

1972 Bill 116

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~~First~~ <sup>First</sup> Session, 17th Legislature, 21 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 116**

**The Alberta Hospitals Amendment Act, 1972 (No. 2)**

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THE MINISTER OF HEALTH AND SOCIAL DEVELOPMENT

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**First Reading** .....

**Second Reading** .....

**Third Reading** .....

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## BILL 116

1972

### THE ALBERTA HOSPITALS AMENDMENT ACT, 1972 (NO. 2)

(Assented to \_\_\_\_\_, 1972)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. *The Alberta Hospitals Act is hereby amended.*

2. (1) *Section 3 is amended*

(a) *as to subsection (1), by striking out the word "Commission" and by substituting the word "Minister",*

(b) *as to subsection (2) by striking out the words "the Commission, after consultation with such bodies or persons as it considers competent to advise it thereon," and by substituting the words "the Minister, after consultation with such bodies or persons as he considers competent to advise him thereon,"*

(c) *as to subsection (3),*

(i) *by striking out the word "Commission" and by substituting the word "Minister",*

(ii) *by striking out the word "it" and by substituting the word "he",*

(d) *by adding the following subsection after subsection (3):*

(3.1) Where an order is made under any Act, before or after the commencement of this subsection, that results in a change in the area of a municipality (in this subsection called the "municipal order"), an order under this section that results in a change in the area of a hospital district may, for the purpose of having the changes in the area of the hospital district effective as of the commencement date of the municipal order, be made effective as of a date prior to the date on which it is made.

(e) *as to subsection (6), by striking out the word "Commission" and by substituting the word "Minister".*

(2) *Any order made under section 3 of The Alberta Hospitals Act*

## Explanatory Notes

**1. This Bill amends chapter 174 of the Revised Statutes of Alberta 1970.**

**2. Section 3 deals with the creation and changing of hospital districts. Until April 1, 1971 the power to make orders under this section was conferred on the Minister of Health when it was transferred to the Alberta Hospital Services Commission. The amendment now transfers these powers to the Minister of Health and Social Development. Consequential amendments are being made to sections 4(2), 10 and 24.**

The new subsection (3.1) will enable the Minister to make changes in hospital district boundary changes correspond with municipal boundary changes in order to prevent difficulties that have arisen in the past in connection with the requisitioning by hospital district boards of funds from the contributing municipalities.

(a) by the Minister of Health before April 1, 1971, or  
(b) by the Alberta Hospital Services Commission,  
shall, upon the commencement of this subsection, be deemed  
to be an order of the Minister (as defined in *The Alberta  
Hospitals Act*), notwithstanding anything in section 29 of  
*The Hospital Services Commission Act*.

3. Section 4, subsection (2) is amended by striking out  
the word "Commission" and by substituting the word  
"Minister".

4. Section 10 is amended by striking out the word "Com-  
mission" and by substituting the word "Minister".

5. Section 24, subsection (1) is amended

(a) by striking out the word "Commission" and by  
substituting the word "Minister",

(b) by striking out the word "it" and by substituting  
the word "he".

6. The following sections are added after section 30.1:

**30.2** (1) The general by-laws of a board of an approved  
hospital having a rated capacity of 100 beds or over shall,  
and of an approved hospital having a rated capacity of less  
than 100 beds may, provide for the establishment for its  
hospital of a committee to be called the "hospital services  
utilization committee" and consisting of members of the  
medical staff, and may prescribe the powers and duties of  
that committee.

(2) The hospital services utilization committee of an  
approved hospital, in addition to its powers and duties  
under the general by-laws of the board,

(a) shall conduct a review of a continuing nature of the  
utilization of all hospital services, and

(b) is entitled to require from the board and its em-  
ployees such information as the committee reason-  
ably requires for the purposes of its duties and  
access to the relevant records of the board for those  
purposes.

(3) This section does not apply in the case of

(a) the Provincial Cancer Hospitals Board, or

(b) a board of management of a Provincial General  
Hospital under *The Provincial General Hospitals  
Act*, or

(c) the University Hospital Board.

**3.** See note to section 2 of this Bill.

**4.** See note to section 2 of this Bill.

**5.** See note to section 2 of this Bill.

**30.2.** Establishment and functions of hospital services utilization committees for approved hospitals. Similar provisions are already contained in the Acts respecting the hospital boards referred to in subsection (3).

