1970

c 209 Hospital Services Commission Act

Ontario
CHAPTER 209

The Hospital Services Commission Act

1. In this Act,

(a) "Board" means the Health Insurance Registration Board established under The Health Insurance Registration Board Act;

(b) "Commission" means the Ontario Hospital Services Commission;

(c) "future hospital expenses" means the estimated total cost of the insured services made necessary as the result of an injury that will probably be required by a patient after the date of settlement or, where there is no settlement, after the first day of trial, and includes the estimated cost of probable future maintenance, care, diagnosis and treatment in a hospital under section 29;

(d) "Minister" means the member of the Executive Council designated by the Lieutenant Governor in Council to administer this Act;

(e) "past hospital expenses" means the total cost of the insured services made necessary as the result of an injury and provided to a patient up to and including the date of settlement or, where there is no settlement, the first day of trial, and includes the cost of maintenance, care, diagnosis and treatment in a hospital under section 29;

(f) "regulations" means the regulations made under this Act. R.S.O. 1960, c. 176, s. 1; 1965, c. 49, s. 1; 1967, c. 36, s. 1; 1968, c. 53, s. 1.

COMMISSION

2. The Commission that was constituted on behalf of Her Majesty in right of Ontario as a corporation without share capital by The Hospital Services Commission Act, 1956 is continued under the name "Ontario Hospital Services Commission". R.S.O. 1960, c. 176, s. 2; 1965, c. 49, s. 2.

3.—(1) The Commission shall be composed of not fewer than three and not more than seven persons as the Lieutenant Governor in Council from time to time may determine.
(2) The members of the Commission shall be appointed by the Lieutenant Governor in Council and one of them shall be designated as chairman and one of them may be designated as vice-chairman.

(3) The chairman, the vice-chairman, if any, and the other member or members, as the case may be, of the Commission shall receive such remuneration for their services as the Lieutenant Governor in Council may determine.

(4) In case of the absence or illness of the chairman or of there being a vacancy in the office of the chairman, the vice-chairman or, if none, such member of the Commission as the Commission designates for such purposes shall act as and have the powers of the chairman. R.S.O. 1960, c. 176, s. 3.

4. The Lieutenant Governor in Council may fill any vacancy that occurs from time to time in the membership of the Commission. R.S.O. 1960, c. 176, s. 4.

5. A majority of the members of the Commission constitutes a quorum. R.S.O. 1960, c. 176, s. 5.

6.—(1) The Commission may, subject to the approval of the Lieutenant Governor in Council,

(a) establish job classifications and salary ranges for its officers and employees and may appoint, employ and promote its officers and employees in conformity with the classifications and salary ranges so approved; and

(b) pay supplementary benefits to or for the credit of an officer or employee in addition to the remuneration payable under clause a.

(2) The Commission may establish the terms and conditions of employment for its officers and employees and, if necessary, make any payments required by such terms and conditions.

(3) The Public Service Superannuation Act applies to the permanent staff of the Commission, except the staff members provided for in subsection 4, as though the Commission had been designated by the Lieutenant Governor in Council under section 27 of that Act, and all contributions and credits of persons appointed to the permanent staff of the Commission accumulated under that Act are preserved and continued.

(4) The Commission may enter into agreements to establish and provide for any person transferred on or before the 1st day of January, 1959, to the staff of the Commission from the staff of the Ontario Hospital Association a pension and welfare plan providing for the continuation of benefits the same as or equivalent to those enjoyed by the Association's staff under the agreement for
that purpose dated the 1st day of January, 1954, to which the
Association is a party, and may pay the employer's share of the
cost of such plan.

(5) The Commission may,

(a) provide a system of cumulative vacation and sick leave
credits for the regular attendance of its officers and
employees, and such credits shall not be less than the
credits provided under The Public Service Act; and

(b) pay to an officer or employee having more than five
years service who ceases to be a member of the staff of
the Commission, or to his personal representative or,
failing a personal representative, to such other person as
the Commission may determine, an amount for his
accumulated vacation and sick leave credits computed
in the manner prescribed under The Public Service Act.

(6) The Commission may credit each person who is transferred
to the staff of the Commission with all vacation and sick leave
credits accumulated for regular attendance standing to the credit
of that person by virtue of any regulation under The Public Service
Act, and provide for the payment for such credits in accordance
with subsection 5.

(7) All contributions and credits accumulated in the public
Service Retirement Fund under The Public Service Superannua-
tion Act by any person who becomes a member of the temporary
or permanent staff of the Commission shall be transferred to the
credit of that person for superannuation purposes.

