

[Français](#)

Public Hospitals Act

R.S.O. 1990, CHAPTER P.40

Consolidation Period: From January 1, 2011 to the [e-Laws currency date](#).

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Definitions

[1.](#) In this Act,

- “administrator” means the person who has for the time being the direct and actual superintendence and charge of a hospital; (“directeur général”)
- “Appeal Board” means the Health Professions Appeal and Review Board under the *Ministry of Health and Long-Term Care Appeal and Review Boards Act, 1998*; (“Commission d’appel”)
- “board” means the board of directors, governors, trustees, commission or other governing body or authority of a hospital; (“conseil”)
- “dependant” means a patient the charges for whose treatment some other person is liable for in law; (“personne à charge”)
- “hospital” means any institution, building or other premises or place that is established for the purposes of the treatment of patients and that is approved under this Act as a public hospital; (“hôpital”)
- “in-patient” means a person admitted to a hospital for the purpose of treatment; (“malade hospitalisé”)
- “inspector” means a person appointed under this Act as an inspector; (“inspecteur”)
- “local health integration network” means a local health integration as defined in section 2 of the *Local Health System Integration Act, 2006*; (“réseau local d’intégration des services de santé”)
- “medical advisory committee” means a committee established under section 35; (“comité médical consultatif”)
- “medical department” means a division of the medical staff of a hospital for the provision of a specified type of medical diagnosis or treatment; (“service médical”)
- “Minister” means the Minister of Health and Long-Term Care; (“ministre”)
- “Ministry” means the Ministry of Health and Long-Term Care; (“ministère”)
- “municipality” does not include a lower-tier municipality; (“municipalité”)
- “out-patient” means a person who is received in a hospital for examination or treatment or both, but who is not admitted as a patient; (“malade externe”)
- “patient” means an in-patient or an out-patient; (“malade”)
- “personal health information” has the same meaning as in the *Personal Health Information Protection Act, 2004*; (“renseignements personnels sur la santé”)
- “physician” means a legally qualified medical practitioner; (“médecin”)
- “regulations” means the regulations made under this Act; (“règlements”)

“resident” means actually resident in a municipality for a period of three months within the six months next prior to admission to a hospital; (“résident”)

“treatment” means the maintenance, observation, medical care and supervision and skilled nursing care of a patient and, if dental service is made available in a hospital by its board, includes the dental care and supervision of the patient; (“traitement”)

“unorganized territory” means those parts of Ontario that are without municipal organization, including Indian reservations and provincial parks, but not including property of the Government of Canada used for the purposes of national defence installations, camps or stations. (“territoire non érigé en municipalité”) R.S.O. 1990, c. P.40, s. 1; 1996, c. 1, Sched. F, s. 3; 1998, c. 18, Sched. G, s. 70 (1); 2002, c. 17, Sched. F, Table; 2004, c. 3, Sched. A, s. 96 (1); 2006, c. 4, s. 52 (1, 2); 2006, c. 19, Sched. L, s. 11 (2, 3); 2009, c. 33, Sched. 18, s. 17 (2); 2010, c. 25, s. 27 (1).

Private hospitals, independent health facilities not affected

2. Nothing in this Act in any way relates to or affects a private hospital under the *Private Hospitals Act* or an independent health facility under the *Independent Health Facilities Act*. R.S.O. 1990, c. P.40, s. 2; 1996, c. 1, Sched. F, s. 4.

Administration and enforcement

3. The Minister shall administer and enforce this Act and the regulations. R.S.O. 1990, c. P.40, s. 3.

Approvals by Minister

Approval of incorporation, amalgamation

4. (1) No application to incorporate a hospital or amalgamate two or more hospitals under the *Corporations Act* or under a private Act shall be proceeded with until it has first received the approval of the Minister. R.S.O. 1990, c. P.40, s. 4 (1); 1996, c. 1, Sched. F, s. 5 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is repealed and the following substituted:

Approvals by Minister

Approval of articles

(1) No articles shall be filed under the *Not-for-Profit Corporations Act, 2010* in respect of a hospital until the articles have first received the approval of the Minister. 2010, c. 15, s. 240 (1).

Approval of incorporation, amalgamation, amendment

(1.1) No application to incorporate a hospital or amalgamate two or more hospitals under a private Act or to amend a private Act in respect of a hospital shall be proceeded with until the application has first received the approval of the Minister. 2010, c. 15, s. 240 (1).

See: 2010, c. 15, ss. 240 (1), 249.

Approval

(2) No institution, building or other premises or place shall be operated or used for the purposes of a hospital unless the Minister has approved the operation or use of the premises or place for that purpose. 1997, c. 15, s. 16.

Approval of additions

[\(3\)](#) No additional building or facilities shall be added to a hospital until the plans therefor have been approved by the Minister. R.S.O. 1990, c. P.40, s. 4 (3).

Approval of sales

[\(4\)](#) No land, building or other premises or place or any part thereof acquired or used for the purposes of a hospital shall be sold, leased, mortgaged or otherwise disposed of without the approval of the Minister. R.S.O. 1990, c. P.40, s. 4 (4).

Suspension or revocation of approval

[\(5\)](#) Any approval given or deemed to have been given under this Act in respect of a hospital may be suspended by the Minister or revoked by the Lieutenant Governor in Council if the Minister or the Lieutenant Governor in Council, as the case may be, considers it in the public interest to do so. R.S.O. 1990, c. P.40, s. 4 (5); 1996, c. 1, Sched. F, s. 5 (2).

Payments to hospitals

[5. \(1\)](#) The Minister may pay any grant, make any loan and provide any financial assistance to a hospital if the Minister considers it in the public interest to do so. 1996, c. 1, Sched. F, s. 6.

