

1981 BILL 70

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 70

MENTAL HEALTH AMENDMENT ACT, 1981

DR. REID

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 70
Dr. Reid

BILL 70

1981

MENTAL HEALTH AMENDMENT ACT, 1981

(Assented to _____, 1981)

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

1 *The Mental Health Act, 1972 is amended by this Act.*

2 *Section 1(b) is amended by striking out "or" in subclause (i), by adding "or" at the end of subclause (ii) and by adding the following after subclause (ii):*

(iii) a Mental Health Hospital Board established under section 60.11;

3 *Section 5 is amended*

(a) *in subsection (1)*

(i) *by repealing clause (a) and substituting the following:*

(a) one member jointly nominated by the College of Physicians and Surgeons of the Province of Alberta and The Alberta Medical Association (C.M.A. - Alberta Division),

(ii) *by repealing clauses (d), (l) and (o);*

(iii) *by repealing clause (n) and substituting the following:*

(n) one member of each Regional Mental Health Council,

(iv) *in clause (p) by striking out "three other persons" and*

Explanatory Notes

1 This Bill will amend chapter 118 of the Statutes of Alberta, 1972.

2 Section 1(b) presently reads:

(b) “board” means

(i) *the board of an approved hospital under The Alberta Hospitals Act, that is designated as a facility, or*

(ii) *where a facility is not an approved hospital under The Alberta Hospitals Act, the person in charge of the facility;*

3 Section 5(1) and (2) presently read:

5(1) There is hereby established a Provincial Mental Health Advisory Council consisting of

(a) *one person nominated by the College of Physicians and Surgeons of the Province of Alberta,*

(b) *one person nominated by the Alberta Association of Registered Nurses,*

(c) *one person nominated by the Alberta Association of Social Workers,*

(d) *one person nominated by The Alberta Medical Association (C.M.A. - Alberta Division),*

(e) *one person nominated by the Psychiatric Nurses Association of Alberta,*

(f) *one person nominated by the Psychologists Association of Alberta,*

substituting “4 other persons representative of the general public”;

(b) by adding the following after subsection (1):

(1.1) The bodies referred to in subsection (1)(a) to (m) shall

(a) in the case of a body other than one referred to in subsection (1)(a) or (i), nominate at least 3 persons,

(b) in the case of the bodies referred to in subsection (1)(a), jointly nominate at least 3 persons, and

(c) in the case of the body referred to in subsection (1)(i), nominate at least 6 persons.

(c) by repealing subsection (2) and substituting the following:

(2) The Lieutenant Governor in Council may appoint alternate members of the Council to act in the absence of the members appointed under subsection (1).

(2.1) A member or alternate member of the Council shall not vote in the Council on any matter in which he has a direct or indirect pecuniary interest.

(d) by adding the following after subsection (6):

(6.1) The Director of Mental Health, the Minister of Hospitals and Medical Care and the Minister of Advanced Education and Manpower shall be given notice of and may attend all meetings of the Council.

4 Section 18 is amended

(a) by adding the following after subsection (3):

(3.1) A member of a Regional Mental Health Council shall not vote on any matter in which he has a direct or indirect pecuniary interest.

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

(4) The Regional Mental Health Council shall advise the Provincial Mental Health Advisory Council on any aspect of mental health that the Regional Council considers necessary or desirable.

5 Section 41(2) is amended

- (g) one person nominated by the Alberta Psychiatric Association,*
- (h) one person nominated by the Alberta Hospitals Association,*
- (i) two persons nominated by the Canadian Mental Health Association,*
- (j) one person nominated by the Governors of the University of Alberta,*
- (k) one person nominated by the Governors of the University of Calgary,*
- (l) one person nominated by the Minister of Hospitals and Medical Care,*
- (m) one person nominated by The Law Society of Alberta,*
- (n) the Director of Mental Health Services,*
- (o) two persons representative of the general public, and*
- (p) not more than three other persons,*

and appointed by the Lieutenant Governor in Council.

(2) Notwithstanding subsection (1), each member of the Council may appoint in writing a person to be an alternate member of the Council to act in his stead as a member of the Council in the event of his absence or inability to act.

4 Section 18(4) presently reads:

(4) The Regional Mental Health Council shall advise any person, agency, organization or other body on any aspect of mental health that it considers necessary or desirable.