(8) The Commission may grant to an officer or an employee of
the Commission leave of absence with or without pay for the
purpose of taking a course of training or for any reason considered
sufficient by the Commission and, where the leave is with pay, the
Commission may in its discretion charge such leave against the
sick leave credits of the person.

(9) Every person who is entrusted by the Commission with the
custody or control of money in the course of his employment shall
give security in the manner and form provided by The Public
Officers Act. R.S.O. 1960, c. 176, s. 6.

7. It is the function of the Commission and it has power,

(a) to ensure the development throughout Ontario of a
balanced and integrated system of hospitals and related
health facilities;

(b) to approve the establishment of new and additional
hospital and related health facilities;

(c) to determine the amount of and pay grants for hospital
construction and maintenance;
(d) to establish and operate, alone or in co-operation with one or more organizations, institutes and centres for the training of hospital and related personnel;

(e) to conduct surveys and research programs and to obtain statistics for its purposes;

(f) to administer and enforce *The Public Hospitals Act* and the regulations thereunder, and *The Private Hospitals Act* and the regulations thereunder;

(g) to perform such other functions and discharge such other duties as are assigned to it from time to time by the Lieutenant Governor in Council. R.S.O. 1960, c. 176, s. 7.

8. The Commission may establish,  
(a) an administrative division;  
(b) a division of hospital planning;  
(c) a division of hospital consultant services;  
(d) a division of hospital accounting;  
(e) a division of hospital care insurance;  
(f) a division of research and statistics,  
and such other divisions as appear from time to time to be appropriate. R.S.O. 1960, c. 176, s. 8.

9. The moneys required for the purposes of the Commission shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 176, s. 9.

10. The books and records of the Commission shall be examined annually by the Provincial Auditor or by such other auditor as the Lieutenant Governor in Council designates. R.S.O. 1960, c. 176, s. 10.

11.—(1) The Commission shall make annually a report to the Minister of the affairs of the Commission.  

(2) A copy of the report shall be filed by the Minister with the Provincial Secretary who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly, if it is in session, or, if not, at the next ensuing session. R.S.O. 1960, c. 176, s. 11.

12. In the event of conflict between any provision of this Act and any provision of any other Act, the provision of this Act prevails. R.S.O. 1960, c. 176, s. 12.
HOSPITAL CARE INSURANCE PLAN

13. The Government of Ontario, represented by the Treasurer of Ontario, may enter into and amend from time to time an agreement with the Government of Canada under which Canada will contribute to the cost of the plan of hospital care insurance provided for in this Act in accordance with such terms and conditions as the agreement provides. R.S.O. 1960, c. 176, s. 13.

14.—(1) In addition to the functions enumerated elsewhere in this Act, it is the function of the Commission and it has power,

(a) to administer the plan of hospital care insurance established by the regulations of the Commission;

(b) to govern the standards and inspect the facilities for care, treatment and services in hospitals and nursing homes approved to participate in the plan of hospital care insurance;

(c) to determine the amounts to be paid to hospitals and to pay hospitals for insured services provided to insured persons under the plan of hospital care insurance and to make retroactive adjustments with hospitals for under-payment or over-payment for insured services according to the cost as determined in accordance with this Act and the regulations;

(d) to enter into agreements with one or more persons to act for and on behalf of the Commission in the operation of any part of the plan of hospital care insurance;

(e) to receive and disburse all moneys pertaining to the plan of hospital care insurance;

(f) to control charges made to all patients by hospitals in Ontario to which payments are made under the plan of hospital care insurance;

(g) to enter into agreements with hospitals outside Ontario and with other governments and hospital care insurance authorities established by other governments for providing insured services to insured persons;

(h) to prescribe forms necessary or desirable to carry out the intent and purpose of this Act;

(i) to borrow money upon the security of its own obligations upon the consent of the Treasurer of Ontario;

(j) to appoint inspectors with the duty and power to inspect and examine books, accounts and records of hospitals and of employers and collectors for the purpose of obtaining information related to the hospital insurance plan;
(k) to appoint medical practitioners with the duty and power to examine and obtain information from the medical and other hospital records, reports and accounts of patients who are receiving or have received insured services;

(i) to withhold payment for insured services for any person who does not, in the opinion of the Commission, medically require such services. R.S.O. 1960, c. 176, s. 14 (1); 1967, c. 36, s. 2.

(2) The Regulations Act does not apply to anything done by the Commission under subsection 1. R.S.O. 1960, c. 176, s. 14 (2).

15.—(1) The Commission may make grants to schools approved by the Commission for the education of nurses, technicians and other related personnel for work in hospitals and other health facilities.