Terms and conditions

[\(2\)](#) The Minister may impose terms and conditions on grants, loans and financial assistance provided under this section and may from time to time amend or remove the terms and conditions or impose new terms and conditions. 1996, c. 1, Sched. F, s. 6.

Security for payment

[\(3\)](#) Without limiting the generality of subsection (2), the Minister may, as a condition of providing grants, loans and financial assistance under this section, require the recipient of the funds to secure their repayment in the manner determined by the Minister. 1996, c. 1, Sched. F, s. 6.

Reduce or terminate grants, etc.

[\(4\)](#) The Minister may reduce the amount of any grant, loan or financial assistance, may suspend or terminate any grant, loan or financial assistance or may withhold payment in whole or in part of any grant, loan or financial assistance with respect to a hospital if the Minister considers it in the public interest to do so. 1996, c. 1, Sched. F, s. 6.

Directions

[6. \(0.1\)](#) Repealed: 2006, c. 4, s. 52 (3).

Directions

[\(1\)](#) This section applies to a hospital that received a direction under this section, as it read immediately before subsection 52 (3) of the *Local Health System Integration Act, 2006* came into force. 2006, c. 4, s. 52 (3).

Compliance

[\(2\)](#) Subject to subsection (10), a hospital that received a direction mentioned in subsection (1) shall comply with it. 2006, c. 4, s. 52 (3).

Amendment of direction

[\(3\)](#) The Minister may amend a direction mentioned in subsection (1) if the Minister considers it in the public interest to do so. 2006, c. 4, s. 52 (3).

[\(4\)-\(8\)](#) Repealed: 2006, c. 4, s. 52 (3).

Powers of board

[\(9\)](#) Despite the *Corporations Act*, any special Acts governing hospitals, the letters patent, supplementary letters patent or by-laws of a hospital, the board shall have the unrestricted power to carry out a direction under this section but such powers shall not contravene the provisions of any other Act. 1996, c. 1, Sched. F, s. 6.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (9) is repealed and the following substituted:

Powers of board

[\(9\)](#) Despite the *Not-for-Profit Corporations Act, 2010*, any special Acts governing hospitals, the articles or by-laws of a hospital, the board shall have the unrestricted power to carry out a direction under this section but such powers shall not contravene the provisions of any other Act. 2010, c. 15, s. 240 (2).

See: 2010, c. 15, ss. 240 (2), 249.

Conflict

[\(10\)](#) An integration decision as defined in section 2 of the *Local Health System Integration Act 2006* or a Minister's order made under section 28 of that Act prevails over a direction under this section, as it read immediately before subsection 52 (3) of the *Local Health System Integration Act, 2006* came into force. 2006, c. 4, s. 52 (4).

Revocation of direction

[\(11\)](#) If the Minister considers it in the public interest to do so, the Minister may revoke a direction mentioned in subsection (10). 2006, c. 4, s. 52 (4).

Repeal

[\(12\)](#) **This section is repealed on a day to be named by proclamation of the Lieutenant Governor. 2006, c. 4, s. 52 (4).**

Powers

[7.](#) Every hospital has 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. R.S.O. 1990, c. P.40, s. 7.

Investigators

[8. \(1\)](#) The Lieutenant Governor in Council may appoint one or more persons to investigate and report on the quality of the management and administration of a hospital, the quality of the care and treatment of patients in a hospital or any other matter relating to a hospital where the Lieutenant Governor in Council considers it in the public interest to do so. 1996, c. 1, Sched. F, s. 7.

Powers

[\(2\)](#) An investigator has the powers of an inspector under this Act and the regulations. R.S.O. 1990, c. P.40, s. 8 (2).

Obstruction

[\(3\)](#) No person shall obstruct an investigator or withhold or destroy, conceal or refuse to furnish any information or thing required by the investigator for the purposes of the investigation. R.S.O. 1990, c. P.40, s. 8 (3).

Delivery of report

(4) The Minister shall cause a copy of the report of an investigation to be delivered to the chair of the board of the hospital. R.S.O. 1990, c. P.40, s. 8 (4).

Hospital supervisor

9. (1) On the recommendation of the Minister, the Lieutenant Governor in Council may appoint a person as a hospital supervisor where the Lieutenant Governor in Council considers it in the public interest to do so. 1996, c. 1, Sched. F, s. 8.

Notice of appointment

(2) The Minister shall give the board of a hospital at least 14 days notice before recommending to the Lieutenant Governor in Council that a hospital supervisor be appointed. 1996, c. 1, Sched. F, s. 8.

Immediate appointment

(3) Subsection (2) does not apply if there are not enough members on the board of a hospital to form a quorum. 1996, c. 1, Sched. F, s. 8.

Term of office

(4) The appointment of a hospital supervisor is valid until terminated by order of the Lieutenant Governor in Council. 1996, c. 1, Sched. F, s. 8.

Powers of supervisor

(5) Unless the appointment provides otherwise, a hospital supervisor has the exclusive right to exercise all of the powers of the board and, where the hospital is owned or operated by a corporation, of the corporation, its officers and members of the corporation. 1996, c. 1, Sched. F, s. 8.

Same

(6) The Lieutenant Governor in Council may specify the powers and duties of a hospital supervisor appointed under this section and the terms and conditions governing those powers and duties. 1996, c. 1, Sched. F, s. 8.

Additional powers of supervisor

(7) If, under the order of the Lieutenant Governor in Council, the board continues to have the right to act with regard to any matters, any such act of the board is valid only if approved in writing by the hospital supervisor. 1996, c. 1, Sched. F, s. 8.

Right of access

(8) A hospital supervisor appointed for a hospital has the same rights as the board and the administrator of the hospital in respect of the documents, records and information of the board and the hospital. 1996, c. 1, Sched. F, s. 8.

Report to Minister

(9) A hospital supervisor shall report to the Minister as required by the Minister. 1996, c. 1, Sched. F, s. 8.

