

Developmental Services Act

R.S.O. 1990, CHAPTER D.11

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Amended by: 1992, c. 32, s. 7; 2001, c. 13, s. 2; 2002, c. 17, Sched. F, Table.

(NOTE: By Order in Council approved June 20, 2001, the powers and duties of the Minister (Long-Term Care Programs and Services only) were transferred to the Minister of Health and Long-Term Care effective June 17, 1999.)

(NOTE: By Order in Council approved April 25, 2002, the powers and duties of the Minister (but not Long-Term Care Programs and Services) were transferred to the Minister of Community, Family and Children's Services.)

Definitions

1. In this Act,

“administrator” means the person who is responsible for the operation and management of a facility; (“administrateur”)

“attending physician” means the physician to whom responsibility for the observation, care and treatment of a resident has been assigned; (“médecin traitant”)

“developmental disability” means a condition of mental impairment, present or occurring during a person’s formative years, that is associated with limitations in adaptive behaviour; (“déficience intellectuelle”)

“Director” means a person appointed as such, for all or any of the purposes of this Act; (“directeur”)

“facility” means any place designated by the regulations in which assistance and services or either of them are provided for persons with a developmental disability; (“établissement”)

“Minister” means the Minister of Community and Social Services; (“ministre”)

“Ministry” means the Ministry of Community and Social Services; (“ministère”)

“physician” means a legally qualified medical practitioner; (“médecin”)

“regulations” means the regulations made under this Act; (“règlements”)

“resident” means a person with a developmental disability who resides in a facility. (“résident”) R.S.O. 1990, c. D.11, s. 1; 2001, c. 13, s. 2 (2-5).

Facilities established

2. (1) The Minister may establish, operate and maintain one or more facilities and may furnish such services and assistance as he or she considers necessary upon such terms and conditions as the Minister sees fit. R.S.O. 1990, c. D.11, s. 2 (1).

Purchase of assistance and services

(2) The Minister may by written agreement or otherwise purchase from any person, services and assistance for or on behalf of persons with a developmental disability or believed to have a developmental disability and may direct payment of expenditures as are necessary for these purposes. R.S.O. 1990, c. D.11, s. 2 (2); 2001, c. 13, s. 2 (6).

Administration vested in Director

3. (1) Except where a board has been appointed under subsection (2), the administration of every facility established, or operated by the Minister, is vested in the Director. R.S.O. 1990, c. D.11, s. 3 (1).

Board of governors appointed

(2) The Lieutenant Governor in Council may appoint a board of governors to maintain and operate any facility operated and maintained under subsection 2 (1), and every such board is a body corporate. R.S.O. 1990, c. D.11, s. 3 (2).

Corporations Act not to apply

(3) The *Corporations Act* does not apply to a board appointed under subsection (2). R.S.O. 1990, c. D.11, s. 3 (3).

Administrator to superintend

(4) Subject to subsection (1), the administrator shall superintend the operation and management of all the affairs of the facility for which he or she is appointed and shall supervise all employees and all the residents therein. R.S.O. 1990, c. D.11, s. 3 (4).

Minister, Director or administrator may appoint persons

(5) Where this Act or the regulations require or authorize the Minister, Director or administrator to do any act, such act may be done by any person whom the Minister, Director or administrator, as the case may be, appoints. R.S.O. 1990, c. D.11, s. 3 (5).

Patients deemed discharged

4. (1) Every person with a developmental disability who on the 1st day of April, 1974 resided in a psychiatric facility under the regulations to *The Mental Health Act*, being chapter 269 of the Revised Statutes of Ontario, 1970, shall, upon the designating of all or any part of the psychiatric facility as a facility under this Act, be deemed to have been discharged as a patient under *The Mental Health Act* and admitted as a resident pursuant to this Act. R.S.O. 1990, c. D.11, s. 4 (1); 2001, c. 13, s. 2 (7).

