

# Health Services and Insurance Act

CHAPTER 197 OF THE REVISED STATUTES, 1989

*as amended by*

1992, c. 20, ss. 1-27; 2002, c. 5, ss. 22-26; 2004, c. 4, s. 115;  
2008, c. 16; 2010, c. 2, s. 106; 2011, c. 7, ss. 33, 34;  
2023, c. 19 (except ss. 11(1), (2)(b))



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amended 1992, c. 20, ss. 1-27; 2002, c. 5, ss. 22-26; 2004, c. 4, s. 115;  
2008, c. 16; 2010, c. 2, s. 106; 2011, c. 7, ss. 33, 34;  
2023, c. 19 (except ss. 11(1), (2)(b))

**An Act to Amend and Consolidate  
the Former Medical Care Insurance Act  
and the Former Hospital Insurance Act**

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(The table of contents is not part of the statute)

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**Short title**

**1** This Act may be cited as the *Health Services and Insurance Act*. R.S.,  
c. 197, s. 1.

**Interpretation**

2 In this Act,

(a) “addictions and mental health services” means insured services that are concerned with the prevention, diagnosis and treatment of addictions and mental health issues;

(aa) “Administrator, Insured Professional Services” means the head or person in charge, or the person designated by the Deputy Minister to be in charge, of the divisions or branches of the Department responsible for insured professional services;

(ab) “Commission” means the Health Services and Insurance Commission;

(b) “commissioner” means a member of the Commission;

(c) “Department” means

(i) in respect of addictions and mental health services, the Office of Addictions and Mental Health or the Department of Health and Wellness, and

(ii) in respect of insured services other than addictions and mental health services, the Department of Health and Wellness;

(ca) “Deputy Minister” means the Deputy Minister of the Department;

(d) “hospital” means a hospital that has been approved under the *Hospitals Act* and any other hospital or facility that has been approved as a hospital by the Minister for the purposes of this Act;

(e) “Hospital Insurance Plan” means the plan for insured hospital services;

(f) “insured hospital services” means the in-patient and out-patient services to which a resident is entitled under the provisions of this Act and the regulations;

(g) *repealed 1992, c. 20, s. 1.*

(h) “Insured Prescription Drug Plan” means the Insured Prescription Drug Plan under the *Fair Drug Pricing Act*[:];

(ha) “insured professional services” means the health services, other than insured hospital services, with respect to which a resident is entitled to receive insurance under the provisions of this Act and the regulations;

(hb) “insured services” means insured hospital services and insured professional services;

(i) “Minister” means

(i) in respect of addictions and mental health services, the Minister of Addictions and Mental Health or the Minister of Health and Wellness, and

(ii) in respect of insured services other than addictions and mental health services, the Minister of Health and Wellness;

(j) “M.S.I. Plan” means a plan for insured professional services;

- (k) “provider” means a person who provides insured professional services pursuant to this Act and the regulations;
- (l) “resident” or “resident of the Province” means a resident of the Province as defined in the regulations;
- (m) “Society” means the Medical Society of Nova Scotia;
- (n) “tariff” means a tariff established by the Minister pursuant to Section 13. R.S., c. 197, s. 2; 1992, c. 20, s. 1; 2011, c. 7, s. 33; 2023, c. 19, s. 1.

### Insured services

**3 (1)** Subject to this Act and the regulations, all residents of the Province are entitled to receive insured hospital services from hospitals upon uniform terms and conditions.

**(2)** Subject to this Act and the regulations, all residents of the Province are insured upon uniform terms and conditions in respect of the payment of the cost of insured professional services to the extent of the tariffs. R.S., c. 197, s. 3; 1992, c. 20, s. 2.

**4** *repealed 2011, c. 7, s. 34.*

### Spouse or dependant of member of Canadian Forces

**4A (1)** Subject to subsection (2), a spouse or dependant of a member of the Canadian Forces moving to the Province from outside Canada is insured for the payment of the cost of insured services commencing on the day the spouse or dependant takes up residence in the Province.

**(2)** The moneys required for the purpose of subsection (1) shall be paid out of moneys appropriated for that purpose by the Legislature. 2008, c. 16, s. 1.