Minister's directions

(10) The Minister may issue directions to a hospital supervisor with regard to any matter within the jurisdiction of the supervisor. 1996, c. 1, Sched. F, s. 8.

Directions to be followed

[\(11\)](#) A hospital supervisor shall carry out every direction of the Minister. 1996, c. 1, Sched. F, s. 8.

Public interest

[9.1 \(1\)](#) In making a decision in the public interest under this Act, the Lieutenant Governor in Council or the Minister, as the case may be, may consider any matter they regard as relevant including, without limiting the generality of the foregoing,

- (a) the quality of the management and administration of the hospital;
- (b) the proper management of the health care system in general;
- (c) the availability of financial resources for the management of the health care system and for the delivery of health care services;
- (d) the accessibility to health services in the community where the hospital is located; and
- (e) the quality of the care and treatment of patients. 1996, c. 1, Sched. F, s. 8.

No proceeding against Crown

[\(2\)](#) No proceeding, other than a proceeding referred to in subsection 10 (2), shall be commenced against the Crown or the Minister with respect to a decision or direction under section 5, 6 or 9, the appointment of an investigator or a hospital supervisor under section 8 or 9, the appointment of an inspector under section 18 or any action or omission of an investigator, hospital supervisor or inspector done in good faith in the performance of a power or of an authority under any of those sections or under the regulations. 2010, c. 25, s. 27 (2).

Protection from personal liability

[10. \(1\)](#) No action or other proceeding for damages or otherwise shall be instituted against any of the following persons for any act done in good faith in the execution or intended execution of any duty or authority under this Act or the regulations or for any alleged neglect or default in the execution in good faith of any such duty or authority:

1. An investigator or a hospital supervisor appointed under section 8 or 9, an inspector appointed under section 18 or a person, persons or a body to whom the Minister's powers have been assigned under clause 32 (1) (z.1).
2. The staff of anyone mentioned in paragraph 1. 2007, c. 10, Sched. I, s. 2; 2010, c. 25, s. 27 (3).

Crown not relieved of liability

[\(2\)](#) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in paragraphs 1 and 2 of subsection (1) to which the Crown would otherwise be subject and the Crown is liable under that Act for any such tort in the same manner as if subsection (1) had not been enacted. 2007, c. 10, Sched. I, s. 2.

Expropriation

[11.](#) Subject to the *Expropriations Act*, a board may expropriate any real property necessary for the purpose of properly conducting the hospital. R.S.O. 1990, c. P.40, s. 11.

By-laws

[12. \(1\)](#) A hospital shall pass by-laws as prescribed by the regulations. 1996, c. 1, Sched. F,

s. 10.

Idem

(2) A hospital shall pass, amend or revise its by-laws and submit them to the Minister after receiving notice to do so as prescribed by the regulations. R.S.O. 1990, c. P.40, s. 12 (2).

Idem

(3) No by-law, or amendment to or revision of a by-law, made under subsection (2) has any force or effect until it is approved by the Lieutenant Governor in Council upon the recommendation of the Minister. R.S.O. 1990, c. P.40, s. 12 (3).

Rotation of directors

(4) Despite the *Corporations Act*, a hospital may provide by by-law for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than five years and at least four directors shall retire from office each year. R.S.O. 1990, c. P.40, s. 12 (4).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4) is amended by striking out “Despite the *Corporations Act*” at the beginning. See: 2010, c. 15, ss. 240 (3), 249.

Special directors

(5) Despite the *Corporations Act*, a hospital may provide by by-law for the appointment by its board, in recognition of contributions or of long or special services to the hospital considered worthy of such appointment, of life directors, term directors and honorary directors. R.S.O. 1990, c. P.40, s. 12 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (5) is amended by striking out “Despite the *Corporations Act*” at the beginning. See: 2010, c. 15, ss. 240 (4), 249.

Idem

(6) A life director may attend meetings of the board during his or her lifetime and vote in person but not by proxy thereat, and the number of life directors at any time shall not exceed the number of elected directors and directors by virtue of office. R.S.O. 1990, c. P.40, s. 12 (6).

Idem

(7) A term director may attend meetings of the board for a term not exceeding ten years as specified in the by-law and vote in person but not by proxy thereat. R.S.O. 1990, c. P.40, s. 12 (7).

Idem

(8) An honorary director may attend meetings of the board and may act in an advisory capacity without the right to vote or may vote in person but not by proxy as determined by the by-law. R.S.O. 1990, c. P.40, s. 12 (8).

Idem

(9) The by-law may provide for the appointment of members or retired members of the medical, dental, nursing or administrative staffs of the hospital as honorary directors of the hospital. R.S.O. 1990, c. P.40, s. 12 (9).

Idem

(10) The number of honorary directors with the right to vote at board meetings plus the number of term directors at any time shall not exceed the number of elected directors and directors by virtue of office. R.S.O. 1990, c. P.40, s. 12 (10).

Idem

(11) Despite the *Corporations Act*, upon the recommendation of the Minister, the Lieutenant Governor in Council may appoint one or more provincial hospital representatives to the board of a hospital for a term of office of not more than three years and such provincial hospital representatives shall have all the rights and responsibilities of elected directors. R.S.O. 1990, c. P.40, s. 12 (11).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (11) is amended by striking out “Despite the *Corporations Act*” at the beginning. See: 2010, c. 15, ss. 240 (5), 249.

Not a regulation

(12) A by-law approved under this section is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2006, c. 21, Sched. F, s. 126.

Protection from liability

13. (1) No action or other proceeding for damages or otherwise shall be instituted against any member of a committee of the medical staff of a hospital or of a board or of the staff thereof for any act done in good faith in the execution or intended execution of any duty or authority under this Act or the regulations or for any alleged neglect or default in the execution in good faith of any such duty or authority. 1996, c. 1, Sched. F, s. 11; 1998, c. 18, Sched. G, s. 70 (2).

