

The Health Facilities Licensing Act

being

Chapter H-0.02 of the *Statutes of Saskatchewan, 1996* (effective February 22, 1999) as amended by the *Statutes of Saskatchewan, 2000, c.50; 2002, c.R-8.2; 2015, c.M-23.001; 2016, c.P-4.11; and 2017, c.P-30.3.*

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER H-0.02
An Act respecting Health Facilities

SHORT TITLE AND INTERPRETATION

Short title

1 This Act may be cited as *The Health Facilities Licensing Act*.

Interpretation

2(1) In this Act:

- (a) **“accreditation program”** means a prescribed program for determining if a health facility meets the appropriate standards to provide insured health services;
- (b) **“accreditation program operator”** means any person or body approved by the minister pursuant to section 5;
- (c) **“applicant”** means a person who applies for a licence or the renewal of a licence;
- (d) **“beneficiary”** means a beneficiary within the meaning of *The Saskatchewan Medical Care Insurance Act*;
- (e) **“department”** means the department over which the minister presides;
- (f) **“diagnostic or therapeutic medical procedure”** means an insured health service that:
 - (i) before January 1, 1996, was primarily provided within a hospital approved pursuant to *The Hospital Standards Act*; or
 - (ii) on or after January 1, 1996, became or becomes an insured health service;
- (g) **Repealed.** 2002, c.R-8.2, s.76.
- (h) **Repealed.** 2002, c.R-8.2, s.76.
- (i) **“health facility”** means any place or facility where a diagnostic or therapeutic medical procedure is provided, but does not include:
 - (i) subject to subsection (2), a place or facility operated by the minister, the provincial health authority or an affiliate, as defined in *The Provincial Health Authority Act*; or
 - (ii) any prescribed place or facility;
- (i.1) **Repealed.** 2017, cP-30.3, s.11-8.
- (j) **“inspector”** means a person appointed or designated pursuant to section 19;

- (k) **“insured health service”** means:
- (i) an insured service within the meaning of *The Saskatchewan Medical Care Insurance Act*, other than an insured service that is designated in the regulations;
 - (ii) a service that would be an insured service pursuant to *The Saskatchewan Medical Care Insurance Act*, but is deemed to be an uninsured service by reason of the fact that it is provided by a physician described in subsection 24(1) of that Act;
 - (iii) **Repealed.** 2015, c.M-23.001, s.31.
 - (iv) **Repealed.** 2016, cP-4.11, s.33.
 - (v) a diagnostic and therapeutic radioisotope procedure in nuclear medicine; or
 - (vi) any other prescribed medical procedure the cost of which, when provided to a beneficiary, is paid for by the minister or the provincial health authority;
- (l) **“licence”** means a valid licence issued or renewed pursuant to section 7;
- (m) **“licensee”** means the holder of a licence;
- (n) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (o) **“prescribed”** means prescribed in the regulations;
- (o.1) **“provincial health authority”** means the provincial health authority continued pursuant to *The Provincial Health Authority Act*;
- (p) **Repealed.** 2017, cP-30.3, s.11-8.
- (2) A portion of a place or facility mentioned in subclause (1)(i)(i) is a health facility if that portion is leased or provided in any fashion by the owner or operator of the place or facility to another person for the purpose of providing a diagnostic or therapeutic medical procedure, unless the diagnostic or therapeutic medical procedure is provided in that portion of the place or facility by:
- (a) an employee of the owner or operator of the place or facility; or
 - (b) a person using his or her medical staff privileges.

1996, c.H-0.02, s.2; 2002, c.R-8.2, s.76; 2015, c.M-23.001, s.31; 2016, cP-4.11, s.33; 2017, cP-30.3, s.11-1 and 11-8.

LICENSING

Licence required

- 3(1) No person shall establish or operate a health facility without a licence.
- (2) Every licensee shall have a separate licence for each health facility.

1996, c.H-0.02, s.3.

Application for licence or renewal

- 4(1) Every person who wishes to obtain a licence or to renew a licence shall:
- (a) apply to the minister in the form provided by the minister;
 - (b) pay the prescribed application fee; and
 - (c) provide the minister with any information or material that the minister requests and reasonably considers relevant to the application.
- (2) Every licensee who wishes to renew his or her licence shall apply for the renewal at least nine months before the licence is to expire.

1996, c.H-0.02, s.4.

Approval of accreditation program operator

- 5(1) The minister may approve any person or body as an accreditation program operator.
- (2) The minister may approve different accreditation program operators for different accreditation programs.

1996, c.H-0.02, s.5.

