



Province of Alberta

REGIONAL HEALTH AUTHORITIES ACT

**REGIONAL HEALTH AUTHORITIES
FOUNDATIONS REGULATION**

Alberta Regulation 28/2007

Extract

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Queen's Printer Bookstore
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Note

All persons making use of this document are reminded that it has no legislative sanction and that the original Regulation should be consulted for all purposes of interpreting and applying the law.

(no amdt)

ALBERTA REGULATION 28/2007

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Definitions

1 In this Regulation,

- (a) “Act” means the *Regional Health Authorities Act*;
- (b) “board” means the board of a foundation;
- (c) “continued foundation” means a foundation that was continued by the *Regional Health Authorities Foundations Regulation (AR 16/95)*;

- (d) “foundation” means a continued foundation and a regional foundation and in section 2(1)(d) includes a foundation established under Part 4 of the *Hospitals Act* and a foundation exempted under section 58 of the *Hospitals Act*;
- (e) “regional foundation” means a non-profit corporate body established pursuant to the bylaws submitted to the Minister by a relevant regional health authority to act in a fundraising capacity;
- (f) “relevant regional health authority” means the regional health authority or authorities that proposed the establishment of a foundation or the regional health authority or authorities that receive funds from a foundation.

Establishing regional foundations

2(1) A regional health authority may, either individually or with one or more regional health authorities, submit bylaws to the Minister to establish a regional foundation for any or all of the following purposes:

- (a) to raise funds to benefit the health region or health regions generally;
- (b) to raise funds to benefit a specific health facility or facilities located or to be located in the health region or health regions;
- (c) to raise funds to benefit a specific health program or programs operated or to be operated by the regional health authority or health authorities;
- (d) to raise funds to benefit 2 or more foundations.

(2) A regional health authority shall not participate in the establishment of a regional foundation except in accordance with this Regulation and may not incorporate or participate in the incorporation of an organization to be used for the purposes of raising funds, other than a regional foundation.

(3) A foundation is established when the Minister approves, under section 3(5), the bylaws establishing the foundation.

(4) If there is a conflict between the bylaws and the Act, a regulation under the Act or an enactment that is made applicable by a regulation under the Act, then the Act, regulation or enactment prevails.

Foundation bylaws

3(1) Bylaws submitted under section 2 to establish a foundation must contain the following provisions:

- (a) the name of the foundation;
- (b) if there is more than one relevant regional health authority, the name of each and the specific manner in which the relevant regional health authorities are to execute their powers and duties under this Regulation;
- (c) the purposes for which the foundation is established;
- (d) subject to section 4(1), the number of voting members on the foundation's board set out as being within a range of numbers or up to a maximum number;
- (e) the qualifications and other eligibility requirements for becoming and remaining a member of the board;
- (f) the requirement for the establishment of a process by which the foundation consults annually with the regional health authority or authorities respecting specific purposes and effects of fundraising, approved by the board;
- (g) the requirement for the establishment of the business operating rules respecting accumulation and disbursement of annual surpluses, approved by the board;
- (h) the requirement for annual approval by the board of any fundraising and financial plans;
- (i) the requirement for the establishment and maintenance of effective internal controls and procedures, including borrowing and investing practices, approved by the board.

(2) If a relevant regional health authority or a continued foundation submits to the Minister amendments of bylaws, the amendments must

- (a) be written so as to ensure that the foundation's funds that were accumulated, acquired or pledged before the date of the amendments will be used solely, in accordance with any applicable trust conditions, to carry out the purposes of the foundation as they existed immediately before that date, and
- (b) include provisions on each matter set out in subsection (1) unless each is already provided for in the bylaws.

- (3) No bylaw and no amendment of a bylaw submitted under section 2 or this section has effect unless it is approved by the Minister.
- (4) The Minister, on receiving bylaws under subsection (2) submitted by a foundation, may refer the bylaws to the relevant regional health authority for comment.
- (5) On receiving bylaws submitted under section 2 or under subsection (2) and on reviewing any comments if any received under subsection (4), the Minister may
- (a) approve the bylaws as submitted,
 - (b) reject the bylaws, or
 - (c) refer the bylaws back to the relevant regional health authority or to the foundation to take further action directed by the Minister and to resubmit the bylaws.

