
CHAPTER 235**HOSPITALS AND HEALTH CARE FACILITIES
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CHAPTER 235**HOSPITALS AND HEALTH CARE FACILITIES****An Act to provide for the licensing of hospitals and health care facilities and for matters incidental thereto.** *34 of 1998*
41 of 1999

[Assent 25th August, 1998]
[Commencement 1st May, 2000]

1. This Act may be cited as the Hospitals and Health Care Facilities Act, 1998. Short title.

2. (1) In this Act — Interpretation.

“Administrator” means the person who is responsible for the operations and management of a hospital or health care facility;

“Board” means the Hospitals and Health Care Facilities Licensing Board established under section 4;

“building” means a structure, whether permanent or temporary, intended for human habitation; and where two or more buildings are situate on adjacent pieces of land and are occupied by the same person, they shall constitute a single building for the purposes of this Act;

“clinic” means a facility where persons suffering from any sickness, injury or infirmity may be retained for less than twenty-four hours for the purpose of diagnosing and treating the sickness, injury or infirmity, but does not include a licensed hospital;

“diagnostic facility” means any facility used for the purpose of providing information for the diagnosing of sickness or disease, or the extent of injuries suffered by persons and includes any Blood Bank, laboratory or radiology facility including diagnostic imaging;

“health care facility” includes a clinic, a walk-in clinic, a surgical centre, a birth centre, a dialysis centre, a maternity hospital, a diagnostic facility, a therapeutic facility, a health practitioner’s office, a medical practitioner’s

office or any other facility which offers medical or surgical care to any person;

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“health practitioner” means a person who is registered to practice under the Medical Act, the Nurses and Midwives Act, the Dental Act, the Pharmacy Act and the Health Professions Act;

“health practitioner’s office” means a centre for physical examination, diagnosis and treatment of patients by a health practitioner;

“hospital” means a building where beds are available for the admission of persons requiring treatment for any sickness, injury or infirmity, who are given medical or surgical treatment or nursing care;

“licence” means a licence issued by the Board under section 7;

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“medical practitioner” means a person who is registered to practice under the Medical Act;

“medical practitioner’s office” means a facility where persons suffering from sickness, injury or infirmity may be examined and treated by a licensed medical practitioner;

“Minister” means the Minister responsible for Health;

“therapeutic facility” includes a building or place used for the treatment by means of therapy, of persons suffering from any sickness, disease or injury.

(2) Where under this Act, an Administrator or a member of the staff of a hospital or health care facility is required to be resident, it is not necessary that such person actually reside within the hospital provided that the person is on call and available.

Hospitals and Health Care facilities to be operated only under a licence granted by Board.

3. (1) After the commencement of this Act, no person shall —

(a) use any building as a hospital or a health care facility except under and in accordance with the terms of a licence granted by the Board under section 7; and

- (b) use the term “health care facility”, “hospital”, “clinic”, “walk-in clinic”, “surgical centre”, “birthing centre”, “dialysis centre”, “maternity hospital”, “diagnostic facility”, “therapeutic facility”, “health practitioner’s office”, “laboratory”, “ambulance services” or any other term in connection with the use of a building as a place for the care and treatment of persons in need of health care services, unless the building or facility is licensed under this Act.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for three years or to both that fine and imprisonment.

4. (1) There is established a body to be called the Hospitals and Health Care Facilities Licensing Board. Establishment of Board.

(2) The Schedule shall have effect with respect to the Board, its members and staff. Schedule

5. The functions of the Board are — Functions of Board.

- (a) to issue licences for the use of buildings as hospitals, or health care facilities;
- (b) to regulate and inspect hospitals and health care facilities;
- (c) to initiate investigations into any matter affecting the management, diagnosis or treatment of a person within a hospital or health care facility licensed under this Act;
- (d) to appoint qualified persons (not being a person engaged in the management of a hospital or a health care facility or employed by a hospital or health care facility) to be inspectors for the purposes of this Act; and
- (e) to do such other things as may be prescribed by this Act or any other written law.

