

1950

## c 289 Private Hospitals Act

Ontario

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## CHAPTER 289

## The Private Hospitals Act

## 1. In this Act,

Interpre-  
tation.

- (a) "Department" means Department of Health;
- (b) "house" includes any building, tent or other structure, whether permanent or temporary, intended for human habitation, and where there are two or more such structures in the occupation of the same person and situate on the same piece of land they shall be deemed to constitute a single house within the meaning of this Act;
- (c) "inspector" means an officer of the Department designated as an inspector;
- (d) "Minister" means the member of the Executive Council charged for the time being with the administration of this Act;
- (e) "patient" means a person admitted to a private hospital for the purposes of treatment;
- (f) "private hospital" means a house in which four or more patients are or may be admitted for treatment other than,
- (i) a hospital under *The Public Hospitals Act*, Rev. Stat.,  
c. 307.
  - (ii) a sanatorium under *The Sanatoria for Consumptives Act*, Rev. Stat.,  
c. 346.
  - (iii) a hospital or other establishment or institution wholly or mainly supported by provincial aid,
  - (iv) an institution in respect of which a licence under *The Private Sanitaria Act* is in force, or Rev. Stat.,  
c. 290.
  - (v) an institution for the reclamation and cure of habitual drunkards established under *The Municipal Act*, Rev. Stat.,  
c. 243.
- and, without restricting the generality of the foregoing, "private hospital" includes,
- (vi) every convalescent home, rest home and private sanatorium for consumptives, and

(vii) any private refuge for the aged or infirm, home, refuge or other hospital or premises which is so designated by the Lieutenant-Governor in Council;

(g) "regulations" means regulations made under this Act;

(h) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of a private hospital;

(i) "treatment" means the stay, maintenance, observation, care, nursing or treatment of a patient. R.S.O. 1937, c. 391, s. 1; 1940, c. 28, s. 22 (1); 1941, c. 44, s. 1.

Use of  
term  
"hospital".

**2.** No person shall use the term "hospital" or designate any place as a hospital without a licence under this Act or some other Act of this Legislature. 1938, c. 28, s. 2.

Regula-  
tions.

**3.** The Lieutenant-Governor in Council, upon the recommendation of the Minister, may make such regulations with respect to private hospitals as may be deemed necessary for,

(a) their construction, establishment, licensing, alteration, equipment, maintenance and repair;

(b) their classifications, grades and standards;

(c) their inspection, control, government, management, conduct, operation and use;

(d) their superintendents, staffs, officers, servants and employees and the powers and duties thereof;

(e) the admission, treatment, conduct, discipline and discharge of patients, and for prohibiting the admission of any class of patients;

(f) the classification of patients;

(g) the records, books, accounting systems, audits, reports and returns to be made and kept;

(h) all other matters affecting private hospitals. R.S.O. 1937, c. 391, s. 2; 1941, c. 44, s. 2.

Powers of  
Depart-  
ment.

**4.** It shall be the duty of the Department and it shall have power to administer and enforce the provisions of this Act and the regulations. R.S.O. 1937, c. 391, s. 3.

Inspectors.

**5.** The Minister, with the approval of the Lieutenant-Governor in Council, may designate one or more officers of the Department to be inspectors for the purposes of this Act

and the regulations, and the powers and duties of such inspectors shall be as prescribed by the regulations. R.S.O. 1937, c. 391, s. 4.

**6.** Every private hospital shall have power to carry on its undertaking as may be authorized by any general or special Act under which it was created, established, incorporated or empowered so to do, but where the provisions of any general or special Act heretofore passed conflict with the provisions of this Act or the regulations the provisions of this Act and the regulations shall prevail. R.S.O. 1937, c. 391, s. 5.

Powers of private hospitals.

**7.—(1)** No house shall be used as a private hospital except under the authority of a licence issued by the Minister under this Act.

Licence for hospital.

**(2)** If any house is used as a private hospital in breach of this section the occupier and all persons concerned in the management of the house, or in the admission to or treatment of any patient therein, shall severally be guilty of an offence and liable to a penalty of not more than \$25 for every day during which such use is continued. R.S.O. 1937, c. 391, s. 6.

Penalty.

**8.—(1)** Every application for a licence to keep a private hospital shall be made in writing to the Minister and shall contain the following particulars:

Application for licence.

- (a)* the full name, place of abode and occupation of the applicant;
- (b)* a statement of the estate or interest of the applicant in the house in respect of which the licence is desired;
- (c)* a statement of the number of patients proposed to be admitted in the house and in each room or apartment of the house;
- (d)* a description of the situation of the house;
- (e)* a plan of the house on a scale of not less than one-eighth of an inch to the foot;
- (f)* a statement of the length, breadth and height of every room and apartment in the house, including operating and subsidiary rooms;
- (g)* a statement of the rooms or apartments to be used exclusively by patients, and of those to be used exclusively by the licensee or the superintendent or by persons other than patients;
- (h)* a statement of the sanitary arrangements, ventilation, heating 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 admitted.