5 Section 41(2) presently reads:

(a) in clause (a) by striking out “, with or without conditions,”;

(b) in clause (b) by adding “, with or without conditions” after “renewal certificates”.

6 Section 50.1 is amended

(a) in subsection (1)

(i) by renumbering clause (a) as clause (a.1) and by adding the following before clause (a.1):

(a) “Board” means a Mental Health Hospital Board established under section 60.11;

(ii) by adding the following after clause (b):

(c) “mental health hospital” has the meaning given to it in Part 4.1.

(b) by adding the following after subsection (2):

(2.1) The Board of a mental health hospital shall cause a record to be kept of the diagnostic and treatment services provided to every person in the mental health hospital.

(c) in subsection (6) by adding the words “, a Board or an employee of the Board” after “authorized by the Minister”;

(d) in subsection (7) by adding “, a Board or an employee of the Board” after “by the Minister”.

(2) *Where the application is for the cancellation of admission certificates or renewal certificates, the review panel may*

(a) cancel the admission certificates or renewal certificates, as the case may be, with or without conditions, where it considers that the applicant is not in a condition presenting a danger to himself or others, or

(b) refuse to cancel the admission certificates or renewal certificates.

6 Section 50.1 presently reads in part:

50.1(1) For the purposes of this section,

(a) "diagnostic and treatment centre" or "centre" means a place established by the Minister pursuant to section 3, subsection (1) and includes a facility that is not an approved hospital under The Alberta Hospitals Act;

(b) "legal representative" means an executor or administrator of the estate of a deceased person, the guardian or trustee of a dependent adult under The Dependent Adults Act or the guardian of a person who is a minor.

(6) Notwithstanding subsection (4) or any other law, the Minister, a person authorized by the Minister or a physician may disclose any diagnosis, record or information relating to a person receiving diagnostic and treatment services in a centre

(a) to the person to whom the diagnosis, record or information relates or his legal representative, or

(a.1) with the written consent of the person to whom the diagnosis, record or information relates, to any person, if in the opinion of the person making the disclosure it is in the best interests of the person to whom the diagnosis, record or information relates to disclose that information, or

(b) to a department or agency of the Government or a physician where that department, agency or physician is responsible for providing continued treatment to the person to whom the diagnosis, record or information relates, or

(b.1) to the Public Guardian, as defined in The Dependent Adults Act, if the diagnosis, record or information is, in the opinion of the person making the disclosure, relevant to the making of a guardianship order or a trusteeship order under The Dependent Adults Act in respect of the person to whom the diagnosis, record or information relates, or

(7) Notwithstanding subsection (4) or any other law, where the Minister, a person authorized by the Minister or a physician

(a) is unable to disclose any diagnosis, record or information relating to a person by reason of subsection (4), or

7 *The following is added after Part 4:*

PART 4.1

MENTAL HEALTH HOSPITAL BOARDS

60.1 In this Part,

(a) “Board” means a Mental Health Hospital Board established under section 60.11;

(b) “mental health hospital” means a hospital administered by a Board for the care and treatment of persons suffering from a mental disorder.

60.11(1) The following Mental Health Hospital Boards are hereby established as corporations consisting of their respective members:

(a) The Mental Health Hospital Board, Ponoka;

(b) The Mental Health Hospital Board, Edmonton.

(2) The Mental Health Hospital Board, Ponoka, shall administer The Alberta Hospital, Ponoka.

(3) The Mental Health Hospital Board, Edmonton, shall administer The Alberta Hospital, Edmonton.

(4) Each Board shall consist of not more than 9 members appointed by the Lieutenant Governor in Council, each for a term of not more than 3 years.

(5) The Lieutenant Governor in Council shall designate 1 of the members of each Board to be chairman of the Board.

(6) The members of each Board shall elect 1 of its members as vice-chairman.

(b) refuses to disclose any diagnosis, record or information relating to a person pursuant to subsection (6),

the person or his legal representative may apply to the court for an order directing the person having such diagnoses, records or information to release them or a copy of them to the person to whom the information relates or his legal representative or to such other person named in the order.

7 This Part establishes Alberta Hospital Boards to administer The Alberta Hospital, Edmonton and The Alberta Hospital, Ponoka.

(7) No vacancy on a Board impairs the right of the remaining members to act while the vacancy exists.

(8) The vice-chairman shall act as chairman of a Board when the chairman is absent or when there is a vacancy in the office of chairman.

