ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER H3

HEALTH AUTHORITY OF ANGUILLA ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition revises Act 11/2003, in force 1 January 2004

Published by the
Attorney General's Chambers
Printed under Authority by
The Regional Law Revision Centre Inc.
ANGUILLA

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER H3

HEALTH AUTHORITY OF ANGUILLA ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition revises Act 11/2003, in force 1 January 2004

Published by the
Attorney General's Chambers
Printed under Authority by
The Regional Law Revision Centre Inc.
ANGUILLA

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

© Government of Anguilla

All rights reserved. No part of this publication may be reproduced in any form or by any means (including photocopying) without the written permission of the Government of Anguilla except as permitted by the Copyright Act or under the terms of a licence from the Government of Anguilla.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

HEALTH AUTHORITY OF ANGUILLA ACT

TABLE OF CONTENTS

PRELIMINARY

SECTION

1. Interpretation

POWERS OF MINISTER

2. Strategic Plan for Health
3. Agreements by Minister or Government

ESTABLISHMENT, RESPONSIBILITIES AND POWERS OF AUTHORITY

4. Establishment of Health Authority of Anguilla
5. Responsibilities of Authority
6. General powers of Authority

THE BOARD AND ITS OPERATIONS

7. Constitution of Board
8. Chairperson, Deputy Chairperson and interim chairperson
9. Remuneration, expenses and allowances of members
10. Resignation and removal of members
11. Meetings of Board
12. Annual public meeting of Board
13. Interest in contracts to be disclosed; withdrawal, etc. from meeting
14. Declaration of interest in contract
15. Avoidance of nullity of contract
16. Setting aside contract
17. Board to act by by-law or resolution
18. Minutes of meetings
19. By-laws on conduct and management, organization and committees
20. Remuneration, expenses and allowances of committee members who are not Board members
21. Immunity of members of Board and committees

OFFICERS AND EMPLOYEES

22. Chief Executive Officer
23. Appointment of other officers and employees
24. Authority of Board over officers and employees
25. Secondment of public officers

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

26. Transfer of services of public officers and preservation of pensions, allowances and gratuities

FINANCIAL PROVISIONS

27. Annual services agreement
28. Authority obligated to implement annual services agreement
29. Funds and resources of the Authority
30. Borrowing powers
31. Investment of surplus funds
32. Accounts and audit
33. Audit of statements or acceptance of audit by Chief Auditor
34. Annual statements and report

ACCESS TO AND CONFIDENTIALITY OF HEALTH INFORMATION

35. Individual's right of access to his or her own health information
36. How to make a request
37. Abandoned request
38. Duty to assist applicants
39. Right to refuse access to health information
40. Time limit for responding to a request for access
41. Correction or amendment of health information
42. Refusal to correct or amend health information
43. Extending time
44. Confidentiality of health information
45. Administration of sections 35 to 44
46. Offences and punishment

INFORMATION RETURNS AND REGULATIONS

47. Minister may require returns of information
48. Regulations by Governor in Council

APPEALS COMMITTEE

49. Definitions for sections 50 to 51
50. Appeals Committee
51. Immunity of members of Appeals Committee
52. Chairperson, Deputy Chairperson and interim chairperson
53. Appeals
54. Records and documents to be forwarded
55. Hearings
56. Investigation
57. Evidence
58. Right to examine filed material
59. Decisions of Appeals Committee

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

CITATION AND TRANSITIONAL PROVISIONS

60. Application of section 20 of the Interpretation and General Clauses Act
61. Citation
62. Transitional provisions: regulations
63. Transitional provisions: land, personal property and contracts
64. Transitional provisions: Strategic Plan for Health

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

HEALTH AUTHORITY OF ANGUILLA ACT

PRELIMINARY

Interpretation

1. In this Act—

"annual services agreement", for a financial year, means the annual services agreement referred to in section 27 and includes any amendment to that agreement applicable to the financial year;

"Appeals Committee" means the Appeals Committee established in section 50(1);

"Authority" means the Health Authority of Anguilla established in section 4(1);

"Board" means the Board of the Authority established under section 7(1);

"Chairperson", in reference to the Board, means the Chairperson designated under section 8(1);

"Chief Auditor" has the same meaning as in the Financial Administration and Audit Act;

"Chief Executive Officer" means the person appointed as such under section 22(1);

"dental service" means a service that is provided to an individual for the purpose of evaluating, diagnosing and treating, surgically and non-surgically, diseases, disorders and conditions of—

(a) the mouth, including the teeth, gums and other supporting structures;

(b) the maxillofacial area, which includes the upper and lower jaws and joints; and

(c) the adjacent and associated structures of the head and neck;

to maintain and improve a person's physical or psychological health, including without limitation—

(d) the provision of any device, product, equipment or item or other thing, such as dentures or partial dentures, a crown, bridge or other prosthesis, and the repair or other service in relation to any of the them; and

(e) the administration, prescription or provision of an anaesthetic, drug or medicine;

"Deputy Chairperson", in reference to the Board, means the Deputy Chairperson designated under section 8(1);