6. (1) The occupier of any building which at the commencement of this Act is being used as a hospital or health care facility shall, if the occupier proposes to continue using that building as a hospital or health care facility, make application to the Board within thirty days after the commencement of this Act for the grant of a Licence for existing facilities.

licence and pending the determination of the application, the hospital or health care facility shall be deemed to be duly licensed.

(2) The Board shall within ninety days after the receipt of an application made under subsection (1), make a determination in respect of that application and if no determination is made within the ninety day period that hospital or health care facility is deemed to be duly licensed.

Board may grant a licence to use a building as a hospital or health care facility.

7. (1) The Board may, upon application in the prescribed manner —

- (a) on being satisfied that the person is a fit and proper person for the purposes of this Act;
- (b) upon payment of the prescribed fee; and
- (c) on being satisfied that the hospital or health care facility would be operating in the interest of the public health or in a manner that is not injurious to the public health,

grant to that person a licence in the prescribed form to use a building as a hospital or a health care facility, or refuse to grant such a licence, or grant the licence subject to such terms and conditions as the Board sees fit to impose.

(2) A licence issued under this Act in respect of any hospital or health care facility shall be kept affixed in a conspicuous place in the hospital or health care facility.

(3) Any licensee who fails to comply with subsection (2) is guilty of an offence and liable on summary conviction to a fine of one thousand dollars and in addition to the fine, a sum of five hundred dollars for each day the offence continues subsequent to the date to which the conviction relates.

Contents of licence.

8. A licence shall specify —

- (a) the name of the administrator;
- (b) the name of the licensee where he is not the administrator;
- (c) the description and address of the building in respect of which the licence is granted;
- (d) the nature of the service that may be provided at the building; and
- (e) such other particulars, if any, as may be prescribed.

9. (1) A licence shall take effect on the date specified in the licence as the date on which it is to take effect and shall expire on the thirty-first day of December of that year.

Duration of licence.

(2) A licence granted under section 6 or 7 may be renewed by the Board, upon application in the prescribed form, and payment of the prescribed fee and on the Board being satisfied that the applicant complied with the provisions of the Act.

10. (1) The Board may refuse to renew the licence of a hospital or a health care facility if in the opinion of the Board, the hospital or the health care facility is not being operated in the interest of the public health or is being operated in a manner that is injurious to the public health and the licensee of such hospital or health care facility is not a fit and proper person for the purposes of this Act.

Board's refusal to renew.

(2) Where the renewal of a licence is refused or where a licence is suspended or revoked, the licence shall not be displayed in a manner that may induce any person to believe that it is still in force, and every person who so displays a licence is guilty of an offence and is liable on summary conviction to a fine of a fifty thousand dollars or to imprisonment for three years or to both that fine and imprisonment.

11. (1) Notwithstanding anything to the contrary, the Board may, upon an application in that behalf made by any person in the prescribed manner and upon payment of the prescribed fee, grant to that person a temporary licence to use a building as a hospital or a health care facility for a period not exceeding forty-five days.

Temporary licence.

(2) A temporary licence may not be granted to any person in respect of the same building or any part thereof for any number of days exceeding in the aggregate ninety in any twelve month period.

(3) A temporary licence shall be in such form and shall contain such terms and conditions, as may be determined by the Board.

12. (1) The Board shall prepare and maintain a Register containing names, addresses and such other particulars as may be prescribed of all hospitals or health care facilities which are licensed under this Act.

Register.

(2) The Board shall cause the Register to be published in the *Gazette* as soon as practicable after the expiration of thirty days after the commencement of this Act and thereafter in each year as soon as practicable after the thirty-first day of January, and the thirty-first day of July, respectively.

(3) In each year after the Register is published under subsection (2), the Board shall cause to be published in the *Gazette* as aforesaid a corrected edition of the Register or a list with additions made to the Register since it was last published.

(4) The Board shall keep the Register open at all reasonable times for inspection by members of the public.

Board to be notified and approve of change of control.