### Disentitlement

- 5** Where a person is
- (a) insured for the payment of the cost of services from a provider; [or]
  - (b) entitled to or eligible for in-patient or out-patient services; ~~or~~ [,]
  - (c) *repealed 2011, c. 7, s. 34.*

under the *Workers' Compensation Act* or any other Act of the Legislature or of the Parliament of Canada or under any statute or law of any other jurisdiction either within or without Canada, the person is not insured for or entitled to the same services under this Act. R.S., c. 197, s. 5; 1992, c. 20, s. 3; 2011, c. 7, s. 34; 2023, c. 19, s. 2.

### Agreement with federal minister

**6** The Minister, with the approval of the Governor in Council, may enter into an agreement or agreements with the Minister of National Health and Welfare of Canada to provide for the payment by the Government of Canada to the Province of contributions in respect of the cost of insured hospital services and the Insured Prescription Drug Plan incurred by the Province pursuant to this Act, and may from time to time vary or amend any such agreement. R.S., c. 197, s. 6.

**Health Services and Insurance Commission**

7 (1) The Governor in Council shall appoint a Health Services and Insurance Commission consisting of not fewer than nine nor more than twelve persons.

(2) to (4) *repealed 1992, c. 20, s. 4.*

(5) The Governor in Council shall appoint one commissioner to be Chair of the Commission and may appoint one commissioner to be Vice-chair of the Commission.

(6) Each commissioner shall hold office for such term as is prescribed by the commissioner's appointment and is eligible for re-appointment, but shall not hold office for a term or terms exceeding six consecutive years.

(7) Each commissioner shall be paid such salary or other remuneration as the Governor in Council determines.

(8) Three members of the Commission constitute a quorum.

(9) The Commission shall perform the duties and functions assigned to the Commission by the Minister or the Governor in Council. R.S., c. 197, s. 7; 1992, c. 20, s. 4; 2023, c. 19, s. 3.

**Agreements respecting M.S.I. Plan**

8 The Minister may from time to time enter into agreements and vary, amend or terminate the same with such person or persons as the Minister deems necessary to establish, implement and carry out the M.S.I. Plan or otherwise provide for insured professional services. 1992, c. 20, s. 5; 2023, c. 19, s. 4.

9 *repealed 1992, c. 20, s. 5.*

**Payments to hospitals**

10 Subject to the regulations, the Minister shall make payments to hospitals in respect of the cost of insured hospital services rendered by them under this Act to residents of the Province and may make payments with respect to the cost of insured hospital services that have been rendered to residents of the Province by hospitals that are owned or operated by the Government of Canada or are situated outside the Province. R.S., c. 197, s. 10.

**Determination of entitlement by Minister**

11 (1) The Minister may determine the insured services to which residents are entitled under this Act, including

(a) the types or classes of insured services to which residents are entitled;

(b) the extent to which residents are entitled to an insured service;

(c) the circumstances and conditions under which residents are entitled to an insured service;

(d) the extent to which insured services are insured under this Act; and

(e) subject to Sections 13 to 13AA, the amounts payable to providers, hospitals or other health care facilities in respect of the provision of insured services.

(2) The exercise by the Minister of the authority contained in subsection (1) is not a regulation within the meaning of the *Regulations Act*.

(3) A determination under subsection (1) may be made retroactive to a date not earlier than September 1, 1973.

(4) Notwithstanding Section 13 of the *Ombudsman Act*, that Act does not apply to a determination of the Minister under subsection (1). 2023, c. 19, s. 5.

### Repeal of regulations by Minister

12 (1) The Minister may repeal any regulations made under this Act respecting any matter described in Section 11 or 13 that came into force before this Section comes into force.

(2) For greater certainty, regulations made under this Act respecting any matter described in Section 11 or 13 that came into force before the coming into force of this Section remain in force until repealed by the Minister under subsection (1).

(3) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2023, c. 19, s. 5.

### Function and powers of Minister

13 (1) It is the function of the Minister and the Minister has power to

(a) negotiate, in good faith, compensation for insured professional services on behalf of the Province with the professional organizations representing providers;

(b) participate in any process of final offer arbitration as provided for in this Section;

(c) establish the tariff or tariffs of fees or other system of payment for insured professional services determined in accordance with this Section and authorize payments in respect thereof;

(d) interpret tariffs and determine their application to the assessment of claims;

(e) conduct surveys and research in relation to services that are insured under this Act;

(f) perform such other functions as may be assigned to the Minister by the Governor in Council;

(g) do all other acts and things that the Minister considers necessary or advisable for the purpose of carrying out effectively the intent and purposes of this Act.