"designated organisation" means the Princess Alexandra Hospital, the Miriam Gumbs Senior Citizens' Home and the Primary Health Care Unit, including the Dental Clinic, the health clinics, the Primary Health Care Main Office, the Mental Health Unit and the Health Promotion Office;

"financial year" means the 12 month period ending on 31st December in each year;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

"Government" means the Government of Anguilla;

"health information" means information respecting—

(a) a health service provided to an individual; and

(b) any other information prescribed for the purpose of this definition;

and includes health information that, immediately before 1 January 2004, was in the custody or under the control of the Government and that, on 1 January 2004, came into the custody or under the control of the Authority;

"health professional" means a health professional as defined in the regulations;

"health service" means a service provided by the Authority to an individual—

(a) for the purpose of—

(i) protecting, promoting or maintaining physical or mental health,

(ii) preventing illness,

(iii) diagnosing and treating illness,

(iv) rehabilitation, or

(v) caring for the health needs of the ill, disabled, injured or dying;

(b) by an emergency medical technician or paramedic; or

(c) for a purpose or by a person prescribed for the purpose of this definition;

including without limitation the provision of any device, product, equipment or item or other thing, such as the administration, prescription or provision of an anaesthetic, drug or medicine or the provision of blood or plasma, and any service in relation to any device, product, equipment or item or other thing;

and includes a dental service;

"health services provider" means—

(a) a health professional; or

(b) any other individual;

who is employed by, or has a contract with, the Authority for the provision of health services on behalf of the Authority;

"interim chairperson", in reference to the Board, means the interim chairperson designated under section 8(3);

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

"land" means land as defined in the Registered Land Act, and includes an interest in land;

"member", in relation to the Board, means a member of the Board appointed under section 7(1);

"Minister" means the member of Executive Council with responsibility for health;

"Ministry" means that portion of a Ministry that is responsible for health;

"personal care service" means a service provided to an individual for the purpose of care in any facility operated by the Authority for the aged or infirm or for persons who are not able to care properly for themselves;

"prescribed" means prescribed by regulation under this Act;

"prescribed health service fee or charge" means a fee or charge prescribed in respect of a health service provided by the Authority but does not include a fee or charge payable to a health professional whose services are not paid for by the Authority;

"prescribed personal care service fee or charge" means the fee or charge prescribed in respect of a personal care service;

"public officer" means public officer within the meaning of section 73(1) of the Constitution of Anguilla.

POWERS OF MINISTER

Strategic Plan for Health

2. (1) On the recommendation of the Minister, the Governor in Council may establish a Strategic Plan for Health for Anguilla.

(2) The Minister is responsible under this Act for the implementation of the Strategic Plan for Health in relation to the Authority.

Agreements by Minister or Government

3. (1) Without prejudice to the powers of the Minister in respect of agreements, the Minister may enter into agreements with educational institutions, such as the University of the West Indies, with respect to education, training and research in health care.

(2) The Government of Anguilla may enter agreements with the Authority pursuant to which a public officer or a department of Government is to furnish services to the Authority, including, without limitation, the following—

(a) the appointment by the Authority of the internal auditor of the Finance Department to act as the auditor of the Authority;

(b) computer support services;

(c) payroll services.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

ESTABLISHMENT, RESPONSIBILITIES AND POWERS OF AUTHORITY

Establishment of Health Authority of Anguilla

4. (1) The Health Authority of Anguilla is established.

(2) The Authority is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Authority has an exclusive right to the use of its name.

(4) The common seal shall be kept in such custody as the Board by by-law or resolution directs and shall be authenticated by the Chairperson or Deputy Chairperson.

(5) All contracts and instruments made by the Board, other than those required by law to be under seal, and all by-laws and resolutions of the Board may be authenticated under the hand of the Chairperson or Deputy Chairperson.

Responsibilities of Authority

5. (1) Subject to subsection (2) and this Act and the regulations, the responsibilities of the Authority are—

(a) to promote and protect the health of persons in Anguilla and to work toward the prevention of disease and injury in Anguilla;

(b) to provide an integrated scheme of primary and secondary health care to persons in Anguilla;

(c) to assess on an ongoing basis the health needs of persons in Anguilla;

(d) to determine the priorities in the provision of health care to persons in Anguilla to ensure that the most appropriate health services are provided;

(e) to ensure that reasonable access to quality health services is provided to persons in Anguilla;

(f) in an efficient and cost-effective manner, to operate, equip, repair, maintain, extend and replace the facilities operated by the Authority;

(g) in furtherance of agreements made by the Minister under section 3(1), to collaborate with educational institutions, such as the University of the West Indies, in providing education, training and research in health care;

(h) to assess on an ongoing basis the need for personal care of persons in Anguilla and to provide quality personal care services;

(i) to ensure that the business and affairs of the Authority are conducted according to this Act and the regulations and any other Acts or regulations applicable to the Authority.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(2) Notwithstanding subsection (1), the Authority is not required at any time to provide—

(a) any health service or level of health service; or

(b) any personal care service or level of personal care service;

that is not specified, or that is above the level specified, in the regulations or in the applicable annual services agreement.