Same

(2) No action or other proceeding for damages or otherwise shall be instituted against any witness in a proceeding or investigation before a committee of the medical staff of a hospital or a board or the Appeal Board for anything done or said in good faith in the course of a meeting, proceeding, investigation or other business of such committee or board. 1996, c. 1, Sched. F, s. 11.

Records of personal health information

14. (1) The record of personal health information compiled in a hospital for a patient is the property of the hospital and shall be kept in the custody of the administrator. R.S.O. 1990, c. P.40, s. 14; 2004, c. 3, Sched. A, s. 96 (2); 2006, c. 4, s. 52 (5).

Transfer of records of personal health information

(2) Where a direction is made under subsection 6 (1), as it read immediately before subsection 52 (3) of the *Local Health System Integration Act, 2006* came into force, the administrator of the hospital that is the subject of the direction may transfer records of personal health information kept in his or her custody under subsection (1) to the administrator of another hospital or to such persons or entities as may be prescribed in a manner that will protect the privacy of the records. 1996, c. 1, Sched. F, s. 12; 2004, c. 3, Sched. A, s. 96 (3); 2006, c. 4, s. 52 (6).

Management committee

15. Despite the *Corporations Act*, no hospital by-law authorizing the board to elect a management committee and to delegate to the management committee any powers of the board requires to be confirmed at a general meeting of the members of the hospital corporation. R.S.O. 1990, c. P.40, s. 15.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 15 is amended by striking out “Despite the *Corporations Act*” at the beginning. See: 2010, c. 15, ss. 240 (6), 249.

No voting by proxy

16. No member of a hospital corporation shall vote by proxy at any meeting of the corporation. R.S.O. 1990, c. P.40, s. 16.

Notice of hospital meetings

17. (1) Despite the *Corporations Act*, it is not necessary to send written notice of any general or special meeting of the members of the hospital corporation to each member of the hospital corporation. R.S.O. 1990, c. P.40, s. 17 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out “Despite the *Corporations Act*” at the beginning. See: 2010, c. 15, ss. 240 (7), 249.

Idem

(2) It is sufficient notice of any general or special meeting of the members of the hospital corporation if notice is given by publication at least once a week for two successive weeks next preceding the meeting in a newspaper or newspapers circulated in the municipality or municipalities in which members of the hospital corporation reside as shown by their addresses on the records of the hospital. R.S.O. 1990, c. P.40, s. 17 (2).

Inspectors

18. (1) The Minister may appoint one or more inspectors for the purposes of this Act and the regulations. 2010, c. 25, s. 27 (4).

Powers

(2) Without limiting subsection (1) or the power under the regulations to prescribe the powers and duties of inspectors, an inspector may, if directed by the Minister,

- (a) conduct a review, including an audit, of all or part of the operations, accounts, records and other affairs of a hospital; and
- (b) upon completion of a review, make a report in writing to the Minister. 2010, c. 25, s. 27 (4).

Confidentiality

(3) An inspector and his or her agents shall keep confidential all information that comes to his or her knowledge in the course of his or her duties under this Act and shall not communicate any information to any other person except as required by law or except where the communication is to the Minister or a person employed in or performing services for the Ministry. 2010, c. 25, s. 27 (4).

Disclosure

(4) Where the Minister determines that disclosure of the report, in whole or in part, is in the public interest, the Minister shall direct that the report, in whole or in part, be made public or be disclosed to any person. 2010, c. 25, s. 27 (4).

19. Repealed: 2009, c. 33, Sched. 18, s. 26.

Admission of patients

- 20.** A hospital shall accept a person as an in-patient if,
- (a) the person has been admitted to the hospital pursuant to the regulations; and
 - (b) the person requires the level or type of hospital care for which the hospital is approved by the regulations. 2006, c. 4, s. 52 (7).

Refusal of admission

- 21.** Nothing in this Act requires any hospital to admit as an in-patient,
- (a) any person who is not a resident or a dependant of a resident of Ontario, unless by refusal of admission life would thereby be endangered; or
 - (b) any person who merely requires custodial care. R.S.O. 1990, c. P.40, s. 21; 2006, c. 4, s. 52 (8).

22., 23. Repealed: 2009, c. 33, Sched. 18, s. 26.

Interns

24. No person shall be employed as an intern in a hospital unless he or she is a member of the College of Physicians and Surgeons of Ontario. R.S.O. 1990, c. P.40, s. 24; 1998, c. 18, Sched. G, s. 70 (3).

Burial expenses by municipality

25. In the event of the death in a hospital of a patient who is an indigent person, or the dependant of an indigent person, the municipality in which the patient was a resident at the time of the patient's admission shall pay to the hospital any expenses of his or her burial that it incurs. R.S.O. 1990, c. P.40, s. 25.

Statements of account to be rendered

26. Where under this Act the charges for burial expenses of a deceased patient are payable by a municipality, the hospital to which the patient was admitted shall from time to time render to the clerk of the municipality statements of account of any such charges with full particulars thereof, and if the amount of any such account is not paid within a reasonable time after it has been rendered it may be recovered as a debt in any court of competent jurisdiction. R.S.O. 1990, c. P.40, s. 26.

Municipal right of recourse against patient

27. Upon the payment by a municipality of any account rendered to it by a hospital for any expenses of burial of a deceased patient, the municipality may recover from the patient, or, in the event of the patient's decease, from his or her estate or personal representatives, or, in the case of a dependant, from any person liable in law with respect to the dependant, the amount of the payment so made, and the same may be recovered as a debt in any court of competent jurisdiction. R.S.O. 1990, c. P.40, s. 27.

