

1992 BILL 40

Fourth Session, 22nd Legislature, 41 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 40

CANCER PROGRAMS AMENDMENT ACT, 1992

MRS. B. LAING

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 40

1992

CANCER PROGRAMS AMENDMENT ACT, 1992

(Assented to , 1992)

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

1 *The Cancer Programs Act is amended by this Act.*

2 *Section 1 is amended*

(a) *by repealing clause (a.1);*

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

(d) "out-patient clinic" means a clinic for persons who are not in-patients and who are suspected of having cancer or who have or have had cancer;

(e) "scientific staff" means the scientists appointed by the board in accordance with the by-laws to serve as scientific staff.

3 *The following is added after section 1:*

Regulations
Act

1.1 The *Regulations Act* does not apply to the by-laws of the board or of the Alberta Cancer Foundation.

4 *Section 4(2) is repealed and the following is substituted:*

(2) The objects of the board are

Explanatory Notes

1 This Bill will amend chapter C-1 of the Revised Statutes of Alberta 1980.

2 Section 1(a.1) presently reads:

1 In this Act,

(a.1) "cancer", except in this clause and section 7, includes any disease that is non-cancerous but is capable of being diagnosed or treated by methods similar to those used for the diagnosis or treatment of cancer;

3 Regulations Act.

4 Section 4(2) presently reads:

(2) The objects of the board are to

- (a) to establish and operate provincial cancer hospitals, out-patient clinics and programs for
 - (i) the prevention, detection and diagnosis of cancer,
 - (ii) the treatment and care of cancer patients, and
 - (iii) cancer research;
- (b) to co-ordinate, in co-operation with others, the planning, development and delivery of services for cancer patients;
- (c) to educate persons about cancer.

5 Section 5 is amended

- (a) *by repealing subsection (2) and substituting the following:*

(2) The Minister, when appointing a member, shall prescribe the term of office of that member.

- (b) *by repealing subsection (3);*

- (c) *by repealing subsection (5) and substituting the following:*

(5) The Minister shall appoint one of the members of the board as its chair and shall prescribe the member's term of office as chair.

6 The following is added after section 6:

Control of
hospitals,
clinics and
programs

6.1(1) Subject to subsection (2), the board has full control of and responsibility for its hospitals, out-patient clinics and programs and all matters pertaining to the operation of them.

(2) If an out-patient clinic is located in a hospital that is not a provincial cancer hospital or in a facility that is

(a) *establish and operate provincial cancer hospitals and out-patient facilities, and*

(b) *establish and conduct programs,*

for the prevention, detection and diagnosis of cancer, the treatment and care of cancer patients and cancer research.

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

(2) *When the Minister appoints a member under subsection (1), he shall prescribe the term of office of that member.*

(3) *If a hospital services utilization committee is established for a hospital by the by-laws of the board, the Minister may also appoint one of the members of the medical staff of the hospital other than an employee of the board, as a member of the board and in that case*

(a) *the members of the board shall consist of the members appointed under subsection (1) and the members appointed under this subsection, and*

(b) *a member so appointed holds office during the pleasure of the Minister but ceases to hold office in any event if he ceases to be a member of the medical staff of the hospital.*

(5) *The Minister shall appoint one of the members of the board as its chairman and shall prescribe his term of office as chairman.*

6 Control of hospitals, clinics and programs.

not operated by the board, the board and the board of the other hospital or facility shall enter into an agreement respecting the operation of the out-patient clinic.

7 Section 7 is amended

(a) in subsection (1)

(i) by adding the following after clause (c):

(c.1) operate programs for the detection and diagnosis of cancer and the treatment and care of cancer patients;

(ii) in clause (d) by striking out "the equipment necessary for the proper" and substituting "equipment for the";

(iii) by repealing clause (e) and substituting the following:

(e) employ medical and surgical personnel and other health service personnel, scientific personnel and administrative and clerical staff for the operation of its hospitals, out-patient clinics and programs;

(iv) in clause (f) by striking out "the necessary facilities for proper" and substituting "facilities for";

(v) by repealing clause (i);

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

(2) Subject to section 7.1, the board may use a hospital, out-patient clinic or program for the purpose of educating persons about cancer.

