



Homes For Special Care Act

CHAPTER 203

OF THE

REVISED STATUTES, 1989

amended 1994-95, c. 7, ss. 28, 150; 2007, c. 9, ss. 11, 12;
2010, c. 2, s. 108; 2010, c. 17

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An Act to Revise and Consolidate the Boarding Homes Act, the Nursing Homes Act, and Part of the Social Assistance Act

Short title

1 This Act may be cited as the Homes For Special Care Act. *R.S., c. 203, s. 1.*

Interpretation

2 (1) In this Act,

(a) "activities of daily living" include personal hygiene, dressing, grooming, meal preparation and the taking of medication;

(b) "ambulatory" means the ability of a person to move about without the assistance of

mechanical aids or devices and without assistance from another person;

(c) "applicant" means a person who applies for a license pursuant to this Act;

(d) "facility" means a residential care facility;

(e) "inspector" means a person in the public service who is appointed by the Minister;

(f) "license" means a license issued pursuant to this Act and includes a renewed license;

(g) "licensee" means a person to whom a license is issued pursuant to this Act;

(h) "Minister" means the Minister of Community Services;

(i) "nursing care" means the use of methods, procedures and techniques employed in providing nursing care by persons with technical nursing training beyond the care that an untrained person can adequately administer;

(j) "nursing home" means a building or place or part of a building or place in which accommodation is provided or is available to persons requiring or receiving skilled nursing care, including, but not so as to restrict the generality of the foregoing, persons convalescing from or being rehabilitated after illness or injury and, subject to Section 3, does not include a place maintained by a person to whom the residents are related by blood or marriage, a public hospital, mental or psychiatric hospital, tuberculosis hospital or sanatorium, maternity hospital, home operated pursuant to Sections 15 to 17 or residential care facility or a maternity home that is licensed under the Children's Services Act;

(k) "personal care" means the provision of room, board and supervision of, and assistance with, the activities of daily living of a person who is ambulatory or semi-ambulatory;

(l) "resident" means a resident of a residential care facility, nursing home or home for aged or disabled persons;

(m) "residential care facility" means any building or place, or part of a building or place required to be approved by the Minister, where supervisory care or personal care is provided to three or more persons but, subject to Section 3, does not include

(i) a place maintained by a person to whom the residents are related by blood or marriage,

(ii) a public hospital, mental or psychiatric hospital, tuberculosis hospital, maternity hospital, sanatorium, home operated pursuant to Sections 15 to 17 or jail, prison or training school,

(iii) a maternity home that is licensed under the Children's Services Act,

(iv) a nursing home as defined in clause j(j), or

(v) a hotel that is licensed under the Hotel Regulations Act;

(n) "semi-ambulatory" means the ability of a person to move about with the assistance of mechanical aides or devices but not involving assistance from another person;

(o) "supervisory care" means the provision of room, board and

(i) guidance or supervision in the activities of daily living, or

(ii) observation or surveillance of the physical well-being,

of a person who is ambulatory or semi-ambulatory.

(2) Every boarding home that on the nineteenth day of May, 1976, was operated pursuant to the former Boarding Homes Act, or to which that Act then applied, is a residential care facility for the purposes of this Act and is subject to this Act and the regulations.

(3) Every nursing home that on the nineteenth day of May, 1976, was operated pursuant to the former Nursing Homes Act, or to which that Act then applied, is a nursing home for the purposes of this Act and is subject to this Act and the regulations. *R.S., c. 203, s. 2; 2010, c. 17, s. 1.*

Designation of residential care facility or nursing home

3 (1) The Minister may designate any building or place or part of a building or place as a residential care facility provided that the building, place or part designated complies with the definition of a residential care facility.

(2) The Minister may designate any building or place or part of a building or place as a nursing home provided that the building, place or part designated complies with the definition of a nursing home.

(3) Any building or place or part of a building or place designated by the Minister shall comply with the terms and conditions and provisions of this Act and the regulations. *R.S., c. 203, s. 3.*

Requirement for licence

4 No person shall conduct, maintain, operate or manage a residential care facility, a home for the disabled, a home for the aged or a nursing home, or hold himself out as operating a residential care facility or a nursing home, unless that person is issued a license to do so pursuant to this Act and that license has not expired, been cancelled or been suspended.

