

1997 BILL 5

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First Session, 24th Legislature, 46 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 5

## PERSONS WITH DEVELOPMENTAL DISABILITIES COMMUNITY GOVERNANCE ACT

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MR. SHARIFF

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First Reading .....  
Second Reading .....  
Committee of the Whole .....  
Third Reading .....  
Royal Assent .....

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*Bill 5*  
*Mr. Shariff*

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1997

### **PERSONS WITH DEVELOPMENTAL DISABILITIES COMMUNITY GOVERNANCE ACT**

*(Assented to , 1997)*

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**Preamble**      **WHEREAS** the people of Alberta honour and respect the dignity and equal worth of adults with developmental disabilities;

WHEREAS it is important that adults with developmental disabilities have opportunities to exercise self-determination and to be fully included in community life;

WHEREAS the individual needs of adults with developmental disabilities are most effectively met through the provision of services that are based on equitable opportunity, funding and access to resources; and

WHEREAS the Government of Alberta recognizes, values and supports the ability of communities to respond to the needs of adults with developmental disabilities;

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

Definitions

**1** In this Act,

- (a) “Board” means the Provincial Board, a Community Board and a Facility Board;
- (b) “Community Board” means a Community Board established under section 5;
- (c) “developmental disability” means a state of functioning that
  - (i) began in childhood, and
  - (ii) is characterized by a significant limitation, described in the regulations, in both intellectual capacity and adaptive skills;
- (d) “Facility Board” means a Facility Board established under section 7;
- (e) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (f) “Provincial Board” means the Provincial Board established under section 2;
- (g) “service provider” means a person or organization that provides services to adults with developmental disabilities pursuant to funding allocated by a Board.

Provincial Board established

**2(1)** The Provincial Board is a corporation consisting of not more than 15 members appointed, subject to subsection (2) and the regulations, by the Minister for a term prescribed by the Minister.

**(2)** Each member of the Provincial Board must be a resident of Alberta.

**(3)** After the appointment of the initial membership of the Provincial Board the Minister must, in accordance with the regulations, appoint members from nominations submitted to the Minister.

**(4)** The Minister may establish a panel to review nominations for members submitted in accordance with the regulations and to make recommendations to the Minister concerning the appointment of members to the Provincial Board.

**(5)** The chair of the Provincial Board is to be designated by the Minister.

**(6)** The Minister may, with respect to members of the Provincial Board, authorize and provide for the payment of remuneration and travelling, living and other expenses incurred by members in the course of their duties.

Provincial Board powers

**3(1)** Subject to this Act and any other enactment, the Provincial Board has the rights, powers and privileges of a natural person.

**(2)** The Provincial Board may not enter into any transaction directly or indirectly to borrow money.

Establishment of regions

**4(1)** The Minister may by order establish regions within which adults with developmental disabilities are to receive services.

**(2)** An order under subsection (1) must name the region and describe its boundaries.

**(3)** The *Regulations Act* does not apply to an order under this section.

Establishment of Community Boards

**5(1)** On establishing a region the Minister must establish a Community Board for the region.

**(2)** A Community Board is a corporation consisting of not more than 9 members appointed, subject to subsection (3) and the regulations, by the Minister for a term prescribed by the Minister.

(3) Each member of a Community Board must be a resident in the region for which the Community Board is established.

(4) After the appointment of the initial membership of a Community Board, the Minister must, in accordance with the regulations, appoint members from nominations submitted to the Minister.

(5) The Minister may establish a panel to review nominations for members submitted in accordance with the regulations and to make recommendations to the Minister concerning the appointment of members to a Community Board.

(6) The chair of a Community Board is to be designated by the Minister.

(7) The Minister may, with respect to members of a Community Board, authorize and provide for the payment of remuneration and travelling, living and other expenses incurred by members in the course of their duties.

**Community Board powers**

**6(1)** Subject to this Act and any other enactment, a Community Board has the rights, powers and privileges of a natural person.

(2) A Community Board may not enter into any transaction directly or indirectly

(a) to borrow money, or

(b) to engage persons as employees.

**Facility Board**

**7(1)** The Minister may, by order, establish a Facility Board with respect to a facility that in the opinion of the Minister provides services to adults with developmental disabilities.

(2) A Facility Board is a corporation consisting of not more than 9 members appointed, subject to subsection (3) and the regulations, by the Minister for a term prescribed by the Minister.

(3) Each member of a Facility Board must be a resident of Alberta.

(4) After the appointment of the initial membership of a Facility Board, the Minister must, in accordance with the regulations, appoint members from nominations submitted to the Minister.

(5) The Minister may establish a panel to review nominations for members submitted in accordance with the regulations and to make

recommendations to the Minister concerning the appointment of members to a Facility Board.

(6) The chair of a Facility Board is to be designated by the Minister.

(7) The Minister may, with respect to members of a Facility Board, authorize and provide for the payment of remuneration and travelling, living and other expenses incurred by members in the course of their duties.

Facility Board powers

**8(1)** Subject to this Act and any other enactment, a Facility Board has the rights, powers and privileges of a natural person.

