HEALTH CARE PROTECTION ACT

HEALTH CARE PROTECTION REGULATION

Alberta Regulation 208/2000

With amendments up to and including Alberta Regulation 147/2016

Office Consolidation

© Published by Alberta Queen’s Printer

Alberta Queen’s Printer
7th Floor, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952
Fax: 780-452-0668

E-mail: qp@gov.ab.ca
Shop on-line at www.qp.alberta.ca
Copyright and Permission Statement

Alberta Queen's Printer holds copyright on behalf of the Government of Alberta in right of Her Majesty the Queen for all Government of Alberta legislation. Alberta Queen's Printer permits any person to reproduce Alberta’s statutes and regulations without seeking permission and without charge, provided due diligence is exercised to ensure the accuracy of the materials produced, and Crown copyright is acknowledged in the following format:

© Alberta Queen's Printer, 20__.*

*The year of first publication of the legal materials is to be completed.

Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.
Table of Contents

1 Interpretation
2 Major surgical services
3 Minor surgical procedures
4 Interpretation
5 Consultation
6 Disclosure
7 Rescission
8 Refund
9 Record keeping
11 Private and semi-private accommodation
12 Amendment and reinstatement of designations
13 Service
14 Notice of orders
15 Periodic reporting
16 Annual performance report
17 Report of mishap
18 Transfer of agreement
19 Change in ownership
20 Publication of ownership information
21 Premier’s Advisory Council on Health
22 Offence
23 Repeal
24 Expiry
25 Coming into force

Schedule

Interpretation

1(1) In this Regulation,

(a) “Act” means the Health Care Protection Act;

(b) “associate” with respect to a person means
(i) the spouse or adult interdependent partner or minor child of that person living in the same home as that person;

(ii) a corporation with share capital that carries on business for profit or gain and of which the person

(A) is the owner or beneficial owner of shares, or

(B) is a director or officer;

(iii) a partner of that person acting on behalf of the partnership in which they are partners;

(iv) a person or group of persons acting as an agent for that person and having actual authority in that capacity from that person;

(v) a trust or estate in which that person has a substantial interest or in respect of which that person serves as a trustee or in a similar capacity;

(c) “distributing corporation” means a corporation

(i) any of whose issued shares, or securities which may be exchanged for or converted into shares, were part of a distribution to the public, and

(ii) that has more than 15 shareholders;

(d) “non-distributing corporation” means a corporation that is not a distributing corporation.

(2) For the purposes of this Regulation,

(a) one corporation is affiliated with another corporation if one of them is the subsidiary of the other or both are subsidiaries of the same corporation or each of them is controlled by the same person;

(b) if 2 corporations are affiliated with the same corporation at the same time, they are deemed to be affiliated with each other;

(c) a non-distributing corporation is controlled by a person if

(i) shares of the corporation to which are attached more than 50% of the votes that may be cast to elect directors of the corporation are held, other than by way of security only, by or for the benefit of that person or an associate of that person, and
(ii) the votes attached to those shares are sufficient, if exercised, to elect a majority of the directors of the corporation;

(d) a distributing corporation is controlled by a person if shares of the corporation to which are attached more than 20% of the votes that may be cast to elect directors of the corporation are held, other than by way of security only, by or for the benefit of that person or an associate of that person;

(e) a partnership is controlled by a person if

(i) more than 50% of the beneficial interest, however designated, into which the partnership is divided is held or beneficially owned by that person, or

(ii) that person is able to direct the affairs of the partnership.

(3) For the purposes of subsection (1)(b)(i),

(a) “minor child” includes a minor with respect to whom the person has demonstrated a settled intention to treat as a child of the person’s family;

(b) “spouse” means the husband or wife of a married person but does not include a spouse who is living separate and apart from the person if the person and spouse have separated pursuant to a written separation agreement or if their support obligations and family property have been dealt with by a court order.

AR 208/2000 s1;109/2003;315/2003

**Major surgical services**

2(1) The following are major surgical services for the purposes of section 2(2)(b) of the Act:

(a) any procedure that carries with it a significant risk of major hemorrhage during or after the procedure including, without limitation, midface osteotomy - le Fort II or le Fort III;

(b) any procedure that carries with it a significant risk of airway compromise requiring intensive care unit admission including, without limitation, midface osteotomy;

(c) any procedure that may result in a significant risk of entry into the cranium or thoracic cavity including, without
limitation, removal of a temporomandibular joint fossa prosthesis and the harvesting of costochondral grafts;

(d) any procedure that carries with it a significant risk of the need for any or all of the following because of the inherent nature of the procedure or because of the preoperative condition of the patient:

(i) the provision of concurrent care by a physician other than the anaesthetist and the dentist and assistants performing the procedure;

(ii) the management of major hemorrhage, cardiac pacing or postoperative circulatory or respiratory support;

(iii) continuous invasive or non-invasive monitoring of vital signs after the period of recovery from the anaesthetic;

(e) any procedure that is performed under general anaesthetic on a patient who is less than 18 months of age.

