

2010 Bill 17

Third Session, 27th Legislature, 59 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 17

ALBERTA HEALTH ACT

THE MINISTER OF HEALTH AND WELLNESS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 17

2010

ALBERTA HEALTH ACT

(Assented to , 2010)

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Preamble

WHEREAS Albertans acknowledge:

that individuals, families, communities, health professionals and the Government of Alberta all share in supporting and enhancing the health and wellness organizations that deliver health services to Albertans;

that the health, wellness and quality of life of Albertans are influenced by their economic, social, cultural, physical and spiritual context;

that Alberta's health system should strengthen the overall health and wellness of Albertans through effective prevention of illness and injury, promotion of public health, the provision of health services that respond to their health needs, and healthy public policy;

that healthy policy across Alberta Government ministries should recognize the social determinants of health;

that the modern continuum of health requires collaborative, integrated, efficient and high-quality health services delivered by many types of health professionals across many different settings;

that proactive, aligned and collaborative decision-making among Alberta Government ministries and the health sector is necessary to effectively plan and deliver health services across this continuum; and

that Alberta's health system should enable and encourage collaboration among its research, academic and clinical communities of practice;

WHEREAS policies, organization, operations and decisions about Alberta's health system should be guided and measured and sustained consistent with the following principles:

that Alberta is committed to the principles of the *Canada Health Act (Canada)*;

that individuals, families and communities receive quality health services that are safe;

that Albertans have reasonable access to timely and appropriate care, including primary care;

that accessibility to publicly funded health services is based on need, not on the ability to pay;

that Alberta's health system recognizes that health encompasses a person's physical, spiritual and mental health, from birth to the end of life;

that health services are delivered in ways that understand the experiences, recognize the perspectives, and respond to the health needs of individuals, families and communities;

that health professionals are encouraged and empowered to work collaboratively, ethically, efficiently, and in ways that maximize their skills, training and competencies;

that Alberta's health system is built on long-term planning, innovation, adaptation and continuous improvement;

that health decisions, financial stewardship and the allocation and use of resources are done in such a way that they are transparent to Albertans and ensure that Alberta's publicly funded health system is sustained for the future;

that decisions made across the health system are based on the best available evidence and a holistic view of health and wellness;

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) "Health Advocate" means the person appointed as the Health Advocate under section 3(1);
- (b) "Health Charter" means the Health Charter established under section 2;
- (c) "health provider" means a member of a body that regulates a health profession or health discipline pursuant to an enactment, and includes any other person designated in the regulations as a health provider;
- (d) "health service" means a service, including the provision of equipment and drugs, medicines, biological agents and other supplies,
 - (i) to protect, promote or maintain physical or mental health,
 - (ii) to prevent illness,
 - (iii) to diagnose, treat or rehabilitate, or

- (iv) to take care of the health needs of the ill, disabled, injured or dying;
- (e) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (f) “operator” means the person responsible for the management and operation of a place at or from which health services are provided;
- (g) “professional college” means a body that regulates a health profession or health discipline pursuant to an enactment.

Health Charter

2(1) The Minister shall establish a Health Charter to guide the actions of regional health authorities, provincial health boards, operators, health providers, professional colleges, Albertans, and any other persons specified in the regulations.

(2) The Health Charter must

- (a) recognize that health is a partnership among individuals, families, communities, health providers, organizations that deliver health services, and the Government of Alberta, and
- (b) acknowledge the impact of an individual’s health status and other circumstances on the individual’s capacity to interact with the health system,

but the Health Charter must not be used to limit access to health services.

(3) A failure of a person to act in a manner consistent with the Health Charter may be dealt with by the Health Advocate in accordance with sections 4 and 5 or by the Minister under section 8 or 9.

(4) A failure of a person to act in a manner that is consistent with the Health Charter does not in itself give rise to

- (a) a cause of action or other legal enforceable claim, or

- (b) proceedings in any court or before any body or person having the power to make decisions under an enactment.

(5) The Minister shall, subject to the regulations, review the Health Charter at least once every 5 years.

Appointment of Health Advocate

3(1) The Lieutenant Governor in Council may appoint a Health Advocate.

(2) The Minister may authorize and provide for the payment of the remuneration and expenses of the Health Advocate and of the office and staff of the Health Advocate.

(3) The functions of the Health Advocate are

- (a) to review complaints made under section 4, and
- (b) to perform any other duties that are set out in the regulations.

(4) For the purpose of carrying out his or her duties, the Health Advocate may exercise any of the powers set out in the regulations.

(5) In accordance with the *Public Service Act*, there may be appointed any employees required to assist the Health Advocate in performing the Health Advocate's duties under this Act.

Complaints

4(1) A person may make a complaint to the Health Advocate that a person has failed to act in a manner consistent with the Health Charter.

(2) The Health Advocate shall review a complaint made under subsection (1) unless, in the opinion of the Health Advocate,

- (a) the complaint relates to a matter that is within the jurisdiction of another person or body, or
- (b) the complaint is frivolous or vexatious or is without merit.

(3) Where the complaint relates to a matter that is within the jurisdiction of another person or body, the Health Advocate shall refer the complaint to that person or body.

Findings following a review

5(1) Following a review of a complaint, if the Health Advocate finds that a person has failed to act in a manner consistent with the Health Charter, the Health Advocate may make recommendations to any person as the Health Advocate considers appropriate.

(2) If a person fails to comply with a recommendation of the Health Advocate, the Health Advocate may submit a report on the matter to the Minister.

(3) For the purposes of the *Defamation Act*, any report or recommendation made by the Health Advocate under this section is deemed to be privileged, and a fair and accurate report on it in a newspaper or a broadcast is also deemed to be privileged.

Annual report

6(1) As soon as possible after the end of each year, the Health Advocate shall prepare and submit to the Minister a report summarizing the Health Advocate's activities in that year.

