

Proposed legislation to enhance HQCA's role and independence

Nov 21, 2011

The Alberta government has introduced new legislation that will require the Health Quality Council of Alberta to report directly to the Legislative Assembly and establishes new inquiry powers.

Bill 24: *Health Quality Council of Alberta Act* addresses:

1. **Independence:** The HQCA will report annually on its activities directly to the Legislative Assembly. The legislation will not change HQCA's current role to conduct independent assessments of patient safety issues upon request of the Health Minister or Alberta Health Services.
2. **Health System Inquiries:** Modeled on the *Public Inquiries Act*, Bill 24 would allow HQCA to appoint an independent panel of one or more individuals to conduct a health system inquiry, at the request of Cabinet. Under the Bill, these inquiries will:
 - Be open to the public;
 - Have the power to compel evidence and subpoena witnesses;
 - Enable details of confidential, personal health information to be heard in private; and,
 - Require the panel to present its final report directly to the Legislative Assembly.

Under Bill 24, the HQCA itself will not conduct these inquiries. The Council will have the ability to appoint a judge to the inquiry panel in accordance with existing Court protocol.

“For many years, the Health Quality Council of Alberta has worked successfully to build and foster a culture of continuous quality improvement in our health care system,” said Fred Horne, Minister of Health and Wellness. “This Bill delivers on Premier Redford’s commitments for an independent inquiry into health system issues, and to strengthen HQCA’s role in the health care system.”

“This Bill provides a powerful new process to address health system matters in an open, public and independent way. This new process also includes specific provisions to protect confidential, personal health information,” added Horne.

Media inquiries may be directed to:

Andy Weiler

Communications

Alberta Health and Wellness

780-719-9325

andy.weiler@gov.ab.ca

November 21, 2011

Proposed Health Quality Council of Alberta legislation

Questions and Answers

The Government of Alberta has introduced legislation to enhance the independence of the Health Quality Council of Alberta (HQCA). This will include the responsibility for appointing one or more individuals to conduct a public inquiry into health system matters at the request of Cabinet.

1. If this new legislation gives the same inquiry powers to HQCA as the *Public Inquiries Act (PIA)*, why not just use the *PIA*?

- Many aspects of the proposed legislation are similar to the *PIA*, but there are differences. For example, specific confidentiality provisions are included to protect private health information.
- As well, unlike the *PIA*, where Cabinet appoints the Commissioners to head the inquiry, under the proposed legislation the HQCA will independently make those appointments.
- The HQCA has built up tremendous knowledge and expertise in the Alberta health system over the years and we want to ensure there is an opportunity for that knowledge and expertise to be used in making the appointments.

2. Will the new legislation allow the HQCA to self-initiate an inquiry?

- No. Cabinet will initiate a public inquiry. There will be no change in this regard.
- A public inquiry is a rare and significant occurrence, requiring a significant commitment of financial and human resources. As with the *Public Inquiries Act*, it will be up to Cabinet to determine whether it is in the public interest to call an inquiry.

3. Will the inquiry have the power to compel witnesses to testify, assess the evidence and provide witnesses with the protection they need?

- Yes. The individuals appointed to conduct the inquiry will have the authority to compel witnesses to give evidence as well as to compel the production of documents.
- Similar to inquiries under the *Public Inquiries Act* and the *Fatality Inquiries Act*, there will be provisions that prevent the information that comes forward in an inquiry being used in other legal proceedings, except for perjury prosecutions when someone has lied while on the witness stand.

4. How will inquiry proceedings under this new legislation protect and keep confidential Albertans' personal health information?

- The legislation will enable the individuals conducting the inquiry to go “in camera” or hear evidence in private about personal health information, as may be required.

- As with other public inquiry legislation, the interests of maintaining the open nature of the inquiry must be balanced with the private interests of patients and other people who are not part of the inquiry.
5. **Under this new legislation who will lead the inquiry? Will it be a judge?**
- It is proposed that the HQCA will appoint one or more individuals to head the inquiry. The HQCA has the benefit of its expertise in health system matters to make these appointments. The HQCA itself would not conduct the independent inquiry.
 - HQCA will have the ability to appoint a judge in accordance with court protocol.
6. **Will the person or panel leading the inquiry be able to set the terms of reference for the inquiry?**
- When Cabinet determines that it is in the public interest to hold a health system inquiry it will determine the nature and scope of the inquiry and direct the HQCA to appoint one or more individuals to conduct the inquiry. This is consistent with the *PIA*.
 - Part of determining whether an inquiry is in the public interest is an assessment of what the issues are. In the case of the current HQCA review of emergency department, cancer care and physician advocacy issues, the HQCA's report of what it found will be important in determining the nature and scope of a health system inquiry.

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Backgrounder

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