

BILL

No. 179

An Act respecting the Licensing and Operation of certain Facilities providing Magnetic Resonance Imaging Services and making consequential amendments to other Acts

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(Assented to)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

PART I Preliminary Matters

Short title

1 This Act may be cited as *The MRI Facilities Licensing Act*.

Interpretation

2 In this Act:

“**accreditation program**” means a prescribed program for determining whether an MRI facility meets the appropriate standards to provide MRI services;

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“**accreditation program operator**” means any person approved by the minister pursuant to section 5;

“**applicant**” means a person who applies for a licence or the renewal of a licence;

“**beneficiary**” means a beneficiary within the meaning of *The Saskatchewan Medical Care Insurance Act*;

“**court**” means, other than in section 26, the Court of Queen’s Bench;

“**health region**” means a health region as defined in *The Regional Health Services Act*;

“**inspector**” means a person appointed or designated pursuant to section 21;

“**licence**” means a valid licence issued or renewed pursuant to section 7;

“**licensee**” means the holder of a licence;

“**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

“**ministry**” means the ministry over which the minister presides;

“**MRI facility**” means any place or facility where magnetic resonance imaging services are provided to an individual, but does not include:

- (a) a place or facility operated by the minister, a regional health authority or an affiliate, as defined in *The Regional Health Services Act*; or
- (b) any prescribed place or facility;

“**prescribed**” means prescribed in the regulations;

“**regional health authority**” means a regional health authority as defined in *The Regional Health Services Act*.

PART II Licensing

Licence required

- 3(1) No person shall establish or operate an MRI facility without a licence.
- (2) Every licensee shall have a separate licence for each MRI facility operated by that licensee.

Application for licence or renewal

- 4(1) Every person who wishes to obtain a licence or to renew a licence shall:
 - (a) apply to the minister in the form provided by the minister;
 - (b) pay the prescribed application fee; and
 - (c) provide the minister with any information or material that the minister requests and reasonably considers relevant to the application.
- (2) Every licensee who wishes to renew his or her licence shall apply for the renewal at least nine months before the licence is to expire.

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Approval of accreditation program operator

5 The minister may approve any person as an accreditation program operator.

Reviews of application

6(1) If the minister receives an application for a licence or the renewal of a licence, the minister shall forward the application and all accompanying information and material to:

- (a) the accreditation program operator; and
 - (b) the regional health authority of the health region in which the MRI facility is or will be located.
- (2) The accreditation program operator shall:
- (a) review the application and accompanying information and material; and
 - (b) report to the minister whether, in the opinion of the accreditation program operator, the MRI facility conforms to the standards of the accreditation program.
- (3) The regional health authority mentioned in clause (1)(b) shall:
- (a) review the application and accompanying information and material; and
 - (b) if the applicant is applying for a licence to:
 - (i) provide MRI services to beneficiaries that are to be paid for by a regional health authority or by any prescribed public funding source, report to the minister with respect to whether there is a need for the MRI facility in the health region; and
 - (ii) provide MRI services to beneficiaries or to other individuals that are not paid for by a regional health authority or by any prescribed public funding source, report to the minister with respect to the expected effect of the MRI facility on the operations of, or the health services provided by, the regional health authority.

Decision to issue or refuse licence

7(1) Subject to subsection (2), on receipt of an application and the reports of the accreditation program operator and the regional health authority, the minister may issue, renew or refuse to issue or renew the licence.

- (2) The minister may issue or renew the licence only if the minister is satisfied that:
- (a) the applicant has complied with this Act and the regulations;
 - (b) the applicant has complied with any other Act, any regulation made pursuant to any other Act, any Act of the Parliament of Canada and any regulation made pursuant to any Act of the Parliament of Canada;
 - (c) the MRI facility will be operated in accordance with this Act, the regulations and any terms and conditions imposed on the licence;
 - (d) if the licence is to provide services mentioned in subclause 6(3)(b)(i), the licensing of the MRI facility is an effective and efficient use of public resources;

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(e) the licensing of the facility will not significantly affect the operation of similar services provided by a regional health authority or an affiliate; and

(f) the issuing or renewing of the licence would not be prejudicial to the public interest.

(3) Subject to subsection (4), the minister may refuse to renew a licensee's licence on the grounds that the minister is satisfied that the criterion described in clause (2)(f) will not be met only if the minister has given the licensee written notice at least six months before the date on which the licensee's licence expires.

(4) If the minister is satisfied that the criterion described in clause (2)(f) is not met and the licensee has not complied with subsection 4(2), the minister may refuse to renew a licensee's licence without complying with subsection (3).

(5) The minister shall give the applicant written notice of the minister's decision.

(6) If the minister decides not to issue or renew a licence, the minister shall provide written reasons to the applicant.

