



BERMUDA

PUBLIC HEALTH (HOSPITALS) REGULATIONS 2002

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The Minister of Health and Family Services, in exercise of the powers conferred on him by section 163 of the Public Health Act 1949, makes the following regulations —

Citation

- 1 These Regulations may be cited as the Public Health (Hospitals) Regulations 2002.

Definitions

- 2 In these Regulations—
“accreditation body” means the body responsible for accreditation of hospitals which has been approved by the Minister under regulation 4(2);

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“Act” means the Public Health Act 1949;

“certificate” means a certificate of registration issued under regulation 5(4)(b) and includes a provisional certificate of registration issued under regulation 6(4)(b);

“medical practitioner” has the meaning assigned to that expression by section 2 of the Medical Practitioners Act 1950;

“register” means the register established and maintained by the Chief Medical Officer under section 163 of the Act and “registration” shall be construed accordingly.

Register of hospitals

3 (1) The Chief Medical Officer shall establish and maintain at his office in such manner as he considers appropriate a register of hospitals.

(2) The register is an official record and shall consist of two lists—

(a) one, to be called the general list, of hospitals entitled to be registered pursuant to regulation 4;

(b) one, to be called the provisional list, of hospitals entitled to be registered pursuant to regulation 6.

(3) The Chief Medical Officer shall keep the register correct in accordance with the provisions of these regulations and shall make any necessary alterations in the registered particulars.

(4) As soon as may be after 1 January in every year the Chief Medical Officer shall publish in the Gazette a notice in such form as he may determine setting forth the names of hospitals and other particulars entered in the register on that date.

Qualifications for registration

4 (1) Subject to these regulations, an applicant is entitled to have a hospital registered if he is ordinarily resident in Bermuda and satisfies the Chief Medical Officer that—

(a) he is the owner of a proposed hospital;

(b) he is a fit and proper person to operate a hospital;

(c) the building proposed to be used is fit for use as a hospital;

(d) he is able to provide the equipment and staff to operate a hospital; and

(e) the hospital has been accredited by an accreditation body.

(2) The Minister may by notice published in the Gazette approve an institution or body as an approved accreditation body for the purposes of these regulations.

Registration

5 (1) A person who desires to operate a hospital shall make an application to the Chief Medical Officer for the registration of the hospital.

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(2) An application shall be in the form determined by the Chief Medical Officer and shall contain such additional information in relation to the operation of the hospital as the Chief Medical Officer may reasonably require including, in particular—

- (a) a description of the hospital procedures to be performed;
- (b) evidence of any tests conducted by an external agency to ensure the quality of those procedures; and
- (c) the names, qualifications and relevant experience of the staff carrying out those procedures.

(3) The Chief Medical Officer shall consider the application as soon as practicable after its receipt and may approve, refuse to approve, or approve subject to conditions, the application.

(4) Where the Chief Medical Officer approves the application to register the hospital, he shall—

- (a) enter in the register the name and address of the hospital, the name of its owner and such other particulars relating to the hospital as he considers necessary to identify the registered hospital; and
- (b) issue to the applicant a certificate of registration in the form determined by the Chief Medical Officer.

(5) Where the Chief Medical Officer refuses to approve an application, he shall record his decision and the reasons for it in writing and shall, not later than 7 days after making a decision on an application, inform the applicant of the decision and the reasons for it.

(6) An applicant who is aggrieved by a decision of the Chief Medical Officer may appeal against it under regulation 11.

Provisional registration

6 (1) Subject to paragraph (3), the Chief Medical Officer may approve an application for registration without paragraph (1)(e) of regulation 4 being complied with if he is satisfied that the applicant would not be able to take steps to comply with that paragraph otherwise.

(2) A registration approved by the Chief Medical Officer by virtue of paragraph (1) is to be known as provisional registration and may be approved for a period not exceeding one year.

(3) An applicant is entitled to have the hospital registered provisionally if he satisfies the Chief Medical Officer—

- (a) in respect of each of the requirements set out in regulation 4(1)(a) to (d); and
- (b) that the accreditation of the hospital by an approved accreditation body is being sought.

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(4) Where the Chief Medical Officer approves an application to register a hospital provisionally, he shall—

- (a) enter the particulars relating to the hospital in the register; and
- (b) issue to the applicant a provisional certificate of registration in the form determined by the Chief Medical Officer.

