



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.*



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Homes for Special Care Regulations

made under Section 19 of the

Homes for Special Care Act

R.S.N.S. 1989, c. 203

O.I.C. 77-1261 (October 11, 1977), N.S. Reg. 127/77

as amended up to O.I.C. 2011-365, (October 4, 2011), N.S. Reg. 284/2011

and including N.S. Reg. 261/2011, effective February 16, 2012

- 1 Regulations made by the Governor in Council, pursuant to the *Boarding Homes Act*, the *Nursing Homes Act*, and regulations made pursuant to clauses (b), (e), (h), (i) and (j) of Section 33 of the *Social Assistance Act*, which regulations deal with the setting of standards for homes for the aged and the disabled operated by municipal units, are repealed effective the 1st day of September, 1977.
- 2 These regulations shall come into force on the 1st day of September, 1977.
- 3 These regulations may be cited as the *Homes for Special Care Regulations*.
- 4 (1) “Home for special care” means a nursing home, a home for the aged, a home for the disabled, and a residential care facility.
 - (2) Unless otherwise stated, any reference in these regulations to a home for the aged or a home for the disabled, shall be deemed to be a reference to a home for the aged or a home for the disabled operated pursuant to Section 15 of the Act.
 - (3) A home for the disabled shall include an adult residential centre for mentally handicapped persons and a regional rehabilitation centre for post-mentally ill persons.
 - (4) A residential care facility shall include a community-based residential facility.
 - (5) The term “community based residential facility” means any building or place where persons receive supervisory care in a residential and family environment and the care is provided by persons who are not their parents, and includes all of the following:
 - (a) a group home;
 - (b) a developmental residence;

(c) a small option home.

Subsection 4(5) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

- (6) For the purposes of ~~Section~~ [clauses] 2(j) and 2(m) of the Act, the following are considered to be related by blood or marriage to a person maintaining a place within the meaning of ~~Section~~ [clauses] 2(j) and 2(m) of the Act:

The husband, wife, father, mother, son, daughter, grandmother, grandfather, aunt, uncle, niece, nephew, brother and sister, of a person maintaining a place within the meaning of ~~Section~~ [clauses] 2(j) and 2(m) of the Act; and the father, mother, son, daughter, grandmother, grandfather, aunt, uncle, niece, nephew, brother and sister of the spouse of a person maintaining a place within the meaning of ~~Section~~ [clauses] 2(j) and 2(m) of the Act.

Subsection 4(6) added: O.I.C. 82-786, N.S. Reg. 152/82; replaced: O.I.C. 83-1004, N.S. Reg. 199/83.

Subsection 4(7) added: O.I.C. 82-840, N.S. Reg. 157/82; repealed: O.I.C. 2011-314, N.S. Reg. 261/2011.

- (8) For the purpose of Section 8 of the Act, a cessation of ownership includes any change in the control of a company which owns either directly or indirectly a residential care facility or a nursing home.

Subsection 4(8) added: O.I.C. 84-655, N.S. Reg. 112/84.

5 (1) The primary purpose of community based residential facilities, adult residential centres, and regional rehabilitation centres shall be to encourage, foster, and promote the social, educational and vocational development and well-being of the residents for the purpose of integrating the residents into the community as self-sufficient and independent individuals.

- (2) All matters relating to the administration and operation of a community based residential facility, an adult residential centre and a regional rehabilitation centre, shall be conducted in accordance with the primary purpose as stated in subsection (1) of this Section.

5A (1) Except as provided in subsection (2), a home for special care shall meet the standards of accommodation and care established for homes for special care by the Minister and comply with the policies and procedures established for homes for special care by the Minister.

- (2) A home for special care may adopt its own standards of accommodation and care and policies and procedures for the home.

- (3) If there is an inconsistency between the standards, policies and procedures of the Minister referred to in subsection (1) and standards, policies and procedures adopted under subsection (2), the standards, policies and procedures of the Minister prevail.

Section 5A added: O.I.C. 2011-314, N.S. Reg. 261/2011.

5B A home for special care shall provide the Minister with any information about the home that the Minister reasonably requires.

Section 5B added: O.I.C. 2011-314, N.S. Reg. 261/2011.

- 6 (1) A person proposing to construct, renovate or acquire a building or buildings for the purpose of operating a home for special care shall obtain approval from the Minister for the proposed construction, renovation or acquisition.
- (2) The person seeking approval under this Section shall consult with the Minister or such persons as he may designate, and shall submit to the Minister the information listed in Form I in the Schedule and such other information as the Minister considers necessary.
- (3) The Minister may refuse to approve the construction, renovation or acquisition of a building or buildings for the purpose of operating a home for special care in those cases where the information provided under this Section is not satisfactory to him or where the information indicates that the proposed home will not meet the needs of the persons for whom it is intended.
- (4) A person applying for a license for a nursing home or residential care facility shall make the application on Form II contained in the Schedule and the application shall contain the information prescribed on the form and such other information as the Minister may request.
- (5) A license for a nursing home or a residential care facility will not be issued to a person who has failed to obtain the approval required pursuant to this Section.
- (6) Subject to Section 11 any approval or license given pursuant to the Act or these regulations for the operation of a home for special care is not to be construed as a commitment by the Minister giving the approval or the license to provide funds to the home or to share in the expenses of the home.

7 (1) A license for a home for special care licensed by the Minister of Health and Wellness must be in Form ~~HH~~A[IIIB].

(2) A license for a home for special care licensed by the Minister of Community Services must be in Form ~~HH~~B[IIIA].

Section 7 replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

Section 8 repealed: O.I.C. 84-173, N.S. Reg. 17/84.

9 (1) Except as provided in subsection (2), a license issued pursuant to the Act shall be displayed in the home for special care in a conspicuous place inside the main entrance of the home.

Subsection 9(1) amended: O.I.C. 2011-314, N.S. Reg. 261/2011.

(2) A license issued for the operation of a community based residential facility must be displayed in the home and made available upon request.

Subsection 9(2) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

10 Subject to Section 55 the Minister shall not issue or renew a license in respect of a nursing home or a residential care facility that does not comply with the requirements of the Act and these regulations.

- 10A (1)** The Minister may refuse to issue a license to a person who owns either directly or indirectly more than twenty percent of the total of licensed beds in all licensed residential care facilities in Nova Scotia, or more than twenty percent of the total of licensed beds in all licensed nursing homes in Nova Scotia.
- (2)** The Minister in exercising his discretion pursuant to subsection (1) may consider the extent to which permanent residents of Nova Scotia own a residential care facility or a nursing home either directly or indirectly, or are shareholders in a company which owns a residential care facility or a nursing home either directly or indirectly, and where the Minister is satisfied that the majority of the shares or the majority of voting rights are owned or held either directly or indirectly by persons who are permanent residents of Nova Scotia, he may issue a license, provided that the residential care facility or the nursing home has complied with the provisions of the Act and these regulations.

Section 10A added: O.I.C. 84-655, N.S. Reg. 112/84.

- 11 (1)** This Section applies to homes for special care which are operated by a municipal unit or which are operated by a charitable or non-profit organization.
- (2)** In this Section
- (a)** “municipal unit” means a municipality to which the Municipal Act applies, a city or a town, and includes two or more municipal units that enter an agreement in compliance with [sub]section 15(1) of the Act;
 - (b)** “proposal” means a proposal to erect, acquire, purchase, alter, add to, improve, furnish, or equip a building as a home for special care and includes the purchasing and acquiring of land therefor;
 - (c)** “approval” means an approval signed by the Minister;
 - (d)** “grant” means a grant of assistance, or reimbursement.
- (3)** Where a person or a municipal unit makes a proposal to the Minister, the proposal shall contain documentation and evidence to verify all costs and expenses involved in the proposal and such other information as the Minister may request.
- (4)** The Minister may approve the whole proposal or any part of the proposal.
- (5)** The Minister may, as he deems appropriate, make conditions, qualifications, restrictions or requirements in respect of, or as a prerequisite to an approval of a proposal.
- (6)** The Minister shall not give an approval of a proposal unless he is satisfied that
- (a)** there is a need for the type of home that is being proposed;
 - (b)** the home will be constructed and maintained by the municipal unit or person that made the proposal; and

- (c) the home will be constructed, operated and maintained in the manner required by all applicable statutes and regulations.
 - (7) Where the Minister has given an approval of a proposal, he may give a grant to the municipal unit or the person that made the proposal.
 - (8) The Minister may give a grant in the form, manner and amount he deems appropriate.
 - (9) All grants made pursuant to these regulations shall be paid out of the appropriation of the Department of Community Services entitled, "Construction Assistance - Homes for Special Care".
- 12 The Minister may establish admissions committees and classification committees for homes for special care and may prescribe the duties and functions of these committees.
- 13 (1) The Minister may establish a committee to review decisions of an admissions committee or a classification committee in those cases where there is a dispute as to the type of care or type of home to which a person should be admitted and he may prescribe the procedures that shall be followed by the review committee.
- (2) The review committee established pursuant to subsection (1) of this Section shall not consist of the same persons who were members of the admissions committee or the classification committee that made the decision which is being reviewed.
- 14 (1) For the purpose of this Section, "Director" means a person designated by the Minister of Community Services.
- (2) No person whose daily maintenance costs in a home for special care are being paid in whole or in part by the Department of Community Services, or by a municipal unit pursuant to the provisions of the Social Assistance Act shall be admitted to or remain in a home for special care without the prior approval of the Director.
- (3) No person shall be admitted to a community based residential facility, a home for the aged or home for the disabled without the prior approval of the Director, provided however, that a person requiring temporary emergency care, but not hospital care may be admitted to a home by the Administrator pending the written approval of the Director.
- 15 (1) Unless the Minister otherwise orders, no person who requires nursing care may be admitted to or maintained in a residential care facility.
- (2) No person who requires hospital care shall be admitted to or maintained in a home for special care.
- (3) A residential care facility may provide supervisory care and personal care to the persons admitted to and maintained in the facility.