Terms and conditions of licences

8(1) A licence that is issued or renewed pursuant to section 7 is subject to:

(a) the prescribed terms and conditions; and

(b) any additional terms and conditions that the minister may impose.

(2) Subject to section 17, at any time after a licence is issued, the minister may amend the terms and conditions of the licence or impose new terms and conditions.

Display of licence

9 Every licensee shall display his or her licence in a prominent place at the MRI facility for which the licence is issued.

Licence not transferable

10 A licence is not transferable.

Duration of licence

11 Unless sooner suspended or cancelled, a licence is valid for:

(a) the period specified in the licence; or

(b) if no period is specified in the licence, a period of three years after the day on which the licence is issued or renewed.

Responsibilities of licensees

12(1) No licensee shall fail to comply with any provision of this Act or the regulations, with any term or condition imposed on the licensee's licence or with a standard of the accreditation program.

(2) A licensee is responsible for the actions, activities and undertakings of every person who provides or assists in providing MRI services at the licensee's MRI facility.

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- (3) No licensee shall provide MRI services to an individual unless the individual has been referred for the services by a physician possessing the prescribed qualifications.
- (4) A licensee shall provide MRI services to individuals in accordance with prescribed standards.
- (5) No licensee shall charge or permit any other person to charge any fee to any person for MRI services except as may be permitted by this Act or the regulations.

Critical incidents

13(1) In this section:

“critical incident” means an incident that:

- (a) arises as a result of the provision of an MRI service by a licensee; and
- (b) is listed or described as a critical incident in any prescribed code, standard or guideline;

“legal proceeding” means any civil proceeding or inquiry in which evidence is or may be given, and includes a proceeding for the imposition of punishment by way of fine, penalty or imprisonment to enforce an Act or regulation made pursuant to an Act, but does not include any prescribed proceeding.

- (2) A licensee shall, in accordance with the regulations:
 - (a) give notice to the minister of the occurrence of any critical incident; and
 - (b) investigate any critical incident mentioned in clause (a) and provide a written report to the minister with respect to that critical incident and investigation.
- (3) Subject to subsection (5), a witness in a legal proceeding, whether a party to it or not:
 - (a) is not liable to be asked any question, is not permitted to answer any question and is not permitted to make any statement, with respect to an investigation of a critical incident; and
 - (b) is not liable to be asked to produce, and is not permitted to produce:
 - (i) any notice or report mentioned in this section; or
 - (ii) any information in a notice or report mentioned in this section or any documentation used to prepare a notice or report mentioned in this section.
- (4) Subject to subsection (5), a notice or report mentioned in this section is not admissible as evidence in any legal proceeding.
- (5) The privileges described in subsections (3) and (4) do not apply:
 - (a) to information in a notice or report that discloses the facts of a critical incident unless the facts relating to that incident are also fully recorded in a record other than the notice or report and are available to the individual with regard to whom the critical incident occurred; or

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(b) to information that is prepared for the purpose of providing care or treatment to an individual, unless that information is also fully recorded in a record other than the notice or report and is available to the individual with regard to whom the critical incident occurred.

Annual returns

14(1) Every licensee shall provide the minister with an annual return that contains the prescribed information.

(2) Every licensee shall provide the annual return mentioned in subsection (1) within the prescribed time.

Additional information

15(1) The minister may:

(a) request from a licensee any information that the minister reasonably requires for the purposes of this Act and the regulations; and

(b) specify the manner in which, and reasonable time limits within which, the licensee shall provide the information mentioned in clause (a).

(2) No licensee shall fail to provide the minister, in the manner and within the time limits specified by the minister, with any information that the minister requests pursuant to subsection (1).

Suspension and cancellation

16 Subject to section 17, the minister may amend, suspend or cancel a licence if, in the opinion of the minister, the licensee:

(a) has failed to comply with:

(i) any provision of this Act or the regulations;

(ii) a term or condition imposed on the licence;

(iii) a standard of the accreditation program; or

(iv) a provision of any other Act, any regulation made pursuant to any other Act, any Act of the Parliament of Canada or any regulation made pursuant to any Act of the Parliament of Canada; or

(b) is operating the MRI facility in a manner that is prejudicial to the health, safety or welfare of any person.

Opportunity to make representations

17(1) Before the minister acts pursuant to subsection 8(2) or section 16, the minister shall provide the licensee with:

(a) written notice of the minister's intended action and the reasons for that intended action; and

(b) an opportunity to make written representations to the minister as to why the intended action should not be taken.

(2) Representations pursuant to clause (1)(b) must be made within 30 days after the licensee received the notice pursuant to clause (1)(a).