Certificate of incompetence deemed issued and received

(2) Where the Public Trustee was committee of the estate of a person who is deemed to have been discharged under subsection (1), a certificate of incompetence shall be deemed to have been issued under subsection 10 (3) and received by the Public Trustee. R.S.O. 1990, c. D.11, s. 4 (2).

Designated facilities vest in Director

5. Any premises or part or parts thereof which were designated as a psychiatric facility under the regulations to the *Mental Health Act*, and which were operated by the Minister of Health shall, upon being designated as a facility under this Act, be operated and maintained by the Minister and the administration thereof shall, subject to subsection 3 (2), vest in the Director. R.S.O. 1990, c. D.11, s. 5.

Corporate status continued

6. Where a facility was incorporated under another Act and is designated under this Act, the designation shall not be deemed to affect the continuation of the facility's status as a corporation. R.S.O. 1990, c. D.11, s. 6.

Persons may apply for admission to facilities

7. A person may apply for admission to a facility or for any item of assistance or service which the Minister may make available to persons with a developmental disability if the person,

- (a) believes he or she is a person with a developmental disability; or
- (b) wishes to apply on behalf of a person whom he or she believes is a person with a developmental disability. 2001, c. 13, s. 2 (8).

Protection from personal liability

8. (1) No action, prosecution or other proceeding for damages for anything done or omitted to be done in compliance or intended compliance with this Act or the regulations shall be commenced against the Director, a Board appointed under subsection 3 (2) or any officer or employee of a facility for any act done in good faith in the execution or intended execution of a duty or for any alleged neglect or default in the execution in good faith of a duty. R.S.O. 1990, c. D.11, s. 8 (1).

Crown not relieved of liability

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. R.S.O. 1990, c. D.11, s. 8 (2).

Protection from tort liability re resident

9. No action lies against the Director or any officer or employee of a facility for any tort of any resident. R.S.O. 1990, c. D.11, s. 9.

10.-33. REPEALED: 1992, c. 32, s. 7 (1).

Minister may designate officers

34. (1) The Minister may appoint officers of the Ministry or other persons who shall advise and assist the administrator in all matters pertaining to persons with a developmental disability and who shall have such other duties as are assigned to them by this Act or the regulations. R.S.O. 1990, c. D.11, s. 34 (1); 2001, c. 13, s. 2 (9).

Powers

(2) Any such officer or person may at any time, and shall be permitted so to do by the authorities thereat, visit and inspect any facility and, in so doing, may interview residents, examine books, records and other documents relating to residents, examine the condition of the facility and its equipment, inquire into the adequacy of its staff, the range of services provided and any other matter considered relevant to the care of residents by such officer or person. R.S.O. 1990, c. D.11, s. 34 (2).

Inspection

(3) The books of account and any other records of every facility or class of facility shall be open at all reasonable times for inspection by an officer or person appointed under subsection (1). R.S.O. 1990, c. D.11, s. 34 (3).

Provincial aid

35. The Minister may direct payment of provincial aid to or for the benefit of persons with a developmental disability, or believed to have a developmental disability, or to or for any facility or class of facility in which a person with a developmental disability resides, in such amounts and under such conditions as are prescribed by the regulations. 2001, c. 13, s. 2 (10).

Agreements

35.1 (1) A regional municipality may enter into an agreement with a corporation described in subsection (2) that operates or intends to operate a facility that is or will be governed by this Act, with respect to the construction, operation or maintenance of the facility. 2002, c. 17, Sched. F, Table.

Corporations

- (2) Subsection (1) applies to a corporation without share capital having objects of a charitable nature,
- (a) to which Part III of the *Corporations Act* applies; or
 - (b) that is incorporated under a general or special Act of the Parliament of Canada. 2002, c. 17, Sched. F, Table.