- (4) A home for the aged and a home for the disabled may provide supervisory care, personal care and nursing care to persons admitted to and maintained in the home, provided however that
- (a) those persons who require nursing care shall be maintained in a section of the home which complies with all of the requirements of the Act and these regulations which relate to nursing homes except those requirements that deal with licensing; and
 - (b) the section of the home in which persons who require supervisory or personal care are maintained complies with all the requirements of the Act and these regulations which relate to residential care facilities except those requirements which deal with licensing.
- (5) The Administrator of the home for special care shall take whatever action is necessary to remove from the home any resident who, in the opinion of the inspector, is not a suitable person to be maintained in the home, and shall take whatever steps are necessary to place the resident in the type of accommodation recommended by the inspector.
- 16 Any decision relating to the type of care a person requires or the type of home for special care that is appropriate for a person to be admitted to, may be reviewed by the review committee established pursuant to Section 13 of these regulations.
- 17 (1) A person appointed by the Minister of Community Services as an inspector pursuant to Section 9 of the Act may at any reasonable time enter and inspect a home for the aged or a home for the disabled 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.
- (2) Every residential care facility, home for the aged and home for the disabled shall be inspected at least once a year by an inspector appointed pursuant to the Act.
 - (3) Every nursing home and nursing section of a home for special care shall be inspected regularly and at least twice a year, by an inspector appointed pursuant to the Act.
 - (4) A member of the staff of the Department of Community Services who is requested by the Minister to conduct an emergency examination of a home for special care or resident thereof, shall have all the rights and responsibilities of an inspector under the Act and these regulations.
- 18 (1) Every home for special care shall have sufficient staff that will ensure:
- (a) compliance with the requirements of these regulations; and
 - (b) reasonable hours of work and holidays for each member of the staff.
- (2) In every nursing home and nursing care section of a home for special care where there are less than thirty residents, there shall be at least one registered nurse on

duty for no less than eight hours every day, and in the absence of the registered nurse, there shall be a person on duty in the home who is capable of providing emergency care.

- (3) In every nursing home and nursing care section of a home for the aged where there are thirty or more residents, there shall be at least one registered nurse on duty at all times.
- (4) In every residential care facility other than a small option home, there shall be a staff member who is capable of providing necessary emergency care on duty in the home at all times.

Subsection 18(4) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

- 19 (1)** Every home for special care shall have an administrator who shall be responsible for
- (a) the overall daily management of the home;
 - (b) ensuring that the home complies with the requirements of these regulations;
 - (c) ensuring that the residents receive the standard of care prescribed in the Act and these regulations;
 - (d) staff orientation and inservice training programs; and
 - (e) planning and implementing programs and activities in the home and community which provide social, educational, vocational, religious and recreational opportunities for the residents.
- (2) In addition to subsection (1), the administrator of a community based residential facility or a home for the disabled shall be responsible for ensuring that the programs and activities of the home are in compliance with the primary purpose as stated in [sub]section 5(1).
- (3) The administrator of a home for special care must have the education and experience to enable them to perform the responsibilities set out in subsections (1) and (2).

Subsection 19(3) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

Subsection 19(4) repealed: O.I.C. 90-763, N.S. Reg. 158/90.

Subsection 19(5) added: O.I.C. 81-1091, N.S. Reg. 115/81; repealed: O.I.C. 90-763, N.S. Reg. 158/90.

20 In addition to the requirements set out in Sections 18 and 19, every home for special care shall have adequate and competent staff to provide any services the Minister requires for the home, including all of the following:

- (a) food service;
- (b) domestic and maintenance services;
- (c) program and activity services;

(d) administrative support services.

Section 20 replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

- 20A (1)** The operator of the home for special care shall be responsible to ensure that essential services continue to be provided to and for the residents of the home whenever there is a reduction in the number of staff available to serve the residents occasioned by or as a result of labour-management dispute or other cause.
- (2)** For the purposes of this Section, “essential services” means services which are necessary to maintain and protect the physical and mental conditions of the residents of the home for special care and the safety and security of the home for special care.

Section 20A added: O.I.C. 82-840, N.S. Reg. 157/82.

20B The operator of a home for special care shall ensure that there is opportunity for management and employees of the home, on a regular basis, to meet together to discuss the operation of the home as it relates to the care and wellbeing of the residents and the safety and security of the home.

Section 20B added: O.I.C. 82-1216, N.S. Reg. 217/82.

20C The operator of a home for special care shall ensure that there is opportunity for management and the residents of the home to meet together on a regular basis to discuss the operation of the home as it relates to the care and well being of the residents and the safety and security of the home.

Section 20C added: O.I.C. 84-267, N.S. Reg. 43/84.

20D Every home for special care shall carry adequate liability insurance, and proof of the liability insurance coverage shall be submitted with the application for a license to operate a home for special care and with every renewal thereof and at such other times as the Minister may require.

Section 20D added: O.I.C. 86-763, N.S. Reg. 152/86.

21 It is a term and condition of every license that the licensee shall comply with the Acts and regulations, and any orders or directions of an appropriate authority, respecting fire, safety, health and sanitary requirements.

Section 21 replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

- 22 (1)** Every home for special care shall have suitable space, both indoors and outdoors apart from bedrooms, for the relaxation of the residents and reception of visitors.
- (2)** Every home for special care shall have social, educational, vocational, religious and recreational programs and activities in accordance with the interests and abilities of residents.
- (3)** Residents shall be encouraged by the staff of a home for special care to join with other members of the home in various leisure time activities.
- (4)** A resident of a home for special care shall have the freedom of attending the

church of his choice and no resident shall be deprived of the right to have visits from a clergyman of his choice.

- (5) No resident shall be deprived of the right to have visitors during reasonable hours of the day.
 - (6) Attendance at religious services held in a home for special care shall be on a voluntary basis.
 - (7) Residents in a home for special care shall be given the opportunity to work in the home or the community if they are able, but in no circumstances shall a resident be forced to work.
 - (8) For the purpose of complying with Section 5, residents in a home for the disabled and a community based residential facility shall be encouraged to find employment, attend school or a training course or to participate in a rehabilitation program.
- 23 (1) The administrator of a home for special care shall keep a record for each person admitted to the home containing the information listed in Form IV in the Schedule.
- (2) In addition to the information listed in Form IV, all of the following information must be kept in each resident's file in a home for special care licensed by the Minister of Health and Wellness:
- (a) the care plan for the resident;
 - (b) the treatment plan for the resident;
 - (c) any changes in the resident's condition, or any unusual occurrence related to their condition.

Subsection 23(2) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

- (3) No person without the consent of the Minister shall destroy, alter, deface or obliterate any entry in a record respecting a resident within five years after the resident has left the home for special care or has died.
- (4) In addition to the information listed in Form IV, all of the following information must be kept in each resident's file in a regional rehabilitation centre, adult residential facility and community based residential facility, with a copy forwarded to the Minister:
 - (a) the individualized plan for the resident prepared under subsection 26(5);
 - (b) an annual review of the resident's individualized plan;
 - (c) any changes in the resident's condition, or any unusual occurrence related to their condition.

Subsection 23(4) added: O.I.C. 2011-314, N.S. Reg. 261/2011.

- 24 (1)** The records for all residents of a home for special care must be kept in a safe and secure location and must be accessible at all times to the supervisory staff of the home and to inspectors.

Subsection 24(1) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

- (2)** No person shall disclose a record or any part of a record relating to a resident or any information contained therein except in the course of his duty or when required by law.
- 25 (1)** Every home for special care shall have a medical health advisor who shall be a duly qualified medical practitioner.
- (2)** Where the inspector is of the opinion that the home is too large to be adequately serviced by one physician, he may request that an additional medical practitioner be retained to service the medical needs of the home.
- (3)** The medical health advisor for the home for special care shall
- (a)** report in writing to the administrator of the home any instance in which, in his opinion, the medical care being provided to a resident is inadequate;
- (b)** compile and make available such information as the Minister may require with respect to the residents; and
- (c)** advise the owner and/or the administrator of the home in all matters relating to the physical and mental health of the residents of the home.
- 26 (1)** Every resident of a home for special care has the right to be examined and treated by a qualified medical practitioner of his own choice.