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

Roles and responsibilities

7(1) Subject to and in accordance with applicable enactments, regional health authorities established under the *Regional Health Authorities Act* are responsible for delivering health services.

(2) Subject to and in accordance with applicable enactments, provincial health boards established under the *Regional Health Authorities Act* are responsible for carrying out their duties and functions in accordance with the enactment that established them.

(3) Subject to and in accordance with applicable enactments, professional colleges are responsible for regulating the activities of their members.

(4) Subject to the regulations, in addition to the Minister's other responsibilities in the health system, the Minister may clarify and co-ordinate the roles and responsibilities of persons referred to in subsections (1) to (3).

Reporting

8 To enable the Minister to report to the public on the status of the health system, the Minister may, by order, direct a regional health authority, health provider, professional college or operator or any other person involved in the provision of a health service to report to the Minister in the form and manner directed by the Minister on any one or more of the following as specified, and to the extent provided, in the order:

- (a) compliance with the Health Charter;
- (b) health status of Albertans;
- (c) health service outcomes;
- (d) health system performance;
- (e) any other matters provided for in regulations made under section 12(d).

Directions by the Minister

9(1) Subject to the regulations, the Minister may, by order, direct a regional health authority, health provider, professional college or operator or any other person involved in the provision of a health service to do any one or more of the following as specified, and to the extent provided, in the order:

- (a) comply with the Health Charter;
- (b) develop and adopt a charter, consistent with the Health Charter, specific to that person's role in the health system;
- (c) modify its bylaws, codes of conduct, policies or other documents to make them consistent with the Health Charter and the principles of this Act;
- (d) co-ordinate its roles and responsibilities in accordance with section 7(4);
- (e) any other matters provided for in regulations made under section 12(d).

(2) Subsection (1) is in addition to and not in substitution for any other authority the Minister has under any other enactment for which the Minister is responsible.

Proceedings not subject to review

10 A decision or action of the Minister, the Health Advocate or any employee or agent of either of them shall not be questioned, reviewed or made the subject of a proceeding in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court by way of injunction, declaratory judgment, prohibition or mandamus or otherwise to question, review, prohibit, restrain or compel the Minister, the Health Advocate or any employee or agent of either of them.

Liability

11 No action lies against the Minister, the Crown in right of Alberta, the Health Advocate or any employee or agent of any of them for anything done or omitted to be done by that person in good faith while carrying out that person's duties or exercising that person's powers under this Act or the regulations.

Lieutenant Governor in Council regulations

12 The Lieutenant Governor in Council may make regulations

- (a) defining any term used but not defined in this Act;
- (b) specifying persons for the purpose of section 2(1);
- (c) respecting the establishment and review of the Health Charter;
- (d) respecting other matters for the purpose of sections 8(e) and 9(1)(e);
- (e) respecting compliance with orders made under section 8 or 9;
- (f) respecting the powers and duties of the Health Advocate, including the power of the Health Advocate to compel a person to provide any information referred to in the regulations for the purpose of a review by the Health Advocate;
- (g) respecting complaints to the Health Advocate;
- (h) respecting the collection, use, disclosure and confidentiality of information under this Act;

- (i) providing with respect to any provision of the regulations under this section or section 13 that its contravention constitutes an offence;
- (j) prescribing penalties in respect of offences for contravention of provisions of regulations referred to in clause (i);
- (k) respecting transitional and consequential effects of this Act on other enactments.

Ministerial regulations

13 The Minister may make regulations

- (a) respecting the designation of other persons as health providers for the purpose of section 1(c);
- (b) respecting the roles and responsibilities of persons referred to in section 7(1) to (3).

Public input

14(1) Neither the Minister nor the Lieutenant Governor in Council shall make any regulation under this Act unless

- (a) the Minister has published a notice of the proposed regulation on the public website of the Minister's department,
- (b) the notice complies with the requirements of this section,
- (c) the time period specified in the notice, during which members of the public and stakeholders may submit comments, has expired, and
- (d) the Minister has reported to the Executive Council in accordance with subsection (4).

(2) The notice referred to in subsection (1)(a) must contain

- (a) a summary of the proposed regulation and the proposed text of it;
- (b) a statement of the time period during which members of the public and stakeholders may submit written comments

on the proposed regulation to the Minister and the manner in which the comments must be submitted;

(c) any other information that the Minister considers appropriate.

(3) The time period referred to in subsection (2)(b) must not end until at least 30 days after the Minister gives the notice unless the Minister shortens the time period in accordance with subsection (6).

(4) After receiving the comments submitted under subsection (2)(b), the Minister must report to the Executive Council on what, if any, changes to the proposed regulation the Minister considers appropriate.

(5) Following the submission of the Minister's report to the Executive Council, the Minister or the Lieutenant Governor in Council, as the case may be, without further notice may make the proposed regulation with changes that the Minister or Lieutenant Governor in Council considers appropriate, whether or not those changes are referred to in the Minister's report under subsection (4).

(6) The Minister may, prior to the making of a regulation under this section, exempt the proposed regulation from the application of subsections (1) to (5) or shorten the time period referred to in subsection (2)(b) if, in the Minister's opinion,

(a) the urgency of the situation requires it,

(b) the proposed regulation clarifies the intent or operation of this Act or a regulation, or

(c) the proposed regulation is of a minor or technical nature.

(7) If the Minister decides under subsection (6) to exempt a proposed regulation from the application of subsections (1) to (5) or to shorten a time period, the Minister shall immediately post a notice of the decision on the public website of the Minister's department.

(8) No regulation made under section 12 or 13 is invalid as a result of non-compliance with this section if there has been substantial compliance.

Coming into force

15 This Act comes into force on Proclamation.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To