Municipal right of recourse against proper municipality

28. Upon payment by a municipality to a hospital of any account for expenses of burial of a deceased patient by reason of the patient having been assumed to be a resident in the municipality and it being ascertained that the patient was not resident therein but at the time of admission to the hospital was resident in another municipality in Ontario, the municipality that made the payment may recover the amount thereof as a debt from the municipality in which the patient was resident, and upon payment by that municipality it is entitled to exercise the rights of recovery conferred

under section 27. R.S.O. 1990, c. P.40, s. 28.

Indians

29. Any person who is an Indian within the meaning of the *Indian Act* (Canada) shall be deemed for the purpose of this Act not to have established residence in unorganized territory. R.S.O. 1990, c. P.40, s. 29.

Offence

30. Every person who contravenes or is a party to the contravention directly or indirectly of any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$1,000. R.S.O. 1990, c. P.40, s. 30.

31. Repealed: 2002, c. 24, Sched. B, s. 25.

Regulations

32. (1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make such regulations with respect to hospitals as are considered necessary for,

- (a) their creation, establishment, construction, alteration, equipment, safety, maintenance and repairs;
- (b) their classifications, grades and standards;
- (c) their inspection, control, government, management, conduct, operation and use;
- (d) prescribing the matters upon which by-laws are to be passed by hospitals and providing for filing of by-laws with the Ministry;
- (e) prescribing the powers and duties of inspectors, and respecting any matters that relate to a review or a report under section 18;
- (f) providing that certain persons shall be by virtue of their office members of the board in addition to the members of the board appointed or elected in accordance with the authority whereby the hospital is established;
- (g) their administrators, staffs, officers, servants and employees and the powers and duties thereof;
- (h) providing for the certification of chronically ill persons and the method of referring such persons to hospitals for chronically ill persons;
- (i) providing for the method of referring convalescent persons to hospitals for convalescent persons;
- (j) the admission, treatment, care, conduct, control and discharge of patients or any class of patients;
- (k) prescribing the organization of the medical staff of a hospital including the composition and duties of admission and discharge committees and other committees of the medical staff;
- (l) the classification of patients and the lengths of stay of and the rates and charges for patients;
- (m) requiring a written agreement between each Group A hospital and the university with which the hospital is affiliated for the purpose of providing instruction in the hospital to

medical and dental students of the university, and prescribing provisions that shall be included in any such agreement;

- (n) prescribing the facilities that hospitals shall provide for dental students, student dietitians, medical students and interns, students of nursing, student laboratory technicians, student physiotherapists, student occupational therapists, student x-ray technicians and student social workers;
- (o) the records, books, accounting systems, audits, reports and returns to be made and kept by hospitals;
- (p) the reports and returns to be submitted to the Ministry by hospitals and the accounting principles and rules that are to govern any financial reports and returns;
- (q) prescribing the requirements to be satisfied for obtaining a valid consent for any surgical operation, diagnostic procedure or medical treatment, the method of obtaining such consent, the conditions under which such consent may be dispensed with and specifying the age or ages at which and under what conditions a patient may give a valid consent for a surgical operation, diagnostic procedure or medical treatment to be performed on the patient;
- (r) prescribing the rates for out-patient services, including emergency cases;
- (s) governing the manner of determining the amounts of grants, loans and financial assistance that may be made to hospitals under section 5 or the amounts themselves or both, prescribing the time, manner, terms and conditions of payment relating to them and respecting the suspension, withholding, reduction, termination and the making of deductions from grants, loans, financial assistance and payments relating to them;
- (t) Repealed: 2006, c. 4, s. 52 (9).
- (u) prescribing such persons or entities to whom records of personal health information may be transferred under subsection 14 (2);
- (v) where all or one or more of the provisions in subsections 37 (3) to (7) or sections 38 to 43 do not apply, prescribing provisions in substitution for them or in addition to them including, without limiting the generality of the foregoing,
 - (i) procedures to be followed by a hospital or a board in connection with applications for appointment or reappointment, applications for a change in hospital privileges, revoking appointments or cancelling or substantially altering privileges,
 - (ii) conditions under which a physician may require a hearing by the board and provisions relating to such a hearing,
 - (iii) conditions under which a physician may require a hearing by the Hospital Appeal Board and provisions relating to such a hearing,
 - (iv) conditions under which a party to proceedings before a board or the Hospital Appeal Board may appeal to the Divisional Court and provisions relating to such an appeal;
- (w) defining “services”, “hospital foundation” and “hospital subsidiary”;

- (x) respecting the disposition of assets acquired or used for the purposes of a hospital;
- (y) respecting the purchase of assets to be used for the purposes of a hospital;
- (z) respecting the dissolution of corporations that own or operate or owned or operated hospitals;
- (z.1) authorizing any person, group of persons or other body to issue directions under subsection 9(10) in the place of the Minister and respecting any conditions to which that authority may be subject;
- (z.2) providing that hospitals must prepare and submit physician human resource plans to the Ministry for approval;
- (z.3) prescribing the form and content of physician human resource plans;
- (z.4) providing that hospitals must amend their physician human resource plans as required by the Ministry;
- (z.5) providing that hospitals may appoint physicians to the medical staff only in accordance with approved physician human resource plans. R.S.O. 1990, c. P.40, s. 32 (1); 1996, c. 1, Sched. F, s. 14 (1-3); 2004, c. 3, Sched. A, s. 96 (4, 5); 2006, c. 4, s. 52 (9, 10); 2010, c. 25, s. 27 (5).

Same

[\(2\)](#) Subsection 9.1 (1) applies, with necessary modifications, with respect to a person, persons or body authorized to issue directions under a regulation made under clause (1) (z.1) as if the person, persons or body were the Minister. 1996, c. 1, Sched. F, s. 14 (4).

Same

[\(3\)](#) A regulation made under this Act may be general or particular in its application. 1996, c. 1, Sched. F, s. 14 (4).

