

Ontario Health Coalition

Comparison of Public Hospitals Act to Independent Health Facilities Act

October 8, 2013

Item	Under Public Hospitals Act	Under IHFA	Comparison
<p>Power to approve new facilities, and sell, lease or dispose of facilities.</p>	<p>Minister must approve new hospitals.</p> <p>Minister must approve articles before they are filed under the Not-for-Profit Corporations Act. (These establish the name and location of the hospital, among other provisions.)</p> <p>Minister must approve expansions, new facilities and sale, lease, mortgage or disposal of same, and dissolution of hospital corporations.</p>	<p>Minister may designate facility or classes of facilities to be IHFs. 30-days notice of such a designation must be published in the Ontario Gazette. Cabinet must approve such designations.</p> <p>OR</p> <p>The Director (appointed by the Minister) may conduct RFPs for new licenses for IHFs. The Director may issue a license to open an IHF at his/her discretion.</p> <p>AND</p> <p>A person who is licensed to operate an IHF may apply to the Director to amend the limitations on the license to expand the list of services they provide. If the Director refuses, the IHF can appeal the decision.</p> <p>The Director can direct an IHF to cease providing a service if (s)he</p>	<p>There is a lot more leeway for the Director to establish, license and expand IHFs on his/her own. Hospitals must be approved by the Minister.</p> <p>IHF's can appeal many decisions to the Board and ultimately to Divisional Court. In practice, attempts to revoke or suspend licences in IHFs by the Ministry are settled by negotiation after appeal to the Board, according to the Ontario Auditor General's 2012 report.</p>

		<p>has reasonable grounds to believe the service is or will be provided in a manner that is prejudicial to the health, safety or welfare of any person or under certain other conditions. The IHF can appeal to the Board and ultimately to Divisional Court.</p> <p>The Director can revoke, suspend or refuse to renew a licence if the IHF is in breach of the license, legislation or regulations, and in other specific circumstances.</p> <p>The Minister can direct the Director to revoke or refuse to renew a licence in specific circumstances (the conditions in the Act do not include quality of care).</p> <p>The Director can authorize the relocation of an IHF and transfers of licenses. IHFs can appeal decisions to refuse to transfer their licenses, so can the transferees.</p> <p>By laws of the IHF corporation are not subject to the Minister's (or the Director's) approval.</p>	
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<p>Powers of Board</p>	<p>Powers of the Boards of Directors of Public Hospitals cannot contravene any other Act.</p> <p>Boards of Directors must pass by-laws as prescribed by the regulations, subject to approval by Cabinet.</p> <p>Term limits of 5-years are prescribed in the Act for Board Members. Special classes of Board Members are specified.</p> <p>Notice of meetings of members of the hospital corporation are required to be publicized.</p> <p>The Board may determine hospital privileges, appoint physicians and revoke or suspend appointments for medical staff.</p>		<p>IHF's have no requirements of Boards. There are no democratic and few governance provisions for IHFs.</p>

	<p>The regulations require certain medical staff and hospital leadership to be on the board and require that medical staff and employees do not have voting rights.</p> <p>The regulations require medical and nursing advisory committees, emergency plans, and other exceptional circumstance plans.</p>		
<p>Quality of management and administration</p>	<p>Cabinet may appoint an investigator – can investigate anything it considers in the public interest. Public Hospitals cannot impede investigation, or hide or destroy records.</p> <p>Cabinet may appoint a supervisor . The supervisor is granted all the powers of the corporation, its officers and members. The supervisor reports to the Minister.</p> <p>Inspectors may be appointed by the Minister according to the regulations. The inspectors may audit accounts, operations, records and other affairs. The regulations specify the powers of inspectors to access a broad array of records and samples.</p>	<p>The Director can suspend, revoke or refuse to renew a licence if the IHF is operating in a manner prejudicial to the health, safety or welfare of any person; and under specific circumstances outlined in the Act. The IHF can appeal to the Board and ultimately to Divisional Court.</p> <p>The Minister may appoint inspectors.</p> <p>The Director may give notice to the Registrar of the College and the College may appoint inspectors.</p> <p>Inspectors must notify the IHF of the inspection prior to making the inspection.</p>	<p>Oversight and enforcement regimes are totally different.</p> <p>The IHFA has two processes for inspection: through the College of Physicians and Surgeons and via direct order of the Minister. To date, serious quality concerns have been addressed by the Ministry contracting the College to establish pilot programs to inspect some IHFs. The College must notify the IHF prior to making the inspection. Only limited information on inspections has been released publicly.</p> <p>The Director has powers to take over an IHF only in specific circumstances and only for up to one year.</p>