8 The following is added after section 7:

7 Section 7 presently reads:

7(1) Subject to any order, regulation or agreement made pursuant to section 16, the board shall

- (a) hold, administer and manage the property and assets of the board;*
- (b) operate hospitals for the detection and diagnosis of cancer, the treatment and the care of cancer patients and cancer research;*
- (c) operate out-patient clinics for the detection and diagnosis and treatment of cancer in conjunction with the hospitals and at other places in Alberta;*
- (d) provide the equipment necessary for the proper operation of the hospitals and out-patient clinics;*
- (e) employ the necessary medical and surgical personnel and other health service personnel, and administrative and clerical staff for the proper operation of the hospitals and out-patient clinics;*
- (f) provide the necessary facilities for proper medical attendance, nursing, food and medicine;*
- (g) provide for the remuneration of all employees of the board and prescribe their duties;*
- (h) establish a schedule of fees for payment of authorized services provided by physicians;*
- (i) send 3 copies of the minutes of each of its meetings to the Minister.*

(2) The board may, if it considers it desirable to do so, utilize its facilities and services for purposes of education.

8 Education programs and non-cancerous diseases or conditions.

Programs for education and training

7.1 The board may, with the approval of and subject to any conditions prescribed by the Minister, provide professional and technical education and training programs in the prevention, detection and diagnosis of cancer and in the treatment and care of cancer patients.

Non-cancerous diseases or conditions

7.2 The board may allow a hospital or out-patient clinic to be used for the examination, diagnosis and treatment of persons who have any non-cancerous disease or condition if the examination, diagnosis or treatment requires the specialized equipment or expertise available at the hospital or out-patient clinic.

9 Section 8 is repealed and the following is substituted:

Chief executive officer

8(1) The board shall, with the approval of the Minister, appoint a chief executive officer.

(2) The board shall establish the duties of the chief executive officer.

10 Section 9(2) is amended by striking out “, or enter into overdraft arrangements with a bank or treasury branch,” and substituting “or treasury branch”.

11 Section 9.1 is repealed and the following is substituted:

Delegation

9.1(1) Subject to subsection (2), the board may delegate any of its powers and duties to any of its employees or staff, to any person on the medical, scientific or professional staff of its hospitals or out-patient clinics or to any committee established by the board.

(2) The board may not delegate the power to make by-laws.

12 The following is added after section 9.1:

9 Section 8 presently reads:

8 The board may, with the approval of the Minister, appoint an executive officer of the board and prescribe his duties.

10 Section 9(2) presently reads:

(2) The board, with the approval of the Minister and to the extent permitted by the Minister, may from time to time borrow money from any person, or enter into overdraft arrangements with a bank or treasury branch, for the purpose of meeting its obligations as they become due, and give any security for repayment in such manner as the board considers proper.

11 Section 9.1 presently reads:

9.1 The board may delegate in writing to the Alberta Hospital Association or its agent the power

- (a) to bargain collectively, conclude a collective agreement and sign a collective agreement on behalf of the board with any bargaining agent, as defined in the Public Service Employee Relations Act, of the employees of the board, and*
- (b) to act on behalf of the board in respect of any mediation, adjudication, complaint, inquiry or arbitration under the Public Service Employee Relations Act.*

12 Information to Minister.

Information to
Minister

9.2(1) The board shall send a copy of the minutes of its meetings to the Minister.

(2) The board shall, in accordance with the regulations, prepare a budget for each fiscal year and send a copy of the budget to the Minister.

(3) The board shall, in accordance with the regulations, provide the Minister with the information that the Minister requires on any matter relating to the board's operations.

13 Section 10(1) is repealed and the following is substituted:

Management
of hospitals

10(1) The board may make by-laws governing the management, control and operation of its hospitals.

(1.1) The board shall send to the Minister a copy of the by-laws made under subsection (1), including any amendments to or repeal of them.

14 The following is added after section 10:

Drug program

10.1 The board may, subject to the regulations, provide drugs specified by the Minister for the treatment of cancer patients.

15 Section 11 is repealed and the following is substituted:

Pharmaceuti-
cals

11 The board may, with the approval of and subject to any conditions prescribed by the Minister, establish and operate facilities for the manufacture, purchase or sale of pharmaceuticals or radio-pharmaceuticals for use in research, diagnosis, treatment or care.