(2) In this Section, “final offer arbitration” means the dispute resolution process whereby a final offer selection panel receives from each of the disputing parties a final offer on all outstanding issues in a negotiation and, following analysis of the submission and fact finding, the panel selects one final offer or the other without modification, which selection is final and binding on the parties.

(3) Issues of compensation for insured professional services not resolved by negotiation shall be settled through final offer arbitration by a panel consisting of one appointee of the appropriate professional organization, one appointee of the Minister and an independent chair agreed to by each of the appointees.

(4) Where a chair of the panel is not agreed upon, the chair shall be appointed by the Chief Justice of Nova Scotia within ten days of receipt by the Chief Justice from the professional organization or from the Minister of written notice of the failure to agree.

(5) The decision of a panel referred to in subsection (3) may not be altered except by an Act of the Legislature.

(6) The relative value for individual fee items in a tariff or schedule of tariffs for professional services rendered by a provider may, with the mutual agreement of the Minister and the professional organization representing the provider, be altered at any time in respect of any item or new procedure.

(7) Without limiting the generality of clause (1)(c), a tariff or other system of payment may provide for

- (a) different compensation for different categories of providers;
- (b) extra payments that may be made to providers in circumstances determined by the Minister; and
- (c) in respect of a particular insured professional service or class of insured professional services, different compensation for different geographical locations or areas of the Province.

(8) Any power of the Minister under this Section may be exercised retroactively to a date not earlier than September 1, 1973. R.S., c. 197, s. 13; 1992, c. 20, s. 7; 2023, c. 19, s. 6.

#### **Agreement with Society**

**13A** The Minister may enter into an agreement with the Society on behalf of all duly qualified medical practitioners in the Province who provide insured medical services concerning compensation for insured medical services and other matters of common concern between the Minister and the Society, and such agreement is binding on the Minister, the Society and all medical practitioners covered by the agreement. 1992, c. 20, s. 8.

#### **Participation in arbitration by Minister**

**13AA** Notwithstanding Section 13 and except in respect of insured professional services provided by physicians and dentists, the Minister of Addictions and Mental Health may, but is not required to, negotiate or participate in any process of



final offer arbitration to determine compensation for addiction and mental health services. 2023, c. 19, s. 7.

#### **Agreement null and void**

**13B** Effective November 1, 2002, any agreement between a provider and a hospital, or predecessors to a hospital, stipulating compensation for the provision of insured professional services, for the provider undertaking to be on-call for the provision of such services or for the provider to relocate or maintain a presence in proximity to a hospital, excepting agreements to which the Minister and the Society are a party, is null and void and no compensation is payable pursuant to the agreement, including compensation otherwise payable for termination of the agreement. 2002, c. 5, s. 22.

#### **Commission responsible to Minister**

**14 (1)** In exercising its function and power under this Act the Commission shall report to and be responsible to the Minister and, at the direction of the Minister shall report to and be responsible to the Minister through the Deputy Minister.

**(2)** *repealed 1992, c. 20, s. 9.*

R.S., c. 197, s. 14; 1992, c. 20, s. 9; 2023, c. 19, s. 8.

#### **Function and powers of Minister**

**15** It is the function of the Minister and the Minister has the power to

- (a) administer the Hospital Insurance Plan;
- (b) determine the amounts to be paid for insured hospital services rendered to residents of the Province who are entitled to and eligible for such services under the Hospital Insurance Plan;
- (c) take all proper steps to develop and maintain a co-ordinated system of hospitals, training schools and related health facilities throughout the Province;
- (d) approve or disapprove the establishment of new and additional hospitals and any changes in hospitals;
- (e) on such terms and conditions as the Minister deems proper, approve all Provincial grants to hospitals and other health care facilities, and expend the amounts necessary to fund such grants. R.S., c. 197, s. 15; 2023, c. 19, s. 9.

#### **Powers of Minister**

**16 (1)** Subject to the approval of the Governor in Council and to the provisions of the *Finance Act*, and notwithstanding any other provisions of this Act, or the *Hospitals Act* or the *Health Protection Act*, the Minister on behalf of the Province may, for the purpose of establishing, maintaining, assisting, expanding, constructing or equipping hospitals or health care facilities in the Province,

- (a) purchase or otherwise acquire, hold, improve and maintain any real or personal property and lease, sell or convey the same for such consideration and on such conditions as the Minister may deem proper;

(b) construct, improve, renovate, alter, add to, repair, extend, provide services for, move or remove any building, chattel or other thing;

(c) purchase or otherwise acquire control of a hospital or health care facility from any person on such terms and in such manner as the Minister may deem proper;

(d) make grants or loans to any person, and guarantee loans of any person, on such terms and in such manner as the Minister may deem proper;

(e) purchase or otherwise acquire, or guarantee, bonds, debentures, notes or other debt obligations of any person, on such terms and in such manner as the Minister may deem proper;

(f) do such other matters or things and exercise such other powers as the Minister may deem desirable for the better carrying out of the intent and purposes of this Section.