Reviews of application

- 6(1) Where the minister receives an application for a licence or the renewal of a licence, the minister shall forward the application and all accompanying information and material to:
- (a) the appropriate accreditation program operator; and
 - (b) the provincial health authority.
- (2) The appropriate accreditation program operator shall:
- (a) review the application and accompanying information and material; and
 - (b) report to the minister if, in the opinion of the accreditation program operator, the health facility conforms to the standards of the accreditation program.
- (3) The provincial health authority shall:
- (a) review the application and accompanying information and material; and
 - (b) report to the minister if, in the opinion of the provincial health authority, there is a need for the health facility and for the diagnostic or therapeutic medical procedures to be provided at the health facility.

1996, c.H-0.02, s.6; 2002, c.R-8.2, s.76; 2017,
cP-30.3, s.11-8.

Decision to issue or refuse licence

7(1) Subject to subsection (2), on receipt of an application and the reports of the appropriate accreditation program operator and the provincial health authority, the minister may issue, renew or refuse to issue or renew the licence.

(2) The minister may issue or renew the licence only if the minister is satisfied that:

- (a) the applicant has complied with this Act and the regulations;
- (b) the applicant has complied with any other Act, any regulation made pursuant to any other Act, any Act of the Parliament of Canada or any regulation made pursuant to any Act of the Parliament of Canada;
- (c) there is a need for the health facility and for the diagnostic or therapeutic medical procedures to be provided at the health facility in Saskatchewan or in the health region where the health facility is located or is to be located;
- (d) the health facility will be operated in accordance with this Act, the regulations and any terms and conditions imposed on the licence;
- (e) the licensing of the health facility constitutes an effective and efficient use of public resources; and
- (f) the issuing or renewing of the licence would not be prejudicial to the public interest.

(3) Subject to subsection (4), the minister may refuse to renew a licensee's licence on the grounds that the minister is satisfied that the criteria described in clause (2)(c), (e) or (f) will not be met only if the minister has given the licensee written notice at least six months prior to the date that the licensee's licence expires.

(4) Subsection (3) does not apply where the licensee has not complied with subsection 4(2).

(5) The minister shall give the applicant written notice of the minister's decision.

(6) If the minister decides not to issue or renew a licence, the minister shall provide written reasons to the applicant.

1996, c.H-0.02, s.7; 2002, c.R-8.2, s.76; 2017,
cP-30.3, s.11-8.

Terms and conditions on licences

8 When issuing or renewing a licence or at any subsequent time, the minister may impose any terms and conditions on the licence that the minister considers appropriate.

1996, c.H-0.02, s.8.

Display of licence

9 Every licensee shall display his or her licence in a prominent place at the health facility for which the licence is issued.

1996, c.H-0.02, s.9.

Licence not transferable

10 A licence is not transferable.

1996, c.H-0.02, s.10.

Duration of licence

11 Unless sooner suspended or cancelled, a licence is valid for:

- (a) the period specified in the licence; or
- (b) where no period is specified in the licence, a period of three years after the day on which the licence is issued or renewed.

1996, c.H-0.02, s.11.

Responsibilities of licensees

12(1) No licensee shall fail to comply with any provision of this Act or the regulations or with any term or condition imposed on his or her licence.

(2) A licensee is responsible for the actions, activities and undertakings of every person who provides or assists in providing diagnostic or therapeutic medical procedures at the licensee's health facility.

(3) No licensee shall charge or permit any other person to charge any fee to any beneficiary for any diagnostic or therapeutic medical procedure provided at the licensee's health facility.

(4) For the purposes of this section:

(a) any amount paid by or on behalf of a beneficiary, whether paid to the person providing the diagnostic or therapeutic medical procedure or another person, is deemed to be a fee if the licensee or the person who provides the procedure at a health facility requires the payment as a condition of providing the procedure; and

(b) any amount paid by or on behalf of a beneficiary to purchase anything for use in the provision of a diagnostic or therapeutic medical procedure is deemed to be a fee.

(5) Notwithstanding subsection (4), any amount that a licensee is entitled to receive from the minister or the provincial health authority pursuant to this Act or *The Saskatchewan Medical Care Insurance Act* for the provision of diagnostic or therapeutic medical procedures is deemed not to be a fee.

1996, c.H-0.02, s.12; 2002, c.R-8.2, s.76; 2017, cP-30.3, s.11-1.

Annual returns and financial statements

13(1) Every licensee shall furnish the minister with an annual return and a set of financial statements containing the prescribed information.

(2) Every licensee shall furnish the annual return and set of financial statements within the prescribed deadlines.

1996, c.H-0.02, s.13.