13. Where any change is proposed in the beneficial ownership of a company or the composition of the Board of Directors of a company, which operates a hospital or health care facility, the prior approval of the Board in writing is required.

Notice of failure to comply with Act.

14. Where the Board considers that the licensee of a hospital or health care facility failed or is failing to operate the hospital or health care facility in accordance with the licence or the Act, the Board may give written notice to the licensee specifying in what respect, in the opinion of the Board, the licensee failed or is failing to comply with the requirements of the licence or the Act.

Revocation of licence.

15. (1) The Board, may at any time, by order suspend or revoke as the case may be, the licence of a hospital or health care facility —

- (a) if the respective licensee or the Administrator of the hospital or health care facility has been convicted of an offence under this Act, or wilfully neglects or refuses to comply with any of the provisions of this Act, or obstructs, impedes or hinders any person carrying out any duties or responsibilities under this Act;
- (b) if in the opinion of the Board, the hospital or health care facility's building is kept in an unsanitary condition or without proper fire protection; or
- (c) if the business of a hospital or health care facility is conducted in a manner contrary to this Act, or

in such a manner that the revocation of the licence is required in the interest of the public health.

(2) Before making an order under subsection (1), the Board shall give to the licensee not less than fourteen days' notice of its intention to make an order, and that notice shall state the grounds on which the order is to be made and shall contain a statement that, if, within fourteen days after receipt of the notice, the licensee informs the Board in writing that the licensee desires to do so, the Board will, before making the order, give the licensee an opportunity to show cause, in person or by a representative why the order should not be made.

(3) If the Board after giving the licensee an opportunity to be heard by it, decides to suspend or revoke the licence, it shall make an order to that effect and shall send a copy of the order to the licensee.

(4) A person aggrieved by an order suspending or revoking a licence may appeal to a judge of the Supreme Court, but such appeal shall not operate as a stay of the decision of the Board.

16. (1) Notwithstanding sections 14 and 15, the Minister acting on the advice of the Board that a hospital or health care facility or any part thereof is operating in a manner that is detrimental to the public health or public safety, may by order published in the *Gazette* suspend with immediate effect the operation of that hospital or health care facility or any part thereof.

Power of
Minister to
suspend
operations.

(2) The Minister shall within seventy-two hours after suspending the operation of a hospital or health care facility or any part thereof, inform the licensee or Administrator of that hospital or health care facility, of any conditions that must be complied with prior to the lifting of any order made under subsection (1).

(3) A person who fails to comply with an order made pursuant to subsection (1) is guilty of an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for three years or to both that fine and imprisonment.

(4) A person aggrieved by a decision of the Minister made under subsection (1), may appeal to a judge of the Supreme Court, but such appeal shall not operate as a stay of the decision of the Minister.

Transfer of a
licence.

17. (1) Where a licensee dies or divests himself of his interest in the business of a hospital or a health care facility in respect of which a licence was granted, the Board may, upon an application in that behalf made by any person claiming the right to succeed to that licence as the operator of the hospital or health care facility, and upon payment of the prescribed fee, transfer the licence to that person subject to such terms and conditions as the Board may think fit to impose.

(2) Any person to whom a licence is transferred under subsection (1), must satisfy the Board that he is a fit and proper person to operate the hospital or health care facility.

(3) Before transferring a licence under this section the Board shall, where practicable, give to the licensee or, as the case may be, to his legal personal representatives a reasonable opportunity to make any representations that they may wish to make in relation to that application, and shall take into account any representations so made by them or on their behalf.

Variation of a
licence.

18. (1) The Board, may at any time upon an application made by a licensee or of its own motion, vary any of the terms or conditions of a licence.

(2) The Board shall in varying any term or condition of a licence take into account any representations made to it by the licensee or on his behalf and shall not vary such term or condition of its own motion without first giving to the licensee a reasonable opportunity to make such representations.

Transfer or
variation to be
endorsed on
licence.