- (2)** Every resident of a nursing home or a home for the aged shall be personally seen by a qualified medical practitioner at least once every six months and the medical practitioner shall examine the medical records of the resident and determine on each occasion whether the resident requires a physical examination.

Subsection 26(2) replaced: O.I.C. 83-1341, N.S. Reg. 251/83.

- (3)** Every resident of any of the following types of homes for special care must be personally seen by a qualified medical practitioner at least annually:
- (a)** a community based residential facility;
- (b)** a regional rehabilitation centre;
- (c)** an adult residential centre.

Subsection 26(3) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

- (4)** A report of every examination by a qualified medical practitioner performed while the person is a resident in the home shall be placed and remain in the resident's file at the home.

- (5) A home for the disabled and a community based residential facility must develop a written individualized plan for each of its residents to determine the resident's physical, social, medical, educational and vocational needs and the progress the resident is making in respect of the needs.

Subsection 26(5) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

- 27 (1) Every home for special care shall have a plan to cope with the following emergency situations:
- (a) emergency evacuation
 - (b) emergency relocation
 - (c) emergency expansion
 - (d) emergency isolation
- (2) The emergency plan referred to in subsection (1) above shall provide for the implementation of the plan in situations where assistance from local fire departments, police departments, or other persons providing essential services may not be available.
- (3) The emergency plan referred to in subsection (1) must be developed in collaboration with local and Provincial authorities for emergency measures planning, and a copy of the plan must be provided to the Minister.

Subsection 27(3) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

- (4) The emergency plan shall be exercised and revised at least once every three years. In addition, a directory of personnel involved in the execution of the plan shall be maintained and revised as required to ensure that it is kept up to date. Call out procedures using the directory shall be exercised at least once a year.

Subsection 27(5) repealed: O.I.C. 2011-314, N.S. Reg. 261/2011.

- (6) Every staff member shall be thoroughly instructed in the method of evacuation during an emergency situation and shall be familiar with the location of all fire alarm boxes, extinguishers and exits in the home, prior to commencing active duty in the home.
- (7) The administrator of a home shall conduct a fire drill in the home at least once every six months and at such other times as the inspector or the Fire Marshal may require.
- (8) The fire protection equipment such as fire alarms, fire extinguishers and fire doors shall be tested monthly and shall be kept in good working order.
- (9) Every home for special care shall post the evacuation plan for the home and emergency telephone numbers in a conspicuous location in the home.

Subsection 27(9) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

(10) The administrator of a home for special care is responsible for

- (a) training staff and residents on emergency plan procedures and conducting emergency drills with staff and residents; and
- (b) requesting the Fire Marshal to inspect the home on a regular basis in accordance with the requirements of the Office of the Fire Marshal.

Subsection 27(10) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

(11) No person shall be maintained in a home for special care or any part thereof that is not approved by a Fire Marshal with respect to fire safety.

Section 27 replaced: O.I.C. 79-1387, N.S. Reg. 171/79.

28 (1) Where a person is a resident of a home for special care and where his daily maintenance costs in the home are being paid for in whole or in part by public funds, the cost of medical treatments, medical services, drugs, eye glasses, dentures, prosthetic appliances, crutches, wheelchairs and other devices which are not paid for by the Medical Services Insurance program, shall be paid for by the municipal unit, corporation or person operating the home provided that the cost of these items is included in the per diem rate of the home; and where the cost of these items is not included in the per diem rate of the home, the municipal unit in which the person has settlement as determined by the *Settlement Act* shall be consulted and requested to pay the cost.

(2) At the time of admitting a resident to a home for special care, there shall be provided to the residents, a schedule showing those services that are included in the per diem rate of the home and those services that are not included in the per diem rate of the home. The schedule shall show the fee that will be charged for those services that are not included in the per diem rate, and shall be displayed in a conspicuous place in the home.

Subsection 28(2) amended: O.I.C. 2010-62, N.S. Reg. 27/2010.

Subsection 28(3) repealed: O.I.C. 93-404, N.S. Reg. 73/93.

(4) Where a person is requested to pay a fee which is in addition to the per diem rate, he may appeal to the Minister. The Minister may make a direction to the home with respect to the payment of the fee.

Subsection 28(5) repealed: O.I.C. 86-763, N.S. Reg. 152/86.

28A For the purpose of these regulations unless the context otherwise requires, the phrase "per diem rate" means the per diem rate which may be charged by a home for residents, the cost of whose residence in a home for special care is required to be supported and paid in whole or in part by public funds.

Original Section 28A added: O.I.C. 86-763, N.S. Reg. 152/86; replaced: O.I.C. 87-63, N.S. Reg. 16/87. Subsection 28A(1) renumbered Section 28A; Subsections 28A(2) & (3) repealed: O.I.C. 93-404, N.S. Reg. 73/93.

28B The following provisions apply on, from and after April 1, 1993 with respect to per diem rates:

- (a) the per diem rate for a residential care facility or a home for the disabled shall be determined by the Minister of Community Services having regard to the best interests of the resident;
- (b) the per diem rate for a nursing home and a home for the aged shall be determined by the Minister of Health having regard to the best interests of the resident;
- (c) no fee may be charged in excess of the per diem rate established pursuant to this Section;
- (d) the Minister of Community Services may refuse to issue a license and may cancel or suspend a license of a residential care facility or a home for the disabled where the facility or home purports to establish a per diem rate other than pursuant to this Section;
- (e) the Minister of Health and Wellness may refuse to issue a license and may cancel or suspend a license of a nursing home or a home for the aged where the nursing home or home for the aged purports to establish a per diem rate other than pursuant to this Section.

Section 28B added: O.I.C. 87-63, N.S. Reg. 16/87; replaced: O.I.C. 93-404, N.S. Reg. 73/93.

Sections 28C to 28U repealed: O.I.C. 93-404, N.S. Reg. 73/93.

28C The per diem rate charged for accommodation costs by a home for special care licensed by the Minister of Health and Wellness may be charged at the beginning of each month for the following month, but a nursing home or home for the aged shall not require a resident of the home to pay in advance for any accommodation costs in addition to the per diem rate of the home.

Section 28C added: O.I.C. 2010-62, N.S. Reg. 27/2010.

28D (1) An administrator of a home for special care licensed by the Minister of Health and Wellness shall not require a resident of the home to pay in advance for services and shall not refuse to admit a person to the home because the person has not paid in advance for services.

(2) In subsection (1), “services” includes all of the following:

- (a) hairdressing;
- (b) barbering;
- (c) dry-cleaning;
- (d) telephone service in a resident’s room;
- (e) tax return preparation;
- (f) transportation services;
- (g) Internet or television services.

Section 28D added: O.I.C. 2010-62, N.S. Reg. 27/2010.

29

Subsection 29(1) repealed: O.I.C. 2011-314, N.S. Reg. 261/2011.

- (2) The administrator of a home for special care shall ensure that the home is kept clean and that a high standard of housekeeping is maintained.

29A (1) The administrator of a home for special care is responsible for ensuring the home is inspected at regular intervals as required by law.

- (2) An administrator shall permit an inspector appointed under any statutory authority to conduct an inspection under subsection (1) at any time an inspector considers it necessary.

Section 29A added: O.I.C. 2011-314, N.S. Reg. 261/2011.

30 The exterior of a home for special care shall be maintained in a good state of repair and the grounds of the home shall be kept clean and free from debris.

31 All furnishings and equipment of a home shall be maintained in a good state of repair.

32 A home for special care shall not maintain a person in the home or part of the home that is not approved as meeting sanitary requirements.

Section 32 replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

33 (1) Where practical and feasible, a resident in a home for special care who has a communicable disease shall be maintained in an isolated area, and proper isolation techniques shall be observed in all aspects of the care of the resident.

- (2) Notwithstanding the provisions of subsection (1), any resident of a nursing home or a nursing section of a home for special care, who has a communicable disease, shall be maintained in an isolated area and proper isolation techniques shall be observed in all aspects of the care of the resident.

34 (1) Except as provided in subsection (1A) every home for special care shall have facilities and equipment that

- (a) are adequate for preparing, serving and storing food; and
(b) meet the requirements of the appropriate authority.

Subsection 34(1) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

(1A) A small option home is exempt from compliance with subsection (1) until January 1, 2013.

Subsection 34(1A) added: O.I.C. 2011-314, N.S. Reg. 261/2011.

(2) The food preparation area of every nursing home, home for the disabled and home for the aged shall be at least 10 square feet per resident.

35 (1) Every nursing home shall have a dining room which is capable of accommodating a minimum of 50 percent of the residents in the home. At least 15 square feet shall be allowed per resident.

- (2) Every home for the aged and adult residential centre shall have a dining room which is capable of accommodating 100 percent of the residents who require personal or supervisory care and 50 percent of the residents who require nursing care. At least 15 square feet shall be allowed per resident.
- (3) Every residential care facility shall have a dining area which accommodates 100 percent of the residents of the home.