(2) Major surgical services for the purposes of section 2(2)(a) of the Act are those described in the by-laws under the Medical Profession Act.

Minor surgical procedures

3(1) A surgical procedure that is listed in Schedule 1 is exempted from the definition of surgical services for the purposes of the Act if

(a) the surgical procedure is not performed under general anaesthetic or neuroleptanaesthetic, and

(b) in the circumstances under which the surgical procedure is to be performed, there is not a significant risk of any of the following:

(i) intraoperative or postoperative hemorrhage;

(ii) intraoperative or postoperative airway compromise;

(iii) compromise of the patient’s cardiovascular or respiratory status;

(iv) injury to a major vessel in the operative field.

(2) A surgical procedure that is described as a minor surgical procedure in the by-laws under the Medical Profession Act is
exempted from the definition of surgical service for the purposes of the Act.

Interpretation

4 In sections 5 to 8, except section 6(1)(a), “patient” includes any person who, by operation of law or by agreement, acts as an agent for the patient.

Consultation

5 Where a physician or dentist decides to offer an enhanced medical good or service in connection with an insured surgical service that is to be provided, the physician or dentist shall ensure that the patient is consulted and fully informed about the nature of the enhanced medical good or service a reasonable period of time before the enhanced medical good or service is to be provided.

Disclosure

6(1) The statement referred to in section 5(3) of the Act must contain the following:

(a) the patient’s name and personal health number;

(b) the name of the public hospital or designated surgical facility at which the insured surgical service will be provided;

(c) the name of the physician or dentist who will be providing the insured surgical service;

(d) the insured surgical service that is to be provided;

(e) a brief description of the nature of each enhanced medical good or service that is being offered to the patient and a description of the standard medical good or service;

(f) a statement that the standard version of the enhanced medical good or service that is being offered is available at no extra charge, that its provision adheres to generally accepted medical practice and that the enhanced medical good or service is not medically necessary according to generally accepted medical practice;

(g) the reasons why the enhanced medical good or service is being offered, including an explanation of the potential effects, benefits and risks associated with the use of the good or service;
(h) the charge for each enhanced medical good or service showing how the charge was calculated, including the amount of the standard version of the enhanced medical good or service being offered, the amount of the enhanced medical good or service and the amount of any administrative allowance;

(i) a written declaration, by the person who consulted with the patient, that states that the matters in clauses (e) to (h) and (l) have been discussed and explained in sufficient detail and a statement to the effect that the patient appeared to fully understand the matter discussed;

(j) an acknowledgment by the patient that the patient fully understands the matters discussed and that the patient was provided with the statement at least 72 hours before the start of the surgery;

(k) the patient’s agreement in writing to accept and pay for the enhanced medical good or service;

(l) a statement indicating that the patient may rescind the agreement at any time before the start of the surgery and receive a full refund within 30 days of rescinding the agreement;

(m) a space on the statement for the patient to indicate his or her wish to rescind the agreement;

(n) the name and telephone number of the person to contact in the event that the right of rescission is exercised.

(2) The statement must be signed by the physician or dentist and the patient, and the patient must be provided with a copy of the signed statement at the time it is signed.

(3) The statement must be given to the patient at least 72 hours before the start of surgery.

Rescission

7(1) The right of rescission given by section 5(5) of the Act may be exercised at any time before the start of surgery.

(2) The agreement is effectively rescinded if

(a) the patient indicates in writing his or her wish to rescind the agreement

(i) in the space provided for that purpose on the statement referred to in section 6(1), or
(ii) by any other written document that expresses the intention to rescind,

or

(b) where it is impractical for the patient to indicate the wish to rescind in writing under clause (a), the patient expresses the wish to rescind orally to a nurse, physician, dentist or member of the administrative staff at the public hospital or designated surgical facility.

Refund

8(1) Where a patient rescinds an agreement in accordance with section 7, the operator of the public hospital or designated surgical facility shall return all of the money paid under the agreement within 30 days after the date on which the agreement is rescinded.

(2) If the operator of the public hospital or designated surgical facility fails to return all of the money referred to in subsection (1), the Minister may recover that amount in a civil action in debt as though that amount were a debt owing from the person to the Crown in right of Alberta.

