



Province of Alberta

## NURSING HOMES ACT

# NURSING HOMES GENERAL REGULATION

### **Alberta Regulation 232/1985**

With amendments up to and including Alberta Regulation 56/2019

Current as of June 18, 2019

### Office Consolidation

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(Consolidated up to 56/2019)

**ALBERTA REGULATION 232/85**

**Nursing Homes Act**

**NURSING HOMES GENERAL REGULATION**

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Schedule

**Definitions**

**1** In this Regulation,

- (a) “Act” means the *Nursing Homes Act*;
- (b) “assessment committee” means an assessment committee referred to in section 9(2)(b) of the Act;
- (c) “district nursing home” means a nursing home owned and operated by a district board;
- (d) “drug” means a drug as defined in the *Pharmaceutical Association Act*;
- (e) “legal representative” includes the guardian or trustee of a dependent adult under the *Dependent Adults Act* and a person who holds a power of attorney granted by a resident;

- (f) “medicine” means a medicine as defined in the *Pharmaceutical Association Act*;
- (g) “Operation Regulation” means the *Nursing Homes Operation Regulation* under the Act;
- (h) “power of attorney” means a written power of attorney granted by a resident empowering and authorizing the person named in the power of attorney to do all acts and things in the name of and on behalf of the resident, and for the resident’s benefit and account in relation to the resident’s property at the nursing home and his nursing home care, including the power to
  - (i) receive property belonging to the resident and to give a receipt for it in the resident’s name,
  - (ii) dispose of property of the resident for the resident’s account, and
  - (iii) instruct the operator in respect of matters in connection with the resident’s nursing home care in the nursing home,until the power of attorney is revoked by the resident;
- (i) “resident day” means the period of stay of a resident in a nursing home between midnight one day and midnight of the next day following, except that
  - (i) the period of stay on the day of admission is a resident day but the period of stay on the day of separation is not a resident day, and
  - (ii) where admission and discharge occur on the same day, the period of stay is 1 resident day;
- (j) “voluntary nursing home” means a nursing home owned or operated by a society.

AR 232/85 s1;251/2001

**Basic care****2** The following types of services are basic care:

- (a) accommodation and meals;
- (b) facilities services;
- (c) necessary nursing services;
- (d) personal services;

- (e) therapeutic and special diets as required;
- (f) drugs and medicine specified by the Minister for use on a routine or emergency basis as prescribed by a physician;
- (g) routine dressings as required;
- (h) life enrichment services.

AR 232/85 s2

**Eligibility**

**3** The period during which a resident of Alberta must reside in Alberta for the purposes of section 9(2)(b) of the Act is

- (a) the year immediately preceding the application for benefits, if he has been a resident of Canada for a period of at least 10 years, or
- (b) 3 consecutive years at any time preceding the application for benefits.

AR 232/85 s3;251/2001

**Nursing home contract**

**4(1)** A nursing home contract shall be in the form set out in the Schedule.

**(2)** The following standards are deemed to be obligations of an operator under a nursing home contract:

- (a) Continuing Care Health Service Standards, approved by the Minister of Health and published by the Department of Health in March 2007, as amended from time to time;
- (b) Long-term Care Accommodation Standards, approved by the Minister of Seniors and published by the Department of Seniors in March 2007, as amended from time to time.

AR 232/85 s4;101/2007;31/2012;170/2012

**Sale by a district board**

**5** A district board may sell or dispose of personal property belonging to the board, excluding furniture and equipment, without the Minister's approval pursuant only to transactions that are necessary and usual for the ordinary day-to-day operations of its nursing home.

AR 232/85 s5

**Information by distributing corporations**

**6(1)** A distributing corporation that is an operator shall at least once in each calendar year furnish to the Minister a statement containing information of the names, addresses and numbers and classes of shares held by each of its shareholders of record, certified by its secretary or chief executive officer to be a true and accurate statement of the information as at a date not earlier than 30 days before the date of the statement.

**(2)** Notwithstanding subsection (1), if the distributing corporation prepares or has information prepared for it of the kind required in the statement referred to in that subsection more frequently than once during a calendar year, then the distributing corporation shall furnish the statement to the Minister within 30 days of the time when the distributing corporation prepares or has the information prepared for it.