R.S., c. 203, s. 4; 2010, c. 17, s. 2.

Issuance of licence

5 (1) Subject to the regulations, the Minister may issue a license to a person to operate a residential care facility, a home for the disabled, a home for the aged or a nursing home.

(2) The Minister may for any reasonable cause refuse to issue or re-issue a license to a person or in respect of a residential care facility, a home for the disabled, a home for the aged or a nursing home.

(3) The Minister may from time to time attach to any license such terms and conditions or restrictions as the Minister deems advisable. *R.S., c. 203, s. 5; 2010, c. 17, s. 3.*

Form of application and licence and expiry

6 (1) An application for a license shall be in the form prescribed by the regulations.

(2) A license shall be in the form prescribed by the regulations and expires one year from the date on which it was issued or on such other date as the Minister may prescribe in the license. *R.S., c. 203, s. 6.*

Cancellation or suspension of licence

7 The Minister may cancel or suspend a license where in the Minister's opinion

- (a) the licensee is not giving or is not capable of giving adequate care to a resident;
- (b) the residential care facility or nursing home described in a license has become unsuitable for the purpose authorized by the license;
- (c) the residential care facility or nursing home does not comply with fire and building regulations as specified by the regulations;
- (d) the number of persons living in the residential care facility or nursing home exceeds the number specified in its license;
- (e) the residential care facility or nursing home does not comply with the terms, conditions or restrictions of the license;
- (f) the licensee or employee of the licensee has contravened this Act or the regulations;
- (g) the licensee or employee of the licensee does not comply with enactments that apply to it;
- (h) the licensee or its administrator has failed to demonstrate that its actions, either direct

or indirect, are incidental to the attainment of the objects for which it was incorporated or are within the proper exercise of its powers or conform with its own governance requirements; or

(i) the licensee or its administrator is unable to demonstrate that it has or will exercise sufficient control, either directly or indirectly, over the operations of the licensee, including the care of its residents, its premises, its accommodation, its equipment and its facilities. *R.S., c. 203, s. 7; 2010, c. 17, s. 4.*

Deemed cancellation of licence

8 A license is deemed to be cancelled when the person to whom it was issued ceases to operate or own the residential care facility or the nursing home for which the license was issued. *R.S., c. 203, s. 8.*

Residential care facility

8A Sections 8B to 8E do not apply to a residential care facility licensed by the Minister of Health, a home for the aged or a nursing home. *2010, c. 17, s. 5.*

Appointment of manager

8B The Minister may appoint such person or persons who shall have such powers and duties prescribed in the regulations to manage and administer or to assist to manage and administer, and generally oversee the operations of a licensee whose license has been suspended, cancelled or not re-issued, until the license is re-instated or re-issued, as the Minister considers necessary. *2010, c. 17, s. 5.*

No action lies

8C (1) No action or other proceeding for damages or otherwise shall be instituted against the Minister's appointee under Section 8B or any agent of the appointee, as a result of any act done in good faith in the performance or intended performance of any duty under this Act or in the exercise or intended exercise of any power and duty under this Act, or of any neglect or default in the performance or exercise in good faith of such power or duty.

(2) Subsection (1) does not relieve the Crown of any liability under the Proceedings Against the Crown Act.

(3) Neither the Crown nor the Minister's appointee shall be liable for any actions of a licensee taken during the period before the appointment under Section 8A or attributable to that period. *2010, c. 17, s. 5.*

Section 31 and 32 of Trade Union Act not affected

8D Neither the appointment by the Minister under Section 8B, the operation and management of the facility by the appointee nor the ceasing of that operation and management is a sale, lease or transfer of the licensee's business or operations thereof for the purpose of Section 31 of the Trade Union Act nor a merger, amalgamation or transfer of jurisdiction for the purpose of Section 32 of that Act. *2010, c. 17, s. 5.*

Agreement binding

8E For greater certainty, any collective agreement binding a licensee continues to apply during an appointment under Section 8B. *2010, c. 17, s. 5.*

Inspectors

9 For the purposes of Sections 3 to 13, the Minister may appoint such persons in the public service as the Minister considers necessary to be inspectors and may designate one or more of them to be chief inspector. *R.S., c. 203, s. 9.*

Right of entry and inspection

10 (1) For the purposes of this Section, "qualified medical practitioner" means a qualified medical practitioner as defined in the Medical Act.