(3) Where the Minister recovers any amount under subsection (1), the Minister shall reimburse the person who paid the amount.

Record keeping

9(1) Subject to subsection (2), the operator of a designated surgical facility shall keep a statement referred to in section 6(1) for a period of at least 10 years from the date of discharge of the patient from the facility.

(2) Where the patient was a minor at the time the insured surgical service was provided, the operator shall keep the statement referred to in section 6(1) for a period ending

   (a) 10 years after the date of discharge of the patient from the facility, or

   (b) 2 years after the patient’s 18th birthday,

whichever is later.

(3) The operator of a designated surgical facility shall keep for a period of 6 years after they are created all records, documents and books of account that are necessary in order to determine whether the Act and this Regulation have been complied with as they apply with respect to the provision of enhanced medical goods or services and non-medical goods or services
Section 11

HEALTH CARE PROTECTION REGULATION

AR 208/2000

(a) in connection with the provision of an insured surgical service, or

(b) that arises out of a stay at the designated surgical facility.

(4) The operator may store statements, records, documents and books of account required to be kept under this section in any format that will provide a copy of the statement, record, document or book of account in a legible written form within a reasonable time.

Repealed AR 140/2005 s3.

Private and semi-private accommodation

11(1) Subject to section 5(6)(b) of the Act and subsection (2) of this section, where a patient who receives an insured surgical service at a designated surgical facility is provided with a private or semi-private room accommodation, no person may charge or collect an amount in respect of the accommodation unless the patient receiving the accommodation or the patient’s agent was informed of the rates and agreed in writing to pay them.

(2) Where a patient who receives an insured surgical service at a designated surgical facility is provided with a private or semi-private room accommodation because the patient’s condition requires it, no person may charge or collect an amount in respect of the accommodation.

Amendment and reinstatement of designations

12(1) The Minister may by order

(a) amend a designation under Part 2 of the Act to reflect a change to an agreement approved under section 8 of the Act or a change to a proposal referred to in section 14 of the Act, as the case may be,

(b) add, remove or vary a term or condition to which such a designation is subject when the Minister considers that the circumstances warrant it, or

(c) reinstate a designation that has been withdrawn or a surgical service that has been deleted under section 18 of the Act where the Minister is satisfied that the circumstances that gave rise to the withdrawal or deletion have been remedied.

(2) An order under subsection (1)(a) with respect to a change to an agreement must be made within 30 days after the Minister has
received all the information the Minister considers necessary to make the order.

(3) In making an order under subsection (1)(a) with respect to a change to a proposal, the Minister must take into consideration the factors set out in section 15(1) of the Act.

Service

13(1) The Minister must give notice of an order made under section 18(4), (5) or (6) of the Act.

(2) A notice of intent under section 18 of the Act and notice of an order under section 18(4), (5) or (6) of the Act are sufficiently given if they are left with a person who appears to be at least 18 years old at the most recent business address shown for the operator in the Minister’s records.

(3) Where the Minister makes an order under section 12, the Minister shall give notice of the order to the operator

(a) by ordinary mail addressed to the operator at the most recent address shown for the operator in the Minister’s records, or

(b) by facsimile sent to the facsimile number shown for the operator in the Minister’s records.

Notice of orders

14 Where the Minister makes an order under section 12 or an order under section 18 of the Act, the Minister shall forthwith give a copy of the order to

(a) the health authority with which the operator has an agreement under section 8 of the Act, and

(b) the council of the College.

Periodic reporting

15(1) In this section,

(a) “in-patient” means a person who is admitted to a designated surgical facility for an insured surgical service and is assigned an in-patient bed;

(b) “out-patient” means a person who receives an insured surgical service at a designated surgical facility without being admitted as an in-patient.
Section 16  HEALTH CARE PROTECTION REGULATION  AR 208/2000

(2) The operator of a surgical facility that is designated under Part 2, Division 1 of the Act shall ensure that the following reports in respect of insured surgical services are submitted on a monthly basis to the health authority with which the operator has an agreement under the Act:

(a) with respect to each out-patient,

   (i) a report setting out the complete set of data identified in the *Alberta Ambulatory Care Reporting Manual* published by Alberta Health, as amended from time to time, or

   (ii) repealed AR 208/2000 s23;

(b) with respect to each in-patient, a report setting out the complete set of data identified in the *Canadian Institute for Health Information Inpatient Abstracting Manual*, published by the Canadian Institute of Health Information, as amended from time to time.

(3) A report referred to in subsection (2) must be submitted not later than 45 days after the end of the month to which it relates.

