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c 176 Hospital Services Commission Act

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CHAPTER 176

The Hospital Services Commission Act

1. In this Act,

(a) “Commission” means the Hospital Services Commission of Ontario;

(b) “Minister” means the member of the Executive Council designated by the Lieutenant Governor in Council to administer this Act;

(c) “regulations” means the regulations made under this Act. 1957, c. 46, s. 1.

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. 1957, c. 46, 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 determines.

(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 determines. 1957, c. 46, s. 3.

(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 purpose shall act as and have the powers of the chairman. 1958, c. 39, s. 1.
4. The Lieutenant Governor in Council may fill any vacancy that occurs from time to time in the membership of the Commission. 1957, c. 46, s. 4.

5. A majority of the members of the Commission constitutes a quorum. 1957, c. 46, 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 Part I of 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 determines, 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 Part II of The Public Service Superannuation 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 deemed 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. 1958, c. 39, s. 2.

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 programmes 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. 1957, c. 46, s. 7; 1958, c. 39, s. 3.

Divisions

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. 1957, c. 46, s. 8.

Moneys

9. The moneys required for the purposes of the Commission shall be paid out of the moneys appropriated therefor by the Legislature. 1957, c. 46, s. 9.

Audit

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. 1957, c. 46, s. 10.

Annual report

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. 1957, c. 46, s. 11.

Conflict

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. 1957, c. 46, 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. 1957, c. 46, s. 13; 1958, c. 39, s. 4.
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;

(b) 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 underpayment or overpayment for insured services according to the cost as determined in accordance with this Act and the regulations;

(c) 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;

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

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

(f) 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;

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

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

(i) to appoint inspectors with the duty and power to inspect and examine books, accounts and records of employers and collectors for the purpose of obtaining information related to the hospital insurance plan;

(j) 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;

(k) to withhold payment for insured services for any person who does not, in the opinion of the Commission, medically require such services. 1957, c. 46, s. 14; 1958, c. 39, s. 5 (1, 2).

(2) The Regulations Act does not apply to anything done by the Commission under subsection 1. 1958, c. 39, s. 5 (3).
Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations,

(a) establishing a plan of hospital care insurance;

(b) providing for compulsory participation in the plan of hospital care insurance by designated groups of persons ordinarily resident in Ontario;

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

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

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

(f) 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; R.S.O. 1960, c. 322.

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

(h) 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;

(i) 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;

(j) 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;

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

(l) subrogating the Commission to any right of recovery by an insured person 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;
(m) 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;

(n) 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; and

(o) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1957, c. 46, s. 15; 1958, c. 39, s. 6 (1, 2).

(2) A regulation may be limited in its application in time, of place, persons or things and may be retroactive in its operation. 1958, c. 39, s. 6 (3).

16. 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. 1958, c. 39, s. 7, part.

17.—(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. 1958, c. 39, s. 7, part.

18. 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. 1958, c. 39, s. 7, part.

19.—(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. 1958, c. 39, s. 7, part; 1960, c. 47, s. 1 (1).
(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. 1960, c. 47, s. 1 (2).

Disposition of fines

20. The fines recovered for offences against this Act shall be paid over to the Commission. 1960, c. 47, s. 2, part.

Protection from being called as witnesses

21.—(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.

Protection from personal liability

(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, any other Act or any regulation. 1960, c. 47, s. 2, part.

Security of records

22. 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 23; 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. 1960, c. 47, s. 2, part.

TUBERCULOSIS AND MENTAL ILLNESS

Interpretation

23.—(1) In this section, "hospital" means a sanatorium licensed under The Private Sanitaria Act that is approved by the Commission for the purposes of this section, a psychiatric hospital established under The Psychiatric Hospitals Act, an institution designated by the regulations under The Mental Hospitals Act, or a sanatorium established under The Sanatoria for Consumptives Act.

Insured persons entitled

(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. 1958, c. 39, s. 7, part, amended.