19. A transfer of a licence or variation of any term or condition of a licence made by the Board under sections 17 or 18 shall be endorsed on the licence, together with the date when it was made by the Board and the date when it is to take effect.

Appeal to
Minister.

20. (1) A person aggrieved by —

- (a) a decision of the Board to refuse to grant, renew, transfer, or vary a term or condition of a licence;
- (b) any other decision of the Board in the exercise or purported exercise of any power or authority conferred upon it by this Act,

may within fourteen days from the date on which the decision is communicated to him, appeal in respect thereof in writing to the Minister.

(2) Pursuant to an appeal under subsection (1), the Minister may confirm, modify or reverse the decision of the Board complained of, or may make such other order as the Minister thinks just.

21. (1) Every hospital or health care facility shall have at all times an Administrator whose name shall be registered with the Board. Administrator.

(2) Every Administrator shall possess such qualifications as may be prescribed by regulations and such regulations may contain different qualifications for Administrators of different hospitals and health care facilities.

22. The Administrator of a hospital or health care facility shall be deemed to be the occupier of the building for the purpose of giving notice or information of the death of any person or of the birth of any child in that hospital or health care facility under the Births and Deaths Registration Act. Administrator deemed to be occupier for certain purposes. Ch. 188.

23. (1) Each patient admitted to a hospital shall remain under the care of a medical practitioner. Patient to be under care of medical practitioner.

(2) Each patient admitted to a health care facility shall remain under the care and treatment of a health practitioner qualified to administer care and treatment for that patient's sickness or injury.

24. (1) The Administrator of a hospital or health care facility shall keep or cause to be kept a register of patients in which shall be recorded — Register of patients and particulars in case of transfer or death.

(a) the name, age, sex and usual place of abode of each patient, and the date of his admission, or attendance, as the case may be;

(b) the diagnosis of each patient;

(c) the name of the medical practitioner attending each patient;

(d) the date on which each patient leaves the hospital or health care facility and, if transferred to another hospital or health care facility, the name of the other hospital or health care facility, in the event of the death of a patient in the hospital or health care facility, the date of his death.

(2) The particulars required by subsection (1) to be recorded in the register shall be so recorded as soon as practicable after the occurrence of the act or event to which the entry relates.

(3) The Administrator of a hospital or health care facility shall, within forty-eight hours of the death of any patient, in the hospital or health care facility, forward to the Chief Medical Officer, a copy of the notification of the death of a patient and the name of the attending medical practitioner.

(4) Any person who knowingly makes a false entry in the register of patients is guilty of an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for one year or to both that fine and imprisonment.

(5) Any Administrator who fails to make any record in the register required by subsections (1) and (2) to be made therein or the notification as required by subsection (3) is guilty of an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for three months or to both that fine and imprisonment.

The Board to
appoint
inspectors.

25. (1) The Board shall appoint persons to be inspectors for the purposes of this Act.

(2) Every inspector may be assisted by a team of qualified persons, appointed by the Board to make an inspection and evaluation of any hospital or health care facility or any aspect of the administration or management thereof.

(3) Any inspector or person appointed to assist such inspector who has a direct or indirect pecuniary interest in any hospital or health care facility shall as soon as possible, disclose the nature of his interest to the Board and that inspector or person shall not be permitted to inspect or evaluate the hospital or health care facility on which he has a pecuniary interest.

(4) Every hospital or health care facility shall be inspected and evaluated as often as required and at least once a year and the hospital or health care facility, the operation thereof, and its registers and record shall at all times be open to such inspection and evaluation, and upon completion thereof an inspector shall forward a report to the Board.

(5) Where an inspector has reasonable grounds to believe or to suspect that any building or place is used as a hospital or health care facility without being licensed under this Act, the inspector may upon presentation of his certificate or appointment, at any time, by himself, or with such assistance as he may require, enter and inspect that building or place and every part thereof.

(6) Any person who prevents or obstructs the entry, inspection or examination of a hospital or health care facility by an inspector or any person assisting an inspector, is guilty of an offence and is liable on summary conviction to a fine of thirty thousand dollars or to imprisonment for two years or to both that fine and imprisonment.