**30.3** (1) No action for defamation lies against any member of a hospital medical staff review committee in respect of

- (a) advice given or statements, decisions or recommendations made in good faith to the board of an approved hospital by the committee, or
- (b) anything done or omitted to be done by him in good faith in the exercise of duties and powers given to the committee by this Act, the regulations or the by-laws of the board or of the medical staff.

(2) In this section, "hospital medical staff review committee" means any committee appointed by the board of an approved hospital or by the medical staff

- (a) to evaluate and control clinical practice in the hospital on a continuing basis for the purpose of maintaining and improving the safety and quality of patient care, or
- (b) to perform any functions in relation to the appraisal and control of the quality of patient care in the hospital.

*7. Section 31 is amended by striking out subsection (3) and by substituting the following:*

(3) The by-laws of the medical staff shall make provision for

- (a) the adoption of rules governing the day to day management of medical affairs in the hospital, for the amendment or replacement of such rules from time to time as the need may arise, and shall provide that such rules become effective only upon their approval by the hospital board;
- (b) a procedure for the review of decisions made by the medical staff or the board pertaining to or affecting the privileges of members of the medical staff;
- (c) a procedure to ensure that all applications for appointment to medical staff reach the board in the time prescribed in the by-laws, whether or not the appointment is recommended by the medical staff;
- (d) a procedure whereby notice is to be given by the board to an applicant for an appointment to the medical staff within a reasonable time of the decision of the board as to whether or not his application has been accepted;
- (e) requiring, in the case of hospitals with a rated capacity of less than 100 beds, that the credentials committee of the hospital confer with the College

**30.3.** Protection from liability for defamation of a member of a hospital medical staff review committee.

**7.** Section 31(3) presently reads:

(3) The by-laws of the medical staff shall make provision for the adoption of rules governing the day to day management of medical affairs in the hospital, for the amendment of such rules from time to time as the need may arise, and shall provide that such rules become effective only upon their approval by the hospital board.

of Physicians and Surgeons of the Province of Alberta for its advice on all matters relating to medical staff privileges.

8. *Section 35 is amended*

(a) *as to subsection (2) by adding after the words "may require that any or all of the following be sent to it" the words "or any person designated by it",*

(b) *by adding the following subsection after subsection (5):*

(5.1) Notwithstanding subsection (3) or any other law,

(a) the Commission may, for the purposes mentioned in subsection (2) and without the consent of any other person, disclose to or obtain from

(i) the Alberta Health Care Insurance Commission, or

(ii) the Department of National Health and Welfare for purposes in connection with the *Medical Care Act* (Canada) or the *Hospital Insurance and Diagnostic Services Act* (Canada), or

(iii) the government of a province of Canada or an agent of that government for purposes in connection with any health services or hospital care insurance plan administered by that government or its agent,

any records of diagnostic and treatment services provided in respect of a patient in an approved hospital;

(b) the board of an approved hospital may disclose any records of diagnostic and treatment services provided in respect of a patient in its hospital to any person without the consent of the patient, for the purpose of being used

(i) in bona fide research or in medical review, if the disclosure is made in such a manner as to ensure confidentiality of those records, or

(ii) for training purposes in a medical records school, if it does so in such a manner that the individual names of the patients in those records are not revealed or made identifiable;

(c) the board of an approved hospital shall, after the discharge of a patient from the hospital for the purpose of transferring him to another hospital or nursing home inside or outside



**8. Section 35, subsections (1) to (5) and (9) presently read:**

35. (1) The board of each approved hospital shall cause to be kept by the attending physician a record of the diagnostic and treatment services provided in respect of each patient in order to assist in providing a high standard of medical care.

(2) For the purposes of assessing the standards of care furnished to patients, improving hospital or medical procedures, compiling medical statistics, conducting medical research, or for any other purpose deemed by the Commission to be in the public interest, the Commission, or any person authorized by the Commission, may require that all or any of the following be sent to it;

- (a) medical and other records of any patient;
- (b) extracts from and copies of any such records;
- (c) diagnoses, charts or any information available in respect of a patient.