**(1A)** Notwithstanding subsection (1), the approval of the Governor in Council is not required where anything is done pursuant to subsection (1) and the amount involved does not exceed one hundred thousand dollars or such other amount as is prescribed by the Governor in Council by regulation.

**(2)** Such sums as are authorized by subsection (1) hereof may be chargeable to or paid out of Capital Account, Special Reserve Account or the Revenue of the Province for any year or years.

**(3)** Subject to the approval of the Governor in Council, the Minister may, for and on behalf of His Majesty in right of the Province, execute all necessary agreements or other instruments whatsoever deemed necessary or desirable to carry out the intent and purposes of this Section. R.S., c. 197, s. 16; 1992, c. 20, s. 10; 2004, c. 4, s. 115; 2010, c. 2, s. 106; 2023, c. 19, ss. 10, 21.

### Regulations

**17 (1)** The Governor in Council may make regulations respecting the Hospital Insurance Plan

(a) establishing the Hospital Insurance Plan;

(b) prescribing the in-patient and out-patient services to which residents of the Province are entitled;

(c) prescribing the terms and conditions under which residents are entitled to insured hospital services;

(d) prescribing the terms and conditions under which payments will be made to hospitals for services provided by them;

(e) defining residents of the Province for the purpose of this Act;

(f) respecting the amount and manner of payment for insured hospital services rendered by hospitals within or without the Province to residents of the Province;

(g) respecting the approval of hospitals and facilities for the purpose of this Act;

- (h) respecting the services that must be provided by hospitals to qualify them for payment under this Act;
- (i) respecting the records and accounts to be kept by hospitals and the returns and reports to be made by them to the Minister;
- (j) prescribing the manner and form in which accounts shall be rendered by hospitals to the Minister;
- (k) respecting the admission, treatment, conduct, discipline and discharge of patients;
- (l) respecting the inspection, management, conduct and operation of hospitals;
- (m) respecting reciprocal arrangements with other provinces for the provision of insured hospital services;
- (n) providing for the appointment of such advisory or other committees, boards and other officers or agencies as the Minister considers necessary or advisable for the effective operation of this Act;
- (o) respecting any other matter or thing that the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

**(2)** The Governor in Council may make regulations respecting the M.S.I. Plan or otherwise respecting insured professional services

- (a) establishing a plan or plans for the payment of the cost of insured professional services received by residents;
- (b) prescribing the insured professional services to which residents are entitled;
- (c) prescribing prosthetic services which shall be insured professional services;
- (d) prescribing the manner of and time for submission of claims for insured professional services rendered either within or without the Province to residents;
- (e) respecting the information required to permit the assessment and payment of claims for insured professional services;
- (f) prescribing measures designed to prevent unnecessary utilization or provision of insured professional services;
- (g) *repealed 1992, c. 20, s. 11.*
- (h) prescribing the forms and records to be used for the purposes of this Act or the regulations;
- (i) respecting the procedures that shall be followed by the Commission in dealing with disputes or complaints relating to or arising under this Act;
- (j) respecting the inspection, management, conduct and operation of the Commission in respect of its duties, functions and responsibilities under the M.S.I. Plan;

(k) prescribing services which for purposes of a plan shall not be deemed to be services that are medically required;

(l) *repealed 1992, c. 20, s. 11.*

(m) prohibiting charges by providers in excess of the tariff;

(ma) respecting third party liability claims;

(mb) prescribing the procedures to be followed by the Commission in hearing an appeal by a provider from an order of the Administrator pursuant to Section 30(1B);

(n) defining for purposes of this Act any word or phrase used in this Act.

(3) *repealed 2011, c. 7, s. 34.*

(4) The Governor in Council may make regulations respecting payments, or may authorize individual payments, in such amounts and upon such terms and conditions as the Governor in Council deems proper, for uninsured hospital and medical services rendered outside the Province to residents of the Province. R.S., c. 197, s. 17; 1992, c. 20, s. 11; 2011, c. 7, s. 34; 2023, c. 19, s. 11; revision corrected.