(2) A Facility Board may not enter into any transaction directly or indirectly

(a) to borrow money, or

(b) to engage persons as employees.

Minister's role

**9** The role of the Minister is to

(a) provide strategic direction, set goals and evaluate results with respect to services for adults with developmental disabilities;

(b) set standards for the provision of services to adults with developmental disabilities;

(c) ensure that the activities of the Boards are monitored and assessed;

(d) work with other ministers and governments to co-ordinate the provision of services to adults with developmental disabilities.

Provincial Board role

**10** The role of the Provincial Board is to

(a) promote the inclusion of adults with developmental disabilities in community life;

(b) develop a plan, in accordance with the regulations and subject to the approval of the Minister, for the delivery of services to adults with developmental disabilities;

(c) oversee and evaluate the implementation of the plan developed under clause (b);

- (d) co-ordinate the activities of Community Boards and Facility Boards;
- (e) establish policies for the provision of services to adults with developmental disabilities;
- (f) ensure consistency of services in Alberta for adults with developmental disabilities;
- (g) allocate funding in a manner approved by the Minister and allocate resources to the Community Boards and Facility Boards;
- (h) monitor and assess the Community Boards and Facility Boards in the carrying out of their activities;
- (i) work with the Government and public and private bodies to co-ordinate the provision of services to adults with developmental disabilities.

**Community Board role**

**11** The role of a Community Board is, within the region for which the Community Board is established, to

- (a) determine community priorities in the provision of services to adults with developmental disabilities and allocate funding accordingly;
- (b) develop, in accordance with the regulations and subject to the approval of the Provincial Board, a plan for the delivery of services to adults with developmental disabilities;
- (c) oversee and evaluate the implementation of the plan developed under clause (b);
- (d) assess on an on-going basis the needs of the region for services for adults with developmental disabilities;
- (e) manage the provision of services to adults with developmental disabilities in a way that is responsive to the needs of those adults;
- (f) ensure reasonable access to services for adults with developmental disabilities;
- (g) co-ordinate, with other Community Boards and public and private bodies, the provision of services to adults with developmental disabilities.

Facility Board  
role

**12** The role of a Facility Board is, with respect to adults with developmental disabilities who receive services from the Facility, to

- (a) determine priorities in the provision of the services and manage funding and resources accordingly;
- (b) develop, in accordance with the regulations and subject to the approval of the Provincial Board, a plan for the delivery of the services;
- (c) oversee and evaluate the implementation of the plan developed under clause (b);
- (d) assess on an on-going basis the needs of those who receive the services;
- (e) manage the provision of the services in a way that is responsive to the needs of those who receive the services;
- (f) co-ordinate, with the Community Boards and public and private bodies, the provision of the services.

By-laws

**13(1)** Subject to this Act and the regulations, a Board may make by-laws respecting the conduct of its activities.

(2) A Provincial Board by-law does not become effective until it is approved by the Minister.

(3) A Community Board by-law or a Facility Board by-law does not become effective until it is approved firstly by the Provincial Board and secondly by the Minister.

(4) The *Regulations Act* does not apply to the by-laws enacted under this section.

Meetings

**14** A meeting of a Board must be open to the public, but the Board may close part or all of a meeting to the public if the Board is of the opinion that if the meeting or that part of the meeting were open to the public

- (a) the Board's ability to conduct its activities would be impaired, or
- (b) personal information about an individual could be released.



Appeal

**15(1)** An adult who

- (a) is receiving services or has applied to receive services by means of funding allocated by a Community Board or a Facility Board, and
- (b) is affected by a decision of that Community Board or Facility Board

may appeal the decision to the Provincial Board within 30 days of the decision's being made by filing a notice of appeal in accordance with subsection (2).

**(2)** A notice of appeal must

- (a) be in writing in the form prescribed by the regulations,
- (b) describe the decision being appealed and state the reasons for the appeal, and
- (c) be filed at the office of the Provincial Board.

**(3)** On receipt of a notice of appeal a member of the Provincial Board must review it and may

- (a) attempt to resolve the matter informally, or
- (b) with the agreement of the appellant, refer the matter, the appellant and a member of the Community Board or Facility Board selected by the Community Board or Facility Board to a person chosen to mediate and to attempt to resolve the matter.

**(4)** If the matter is not resolved within 45 days of the Provincial Board's receiving the notice of appeal, the chair of the Provincial Board must

- (a) set a date for hearing the appeal, and
- (b) designate 3 members of the Provincial Board to form an appeal panel to hear the appeal.

**(5)** The member of the Provincial Board who reviewed the notice of appeal under subsection (3) is not eligible to be designated under subsection (4)(b) with respect to the appeal.

**(6)** The *Administrative Procedures Act* applies to appeals under this section.

(7) The appeal panel, on hearing the appeal, may quash, vary or confirm the decision of the Community Board or Facility Board and may substitute a decision of its own.

(8) The decision of the appeal panel is final and not subject to review in any court or tribunal.