Additional information

14(1) The minister may:

- (a) request from a licensee any information that the minister reasonably requires for the purposes of this Act and the regulations; and
- (b) specify the manner in which, and reasonable time limits within which, the licensee shall provide the information mentioned in clause (a).

(2) No licensee shall fail to provide the minister, in the manner and within the time limits specified by the minister, with any information that the minister requests pursuant to subsection (1).

1996, c.H-0.02, s.14.

Suspension and cancellation

15 The minister may amend, suspend or cancel a licence where, in the opinion of the minister, the licensee:

- (a) has failed to comply with:
 - (i) any provision of this Act or the regulations;
 - (ii) a term or condition imposed on the licence;
 - (iii) a standard of the accreditation program; or
 - (iv) a provision of any other Act, regulation made pursuant to any other Act, Act of the Parliament of Canada or regulation made pursuant to an Act of the Parliament of Canada; or
- (b) is operating the health facility in a manner that is prejudicial to the health, safety or welfare of any person.

1996, c.H-0.02, s.15.

Opportunity to be heard

16(1) The minister shall not amend a licence, suspend or cancel a licence or refuse to issue or renew a licence without giving the applicant or licensee, as the case may be, an opportunity to be heard.

(2) Notwithstanding subsection (1), if the appropriate accreditation program operator advises the minister that it is necessary to protect the public interest and the minister agrees, the minister may immediately suspend or cancel a licence without giving the licensee an opportunity to be heard, but shall give the licensee an opportunity to be heard within 15 days of the date of the suspension or cancellation.

1996, c.H-0.02, s.16.

Appeals

17(1) Any person who is aggrieved by a decision of the minister pursuant to this Act may appeal the decision to a judge of the Court of Queen's Bench:

- (a) on a question of law; or
 - (b) on the ground that the minister in making the decision has not afforded the person a reasonable opportunity to be heard or has otherwise not acted in accordance with the principles of fundamental justice.
- (2) An appeal pursuant to this section must be made within 30 days of the date of the decision.

1996, c.H-0.02, s.17.

ADMINISTRATION**Agreements re administration of health facilities**

18(1) The minister or the provincial health authority may enter into any agreements with a licensee that the minister or the provincial health authority considers necessary respecting the administration of the licensee's health facility, including an agreement to make payments to the licensee for diagnostic or therapeutic medical procedures provided at the health facility.

(2) The minister may enter into any agreements with the appropriate accreditation program operator that the minister considers necessary respecting the accreditation program.

1996, c.H-0.02, s.18; 2002, c.R-8.2, s.76; 2017, cP-30.3, s.11-8.

Inspectors

19 The minister may designate any employee of the department as an inspector and may appoint any other person as an inspector.

1996, c.H-0.02, s.19.

Inspection

20(1) For the purposes of administering this Act and the regulations, the minister or any inspector may make any inspection, investigation or inquiry that the minister or the inspector considers necessary.

- (2) Every licensee shall:
- (a) cause the health facility for which the licence is issued to be open for inspection by the minister or an inspector at all reasonable times during the hours of operation of the health facility; and
 - (b) cause all books, records, papers, documents, accounts, specimens and equipment pertaining to the operation of the health facility to be available for inspection by the minister or the inspector during the times described in clause (a).

(3) Neither the minister nor an inspector shall enter a private dwelling without a warrant issued pursuant to section 21 unless the occupant of the dwelling consents to the entry.

1996, c.H-0.02, s.20.

Warrant

21(1) A justice of the peace or a judge of the Provincial Court of Saskatchewan may issue a warrant authorizing the minister or an inspector to enter and search any place or premises named in the warrant where the justice or judge is satisfied by information given under oath that there are reasonable grounds to believe that:

- (a) an offence against this Act has been committed; and
- (b) there is evidence of the offence to be found at the place or premises proposed to be searched.

(2) With a warrant issued pursuant to subsection (1), the minister or inspector may:

- (a) enter and search any place or premises named in the warrant;
- (b) use any machinery, equipment, appliance or thing located at the place or premises for the purposes of the search;
- (c) require the production of and examine any books, records, papers, documents or accounts that the minister or inspector believes, on reasonable grounds, may contain information related to an offence against this Act;
- (d) subject to section 22, remove any books, records, papers, documents or accounts examined pursuant to this section for the purpose of making copies, if a receipt is given; and
- (e) seize and remove from any place or premises searched anything that may be evidence of an offence against this Act.

(3) No person shall obstruct any person who is authorized to conduct a search pursuant to this section.

1996, c.H-0.02, s.21.