(9) A majority of the members of the Board constitutes a quorum at a meeting of a Board.

(10) An act or thing done by a majority of the members of the Board present at a meeting, if the members present constitute a quorum, shall be deemed to have been done by the Board.

(11) A by-law signed by a majority of the members of a Board is as valid and effective as if passed by a majority of the members present at a meeting at which a quorum was present.

(12) The members of a Board may be paid remuneration for their services and may be reimbursed for reasonable travelling and living expenses necessarily incurred by them in the performance of their duties at the rates prescribed by the Minister.

60.12 Subject to any limitations of its authority imposed under this Act or any other Act, a Board has full control of the mental health hospital it administers and has absolute and final authority in respect of all matters pertaining to the operation of that hospital.

60.2(1) A Board shall

- (a) operate the mental health hospital under its administration for the observation, examination, care, treatment, control and detention of persons suffering from mental disorders;
- (b) provide educational facilities to medical students, student nurses and other students of matters related to the care, treatment and prevention of mental disorders;
- (c) provide the equipment necessary for the proper operation of the mental health hospital;
- (d) employ necessary staff for the proper operation of the mental health hospital under its control including but not restricted to psychiatric, psychological, medical, surgical and pharmaceutical officers, social workers, nurses and clerical staff;
- (e) provide the necessary facilities for proper psychiatric, psychological and medical attendance, nursing, food and medicines;
- (f) pay its employees the remuneration that it may determine.

2) A Board may

- (a) accept subscriptions, donations, devises and bequests, whether of real or personal property;
- (b) sell, dispose of or otherwise realize any personal property of a Board;
- (c) subject to the approval of the Minister, operate out-patient clinics for the diagnosis and treatment of mental disorders in conjunction with the mental health hospital under its administration and at other places in Alberta;
- (d) delegate by by-law any of its powers or duties under this Act to any employee of the Board;
- (e) do any other things that may be necessary for the operation of the mental health hospital under its administration.

(3) A Board shall, with the approval of the Minister, make by-laws governing the management, control and operation of the mental health hospital under its administration.

(4) The *Regulations Act* does not apply to any by-laws under this section or section 60.21

60.21(1) A Board

- (a) shall require the preparation and adoption of by-laws by its medical staff governing the organization and conduct of the physicians practising in the mental health hospital and the procedures whereby the medical staff shall make recommendations to the Board concerning the appointment, reappointment, termination or suspension of, appointment of, and the delineation of hospital privileges of, members of the medical staff,
- (b) may from time to time require the amendment or repeal of the by-laws of the medical staff, and
- (c) may approve or disapprove of those by-laws or amendments.

(2) On approval by a Board of the by-laws of the medical staff or any amendments as provided in subsection (1), the Board shall send or cause to be sent a true copy of the by-laws or amendments signed by the appropriate officer of the medical staff and of the Board to the Minister for approval, and the by-laws or amendments are effective only on the written approval of the Minister.

(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 mental health hospital and for

the amendment or replacement of those rules from time to time as the need may arise, and shall provide that the rules become effective only on 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.

60.22(1) A copy of the minutes of each meeting of a Board shall be forwarded to the Minister.

(2) The Board shall provide the Minister with financial statements at the times and containing the information that he prescribes.

60.3(1) In each fiscal year a Board shall prepare its budget for the next following fiscal year.

(2) A budget prepared under subsection (1) shall be submitted to the Minister in the form and on or before the date prescribed by the Minister.

(3) If the Minister approves the budget of a Board for a fiscal year, he may, out of money voted by the Legislature for the purpose, pay grants to the Board in accordance with the regulations.

60.31(1) The Auditor General is the auditor of a Board.

(2) The fiscal year of a Board is the period commencing on April 1 in one year and ending on March 31 next following.

60.32(1) A Board shall, as soon as practicable after the end of each fiscal year, prepare and submit to the Minister a report summarizing its transactions and affairs during the fiscal year just ended and containing its audited financial statement.

(2) When the report prepared under subsection (1) is received, the Minister shall lay a copy of it before the Legislative Assembly if it is then sitting and, if it is not then sitting, within 15 days after the commencement of the next ensuing sitting.