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(3) Notwithstanding subsection (1), if the minister considers that it is necessary to act to protect the public interest, the minister may immediately act pursuant to subsection 8(2) or section 16 without giving the licensee an opportunity to make written representations, but shall give the licensee an opportunity to make written representations within 15 days after the date on which the minister takes any of those actions.

(4) The minister is not required to give an oral hearing to any licensee to whom notice has been provided pursuant to subsection (1).

(5) After considering the representations mentioned in this section, the minister shall issue a written decision and serve a copy of the decision on the licensee as soon as is practicable after the decision is made.

Appeal to court

18(1) A person who is directly affected by a decision of the minister may appeal the decision to the court on a question of law only.

(2) A person who is directly affected by a decision of the minister and who intends to appeal that decision shall file the appeal within 30 days after the day on which the person was served with the decision of the minister.

(3) A notice of appeal is to be served on the minister.

(4) The record of an appeal pursuant to this section is to consist of:

(a) the application and accompanying material and information provided by the applicant;

(b) in the case of an appeal respecting a decision to issue or renew or not to issue or renew a licence, any report provided to the minister pursuant to subsections 6(2) and (3);

(c) any written decision of the minister respecting the matter that is the subject of the appeal;

(d) the notice of appeal commencing the appeal; and

(e) any other material that the court may require.

(5) If an appeal is taken pursuant to this section, the court may:

(a) dismiss the appeal;

(b) allow the appeal;

(c) allow the appeal subject to terms;

(d) vary the decision of the minister;

(e) refer the matter back to the minister for further consideration and decision; or

(f) make any other order that the court considers appropriate.

Appeal does not stay decision

19 Unless the court orders otherwise, the commencement of an appeal pursuant to section 18 does not stay the effect of the decision being appealed.

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**PART III
Administration****Agreements with licensee, accreditation program operator**

20(1) The minister or the regional health authority may enter into any agreements with a licensee that the minister or the regional health authority considers necessary respecting the administration of the licensee's MRI facility, including an agreement to make payments to the licensee for the MRI services provided at the MRI facility.

(2) The minister may enter into any agreements with the accreditation program operator that the minister considers necessary respecting the accreditation program.

Inspectors

21 The minister may designate any employee of the ministry as an inspector and may appoint any other person as an inspector.

Inspection

22(1) For the purposes of administering this Act and the regulations, any inspector may make any inspection, investigation or inquiry that the inspector considers necessary.

(2) Every licensee shall:

(a) cause the MRI facility for which the licence is issued to be open for inspection by an inspector at all reasonable times during the hours of operation of the MRI facility; and

(b) cause all records and equipment pertaining to the operation of the MRI facility to be available for inspection by the inspector during the times described in clause (a).

(3) An inspector shall not enter a private dwelling without a warrant issued pursuant to section 23 unless the occupant of the dwelling consents to the entry.

Warrant

23(1) A justice of the peace or a judge of the Provincial Court of Saskatchewan may issue a warrant authorizing an inspector to enter and search any place or premises named in the warrant if the justice or judge is satisfied by information given under oath or affirmation that there are reasonable grounds to believe that:

(a) an offence against this Act has been committed; and

(b) there is evidence of the offence to be found at the place or premises proposed to be searched.

(2) With a warrant issued pursuant to subsection (1), an inspector may:

(a) enter and search any place or premises named in the warrant;

(b) use any machinery, equipment, appliance or thing located at the place or premises for the purposes of the search;

(c) require the production of and examine any records that the inspector believes, on reasonable grounds, may contain information related to an offence against this Act;

(d) subject to section 24, remove any records examined pursuant to this section for the purpose of making copies, if a receipt is given; and

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- (e) seize and remove from any place or premises searched anything that may be evidence of an offence against this Act.
- (3) An inspector may exercise all or any of the powers mentioned in subsection (2) without a warrant issued pursuant to subsection (1) if:
 - (a) the conditions for obtaining a warrant exist; and
 - (b) the inspector has reasonable grounds to believe that the delay necessary to obtain a warrant would result:
 - (i) in danger to human life or safety; or
 - (ii) in the loss, removal or destruction of evidence.

Copies of records

- 24(1) If any records are inspected pursuant to section 22 or 23, the inspector may make copies of those records.
- (2) An inspector who makes copies pursuant to subsection (1) shall:
 - (a) make those copies as soon as is reasonably possible; and
 - (b) promptly return the originals of the records to:
 - (i) the place from where they were removed; or
 - (ii) any other place that may be agreed to by the inspector and the person who provided the records or from whom they were seized.
- (3) A record certified by an inspector to be a copy made pursuant to this section:
 - (a) is admissible in evidence without proof of the office or signature of the person making the certificate; and
 - (b) has the same probative force as the original record.

