S.O. 1970, c. 360, s. 10.

Further
application
for regis-
tration

11. Notwithstanding any decision of the Superintendent, a further application for registration or renewal of registration may be made upon new or other material or where it is clear that any material circumstance has changed. R.S.O. 1970, c. 360, s. 11.

Appeal

12.—(1) An association that considers itself aggrieved by a decision of the Superintendent may appeal therefrom to the Divisional Court.

When to be
set down

(2) The appeal shall be set down for argument at the first sitting of the court that commences after the expiration of thirty days from the decision complained of.

(3) The Superintendent shall certify to the Registrar of the Supreme Court the decision appealed from, his reasons therefor, and the documents, information and material he had before him in making such decision. R.S.O. 1970, c. 360, s. 12. Record

13.—(1) Every registered association shall deliver to the Superintendent within one month of the passing thereof a certified copy of any by-law passed by the board of directors. Filing of by-laws

(2) Not later than four months after the expiration of its fiscal year, every registered association shall file with the Superintendent a balance sheet and a statement of income and expenditures for such fiscal year, certified by the president, or vice-president, and the managing director or some other principal officer of the association and reported on by its auditor, and such other financial statements as the Superintendent may require. Filing of balance sheet, etc.

(3) On sufficient cause shown, the Superintendent may by writing extend the time for filing the statements required under subsection (2). R.S.O. 1970, c. 360, s. 13. Time for filing may be extended

14.—(1) Not later than four months after the expiration of its last fiscal year, every registered association shall prepare a general statement of its affairs in a form approved by the Superintendent. General statement of affairs

(2) On sufficient cause shown, the Superintendent may by writing extend the time for the preparation of a general statement of affairs under subsection (1). Time may be extended for preparation

(3) Every such statement shall be attested by the signature of the president, or vice-president, and the managing director or some other principal officer of the association and shall be accompanied by the auditor's report. Statement to be attested

(4) A copy of such statement shall be mailed or delivered without charge to any subscriber or member who requests a copy. R.S.O. 1970, c. 360, s. 14. Copies to subscribers on request

15.—(1) The Superintendent or his duly authorized representative may at any time make or cause to be made an inspection of the books, documents and records of any registered association. Inspection of books, etc.

(2) Upon any such inspection, the Superintendent or his duly authorized representative is entitled to free access to all books of account, cash, securities, documents, bank accounts, vouchers, correspondence and records of every description of the association, and no person shall withhold, destroy, conceal Access to books, etc.

or refuse to furnish any information or thing reasonably required by the Superintendent or his representative under this section. R.S.O. 1970, c. 360, s. 15.

Investments

16. A registered association may invest its funds in the same manner and subject to the same limitations as apply to a joint stock insurance company under the *Insurance Act*, and not otherwise. R.S.O. 1970, c. 360, s. 16.

R.S.O. 1980, c. 218

Power to hold real property

17.—(1) A registered association may hold real property which, having been mortgaged or hypothecated to it, has been acquired by it for the protection of its investment, and real property conveyed to it in satisfaction of debts previously contracted in the course of its business, and may from time to time sell, mortgage, lease, exchange or otherwise dispose of such real property, but the association shall sell any such real property within seven years after it has been so acquired.

Idem

(2) A registered association may hold to its own use and benefit such real property as is necessary for the transaction of its business, or is acquired or held *bona fide* for building upon or improving for that purpose, and may sell, mortgage or dispose of such real property.

Power to acquire and construct building

(3) A registered association, when authorized by its letters patent or by the Lieutenant Governor in Council, may construct on any lands held pursuant to subsection (2), or may acquire, a building larger than is required for the transaction of its business and may lease any part of the building not so required. R.S.O. 1970, c. 360, s. 17.

Fees for registration and renewal

18. The fee for registration or renewal of registration for an association is, where the income from subscribers or members in the previous fiscal year,

did not exceed \$15,000.....	\$ 10
exceeded \$15,000 but did not exceed \$50,000.....	15
exceeded \$50,000 but did not exceed \$100,000.....	25
exceeded \$100,000 but did not exceed \$250,000....	50
exceeded \$250,000 but did not exceed \$1,000,000..	100
exceeded \$1,000,000.....	200

R.S.O. 1970, c. 360, s. 18.

Offence to carry on business unless registered

19. Every association not registered under this Act that contracts to furnish hospital or medical service on a prepayment basis or makes payment therefor is guilty of an offence and on conviction is liable to a fine of \$100 for each day during which the association carries on such business. R.S.O. 1970, c. 360, s. 19.