(2) An inspector appointed by the Minister may at any reasonable time enter and inspect a residential care facility or any place that the inspector has reasonable grounds to believe is a residential care facility and may examine the premises, equipment, facilities, books and records thereof, and may cause any resident to be examined by a qualified medical practitioner or registered nurse appointed by an inspector for purposes of this Act.

(3) An inspector appointed by the Minister may at any reasonable time enter and inspect a nursing home or any place that the inspector has reasonable grounds to believe is a nursing home and may examine the premises, equipment, facilities, books and records thereof, and may cause any resident to be examined by a qualified medical practitioner or a registered nurse appointed by an inspector for purposes of this Act.

(4) The owner or person in charge of a residential care facility or a nursing home or a licensee shall permit an inspector at all reasonable times to enter and inspect the residential care facility or nursing home and to examine equipment, furnishings and accommodations and shall produce for examination the accounts, books and records of that facility or nursing home, and shall permit any resident to be examined by a qualified medical practitioner or a registered nurse appointed by the chief inspector for the purposes of this Act. *R.S., c. 203, s. 10.*

Records or returns or report

11 The licensee of every residential care facility or nursing home shall forward to the chief

inspector such records, returns and reports as the chief inspector requests and in the form and manner and within the time requested by the chief inspector. *R.S., c. 203, s. 11.*

Alteration of building

12 A licensee shall not add to or alter a building used for the purposes of a residential care facility or a nursing home without first submitting to the Minister plans of the alteration or addition and receiving approval of the Minister for the alteration or addition. *R.S., c. 203, s. 12.*

Advertising or holding out

13 Unless a license is in force in respect of a residential care facility or nursing home, no person shall advertise or hold out the place to be a facility or nursing home or assume, use or display in connection with the place any terms, sign, title or words which imply or lead the public to believe that the place is a residential care facility or a nursing home. *R.S., c. 203, s. 13.*

Existing home for aged or disabled

14 (1) In Sections 15 to 17, "home" means a home for aged or disabled persons.

(2) Every home for the aged or disabled persons that on the nineteenth day of May, 1976, was operated pursuant to Part II of Chapter 284 of the Revised Statutes, 1967, the Social Assistance Act, or to which that Act then applied, is a home for the purposes of Sections 15 to 17 of this Act and is subject to this Act and the regulations. *R.S., c. 203, s. 14.*

Operation by municipal unit

15 (1) With the approval of the Minister, a municipal unit or two or more municipal units that enter an agreement may directly or through an agent or a corporation established under the Municipal Housing Corporations Act erect, acquire, purchase, alter, add to, improve, furnish and equip a building as a home for the accommodation of aged or disabled persons and purchase or acquire land therefor, and may operate and maintain homes for the aged and for disabled persons.

(2) Subject to the regulations, a home provided or operated by one municipal unit shall be regulated by by-laws made by the council of that municipal unit and approved by the Minister.

(3) Subject to the regulations, a home provided or operated by two or more municipal units or by an agent or a corporation shall be regulated in the manner agreed upon by the Minister and the municipal units.

(4) Where a home is provided or operated by two or more municipal units or by an agent

or a corporation, the expense of providing, operating or maintaining it, including the payment of interest on and the retirement of debentures issued in respect thereof, may by the agreement be made an object of joint expenditure of the municipal units involved under the Assessment Act. *R.S., c. 203, s. 15.*

Board of management

16 The Governor in Council may

- (a) establish a board of management for a home;
- (b) appoint the members of the board of management; and
- (c) prescribe the remuneration, duties and powers of a board of management. *R.S., c. 203, s. 16.*