Verification and fee.

(2) Every such application shall be verified by the statutory declaration of the applicant and shall be accompanied by a fee of \$15. R.S.O. 1937, c. 391, s. 7.

Approval.

**9.** No licence shall be granted unless the house and its location with regard to adjoining dwelling houses are approved by an inspector as suitable for the purposes indicated in the application, and the Minister is satisfied as to the character and fitness of the applicant. R.S.O. 1937, c. 391, s. 8.

Annual fee.

**10.** Every licence may be renewed in accordance with the regulations and the fee for renewal of a licence shall be \$5. R.S.O. 1937, c. 391, s. 10; 1940, c. 28, s. 22 (2).

Death of one of joint licensees.

**11.** When a licence has been issued to two or more persons jointly, and during the currency thereof any of those persons dies leaving the other or others surviving, the licence shall remain in force and have the same effect as if granted to the survivor or survivors. R.S.O. 1937, c. 391, s. 11.

Transfer of licence upon application of licensee.

**12.** On the application in writing signed by the licensee and by any person to whom he desires that his licence shall be transferred, the Minister may, by endorsement on the licence or otherwise in writing, transfer the licence to that person, and thereupon that person shall become the licensee of the private hospital with the same rights and obligations as if the licence had been granted to him. R.S.O. 1937, c. 391, s. 12.

Transfer or revocation of licence upon 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 any person nominated by the executors or administrators of the deceased licensee, and that person shall thereupon become the licensee of the private hospital with the same rights and obligations as if the licence had been granted to him.

Continuation of licence until revoked.

(2) During the currency of a licence and any renewal thereof and until the licence is revoked under this Act the private hospital shall continue to be a licensed hospital, and the superintendent and other officers shall be deemed for the purposes of this Act to continue in office in the same manner as if the licensee were still living.

(3) If the licence is not transferred under the authority of this section within two months after the death of the licensee or of the sole surviving licensee the Minister may by writing under his hand revoke the licence, and notice of the revocation shall be published in *The Ontario Gazette*. R.S.O. 1937, c. 391, s. 13. Revocation under such circumstances.

**14.**—(1) A licence may at any time be revoked by the Minister, if, Revocation of licence.

- (a) the licensee has made default for three months in paying the annual licence fee;
- (b) the licensee or superintendent has been convicted of an offence against this Act or of any offence punishable by imprisonment; or
- (c) in the opinion of an inspector, the hospital premises are unsanitary or without proper fire protection, or the private hospital is managed or conducted in a manner which is contrary to the regulations or in such a manner that the revocation of the licence is required in the public interest. R.S.O. 1937, c. 391, s. 14 (1); 1941, c. 44, s. 3.

(2) Before a licence is revoked the Minister shall give notice to the licensee or superintendent of the ground on which it is proposed to revoke the licence, and shall afford to him an opportunity of showing cause why the licence should not be revoked. Notice to licensee.

(3) Any such notice may be given to the licensee or superintendent, either personally or by leaving it at the hospital with an officer or employee thereof or by mailing it by prepaid registered letter post addressed to the licensee or superintendent at the hospital and the revocation shall be effected by writing under the hand of the Minister, and notice of the revocation shall be published in *The Ontario Gazette*. Service of notice.

(4) The decision of the Minister as to the revocation of a licence shall be final and conclusive and shall not be questioned in any court or in any proceeding. R.S.O. 1937, c. 391, s. 14 (2-4). Decision of Minister final.

**15.**—(1) No structural alteration of or addition to any private hospital shall be made until a plan of the proposed alteration or addition has been given to and approved by an inspector. Approval by Inspector of structural alterations.

(2) If any alteration or addition is made in breach of this section, the licensee shall be guilty of an offence and liable to a penalty of not more than \$100. R.S.O. 1937, c. 391, s. 15. Penalty.

Superintendent of licensed hospital.

**16.**—(1) For every private hospital there shall, if required by the regulations, at all times be a superintendent resident on the premises who may be the licensee himself, if qualified under this section, and shall be either a legally qualified medical practitioner or a registered nurse. R.S.O. 1937, c. 391, s. 16 (1); 1941, c. 44, s. 4.

Inspector's approval.

(2) No person other than a licensee shall be appointed as the superintendent until his name and qualification have been notified to an inspector and he has approved of the appointment.

Acting superintendent.

(3) During the temporary absence, illness or incapacity of the superintendent the licensee may, without notice to the inspector, appoint as acting superintendent any other person qualified in accordance with this section, and every person so appointed shall, while he so acts, be deemed for the purposes of this Act to be the superintendent, but he shall not so act, whether under the same or successive appointments, for a longer continuous period than four weeks.

