

1998 BILL 37

Second Session, 24th Legislature, 47 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 37

HEALTH STATUTES AMENDMENT ACT, 1998

THE MINISTER OF HEALTH

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 37

1998

HEALTH STATUTES AMENDMENT ACT, 1998

(Assented to _____, 1998)

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

Alberta Health Care Insurance Act

Amends RSA
1980 cA-24

1(1) The *Alberta Health Care Insurance Act* is amended by this section.

(2) The following is added after section 5:

Non-hospital
surgical
facilities

5.01(1) In this section,

- (a) “approved hospital” means an approved hospital under the *Hospitals Act*;
- (b) “facility services” means any of the following services provided at a non-hospital surgical facility, if the services are medically necessary and are directly related to the provision of an insured surgical service at the facility:
 - (i) nursing service;
 - (ii) laboratory, radiological and other diagnostic procedures, together with the necessary interpretations;
 - (iii) drugs, biologicals and related preparations, when administered in the facility;
 - (iv) use of operating room, case room and anaesthetic facilities, including necessary equipment and supplies;
 - (v) medical and surgical equipment and supplies;

Explanatory Notes

Alberta Health Care Insurance Act

- 1(1)** Amends chapter A-24 of the Revised Statutes of Alberta 1980.

- (2)** Provision of insured surgical services by non-hospital surgical facilities.

- (c) “insured surgical service” means a surgical service that is medically necessary and is provided by a physician;
- (d) “non-hospital surgical facility” means a facility at which insured surgical services, together with related facility services, are provided, but does not include
 - (i) an approved hospital within the meaning of the *Hospitals Act*, or
 - (ii) a facility within the meaning of the *Mental Health Act* or a diagnostic and treatment centre established for the purposes of section 49(b) of the *Mental Health Act*.

(2) No person shall operate a non-hospital surgical facility unless

- (a) the facility is accredited by the council of the College of Physicians and Surgeons of the Province of Alberta under the *Medical Profession Act* and by-laws to provide the insured surgical services offered by the facility,
- (b) the operator of the facility has an agreement with a regional health authority to provide those insured surgical services, and
- (c) the Minister has approved the agreement.

Offence

5.02(1) A person who contravenes section 5.01(2) is guilty of an offence and liable to a fine of not more than \$10 000.

(2) A person who is guilty of an offence under subsection (1) is liable on conviction to pay a fine in respect of each day or part of a day on which the offence occurs and continues.

Hospitals Act

Amends RSA
1980 cH-11

2(1) The *Hospitals Act* is amended by this section.

(2) Section 63 is amended

(a) in subsection (1) by striking out “subsection (2)” and substituting “subsections (1.1) and (2)”;

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

Hospitals Act

2(1) Amends chapter H-11 of the Revised Statutes of Alberta 1980.

(2) Section 63 presently reads in part:

63(1) Subject to subsection (2), an insurer shall not make a new contract or add new members to a group contract under which a resident of Alberta is to be provided with or is to be reimbursed or indemnified for the cost of

(1.1) Subsection (1) does not apply to a contract under which a resident of Alberta is to be provided with or is to be reimbursed or indemnified for the cost of standard ward hospitalization, including authorized charges for it, provided in an auxiliary hospital.

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

(2.1) Subsection (2)(b)(iv) does not apply in respect of hospitalization in an auxiliary hospital.

(3) The following is added after section 67:

PART 3.1

APPROVED TREATMENT FACILITIES

Definitions

67.1 In this Part,

- (a) “council” means the council of the College of Physicians and Surgeons of the Province of Alberta;
- (b) “treatment facility” means a treatment facility other than
 - (i) an approved hospital, or
 - (ii) a facility within the meaning of the *Mental Health Act* or a diagnostic and treatment centre established for the purposes of section 49(b) of the *Mental Health Act*.

Prohibition

67.2 No person shall operate a treatment facility at which a medical service described in the regulations under section 67.9 is provided unless the operator holds an approval under this Part.

- (a) *standard ward hospitalization, including authorized charges for it, or*
- (b) *any other insured services, other than authorized charges for those other services.*

(2) *An insurer*

- (a) *may continue to renew all contracts in existence on July 1, 1961 and*
- (b) *may issue a contract of insurance in respect of the cost of insured services if*
 - (i) *the contract is issued to a person who has filed a declaration under section 18.5 of the Health Insurance Premiums Act,*
 - (ii) *the contract provides insurance coverage for that person and his dependants (as defined in the regulations under that Act),*
 - (iii) *the insurance coverage relates to insured services provided during a period for which his declaration is effective, and*
 - (iv) *no coverage is provided in respect of the cost of authorized charges for standard ward hospitalization.*

(3) *Provision of medical services by treatment facilities.*

Application for approval

67.3(1) An application for an approval must be made to the Minister in a form and manner acceptable to the Minister and must contain the following information:

- (a) general information about the nature of the treatment facility and its location;
- (b) details about the types of services to be provided and the population and geographic area that will be served by the treatment facility;
- (c) a description of the extent to which the services to be provided are already available in Alberta, including the locations at which the services are available;
- (d) a copy of the business plan for the operation of the treatment facility;
- (e) a description of the business and professional experience of the persons who own the treatment facility and the persons who will be operating it;
- (f) details about the number of professional and other staff who will be working at the treatment facility and their qualifications.