General powers of Authority

6. (1) Subject to this Act and the regulations or any other Act and its regulations, the Authority has the power to do all things necessary for, or ancillary or incidental to, the carrying out of its responsibilities under this Act or any other enactment, including the power—

(a) subject to the approval of the Governor in Council, to acquire by purchase, gift, lease or otherwise, hold, deal with and dispose of, land;

(b) to acquire by purchase, gift, lease or otherwise, hold, deal with and dispose of personal property or any interest in personal property;

(c) to accept gifts of money on trust or otherwise;

(d) to contract with any person for the supply to, or by, the Authority of any equipment, supplies, appliances or other goods or services;

(e) to open, maintain and close accounts with any bank in Anguilla that holds a licence under the Banking Act[*];

(f) with the approval of the Minister, to open, maintain and close accounts with banks outside Anguilla;

(g) to publish, in such manner as it considers appropriate, such information relating to its functions as it thinks fit;

(h) to write off debts;

(i) to make reasonable contributions to charitable or philanthropic causes by way of sponsorship or otherwise; and

(j) to engage in fund raising activities for the benefit of the Authority.

(2) The powers in this section shall not be exercised in a manner inconsistent with any condition or direction imposed on, or given by, the donor or testator with respect to a gift to the Authority.

[*] Banking Act, 2015 (Act 6/2015) *repealed* the Banking Act, R.S.A. c. B11.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

THE BOARD AND ITS OPERATIONS

Constitution of Board

7. (1) The affairs of the Authority shall be managed by a Board consisting of 7 members appointed by the Minister for a term not exceeding 5 years.

(2) In appointing the members, the Minister shall endeavour to ensure that at all times the Board—

(a) has—

(i) one member who is or was a qualified medical practitioner,

(ii) one member who is or was a registered nurse,

(iii) one member who has experience in public health, and

(iv) one member who represents the public interest; and

(b) has members with qualifications in a different areas that will assist the Board in the performance of its responsibilities or the exercise of its powers including areas such as—

(i) finance, accounting or economics,

(ii) business management, and

(iii) personnel management or industrial relations.

(3) No more than two members may be public officers.

(4) The Minister may engage in such consultations with, and solicit such nominations from, the employees of the Authority and the public respecting the appointment of members as the Minister considers appropriate.

(5) A person is disqualified from being appointed or from remaining a Board member if he or she—

(a) is under the age of 18 years;

(b) is a member of the House of Assembly;

(c) is an officer or employee of the Authority;

(d) is employed in the Ministry;

(e) is a Permanent Secretary;

(f) is an undischarged bankrupt; or

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(g) has been convicted of an offence involving dishonesty.

(6) A previous appointment as a member does not affect a person's eligibility to be re-appointed as a member.

(7) A notice of the appointment of a member shall be published in the *Gazette* without delay after the appointment.

(8) The Authority is deemed to be properly constituted notwithstanding that there is a vacancy on the Board or a defect in the appointment of a member, other than a disqualification referred to in subsection (5).

(9) If a member is—

(a) absent from Anguilla; or

(b) unable to act;

the Minister may appoint a person who is eligible for appointment as a member to act during the member's absence or inability.

Chairperson, Deputy Chairperson and interim chairperson

8. (1) The Minister shall designate one of the members to be Chairperson and another to be Deputy Chairperson of the Board.

(2) The Deputy Chairperson may act in place of the Chairperson if the Chairperson is absent or unable to act or the office of Chairperson is vacant.

(3) If by reason of the absence or incapacity of the Chairperson or Deputy Chairperson or a vacancy in either of those offices the Board does not have a chairperson, the Board may designate one of its members as an interim chairperson.

Remuneration, expenses and allowances of members

9. (1) A member shall be paid such remuneration for carrying out his or her responsibilities and exercising his or her powers as a member as may be determined by the Governor in Council.

(2) The Board may—

(a) reimburse the reasonable expenses of members; or

(b) by by-law, establish allowances for the reimbursement of reasonable expenses of members;

incurred in the course of carrying out their responsibilities and exercising powers as members.

(3) For the purpose of this section, "responsibilities" and "powers" of a member include—

(a) the attendance at Board meetings or committee meetings or at any other meeting or activity approved by the Board; and

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(b) sitting as Chairperson, Deputy Chairperson or interim chairperson of the Board or as chairperson or deputy chairperson of a committee.

Resignation and removal of members

10. (1) A member may at any time resign by giving written notice to the Minister and a resignation is effective upon receipt of the notice by the Minister.

(2) The Minister may, by written notice, remove a member from office if he or she is satisfied that—

(a) the member has, without the consent evidenced by resolution of the Board, been absent from 3 or more consecutive meetings of the Board;

(b) the member is or has become disqualified under section 7(5) from remaining as a member;

(c) the member is a member referred to in section 13(8);

(d) the member has disclosed health information contrary to section 44, whether or not he or she has been convicted under section 46;

(e) the member is unable or unfit to carry out his or her functions as a member; or

(f) it is in the public interest to do so.