16 Section 12 is repealed.

13 Section 10(1) presently reads:

10(1) The board may, with the approval of the Minister, make by-laws governing the management, control and operation of the hospitals, and the Regulations Act does not apply to a by-law so made.

14 Drug program.

15 Section 11 presently reads:

11 The board may, with the approval of and subject to any conditions prescribed by the Minister, provide for the manufacture, purchase or sale of pharmaceuticals or radio-pharmaceuticals for use in medical research, medical diagnosis or medical treatment or care.

16 Section 12 presently reads:

12(1) For the purposes of assessing and improving the standards of care furnished to patients suffering from cancer, compiling statistics with respect to cancer, conducting cancer research, or for any purpose relating to cancer which is considered by the board to be in the public interest, the board may require a physician to furnish it with the following information:

- (a) a report containing the information required by the regulations and the name and address of and a*

description of the diagnostic and treatment services provided with respect to any patient of that physician who is, was, may be or may have been suffering from cancer;

- (b) subject to the consent of the patient involved or his legal representative, medical and other records, or extracts or copies of them, in respect of that patient and in the possession of the physician.*

(2) Information obtained by the board pursuant to this section, the Alberta Health Care Insurance Act or the Hospitals Act shall be treated as private and confidential information in respect of any individual patient and, except as provided in subsection (5), no person shall

- (a) use that information for any purpose or in any manner, or*
- (b) unless that patient or his legal representative consents, publish, release or disclose that information if the publication, release or disclosure would be detrimental to the personal interests, reputation or privacy of a patient or the patient's attending physician.*

(3) Notwithstanding the consent of the patient or his legal representative pursuant to subsection (2)(b), the board shall not publish, release or disclose any information to the patient, his legal representative or the solicitor of either, unless the consent of the physician concerned is first obtained.

(4) Any person who knowingly publishes, releases, discloses or otherwise uses information obtained by the board pursuant to this section, the Alberta Health Care Insurance Act or the Hospitals Act in contravention of subsection (2) or (3) is guilty of an offence and liable to a fine of not more than \$500 and in default of payment to a term of imprisonment not exceeding 30 days.

(5) If information is obtained by the board pursuant to this section, the Alberta Health Care Insurance Act or the Hospitals Act, the board or an employee of the board authorized by the board to do so, may

- (a) disclose that information to the Minister or the board of an approved hospital under the Hospitals Act if that disclosure is*
 - (i) requested in writing by the Minister or a member or officer of the board of the approved hospital concerned, and*
 - (ii) necessary and relevant to a matter being dealt with by the Minister or that board;*

17 Section 16 is amended by striking out “or any out-patient clinic” and substituting “, out-patient clinic or program”.

18 Section 17 is repealed and the following is substituted:

Regulations

17 The Minister may make regulations

- (a) respecting the board’s budget for the purposes of section 9.2(2);
- (b) respecting the provision of information to the Minister under section 9.2(3);
- (c) respecting the provision of drugs by the board under section 10.1;
- (d) providing for any matter or thing that the Minister considers necessary to carry out the purposes of this Part..

19 Section 18 is amended

- (a) *by repealing subsection (1) and substituting the following:*

Advisory
committees

18(1) The board may establish one or more advisory committees for any purpose specified by the board.

(1.1) The board may appoint any person it considers appropriate to be a member of an advisory committee.

- (b) *publish that information in statistical form if the individual names of persons are not thereby revealed or made identifiable;*
- (c) *disclose that information to any person to be used by that person in bona fide research or in medical review and where the disclosure is made in such a manner as to ensure confidentiality;*
- (d) *divulge that information when required to do so pursuant to the Medical Profession Act.*

(6) *In this section "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.*

17 Section 16 presently reads:

16 The Minister may enter into agreements binding on the board respecting the operation or administration of any hospital or any out-patient clinic established by the board.

18 Section 17 presently reads:

17 The Lieutenant Governor in Council may make regulations providing for any matters and things considered necessary to carry out the purpose of this Part.