(2) Grants made under subsection 1 may be paid directly to a school or to the board of a hospital under whose supervision the school is operated. 1967, c. 36, s. 3, part.

16.—(1) The Commission may make loans to schools approved by the Commission for the education of nurses, technicians and other related personnel for work in hospitals and other health facilities.

(2) Loans made under subsection 1 may be paid directly to a school or to the board of a hospital under whose supervision the school is operated. 1967, c. 36, s. 3, part.

17.—(1) A school of nursing shall pass by-laws respecting such matters as are prescribed by the regulations and submit them to the Commission in accordance with the regulations.

(2) A school of nursing shall amend or revise its by-laws and submit them to the Commission in accordance with the regulations.

(3) No by-law or amendment to or revision of a by-law of a school of nursing has any force or effect until it is approved by the Lieutenant Governor in Council upon the recommendation of the Commission to the Minister. 1967, c. 36, s. 3, part.

18.—(1) It is the function of the Board and it has power to determine eligibility and collect premiums for hospital care insurance and perform all functions necessary for the purpose and perform such other duties as are assigned to it by this Act or the regulations.

(2) The Board shall pay the premiums collected by it for hospital care insurance into The Hospital Services Commission Fund. 1967, c. 36, s. 4.
19. No land, building or other premises or place or any part thereof acquired or used for the purposes of a regional school of nursing or a school, institute or training centre approved by the Commission for the education of registered nurses, registered nursing assistants, medical laboratory technicians, radiological technicians or any other personnel for work in hospitals or other health facilities shall be sold, leased, mortgaged or otherwise disposed of without the approval of the Commission. 1968, c. 53, s. 2.

20.—(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations,

(a) establishing a plan of hospital care insurance;

(b) defining words used in this Act for the purposes of this Act and the regulations;

(c) approving hospitals for the purposes of the plan of hospital care insurance;

(d) making such arrangements as are necessary to ensure that adequate standards are maintained in hospitals;

(e) providing for the admission, discipline and discharge of patients or any class of patients in hospitals in Ontario to which hospitals payments are made under the plan of hospital care insurance;

(f) prohibiting or restricting the making and renewing of contracts to provide a resident with or reimbursing or indemnifying a resident for the cost of insured services, and regulating the making and renewing of contracts of insurance and prepayment plans with residents to provide any benefits related directly or indirectly to hospitalization or to the length of time a person is in hospital;

(g) prohibiting payment by insurers of the cost of any insured services and the provision of any benefit related directly or indirectly to hospitalization or to the length of time a person is in hospital;

(h) subrogating the Commission to any right of recovery of past hospital expenses and future hospital expenses by an insured person or by a hospital indigent described in the regulations in respect of any injury or disability, and providing the terms and conditions under which an action to enforce such rights may be begun, conducted and settled and the terms and conditions under which the proceeds of the settlement or a judgment to which the Commission is entitled shall be paid to the Commission, and prescribing security therefor;

(i) providing for and prescribing the terms and conditions under which an action mentioned in clause (h) may be tried and judgment therein given;
(j) establishing a schedule of the daily costs of maintenance, care, diagnosis and treatment provided in the various classes of hospitals under section 29 on which to calculate the costs of such maintenance, care, diagnosis and treatment that may be recovered by the Commission under its subrogated rights;

(k) providing for payment to the Commission by an insurer of the amount of a claim in respect of the cost of insured services that would otherwise be payable to an insured person;

(l) respecting grants under section 15 and prescribing classes of such grants and the methods of determining the amounts of such grants and providing for the manner and times of payment and the suspension and withholding of such grants and for the making of deductions from such grants;

(m) respecting loans under section 16 and providing the terms and conditions upon which such loans may be made, the amounts thereof, and the manner and times of repayment of such loans;

(n) prescribing the matters upon which by-laws are to be passed, amended or revised by schools of nursing under section 17 and providing for the submission of such by-laws, amendments or revisions to the Commission;

(o) establishing The Hospital Services Commission Fund and providing for the operation of the Fund, for deposits into and withdrawals from the Fund and for the investing of any surplus moneys in the Fund that are not necessary for the current requirements of the Commission;

(p) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 176, s. 15 (1); 1967, c. 36, s. 5 (1, 2); 1968, c. 53, s. 3.