#### **Contract with private corporation and fee regulations**

**17A (1)** The Minister may enter into a contract with a private corporation for the provision of ambulance services in the Province.

(2) The Minister may make regulations

(a) setting out fees for the use of ambulance services in the Province;

(b) authorizing the private corporation to collect the fees referred to in clause (a);

(c) setting out a procedure for resolving disputes relating to the imposition and collection of a fee referred to in clause (a). 2002, c. 5, s. 23.

#### **Right of recovery by injured person**

**18 (1)** Where, as a result of the negligence or wrongful act or omission of another, a person suffers personal injuries for which the person received insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment, home-care services, care for a person in a home for special care or child-care facility to which the Province has made payment, insured professional services under this Act, or any other care, services or benefits designated by regulation, including the future costs of any such care, services or benefits, the person

(a) has the same right to recover the sum paid for the care, services or benefits against the person who was negligent or was responsible for the wrongful act or omission as the person would have had if that person had been required to pay for the care, services or benefits; and

(b) if the person makes any claim for the personal injuries suffered against the person who was negligent or who was responsi-

ble for the wrongful act or omission, shall claim and seek to recover the costs of the care, services or benefits.

(2) Where, under subsection (1), a person recovers a sum in respect of insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment or insured professional services received by the person under this Act, the person shall forthwith pay the sum recovered to the Minister.

(3) His Majesty in right of the Province shall be subrogated to the rights of a person under this Section to recover any sum paid by the Minister for insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment or insured professional services provided to that person, and an action may be maintained by His Majesty, either in His own name or in the name of that person, for the recovery of such sum.

(4) It shall not be a defence to an action brought by His Majesty in right of the Province under subsection (3) that a claim for damages has been adjudicated upon unless the claim included a claim for the sum paid for insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment and insured professional services and it shall not be a defence to an action for damages for personal injuries brought by a person who has received insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment or insured professional services that an action taken by His Majesty under subsection (3) has been adjudicated upon.

(5) No release or settlement of a claim or judgment based upon a cause of action for damages for personal injuries in a case where the injured person has received insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment or insured professional services under this Act shall be binding upon His Majesty unless the Minister or a person designated by the Minister has approved the release or settlement in writing.

(5A) Subject to subsection (5C), where, as a result of a claim pursuant to this Section,

- (a) the claim is settled or a judgment is obtained; and
- (b) insufficient funds are available to provide complete recovery to the injured person for the injured person's losses and injuries and to pay the costs of the care, services and benefits referred to in subsection (1),

the injured person and His Majesty in right of the Province shall share *pro rata* in proportion to their respective losses in any recovery in accordance with the terms and conditions prescribed by regulation.

(5B) No person acting on their own behalf or on behalf of another person, shall, without the approval in writing pursuant to subsection (5C) of the Minister, make a settlement of a claim based upon a cause of action for damages for personal injuries in a case where the injured person has received care, services or benefits referred to in subsection (1) unless at the same time the person makes a settlement to recover the same *pro rata* proportion in respect of the cost of the care,

services and benefits referred to in subsection (1) as the injured person is to recover in respect of the person's losses and injuries.

(5C) Where a person who makes a claim pursuant to subsection (1) has obtained an offer for a settlement whereby the same *pro rata* proportion of the cost of the care, services and benefits referred to in subsection (1) would be recovered as the injured person would recover in respect of the person's losses and injuries but, in the opinion of the Minister or a person designated by the Minister, the offer would not provide sufficient recovery in respect of the care, services and benefits referred to in subsection (1), the Minister or a person designated by the Minister may approve, in writing, a release or settlement whereby the person making a claim pursuant to subsection (1) makes a settlement of a claim in respect of the person's injuries or losses without making a settlement in respect of the cost of the care, services and benefits referred to in subsection (1), but the written approval is not binding on His Majesty in right of the Province in relation to a claim made pursuant to subsection (5) in respect of the cost of the care, services and benefits referred to in subsection (1).

(5D) Every liability insurer carrying on business in the Province shall provide the Minister, when requested to do so, information relating to

- (a) a claim made against an insured person by a person who received any of the care, services or benefits referred to in subsection (1); or
- (b) the terms and conditions of any settlement entered into by an insured person and a person who received any of the care, services or benefits referred to in subsection (1).