36 (1) Every home for special care shall provide to its residents

- (a) nutritionally well balanced meals served at morning, noon and evening;
 - (b) meals which are in accordance with the likes, dislikes and eating habits of the residents and which provide the recommended dietary allowances according to Canada's Food Guide;
 - (c) an afternoon and bedtime snack.
- (2) ~~Subsection [Clause] (1)(a)~~ does not apply in those cases where the residents have their meals provided for them at their place of work or training.
- (3) In every nursing home, home for the aged, and home for the disabled, the administrator of the home shall designate a staff member as the supervisor of food services for the home.

Subsection 36(3) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

(4) A supervisor of food services for a home is responsible for all of the following:

- (a) planning menus and special diets;
- (b) ensuring the menus are evaluated by a dietician to determine whether they are in accordance with the likes, dislikes, eating habits and recommended dietary allowances of the residents;
- (c) maintaining a dated record of daily menus;
- (d) consulting with the dietician on all matters relating to planning, preparing and storing food.

Subsection 36(4) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

- (5)** Every home for special care must maintain a suitable food service accounting system, with procedures that are established and followed for purchasing, receiving and inventorying food, including recording the number of meals served to residents and staff and any other complimentary meals.

Subsection 36(5) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

Subsection 36(6) repealed: O.I.C. 2011-314, N.S. Reg. 261/2011.

- 37** Where there is bulk purchasing of drugs in a home for special care, a qualified pharmacist shall be employed on a full time or part time basis as is appropriate to

supervise the receipt and storage of bulk pharmaceutical orders and to provide consultation relating to the storage and dispensing of drugs.

- 38 (1)** Except as provided in subsections (4) and (5), all drugs in a home for special care shall be stored in a separate storage area and no drugs shall be stored or kept in a resident's room.

Subsection 38(1) amended: O.I.C. 2011-314, N.S. Reg. 261/2011.

- (2) The storage area for drugs shall be kept locked at all times and only the pharmacist for the home, the administrator of the home and persons authorized by the administrator shall have access to the drug storage area.
- (3) The temperature and lighting in the storage area shall be appropriate for the type of drugs that are being stored and there shall be refrigeration facilities for those drugs requiring refrigeration.
- (4) The administrator of a home for special care licensed by the Minister of Community Services may authorize a resident to store drugs locked in the resident's room if
- (a) the resident's individualized plan contains a written clinical assessment authorizing the storage; and
- (b) the requirements set out in policy and standards for the home are met.

Subsection 38(4) added: O.I.C. 2011-314, N.S. Reg. 261/2011.

- (5) The administrator of a home for special care licensed by the Minister of Health and Wellness may authorize a resident to store drugs locked in the resident's room if
- (a) the resident's care plan or treatment plan contains a written clinical assessment authorizing the storage; and
- (b) the requirements set out in policy and standards for the home are met.

Subsection 38(5) added: O.I.C. 2011-314, N.S. Reg. 261/2011.

- (6) An administrator who authorizes a resident to store drugs in the resident's room in accordance with subsection (4) or (5) shall ensure that the drugs are safely stored at all times.

Subsection 38(6) added: O.I.C. 2011-314, N.S. Reg. 261/2011.

- 39 (1)** Where there is bulk purchasing of drugs in a home for special care, records shall be kept which comply with the requirements of the *Narcotics Control Act* [(Canada)] and the *Food and Drug Act* [(Canada)] and which indicate
- (a) the name and quantity of bulk drugs received, the date the drugs are received and the signature of the person receiving the drugs; and
- (b) the number of residents who are receiving a drug and the daily dosage.

(2) There shall be a regular weekly review by the pharmacist to verify that the balance of drugs that remains is correct.

(3) Drugs which are purchased in bulk in a home may be dispensed only to persons who are residents of the home.

Subsection 39(3) added: O.I.C. 85-695, N.S. Reg. 106/85.

40 There shall be a record kept for each resident of a home for special care who is receiving drugs, and the record shall indicate the resident's name, address, age, sex, weight, food and drug sensitivities and allergies; the type and dosage of drug; the manner in which the drug is to be administered; the physician who prescribed the drug; the date of the prescription and the date of discontinuance.

41 (1) Except as provided in subsections (2) and (3), all orders for medication must be in writing and must be signed by 1 of the following:

(a) a medical practitioner registered under the *Medical Act*;

(b) a nurse practitioner registered under the *Registered Nurses Act*;

(c) if appropriate protocols have been established under the *Pharmacist Drug Prescribing Regulations* made under the *Pharmacy Act*, a pharmacist registered under the *Pharmacy Act*.

(2) In a home for special care where a registered nurse is required by Section 18 to be on duty, a registered nurse may accept a verbal order for medication from any of the persons listed in subsection (1) in any of the following circumstances:

(a) in an emergency;

(b) when the medication does not require a prescription.

(3) In a home for special care where a registered nurse is not required by Section 18 to be on duty, the administrator, or a person designated by the administrator who is qualified to administer medications in the facility, may accept a verbal order for medication from any of the persons listed in subsection (1) in any of the following circumstances:

(a) in an emergency;

(b) when the medication does not require a prescription.

(4) A verbal order for medication accepted under subsection (2) or (3) must be set down in writing and signed by the medical practitioner, nurse practitioner or pharmacist who issued the verbal order no later than 72 hours after the verbal order was issued.

Section 41 replaced: O.I.C. 2011-164, N.S. Reg. 181/2011.

Section 41A repealed: O.I.C. 2010-13, N.S. Reg. 9/2010.

42 (1) The administrator of the home shall be responsible for ensuring that all

medications are properly administered to residents in the home.

- (2) No person shall administer any drug to a resident of a home for special care unless he has been designated by the administrator as a person who is competent to do so.
- (3) In those homes where there is a director of nursing, the administrator shall consult with that director for the purpose of carrying out his responsibilities pursuant to subsection (1) and subsection (2).

Subsection 42(3) added: O.I.C. 85-695, N.S. Reg. 106/85.

- 43 (1) In homes for special care licensed by the Minister of Health and Wellness, each medication received by a resident must be reviewed at least monthly to determine whether the medication should be discontinued or altered.
- (2) In homes licensed by the Minister of Community Services, each medication received by a resident must be reviewed based on the resident's individual needs as assessed and recommended by a qualified medical practitioner, nurse practitioner or pharmacist.
- (3) The administrator of a home for special care is responsible for ensuring that a review required under this Section is completed and shall consult regularly about the resident continuing the medication and the resident's use of the medication with any qualified medical practitioner, nurse practitioner or pharmacist involved in the review.

Section 43 replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

- 44 Drugs prescribed for one resident shall not be administered to any other resident.
- 44A (1) Every home for the aged, regional rehabilitation centre, adult residential centre, and nursing home, shall establish a pharmacy committee consisting of at least the following persons:
 - (a) the administrator of the home;
 - (b) the home medical advisors;
 - (c) a practicing pharmacist designated by the administrator of the home;
 - (d) the director of nursing in those homes where there is a director of nursing;
 - (e) the dietician employed by the home.
- (2) The pharmacy committee shall meet regularly to establish and monitor guidelines consistent with these regulations in relation to the storage, administration and control of drugs in the home.

Section 44A added: O.I.C. 85-695, N.S. Reg. 106/85.

- 45 (1) No single bedroom in a nursing home, a home for the aged, or a home for the disabled shall have a floor area of less than one hundred and twenty square feet.

Sixty square feet shall be added for each resident in excess of one who is accommodated in a bedroom.

- (2) Unless the Minister otherwise orders, a bedroom for a resident in a residential care facility shall have a floor area of at least 100 square feet, and if more than 1 resident is accommodated in a bedroom, the bedroom must have an additional 50 square feet for each additional resident.

Subsection 45(2) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

- (3) Notwithstanding subsections (1) and (2), no bedroom in a home for special care shall accommodate more than four residents.
- (4) Every resident in a home for special care shall be provided with a separate bed, except married couples, who may be provided with one doublesized bed if they so desire.
- (5) Unless the Minister otherwise orders, a basement room with a floor that is lower than 3 feet below ground level in a home for special care shall not be used as a bedroom for a resident.

Subsection 45(5) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

- (6) No resident or staff member of a home for special care shall be maintained in the attic of a home.
- (7) Subject to subsection (8), no resident of a home for special care shall be maintained in accommodation which is located at a level higher than the second floor above ground level at any point of the home unless there is a passenger elevator which services the ground level and all levels above ground level of the home.

Subsection 45(7) added: O.I.C. 83-1341, N.S. Reg. 251/83.

- (8) Homes which were licensed prior to the enactment of subsection (7) shall not be required to comply with the provisions of that subsection as a condition of any further uninterrupted licensing provided that residents were being maintained in the accommodation described in subsection (7) prior to the enactment of that subsection.

Subsection 45(8) added: O.I.C. 83-1341, N.S. Reg. 251/83.