Penalty.

(4) If at any time a private hospital is used as such while there is no duly qualified superintendent, or while the superintendent is not resident on the premises, the licensee shall be guilty of an offence and liable to a penalty of not more than \$25 for every day during which it is so used.

Exemption by Minister.

(5) The Minister may, because of special circumstances and on such terms and conditions as he thinks fit, by warrant under his hand temporarily exempt any private hospital from the requirements of subsection 1.

Withdrawal of exemption.

(6) Any exemption so granted may be withdrawn by him by notice under his hand and delivered to the licensee of the hospital. R.S.O. 1937, c. 391, s. 16 (2-6).

Register of patients.

**17.**—(1) In every private hospital there shall be kept a register of patients in which shall be entered the following particulars:

- (a) the name, age and usual place of abode of every patient, and date of his admission into the hospital;
- (b) the name of the medical practitioner, if any, attending each patient;
- (c) the date at which each patient leaves the hospital or, in the event of the death of a patient in the hospital, the date of his death;
- (d) such other particulars as may be prescribed by an inspector.

(2) Such particulars shall be entered in the register as soon as practicable after the occurrence of the act or event to which the entry relates. Entry of particulars.

(3) Every person who knowingly makes in the register an untrue entry shall be guilty of an offence and liable to a penalty of not more than \$200. Penalties.

(4) Every licensee who fails to make or cause to be made any entry in the register required by this Act to be made therein shall be guilty of an offence and liable to a penalty of not more than \$50. R.S.O. 1937, c. 391, s. 17. Idem.

**18.** Every private hospital and the registers thereof shall at all times be open to inspection by an inspector. R.S.O. 1937, c. 391, s. 18. Inspection by inspector.

**19.** If an inspector believes or suspects that any house is used as a private hospital without being licensed he may at any time and from time to time by himself, or by any person authorized by him, enter and inspect such house and every part thereof, and any person who prevents or obstructs or attempts to prevent or obstruct any such entry or inspection shall be guilty of an offence and liable to a penalty of not more than \$200. R.S.O. 1937, c. 391, s. 19. Power of inspector to enter unlicensed premises.

**20.**—(1) A private hospital shall not be used for any purpose other than the purposes in respect of which the licence is granted and purposes reasonably incidental thereto. Use of licensed hospitals.

(2) If a private hospital is used in any manner contrary to the provisions of this section the licensee and superintendent shall severally be guilty of an offence and liable to a penalty of not more than \$25 for every day during which it is so used. R.S.O. 1937, c. 391, s. 20. Penalty.

**21.** If at any time a private hospital is used for the treatment of a greater number of patients than is permitted by the licence, or for the admission of any patient of a class not authorized by the licence, the licensee and the superintendent shall severally be guilty of an offence and liable to a penalty of not more than \$25 for every day during which it is so used. R.S.O. 1937, c. 391, s. 21. Reception of more than authorized number of patients. Penalty.

**22.**—(1) The superintendent of a private hospital shall be deemed to be the occupier of the house for the purpose of giving notice under *The Public Health Act* of any patient found or suspected to be suffering from any communicable disease. Who to be deemed the occupier for certain purposes. Rev. Stat., c. 306.

(2) The superintendent of a private hospital shall be deemed to be the occupier thereof for the purpose of giving notice or Idem.

Rev. Stat.,  
c. 412. information under *The Vital Statistics Act* of the death of any person or of the birth of any child in the hospital. R.S.O. 1937, c. 391, s. 22.

Penalties. **23.** Any person who contravenes any of the provisions of this Act or of any regulation where a penalty is not provided herein shall be guilty of an offence and liable to a penalty of not less than \$5 and not more than \$500, and all penalties provided for herein shall be recoverable under *The Summary Convictions Act*. R.S.O. 1937, c. 391, s. 23.

Rev. Stat.,  
c. 379.

Burden  
of proof in  
prosecutions. **24.**—(1) In any prosecution for an offence against this Act the burden of proving that any person residing in a house and there receiving medical treatment is not a patient within the meaning of this Act shall be upon the person charged.

Idem. (2) In any prosecution for an offence against this Act the burden of proving that a licence is in force, and of proving its terms, and that any person apparently having the charge, control or management of a private hospital is not the superintendent thereof within the meaning of this Act shall be upon the person charged. R.S.O. 1937, c. 391, s. 24.

Municipal  
agreements  
as to  
indigents. **25.** With the approval of the Minister, a municipality may enter into an annual agreement with a private hospital respecting the admission and treatment of indigent persons and dependants of indigent persons in such municipality, and in such case the liability of the municipality to the private hospital shall be determined according to such agreement, and the Minister may terminate any such agreement at any time by 30 days notice in writing under his hand to the parties thereto. R.S.O. 1937, c. 391, s. 25.

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