19 Section 18 presently reads:

18(1) The board may, with the approval of the Minister, appoint one or more advisory committees as it considers advisable for the administration of this Part.

(2) The members of an advisory committee appointed under this section

- (a) shall be paid fees by the board for their services at the rates prescribed by the by-laws of the board, and*

- (b) *in subsection (2) by striking out "shall" wherever it occurs and substituting "may".*

20 *Section 19 is repealed and the following is substituted:*

Special
committees

19(1) The board shall by by-law establish for each hospital

- (a) a facility committee,
- (b) a scientific committee, and
- (c) a medical committee.

(2) The by-laws establishing the committees shall deal with the composition of the committees and the appointment of their members.

(3) The by-laws have no effect until approved in writing by the Minister.

Facility
committee

19.1 A facility committee is responsible to the board for

- (a) the clinical and scientific practice of the hospital,
- (b) the professional practices of the treatment team of the hospital,
- (c) the hospital's quality of care,
- (d) the utilization of the hospital, and
- (e) providing advice to the board on any matter referred to it by the board.

Scientific
committee

19.2 A scientific committee is responsible for providing advice to the board on

- (a) the appointment, reappointment, suspension or termination of scientific staff of the hospital, and
- (b) any matter referred to it by the board.

- (b) *shall be paid by the board their reasonable travelling and living expenses while absent from their ordinary places of residence and in the course of their duties as members of the committee, in accordance with the by-laws of the board.*

20 Special committees.

Medical
committee

19.3 A medical committee is responsible for providing advice to the board on

- (a) the appointment, reappointment, suspension or termination of medical staff and the delineation of hospital privileges of the medical staff of the hospital, and
- (b) any matter referred to it by the board.

Board by-laws

19.4(1) The board shall make by-laws

- (a) governing the organization and conduct of the medical, scientific and other professional staff practising at its hospitals and out-patient clinics;
- (b) establishing a procedure for the medical committee to provide advice to the board on the appointment, reappointment, suspension or termination of medical staff and the delineation of hospital privileges of the medical staff;
- (c) establishing a procedure for the review of recommendations made by the medical committee or decisions made by the board affecting the privileges of the medical staff;
- (d) establishing a procedure to ensure that all applications for appointment to the medical staff reach the board in the time prescribed in the by-laws, whether or not the appointment is recommended by the medical committee;
- (e) establishing a procedure for notice to be given by the board to an applicant for appointment to the medical staff within a reasonable time of the decision of the board as to whether or not the application has been accepted.

(2) The by-laws have no effect until approved in writing by the Minister.

21 Section 20 is repealed and the following is substituted:

21 Section 20 presently reads:

Hospitals Act

20(1) Parts 2 and 3 of the *Hospitals Act*, except for sections 27, 28, 29, 30, 32, 37, 38, 39 and 51, apply to

- (a) a provincial cancer hospital, whether or not it is an approved hospital under the *Hospitals Act*, and
- (b) an out-patient clinic.

(2) Section 40 of the *Hospitals Act* also applies to the programs of the board.

22 *The following is added after section 20:*

PART 1.1

CANCER REGISTRY

Definition

20.1 In this Part, “reportable cancer” means a cancer specified by the regulations as a reportable cancer.

Cancer
registry

20.2(1) The board shall, subject to the regulations, establish a cancer registry.

(2) The cancer registry must contain the information respecting reportable cancers obtained under section 20.5.

(3) The cancer registry may, subject to any directions specified in the regulations, contain information

- (a) obtained under section 13(3) of the *Alberta Health Care Insurance Act*,
- (b) obtained under the *Hospitals Act* from a hospital that is not a provincial cancer hospital,
- (c) obtained from the board’s hospitals, out-patient clinics and programs, and
- (d) obtained from any other source specified by the Minister.

20 The provisions of the Hospitals Act respecting appeals to the Hospital Privileges Appeal Board apply in respect of a hospital under this Part, whether or not the hospital is an approved hospital under the Hospitals Act.

22 Cancer registry.

Confidentiality

20.3(1) The information in the cancer registry is private and confidential.

(2) Section 40 of the *Hospitals Act* does not apply to information in the cancer registry.