- 46 (1) All rooms in a home for special care for the use of residents shall be kept clean, well ventilated, and free from offensive odours.
- (2) All rooms in a home for special care which are used by aged persons or person receiving nursing care, shall be maintained at a temperature of not less than 22 degrees Celsius during the day and not less than 20 degrees Celsius during the night.
- (3) Where a resident has his own bedroom the temperature shall be in accordance with the resident's personal preference, if this is feasible.
- (4) Every resident shall be provided with adequate drawer space, a bedside table and

adequate closet space in which to hang his clothing.

- (5) Every resident of a home for special care shall be allowed to bring such furnishings for his bedroom as is appropriate, having regard to the size of the room and the number of other residents in the bedroom.
 - (6) All beds and mattresses for the use of residents in a home for special care shall be clean and comfortable. Bed linen and blankets shall be kept clean and shall be sufficient for comfort.
 - (7) Clean and dry towels shall be available at all times to the residents of a home for special care.
 - (8) Each resident shall be provided with clean bed linen at least once a week, and more frequently if required.
- 47 Every home for special care shall have at least one toilet and basin for each six residents and at least one bath for each ten residents.
- 48 (1) Every home for special care shall provide for the laundering of items belonging to the home and the laundering of the clothing of the residents and shall also provide facilities so that those residents who are capable may launder their own clothing.
- (2) Laundry facilities shall be located in a place that will ensure the maintenance of sanitary conditions in the home.
- 49 The administrator of a home for special care shall ensure that every resident has his own clothing of the correct size and which is clean, neat, in good repair, suitable for the climate and appropriate for the resident.
- 50 Every home for special care shall have an electrical system which is approved by a certified electrician and which conforms to the *National Building Code of Canada*.
- 51 Every home for special care shall have a heating system which is adequate to keep the home at a comfortable temperature and which is approved by the Fire Marshal.
- 52 (1) All doors in a home for special care leading to fire escapes shall remain unlocked from the inside at all times.
- (2) Except in accordance with standards and policies established for the home by the Minister and with the authorization of the administrator of the home, a staff member of a home for special care shall not do any of the following:
- (a) lock a resident in the resident's bedroom or any other room in the home;
 - (b) use restrictive procedures.

Subsection 52(2) replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

- 53** If an administrator of a home for special care believes that a resident has been mishandled or mistreated by a member of the staff, he shall immediately suspend the member from duty.
- 54** Where there is a conflict between the provisions of the Act and these regulations and the bylaws of a corporation which is operating a home for special care, the provisions of the Act and these regulations shall apply.
- 55** (1) Every home for special care which was in operation at the time the Act came into force shall comply with the provision of these regulations in the manner and to the extent prescribed by the Minister.
- (2) The Minister may waive the requirement of compliance with these regulations for those homes for special care which were in operation at the time the Act came into force provided that
- (a) the residents of the home are receiving a high standard of care; and
- (b) the waiving of these regulations will not be detrimental to the wellbeing of the residents of the home.

Appointments made under Section 8B of the Act

Application of Sections 56 to 60

56 (1) This Section and Sections 57 to 60 do not apply to a residential care facility licensed by the Minister of Health and Wellness, a home for the aged or a nursing home.

(2) In this Section and Sections 57 to 60,

“appointee” means a person appointed under Section 8B of the Act to manage and administer, or to assist in managing or administering, and generally oversee the operations of a licensee;

“appointment” means an appointment made under Section 8B of the Act.

Section 56 added: O.I.C. 2011-365, N.S. Reg. 284/2011.

Appointment

57 (1) Upon appointment, the Minister may

- (a) fix the remuneration and reimbursement of expenses payable to an appointee; and
- (b) issue a temporary license to an appointee in respect of the home for special care.

(2) An appointee may be appointed without security.

Section 57 added: O.I.C. 2011-365, N.S. Reg. 284/2011.

Notice of appointment

- 58 (1)** The Minister shall create a notice of any appointment made under Section 8B of the Act and send a copy of the notice to the licensee and to the appointee.
- (2)** A notice of appointment shall set out all of the following:
- (a)** the name of the appointee;
 - (b)** the name of the licensee and all homes for special care to which the appointment applies;
 - (c)** the date and time when the appointment becomes effective;
 - (d)** the reasons for the appointment;
 - (e)** any other terms and conditions of the appointment considered necessary by the Minister, including those that end the appointment.

Section 58 added: O.I.C. 2011-365, N.S. Reg. 284/2011.

Powers and duties of appointee

- 59 (1)** An appointee has all the powers and duties of the licensee with respect to the home for special care, including all of the following:
- (a)** occupying, managing, and administering the home;
 - (b)** controlling all assets of the licensee that are necessary for or are used in the operation of the home;
 - (c)** carrying out all of the obligations of the licensee, including any obligations arising from the normal course of operations of the home before and during the period of the appointment.
- (2)** If the licensee is an incorporated body, the appointee has all of the powers and duties of the directors and officers of the incorporated body with respect to the home for special care.
- (3)** While the powers and duties of a licensee and any directors or officers are vested in an appointee, the licensee and the directors or officers shall not exercise those powers or carry out those duties.

Section 59 added: O.I.C. 2011-365, N.S. Reg. 284/2011.

Matters appointee must consider when exercising powers and duties

- 60** All of the following matters must be considered by an appointee when exercising their powers and duties:
- (a)** the compliance requirements of enactments that apply to the licensee, its employees and the home for special care;
 - (b)** compliance with the Minister's and Department of Community Service's policies, directives and standards that apply to the licensee, its employees and the home for special care;

- (c) that the actions of the appointee must be incidental to the attainment of the objects for which the licensee was incorporated, and must be in conformance with the governance requirements of the licensee;
- (d) that the appointee must be able to maintain sufficient control over the operations of the licensee, including the care of its residents, and its premises, accommodation, equipment and homes;
- (e) the terms and conditions set by the Minister for the appointment.

Section 60 added; O.I.C. 2011-365, N.S. Reg. 284/2011.

[Note: References to the Department of Social Services have been updated to the Department of Community Services throughout, in accordance with amendments to the *Public Service Act* made by S.N.S. 1988, c. 30, s. 24.]

[Note: References to the Department of Health and the Minister of Health have been updated to the Department of Health and Wellness and the Minister of Health and Wellness throughout, where necessary, in accordance with Order in Council 2011-15 under the *Public Service Act*, R.S.N.S. 1989, c. 376, effective January 11, 2011.]

Schedule

Form I - Information to be Submitted to the Minister in Accordance with Subsection (2) of Section 6 of the *Homes for Special Care Regulations*

Province of Nova Scotia *Homes for Special Care Act*

- (a) a description of the type of people that will be maintained in the home and the services, activities and programs that will be provided to the residents;
- (b) a description and plan of the physical layout of the home;
- (c) a description of the financial plan for the home; and
- (d) a certificate from
 - (i) an authorized official of the municipality in which the home is located indicating that the home conforms with the zoning bylaws of the municipality; and
 - (ii) the medical health officer of the municipality indicating that the water supply and sewage disposal systems are satisfactory; and
 - (iii) a qualified electrician, a plumber and a heating expert concerning the electrical, plumbing and heating aspects of the home; and
 - (iv) the Fire Marshal.

Form II - Application for a License to Operate a Home for Special Care**Province of Nova Scotia**
Homes for Special for Care Act

1. Name of applicant.
2. Business address of applicant.
3. Type of home for special care:
 - (1) nursing home
 - (2) residential care facility
 - (3) community based residential facility
 - (4) group home.
4. Location of the home for special care.
5. Name of the home for special care.
6. Number of beds in the home for special care.
7. Name of the owner of the home for special care.
8. Name of the person in charge of the daily operation of the home for special care.

The applicant is required to attach to this application the following information (unless the information has been previously submitted) and this information forms part of the application:

- (a) a description of the type of people that will be maintained in the home and the services, activities and programs that will be provided to the residents;
- (b) a description and plan of the physical layout of the home;
- (c) a description of the financial plan for the home;
- (d) a certificate from
 - (i) an authorized official of the municipality in which the home is located indicating that the home conforms with the zoning bylaws of the municipality;
 - (ii) the medical health officer of the municipality indicating that the water supply and sewage disposal systems are satisfactory;
 - (iii) a qualified electrician, a plumber and a heating expert concerning the electrical, plumbing and heating aspects of the home; and
 - (iv) the Fire Marshal.

I, _____, hereby apply for a license to operate a _____ as described above and certify that the information set out in the application is true and correct.

Dated this ____ day of _____ 19__.

signature of applicant or
authorized agent of applicant

Form III repealed: O.I.C. 2011-314, N.S. Reg. 261/2011.