(3) If a member resigns, is removed from his or her office or his or her office is vacated by death or otherwise prior to the expiry of the term for which he or she has been appointed, the Minister may appoint a new Board member to replace him or her.

(4) An appointment of a member under subsection (3) may be for the unexpired period of the term of office of the member in whose place he or she is appointed or for a new term of not more than 3 years.

(5) A notice of the resignation or removal or the vacating of office by death or otherwise of a member shall be published without delay in the *Gazette.*

Meetings of Board

11. (1) The Board shall meet as often as may be necessary for the expeditious carrying out of its responsibilities and exercise of its powers and shall in any event meet not less than 12 times in any 1 year.

(2) Meetings of the Board shall be held at such place in Anguilla, on such days and at such times as the Chairperson may determine and due notice of the place, date, time and agenda of each meeting shall be given to each member of the Board in writing not less than 72 hours before the time the meeting is to be held, unless the member waives notice of the meeting in writing.

(3) Any 3 members of the Board, acting together, may require the Chairperson to convene a meeting.

(4) A quorum of the Board is 4 members.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(5) In the event of a tie vote on a matter, the Chairperson, Deputy Chairperson or interim chairperson presiding at the meeting has a second or casting vote.

(6) Where by reason of the withdrawals from a meeting under section 13(4) the number of members remaining at a meeting does not constitute a quorum, then, notwithstanding subsection (4), or any by-law of the Board, the number of members remaining, if not fewer than 3, is deemed to constitute a quorum for the purposes of discussing and voting on a matter referred to in section 13.

(7) Where in the circumstances referred to in subsection (6), there would be fewer than 3 members remaining at the meeting, the Board may apply to the Minister to appoint a sufficient number of temporary members to constitute a quorum under subsection (4) who shall be authorised to discuss and vote on any matter referred to in section 13.

Annual public meeting of Board

12. (1) The Board shall, as soon as practicable after receiving the audited statements of the Authority prepared by the auditor appointed by the Board, hold a Board meeting to which the public is invited.

(2) A notice of the day, time and place of the meeting and that it is open to the public shall be published in a newspaper of general circulation in Anguilla not less than 14 days before the meeting.

(3) A reasonable number of copies of the statements mentioned in subsection (1) shall be made available at the meeting.

(4) An account of the performance of the Authority in the previous year and its objectives and priorities in the year in which the meeting is held and the following 2 years shall be given at the meeting, and persons present at the meeting shall be given a reasonable opportunity to ask questions.

Interests in contracts to be disclosed; withdrawal, etc. from meeting

13. (1) This section does not apply to—

(a) a contract or proposed contract; or

(b) a member or officer who is a director or an officer of any body, or has an interest in any body, that is a party to a contract or proposed contract;

with the Authority for health services or personal care services that is on terms common to contracts between the Authority and other persons.

(2) A member or officer of the Authority—

(a) who is a party to a contract or proposed contract with the Authority; or

(b) who is a director or an officer of any body, or has an interest in any body, that is a party to a contract or proposed contract with the Authority;

shall disclose in writing to the Board or request to have entered in the minutes of meetings of the Board the nature and extent of his or her interest.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(3) The disclosure required by subsection (2) shall be made, in the case of a member—

(a) at the meeting of the Board at which a proposed contract is first considered;

(b) if the member was not then interested in a proposed contract, at the first meeting of the Board after he or she becomes so interested;

(c) if the member becomes interested after a contract is made, at the first meeting of the Board after he or she becomes so interested; or

(d) if a person who is interested in a contract later becomes a member, at the first meeting of the Board after he or she becomes a member.

(4) If the contract or proposed contract falls to be considered at a meeting of the Board at which the member or officer is present, the member shall, after disclosing his or her interest—

(a) withdraw from the meeting without voting or participating in the discussion; and

(b) refrain at all times from attempting to influence the Board's decision in the matter.

(5) The disclosure required by subsection (2) shall be made, in the case of an officer of the Authority who is not a member—

(a) forthwith after he or she becomes aware that the contract, or proposed contract, is to be considered, or has been considered, at a meeting of the Board;

(b) if the officer becomes interested after a contract is made, forthwith after he or she becomes so interested; or

(c) if a person who is interested in a contract later becomes an officer of the Authority, forthwith after he or she becomes an officer.

(6) If a contract or a proposed contract is one that, in the ordinary course of the Authority's business, would not require approval by the Board, a member or officer of the Board shall disclose in writing to the Board, or request to have entered in the minutes of a meeting of the Board, the nature and extent of his or her interest forthwith after the member or officer becomes aware of the contract or proposed contract.