Purposes of cancer registry

20.4 The information in the cancer registry is to be used for the following purposes:

- (a) to assess and improve the standards of treatment and care provided to cancer patients;
- (b) to assist in the treatment and care of the person who is the subject of the information;
- (c) to assist in cancer research, education and prevention;
- (d) to compile statistics on cancer;
- (e) any other purpose specified by the Minister.

Duty to report

20.5(1) A physician who knows or has reason to believe that a patient under the physician's care or supervision has a reportable cancer shall, as soon as practicable, provide the board with the information prescribed by the regulations.

(2) A person who is responsible for a laboratory in which an examination of a specimen from a human body is conducted that reveals a reportable cancer shall, as soon as practicable, provide the board with the information prescribed by the regulations.

(3) After receiving information under subsection (1) or (2), the board may request the physician or person responsible for the laboratory to provide any additional information that the board considers necessary respecting the reportable cancer, the person who has cancer or the examination.

(4) No action or other proceeding for damages lies against a physician or person responsible for a laboratory for providing information to the board under this section.

Agreements

20.6(1) The Minister or the board with the approval of the Minister may enter into an agreement with the Government of Canada or the government of a province or with any person that relates to the disclosure of information in the cancer registry.

(2) An agreement under subsection (1) shall require that the information disclosed remain confidential.

**Use and
disclosure of
information**

20.7(1) The board may use the information in the cancer registry for the purposes referred to in section 20.4.

(2) The board shall disclose the information in the cancer registry

- (a) to the Minister in the manner and form specified by the Minister,
- (b) to any person specified by the Minister where the Minister believes it is in the public interest that the information be disclosed to that person, and
- (c) to any person when required by law.

(3) The board may disclose the information in the cancer registry

- (a) to the person who is the subject of the information or to that person's designate or legal representative;
- (b) in statistical form if the person who is the subject of the information is not revealed or made identifiable;
- (c) to a person conducting bona fide research or a medical review if the disclosure is made in a manner that ensures the confidentiality of the information;
- (d) to a person authorized to receive the information under an agreement referred to in section 20.6;
- (e) to a person or class of persons authorized to receive the information by the regulations.

Offences

20.8(1) No person shall disclose information in the cancer registry to a person unless disclosure of information to that person is authorized under section 20.7.

(2) No person shall review or examine the information in the cancer registry unless disclosure of the information to that person is authorized under section 20.7.

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and is liable to a fine of not more than \$10 000.

Regulations

20.9 The Minister may make regulations

- (a) prescribing a list of cancers or adopting a published list of cancers in whole or in part as reportable cancers;
- (b) respecting the information to be provided to the board under section 20.5;
- (c) respecting the establishment and operation of the cancer registry, including regulations requiring the board to enter certain information in the cancer registry;
- (d) authorizing the board to disclose information in the cancer registry to a person or class of persons.

23 Section 22(2)(a) is amended by striking out “chairman” and substituting “chair”.

24 Section 23 is amended by striking out “chairman” and substituting “chair”.

25 Section 24(2) is amended by striking out “chairman” and substituting “chair”.

23 Section 22(2)(a) presently reads:

(2) The Foundation consists of the following, who are the trustees of the Foundation:

(a) the chairman of the board,

24 Section 23 presently reads:

23 The trustees shall appoint a chairman of the Foundation from among themselves.

25 Section 24(2) presently reads:

26 *Section 27(2) is repealed and the following is substituted:*

(2) Trustees may be reimbursed out of the funds of the Foundation for the travelling and living expenses provided for in the by-laws that are necessarily incurred by them in the performance of their duties.

27 *By-laws of the medical staff made under section 32 of the Hospitals Act for a provincial cancer hospital remain in force for that hospital until amended or repealed by by-law of the board made in accordance with the Cancer Programs Act.*

28 *This Act comes into force on Proclamation.*

(2) Notwithstanding subsection (1), the trustees shall meet at least once a year on a date which, unless fixed by the by-laws, shall be fixed by the chairman of the trustees.

26 Section 27(2) presently reads:

(2) A trustee may be reimbursed out of the funds of the Foundation for the travelling and living expenses provided for in the by-laws that are necessarily incurred by him in the performance of his duties.

27 Transitional.

28 Coming into force.