(4) The operator shall, within 30 days after submitting a report referred to in subsection (2), notify the regional health authority of any changes to the report that are necessary to correct the information contained in it.

AR 208/2000 ss15,23;170/2012

Annual performance report

16(1) The operator of a surgical facility that is designated under Part 2, Division 1 of the Act shall ensure that a report complying with subsection (2) is submitted to the health authority with which the operator has an agreement under the Act.

(2) The report must be submitted yearly not later than 60 days after the anniversary date of the agreement and must contain the following information with respect to the yearly period ending on the anniversary date of the agreement:

(a) the number of insured surgical services provided at the facility, arranged as to service type;

(b) a summary statement, prepared in accordance with generally accepted accounting principles, in respect of enhanced medical goods or services that were provided in connection with the provision of insured surgical services at the facility showing
(i) the number of each type of enhanced medical good or service provided during the period, and

(ii) the revenues for the period for each type of enhanced medical good or service.

(3) Notwithstanding subsection (2), the health authority may at any time by notice in writing require the operator to provide to the health authority any of the information referred to in subsection (2) with respect to the period of time specified in the notice.

(4) The report must be made public in the form and manner determined by the Minister and the Minister may determine who must make the report public.

(5) The requirements of this section are in addition to the reporting requirements, if any, in the agreement between the health authority and the operator.

Report of mishap

17(1) In this section, “significant mishap” means significant mishap within the meaning of the *Standards for Non-hospital Surgical Facilities* established by the council of the College.

(2) The operator of a designated surgical facility shall ensure that full particulars of a significant mishap of which the operator has knowledge are reported to the health authority with which the operator has an agreement under the Act not later than 24 hours after the significant mishap is first discovered.

(3) The operator of a designated surgical facility shall ensure that the Minister is notified of the significant mishap not later than 24 hours after the significant mishap is first discovered.

(4) A notification under subsection (3) must include

(a) the name of the surgical facility where the mishap occurred;

(b) the name of the patient;

(c) the name of the attending physicians or dentists, as the case may be;

(d) the type of procedure involved in the mishap;

(e) a brief description of the nature of the mishap;

(f) the date that the mishap occurred.
Transfer of agreement

18(1) Where a person proposes to assign or transfer an agreement approved under section 8 of the Act, that person and the proposed assignee or transferee (referred to as the “proposed operator”) shall first submit to the Minister an application for consent that is in a form acceptable to the Minister and contains the following information:

(a) where the proposed operator is a sole proprietor, the name and address of the proposed operator;

(b) where the proposed operator is a non-distributing corporation,

(i) a copy of the constating documents of the corporation, whether known as articles, articles of incorporation, memorandum, by-laws, charter or any other similar term, and proof of corporate status;

(ii) the address of the registered office of the corporation in Alberta;

(iii) the name and address of all directors and officers of the corporation;

(iv) where the corporation has share capital, the names and addresses of all shareholders and particulars of the shareholding of each shareholder;

(v) the name of each corporation with which the proposed operator is affiliated and the information referred to in subclauses (i) to (iv) in respect of each affiliated corporation;

(c) where the proposed operator is a distributing corporation,

(i) the information referred to in clause (b)(i), (ii), (iii) and (v);

(ii) the name and address of each shareholder who holds more than 20% of the corporation’s issued voting shares or securities which may be exchanged for or converted into shares;

(d) where the proposed operator is a partnership, the names and addresses of all partners and the extent of the beneficial interest of each partner in the partnership;

(e) evidence that the operator and health authority that are parties to the existing agreement support the transfer of the agreement.
(2) Where one of the partners referred to in subsection (1)(d) is itself a partnership or is a corporation, the application must contain the information referred to in subsection (1)(b), (c) or (d), as the case may be, in respect of that partnership or corporation.

(3) The Minister may require the applicants to provide any further information in respect of the assignment or transfer or in respect of the proposed operation of the designated surgical facility that the Minister considers is necessary.

Change in ownership

19(1) Where a surgical facility that is designated under Part 2, Division 1 of the Act is owned by a corporation or a partnership, a change in control of the corporation or partnership is deemed to be a change in ownership of the facility for the purpose of section 10(2) of the Act and this Regulation.

(2) Where a corporation or partnership that owns a surgical facility referred to in subsection (1) wishes to effect a change in ownership described in subsection (1), the corporation or partnership shall submit to the Minister an application for consent that is in a form acceptable to the Minister and contains the following information:

(a) a description of the transactions or series of transactions that will effect the change in ownership;

(b) a description of the corporate or partnership structure both before and after the transactions or series of transactions that shows how ownership will change.