(5E) Notwithstanding any other provision of this Act, the Minister may, in accordance with the regulations, authorize the payment of a fee to a barrister and solicitor who makes a claim on behalf of an injured person and recovers a sum in respect of the cost of care, services or benefits referred to in subsection (1) that are received by the injured person.

(6) Where a person whose act or omission resulted in personal injuries to another is insured by a liability insurer, the liability insurer shall pay to the Minister any amount referable to a claim for recovery of the cost of insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment and insured professional services that would otherwise be paid to the insured person and payment of that amount to the Minister discharges the liability of the insurer to pay that amount to the insured person or to any person claiming under or on behalf of the insured person.

(7) For the purposes of this Section, the sum paid for insured hospital services that are received by an injured person shall be an amount equal to the charges of the hospital in which the services were provided, at rates approved by the Minister, that the insured person would have been required to pay if the person was not entitled to receive the services as insured hospital services under this Act.

(8) In an action under this Section a certificate of a person designated by the Minister as to the sum paid for insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment or insured professional services received by an injured person is admissible in evidence and is *prima facie* proof of that sum.

(9) *repealed 2002, c. 5, s. 24.*

(10) This Section applies except where personal injury has occurred as the result of a motor vehicle accident in which the person whose act or omission resulted in the personal injury is insured by a policy of third-party liability insurance on or after the date this subsection comes into force.

(11) The Minister may impose a levy to be paid by each motor vehicle insurer with respect to each vehicle insured by that insurer for the purpose of recovering insured hospital services, benefits under the Insured Prescription Drug Plan, ambulance services to which the Province has made payment or insured professional services pursuant to this Act incurred by third parties as a result of personal injury in motor vehicle accidents.

(12) Within sixty days after the coming into force of subsections (10) to (20), the Minister shall estimate the levy applicable to the end of the calendar year and so inform the Superintendent of Insurance.

(13) Within ninety days of the coming into force of subsections (10) to (20), the Superintendent of Insurance shall notify the insurers of the estimate and the insurers shall remit payment forthwith.

(14) Commencing no later than the fifteenth day of January, 1993, and by the fifteenth day of January of each subsequent year, the Superintendent of Insurance shall give notice to the insurers of the estimate and the insurers shall remit to the Superintendent the amount estimated in equal quarterly payments commencing on the thirty-first day of March, 1993, such quarterly payments to be payable within sixty days following the end of each quarter.

(15) Upon receipt of the funds payable by insurers pursuant to subsections (10) to (20), the Superintendent of Insurance shall credit the amount to the recovery account identified by the Minister.

(16) The Minister shall annually re-evaluate the accuracy of the levy estimate in the following year.

(17) The Minister shall advise the Superintendent of Insurance of the adjustments and the Superintendent shall give notice to the insurers of the adjustments.

(18) Where the adjusted amount is greater than the estimate, the insurers shall remit payment forthwith.

(19) Where the adjusted amount is less than the estimate, the insurers account shall be credited with the surplus.

(20) No interest is payable on the surplus or deficit resulting after the calculation of the adjusted amount.

(21) For greater certainty, in subsections (2) to (8) “insured hospital services” includes any care, services or benefits for which costs have been or may in the future be paid by the Minister in relation to negligence or a wrongful act or omission including, without limiting the generality of the foregoing, ambulance

services to which the Province has made payment, home-care services, care for a person in a home for special care or child-care facility to which the Province has made payment and any services prescribed in the regulations as insured hospital services for the purpose of this subsection. R.S., c. 197, s. 18; 1992, c. 20, s. 12; 2002, c. 5, s. 24; 2023, c. 19, ss. 12, 21.

### Regulations

**19** The Governor in Council may make regulations

(a) respecting the *pro rata* sharing of any recovery made respecting services or benefits referred to in subsection 18(1);

(b) respecting the provision of information to the Minister by liability insurers;

(c) respecting fees that may be paid to barristers and solicitors pursuant to subsection 18(5E) and any conditions or requirements respecting the payment of the fees;

(d) prescribing services as insured hospital services for the purpose of the definition in subsection 18(21);

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

(f) considered necessary for the better carrying out of this Act. 2002, c. 5, s. 25.

**20 and 21** *repealed 1992, c. 20, s. 13.*

### Eligibility as member of Assembly unaffected

**22** No person who receives a payment in respect of insured hospital services, the Insured Prescription Drug Plan or insured professional services shall thus be made ineligible as a member of the House of Assembly. R.S., c. 197, s. 22; 1992, c. 20, s. 14.