(7) When a contract or proposed contract is one that, in the ordinary course of the Authority's business, would not require approval by the Board—

(a) if the contract or proposed contract falls to be considered at a meeting of a committee of the Board at which the member or officer is present, the member or officer shall, after disclosing the nature and extent of his or her interest to the committee—

(i) withdraw from the meeting without voting or participating in the discussion, and

(ii) refrain at all times from attempting to influence the committee's decision in the matter,

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

and the member or officer, in addition to complying with subsection (6), shall without delay disclose in writing to the Board, or request to have entered in the minutes, whether or not the member or officer disclosed the nature and extent of his or her interest to the committee and complied with subparagraphs (i) and (ii); and

(b) if the contract or proposed contract falls to be considered at a meeting of a committee of the Board at which a committee member who is not a member of the Board is present and that committee member has an interest the nature and extent of which he or she would have to disclose to the Board if he or she were a member of the Board, the committee member who is not a member of the Board shall, after disclosing the nature and extent of his or her interest to the committee—

(i) withdraw from the meeting without voting or participating in the discussion, and

(ii) refrain at all times from attempting to influence the committee's decision in the matter,

and the member who is not a member of the Board shall without delay disclose in writing to the Board, or request to have entered in the minutes of a meeting of the Board, the nature and extent of his or her interest and whether or not the member who was not a member of the Board disclosed the nature and extent of his or her interest to the committee and complied with subparagraphs (i) and (ii).

(8) A member who contravenes this section is liable to removal.

(9) An officer who contravenes this section may be dismissed.

(10) A member of a committee of the Board who is not a member of the Board and who contravenes this section shall be removed forthwith from the committee.

Declaration of interest in contract

14. For the purposes of section 13, a general notice to the Board by a member or an officer of the Authority declaring that he or she is a director or officer of, or has an interest in, another body, and is to be regarded as interested in any contract with that body, is a sufficient declaration of interest in relation to the contract.

Avoidance of nullity of contract

15. A contract between the Authority and one or more of its members or officers or a member of a committee who is not a member of the Board, or between the Authority and another body of which a member or officer or a member of a committee who is not a member of the Board is a director or officer, or in which he or she has an interest, is neither void nor voidable by reason only of that relationship, if the member or officer or a member of a committee who was not a member of the Board disclosed his or her interest in accordance with section 13 or 14 and complied with section 13(4) or (7), as the case may be, and the contract was approved by the Board and was reasonable and fair to the Authority at the time it was approved.

Setting aside contract

16. When a member or officer of the Board or a member of a committee who is not also a member of the Board fails to disclose, in accordance with section 13 or 14, his or her interest in a contract

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

made by the Authority or fails to comply with section 13(4) or 13(7), as the case may be, the High Court may, upon the application of the Authority, set aside the contract on such terms as the High Court thinks fit.

Board to act by by-law or resolution

17. (1) Subject to this Act and the regulations, the Board may act by by-law or resolution.

(2) A resolution must be passed by a majority of the votes of the members present and entitled to vote on it.

(3) A by-law must be passed by the votes of not less than 5 members, all of whom are present and entitled to vote on it.

Minutes of meetings

18. (1) The Board shall appoint a person to be Secretary to the Board.

(2) The Secretary to the Board shall keep accurate and complete minutes of each meeting of the Board, including particulars of—

(a) the notice to members of each meeting and any waiver of notice by the member;

(b) the members in attendance and members not in attendance and whether the member's absence was consented to by the Board;

(c) any resolution or by-law passed and the members present and voting on it or abstaining from voting on it;

(d) any disclosure by a member or officer of an interest to the Board or the nature and extent of the interest which a member or officer has requested to have entered in the minutes under section 13 or a notice of declaration of interest under section 14 and of a member's withdrawal under section 13; and

(e) any occasion when the circumstances described in section 11(6) or (7) arise.

By-laws on conduct and management, organisation and committees

19. (1) The Board shall make by-laws regulating its proceedings and generally for the overall conduct and management of its activities including the organisation of the Authority and the establishment of committees to advise the Board.

(2) The Board shall establish such committees as it considers advisable, but shall ensure that a committee or committees are appointed with responsibility for the following—

(a) the development of the health care system of the Authority;

(b) clinical audit;

(c) granting, amending and revoking privileges to health professionals who are not staff members of the Authority;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(d) the consideration of complaints by members of the public respecting health services and personal care services provided by the Authority for the purpose of taking corrective administrative action;

(e) financial matters.

(3) At least 2 members of the Board shall be appointed to each committee established by the Board.

(4) The Board shall from among members of the Board appoint a chairperson and deputy chairperson for each committee.

(5) In the event of a tie vote on a matter, the chairperson or deputy chairperson presiding at the committee meeting has a second or casting vote.

(6) A by-law establishing a committee with the responsibilities referred to in paragraph (2)(c) or (d) shall include provisions to the following effect—

(a) the committee must, within 10 days after making a decision, give notice of its decision personally or by registered mail addressed to the applicant or complainant at the address as shown on his or her application or complaint of a decision by the committee;

(b) a decision of the committee is deemed to include the neglect or refusal to make a decision within 60 days after the application in writing for privileges by a health professional or the filing of a complaint in writing by a member of the public respecting health services and personal care services provided by the Authority and notice of the decision is deemed to have been received by the applicant or complainant on the 60th day.

Remuneration, expenses and allowances of committee members who are not Board members

20. (1) The Board may, for carrying out his or her responsibilities or exercising his or her powers as a committee member, pay such remuneration to a committee member who is not a member of the Board as may be established by by-law, but in no event shall the amount of remuneration exceed that which is payable to a member of the Board in similar circumstances.