Board members

- 4(1)** The number of voting members on a board is the number provided for in the bylaws but there must be not fewer than 5 voting members on a board.
- (2) The members of a board of a regional foundation are appointed by the relevant regional health authority, as provided for in the bylaws.
- (3) The members of the board of a regional foundation appointed by the relevant regional health authority are the voting members, unless they are non-voting members appointed under subsection (7).
- (4) At least one voting member of the board of a regional foundation must be a member of the public who is not a member of the relevant regional health authority.
- (5) The voting members of an initial board of a regional foundation, other than persons who are members of a regional health authority, must be chosen from a list of persons compiled by the relevant regional health authority pursuant to a public nomination or appointment process implemented by the relevant regional health authority.
- (6) The voting members of a board of a regional foundation, other than persons who are members of a regional health authority, must be chosen from
- (a) a list of persons nominated by the board,

- (b) a list of persons compiled by the relevant regional health authority pursuant to a public nomination or appointment process implemented by the relevant regional health authority, or
- (c) a combination of both lists described in clauses (a) and (b).

(7) The relevant regional health authority may appoint additional persons as non-voting members of the board.

(8) Subject to subsection (9), the members of the board of a continued foundation must be elected at a meeting of the board by the voting members then in office and these elected members are voting members.

(9) The relevant regional health authority may appoint one voting member of the board of a continued foundation.

(10) The voting members of the board of a continued foundation who are elected under subsection (8) must be chosen from

- (a) a list of persons nominated by the board,
- (b) a list of persons compiled by the board pursuant to a public nomination or appointment process implemented by the board, or
- (c) a combination of both lists described in clauses (a) and (b).

(11) The voting members of the board of a continued foundation may appoint additional persons as non-voting members of the board.

(12) The members of a board on the date this regulation comes into force continue as members of the board under this Regulation until the end of their terms.

Term of office

5(1) The term of an appointed member of a board must not exceed 3 years and the member is eligible for reappointment for additional terms.

(2) The term of an elected member of a board must not exceed 3 years and the elected member is eligible for re-election for additional terms.

Board chair

6 The voting members of a board must choose a person as chair of the board from among themselves.

Board of University Hospitals Foundation

7(1) In subsection (2)(a), “administrator” means the person who is the most senior official in the administrative organization of the hospitals and is responsible for the day-to-day operation and management of the affairs of the hospitals, regardless of the formal title of that person.

(2) Despite section 4, the board of the University Hospitals Foundation consists of the following voting members:

- (a) the administrator of the hospitals commonly known as The University of Alberta Hospitals;
- (b) the Dean of the Faculty of Medicine at the University of Alberta;
- (c) one member who is a member of the relevant regional health authority and is appointed by the relevant regional health authority;
- (d) one member who is a member of the public, is not a member of a regional health authority and is elected at a meeting of the board by the other voting members then in office;
- (e) at least 6 other persons who are elected at a meeting of the board by the other voting members then in office.

(3) Except for a person referred to in subsection (2)(a) or (b), no person who is a member of the attending medical staff or is an employee of a hospital referred to in that provision is eligible to be a member of the board of the University Hospitals Foundation.

Eligibility

8(1) No person is eligible to be or remain a voting member of a board unless that person is ordinarily resident in Alberta.

(2) A majority of the voting members of a board must be ordinarily resident in the relevant health region or health regions administered by the relevant regional health authority, as provided for in the bylaws.

(3) A relevant regional health authority may, by written notice, terminate the appointment of a member of a board of a regional foundation and a continued foundation may, by written notice,

terminate the appointment of a member of the continued foundation's board, if the member

- (a) ceases to be ordinarily resident in Alberta, in the case of a voting member, or
- (b) ceases to meet any of the qualifications or other eligibility requirements for membership set out in the bylaws.

University Hospitals Foundation eligibility

9(1) Despite section 8(1), a person is eligible to be appointed or elected as a voting member, or to remain as a voting member, of the board of the University Hospitals Foundation even if that person is not ordinarily resident in Alberta.

(2) Despite section 8(2), a majority of the voting members of the board of the University Hospitals Foundation must be ordinarily resident in Alberta.

Corporate status

10(1) A foundation is a corporation consisting of the board.

(2) A foundation is not a trust corporation for the purposes of the *Loan and Trust Corporations Act*.

Powers and duties

11(1) A foundation may, in order to carry out its purposes, solicit and receive real and personal property.

(2) A foundation must adhere to any trust conditions attaching to any real and personal property that it has received.

(3) A foundation must

- (a) carry on its business without the purpose of gain of its board members and shall not pay dividends to its board members, and
- (b) apply the profits, if any, and other income of the foundation to carry out the purposes of the foundation.