Regulations for subsidiaries, etc.

[\(4\)](#) The Minister may by regulation require hospital subsidiaries and hospital foundations to provide financial reports and returns to the Minister and prescribe the accounting principles and rules to be followed in making those financial reports and returns and the manner in which those financial reports and returns are to be provided. 1996, c. 1, Sched. F, s. 14 (4).

Classification of hospitals

[32.1 \(1\)](#) The Minister may assign hospitals to the different hospital classifications and hospital grades established by regulation under clause 32 (1) (b). 1998, c. 18, Sched. G, s. 70 (4).

List

[\(2\)](#) The Minister shall maintain a list of hospitals and their classifications and grades. 1998, c. 18, Sched. G, s. 70 (4).

Same

[\(3\)](#) The list referred to in subsection (2) shall be available for public inspection from the Ministry. 1998, c. 18, Sched. G, s. 70 (4); 2007, c. 10, Sched. I, s. 3.

Notice to college of disciplinary action against physician

[33.](#) Where,

- (a) the application of a physician for appointment or reappointment to a medical staff of a hospital is rejected by reason of his or her incompetence, negligence or misconduct;
- (b) the privileges of a member of a medical staff of a hospital are restricted or cancelled by reason of his or her incompetence, negligence or misconduct; or
- (c) a physician voluntarily or involuntarily resigns from a medical staff of a hospital during the course of an investigation into his or her competence, negligence or conduct,

the administrator of such hospital shall prepare and forward a detailed report to The College of Physicians and Surgeons of Ontario. R.S.O. 1990, c. P.40, s. 33.

Advice as to quality of professional work

34. (1) Where the medical staff of a hospital is not divided into medical departments, the chief of the medical staff or, where there is no chief, the president of the medical staff may be made responsible by by-law of the hospital to advise the medical advisory committee with respect to the quality of medical diagnosis, care and treatment provided to the patients of the hospital. R.S.O. 1990, c. P.40, s. 34 (1); 2006, c. 4, s. 52 (11).

Idem, in hospitals with departments

(2) Where the medical staff of a hospital is divided into medical departments, the head of each department may be made responsible by by-law of the hospital, through and with the chief of the medical staff or, where there is no chief, through and with the president of the medical staff, to advise the medical advisory committee with respect to the quality of medical diagnosis, care and treatment provided to the patients of his or her department. R.S.O. 1990, c. P.40, s. 34 (2); 2006, c. 4, s. 52 (11).

Duty where serious problem exists

(3) If an officer of the medical staff who is responsible under subsection (1) or (2) becomes aware that, in his or her opinion a serious problem exists in the diagnosis, care or treatment of a patient, the officer shall forthwith discuss the condition, diagnosis, care and treatment of the patient with the attending physician. 2006, c. 4, s. 52 (12).

Relieving attending physician

(3.1) If changes in diagnosis, care or treatment satisfactory to the officer are not made promptly, he or she shall,

- (a) assume forthwith the duty of investigating, diagnosing, prescribing for and treating the patient; and
- (b) notify the attending physician, the administrator and, if possible, the patient that the member of the medical staff who was in attendance will cease forthwith to have any hospital privileges as the attending physician for the patient. 2006, c. 4, s. 52 (12).

Where no discussion with attending physician

(4) Where the officer of the medical staff who is responsible under this section is unable to discuss the problem with the attending physician as required by subsection (3), the officer shall proceed with his or her duties as prescribed in this section as if he or she had had the discussion with the attending physician. R.S.O. 1990, c. P.40, s. 34 (4).

Duty of responsible officer to report action

(5) The officer of the medical staff who is responsible under this section shall inform two

members of the medical advisory committee within twenty-four hours of his or her action under subsection (3) or (4) and shall file a written report with the secretary of the medical advisory committee within forty-eight hours of his or her action under subsection (3) or (4). R.S.O. 1990, c. P.40, s. 34 (5).

Delegation of responsibilities and duties

[\(6\)](#) The officer of the medical staff who is responsible under this section may delegate any or all of his or her responsibilities and duties under this section to a member of his or her medical staff or of his or her medical department, as the case may be, but the officer remains accountable to the medical advisory committee for the management of the patient by that member of the medical staff to whom any such responsibility or duty is delegated. R.S.O. 1990, c. P.40, s. 34 (6).

Report to administrator and board

[\(7\)](#) Where the medical advisory committee concurs in the opinion of the officer of the medical staff who has taken action under subsection (3) or (4) that the action was necessary, the secretary of the medical advisory committee shall forthwith make a detailed written report to the administrator and the board of the problem and the action taken. R.S.O. 1990, c. P.40, s. 34 (7); 2010, c. 14, s. 20 (1).

Medical advisory committee

[35. \(1\)](#) Every board shall establish a medical advisory committee composed of such elected and appointed members of the medical staff as are prescribed by the regulations. R.S.O. 1990, c. P.40, s. 35 (1).

Duties

[\(2\)](#) The medical advisory committee shall consider and make recommendations to the board respecting any matter referred to it under section 37 and perform such other duties as are assigned to it by or under this or any other Act or by the board. R.S.O. 1990, c. P.40, s. 35 (2).

Powers of board re medical staff

[36.](#) The board may,

- (a) appoint physicians to a group of the medical staff of the hospital established by the by-laws;
- (b) determine the hospital privileges to be attached to the appointment of a member of the staff; and
- (c) revoke or suspend the appointment of or refuse to reappoint a member of the medical staff. R.S.O. 1990, c. P.40, s. 36.

Medical staff appointment, hospital privileges, etc.

[37. \(1\)](#) Every physician is entitled to apply for an appointment or a reappointment to any group of the medical staff of a hospital established by its by-laws or for a change in hospital privileges and, upon receipt of a written request, an administrator shall supply an appropriate application form. R.S.O. 1990, c. P.40, s. 37 (1).