(2) Notwithstanding subsection (1), a member of a committee who is an officer or employee of the Authority is not entitled to be paid any remuneration in respect of his or her membership on the committee.

(3) The Board may—

(a) reimburse the reasonable expenses of any committee member who is not a member of the Board; or

(b) by by-law, establish allowances for the reimbursement of reasonable expenses of that member;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

incurred in the course of carrying out his or her responsibilities and exercising his or her powers as a committee member who is not a member of the Board, but in no event shall an allowance exceed that which is payable to a member who is a member of the Board in similar circumstances.

(4) For the purpose of this section, "responsibilities" and "powers" of a committee member who is not a member of the Board include the attendance at committee meetings and at any other meeting or activity approved by the Board.

Immunity of members of Board or committees

21. No action for damages or other proceeding may be commenced against—

(a) a member for anything done or omitted to be done in good faith, by the member while carrying out his or her responsibilities or exercising his or her powers under this Act at a meeting of the Board or at a meeting or activity approved by the Board; or

(b) a committee member who is not a Board member for anything done or omitted to be done in good faith by the member while carrying out his or her responsibilities or exercising his or her powers at a meeting of the committee or at a meeting or activity approved the Board.

OFFICERS AND EMPLOYEES

Chief Executive Officer

22. (1) The Board shall, at such remuneration and on such terms and conditions as it considers appropriate, appoint a Chief Executive Officer of the Authority, who shall be a full-time officer of the Authority and shall not engage in any other trade, profession, occupation or business without the consent of the Board.

(2) The term of office of the Chief Executive Officer shall not exceed 5 years and he or she is eligible for reappointment.

(3) Under the direction of the Board, the Chief Executive Officer is responsible for—

(a) the management of the Authority; and

(b) providing technical advice and guidance to the Board on matters of policy.

(4) Whenever the Chief Executive Officer is unable to carry out his or her responsibilities or exercise his or her powers or is absent from Anguilla, the Board may appoint an officer of the Authority to act as Chief Executive Officer.

(5) A notice of the appointment, resignation or removal, or vacating of office by the death or otherwise, of the Chief Executive Officer shall be published without delay in the *Gazette*.

Appointment of other officers and employees

23. (1) The Board may, in addition to the Chief Executive Officer, appoint such other officers and employees as are necessary for the proper carrying out of the responsibilities and the exercise of the powers of the Authority.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(2) No officer or employee of the Authority appointed under subsection (1) shall engage in any other trade, profession, occupation or business without the consent of the Board.

(3) The Board may, by by-law, delegate to the Chief Executive Officer the power—

(a) to appoint employees or classes of employees; and

(b) to consent on behalf of the Board to the employee engaging in any trade, profession, occupation or business.

Authority of Board over officers and employees

24. Except in respect of public officers who are seconded to the Authority, the Board has final authority in respect to the appointment, termination, promotion or discipline of its officers or employees.

Secondment of public officers

25. (1) The Governor may approve the secondment of such public officers for service with the Authority as appear necessary for the proper carrying out of its responsibilities and the exercise of its powers.

(2) A public officer seconded under subsection (1) shall, in relation to payment of salary, pension, gratuity and the like and to other rights and to discipline, be treated as if he or she were not so seconded.

Transfer of services of public officers and preservation of pensions, allowances and other benefits

26. (1) All public officers employed in a designated organization are transferred, on 1 January 2004, to the service of the Authority at a remuneration and on terms and conditions of service that are not less favourable than the remuneration and terms and conditions of service that were enjoyed by the public officer immediately before this Act came into force.

(2) The rights of a public officer referred to in subsection (1) to a pension, allowance or gratuity for which he or she would have been eligible had he remained in the public service are preserved, and his or her service with the Authority shall be pensionable under the Pensions Act as if the public officer had not been so transferred.

FINANCIAL PROVISIONS

Annual services agreement

27. The Authority shall, not later than 4 months before the commencement of each financial year, or at such later time in the financial year as the Minister approves, enter into an annual services agreement with the Government of Anguilla as represented by the Minister of Finance for the financial year that must contain—

(a) a provision stating the Authority's objectives and priorities in carrying out its responsibilities and exercising its powers for the financial year and the following 2 financial years, which shall incorporate the national objectives and priorities for

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

health in the Strategic Plan for Health referred to in section 2 as they relate to the health services and personal care services of the Authority;

(b) a provision setting out a general description of the health services and personal care services to be provided by the Authority and the level of those services;

(c) a provision respecting how the Authority proposes to carry out its responsibilities and exercise its powers under the Act and the regulations in the financial year;

(d) a provision for a comprehensive financial plan that shows how resources, including but not limited to financial resources, will be allocated to meeting the objectives and priorities of the Authority for the financial year and that includes estimates of its expected revenue and expenditure, both recurrent and capital, for the financial year setting out the heads of revenue and expenditures;

(e) a provision respecting the amount of reserves and a statement of the purposes of the reserves;

(f) a provision respecting how the Authority proposes to measure its performance in carrying out its responsibilities and exercising its powers in the financial year;

(g) a provision respecting what financial statements and reports on the carrying out of its responsibilities and exercising its powers will be required by the Minister and when they will be required;

(h) a provision respecting the procedure for amending any provisions of the agreement;

(i) a provision for the resolution of disagreements; and

(j) any other provisions that the Authority and the Government of Anguilla consider necessary or appropriate.