AR 232/85 s6

**Sale of land**

**7** If an operator of a non-district nursing home applies to the Minister under section 3 of the Act for his approval of a sale or other disposition of any interest in the land and buildings used for his nursing home to a district board, an approval, if granted, is subject to the condition that the selling or disposition price for land, buildings, and any other property used for the nursing home shall not exceed the aggregate of the fair market value for land, buildings and any other property determined as at the date of sale or disposition on an appraisal basis under which

- (a) the district board shall obtain an appraisal of them from an appraiser appointed and paid by it,
- (b) the seller may obtain an appraisal of them from an appraiser appointed and paid by him,
- (c) if the seller obtains an appraisal and the difference in values determined by the 2 appraisers as the fair market value is
  - (i) less than 10% of the lower value, then the fair market value of the land, buildings and any other property shall be the average of the values determined by the 2 appraisers, or
  - (ii) more than 10% of the lower value, then the 2 appraisers shall appoint a 3rd appraiser at the joint cost of the district board and the seller, to determine the fair market value of the land, buildings and any other property on the basis of the values and appraisals of the 1st 2 appraisers, and the value

determined by the 3rd appraiser as the fair market value shall be final and binding on the district board and the seller,

- (d) each appraiser shall be a member of either the Alberta Association of Professional Appraisers or the Appraisal Institute of Canada, and
- (e) no value shall be given to the nursing home contract in an appraisal.

AR 232/85 s7;251/2001;56/2019

#### **Purchase by Minister**

**8** Subject to the Minister agreeing with an operator on the purchase price and other terms for a purchase by the Minister of the land and buildings and any other property used for a nursing home, the Minister may purchase them for a price that is calculated in accordance with section 7.

AR 232/85 s8

#### **Agreement with operators**

**9** The Minister may enter into agreements with an operator in relation to any matter pertaining to the operator's nursing home or the providing of nursing home care to residents in it, including but not limited to agreements providing for a basis on which the operator may sell the land, buildings and other property used for the nursing home to the Minister at a future date or on the occurrence of a future event.

AR 232/85 s9

#### **Grants**

**10(1)** The Minister may make grants to district boards and, subject to entering into agreements, to operators of non-district nursing homes in respect of

- (a) operating costs that are not included in the benefits paid to them for residents in their nursing homes, and
- (b) capital costs for capital projects approved by the Minister.

**(2)** A grant for a capital project referred to in subsection (1) is subject to prior approval by the Treasury Board if it is for an amount that is more than \$1 000 000.

**(3)** All grants are subject to the condition that the funds be used for the purpose prescribed by the Minister and that the operator receiving a grant account to the Minister, in the manner prescribed

by the Minister, for the way in which the grant is spent in whole or in part.

(4) An operator who receives a grant shall repay to the Government any part of it that is not used or required for the purpose prescribed by the Minister.

(5) The Minister is authorized to enter into an agreement with an operator with respect to any matter relating to the payment of a grant.

(6) The Minister may provide for the payment of a grant in a lump sum or by way of instalments and may prescribe the time or times at which the grant is to be paid.

(7) Interest earned on money that is part of a grant shall form part of the grant and be accounted for by an operator in the same way that other money in a grant is to be accounted for.

AR 232/85 s10;219/88

#### **Discharge or transfer of residents**

**11(1)** Subject to subsection (2), the operator or the Minister may declare that a resident is no longer in need of basic care and is eligible for transfer or discharge.

(2) A declaration under subsection (1) shall be based on the following:

- (a) in the case of the operator,
  - (i) on consultation with the resident's attending physician, and
  - (ii) on the recommendation of the assessment committee;
- (b) in the case of the Minister, on a report of the attending physician and on the records of the nursing home.

(3) If an eligible resident who is the subject of a declaration under subsection (1) refuses or fails to move or leave when requested to do so,

- (a) no further benefits may be paid thereafter by the Minister to the operator in respect of the resident, and
- (b) the resident is liable to the operator for the entire cost of his nursing home care.