Term of appointment

[\(2\)](#) Every physician appointed to the medical staff of a hospital shall be appointed for a period of not more than one year. R.S.O. 1990, c. P.40, s. 37 (2).

Idem

(3) Each application shall be submitted to the administrator who shall immediately refer such application to the medical advisory committee. R.S.O. 1990, c. P.40, s. 37 (3).

Recommendation of medical advisory committee

(4) Each application shall be considered by the medical advisory committee which shall make a recommendation thereon in writing to the board within sixty days from the date of the application. R.S.O. 1990, c. P.40, s. 37 (4).

Idem

(5) Despite subsection (4), a medical advisory committee may make its recommendation later than sixty days after the date of the application if, prior to the expiry of the sixty-day period, it indicates in writing to the board and the applicant that a final recommendation cannot yet be made and gives written reasons therefor. R.S.O. 1990, c. P.40, s. 37 (5).

Notice of recommendation

(6) The medical advisory committee shall give written notice to the applicant and the board of its recommendation. R.S.O. 1990, c. P.40, s. 37 (6).

Idem

- (7) A notice under subsection (6) shall inform the applicant that he or she is entitled to,
- (a) written reasons for the recommendation if a request is received by the medical advisory committee within seven days of the receipt by the applicant of a notice of the recommendation; and
 - (b) a hearing before the board if a written request is received by the board and the medical advisory committee within seven days of the receipt by the applicant of the written reasons under clause (a),

and the applicant may so require such reasons and hearing. R.S.O. 1990, c. P.40, s. 37 (7).

Where no hearing required

38. Where the applicant does not require a hearing by the board in accordance with subsection 37 (7), the board may implement the recommendation of the medical advisory committee. R.S.O. 1990, c. P.40, s. 38.

Hearings

39. (1) Where an applicant requires a hearing by the board in accordance with subsection 37 (7), the board shall appoint a time for and hold the hearing and shall decide the matter in the exercise of its powers under clause 36 (a) or (b). R.S.O. 1990, c. P.40, s. 39 (1).

Parties

(2) The applicant or member, the medical advisory committee and such other persons as the board may specify are parties to proceedings before the board under this section. R.S.O. 1990, c. P.40, s. 39 (2).

Continuation of appointment pending reappointment

(3) Where, within the time prescribed therefor, a member has applied for reappointment, his or her appointment shall be deemed to continue,

- (a) until the reappointment is granted; or
- (b) where he or she is served with notice that the board refuses to grant the reappointment,

until the time for giving notice requiring a hearing by the Appeal Board has expired and, where a hearing is required, until the decision of the Appeal Board has become final. R.S.O. 1990, c. P.40, s. 39 (3).

Members holding hearing not to have taken part in investigation, etc.

(4) Members of the board holding a hearing shall not have taken part in any investigation or consideration of the subject-matter of the hearing before the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or representative of a party except upon notice to and opportunity for all parties to participate, but the board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law. R.S.O. 1990, c. P.40, s. 39 (4).

Notice of hearing

(5) Where a hearing by the board is required, the person requiring the hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. R.S.O. 1990, c. P.40, s. 39 (5).

Findings of fact

(6) The findings of fact of the board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. R.S.O. 1990, c. P.40, s. 39 (6).

Only members at hearing to participate in decision

(7) No member of the board shall participate in a decision of the board pursuant to a hearing unless he or she was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the board shall be given unless all members so present participate in the decision. R.S.O. 1990, c. P.40, s. 39 (7).

Extension of time for giving notice

(8) Despite any limitation of time for the giving of any notice requiring a hearing by the board fixed by or under any Act, and where it is satisfied that there are apparent grounds for granting relief and that there are reasonable grounds for applying for the extension, the board may extend the time for giving the notice either before or after expiration of the time so limited, and may give such directions as it considers proper consequent upon such extension. R.S.O. 1990, c. P.40, s. 39 (8).

Exception

(9) Despite subsection (4), no member of a board shall be disqualified from participating as a member of the board in a hearing held under subsection (1) by virtue of the information contained in a written report received under subsection 34 (7). 2010, c. 14, s. 20 (2).

40. Repealed: 1998, c. 18, Sched. G, s. 70 (5).

Reasons and appeal

41. (1) Any,

- (a) applicant for appointment or reappointment to the medical staff of a hospital who was a party to a proceeding before the board and who considers himself or herself aggrieved by a decision of the board not to appoint or not to reappoint him or her to the medical staff; or

- (b) member of the medical staff of a hospital who considers himself or herself aggrieved by any decision revoking or suspending his or her appointment to the medical staff or under section 34 or the by-laws cancelling, suspending or substantially altering his or her hospital privileges,

is entitled to,

- (c) written reasons for the decision if a request is received by the board, person or body making the decision within seven days of the receipt by the applicant or member of a notice of the decision; and
- (d) a hearing before the Appeal Board if a written request is received by the Appeal Board and the board, person or body making the decision within seven days of the receipt by the applicant or member of the written reasons for the decision. R.S.O. 1990, c. P.40, s. 41 (1).

Procedure at hearing

[\(2\)](#) Section 39 applies to a hearing before the Appeal Board in the same manner as if the party or member were an applicant entitled to a hearing before a board under section 37. R.S.O. 1990, c. P.40, s. 41 (2).

Parties

[\(3\)](#) The board and person mentioned in subsection (1) and such other persons as the Appeal Board may specify are parties to proceedings before the Appeal Board under this section. R.S.O. 1990, c. P.40, s. 41 (3).

Recording of evidence

[\(4\)](#) Oral evidence taken before the Appeal Board at a hearing shall be recorded and, if so required, copies of a transcript thereof shall be furnished upon the same terms as in the Superior Court of Justice. R.S.O. 1990, c. P.40, s. 41 (4); 2006, c. 19, Sched. C, s. 1 (1).

