

1978 BILL 70

Fourth Session, 18th Legislature, 27 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 70

**THE SOCIAL CARE FACILITIES LICENSING
AMENDMENT ACT, 1978**

THE MINISTER OF SOCIAL SERVICES
AND COMMUNITY HEALTH

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 70

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THE SOCIAL CARE FACILITIES LICENSING AMENDMENT ACT, 1978

(Assented to _____, 1978)

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

1 The Social Care Facilities Licensing Act is amended by this Act.

2 Section 5 is amended by adding the following after subsection (4):

(5) The holder of a licence or conditional licence issued under subsection (2) shall post the licence or conditional licence in a prominent place in the social care facility to which it applies.

(6) No person shall cover up, mutilate or deface a licence or conditional licence referred to in subsection (5) during the time it is posted.

(7) No person shall without the written permission of the Director remove a licence or conditional licence posted under subsection (5).

3 Section 6 is amended

(a) in subsection (1) by adding "with the permission of the holder of the licence for, or the operator of the social care facility concerned," after "an inspector may", and

(b) by repealing subsection (4) and substituting the following:

(4) If permission is refused or cannot be reasonably obtained under subsection (1), the inspector may apply to the District Court by way of originating notice for an order that the inspector may, for the purpose of subsection (1),

(a) at any reasonable hour enter the social care facility and inspect that social care facility,

Explanatory Notes

- 1 This Bill will amend chapter 91 of the Statutes of Alberta, 1977.
- 2 The new subsection (5) will require the licence holder to post the licence or conditional licence prominently in the social care facility to which it applies and the new subsections (6) and (7) will make it an offence to deface or remove a posted licence or conditional licence.
- 3 Section 6 presently reads in part:
 - 6(1) For the purposes of ensuring compliance with the provisions of this Act or the regulations or of any order made under this Act or the regulations or of a conditional licence, an inspector may*
 - (a) at any reasonable hour enter a social care facility and inspect that social care facility;*
 - (4) Where a person refuses to allow an inspector to exercise any powers under subsection (1) or interferes or attempts to interfere with the inspector in the exercise of those powers, the inspector may apply to the District Court by way of originating notice for an order restraining that person from preventing or interfering in any manner with the inspector in the exercise of those powers.*

(b) require the production of any books, records or other documents and may examine them, make copies of them or remove them temporarily for the purpose of making copies,

(c) inspect and take samples of any material, food, medication or equipment being used in the social care facility, and

(d) perform tests, take photographs or make recordings, as the case may be, in respect of the social care facility,

and the Court may, upon being satisfied that the order is necessary for the purpose of subsection (1), make such an order as it considers appropriate.

4 The following is added after section 9:

9.1(1) If the Minister is satisfied that any person has contravened or is contravening this Act or a regulation or order under this Act, the Minister may issue an order (in this section called a “stop order”) to that person in accordance with subsection (2).

(2) In a stop order the Minister may require that the person to whom it is directed,

- (a) cease the contravention specified in the order, and
- (b) stop any activity occurring at a social care facility, or
- (c) stop the operation of a social care facility,

either permanently or for a specified period, and the stop order shall contain the reasons for making it.

(3) Not more than 48 hours after making a stop order, the Minister shall cause a copy of it to be served on the person to whom it is directed, and upon receipt of such copy, the person to whom the stop order is directed shall comply with the order forthwith.

(4) A person to whom a stop order is directed shall inform the Director, in writing, of the name and address

- (a) of each person receiving care in the social care facility, and
- (b) if applicable, of the guardian of any person receiving care in the social care facility.

4 The new section will authorize the Minister to order a stop to contraventions of the Act and regulations, particularly to the operation of unlicensed social care facilities.

Enforcement of a stop order will be achieved through application by the Minister to the District Court and the issue by the court of appropriate court orders.

A right of appeal to the District Court by the person to whom a stop order is directed will authorize that court to inquire into the making of the stop order and to confirm, amend or revoke the order.

(5) A person to whom a stop order is directed who fails to comply with the order forthwith upon service of a copy of it upon him or subsequently, is guilty of an offence and liable on summary conviction to a fine of not more than \$200 for each day that the offence continues.

(6) If the person to whom a stop order is directed fails to comply with the order forthwith upon service of a copy of it upon him or subsequently, the Minister may apply to the District Court by way of originating notice for an order of the Court directing

(a) that person to comply with the stop order, and

(b) any peace officer to assist an officer of the Department and other persons referred to in subsection (7)(b) in enforcing their powers and duties under subsection (7)(b).

(7) If the person to whom a stop order is directed fails to comply with the stop order forthwith upon service of a copy of the order of the District Court under subsection (6) upon him or subsequently,

(a) the failure to comply with the stop order may be dealt with by the Court as in the case of a civil contempt of the Court,

(b) an officer of the Department authorized by the Minister for the purpose and any other persons assisting that officer, may, without further leave of the Court and without incurring liability therefor, enter upon the social care facility and do any acts that are necessary to carry out the stop order, and

(c) the Minister may recover by action any expenses incurred by the Government in carrying out the stop order under clause (b) from the person to whom the stop order was directed.

(8) A person to whom a stop order is directed may appeal to the District Court,

(a) by filing a notice of appeal with the clerk of the Court, and

(b) by serving a copy of the notice of appeal upon the Minister,

both within 15 days from the date on which the stop order was served on that person.

(9) A judge of the District Court may extend the time for filing or service under subsection (8).

(10) On an appeal under subsection (8), the District Court shall

(a) inquire into all matters leading to the making of the stop order,

(b) determine whether, in its opinion, there were sufficient grounds for the making of the stop order, and

(c) confirm, amend or revoke the stop order.

(11) This section applies whether or not the contravention of the Act, regulation or order concerned constitutes an offence and whether or not a conviction has been adjudged for the offence.

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