Regulations

36. The Lieutenant Governor in Council may make regulations,
- (a) designating facilities or classes of facilities to which this Act and the regulations apply and limiting, restricting or exempting any such facility or class of facility from the application of any part of the regulations;
 - (b) respecting the construction, renovation, alteration and maintenance of any facility or class of facility;
 - (c) respecting the management, conduct, operation, use and control of any facility or class of facility;
 - (d) prescribing the accommodation, facilities, equipment and services in any facility or class of facility;
 - (e) providing for the officers and staff and prescribing their duties and qualifications in any facility or class of facility;
 - (f) prescribing the procedure for selecting and evaluating the site of any facility or class of facility and for the development and preparation of plans for the site and buildings and for the information to be contained in such plans;
 - (g) providing for the approval of facilities within a class and prescribing the terms and conditions upon which any such facility may be approved for persons with a developmental disability;
 - (h) for the purposes of this Act and the regulations, defining “assistance” and “services” and prescribing classes of services and classes of assistance and the items, services and payments to be included in any such definition or in any such class of services or class of assistance and prescribing the terms and conditions upon which such services or assistance or any class thereof may be provided;

- (i) prescribing the classes of grants or allowances by way of provincial aid to or for the benefit of persons with a developmental disability or believed to have a developmental disability, or to or for any facility or class of facility and the methods of determining the amounts of such grants or allowances, the terms and conditions for the payment thereof and providing for the manner, times and methods of payment and the suspension and withholding of grants and allowances and for the making of deductions from grants and allowances;
- (j) prescribing the persons or classes of persons who may be eligible for services and assistance or any class thereof and prescribing the terms and conditions of eligibility for services and assistance or any classes thereof requiring information to be submitted and providing for the investigation and determination of eligibility for such services or assistance or any classes thereof;
- (k) prescribing the charges that shall be made for the provision of services and assistance or any class thereof to a person with a developmental disability or believed to have a developmental disability and limiting, restricting or exempting the persons or any class of persons to whom such charges shall be made;
- (l) prescribing the persons and authorities or classes of persons or authorities that are liable for or exempted from the cost of services and assistance or any class of services or assistance to persons with a developmental disability or believed to have a developmental disability and prescribing rules for determining the amounts to be contributed towards the cost of such services or assistance or class thereof by the person or authority or class of person or authority who are liable therefor;
- (m) providing for the recovery of any sum as a debt due to the Crown or to the board of any facility in any court of competent jurisdiction from any person or his or her estate or authority liable therefor, of the cost or any part of the cost of any services or assistance or any class thereof provided to or for a person with a developmental disability or believed to have a developmental disability;
- (n) providing for an agreement to be entered into with or on behalf of any resident or class of resident in a facility or in any class of facility, for the administrator in charge of the facility or class of facility, to receive, hold and administer real and personal property of the resident or class of resident in trust for certain purposes, and providing for the terms and conditions of trust upon which the administrator may receive and hold such property;
- (o) providing for the establishment of in-service training programs for members of the staff of any facility or class of facility;
- (p) providing for any parent or guardian of a child with a developmental disability or believed to have a developmental disability to enter into agreement with the Minister or any child welfare authority appointed by the Minister, for the purposes of providing services or assistance or any class thereof, and providing for the terms and conditions in any such agreement upon which such services or assistance or any class thereof may be provided;
- (q) governing applications for payment of grants or allowances under this Act;
- (r) prescribing the records and accounts to be kept in respect of facilities or class of facilities, the claims and returns to be made to the Minister and the method, time and manner in which such claims and returns are to be made;
- (s) prescribing additional duties of officers or persons appointed by the Minister under section 34;
- (t) respecting the examination of persons and the admission, transfer, discharge and placement of residents;
- (u) prescribing rules governing the operation, management functions and powers of boards appointed by the Lieutenant Governor in Council under subsection 3 (2);
- (v) prescribing forms and providing for their use;
- (w) providing, with respect to corporations that were approved corporations and homes that were approved homes under the *Homes for Retarded Persons Act* before its repeal by the *Homes for Retarded Persons Repeal Act, 2001*, for such transitional matters as the Lieutenant Governor in Council considers advisable in relation to the designation of such homes as facilities under this Act. R.S.O. 1990, c. D.11, s. 36; 2001, c. 13, s. 2 (11-17).