**Inspection  
powers**

**16(1)** The following are inspectors for the purposes of this Act:

- (a) the members of the Provincial Board and the persons appointed as inspectors by the Provincial Board, with respect to premises owned or operated by a Community Board, Facility Board or service provider;
- (b) the members of a Community Board and the persons appointed as inspectors by a Community Board, with respect to the premises of a service provider that receives funding allocated by that Community Board.

(2) Subject to subsection (3), for the purpose of ensuring compliance with this Act and the regulations, an inspector within the area of the inspector's jurisdiction may

- (a) enter premises,
- (b) require the production for examination of any documents or records in the possession of the Board or service provider and make copies of them or temporarily remove them for the purpose of making copies, and
- (c) inspect and take samples of any material, food, medication or equipment being used in the provision of services to adults with developmental disabilities.

(3) Before exercising any powers under subsection (2) with respect to a service provider, an inspector must obtain the permission of the service provider.

(4) An inspector who removes documents or other records or samples of any material, food, medication or equipment under subsection (2) must

- (a) give a receipt for the items to the person from whom the items were taken,
- (b) on request, provide a copy of the documents or records removed to the person from whom they were taken or to a person who is entitled to custody of them, and

(c) forthwith return the items to the person from whom they were taken when they have served the purposes for which they were taken.

(5) If anyone prevents an inspector from or obstructs or hinders an inspector in exercising powers under subsection (2), or if the permission required under subsection (3) is refused or cannot reasonably be obtained, a judge of the Court of Queen's Bench may, on the application of the inspector, make any order that the judge considers necessary to permit the inspector to exercise those powers.

(6) An application under subsection (5) may be made ex parte if the judge considers it proper in the circumstances.

Inquiry

**17(1)** The Minister may appoint a person to conduct an inquiry with respect to any matter concerning

(a) the provision of services to adults with developmental disabilities pursuant to funding allocated by a Board, or

(b) the carrying out of a Board's activities under this Act.

(2) In conducting an inquiry under this section, the appointed person has all the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*.

(3) The Minister may authorize and provide for the payment of remuneration and travelling, living and other expenses incurred by the appointed person in the course of that person's duties.

Dismissal of  
Boards

**18(1)** The Minister may by order dismiss all the members of a Board and appoint an official administrator in the Board's place if the Minister considers that the Board is not properly carrying out its activities under this Act or if for some other reason the Minister considers it to be in the public interest to dismiss the members of the Board.

(2) Notwithstanding sections 2(1), 5(2) and 7(2), a Board continues as a corporation consisting of an official administrator appointed under subsection (1).

(3) An official administrator appointed under subsection (1)

(a) has all the powers of the Board including the power to hear appeals,

(b) must perform all the duties and assume all the contractual obligations of the Board, and

(c) may be paid, as an operating expense of the Board, the remuneration and expenses determined by the Minister.

(4) If in the opinion of the Minister an official administrator is no longer required, the Minister may appoint a new Board, but subsequent appointments are subject to sections 2(3), 5(4) and 7(4).

- Crown agent**     **19** The Provincial Board is an agent of the Crown.
- Liability exemption**     **20** No action for damages may be commenced against a member of a Board or an official administrator for anything done or not done by that person in good faith while exercising powers and performing duties under this Act.
- Fiscal year**     **21** The fiscal year of a Board begins on the date the Board is first created and continues to the following March 31 and after that is April 1 to the following March 31.
- Information**     **22(1)** The Provincial Board must, on the request of the Minister, provide to the Minister any records, reports or other information specified by the Minister in the form specified by the Minister.
- (2)** The Community Boards and Facility Boards must, on the request of the Provincial Board, provide to the Provincial Board any records, reports or other information specified by the Provincial Board in the form specified by the Provincial Board.
- Regulations**     **23(1)** The Lieutenant Governor in Council may make regulations
- (a) describing the limitations in intellectual capacity and adaptive skills for the purposes of the definition of developmental disability;
  - (b) respecting the membership of a Board and the terms of office of Board members;
  - (c) respecting the nomination of members for a Board;
  - (d) respecting limiting the natural person powers of a Board;
  - (e) respecting the dissolution of and the winding-up of the activities of a Board.
- (2)** The Minister may make regulations

- (a) respecting to whom the Provincial Board must give notice of its meetings;
- (b) respecting Boards' plans;
- (c) respecting the standards to be followed by Boards in the management and provision of services to adults with developmental disabilities;
- (d) requiring Boards to keep records, how they must be kept and what they must contain;
- (e) respecting the types of electronic systems to be used by Boards for data transmission and storage and the standards that those systems must meet;
- (f) respecting the sharing of information among Boards and service providers;
- (g) respecting the notice of appeal form.

Review

**24** The Minister must begin a comprehensive review of this Act within 3 years of the date this Act comes into force and must submit to the Legislative Assembly, within one year after beginning the review, a report that includes any amendments recommended by the Minister.

Expiry

**25(1)** Notwithstanding section 81.1 of the *Financial Administration Act*, this Act expires on March 31, 2004 unless it is continued for a further period by an order of the Lieutenant Governor in Council.

**(2)** If this Act is continued for a further period by an order of the Lieutenant Governor in Council, section 81.1 of the *Financial Administration Act* applies to this Act.