Conditions

7 (1) The Chief Medical Officer may, after consultation with the Bermuda Medical Doctors Association, attach such conditions as he considers appropriate to the registration of a hospital and such conditions, if any, shall be specified in the certificate.

(2) The conditions imposed by the Chief Medical Officer under paragraph (1) may include,—

- (a) restrictions on the type of procedures to be provided at the hospital;
- (b) requirements for repairs or alterations to the building proposed to be used as the hospital;
- (c) requirements for the maintenance of equipment to be used at the hospital;
- (d) requirements for qualifications, certification and training of staff, the level of staff and connected matters;
- (e) a requirement that a hospital which customarily provides emergency services be precluded from refusing to provide such services to a person on account of the person's indigent circumstances;
- (f) a requirement that the hospital establish a board which shall be responsible for the operation of the hospital and which shall have authority to make byelaws governing the operation of the hospital;
- (g) hours of operation.

[Regulation 7 amended by 2016 : 3 s. 24 effective 1 April 2016]

Duration and fees

8 (1) Subject to these regulations, a certificate shall be issued for such period as the Chief Medical Officer may determine and may be renewed.

(2) An applicant shall pay such fee as may be prescribed under the Government Fees Act 1965.

Cancellation of registration or variation of conditions

9 (1) Subject to paragraphs (2), (3) and (4), the Chief Medical Officer may—

- (a) cancel the registration of a hospital;
- (b) suspend the registration of a hospital;
- (c) vary any conditions attached to the registration of a hospital.

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(2) Where the Chief Medical Officer proposes to exercise a power under paragraph (1) he shall—

- (a) not less than 14 days before the date on which he proposes to exercise the power, in writing, inform the owner of the hospital of the proposal and the reasons for it;
- (b) give the owner an opportunity to make representations, orally or in writing; and
- (c) take into account any representations made under sub-paragraph (b) before a decision is made.

(3) Where the Chief Medical Officer decides to exercise the power, he shall—

- (a) set out the decision in writing and state the reasons for the decision;
- (b) serve a copy of the decision on the owner;
- (c) inform the owner that he may appeal against that decision.

(4) The cancellation or suspension of registration or the variation of conditions attached thereto has effect on the expiration of 2 months beginning on the date of service of the decision on the owner.

Surrender of certificate

10 Where the Chief Medical Officer cancels or suspends the registration of a hospital under regulation 9, the owner of the hospital shall surrender his certificate to the Chief Medical Officer immediately on the expiration of the two-month period referred to in regulation 9(4) or until the time when any appeal has been determined.

Appeals to Minister

11 (1) A person aggrieved by a decision of the Chief Medical Officer may, within 21 days after the date on which notice of the decision is given or within such longer period as the Minister may allow, appeal to the Minister against that decision.

(2) On an appeal under this regulation the Minister may give such direction as he considers appropriate and the Chief Medical Officer shall comply with any such direction.

Appeals to court

12 (1) A person aggrieved by a decision of the Minister may, in accordance with section 163(4) of the Act, appeal to the court against that decision.

(2) On an appeal pursuant to this regulation, the court may make such order as it considers appropriate and the Minister shall comply with any such order.

Administration

13 (1) As soon as practicable after every test conducted in a hospital, an owner shall ensure—

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- (a) that a written report in respect of the results is prepared and signed by a qualified person on the staff of the hospital; and
 - (b) that the written report is sent to the patient's medical practitioner.
- (2) An owner shall keep proper records relating to the operation of his hospital for a period of 10 years from the date on which a report is signed pursuant to subsection (1).

Confidentiality of records

- 14 (1) The owner and the staff of a hospital shall maintain the confidentiality of all reports and records relating to any person and the results of tests except for the purpose of disclosure to a medical practitioner or other person lawfully entitled to the information .
- (2) Any person who contravenes paragraph (1) is guilty of an offence and liable on summary conviction to the penalty set out in section 171 of the Act.

Transitional

- 15 A person who, immediately before the date these regulations came into operation was operating a hospital may continue to operate that hospital under these regulations—
- (a) during the period of 6 months beginning next after that date; and
 - (b) if within that period application is made in accordance with these regulations for registration of that hospital, until that application is finally disposed of or withdrawn.

Made this 14th day of November, 2002

Minister of Health and Family Services

[Amended by:

2016 : 3]