(3) Information obtained from hospital records or from persons having access thereto shall be treated as private and confidential information in respect of any individual patient and shall be used solely for the purposes described in subsection (2) and such information shall not be published, released or disclosed in any manner that would be detrimental to the personal interests, reputation or privacy of a patient, or the patient's attending physician.

(4) Any person who knowingly and wilfully releases or discloses such information to any person not authorized to receive the same is guilty of an offence and liable upon summary conviction to a fine of not more than \$100 and in default of payment to a term of imprisonment not exceeding 15 days.

(5) Notwithstanding subsection (3) or any other law, a board or employee of a board, the Commission or a person authorized by the Commission, or a physician may

- (a) with the written consent of a patient divulge any diagnoses, record or information relating to the patient to any person, and
- (b) without written consent of a patient, divulge any diagnoses, record or information relating to the patient to
  - (i) a Workmen's Compensation Board, or
  - (ii) the Alberta Blue Cross Plan, or
  - (iii) any other provincial hospital insurance authority,if the information is required in order to establish responsibility for payment by the organization or insurer, or to any other hospital to which the patient may be transferred or admitted or to other attending physicians.

(9) In subsections (6) and (7), "legal representative" means an executor or administrator of the estate of a deceased patient, the committee of the estate of a patient who is a mentally incompetent person or the guardian of the person or estate of a patient who is a minor.

Alberta, forward to that other hospital or nursing home copies of the appropriate records of diagnostic and treatment services provided in respect of that patient for the use of the staff of that other hospital or nursing home;

- (d) the board of an approved hospital may divulge any records of diagnostic and treatment services provided in respect of a patient to the council of the College of Physicians and Surgeons of the Province of Alberta or a discipline committee under *The Medical Profession Act* if
  - (i) an officer of the College makes a written request therefor and the disclosure is consented to by the patient or his legal representative, or
  - (ii) the disclosure is made by a member or employee of the board in compliance with a notice under section 62 of *The Medical Profession Act* to attend as a witness or to produce documents.

(c) *as to subsection (9), by striking out the words "In subsections (6) and (7)," and by substituting the words "In this section,".*

9. *The following section is added after section 37:*

**37.1** (1) Where it is requested to do so by the board of an approved hospital, the Commission may authorize

- (a) an investigation into the administration or operation of the hospital or any particular matter or problem that has arisen in connection with the administration or operation of the hospital, or
- (b) the mediation of any dispute that has arisen in the course of the administration or operation of the hospital.

(2) Where the Commission has authorized an investigation or mediation proceedings pursuant to subsection (1), it may designate any or all of the following associations, namely,

- (a) the Alberta Hospital Association;
- (b) The Alberta Association of Registered Nurses;
- (c) The Alberta Medical Association (C.M.A. — Alberta Division);

to be responsible for the conduct of the investigation or mediation proceedings.

**9.** The proposed section 37.1 will provide for a procedure for the investigation or mediation of problems or disputes arising in the course of administration of a hospital.

(3) The council or board of directors, as the case may be, of an association that is designated by the Commission under subsection (2) shall appoint one or more of the association's members to the committee that is to conduct the investigation or mediation proceedings and shall inform the Commission accordingly.

(4) The committee consisting of the person or persons appointed pursuant to subsection (3)

- (a) shall elect one of their number as chairman, if there are two or more members on the committee,
- (b) shall conduct the investigation or mediation proceedings authorized by the Commission,
- (c) is entitled to require from the hospital board and its employees such information as the committee reasonably requires for the purpose of the investigation or mediation proceeding and is entitled to access to the relevant records of the board for that purpose.

(5) Upon the completion of the investigation or mediation proceedings, the Committee shall prepare a report thereon and submit a copy of the report to the hospital board concerned, the Commission and the associations designated pursuant to subsection (2).

(6) No action lies against any association designated pursuant to subsection (2) or against any member of a committee constituted under this section in respect of

- (a) any advice given or statements made in the committee's report, or
- (b) anything done or omitted to be done by the committee or any member of the committee in good faith in the course of conducting the investigation or mediation proceeding.