60.4(1) A Board, with the approval of the Minister, may raise money required by the Board under this Act for construction,

renovation or repair of the mental health hospital, and secure the money in any manner that the Board considers fit, and in particular by the issue of debentures or debenture stock, perpetual or otherwise, charged upon any or all of the Board's property, both present and future, and may purchase, redeem or pay off those securities.

(2) Notwithstanding section 16 of the *Interpretation Act, 1980*, a Board shall not sell or otherwise dispose of any of the real property of the Board unless it is authorized by the Minister to do so.

60.41 A Board shall make all appointments to the medical staff of the mental health hospital.

60.42 A Board shall, with the approval of the Minister, appoint an administrator and shall appoint or shall cause to be appointed, as the by-laws or regulations may require, any other officers and employees required for the efficient operation of the mental health hospital under its administration and shall prescribe their duties, remuneration and other terms of employment.

60.5 The medical staff of each of the mental health hospitals is responsible

(a) to the Board for the clinical and scientific work of the mental health hospital and for advising the Board on all matters relating to patient care;

(b) to the Board for reviewing professional practices of the medical staff and other members of the treatment team at the mental health hospital;

(c) to the Board for the improvement of the care of patients in the mental health hospital;

(d) for making recommendations to the Board respecting utilization of the mental health hospital.

60.51 A Board may appoint a committee called the "hospital medical staff review committee" to be responsible to the Board

(a) for evaluating and controlling clinical practice in the mental health hospital on a continuing basis for the purpose of maintaining and improving the safety and quality of patient care, or

(b) for performing any functions in relation to the appraisal and control of the quality of patient care in the mental health hospital.

60.6 A member of the medical staff of a mental health hospital who considers himself aggrieved by a decision of a Board may appeal the decision to the Hospital Privileges Appeal Board in

accordance with section 31.5 of the *Alberta Hospitals Act*, and sections 31.1 to 31.5 of that Act apply to the appeal.

60.61 The Minister and employees of the Government authorized by the Minister for the purpose may make all necessary inquiries into the management and affairs of the mental health hospitals, may visit and inspect mental health hospitals and may examine mental health hospital records for the purpose of verifying the accuracy of reports and ensuring that this Act and the regulations are being adhered to.

60.7(1) If he is requested to do so by a Board, the Minister may authorize

- (a) an investigation into the administration or operation of 1 or both of the mental health hospitals or any particular matter or problem that has arisen in connection with the administration or operation of the mental health hospital, or
- (b) the mediation of any dispute that has arisen in the course of the administration or operation of 1 or both of the mental health hospitals.

(2) If the Minister has authorized an investigation or mediation proceedings pursuant to subsection (1), he may designate any or all of the following associations to form an investigation or mediation committee:

- (a) the Alberta Hospital Association;
- (b) the Alberta Association of Registered Nurses;
- (c) The Alberta Medical Association (C.M.A. - Alberta Division);
- (d) the Psychiatric Nurses Association of Alberta;
- (e) The Psychologists Association of Alberta;
- (f) The Alberta Association of Social Workers.

(3) The council or board of directors, as the case may be, of an association that is designated by the Minister under subsection (2) shall appoint 1 or more of the association's members to the committee that is to conduct the investigation or mediation proceedings and shall inform the Minister accordingly.

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

- (a) shall elect 1 of their number as chairman, if there are 2 or more members on the committee,

(b) shall conduct the investigation or mediation proceedings authorized by the Minister, and

(c) may require from a Board and its employees any information that the committee reasonably requires for the purpose of the investigation or mediation proceedings 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 on the proceedings and submit a copy of the report to the Board concerned, the Minister and the associations designated under subsection (2).

60.71(1) The Lieutenant Governor in Council may appoint a committee of inquiry to which, or to any member or members of which, a question respecting the conduct or management of a mental health hospital may be referred for the purpose of making an inquiry into the affairs of the hospital and reporting to the Minister.

(2) The committee, or any member or members, to whom a question is referred have all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*.

60.8 If a Board fails to comply with this Act or the regulations, the Minister may suspend or adjust any grants or payments to which the hospital may be entitled under this Act until the Board complies with this Act or the regulations.

60.81 The Minister may enter into agreements binding on a Board respecting the operation or administration of the mental health hospital or any diagnostic facility attached to the mental health hospital.

