



Province of Alberta

ALBERTA HEALTH ACT

HEALTH ADVOCATE REGULATION

Alberta Regulation 49/2014

With amendments up to and including Alberta Regulation 17/2018

Office Consolidation

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(Consolidated up to 17/2018)

ALBERTA REGULATION 49/2014
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Definitions

1 In this Regulation,

- (a) “Act” means the *Alberta Health Act*;
- (b) “Charter” means the Health Charter established under section 2 of the Act;
- (c) “Health Advocate” means the Health Advocate appointed under section 3 of the Act.

Additional functions

2 In addition to the function set out in section 3(3)(a) of the Act, the Health Advocate may, subject to reasonable limits and procedures as may be established by the Health Advocate from time to time,

- (a) provide education on the Charter,

- (b) assist individuals in determining the appropriate resolution mechanism through which they can have their concerns addressed and resolved,
- (c) inform individuals about existing health related programs and resources, and
- (d) assist individuals who are having difficulty accessing health services and health related programs, including directing them to an appropriate resource, person or organization that may be able to assist them.

General delegation

3 The Health Advocate may, in writing, delegate to any person any power or duty conferred or imposed on the Health Advocate under the Act or this Regulation, except the power of delegation under this section.

Power to act on a complaint

4(1) Subject to section 4(2) of the Act and section 5 of this Regulation, the Health Advocate shall review a complaint received from any person alleging that a person referred to in section 2(1) of the Act failed to act in a manner consistent with the Charter.

(2) The Health Advocate may, without receiving a complaint, initiate and conduct a review where the Health Advocate has reason to believe that a person referred to in section 2(1) of the Act failed to act in a manner consistent with the Charter.

Refusal to review

5(1) In addition to section 4(2) of the Act, the Health Advocate may refuse to conduct a review or cease conducting a review

- (a) if the matter is the subject of an ongoing investigation by a law enforcement agency,
- (b) if the complainant has refused to provide information requested by the Health Advocate to substantiate or support the complaint, or
- (c) if, in the opinion of the Health Advocate,
 - (i) having regard to all of the circumstances, no review is necessary or practicable,
 - (ii) the issue complained of has already been addressed, or

- (iii) the complainant has had knowledge of the issue for more than 6 months before the complaint is received by the Health Advocate.

(2) If the Health Advocate decides not to conduct a review or to cease conducting a review, the Health Advocate shall inform the complainant of that decision.

Procedures

6(1) The Health Advocate may establish procedures for conducting a review, including prescribing forms for the use of persons making a complaint.

(2) In conducting a review, the Health Advocate may make any inquiries the Health Advocate considers necessary.

(3) Before commencing a review, the Health Advocate must make reasonable efforts to notify the person against whom the complaint is made and, if the complaint

- (a) relates to a health facility in which the complainant is or was a patient, the Health Advocate must notify the operator of the health facility,
- (b) is against a health provider, the Health Advocate must notify the professional college of which the health provider is a member, and
- (c) is made on behalf of an individual who is not the complainant, the Health Advocate must notify that individual.

(4) The notice under subsection (3) must include a copy of the complaint and any information relating to the conduct of the review, but the Health Advocate may sever any information contained in the complaint that the Health Advocate considers appropriate.

(5) A person who has received a notice under this section has the right to make representations to the Health Advocate relating to the complaint.

Requirement to provide information and documents

7(1) The Health Advocate may request, in writing, that a health facility, health provider, professional college, operator, regional health authority or provincial health board provide

- (a) any policy or directive or any other document relating to a review, or

- (b) any medical or other record or any information, file or other document relating to a patient or other matter that is the subject of the review.

(2) The health facility, health provider, professional college, operator, regional health authority or provincial health board shall, as soon as reasonably possible after receipt of a request, provide the Health Advocate, or a person authorized by the Health Advocate, with reasonable access to the materials so requested under subsection (1).

(3) The Health Advocate, or the person authorized by the Health Advocate, may examine and make copies of the materials requested under subsection (1) or remove them temporarily for the purpose of making copies.

Record of complaints and reviews

8 The Health Advocate shall maintain records relating to complaints received and reviews conducted.

Disclosure

9(1) Except as provided in this section, the Health Advocate and any person who is or was employed or engaged by the Health Advocate shall maintain the confidentiality of all information and allegations that come to their knowledge in the course of reviewing a complaint or in the performance of the Health Advocate's duties under the Act or this Regulation.

(2) Allegations and information to which subsection (1) applies may be disclosed

- (a) to the person who is the subject of a review,
- (b) by a person conducting the review to the extent necessary to enable that person to obtain information from another person,
- (c) in a report made by the Health Advocate under section 5 of the Act,
- (d) where the Health Advocate believes on reasonable grounds that the disclosure is necessary for the purpose of advising the Minister of Justice and Attorney General or a law enforcement agency of an alleged offence under this Act or any other enactment of Alberta or an Act of the Parliament of Canada,
- (e) where the Health Advocate believes on reasonable grounds that the disclosure of information is required to

mitigate a risk of significant harm to the health or safety of the public or of any person, and

- (f) if required by law.

Report

10 On completion of a review, the Health Advocate shall prepare a report of its findings, and if the Health Advocate considers it appropriate, may include recommendations referred to in section 5 of the Act.

Proceedings privileged

11(1) Neither the Health Advocate nor any person holding an office or appointment under the Health Advocate, or any employee, agent or contractor shall be called on to give evidence in any court or in any proceedings of a judicial nature in respect of any thing coming to the Health Advocate's or person's knowledge in the exercise of the Health Advocate's or person's functions under this Act.

(2) Any thing said or any information supplied or any document, paper or thing produced by any person in the course of a review under this Regulation is privileged in the same manner as if the review or proceedings were proceedings in a court.

Consequential amendment

12 The *Health Information Regulation (AR 70/2001)* is amended in section 2(1) by adding the following after clause (c):

- (c.1) Health Advocate;

Expiry

13 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 March 31, 2021.

AR 49/2014 s13;17/2018

Coming into force

14 This Regulation comes into force on April 1, 2014.



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