*10. Section 38, subsection (1) is amended by striking out clause (g) and by substituting the following:*

- (g) prescribing procedures for the mediation of a decision of a board of an approved hospital to refuse the appointment of a physician to its medical staff;
- (h) prescribing mediation procedures for use of members of the medical staff who have had their medical staff privileges altered, amended, suspended or revoked;
- (i) governing the use of out-patient hostels or hostel beds in lieu of in-patient beds in approved hospitals;
- (j) governing the establishment of central placement offices for admission to an auxiliary hospital or a nursing home;

**10.** Section 38(1) (g) presently reads:

38. (1) The Lieutenant Governor in Council may make regulations:  
(g) concerning any other matters that in his opinion are necessary  
in order to carry out the purposes of this Act.

Clause (k) is a re-enactment of the present clause (g).

- (k) concerning any other matters that in his opinion are necessary in order to carry out the purposes of this Act.

11. Section 49 is amended by striking out subsections (2) and (3) and by substituting the following:

(2) Notwithstanding subsection (1), a resident of the Province is not entitled to receive insured services

- (a) if he is not registered under Part 3 of *The Alberta Health Care Insurance Act* at the time the services are provided, or
- (b) if he is registered under Part 3 of that Act but has filed a declaration under section 22 of *The Health Insurance Premiums Act* or is a dependant of that person and to whom the declaration extends and applies and the services were provided during a period in which the declaration is effective, or
- (c) where the insured services are provided during a waiting period applicable to him and prescribed by the regulations.

(3) For the purposes of this section, the registration of a person under Part 3 of *The Alberta Health Care Insurance Act* shall be accepted as prima facie proof that he is a resident of Alberta.

(4) Notwithstanding anything in this or any other Act, no person shall, in an emergency, be refused admission to an approved hospital or be refused the provision of any services by an approved hospital by reason only of the fact that he is not entitled to receive insured services.

12. Section 50 is amended by striking out the words "insured services" and by substituting the words "hospital services".

13. Section 57 is amended by adding the following clause after clause (b):

- (b1) prescribing the waiting period (not exceeding three months) for a person who is or becomes a resident of Alberta and during which that person is not entitled to be provided with insured services;

14. This Act comes into force on the day upon which it is assented to.

**11. Section 49 presently reads:**

49. (1) Subject to the following exclusions, a resident of the Province is entitled to receive insured services under this Part except when, in respect of such services,

- (a) he is or could be entitled to hospital services from another province that has entered into a hospitalization plan with the Government of Canada under the Canada Act, or
- (b) he is entitled to receive hospital services pursuant to any workmen's compensation statute of any province, or
- (c) he is entitled to receive hospital services under any statute of Canada or of any province of Canada, as specified in the Agreement, or
- (d) he is declared, pursuant to Part 2, to be not in need of hospital services,

(2) Where a person becomes a resident of the Province following residence elsewhere in Canada where he was eligible for insured services, if that particular jurisdiction prescribes any period of time before its residents become entitled to insured services within the meaning of the Canada Act, that person is not entitled to receive insured services under this Part until the expiry of whichever is the shorter period of

- (a) three months from the date upon which he became a resident of the Province, or
- (b) that period of time prescribed by the other jurisdiction of which he was a former resident before its residents became entitled to insured services within the meaning of the Canada Act.

(3) For the purposes of this section, the registration of a person under The Alberta Health Care Insurance Act may be accepted as proof that he is a resident of Alberta but a person not so registered is not thereby excluded from receiving insured services under this Part.

The effect of the proposed subsection (2) is that the Government will not be responsible for paying the cost of hospital services under the Hospitalization Benefits Plan where the patient is not registered under the Medicare Plan or has opted out of both Plans or is a patient during a waiting period. The amendment to section 57 contemplates regulations that will prescribe a waiting period of not more than 3 months from the time of registration with Medicare during which the patient is not covered by the Hospitalization Benefits Plan.

**12. Section 50 presently reads:**

50. Where insured services are provided to a person who has filed a declaration under section 22 of The Health Insurance Premiums Act, or to a dependant of that person, during a period in which the declaration is effective, the approved hospital shall be entitled to recover the cost of those services only from the person filing the declaration, and no part of those costs shall be shared by the Province.

See section 11 of this Bill and the proposed subsection (2) (b) of section 49 of the Act.

**13. Section 57 enumerates the matters on which the Lieutenant Governor in Council may make regulations. As to waiting periods, see the note to section 11 of this Bill.**