### Activities unaffected

**23** Nothing in this Act

(a) prevents a person from choosing that person's own provider;

(b) prevents a provider from practising as a provider outside the M.S.I. Plan; or

(c) imposes an obligation upon a provider to treat a person. R.S., c. 197, s. 23; 1992, c. 20, s. 15; 2023, c. 19, s. 13.

**24** *repealed 1992, c. 20, s. 16.*

**25 and 26** *repealed 2011, c. 7, s. 34.*

### Claim by provider or election out of M.S.I. Plan

**27 (1)** Where a provider renders an insured professional service that is insured under the M.S.I. Plan to a resident the provider shall, unless the provider has made an election pursuant to this Section, submit the provider's claim for the



service together with such information as required to substantiate it, upon such forms as are prescribed by the Department for that purpose.

(2) A provider may, at any time in writing, notify the Department of the provider's election to collect fees in respect of insured professional services that are insured under the M.S.I. Plan otherwise than under the M.S.I. Plan.

(3) Where a provider makes an election pursuant to subsection (2) and the Department receives written notice of the election within thirty days from the day on which the provider first became entitled to practise in the Province, the election shall have effect from and on the day when the provider became entitled to practise in the Province.

(4) Subject to subsection (3), an election pursuant to subsection (2) shall have effect from and on the first day of the first month beginning after the expiration of sixty days after the day on which the Department receives the notice of election.

(5) A provider who has made an election pursuant to subsection (2) may, at any time in writing, notify the Department of the revocation of the election.

(6) A revocation of election pursuant to subsection (5) has effect from and on the first day of the first month beginning after the expiration of thirty days after the day on which the Department receives the notice of revocation. 1992, c. 20, s. 18; 2023, c. 19, s. 14.

#### **Notice by non-participating provider**

28 (1) Where a provider who has made an election that is in force under Section 27 renders an insured professional service that is insured under the M.S.I. Plan to a resident, the provider is not entitled to charge for the service unless, prior to rendering it, the provider gave reasonable notice of the provider's election to the resident or other person acting on the resident's behalf.

(2) A provider referred to in subsection (1) who has charged for the provider's service shall, where requested by the resident or other person acting on the resident's behalf, immediately complete the claim form prescribed for that purpose or provide the resident with sufficient information to enable the resident to complete the form in a manner satisfactory to the Department.

(3) A provider who has made an election which is in force under Section 27 is not entitled to a payment under the M.S.I. Plan. R.S., c. 197, s. 28; 1992, c. 20, s. 19; 2023, c. 19, s. 15.

#### **Maximum entitlement or charge**

29 (1) Where a provider renders an insured professional service that is insured under the M.S.I. Plan to a resident, the provider shall be entitled to receive in respect of that service only the fee or compensation provided in the tariff of fees or other system of payment established pursuant to this Act.

(2) A provider who makes an election pursuant to Section 27 shall not charge a fee for a professional service that is insured under the M.S.I. Plan that exceeds the fee or compensation for the same or similar insured professional

service provided in the tariff of fees or other system of payment established pursuant to this Act. R.S., c. 197, s. 29; 1992, c. 20, s. 20; 2023, c. 19, s. 16.

### **Report to Administrator, order and appeals**

#### **30 (1) Where**

(a) a provider has been convicted of an offence pursuant to this Act or the regulations and the conviction has become final by affirmation on appeal or by expiry without appeal of the time allowed for appeal; or

(b) the Administrator, Insured Professional Services has grounds to believe that a provider

(i) has fraudulently submitted or assisted in the submission of a claim for payment under the M.S.I. Plan, or

(ii) habitually claims under the M.S.I. Plan for services that are or were not medically required,

the Minister shall, after consultation with the professional association representing the provider, appoint a review committee, the majority of the members of which shall be members of the professional association of the provider, and the review committee shall review the circumstances of the provider and make a report to the Administrator.

**(1A)** The Administrator, Insured Professional Services shall take the report referred to in subsection (1) into consideration in reaching a decision regarding the provider and the Administrator shall consult with the appropriate professional or administrative body of which the provider is a member and may order that the provider not practise under the M.S.I. Plan during such period or periods as the Administrator, from time to time, determines.

**(1B)** A provider who is dissatisfied with an order made by the Administrator, Insured Professional Services pursuant to subsection (1A) may, within fifteen days of the making of the order, appeal the order to the Commission and the Commission shall render a decision and the decision of the Commission is final.