	<p>Inspectors report to the Minister. The Minister may disclose the report to the public.</p> <p>The regulations require the Board of Directors to pass by-laws to specify administration positions and processes to fill these; and processes to appoint auditors.</p> <p>The regulations require fiscal advisory committees that include medical staff in the fiscal and planning functions of the hospital.</p> <p>The regulations require hospitals to provide audited statements to the Minister annually.</p>	<p>The Registrar of the College must report the findings to the Director. (No provision expressly allowing the Minister or Director to disclose publicly.)</p> <p>The Registrar of the College may also appoint assessors.</p> <p>The Director may give notice to the CAO of a health profession licensing/governing body if s(he) considers it necessary that assessments be carried out of the quality and standards of services provided. The CAO of the health profession licensing/governing body must appoint assessors in this case.</p> <p>The assessor shall be provided access to certain medical records and notes, samples, and can interview staff, and observe staff (the latter, with consent of patient(s)). Narrower access to records specified than in the case of inspectors, investigators and supervisors under PHA.</p> <p>Inspectors appointed by the Minister have right to enter the facility and inspect, access documents (different list than</p>	<p>The Public Hospitals Act gives the Minister power to appoint investigators, supervisors and inspectors with access to a very broad array of documents and samples.</p> <p>There are no fiscal advisory committees and no medical staff required in fiscal planning of IHFs.</p>
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Quality of care	<p>Cabinet can appoint an investigator as above.</p> <p>Cabinet can appoint a supervisor as above.</p> <p>The Minister can appoint inspectors as above.</p> <p>Provisions exist in the legislation: for medical advisory committees to be established re. quality of care; notification to the College re. quality of practice concerns; requirement for processes to be followed to deal with quality of care concerns and report actions taken; set term limits for medical staff appointments; set time limits for medical advisory committees to make recommendations.</p> <p>The regulations require medical and nursing advisory committees and specify what they must do.</p> <p>The regulations require</p>	<p>The regulations specify that IHFs must appoint a quality advisor.</p> <p>In some cases, the licensee (ie. owner of the IHF) can appoint him/herself to be the quality advisor.</p> <p>The quality advisor chairs the quality advisory committee.</p>	<p>In general, IHFs are required to provide services to "generally accepted standards" in the regulations. This is much less than is required of quality committees and advisory committees in hospitals.</p> <p>It is an obvious conflict-of-interest for the IHF owner (licensee) to appoint him/herself as the quality advisor.</p> <p>Specified reporting requirements to the Colleges are less for IHFs.</p>

	<p>emergency plans and other exceptional circumstance plans.</p> <p>The regulations require reporting of critical incidents, content of such reporting, creation of plans to prevent critical incidents, aggregate critical data reports to quality committees, system to reduce risk and improve quality.</p> <p>The regulations require the hospital Board to set by-laws to establish medical positions and processes for appointments and elections to advisory committees and positions; establish committees of the medical staff, including the duties and powers of such committees, to assess credentials, medical records, patient care, infection control, the utilization of hospital facilities and all other aspects of medical care and treatment in the hospital; establish an occupational health and safety program with specific requirements; establish a health and communicable disease surveillance program; ensure that nurses and nurse managers are included in committees and</p>		
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	<p>other decision-making pertaining to the administrative, financial and planning matters of the hospital.</p> <p>The regulations specify how hospitals may purchase drugs (only from safe providers).</p> <p>The regulations specify how infectious and dangerous patients are to be treated.</p> <p>The regulations specify time limits for physicians to make initial assessments of admitted patients and what must be included in those assessments.</p> <p>The regulations specify safety procedures re. use of anesthesia and surgeries.</p>		
<p>Personal information and records</p>	<p>The Act specifies that personal health information is the property of the hospital and shall be kept in the custody of the Administrator.</p> <p>Transfers of records are prescribed in the legislation.</p> <p>The regulations set out requirements for patient records.</p>	<p>The regulations require IHFs to keep patient records and list what must be in them at minimum.</p> <p>Provisions are made in the regulations for transfers of records in the case of transfer of licence.</p>	<p>Less specific provisions in legislation and regulations for IHFs.</p>

Access to care	The legislation requires hospitals to accept all patients except in specific circumstances.		No similar requirement for IHFs.
User fees		The regulations specify a list of services that are not considered “insured services” and therefore subject to user fees, and those that are considered insured services.	The legal memo from Sack Goldblatt notes that IHFs can more easily have services designated as uninsured and therefore subject to user fees (and already tend to charge more user fees).
Misc.	<p>Burial costs for indigent people must be paid by municipality.</p> <p>Interns must be members of the College of Physicians and Surgeons.</p> <p>Fines can be levied against people who contravene any part of the Act.</p>	<p>Fines can be levied against people who contravene certain sections of the Act and regulations. (Higher limits on fines than in PHA.)</p> <p>The regulations allow Cabinet to exempt health facilities or classes of health facilities from the Act and the regulations, or any part of the Act and regulations.</p>	<p>The IHFA provides for the possibility of higher fines (note: we could find no record of any fines ever being levied) but a narrower set of sections of the Act to which the power to levy these fines pertain.</p> <p>Cabinet can exempt any IHFs from the Act and its regulations, or any part thereof.</p>