Form IIIA: License for Home For Special Care
Issued by the Minister of Community Services
(Section 5 of the *Homes for Special Care Act*)

This license is granted under the *Homes for Special Care Act* and its regulations, and subject to the provisions thereof, to *(licensee name)* at *(municipality)* in the County of *(county)* to operate a *(type of facility)* for a maximum of *(# of residents)* residents, under the name of *(facility name)* located at *(municipality)* under the following terms, conditions and restrictions:

1. The licensee must comply with the Acts and regulations, and any orders or directions of an appropriate authority, respecting fire, safety, health and sanitary requirements.
2. *(insert additional terms and conditions)*

This license is issued on _____, 20__ *(date)* and expires on _____, 20__ *(date)*.

Minister of Community Services

Form IIIA added: O.I.C. 82-840, N.S. Reg. 157/82; replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

Form IIIB: License for Home For Special Care
Issued by the Minister of Health and Wellness
(Section 5 of the *Homes for Special Care Act*)

This license is granted under the *Homes for Special Care Act* and its regulations, and subject to the provisions thereof, to *(Registry ID#)* at *(municipality)* in the County of *(county)* to operate a *(type of facility – NH, RCF or both)* for a maximum of *(# of residents)* residents, under the name of *(facility name)* under the following terms, conditions and restrictions:

1. The licensee must comply with the Acts and regulations, and any orders or directions of an appropriate authority, respecting fire, safety, health and sanitary requirements.

2. *(insert additional terms and conditions)*

This license is issued on _____, 20____ *(date)* and expires on _____, 20____ *(date)*.

Minister of Health and Wellness

Form IIIB added: O.I.C. 82-840, N.S. Reg. 157/82; replaced: O.I.C. 2011-314, N.S. Reg. 261/2011.

Form IIIC added: O.I.C. 82-840, N.S. Reg. 157/82; repealed: O.I.C. 2011-314, N.S. Reg. 261/2011.

**Form IV - Information to be Entered in the Record of Each Person
Admitted to a Home for Special Care
pursuant to subsection (1) of Section 23 of the
*Homes for Special Care Regulations***

**Province of Nova Scotia
*Homes for Special Care Act***

- (a) the name, address, place and date of birth, medical service insurance number, marital status and religion of the person;
- (b) a copy of the admission forms;
- (c) medical reports respecting the resident including the hospital discharge summary and findings of initial and regular health examinations;
- (d) medications being received by the resident;
- (e) information concerning the eating habits and dietary requirements of the resident;
- (f) the name and address of the resident's physician and the person to be notified in case of death or emergency;
- (g) the date of admission, the date of death or discharge, reason for discharge and an address where the person may be contacted following discharge;
- (h) the discharge form;
- (i) a statement of the means by which the person is being maintained in a home;
- (j) a list of clothing, valuable and personal belongings that the resident has with him on the date of admission;
- (k) the last known place of residence of the person;
- (l) a signed statement from the resident's physician indicating whether or not he intends to

be responsible for the provision of medical services to the resident; and

(m) a plan for funeral arrangements.

Form V repealed: O.I.C. 2008-204, N.S. Reg. 252/2008.

Last updated: 26-06-2012



Protection for Persons in Care Act

CHAPTER 33

OF THE

ACTS OF 2004

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An Act for the Protection of Persons in Care

Short title

1 This Act may be cited as the Protection for Persons in Care Act. *2004, c. 33, s. 1.*

Interpretation

2 In this Act,

(a) "health facility" means

(i) a hospital under the Hospitals Act,

(ii) a residential care facility, nursing home or home for the aged or disabled persons under the Homes for Special Care Act, or

(iii) an institution or organization designated as a health facility by the regulations;

(b) "investigator" means an investigator appointed pursuant to this Act;

(c) "Minister" means the member of the Executive Council assigned responsibility for the administration of this Act by the Governor in Council;

(d) "patient" means a patient as defined in the Hospitals Act;

(e) "resident" means a resident under the Homes for Special Care Act or a resident in a health facility designated pursuant to clause (a)(iii);

(f) "service provider" means a person who provides services to a patient or resident and is employed by, or provides the services on behalf of, a health facility. *2004, c. 33, s. 2.*

Act binds Crown

3 This Act binds Her Majesty in right of the Province. *2004, c. 33, s. 3.*

Duties of administrator of health facility

4 (1) The administrator of a health facility has a duty to protect the patients or residents of the facility from abuse and to maintain a reasonable level of safety for the patients or residents.

(2) The administrator of a health facility shall report to the Minister all allegations of abuse against a patient or resident that come to the knowledge of the administrator. *2004, c. 33, s. 4.*

Duty of service provider

5 (1) A service provider who has a reasonable basis to believe that a patient or resident is, or is likely to be, abused shall promptly report the belief, and the information on which it is based, to the Minister or the Minister's delegate.

(2) The duty to report applies even if the information on which the person's belief is based is confidential and its disclosure is restricted by legislation or otherwise, but it does not apply to information that is privileged because of a solicitor-client relationship. *2004, c. 33, s. 5.*

Duty to report abuse or likely abuse

6 (1) Any person who has a reasonable basis to believe that a patient or resident is or likely to be, abused may report the belief, and the information on which it is based, to the Minister or the Minister's delegate.

(2) A person may report under subsection (1) even if the information on which the person's belief is based is confidential and its disclosure is restricted by legislation or otherwise, but it does not apply to information that is privileged because of a solicitor-client relationship. *2004, c. 33, s. 6.*

Patient or resident may report abuse

7 A patient or resident may report abuse against himself or herself to the Minister or the Minister's delegate. *2004, c. 33, s. 7.*

Minister shall inquire and may appoint investigator

8 (1) On receiving a report of abuse under this Act, the Minister shall inquire into the matter and shall consider whether a more extensive investigation is warranted.

(2) Where, after inquiry, the Minister finds there are reasonable grounds to believe that a patient or resident is being abused or is likely to be abused, the Minister shall appoint an investigator to carry out a more extensive investigation.

(3) As soon as practicable after appointing an investigator, the Minister shall notify the patient or resident that a report of abuse has been made and that an investigation is to be conducted.

(4) Notwithstanding subsection (3), where the patient or resident has a guardian under the Incompetent Persons Act, a person to whom the patient or resident has given authorization under the Medical Consent Act or an attorney under the Powers of Attorney Act to make decisions on patient's or resident's behalf, the notice referred to in subsection (3) is to be given instead to the guardian, person or attorney, as the case may be, unless the Minister determines it is inappropriate to do so based on the nature of the allegations. *2004, c. 33, s. 8.*

Investigation

9 (1) For the purpose of investigating a report of abuse under this Act, an investigator may enter a health facility at any reasonable time, on presenting identification when requested to do so.

(2) An investigator may require any person who is able, in the investigator's opinion, to give information about a matter being investigated to

(a) give the information to the investigator; and

(b) produce for examination or copying any record or other thing, including personal health information that is personal information under the Freedom of Information and Protection of Privacy Act or any other enactment that, in the investigator's opinion, relates to the matter being investigated and that may be in that person's possession or control.

(3) The administrator of a health facility and any person required to give information or produce a record or other thing shall give the investigator all reasonable assistance and all information that the investigator reasonably requires.

(4) A justice of the peace who is satisfied by information on oath that an investigator has been prevented from exercising the investigator's powers under this Section may at any time issue a warrant authorizing the investigator, and any other person named in the warrant, to exercise those powers.

(5) Nothing in this Section abrogates a privilege that may exist because of a solicitor-client relationship. *2004, c. 33, s. 9.*

Report and records

10 (1) On completing an investigation, the investigator shall set out the investigator's conclusions and the reasons for them in a report and give it to the Minister.

(2) When making a report, the investigator shall try, to the fullest practical extent, to involve the patient or resident and to determine and accommodate the patient's or resident's wishes.

(3) The Minister shall retain all records related to an investigation. *2004, c. 33, s. 10.*

Directions by Minister

11 (1) On receiving an investigator's report under Section 9, the Minister may give the administrator of the health facility involved any directions the Minister considers necessary to protect the patient or

resident from abuse.

(2) The Minister shall give a copy of the directions to

(a) the patient or resident about whom the investigation was conducted or, where subsection 8(4) applies, to the guardian, person or attorney referred to in that subsection, as the case may be, unless the Minister determines it is inappropriate to do so based on the nature of the allegations; and

(b) any other person the Minister considers should be notified, having regard to the nature of the abuse reported and the need to protect the patient's or resident's privacy.

(3) Within the time the Minister specifies, the administrator of the health facility shall comply with the Minister's directions and give the Minister a written report describing what action has been taken or will be taken to comply. *2004, c. 33, s. 11.*

Referral by Minister to professional body

12 (1) Where the Minister believes on reasonable grounds that a person has abused a patient or resident or has failed to comply with the duty to report under Section 5, the Minister may refer the matter to the body or person that governs the person's professional status or that certifies, licenses or otherwise authorizes or permits the person to carry on the person's work, profession or occupation.

(2) A body or person that receives a report under subsection (1) shall

(a) investigate the matter to determine whether a professional status review or disciplinary proceedings should be commenced against the person; and

(b) on conclusion of the investigation and any review or proceedings, advise the Minister of the determination under clause (a), the reasons for the determination, and, where applicable, the results of any professional status review or disciplinary proceedings.