(4) A resident who is the subject of a declaration under subsection (1) may appeal the declaration to the district board of the district in



which the nursing home is located under the procedure referred to in section 6(3) of the Operation Regulation.

AR 232/85 s11

### **Confidentiality of information**

**12(1)** Except where this Regulation or any other enactment provides otherwise, no person in possession of any diagnosis, record or information relating to a resident shall divulge, release or disclose any diagnosis, record or information relating to the resident to any person without the written consent of the resident.

**(2)** For the purposes of assessing the standards of care furnished to residents, improving nursing home procedures, compiling nursing home care statistics, conducting research, or for any other purpose considered by the Minister to be in the public interest, the Minister or a person authorized by the Minister may, without the consent of any resident, require that all or any of the following be sent to him or a person designated by him:

- (a) records of nursing home care and other records of any resident;
- (b) extracts from and copies of any records of nursing home care or the records of residents;
- (c) diagnosis, charts or any information available in respect of a resident.

**(3)** An operator or employee of an operator, the Minister or a person authorized by the Minister, or a physician may,

- (a) without written consent of the resident, divulge any diagnosis, record or information relating to the resident to the Director of Medical Services appointed under the *Occupational Health and Safety Act* when that information relates to
  - (i) an accident that occurred in respect of that resident's occupation or one or more of his former occupations, or
  - (ii) a disease that is related to that resident's occupation or one or more of his former occupations, and
- (b) without written consent of a resident, divulge any diagnosis, record or information relating to the resident to
  - (i) The Workers' Compensation Board,
  - (ii) the Department of Veteran's Affairs (Canada),

- (iii) the Department of National Defence (Canada), or
- (iv) the Indian and Northern Health Services of the Department of National Health and Welfare (Canada),

if the information is required in order to establish responsibility for payment by the organization or insurer, or to any other facility to which the resident may be transferred or admitted or to other attending physicians.

(4) The Minister may, for the purposes mentioned in subsection (2) and without the consent of any other person, disclose to or obtain from

- (a) the Director of Medical Services appointed under the *Occupational Health and Safety Act*,
- (b) the Department of National Health and Welfare (Canada) for purposes in connection with long term or nursing home care of persons, or
- (c) the government of a province of Canada or an agent of that government for purposes in connection with any long term or nursing home care program administered by that government or its agent,

any records of nursing home services provided in respect of a resident in a nursing home.

(5) An operator may disclose any records of nursing home care provided in respect of a resident in his nursing home to any person, without the consent of the resident, for the purpose of being used

- (a) in bona fide research or in long term or nursing home care review, if the disclosure is made in such a manner as to ensure confidentiality of those records,
- (b) for training purposes in a medical records school, if it does so in a manner that does not reveal or make identifiable the individual names of the residents in those records, or
- (c) to an assessment committee for the purpose of assessing or reassessing the need for continuation of nursing home care of a resident in a nursing home.

(6) An operator shall, after the discharge of a resident from the nursing home for the purpose of transferring him to another nursing home or hospital inside or outside Alberta and, without the consent of the resident, forward to that other nursing home or hospital

copies of the appropriate records of nursing home care provided in respect of that resident for the use of the staff of that other nursing home or hospital.

**(7)** An operator may divulge any records of nursing home care provided in respect of a resident to a person conducting a preliminary investigation, the Discipline Committee or the Board under the *Dental Profession Act* if

- (a) an officer of The Alberta Dental Association makes a written request for it and the disclosure is consented to by the resident or his legal representative, or
- (b) the disclosure is made by a member of the board in compliance with a notice under section 56 of the *Dental Profession Act* to attend as a witness or produce documents.

**(8)** An operator may, without the consent of the resident, divulge any records of nursing home care provided in respect of the resident to a local board under the *Public Health Act* if the local board has assumed the responsibility for any care or treatment of the resident.

**(9)** An operator may divulge any records of nursing home care provided in respect of a resident to the Council of the College of Physicians and Surgeons or an investigating committee under the *Medical Profession Act* or the Professional Conduct Committee or the Appeals Committee under the *Nursing Profession Act*, if

- (a) an officer of the College or the Alberta Association of Registered Nurses, as the case may be, makes a written request for it and the disclosure is consented to by the resident or his legal representative, or
- (b) the disclosure is made by an employee or other person on behalf of an operator in compliance with a notice under section 59 of the *Medical Profession Act* or section 72 of the *Nursing Profession Act* to attend as a witness or produce documents.