Powers of Appeal Board

[\(5\)](#) After a hearing, the Appeal Board may by order confirm the decision appealed from or direct the board or other person or body making the decision appealed from to take such action as the Appeal Board considers ought to be taken in accordance with this Act, the regulations and the by-laws, and for such purposes may substitute its opinion for that of the board, person or body making the decision appealed from. R.S.O. 1990, c. P.40, s. 41 (5).

Referral of matters to professional organization for report

[\(6\)](#) The Appeal Board may at any time during a hearing and prior to rendering a decision refer any matter to any professional organization for the purpose of obtaining expert assistance or a formal report. R.S.O. 1990, c. P.40, s. 41 (6).

Service of notice

[42.](#) Service of a notice under sections 37, 39 and 41 may be made personally or by registered mail addressed to the person to be served at the person's last known address and, where the notice is served by registered mail, it shall be deemed that the notice was served on the third day after the day of mailing unless the person to be served establishes that, acting in good faith, through absence, accident, illness or other cause beyond the person's control it was not received until a later date. R.S.O. 1990, c. P.40, s. 42.

Appeal from decision of Appeal Board

43. (1) Any party to proceedings before the Appeal Board may appeal from its decision to the Divisional Court in accordance with the rules of court. R.S.O. 1990, c. P.40, s. 43 (1).

Record to be filed in court

(2) Where any party appeals from a decision of the Appeal Board, the Appeal Board shall forthwith file in the Superior Court of Justice the record of the proceedings before it in which the decision was made, which, together with the transcript of the evidence if it is not part of the Appeal Board's record, shall constitute the record in the appeal. R.S.O. 1990, c. P.40, s. 43 (2); 2006, c. 19, Sched. C, s. 1 (1).

Powers of court on appeal

(3) An appeal under this section may be made on questions of law or fact or both and the court may exercise all the powers of the Appeal Board, and for such purpose the court may substitute its opinion for that of the Appeal Board or board or other person or body authorized to make the decision appealed from, or the court may refer the matter back to the Appeal Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper. R.S.O. 1990, c. P.40, s. 43 (3).

Ceasing to operate or provide services

Ceasing to operate

44. (1) Subsection (1.1) applies if,

- (a) a board of a hospital determines that the hospital will cease to operate as a public hospital;
- (b) a local health integration network has made an integration decision under clause 25 (2) (a) of the *Local Health System Integration Act, 2006* under which a hospital will cease to operate as a public hospital;
- (c) the board of a hospital has received a direction under section 6, as it read immediately before subsection 52 (3) of the *Local Health System Integration Act, 2006* came into force, together with the amendments, if any, made to the direction under subsection 6 (3), to cease to operate as a public hospital; or
- (d) the Minister as defined in section 2 of the *Local Health System Integration Act, 2006* has made an order under section 28 of that Act that requires a hospital to cease to operate as a public hospital. 2006, c. 4, s. 52 (13).

Same

(1.1) If one of the conditions set out in subsection (1) applies, the board of the hospital mentioned in that subsection may make any decision in the exercise of its powers under section 36 that the board considers necessary or advisable in order to implement the board's determination, the integration decision, the direction under section 6 or the Minister's order mentioned in that subsection, including,

- (a) refusing the application of any physician for appointment or reappointment to the medical staff or for a change in hospital privileges;
- (b) revoking the appointment of any physician; and
- (c) cancelling or substantially altering the privileges of any physician. 2006, c. 4, s. 52 (13).

Ceasing to provide service

[\(1.2\)](#) Subsection (2) applies if,

- (a) a board of a hospital determines that the hospital will cease to provide a service;
- (b) a local health integration network has made an integration decision as defined in section 2 of the *Local Health System Integration Act, 2006* under which a hospital will cease to provide a service;
- (c) the board of a hospital has received a direction under section 6, as it read immediately before subsection 52 (3) of the *Local Health System Integration Act, 2006* came into force, together with the amendments, if any, made to the direction under subsection 6 (3), to cease to provide a service; or
- (d) the Minister as defined in section 2 of the *Local Health System Integration Act, 2006* has made an order under section 28 of that Act that requires a hospital to cease to provide a service. 2006, c. 4, s. 52 (13).

Same

[\(2\)](#) If one of the conditions set out in subsection (1.2) applies, the board of the hospital mentioned in that subsection may make any of the following decisions that the board considers necessary or advisable in order to implement the board's determination, the integration decision, the direction under section 6 or the Minister's order mentioned in that subsection:

- 1. Refuse the application of any physician for appointment or reappointment to the medical staff of the hospital if the only hospital privileges to be attached to the appointment or reappointment relate to the provision of that service.
- 2. Refuse the application of any physician for a change in hospital privileges if the only privileges to be changed relate to the provision of that service.
- 3. Revoke the appointment of any physician if the only hospital privileges attached to the physician's appointment relate to the provision of that service.
- 4. Cancel or substantially alter the hospital privileges of any physician which relate to the provision of that service. 2006, c. 4, s. 52 (13).

No hearing

[\(3\)](#) The Board may make a decision under subsection (1) or (2) without holding a hearing unless a hearing is required by or under this Act. 1996, c. 1, Sched. F, s. 15.

Non-application

[\(4\)](#) Subsections 37 (3) to (7) and sections 38 to 43 do not apply where the board makes a decision under subsection (1) or (2). 1996, c. 1, Sched. F, s. 15.

Protection from liability

[\(5\)](#) No action or other proceeding for damages or otherwise shall be instituted against a corporation which owns or operates a hospital for any act done in good faith in the execution or intended execution by a board of its authority under subsection (1) or (2) or for any alleged neglect or default in the execution in good faith by a board of such authority. 1996, c. 1, Sched. F, s. 15.

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