Copies of documents

22(1) Where any books, records, papers, documents or accounts are inspected pursuant to section 20 or seized, examined or produced pursuant to section 21, the minister or inspector may make copies of those books, records, papers, documents or accounts.

(2) Any person authorized to make copies pursuant to subsection (1) shall:

- (a) make those copies as soon as is reasonably possible; and
- (b) promptly return the books, records, papers, documents or accounts from which the copies were made to:
 - (i) the place from which they were removed; or

(ii) any other place that may be agreed to by the person authorized to make copies and the person who furnished them or from whom they were seized.

(3) A document certified by the minister or an inspector to be a copy made pursuant to this section:

- (a) is admissible in evidence without proof of the office or signature of the person purporting to have certified the document; and
- (b) has the same probative force as the original document.

1996, c.H-0.02, s.22.

Obstruction

23 No person shall:

- (a) resist, obstruct, hinder or interfere with the minister, an inspector or a person aiding an inspector in the performance of the inspector's duties; or
- (b) refuse to provide the person's licence or any book, record, paper, document, account or information required by this Act to the minister, an inspector or the department when requested to do so.

1996, c.H-0.02, s.23.

24 Repealed. 2000, c.50, s.11.

Offence

25(1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 and, in the case of a continuing offence, a fine of not more than \$5,000 for each day or portion of a day that the offence continues.

(2) If a person is convicted of charging a fee contrary to subsection 12(3), the convicting judge, in addition to any other fine that the judge may impose, shall:

- (a) order the person to pay into court an amount equal to the amount of the fee that was charged; and
- (b) direct that the amount paid into court pursuant to clause (a) be paid to the beneficiary from whom the fee was collected or to any other person that the convicting judge considers appropriate.

1996, c.H-0.02, s.25.

Limitation of prosecution

26 No prosecution for an offence against this Act shall be commenced more than two years after the day on which the alleged offence was committed.

1996, c.H-0.02, s.26.

Order restraining establishment or operation of health facility

27(1) In addition to any other remedy or penalty pursuant to this Act or at law, the minister may apply to a judge of the Court of Queen's Bench for an order restraining any person from establishing or operating a health facility without a licence contrary to section 3.

(2) On an application pursuant to subsection (1), the judge of the Court of Queen's Bench may make any order that the judge considers appropriate.

1996, c.H-0.02, s.27.

Immunity

28 No action or proceeding lies or shall be instituted against the minister, the provincial health authority, the accreditation program operator, an inspector, any person aiding an inspector or any officer or employee of the department, where the minister, provincial health authority, accreditation program operator, inspector, person aiding the inspector, or officer or employee of the department is acting pursuant to the authority of this Act or the regulations, for any loss or damage suffered by reason of anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done, by any of them, pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any duty or responsibility imposed by this Act or the regulations.

1996, c.H-0.02, s.28; 2002, c.R-8.2, s.76; 2017, cP-30.3, s.11-8.

Regulations

29 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing programs that are accreditation programs and requiring licensees to participate in an accreditation program;
- (c) designating insured services within the meaning of *The Saskatchewan Medical Care Insurance Act* for the purposes of subclause 2(1)(k)(i);
- (d) prescribing medical procedures that are insured health services;
- (e) prescribing places and facilities that are not health facilities;
- (f) prescribing the amount and requiring the payment of application fees and other fees payable by applicants or for other services provided by the minister or the accreditation program operator pursuant to this Act or the regulations;
- (g) prescribing forms for the purposes of this Act and the regulations;
- (h) respecting the care, treatment and services provided at a health facility;
- (i) respecting the quality and standards of service to be provided at a health facility;
- (j) respecting the quality and standards of health facilities;
- (k) respecting qualifications for employees of health facilities;
- (l) respecting the construction, alteration, maintenance, repair and location of health facilities;

- (m) respecting equipment to be used in health facilities;
- (n) respecting the books, records, papers, documents and accounts to be kept by licensees, including the form and content and the place where they are to be kept;
- (o) respecting the records that are to be kept by licensees with respect to the care and treatment of patients;
- (p) respecting confidentiality of records kept by licensees with respect to the care and treatment of patients and respecting who may have access to those records;
- (q) respecting systems that licensees are to establish to monitor the services provided at health facilities;
- (r) establishing categories of licensees and, for that purpose, prescribing different licences for each category;
- (s) respecting annual returns, financial statements and the furnishing of other information to the minister by licensees, including the deadlines by which the annual returns, financial statements or other information are to be furnished;
- (t) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;
- (u) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

1996, c.H-0.02, s.29.

COMING INTO FORCE

Coming into force

30 This Act comes into force on proclamation.

1996, c.H-0.02, s.30.