**(2)** Where an order is in force under subsection (1A), a claim under the M.S.I. Plan in respect of insured professional services rendered by the provider shall be payable to the patient or the person who, on the patient's behalf, is charged for or pays for the services.

**(3)** The amount payable pursuant to subsection (2) is the same amount that would have been payable to the provider if the order was not in force.

**(4)** Where a provider with respect to whom an order is in force under subsection (1A) renders an insured professional service that is insured under the M.S.I. Plan to a resident, the provider is not entitled to charge for the service unless, prior to rendering it, the provider gave reasonable notice to the resident or other person acting on the resident's behalf that the provider is not practicing under the M.S.I. Plan.

(5) Where a provider referred to in subsection (4) has charged for the service, the provider shall, where requested by the resident or other person acting on the resident's behalf, immediately complete the claim form prescribed for that purpose or provide the resident with sufficient information to enable the resident to complete the form in a manner satisfactory to the Department.

(6) *repealed 1992, c. 20, s. 21.*

R.S., c. 197, s. 30; 1992, c. 20, s. 21; 2023, c. 19, s. 17.

#### **Arrangements for payment by Minister**

**31 (1)** The Minister may enter into agreements or make arrangements for payment to

(a) an employer of a provider who, with the consent of the employee, has assigned to the employer the provider's right to collect the provider's fees under the M.S.I. Plan or otherwise in respect of insured professional services;

(b) a partnership, association or group of providers who have assigned to the partnership, association or group, their right to collect their fees under the M.S.I. Plan or otherwise in respect of insured professional services; or

(c) a provider who renders insured professional services on a basis other than a fee for services rendered.

(2) An assignment made pursuant to clauses (a) or (b) of subsection (1) has no force or effect for purposes of the M.S.I. Plan or otherwise in respect of insured professional services unless the Minister approves of the terms and conditions of the assignment, and a copy of the assignment is filed with the Department. R.S., c. 197, s. 31; 1992, c. 20, s. 22; 2023, c. 19, s. 18.

#### **Subsidy in underpopulated area**

**32** The Minister may make arrangement for payments of subsidies to providers practising in underpopulated areas of the Province. 1992, c. 20, s. 23.

#### **Protection if information furnished**

**33** No action shall be maintainable against a person, hospital or other institution in respect of the furnishing of information, communications or reports to the Minister or the Department. R.S., c. 197, s. 33; 1992, c. 20, s. 24.

#### **Secrecy**

**34** Every person employed in the administration of this Act shall preserve secrecy with respect to all matters that come to the person's knowledge in the course of the person's employment and shall not communicate any such matter to any other person except

(a) for purposes of the administration of this Act;

(aa) pursuant to the *Freedom of Information Act*;

(b) to a provider for any purpose relating to insured professional services that the provider has provided or has properly been requested to provide; or

(c) in such other circumstances as the Minister may prescribe.  
R.S., c. 197, s. 34; 1992, c. 20, s. 25; 2023, c. 19, s. 19.

#### **Offence and penalty**

**35 (1)** Any person who violates this Act or the regulations or wilfully makes a false statement in any report or form required to enable a payment to be made under the Hospital Insurance Plan, the Insured Prescription Drug Plan, the M.S.I. Plan or otherwise in respect of insured services is guilty of an offence and liable on summary conviction to a fine of not more than ten thousand dollars for a first offence and for a subsequent offence to a fine of not more than twenty thousand dollars.

**(2)** *repealed 1992, c. 20, s. 26.*

R.S., c. 197, s. 35; 1992, c. 20, s. 26; 2023, c. 19, s. 20.

#### **Conflict**

**36** In the event of a conflict between the provisions of this Act or the regulations and the provisions of any other general or special Act, the provisions of this Act prevail. R.S., c. 197, s. 36.

#### **Substituted reference**

**37** A reference in any Act of the Legislature or in any rule, order, regulation, by-law, ordinance or proceeding or in any document whatsoever to the Hospital Insurance Commission, the Medical Care Insurance Commission or the Health Services and Insurance Commission, whether the reference is by official name or otherwise shall, as regards any subsequent transaction, matter or thing be held and construed to be a reference to the Minister or the Commission, as the case may be.  
1992, c. 20, s. 27.

#### **Regulations Act**

**38** Regulations made by the Governor in Council pursuant to Sections 17 or 19 shall be regulations within the meaning of the *Regulations Act*. R.S., c. 197, s. 38; 2002, c. 5, s. 26.