

October 2022

More Beds, Better Care Act, 2022

Frequently Asked Questions

On August 31, 2022, the Ontario government passed Bill 7, *More Beds, Better Care Act, 2022*. The related regulatory amendments were filed on September 14, 2022 and made regulatory changes under the *Fixing Long-Term Care Act, 2021* and the *Public Hospitals Act*.

The Ontario Hospital Association (OHA) has developed this Frequently Asked Questions document to assist hospitals in understanding how these changes will impact them. This is a companion document to the OHA backgrounders, which detail the [legislative](#) and [regulatory](#) changes under Bill 7.

The OHA has also compiled these resources, along with Ministry of Health guidance and sample hospital communications on this topic, on the OHA website found [here](#).

Does Bill 7 change who can issue a discharge order?

No. Section 16 of [Regulation 965](#) (Hospital Management) under the [Public Hospitals Act](#), allows “the attending physician, registered nurse in the extended class, or midwife or, the attending dentist if they are an oral and maxillofacial surgeon” to issue a discharge order.

Does Bill 7 change who can designate a patient as requiring an alternate level of care (ALC)?

The previous ALC definition was not defined in statute but rather in a standardized “[Provincial Alternative Level of Care](#)” definition developed in consultation with stakeholders across the continuum of care and adopted by Ontario Health. This definition used the term “physician and his/her delegate” to describe those who can designate an ALC patient.

Bill 7 now uses the term “attending clinician” to describe those who can designate an alternative level of care (ALC) patient. The term “attending clinician” is defined as those individuals listed under Section 16 of Regulation 965, that are allowed to issue discharge orders.

Do hospitals have any discretion on whether to charge the \$400 fee or in the amount they charge?

No. The language of s.16(3.1) of Regulation 965 provides that the \$400 charge is mandatory, in both the amount charged and in hospitals’ requirement to charge it.

Do the fee provisions under Bill 7 apply to patients admitted under the *Mental Health Act*?

Yes. The changes apply to all patients who have been discharged, regardless of whether they were admitted under the [Mental Health Act](#) (MHA) or not.¹

When are hospitals required to comply with the mandatory per-diem provisions?

The amendment will come into effect on November 20, 2022. Hospitals will be required to comply effective that date.

Do the mandatory per-diem provisions only apply to ALC patients moving to long-term care?

No. The amendment is a change to the per-diem for all discharged patients who remain in hospital, following a 24-hour waiting period.

What if a long-term care home refuses to approve admission of a patient?

Long-term care homes are required to approve the admission of a patient, unless one of the statutory exemptions under s.51(7) of the [Fixing Long-Term Care Act, 2021](#) is met. These exceptions are not new, but as a reminder, include:

- a) the home lacks the physical facilities necessary to meet the applicant's care requirements;
- b) the staff of the home lack the nursing expertise necessary to meet the applicant's care requirements; or
- c) circumstances exist which are provided for in the regulations as being a ground for withholding approval.

Long-term care homes are still required to provide written reasons for refusing admission on the above-noted grounds.

The Ministry of Long-Term Care has indicated that there is an expectation that long-term care homes will actively collaborate with hospitals in those exceptional circumstances, to determine if a solution can be found to allow for admission.

What would be considered “reasonable efforts” to obtain the patient’s consent under the new provisions?

The legislation does not explicitly or unequivocally define “reasonable efforts.” However, the legislation implies that reasonable efforts will be guided by the ongoing conversation between placement coordinators, hospital discharge teams and the patient or substitute decision-maker. The legislation and [Ontario Health Field Guidance](#) set out the minimum expectations of those conversations.

¹ The prohibition against charging a co-pay for patients admitted under the *Mental Health Act*, is found under the [Health Insurance Act](#) and is related to their status as “insured persons” and is not applicable in the case of a discharged patient.

Are patients in transitional care beds subject to Bill 7?

No. The amendments do not apply to patients who are currently in a transitional care unit based in the community, and not designated as hospital premises under the *Public Hospitals Act*.

How should hospitals prepare themselves for November 20?

Hospitals should ensure they have reviewed and revised their discharge policies and procedures. Relevant clinical teams should be engaged, informed and trained on the new policies. Additional supports are currently in development in collaboration with Ontario Health, and the OHA has prepared a range of materials to support hospitals, which can be found [here](#).

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