

2001 BILL 206

First Session, 25th Legislature, 50 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 206

**REGIONAL HEALTH AUTHORITIES
CONFLICTS OF INTEREST ACT**

DR. NICOL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 206
Dr. Nicol

BILL 206

2001

REGIONAL HEALTH AUTHORITIES CONFLICTS OF INTEREST ACT

(Assented to , 2001)

Preamble WHEREAS the people of Alberta have a right to a public health care service which is conducted with impartiality and integrity;

WHEREAS it is this special obligation to Albertans that demands that there not be, nor seem to be, any conflict between the private interests of individuals working in public health care and their duty to the public; and

WHEREAS it is recognized that individuals working in public health care should enjoy the same rights in their private dealings as other citizens unless it can be demonstrated that a restriction is essential to the public interest;

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 board of a regional health authority;
- (b) “board member” means a member of a regional health authority who is appointed or elected pursuant to the *Regional Health Authorities Act*;
- (c) “conflict of interest” means a conflict between the public and private interests of a board member, independent health service provider, employee or contractor that occurs when they use their position to gain personal benefits or benefits for their relatives that are not available to the general public;

- (d) “contractor” means a person who directly, or indirectly through a corporation, enters into a contract with a regional health authority to provide services but does not include an independent health service provider;
- (e) “employee” means an individual employed by a regional health authority to do work who receives or is entitled to remuneration;
- (f) “Ethics Commissioner” means the Ethics Commissioner appointed under Part 7 of the *Conflicts of Interest Act*;
- (g) “independent health service provider” means a person who directly, or indirectly through a corporation, partnership or other association, receives from a regional health authority income through the provision of health services;
- (h) “private interest” does not include the following:
 - (i) an interest in a matter that
 - (A) is of general application, or
 - (B) affects a person as one of a broad class of the public,
 - (ii) an interest that is trivial;
- (i) “regional health authority” means a regional health authority established under the *Regional Health Authorities Act*;
- (j) “relative” includes a spouse, children, step-children, legal dependents, parents, siblings, in-laws, grandparents, grandchildren, nieces, nephews, aunts, uncles and first cousins;
- (k) “spouse” includes a party to a relationship between a man and a woman who are living together on a bona fide domestic basis but does not include a spouse who is living apart from the board member, independent health service provider, employee or contractor, as the case may be, if they have separated pursuant to a written separation agreement or if their support obligations and family property have been dealt with by a court order;
- (l) “supervisor” means the person who directly supervises

or exercises influence over the assignment of duties, performance evaluation or related responsibilities of an employee or a contractor.

- Application **2(1)** This Act applies to all board members, independent health service providers, employees and contractors in connection with their involvement with regional health authorities.
- (2)** Conflicts between the private interests of the persons outlined in subsection (1) and their duty to the public not specifically addressed in this Act must be dealt with according to the principles and intent of this Act.
- Act prevails **3** This Act is in addition to any code of conduct or instructions issued by the Government or a regional health authority, and where there is a conflict with this Act, this Act prevails.
- Administration of Act **4(1)** The Ethics Commissioner shall administer this Act as it applies to board members and may issue instructions as are necessary for its implementation.
- (2)** The regional health authority shall administer this Act as it applies to independent health service providers, employees and contractors and may issue instructions as are necessary for implementation.
- (3)** The Ethics Commissioner or a regional health authority may issue supplementary instructions which modify but do not detract from matters dealt with in this Act provided that the instructions are not more permissive than this Act.
- (4)** The Ethics Commissioner shall inform board members about the provisions of this Act and any supplemental codes or instructions to ensure that they are aware of their obligations.
- (5)** The regional health authority shall inform independent health service providers, employees and contractors about the provisions of this Act and any supplemental codes or instructions to ensure that they are aware of their obligations.
- Impartiality **5** Board members, independent health service providers, employees and contractors are expected in all regards to conduct their duties with impartiality.

Furthering private interests

6 Board members, independent health service providers, employees and contractors are in a conflict of interest and in violation of this Act if they

- (a) take part in a decision in the course of carrying out their duties knowing that the decision might further a private interest or the private interest of a relative,
- (b) use their public role to influence or seek to influence a regional health authority decision which could further a private interest or a private interest of a relative, or
- (c) use or communicate information not available to the general public that was gained in the course of carrying out their duties, to further or seek to further a private interest or a private interest of a relative.

Disclosure procedure

7(1) Board members are required to disclose to the Ethics Commissioner any situation involving them which is a conflict or an apparent conflict of interest.

(2) Independent health service providers are required to disclose to the board, or its designate, any situation involving them which is a conflict or an apparent conflict of interest.

(3) Employees and contractors are required to disclose to their supervisor any situation involving them which is a conflict or an apparent conflict of interest.

(4) When a board member, independent health service provider, employee or contractor makes a disclosure pursuant to this Act, that person shall not participate in any discussion or decision of the regional health authority relating to the matter.

Investment and management of private assets

8(1) Where an actual or proposed business or financial interest of

- (a) a board member,
- (b) an independent health service provider,
- (c) a contractor,
- (d) an employee, or

- (e) a relative of any of the persons outlined in clauses (a) to (d),

could place any of the persons outlined in clauses (a) to (d) in a conflict of interest or an apparent conflict of interest by actions taken or decisions made in which the person participates in the course of fulfilling official duties, that person shall follow the disclosure procedure outlined in section 7.

(2) If an actual or apparent conflict of interest under this section is ongoing or recurring,

- (a) in the case of an independent health service provider, employee or contractor, that person, or that person's relative, must divest themselves of the asset, or the relationship between the independent health service provider, employee or contractor and the regional health authority shall be terminated,
- (b) in the case of a board member, that person, or that person's relative, must divest themselves of the asset, or after the expiry of 30 days, the person ceases to be a member of the regional health authority.