Authority obligated to implement annual services agreement

28. The Authority shall in each financial year implement the annual services agreement for that financial year.

Funds and resources of the Authority

29. (1) The funds and resources of the Authority are—

(a) the prescribed health services fees and charges and the prescribed personal care services fees and charges paid to the Authority;

(b) the money appropriated by the Legislature for the purposes of the Authority;

(c) the money paid to the Authority by way of grants;

(d) the interest and dividends from the investment of the Authority's funds;

(e) the money borrowed by the Authority under this or any other Act;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(f) the land of the Authority and, except as otherwise determined by the Governor in Council, money derived from the dealing in or disposal of land of the Authority;

(g) the personal property or interests in personal property of the Authority and money derived from the dealing in or disposal of personal property or interests in personal property of the Authority; and

(h) all other money lawfully received or made available to the Authority.

(2) The funds and resources of the Authority shall be applied for the purposes of the Authority.

Borrowing powers

30. (1) The Authority may, with the approval of the Minister and to the extent that it considers it necessary to carry out its responsibilities and exercise its powers, borrow money by way of loan, advance or overdraft.

(2) Notwithstanding subsection (1), the approval of the Minister is not required if—

(a) the total value of all money borrowed by the Authority in a financial year by way of loan, advance or overdraft does not exceed 2% of the total expenditures of the Authority provided for in the annual services agreement for the financial year;

(b) the Board determines that the money is required by reason of an emergency; and

(c) the Board advises the Minister as soon as practicable after the money is borrowed of the circumstances of the emergency and the amount of money that is borrowed.

Investment of surplus funds

31. The Board may, in accordance with the investment policy approved by the Minister, invest any of its funds not immediately required for the carrying out of the responsibilities or exercising the powers of the Authority.

Accounts and audit

32. (1) The Authority shall—

(a) keep proper books of account of its income and other receipts and expenditures; and

(b) ensure that—

(i) all money received is promptly and properly brought to account,

(ii) all payments out of its money are correctly made and properly authorised, and

(iii) adequate control is maintained over its property and over the incurring of liabilities by the Authority.

(2) The books of account kept under subsection (1) shall—

(a) be sufficient to record and explain the Authority's transactions;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(b) enable the Authority's financial position to be determined with reasonable accuracy at any time; and

(c) be sufficient to enable financial statements to be prepared and audited in accordance with this section.

(3) Within 3 months after the end of each financial year, the Authority shall prepare accounts containing—

(a) a statement of the assets and liabilities of the Authority at the end of the financial year;

(b) a statement of the revenue and expenditure of the Authority during the financial year;

(c) such other financial statements for the financial year as may be specified by the Minister; and

(d) proper and adequate explanatory notes to the financial statements;

and the accounts shall be audited by an auditor appointed by the Board with the approval of the Chief Auditor.

(4) The auditor shall be a qualified accountant and shall in performing his or her audit take instructions from the Chief Auditor.

(5) The Authority shall not appoint as an auditor, and no person shall act as an auditor of the Authority, if, in the financial year in which the appointment is made or in the preceding financial year, the person—

(a) is or was a member of the Board;

(b) has or had a direct or indirect interest in a contract with the Authority, other than the contract respecting the audit; or

(c) is or was employed by the Authority in a capacity other than as auditor.

(6) Whenever the Chief Auditor or the Board so instructs and in any event not less frequently than every 3 years, the auditor shall make such checks as will enable him or her to form an opinion as to whether the Authority has used its resources with economy, efficiency and effectiveness but the responsibility to make such checks shall not be interpreted by the auditor as entitling him or her to call into question the merits of the policy objectives of the Authority.

(7) The opinion of the auditor mentioned in subsection (6) shall be included in his or her audited statements.

Audit of statements or acceptance of audit by Chief Auditor

33. Without delay after the completion of the audit by the auditor appointed by the Board, the Board shall submit the audited statements to the Chief Auditor, who shall—

(a) audit them; or

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(b) accept the audited statements of the auditor appointed by the Board;

in accordance with section 59[†] of the Financial Administration and Audit Act and, not later than 3 months after receipt of the statements, forward to the Board a report on the examination and audit of the statements of the Authority or evidencing his or her acceptance of the audited statements of the auditor appointed by the Board.

(Am. in L.R. 15/12/2006 and L.R. 15/12/2010)

Annual statements and report

34. (1) Within 1 month after the receipt of the report of the Chief Auditor, the Board shall submit to the Minister—

(a) its audited statements and a copy of the report of the Chief Auditor; and

(b) an annual report of its operations and activities for that financial year.

(2) The annual report shall contain such matters as the Minister may require.