Obstruction

- 25 No person shall resist, obstruct, hinder, delay or interfere with an inspector or a person aiding an inspector in the performance of the inspector's duties.

Offence and penalties

- 26(1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$20,000 and, in the case of a continuing offence, a fine of not more than \$20,000 for each day or portion of a day during which the offence continues.
- (2) If a person is convicted of charging a fee contrary to subsection 12(5), the convicting judge, in addition to any other fine that the judge may impose, shall:
 - (a) order the person to pay into court an amount equal to the amount of the fee that was charged; and
 - (b) direct that the amount paid into court pursuant to clause (a) be paid to the person from whom the fee was collected or to any other person that the convicting judge considers appropriate.

Limitation of prosecution

- 27 No prosecution for a contravention of this Act shall be commenced more than two years after the day on which the alleged offence was committed.

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Minister may apply for compliance order

28(1) The minister may apply to the court for all or any of the following:

- (a) an order compelling a person to comply with this Act, the regulations, a decision or order issued pursuant to this Act or the regulations or the terms and conditions of a licence;
 - (b) an order enjoining any person from proceeding contrary to this Act, the regulations, a decision or order issued pursuant to this Act or the regulations or the terms and conditions of a licence.
- (2) On an application pursuant to this section, the court may make the order requested or any other order that the court considers appropriate on any terms and conditions that the court considers appropriate.
- (3) The minister may apply for an order pursuant to subsection (1) regardless of whether a decision or order pursuant to this Act or the regulations has been issued with respect to the matter.

Immunity

29 No action or proceeding lies or shall be commenced for any loss or damage suffered by any person by reason of anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by any of the following pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any decision or order made pursuant to this Act or any duty imposed by this Act or the regulations:

- (a) the Crown;
- (b) the minister;
- (c) a regional health authority;
- (d) the accreditation program operator;
- (e) an inspector;
- (f) any employee or other person acting under the instructions of the minister, a regional health authority, the accreditation program operator or an inspector or pursuant to the authority of this Act or the regulations.

Regulations

30 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing programs that are accreditation programs and requiring licensees to participate in an accreditation program;
- (c) prescribing places and facilities that are not MRI facilities;
- (d) prescribing the amount and requiring the payment of application fees and other fees payable by applicants or for other services provided by the minister or the accreditation program operator pursuant to this Act or the regulations;

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- (e) respecting the eligibility of, and criteria to be met by, applicants for licences;
- (f) for the purposes of clause 6(3)(b), prescribing public funding sources;
- (g) respecting the terms and conditions of licences;
- (h) respecting the MRI services provided at an MRI facility, including the period within which services must be provided;
- (i) for the purposes of subsection 12(3), prescribing the qualifications of physicians;
- (j) respecting the fees that may be assessed for MRI services by licensees;
- (k) respecting the quality and standards of MRI facilities;
- (l) respecting qualifications for employees of MRI facilities;
- (m) respecting the construction, alteration, maintenance, repair and location of MRI facilities;
- (n) respecting equipment to be used in MRI facilities;
- (o) prescribing the nature of information to be recorded and reported by licensees and authorizing the minister to determine the form in which those records and reports must be kept;
- (p) respecting the records that must be kept by licensees with respect to the MRI services provided to individuals;
- (q) respecting systems that licensees are to establish to monitor the providing of MRI services at MRI facilities;
- (r) establishing categories of licensees and, for that purpose, prescribing different terms, conditions, matters or things for each category;
- (s) respecting annual returns and the providing of other information to the minister by licensees, and the form, timing and manner of providing those annual returns and that other information;
- (t) with respect to any matter governed by this Act:
 - (i) adopting, as amended from time to time or otherwise, all or any part of any code, standard or guideline;
 - (ii) amending for the purposes of this Act or the regulations any code, standard or guideline adopted pursuant to subclause (i);
 - (iii) requiring compliance with a code, standard or guideline adopted pursuant to subclause (i);
- (u) respecting the monitoring and enforcement of codes, standards or guidelines and other requirements established or adopted pursuant to this Act or the regulations;
- (v) respecting the form and manner of service of any document required or authorized to be served pursuant to this Act;

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- (w) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;
- (x) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

PART IV

Consequential Amendments and Coming into Force

S.S. 1996, c.H-0.02, section 2 amended

31 Subclause 2(1)(k)(iii) of *The Health Facilities Licensing Act* is repealed.

S.S. 1999, c.H-0.021, section 2 amended

32 Clause 2(t) of *The Health Information Protection Act* is amended by adding the following subclause after subclause (vi):

“(vi.1) a licensee as defined in *The MRI Facilities Licensing Act*”.

Coming into force

33 This Act comes into force on proclamation.