(2) The Board, subject to the approval of the Lieutenant Governor in Council, may make regulations,

(a) providing for the insuring of persons and the payment of premiums, and prescribing the premiums that shall be paid by insured persons;

(b) designating classes of insured persons and prescribing the conditions for participation of any class;

(c) fixing municipal responsibility for a portion of the cost of insured services for recipients of public assistance, but the portion shall not exceed the rates established for municipal liability for indigents by The Public Hospitals Act;
(d) providing for compulsory participation in the plan of hospital care insurance by designated groups of persons ordinarily resident in Ontario;

(e) regulating insurance contracts that provide hospital insurance benefits supplementary to those made available under this Act and the regulations;

(f) respecting any matter considered necessary or desirable for carrying out the functions of the Board. 1967, c. 36, s. 5 (3).

(3) A regulation may be limited in its application in time, place, persons or things and may be retroactive in its operation. R.S.O. 1960, c. 176, s. 15 (2).

21. The Commission is not liable for any act or omission of any hospital official, any person on the medical staff or nursing staff of a hospital, or any employee or agent of a hospital. R.S.O. 1960, c. 176, s. 16.

22.—(1) No person shall knowingly obtain or receive the benefit of insured services that he is not entitled to obtain or receive under this Act and the regulations.

(2) No person shall knowingly aid or abet another person to obtain or receive insured services that such other person is not entitled to obtain or receive under this Act and the regulations.

(3) Every person who contravenes subsection 1 or 2 is guilty of an offence and on summary conviction is liable to a fine of not less than $100 and not more than $1,000 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1960, c. 176, s. 17.

23. Every person who obstructs an inspector or a medical practitioner in the performance of his duties under this Act and the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than $200 and not more than $10,000 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1960, c. 176, s. 18.

24.—(1) Every person who contravenes any provision of this Act or the regulations for which no penalty is specifically provided is guilty of an offence and on summary conviction is liable to a fine of not less than $100 and not more than $1,000.

(2) Where the offence is the failure by an employer to remit on behalf of himself and his employees the premiums required by the regulations, the penalty imposed under subsection 1 shall be increased by an amount equal to the amount of such premiums, and, upon payment of the penalty as so increased, the employer
shall be deemed to have remitted such premiums. R.S.O. 1960, c. 176, s. 19.

(3) Where the employer is a corporation, the directors thereof are jointly and severally liable for the payment of the amount by which the penalty imposed under subsection 1 is increased under subsection 2. 1962-63, c. 58, s. 1.

25. Where an employer that is a corporation has failed to remit on behalf of its employees the premiums required by the regulations, the directors thereof are jointly and severally liable for the payment to the Commission of the amount of such premiums when the corporation,

(a) goes into liquidation;

(b) is ordered to be wound up;

(c) makes an authorized assignment under the Bankruptcy Act (Canada); or

(d) has a receiving order under the Bankruptcy Act (Canada) made against it. 1962-63, c. 58, s. 2.

26. The fines recovered for offences against this Act shall be paid over to the Commission. R.S.O. 1960, c. 176, s. 20.

27.—(1) No member of the Commission and no employee thereof shall be required to give testimony in any civil suit with regard to information obtained by him in the discharge of his duties.

(2) No member of the Commission and no employee thereof is personally liable for anything done by it or him under the authority of this Act or any other Act or any regulation. R.S.O. 1960, c. 176, s. 21.

28. The Commission shall not be required to make available for evidence in any civil suit any information concerning a patient obtained by the Commission from,

(a) the records of a hospital, including a hospital under section 29; or

(b) a statement made to inform the Commission about an incident that caused an insured person to require care and treatment in a hospital. R.S.O. 1960, c. 176, s. 22.

29.—(1) In this section, “hospital” means a psychiatric facility under The Mental Health Act, a children’s mental health centre under The Children’s Mental Health Centres Act or a sanatorium established under The Sanatoria for Consumptives Act. R.S.O. 1960, c. 176, s. 23 (1); 1961-62, c. 55, s. 2, amended.
(2) An insured person who is entitled to insured services under the plan of hospital care insurance and who is admitted to a hospital under this section is entitled to such services as are required for his maintenance, care, diagnosis and treatment in accordance with this Act and the regulations without being required to pay or have paid on his behalf any additional premium or other charge beyond that necessary to entitle him to insured services under the plan of hospital care insurance.

(3) Notwithstanding subsection 2, an insured person in respect of whom, but for this Act, the Government of Canada would have assumed the cost of the maintenance, care, diagnosis and treatment provided under this section is not entitled to receive insured services in a hospital as an insured person.

(4) The Commission shall keep the accounts, if any, of insured persons who receive insured services under this section separate from the accounts of patients who receive insured services under the plan of hospital care insurance mentioned in section 13. R.S.O. 1960, c. 176, s. 23 (2-4).