60.9 The Lieutenant Governor in Council may make regulations

(a) governing the approval of the locations, design and construction of mental health hospitals and the conditions under which that approval will be granted;

(b) prescribing the standards of service to be provided by mental health hospitals;

(c) prescribing the admission policies of mental health hospitals and types of patients that may be admitted to those hospitals;

(d) governing the disposal of human tissue, whether removed during an operation, autopsy or otherwise;

(e) prescribing the powers and duties of a Board with respect to appointment, reappointment, suspension and termination

of appointment and the delineation of privileges of members of its medical staff;

(f) prescribing procedures for the mediation of a decision of a Board to refuse the appointment of a physician to its medical staff;

(g) governing the use of out-patient services and hostel beds instead of in-patient beds;

(h) prohibiting, except with the consent of the Minister, the sale, lease or other disposition of any facilities or equipment by a Board;

(i) prescribing the basis on which amounts of grants payable to a Board for operating costs and capital costs are determined;

(j) prescribing the rates and manner of payment by the Minister of his share of the operating and capital costs of a Board and the manner of accounting by the Board for those payments.

60.91 A Board is not an agent of the Crown in right of Alberta.

8(1) The Lieutenant Governor in Council may provide for the transfer of buildings and personal property used in the operation of the Alberta Hospital, Ponoka and the Alberta Hospital, Edmonton, as determined by the Lieutenant Governor in Council to the appropriate Mental Health Hospital Board, subject to any terms and conditions prescribed in the order and may declare that any debt or liability incurred by the Crown in connection with those hospitals shall become a debt or liability of the appropriate Board.

(2) The Lieutenant Governor in Council may make any order he considers necessary to provide for any matter not expressly provided for in this section for the purpose of

(a) facilitating any transfer and, without limitation, any other transitional matter, or

(b) remedying any hardship or difficulty arising from the establishment of a Mental Health Hospital Board.

(3) If a Board employs a person who at the time that this section comes into force is an employee of the Government employed at the Alberta Hospital, Ponoka or the Alberta Hospital, Edmonton, employment service of the employee with the Government shall be recognized by the Board as employment service with the Board.

9 The Financial Administration Act, 1977 is amended in section 2(5) by adding the following after clause (c.1):

8 Transitional.

9 Consequential amendment to chapter 68 of the Statutes of Alberta, 1977.

(c.2) the Mental Health Hospital Boards under the *Mental Health Act, 1972*;

10 *The Alberta Health Facilities Review Committee Act is amended in section 1(c) by adding the following after subclause (iii):*

(iii.1) a mental health hospital under the *Mental Health Act, 1972*.

11 *The Local Authorities Pension Act is amended in section (2)(b) by adding the following after subclause (iii):*

(iii.1) a Mental Health Hospital Board established under the *Mental Health Act, 1972*,

12(1) *The Alberta Municipal Financing Corporation Act is amended by this section.*

(2) *Section 2 is amended*

(a) *in clause (e) by adding “, mental health hospital” after “hospital district”;*

(b) *by adding the following after clause (f):*

(f.1) “mental health hospital” means a mental health hospital under Part 4.1 of the *Mental Health Act, 1972*;

(3) *Section 10 is amended*

(a) *in subsection (1) by adding “, mental health hospitals” after “hospital districts”;*

(b) *in subsection (2) by striking out “and hospital districts” and substituting “, hospital districts and mental health hospitals”.*

(4) *In the following provisions “, mental health hospitals” is added after “approved hospitals” wherever it occurs:*

section 6(1)(b);
section 24(1)(i);
section 28(1) and (2);
section 36(1);
section 41.

(5) *In the following provisions “, mental health hospital” is added after “approved hospital” wherever it occurs:*

section 23(b), (c) and (d);
section 32;

10 Consequential amendment to chapter 49 of the Statutes of Alberta, 1972.

11 Consequential amendment to chapter 219 of the Revised Statutes of Alberta 1970.

12 Consequential amendments to chapter 14 of the Revised Statutes of Alberta 1970.

section 36(1) and (2);
section 37.

13 The Ombudsman Act is amended

(a) in section 2(a) by adding the following after subclause (iv):

*(iv.1) a Mental Health Hospital Board established under the
Mental Health Act, 1972,*

(b) in section 13(2)(b)

(i) by repealing subclause (i), and

(ii) by striking out “or institution”.

14 This Act comes into force on Proclamation.

13 Consequential amendment to chapter 268 of the Revised Statutes of Alberta 1970.