(3) The Ethics Commissioner may require financial disclosure of board members in specific situations where, in the opinion of the Ethics Commissioner, a conflict of interest could likely occur.

(4) The board may require financial disclosure of independent health service providers, employees or contractors in specific situations where, in the opinion of the board, a conflict of interest could likely occur.

(5) Information disclosed pursuant to this section shall be maintained on a confidential basis.

Responsibilities

9(1) Board members, independent health service providers, employees and contractors who exercise supervisory or other discretionary authority over others shall disqualify themselves from dealing with anyone where the relationship between them may bring their impartiality into question with respect to those functions.

(2) Board members shall, so far as it is known to them, disclose and discuss with the Ethics Commissioner situations that may be or may appear to be conflicts of interest under this section.

(3) Independent health service providers shall, so far as it is known

to them, disclose and discuss with the board situations that may be or appear to be conflicts of interest under this section.

(4) Employees and contractors shall, so far as it is known to them, disclose and discuss with their supervisor situations that may be or may appear to be conflicts of interest under this section.

Additional compensation; employment

10(1) Board members, independent health service providers, employees and contractors shall not accept additional compensation for duties which they perform in the course of fulfilling the functions of their office, contract or employment.

(2) Board members, independent health service providers, employees and contractors shall not allow the performance of their official duties to be influenced by offers of future employment or the anticipation of offers of employment.

Volunteer activities

11(1) Board members, independent health service providers, employees and contractors who are actively associated on a volunteer basis with any organization shall

- (a) in the case of board members, disclose to the Ethics Commissioner,
- (b) in the case of independent health service providers, disclose to the board, and
- (c) in the case of employees and contractors, disclose to their supervisor,

their interest in such an organization where a conflict may arise.

(2) The persons outlined in subsection (1) shall disqualify themselves from participating in any discussion or decision of the regional health authority which could impact the volunteer organization.

Acceptance of gifts

12 Board members, independent health service providers, employees and contractors shall not accept fees, gifts or other benefits that are connected directly or indirectly with the performance of their duties, from any individual, organization or corporation, other than

- (a) the normal exchange of gifts between friends;

- (b) the normal exchange of hospitality between persons doing business together;
- (c) tokens exchanged as part of protocol;
- (d) the normal presentation of gifts to persons participating in public functions.

Review by
Ethics
Commissioner

13(1) An independent health service provider, employee or contractor may apply to the Ethics Commissioner for a review of a ruling of a conflict of interest by a regional health authority.

(2) Upon receipt of a request for a review, the Ethics Commissioner shall investigate and provide a recommendation to the regional health authority.

(3) Where the Ethics Commissioner is unable to act, the regional health authority will determine an alternate appeal mechanism in consultation with the Chief Justice of the Alberta Court of Appeal.

(4) Any person acting on behalf of the Ethics Commissioner, as determined pursuant to subsection (3), has the same powers and duties as the Ethics Commissioner in this Act.

Review by
Court

14 A board member may apply by originating notice to the Court of Queen's Bench for a review of a ruling of a conflict of interest by the Ethics Commissioner made pursuant to this Act.

Requests for
investigations

15(1) Any person may request in writing that the Ethics Commissioner investigate any matter respecting an alleged breach of this Act.

(2) A request under subsection (1) must be signed by the person making it and must identify the person to the satisfaction of the Ethics Commissioner.

Investigation
and inquiry

16(1) On receiving a request under section 15 or where the Ethics Commissioner has reason to believe that a board member, independent health service provider, employee or contractor has acted or is acting in contravention of advice, recommendations or directions or any conditions of any approval or exemption given under this Act, and on giving the person concerned reasonable notice, the Ethics Commissioner may conduct an investigation with or without conducting an inquiry.

(2) When conducting an inquiry under this section, the Ethics Commissioner has the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*.

(3) If an inquiry is held, it shall be held in public unless the Ethics Commissioner, in the interests of justice, decides that it is to be held in private.

(4) The Ethics Commissioner may refuse to investigate or may cease to investigate an alleged breach under this Act if the Ethics Commissioner is of the opinion that

- (a) the request is frivolous or vexatious or was not made in good faith, or
- (b) there are no or insufficient grounds to warrant an investigation or the continuation of an investigation.

(5) The Ethics Commissioner may re-investigate an alleged breach in respect of which the Ethics Commissioner's findings have already been reported under this section only if, in the Ethics Commissioner's opinion, there are new facts that on their face might change the original findings.

(6) If the Ethics Commissioner refuses to investigate or ceases to investigate an alleged breach or refuses to re-investigate an alleged breach, the Ethics Commissioner shall so inform the person against whom the allegation was made.

(7) Upon completion of an investigation or inquiry under this section, the Ethics Commissioner shall provide a report with findings and recommendations to the regional health authority.

Confidentiality

17(1) Except as provided in this section, the Ethics Commissioner or any former Ethics Commissioner or a person who is or was employed or engaged by the Office of the Ethics Commissioner shall maintain the confidentiality of all information and allegations that come to their knowledge in the course of the administration of this Act.

(2) Allegations and information to which subsection (1) applies may be

- (a) disclosed to the person whose conduct is the subject of proceedings under this Act;
- (b) disclosed by a person conducting an investigation to the

extent necessary to enable that person to obtain information from another person;

- (c) adduced in evidence at an inquiry under this Act;
- (d) disclosed in a report made by the Ethics Commissioner under this Act.

Coming into
force

18 This Act comes into force on September 1, 2001.