(3) The Minister may require the applicant to provide any further information in respect of the change in ownership that the Minister considers necessary.

Publication of ownership information

20(1) The operator of a surgical facility must provide, within a reasonable time specified by the Minister after the designation of the surgical facility under Part 2, Division 1 or 2, the following information respecting the ownership of the surgical facility:

(a) where the owner is a sole proprietor, the name and address of the sole proprietor;

(b) where the owner is a non-distributing corporation,

(i) the address of the registered office of the corporation in Alberta and the name and address of all directors and officers of the corporation, and
(ii) if the corporation has share capital, the names and addresses of all individuals who, alone or through an associate, directly or indirectly, hold shares in the non-distributing corporation and the names and addresses of all corporations and associates through which the individuals indirectly hold those shares;

(c) where the owner is a distributing corporation,

(i) the information referred to in clause (b)(i), and

(ii) the names and addresses of all individuals who, alone or through an associate, directly or indirectly hold shares of the distributing corporation to which are attached more than 20% of the votes that may be cast to elect directors of the corporation and the names and addresses of all corporations and associates through which the individuals indirectly hold those shares;

(d) where the owner is a partnership, the names and addresses of all partners.

(2) Where one of the partners referred to in subsection (1)(d) is itself a partnership or is a corporation, the information referred to in subsection (1)(b), (c) or (d), as the case may be, in respect of that partnership or corporation must be provided.

(3) Where the address of a corporation or an associate that is a corporation is required to be provided under subsection (1)(b)(ii) or (c)(ii), the address of the registered office of the corporation must be provided.

(4) The Minister must publish the information provided under subsection (1) and (2) in the form and manner the Minister considers appropriate.

(5) Where the Minister has consented to a change in ownership of a surgical facility, the operator of the surgical facility must update the information provided under subsection (1) and (2) and the Minister must publish the information in the form and manner the Minister considers appropriate.

(6) The Minister is not required to publish under this section some or all of the information referred to in subsections (1) and (2) if, in the Minister’s opinion, publication of the information could reasonably be expected to threaten the safety of any person.
Premier’s Advisory Council on Health

21(1) The Premier’s Advisory Council on Health is to consist of not fewer than 8 nor more than 14 members, to be appointed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council shall appoint one of the members as chair.

(3) The term of office of a member is not more than 2 years, and members are eligible for reappointment.

(4) A member continues to hold office after the expiry of the member’s term of office

(a) until the member is reappointed or a successor is appointed, or

(b) a period of 90 days expires,

whichever happens first.

(5) The Lieutenant Governor in Council may provide for the remuneration and expenses to be paid to members.

Offence

22 A person who contravenes section 5, 8(1) or 11 is guilty of an offence and is liable to a fine of not more than

(a) $10 000 for a first offence, and

(b) $20 000 for the 2nd and each subsequent offence.

Repeal

23 Section 15(2)(a)(ii) is repealed on April 1, 2001.

Expiry

24 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on October 31, 2019.

Coming into force

25 This Regulation comes into force on the coming into force of the Health Care Protection Act.
Schedule 1

Minor Surgical Procedures

1. Ankyloglossia repair
2. Arthrocentesis of the temporomandibular joint
3. Biopsy of the hard tissue of the maxillofacial complex
4. Biopsy of the soft tissue of the maxillofacial complex
5. Closed reduction of the temporomandibular joint
6. Closed reduction of fractures of the mandible
7. Closed reduction of fractures of the maxilla
8. Construction of burn appliances after hospital discharge
9. Control of hemorrhage
10. Diagnostic nerve block
11. Excision of cysts of the maxilla and mandible less than 3 cm in diameter
12. Frenoplasty
13. Immediate closure of oranal opening
14. Injection into peripheral nerve for destruction
15. Intraarticular injection of the temporomandibular joint
16. Minor bone graft to the mandible
17. Minor bone graft to the maxilla
18. Minor sequestrectomy of bone of the maxilla and mandible
19. Nasendoscopy
20. Peripheral neurectomy
21. Removal of archbars
22. Removal of body exostoses - maxilla and mandible
23. Removal of mucocoele
24. Removal of sialoliths anterior 1/3 of duct
25. Removal of torus mandibularis
26. Removal of torus maxillaries
27. Removal of wires
28. Scar revision
29. Simple excision of lesions of the maxillofacial complex
30. Simple excision of ranula
31. Simple intraoral and extraoral incision and drainage of abscess
32. Simple nerve repair
33. Simple removal of foreign bodies from the maxillofacial region
34. Sinusoscopy
35. Suturing of lacerations

Schedule 2  Repealed AR 140/2005 s5.