**(10)** An operator may, without the consent of a resident, divulge any records of nursing home care provided in respect of the resident to the Health Disciplines Board or a Health Discipline Committee under the *Health Disciplines Act* if the disclosure is made by an employee or other person on behalf of an operator in compliance with a notice under section 42 of the *Health Disciplines Act*.

(11) A medical examiner appointed under the *Fatality Inquiries Act* is entitled to inspect and make copies of any diagnosis, record or information relating to a resident.

(12) When a medical examiner obtains a copy of a diagnosis, record or information pursuant to subsection (11), the provincial judge who presides at a public inquiry under the *Fatality Inquiries Act* may admit the copy of the diagnosis, record or information in evidence at the public inquiry in accordance with the *Fatality Inquiries Act*.

AR 232/85 s12;251/2001

### Repeal

13 The *Nursing Homes Regulations* (Alta. Reg. 193/75) are repealed.

AR 232/85 s13

### Coming into force

14 This Regulation comes into force on the date on which the *Nursing Homes Act* (1985 cN-14.1) comes into force.

AR 232/85 s14

## Schedule

### Nursing Homes General Regulation

#### Nursing Home Contract

Between:

The Minister of Health of Alberta,  
(herein called the "Minister")

OF THE FIRST PART

-and-

(herein called the "Operator")

OF THE SECOND PART

The Minister and the Operator agree as follows:

1 In this contract,

- (a) "Act" means the *Nursing Homes Act*, being chapter N-14.1, of the Statutes of Alberta, 1985 and a reference to the Act herein includes a reference to any amendment to the Act made from time to time and any enactment passed in substitution for the Act;

- (b) “nursing home” means the facility owned and operated by the Operator as a nursing home within the meaning of the Act, known as “*(here set out the full name of the Operator’s nursing home)*”, located at *(here set out the location and municipal address, if any, of the nursing home)*, in the Province of Alberta;
- (c) a word or expression used in this contract for which a definition appears in the Act has the same meaning in this contract as in the definition and other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (d) a reference to the Act includes a reference to the regulations made under it and all amendments to them and substitutions of them, and
- (e) words importing male persons include female persons, words importing female persons include male persons and words importing either sex include corporations.

**2** The Operator shall provide nursing home care to eligible residents in his nursing home, subject to and in accordance with the Act.

**3** The maximum number of residents that the Operator may admit to his nursing home at any one time is *(here set out the maximum number)* in the types of accommodation set out in Schedule “A” attached hereto.

**4** The operator shall comply with all applicable laws and regulations in effect, from time to time, in respect of his nursing home and its operation.

**5** Notwithstanding any other law, this contract shall be subject to, governed by and interpreted only in accordance with the Act.

**6** For the inspection purpose referred to in the Act,

- (a) a person authorized in writing by the Minister to do so may at all reasonable times
  - (i) enter and inspect the land and buildings used for the nursing home, or
  - (ii) require the Operator to furnish any specified information in connection with the operation of the nursing home as soon as is reasonably possible;
- (b) a person who makes an inspection or requires information under clause (a) may, subject to the Act, inspect, examine

and make copies of or temporarily remove any books, records or other documents relating to the operation of the nursing home;

- (c) the operator shall grant the necessary access and accommodate a person who makes an inspection under clause (a)(i) and shall comply with a requirement under clause (a)(ii).

**7** This contract is made effective as of the date and year written below.

In witness whereof the Minister and the Operator have executed this contract, effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Minister of Health and  
Wellness of Alberta  
(Full name of Operator)

(Witness to the signature  
of the Minister)

Per: \_\_\_\_\_

*(Affix corporate seal if the Operator  
is a corporation and uses a seal)*

(Signature of the Witness of the  
Operator where the Operator is  
an individual) \_\_\_\_\_

AR 232/85 Sched.;206/2001;170/2012





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