26. The funds and resources of the Board shall consist of—

Funds and resources of the Board.

- (a) any moneys as from time to time are provided by Parliament; and
- (b) any moneys or other property as from time to time may in any manner be lawfully paid to or vested in the Board whether or not in respect of any matter incidental to its functions.

27. (1) The Board shall keep proper accounts of all transactions and shall prepare in respect of each financial year a statement of accounts in a form that the Minister may with the approval of the Minister of Finance direct.

Accounts and audit.

(2) The accounts shall be audited annually by an auditor appointed by the Board with the approval of the Minister.

28. (1) The Board shall, as soon as possible after the expiration of each financial year and in any event not later than the 30th June in any year, submit to the Minister a report containing—

Annual report.

- (a) an account of its transactions throughout the preceding financial year in such detail as the Minister may direct; and
- (b) a statement of the accounts of the Board audited in accordance with section 27.

(2) The Minister shall cause a copy of the report together with a copy of the audited financial statements and the auditor's report to be laid on the table of both Houses of Parliament.

(3) The Board shall, as soon as possible after the expiration of each financial year submit to the Minister a report dealing with the activities of the Board during the preceding financial year.

(4) The Minister shall cause a copy of every such report to be laid on the table of both Houses of Parliament.

Offences not otherwise provided for.

29. (1) Any person who is guilty of an offence under this Act for which no penalty is provided elsewhere in this Act, shall be liable on summary conviction to a fine or five thousand dollars or to imprisonment for three months or to both that fine and imprisonment.

(2) Where the licensee is a company, every officer, director or agent of the company who directed, authorized, condoned or participated in the commission of any offence under this Act, is liable to the like penalties as the company and as if he had committed the like offence personally.

Regulations.

30. The Minister may, after consultation with the Board, make regulations as may be necessary for the purposes of this Act and in particular those regulations may provide for —

- (a) the construction, establishment, licensing, alteration, safety, equipment, maintenance and repair of hospitals or health care facilities;
- (b) the classification, grades and standards of hospitals and health care facilities;
- (c) the inspection, control, government, management, conduct, operation and use of hospitals or health care facilities;
- (d) the qualifications of Administrators of hospitals and health care facilities and of staff, officers, servants and employees of hospitals or health care facilities and the powers and duties thereof;
- (e) the qualifications of inspectors;
- (f) the powers and duties of inspectors;
- (g) the admission, treatment, care of, discharge of patients and the control of the admission of any class of patient;
- (h) the facilities and services to be provided in hospitals or health care facilities;

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- (i) the form of applications for licences;
 - (j) the records, books, reports and returns to be made and kept in respect of hospitals or health care facilities and the production to and inspection by the Board, or any person authorised by the Board, of such records, books, reports and returns;
 - (k) fees; and
 - (l) the reports and returns to be submitted to the Board by a hospital or health care facility.

31. (1) Except in so far as may be necessary for the due performance of his functions as a member of the Board, an inspector or a person qualified to assist an inspector under this Act or when lawfully required to do so by any court or under the provisions of any other law, the member of the Board, the inspector or the person qualified to assist an inspector shall preserve and aid in preserving secrecy with regard to all matters that may come to their knowledge in the course of the carrying out of their functions. Secrecy.

- (2) Any person who —
 - (a) communicates in breach of subsection (1) any matter referred to in that subsection; or
 - (b) suffers or permits any unauthorised person to have access to any records or documents relating to any patient of any hospital or health care facility whereby such preservation of secrecy as provided for by secrecy as provided for by subsection (1) is, or is likely to be, breached, shall be guilty of an offence and liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for one year.

SCHEDULE (Section 4)

A Body Corporate

1. (1) The Board is a body corporate having perpetual succession and a common seal, with power to purchase, lease or otherwise acquire and hold and dispose of land and other property of whatsoever kind.