(3) Where a referral is made under this Section to a body or person that the Minister considers can deal appropriately with the matter, the Minister may decide not to appoint an investigator under Section 8, or may defer doing so. *2004, c. 33, s. 12.*

No action lies

13 No action or other proceeding may be brought against a person for making a report of abuse under this Act in good faith. *2004, c. 33, s. 13.*

Prohibition of retaliation

14 (1) No administrator of a health facility shall take adverse employment action against a service provider of the facility because that person made a report of abuse in good faith under this Act.

(2) No administrator of a health facility or other person shall alter, interrupt or discontinue, or threaten to alter, interrupt or discontinue, service to a patient or resident or to a person who has made a report of abuse under this Act, or to a relative of either of them who receives services from the facility, because a report of abuse has been made under this Act in good faith. *2004, c. 33, s. 14.*

Delegation by Minister

15 The Minister may delegate to any person any power conferred or duty imposed on the Minister by this Act. *2004, c. 33, s. 15.*

No action lies

16 No action for damages or other proceeding may be brought against the Minister, an investigator or any other person acting under the authority of this Act or engaged in administering it for

(a) anything done in good faith in performing or intending to perform a duty or in exercising or intending to exercise a power under this Act; or

(b) any neglect or default in performing a duty or exercising a power in good faith under this Act. *2004, c. 33, s. 16.*

Offences, penalties and limitation

17 (1) A person who contravenes this Act is guilty of an offence and is liable on summary conviction to

(a) in the case of an individual, a fine of not more than two thousand dollars; and

(b) in the case of a corporation, a fine of not more than thirty thousand dollars.

(2) A person who makes a report of abuse under this Act, knowing it to be false, is guilty of an offence and is liable on summary conviction to a fine of not more than two thousand dollars.

(3) A prosecution under this Act may not be commenced more than two years after the alleged offence is committed. *2004, c. 33, s. 17.*

Regulations

18 (1) The Governor in Council may make regulations

(a) designating institutions or organizations as health facilities for the purpose of this Act;

(b) respecting any other matter the Governor in Council considers necessary or advisable to carry out effectively the purpose of this Act.;

(c) defining any word or expression used but not defined in this Act;

(d) deemed necessary or advisable by the Governor in Council to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the Regulations Act. *2004, c. 33, s. 18.*

Proclamation

19 This Act comes into force on such day as the Governor in Council orders and declares by

proclamation. 2004, c. 33, s. 19.

Proclaimed - August 17, 2007
In force - October 1, 2007



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Personal Health Information Regulations
made under Section 110 of the
Personal Health Information Act
S.N.S. 2010, c. 41

O.I.C. 2012-371 (December 4, 2012, effective June 1, 2013), N.S. Reg. 217/2012
as amended to O.I.C. 2015-137 (April 21, 2015), N.S. Reg. 203/2015

Citation

1 These regulations may be cited as the *Personal Health Information Regulations*.

Interpretation

Definitions for Act and regulations

2 (1) In the Act,

“applicant”, in subsection 102(1) and clauses 103(5)(b) and (c) of the Act, means an individual whose personal health information was the subject of a review under clause 92(2)(a), (2)(b) or (3)(a) of the Act;

“data linkage” means the bringing together of 2 or more records of personal health information to form a composite record;

“electronic health record” means an electronic information system that is approved by the Minister and integrates data from multiple electronic information systems for the purpose of providing a comprehensive record of an individual’s personal health information;

“health information” has the same meaning as “personal health information”.

(2) In the Act and these regulations, “electronic information system” means a computer system that generates, sends, receives, stores or otherwise processes personal health information.

(3) In these regulations, “Act” means the *Personal Health Information Act*.

Additional custodians prescribed

3 The following organizations or classes of organizations are prescribed as custodians for the purposes of subclause 3(f)(x) of the Act:

- (a) a Nova Scotia Hearing and Speech Centre;
- (b) a home care agency that is approved by the Department of Health and Wellness and has a service agreement with a district health authority under the *Health Authorities Act* or with the Izaak Walton Killam Health Centre;
- (c) a home oxygen agency that is approved by and has a service agreement with the Department of Health and Wellness.

Designation of health-care service

4 The following services are designated as health-care services for the purposes of subclause 3(k)(vi) of the Act:

- (a) an assessment under the *Adult Protection Act*;
- (b) the taking of a donation of blood or blood products, bodily parts or other bodily substances from an individual.

Designation of prevailing provisions

5 The provisions set out in the following table are designated for the purposes of subsection 7(3) of the Act:

Act or Regulations	Designated Provision
Any enactment governing a regulated health-profession body	any provision that grants a person the powers, privileges and immunities of a commissioner under the <i>Public Inquiries Act</i>
<i>Adoption Information Act</i>	Section 5
<i>Adult Protection Act</i>	Section 5
<i>Auditor General Act</i>	Section 14
<i>Child Pornography Reporting Act</i>	Section 3
<i>Children and Family Services Act</i>	Sections 23, 24, 25, 26, and 61
<i>Day Care Regulations</i> under the <i>Day Care Act</i>	Subsections 30(1), (2), (3) and (4)
<i>Fatality Investigations Act</i>	Sections 7, 9, 10, 11, 12, subsection 13(3), subsection 14(2), and Section 23

<i>Gunshot Wounds Mandatory Reporting Act</i>	Section 3
<i>Health Act</i>	Section 101
<i>Health Protection Act</i>	Section 15, subsection 16(2), Section 31, subsections 32(1) and (2), clause 32(3)(g), Sections 40, 42 and 50, clause 58(1)(e) and Sections 62 and 65
<i>Homes for Special Care Act</i>	Sections 10 and 11
<i>Homes for Special Care Regulations under the Homes for Special Care Act</i>	Subsections 25(1), (2), and (3)
<i>Juries Act</i>	Section 8
<i>Juries Regulations under the Juries Act</i>	Section 4
<i>Mandatory Testing and Disclosure Act</i>	clause 9(1)(b) and Section 10
<i>Missing Persons Act</i>	clause 6(2)(f)
<i>Prescription Monitoring Act</i>	Sections 18, 20 and 23
<i>Protection for Persons in Care Act</i>	Sections 4, 5, and 6
<i>Sharing of Health Information Regulations under the Correctional Services Act and the Court Houses and Lockup Houses Act</i>	Sections 1, 2, 3 and 4
<i>Victims' Rights and Services Act</i>	Section 11A
<i>Criminal Injuries Compensation Regulations under the Victims' Rights and Services Act</i>	Section 3

Section 5 amended: O.I.C. 2013-235, N.S. Reg. 249/2013; O.I.C. 2015-137, N.S. Reg. 203/2015.

Collecting and Using Health-card Numbers

Authorization for specified non-custodians and purposes

- 6 (1) For the purposes of clause 27(b) of the Act, each of the following non-custodian individuals and organizations is authorized to collect and use an individual's health-card number for the purpose or purposes specified:
- (a) the Workers' Compensation Board of Nova Scotia, to assess an injured worker's entitlement to benefits;
 - (b) the Minister of Community Services, for any of the following purposes:

- (i) to facilitate health care for children in the Child Welfare or Children in Care program,
- (ii) to indicate eligibility for a pharmacare program established under the *Fair Drug Pricing Act*,
- (iii) to facilitate health care for clients of the Services for Persons with Disabilities program,
- (iv) to determine benefits under the *Employment Support and Income Assistance Act*,
- (v) to facilitate the operation of the Child Abuse Register established under the *Children and Family Services Act*;

- (c) the Minister of Service Nova Scotia, Vital Statistics Division, for identification purposes in registering births and deaths;

[Note: The reference to the Minister of Service Nova Scotia and Municipal Relations has been updated in accordance with Order in Council 2014-71 under the *Public Service Act*, R.S.N.S. 1989, c. 376, effective April 1, 2014.]

- (d) the Office of the Public Trustee, to facilitate health care decisions for its clients and for the financial management of its clients' estates;
- (e) each Mi'kmaq First Nations band in the Province, as follows, to create and maintain the Nova Scotia First Nations Client Linkage Registry:
 - (i) Acadia First Nation,
 - (ii) Annapolis Valley First Nation,
 - (iii) Bear River First Nation,
 - (iv) Eskasoni First Nation,
 - (v) Glooscap First Nation,
 - (vi) Shubenacadie First Nation,
 - (vii) Membertou First Nation,
 - (viii) Millbrook First Nation,
 - (ix) Paqtnkek First Nation,
 - (x) Pictou Landing First Nation,
 - (xi) Potlotek First Nation,

(xii) Wagmatcook First Nation,

(xiii) Waycobah First Nation.

Section 6 redesignated 6(1): O.I.C. 2013-235, N.S. Reg. 249/2013.

Clause 6(1)(e) added: O.I.C. 2013-235, N.S. Reg. 249/2013; amended: O.I.C. 2014-207, N.S. Reg. 81/2014.