(2) The Minister may require the applicant to provide any additional information that the Minister considers to be necessary in order to deal with the application.

(3) The applicant shall provide a copy of its application and any additional information provided under subsection (2) to the council.

Approval of application

67.4(1) The Minister shall not approve an application unless the Minister is satisfied that the treatment facility is accredited by the council under the *Medical Profession Act* and by-laws to provide the services described in the application.

(2) In deciding whether to approve an application, the Minister shall consider the following factors:

- (a) the current and future need for the services to be provided by the treatment facility in the geographic area to be served by the treatment facility;
- (b) the impact that the operation of the proposed treatment facility would have on the publicly funded health system in Alberta;

- (c) whether the public interest would be served in approving the application;
- (d) any other factors the Minister considers to be relevant.

(3) The Minister may make an approval subject to any terms and conditions that the Minister considers appropriate.

Cancellation of approval

67.5(1) The Minister may by notice in writing to the operator cancel an approval if

- (a) the Minister is of the opinion that, since the giving of the approval, circumstances have changed with respect to any of the factors referred to in section 67.4(2) in a manner or to an extent that the Minister considers justifies cancelling the approval,
- (b) the treatment facility is operated in contravention of this Part, the regulations, the scope of the approval or a term or condition imposed under section 67.4(3), or
- (c) the Minister is advised by the council that the treatment facility is no longer accredited within the meaning of section 67.4(1).

(2) A notice under subsection (1) is effective on the date specified in it.

(3) Except where the Minister considers an emergency to exist, the effective date of a notice under subsection (1) must be not less than 60 days after the date the notice is given.

(4) Where the operator of a treatment facility receives a notice under subsection (1), the operator shall ensure that the treatment facility ceases operation not later than the effective date specified in the notice.

(5) The Minister may reinstate an approval that has been cancelled under subsection (1)(b) or (c) where the Minister is satisfied that the circumstances giving rise to the cancellation have been remedied or no longer exist.

Provision of information

67.6 The operator of a treatment facility that is the subject of a subsisting approval shall, on the written request of the Minister, provide to the Minister in accordance with the request the records, reports and returns that are specified in the request.

Inquiries and inspections

67.7 The Minister and any employee of the Government authorized by the Minister for the purpose may

- (a) make inquiries into the management and affairs of a treatment facility that is the subject of a subsisting approval, and
- (b) visit and inspect the treatment facility and examine records at the facility for the purpose of verifying the accuracy of records, reports and returns and ensuring compliance with this Part, the regulations and the approval and the terms and conditions to which it is subject.

Offence

67.8(1) A person who contravenes section 67.2 or 67.5(4) is guilty of an offence and liable to a fine of not more than \$10 000.

(2) An operator who is guilty of an offence under subsection (1) is liable on conviction to pay a fine in respect of each day or part of a day on which the offence occurs and continues.

Regulations

67.9(1) The Minister may make regulations respecting medical services for the purposes of section 67.2.

(2) A regulation under subsection (1) may describe the services or may incorporate by reference services that are described in the by-laws of the council.

(4) Subsection (3) comes into force on Proclamation.

Medical Profession Act

Amends RSA
1980 cM-12

3(1) The *Medical Profession Act* is amended by this section.

(2) Section 93(6) is repealed and the following is substituted:

- (6) It is unbecoming conduct for a medical practitioner
 - (a) to see or treat patients in a non-hospital surgical facility referred to in section 5.01 of the *Alberta Health Care Insurance Act* that is not accredited by the council under the by-laws,
 - (b) to see or treat patients in a treatment facility in respect of which an approval under Part 3.1 of the *Hospitals Act* is required where

(4) Coming into force.

Medical Profession Act

3(1) Amends chapter M-12 of the Revised Statutes of Alberta 1980.

(2) Section 93(6) presently reads:

(6) It is unbecoming conduct for a medical practitioner to continue to see or treat patients in a diagnostic and treatment facility that does not have the approval of the council.

- (i) there is no such subsisting approval for the treatment facility, or
- (ii) the treatment facility is not accredited by the council under the by-laws,

or

- (c) to see or treat patients in any other diagnostic and treatment facility that is not accredited by the council under the by-laws.

(3) This section comes into force on Proclamation.

(3) Coming into force.