(2) The Board may sue and be sued in its corporate name and may for all purposes be described by such name, and service upon the Board of any document of whatsoever kind must be made by

delivering the document to, or sending it by registered post addressed to, the secretary of the Board at the office of the Board.

2. (1) The seal of the Board must be kept in the custody of any officer of the Board as the Board may approve, and may be affixed to instruments pursuant to a resolution of the Board and in the presence of the chairman or the deputy chairman and one other member.

(2) The seal of the Board must be authenticated by the signature of the chairman or deputy chairman and another member, and the seal shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the chairman or deputy chairman.

3. The Board shall consist of nine members appointed by the Minister, of whom —

- (a) one shall be the Chief Medical Officer;
- (b) one shall be a medical practitioner, appointed on the advice of the Medical Association of The Bahamas;
- (c) one shall be a dental practitioner, appointed on the advice of The Bahamas Dental Association;
- (d) one shall be a member of the Nurses Association of The Bahamas appointed on the advice of the Nurses Association of The Bahamas;
- (e) one shall be a member of the public; and
- (f) four persons (other than medical practitioners) shall be qualified as having had experience of or having shown capacity in matters relating to industry, commerce, finance, law or administration.

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4. The Minister shall appoint a chairman and a deputy chairman of the Board from among members and, if the chairman is absent or unable to act, the deputy chairman shall act as a chairman during the time such absence or inability continues.

5. A member shall, with the exception of the Chief Medical Officer, hold office for a period of three years and shall be eligible for re-appointment, but a member shall not serve on a continuous basis for longer than six years.

6. A member may at any time resign his office by instrument in writing addressed to the Minister and from the date of receipt by the Minister of that instrument, that member shall cease to be a member of the Board.

7. If the Minister is satisfied that a member of the Board —
- (a) is incapacitated by physical or mental illness; or
 - (b) is otherwise unlikely or unfit to discharge the functions of a member of the Board,

the Minister may declare his office as a member of the Board to be vacant and notify this fact in such manner as the Minister thinks fit, and thereupon that office becomes vacant.

8. If any vacancy occurs in the membership of the Board, that vacancy shall be filled by the appointment of another member who shall, subject to this Schedule, hold office for the remainder of the period for which the previous member was appointed, however, that appointment shall be made from the same category of persons as the appointment of the previous member.

9. The names of all the members of the Board and every change therein shall be published in the *Gazette*.

10. A member of the Board shall declare any financial interest in a hospital or health care facility.

11. (1) The Board shall meet as often as is required for the due performance of its functions, and in any case at least once in every two months and, subject to this Schedule, shall regulate the procedure to be followed at its meetings.

(2) The powers of the Board shall be exercisable notwithstanding any vacancy in its number or any defect with regard to the appointment of any of its members.

(3) Five members of the Board shall form a quorum.

(4) The decisions of the Board shall be by a majority of votes and, in addition to an original vote, the chairman of the Board shall have a casting vote in any case in which the voting is equal.

12. There shall be paid to the chairman, the deputy chairman and each member of the Board such remuneration (if any), whether by way of honorarium or fees, and such allowances (if any) as the Minister may determine.

Staff

13. The Board may appoint and employ on such terms and conditions as it thinks fit any officer, servant or agent as it considers necessary for the proper carrying out of the provisions of this Act.

14. (1) Except as provided in any contract of employment with the Board, the Minister may grant to any employee of the Board in respect of his service with the Board pensions, gratuities or other like allowances at the rate prescribed by and in accordance with the Pensions Act as if reference in that Act to the “Governor-General”, the “public service” and a “public officer” were references to “the Board acting with the approval of the Minister”, “service with the Board” and “employee”, respectively.

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(2) For the purposes of subsection (1) reference to the service of an employee of the Board includes any continuous period of service of that employee with an approved authority immediately prior to his service with the Board.

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(3) In this section, the expression “approved authority” has the same meaning as in section 2 of the Pensions Act.

(4) The pensions, gratuities or other like allowances which are payable under subsection (1) shall be charged on and paid out of the funds of the Board or the Consolidated Fund.