Corporation or agency for purposes of Section 15

17 For the purpose of Section 15, a municipal unit or two or more municipal units may establish or arrange for the establishment of a corporation under the provisions of the Municipal Housing Corporations Act or an agency of the unit or units to exercise any of the power granted by Section 15. *R.S., c. 203, s. 17.*

Prohibition of new homes

17A Notwithstanding Sections 15 and 17, a municipal unit may not establish a new home. *1994-95, c 7, s. 28.*

Offence and penalty

18 Every person who violates or fails to observe or comply with any of the provisions of this Act or the regulations, or with any term, condition or restriction attached to a license held by that person, is guilty of an offence punishable by summary conviction and is liable to a penalty of not more than one hundred dollars and in default of payment to imprisonment for not more than thirty days, and every day that a person fails to observe or comply with any of the provisions or fails to observe or comply with any term, condition or restriction attached to a license held by that person, constitutes a separate offence. *R.S., c. 203, s. 18.*

Mortgage guarantee by Minister

18A Subject to the Finance Act, the Minister may guarantee payment of a mortgage made by a person who, with the approval of the Minister, is constructing or refinancing a nursing home, residential care facility, home for the aged or home for the disabled. *2007, c. 9, s. 11; 2010, c. 2, s. 108.*

Regulations

19 (1) The Governor in Council may make regulations

- (a) prescribing the form and contents of an application for a license for a facility or a nursing home;
- (b) prescribing the form of a license and the fee for a license;
- (c) prescribing the manner in which a license shall be displayed;
- (d) respecting the terms, conditions and restrictions upon which a license may be issued;
- (e) respecting all matters relating to the care and well-being of the residents of a facility, a nursing home or a home which was in operation on the nineteenth day of May, 1976;
- (f) respecting the persons or classes of persons to be admitted and maintained in a facility, a nursing home and a home;
- (g) authorizing the Minister to designate a home operated by a municipal unit as either a home for the aged or a home for the disabled;
- (h) respecting the granting of funds to a municipal unit or non-profit organizations for the construction, renovation and alteration of homes;
- (ha) respecting the guarantee by the Minister of mortgages for the purpose of Section 18A;
- (i) respecting the inspection of a facility, a nursing home and a home;
- (j) respecting the keeping of a register, records and other reports in a facility, a nursing home and a home and prescribing what shall be entered therein;
- (k) prescribing staff requirements and qualifications for a facility, a nursing home and a home;
- (l) prescribing qualifications of staff for a facility, a nursing home and a home;
- (m) limiting, fixing or regulating fees to be charged by a licensee for residents of a facility, a nursing home and those residents of a home being maintained by public funds;
- (n) respecting boards of management;
- (o) determining a minimum physical space requirement per resident and otherwise prescribing the maximum number of residents of a facility, a nursing home and a home;
- (p) respecting the admission, maintenance and discharge of residents in a facility, a

nursing home and a home;

(q) respecting the standards of accommodations to be provided and maintained in a facility, a nursing home and a home;

(r) respecting medical and other services to be provided in a facility, a nursing home and a home;

(s) respecting the standard of care to be provided and maintained in a facility, a nursing home and a home;

(t) respecting the sanitation of a facility, a nursing home and a home;

(u) respecting the precautions to be taken with regard to fire hazards in a facility, a nursing home and a home;

(v) respecting building regulations and the submission of plans for renovations and alterations and the form of the Minister's approval;

(w) respecting the granting, cancellation, renewal or suspension of a license;

(wa) respecting the powers and duties of a person appointed pursuant to Section 8B;

(wb) respecting matters that a person appointed pursuant to Section 8B must consider in exercising the person's powers and duties;

(wc) respecting the services and scope of the services to be provided by a person appointed pursuant to Section 8B and any conditions that apply to the exercise of the person's discretion in the scope of the services to be provided;

(x) defining any term contained herein necessary for the carrying out of this Act;

(y) respecting all matters relating to the care and well-being of the residents of a facility, a nursing home and a home;

(z) generally for the better carrying out of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) shall be regulations within the meaning of the Regulations Act. *R.S., c. 203, s. 19; 2007, c. 9, s. 12; 2010, c. 17, s. 6.*