- (2) In clause (1)(e), “Nova Scotia First Nations Client Linkage Registry” means a registry of First Nations health care clients that is used as a tool to access, manage and use health information for use in the First Nations’ health planning and evaluation.

Subsection 6(2) added: O.I.C. 2013-235, N.S. Reg. 249/2013; amended: O.I.C. 2014-207, N.S. Reg. 81/2014.

Authorization for non-custodian facilitating provision of Provincially funded insured health services

- 7 For the purposes of clause 27(b) of the Act, a non-custodian is authorized to collect and use an individual’s health-card number for the purposes of facilitating the provision of insured services.

Complaints

Complaints policy

- 8 (1) A complaints policy implemented by a custodian under subsection 62(2) of the Act must include the following:
- (a) a requirement that an individual submit a complaint to the custodian in writing; and
 - (b) a statement of the time period following receipt of a written complaint during which the custodian must process, investigate and make a decision on the complaint and reply to the complainant.
- (2) Subject to subsection (3), the time period referred to in clause (1)(b) must be no longer than 60 days.
- (3) A custodian who receives a complaint may, by written notice to the complainant before the end of the time period specified in the custodian’s complaints policy, extend the time period
- (a) by no more than 30 days; or
 - (b) with the Review Officer’s permission, by a period longer than 30 days, if either of the following ~~apply~~ [applies]:
 - (i) replying to the complaint within the 30-day extension period would unreasonably interfere with the activities of the custodian,

- (ii) the time required to undertake the consultations necessary to reply to the request within the 30-day extension period would make it not reasonably practical to reply within that time.

Mediation

- 9** (1) Mediation under subsection 96(1) of the Act must be agreed to by both the individual whose personal health information is the subject of the review and the custodian.
- (2) The 30-day period referred to in subsection 96(2) of the Act begins on the date on which the Review Officer contacts the applicant and the custodian to initiate mediation.
- (3) The Review Officer must remain neutral and impartial during the mediation process.
- (4) If mediation is not successful, the documents that were produced and discussions that took place during the mediation process must not form part of the records of any ongoing review.

Electronic Information Systems

Additional safeguards

- 10** (1) The following are prescribed as additional safeguards that a custodian must implement under Section 65 of the Act for personal health information held in an electronic information system maintained by the custodian:
- (a) protection of network infrastructure, including physical and wireless networks, to ensure secure access;
 - (b) protection of hardware and its supporting operating systems to ensure that the system functions consistently and only those authorized to access the system have access; and
 - (c) protection of the system's software, including the way it authenticates a user's identity before allowing access.
- (2) A custodian must create and maintain written policies to support and enforce the implementation of the safeguards required by subsection (1).
- (3) A custodian must create and maintain a record of every security breach of the custodian's electronic information system that the custodian determines on a reasonable basis is likely to pose a risk to an individual's personal health information.
- (4) A record of security breaches must include details of all corrective procedures taken by the custodian to diminish the likelihood of future security breaches.

Record of user activity

- 11 (1)** In subsection 63(3) of the Act and in this Section, “record of user activity related to an individual’s personal health information” means a report produced at the request of an individual for a list of users who accessed the individual’s personal health information on an electronic information system for a time period specified by the individual.
- (2)** A record of user activity related to an individual’s personal health information must include at least all of the following information:
- (a)** the name of the individual whose personal health information was accessed;
 - (b)** a unique identification number for the individual whose personal health information was accessed, including their health-card number or a number assigned by the custodian to uniquely identify the individual;
 - (c)** the name of the person who accessed the personal health information;
 - (d)** any additional identification of the person who accessed the personal health information, including an electronic information system user identification name or number;
 - (e)** a description of the personal health information accessed or, if the specific personal health information accessed cannot be determined, all possible personal health information that could have been accessed;
 - (f)** the date and time the personal health information was accessed or, if specific dates and times cannot be determined, a range of dates when the information could have been accessed by the person.
- (3)** A custodian must retain the information that was used to update a record of user activity related to an individual’s personal health information for at least 1 year after each date of access.

Fees for Accessing Personal Health Information Records**Fee exceptions**

- 12** The fees prescribed in these regulations do not apply to any of the following:
- (a)** a request made by a solicitor representing a legal aid client;
 - (b)** a request from an individual for the purposes of appearing before the Review Board under Section 68 of the *Involuntary Psychiatric Treatment Act*;

- (c) a search warrant presented by a police officer under section 487 of the *Criminal Code* (Canada) or a production order presented by a police officer under section 278.7 of the *Criminal Code* (Canada);
- (d) a request by a police officer or probation officer who is entitled to personal health information in accordance with clause 11(a) of the Act under a consent given by the individual whose personal health information is the subject of the request;
- (e) a request from a regulated health-profession body that is permitted to access personal health information under clause 38(1)(c) of the Act and that is using the information for the purposes of regulating the health profession;
- (f) a request from a regulated health professional who is entitled to personal health information in accordance with clause 11(a) of the Act under a consent given by the individual whose personal health information is the subject of the request;
- (g) a request from the Workers' Compensation Board of Nova Scotia.

Clause 12(g) added: O.I.C. 2013-235, N.S. Reg. 249/2013.

Fees prescribed do not include applicable tax

13 The fees prescribed in these regulations do not include any applicable tax.

General fee for access to record

14 A custodian who makes a record, or part of a record, of personal health information available to an individual or provides a copy of it to an individual may charge a general fee, not to exceed \$30.00 per request, as compensation for all of the following:

- (a) receiving and clarifying the request;
- (b) locating and retrieving the record, including any record held electronically;
- (c) providing an estimate of the access fee to the requester as required by subsection 82(1) of the Act;
- (d) review of the record for no longer than 15 minutes by the custodian or an agent of the custodian to determine whether the record contains personal health information to which access may be refused under subsection 72(1) of the Act;
- (e) severing of the record if access to part of the record is refused under subsection 72(1) of the Act;

- (f) preparing the record for photocopying, printing or electronic transmission for no longer than 30 minutes;
- (g) preparing a response letter to the requester;
- (h) supervising an individual's examination of original records for no longer than 30 minutes;
- (i) the cost of mailing a record by regular mail to an address in Canada.

Specific fees

15 In addition to the general fee provided for in Section 14 and any direct costs provided for in Section 16, a custodian may charge up to the maximum fee set out in the following table for the activity specified:

Activity	Maximum Fee
Making photocopies of a record	\$.20 per page
Preparing a record for photocopying, printing or electronic transmission	\$12.00 for every 30 minutes after the initial 30 minutes covered by the general fee under clause 14(f)
Faxing a record	\$.20 per page
Making a compact disk containing a copy of a record stored in electronic form	\$10.00 per request
Making a microfiche copy of a record stored on microfiche	\$.50 per sheet
Making a paper copy of a record from microfilm or microfiche	\$.50 per page
Making a copy of an audio cassette recording	\$5.00 per cassette
Making and providing a copy of a 1/4", 1/2" or 8 mm video cassette recording that is <ul style="list-style-type: none"> - 1 hour long or less - more than 1 hour long 	<div style="display: flex; flex-direction: column; align-items: center;"> \$20.00 \$25.00 </div>
Making and providing a copy of a 3/4" video cassette recording that is <ul style="list-style-type: none"> - 1 hour long or less - more than 1 hour long 	<div style="display: flex; flex-direction: column; align-items: center;"> \$18.00 \$23.00 </div>
Producing a record stored on medical film, including x-ray, CT and MRI films	\$5.00 per film

Printing a photograph from a negative or from a photograph stored in electronic form, - per 4" × 6" print - per 5" × 7" print - per 8" × 10" print - per 11" × 14" print - per 18" × 20" print	\$10.00 \$13.00 \$19.00 \$26.00 \$32.00
Review of the record by a custodian or an agent of the custodian to determine whether the record contains personal health information to which access may be refused under subsection 72(1) of the Act	\$25.00 for every 15 minutes after the first 15 minutes covered by the general fee under clause 14(d)
Supervising an individual's examination of original records	\$6.00 for every 30 minutes after the first 30 minutes covered by the general fee under clause 14(h)

Direct costs

16 In addition to the general fee provided for in Section 14 and the specific fees provided for in Section 15, a custodian may charge for the following direct costs incurred by the custodian, including any applicable tax:

- (a) charges to retrieve a record from and return the record to off-site storage, if an individual requests expedited access to a record for which additional retrieval costs are charged to the custodian;
- (b) courier costs, if courier delivery is requested by the individual;
- (c) the cost of mailing a record to an address outside Canada;
- (d) taxes payable on the services provided.

Visit history

17 (1) In this Section, "visit history" means a record that

- (a) can be produced by a custodian's administrative staff from the custodian's health records; and
 - (b) consists of a computerized printout of an individual's visits.
- (2)** If a custodian has the ability to produce a visit history for an individual, the custodian may provide a copy of the visit history to the individual at the individual's request.

- (3) A custodian may charge a fee of no more than \$10.00 to produce a visit history and may not charge the general fee provided for in Section 14 or a specific fee provided for in Section 15 to an individual who requests only a visit history.
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