(4) A foundation may enter into any contracts and do all other things that may be necessary, desirable or expedient to carry out its purposes.

(5) A board may, at any time, delegate any of its powers to committees consisting of any of the members of the board and of any other persons as the board considers advisable.

(6) Any committee established under subsection (5) must, in the exercise of the powers delegated to it, conform and be subject to the direction and control of the board.

Operational bylaws

12 A foundation may make bylaws respecting the conduct of the business and affairs of the foundation that are consistent with the Act, this Regulation and the bylaws under section 3 respecting the foundation.

Fiscal year

13 The fiscal year of a foundation is from April 1 to the next following March 31.

Meetings

14 The board must meet at least once a year on a date determined in accordance with the bylaws, under section 12, of the foundation or on a date fixed by the chair of the board.

Remuneration

15 Members of the board are not entitled to remuneration for acting as members but the board may authorize payment of disbursements properly incurred by a member in the course of carrying out the duties of a member.

Reports

16(1) In this section, "gross contributions" means gross contributions within the meaning of the *Charitable Fund-raising Regulation* (AR 108/2000).

(2) Following the end of each fiscal year by the date specified by the Minister, but not later than July 31 following each fiscal year, a foundation must have prepared and submitted to the relevant regional health authority and to the Minister an annual report that includes

- (a) financial statements for the previous fiscal year
 - (i) that are audited if the gross contributions received by the foundation in that year were \$250 000 or more, or
 - (ii) that are in a form satisfactory to the Minister if the gross contributions received by the foundation in that year were less than \$250 000,

and

- (b) any other information specified by the Minister in a notice in writing to the foundation.
- (3) Despite subsection (2), a continued foundation is not required to submit an annual report to a regional health authority.
- (4) A foundation must, on the written request of the Minister, forward to the Minister records, reports and returns as specified by the Minister in the request.
- (5) The Minister may issue to a foundation written directives respecting the form, content and timing of any information to be provided under subsection (2).
- (6) A foundation must submit the financial statements approved by its board to the relevant regional health authority and to the Minister not later than June 15 immediately following each fiscal year.

Transfer of property

17 A foundation may, subject to compliance with prior trust conditions, transfer any of its property to the relevant regional health authority.

Winding-up

18(1) The Minister may order that a foundation be wound up in any of the following circumstances:

- (a) on the request of a continued foundation or of a relevant regional health authority;
 - (b) if the foundation contravenes the Act, a regulation under the Act or any order or direction of the Minister;
 - (c) if the relevant regional health authority ceases to exist;
 - (d) if the Minister is satisfied that the foundation is inactive;
 - (e) if the Minister is satisfied that the foundation is not carrying out its purposes.
- (2) A foundation may not be wound up except by an order of the Minister under this section.
- (3) If the Minister orders that a foundation be wound up,
- (a) the Minister must, subject to subsection (4), take measures that the Minister considers necessary to give effect to the

order and, for that purpose, has all the power and authority to act as if the Minister were the foundation, and

- (b) the members of the board may not exercise any of their powers or authority except under the direction of the Minister.

(4) If a foundation is wound up, the property of the foundation must be used

- (a) firstly, in the payment of any costs incurred in the winding-up of the foundation,
- (b) secondly, to discharge all liabilities of the foundation, and
- (c) thirdly, to give effect, as far as possible, to any outstanding applicable trust conditions

and the balance, if any, must be transferred

- (d) to a successor foundation, if there is one in the opinion of the Minister,
- (e) if there is no successor foundation,
 - (i) in the case of a regional foundation, to the relevant regional health authority or authorities in such portions as determined by the Minister, and
 - (ii) in the case of a continued foundation, to the relevant regional health authority for the benefit of the facility, program or community that benefited from the continued foundation, as determined by the Minister,

or

- (f) if there is no successor foundation and no relevant regional health authority or authorities, to another person in Alberta that is a registered charity or qualified donee under the *Income Tax Act* (Canada) and has objects or purposes similar to the purposes of the foundation being wound up, as determined by the Minister.

Amendments of existing bylaws

19 A foundation that exists on the date this Regulation comes into force must, within one year after that date, review its bylaws and submit to the Minister any amendments to its bylaws, as required, to ensure that the foundation's bylaws comply with this Regulation.

Repeal

20 The *Regional Health Authorities Foundations Regulation* (AR 16/95) is repealed.

Expiry

21 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on March 31, 2015.