(3) The Minister shall, without delay after receipt, table the audited statements of the Authority, the report of the Chief Auditor and its annual report before the House of Assembly if it is sitting and, if it is not then sitting, without delay after it next sits.

(4) As soon as reasonably practicable after the audited statements of the Authority, the report of the Chief Auditor and its annual report have been tabled before the House of Assembly, the Authority shall cause its audited accounts, the report of the Chief Auditor and its annual report to be published in the *Gazette*.

ACCESS TO AND CONFIDENTIALITY OF HEALTH INFORMATION

Individual's right of access to his or her own health information

35. (1) An individual has a right of access to any record containing health information about the individual that is in the custody or under the control of the Authority.

(2) The right of access to a record does not extend to information in respect of which the Authority is authorised or required to refuse access under section 39, but if that information can reasonably be severed from a record, an individual has a right of access to the remainder of the record.

(3) The right of access to a record is subject to the payment to the Authority of the fee prescribed for the purpose of this subsection.

How to make a request

36. (1) To obtain access to a record, an individual must make a request to the Authority.

(2) The Authority may require the applicant to submit the request in writing.

[†] This section has been corrected to reflect the renumbering of the Financial Administration and Audit Act, R.S.A. c. F27 (15/12/2010)

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(3) In a request, the applicant may ask—

(a) for a copy of the record; or

(b) to examine the record.

Abandoned request

37. When the Authority contacts an applicant in writing respecting the applicant's request, including—

(a) seeking further information from the applicant that is necessary to process the request; or

(b) requesting the applicant to pay the prescribed fee or to agree to pay the prescribed fee;

and the applicant fails to respond to the Authority, as requested by the Authority, within 30 days after being contacted, the Authority may, by notice in writing to the applicant, declare the request abandoned.

Duty to assist applicants

38. The Authority—

(a) must make every reasonable effort to assist the applicant and to respond to each applicant openly, accurately and completely;

(b) must create a record for an applicant if—

(i) the record can be created from information that is in electronic form and is in the custody or under the control of the Authority, using its normal computer hardware and software and technical expertise, and

(ii) creating the record would not unreasonably interfere with the operations of the Authority; and

(c) must provide, at the request of an applicant and if reasonably practicable, an explanation of any term, code or abbreviation used in the record.

Right to refuse access to health information

39. (1) The Authority may refuse to disclose health information to an applicant—

(a) if the disclosure could reasonably be expected—

(i) to result in immediate and grave harm to the applicant's mental or physical health or safety,

(ii) to threaten the mental or physical health or safety of another individual, or

(iii) to pose a threat to public safety; or

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(b) if the disclosure could reasonably lead to the identification of a person who provided health information to the Authority explicitly or implicitly in confidence and in circumstances in which it was appropriate that the name of the person who provided the information be kept confidential.

(2) The Authority must refuse to disclose health information to an applicant—

(a) if the health information is about an individual other than the applicant, unless the health information was originally provided by the applicant in the context of a health service being provided to the applicant;

(b) if the health information sets out procedures or contains results of an investigation, a discipline proceeding, an inspection or other similar matter relating to a health services provider; or

(c) if the disclosure is prohibited by another Act, regulation or law.

Time limit for responding to a request for access

40. (1) The Authority must make every reasonable effort to make a decision on a request under section 36(1) within 30 days after receiving the request or within any extended period under section 43.

(2) In a decision under subsection (1), the Authority must tell the applicant—

(a) whether access to a record or part of it is granted or refused;

(b) if access to the record or part of it is granted, where, when and how access will be given; and

(c) if access to the record or part of it is refused—

(i) the reasons for the refusal and the provision of this Act on which the refusal is based, and

(ii) that the applicant may appeal the decision to the Appeals Committee.

(3) The failure of the Authority to respond to a request under section 36(1) within the 30-day period or any extended period referred to in subsection (1) is to be treated as a decision to refuse access to the record.

Correction or amendment of health information

41. (1) An individual who believes there is an error or omission in the individual's health information in the custody or under the control of the Authority may in writing request the Authority to correct or amend the information.

(2) Within 30 days after receiving a request under subsection (1) or within any extended period under section 43, the Authority must decide whether it will make or refuse to make the correction or amendment.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(3) If the Authority agrees to make the correction or amendment, the Authority must within the 30-day period or any extended period referred to in subsection (2)—

(a) make the correction or amendment;

(b) give written notice to the applicant that the correction or amendment has been made; and

(c) notify any person to whom that information has been disclosed during the 1 year period before the correction or amendment was requested that the correction or amendment has been made.

(4) The Authority is not required to provide the notification referred to in paragraph (3)(c) where—

(a) the Authority agrees to make the correction or amendment but believes that the applicant will not be harmed if the notification under paragraph (3)(c) is not provided; and

(b) the applicant agrees.

(5) If the Authority refuses to make the correction or amendment, the Authority must within the 30-day period or any extended period under section 43 give written notice to the applicant—

(a) that the Authority refuses to make the correction or amendment;

(b) of the reasons for the refusal and the provision of this Act on which the refusal is based; and

(c) that the applicant may appeal the decision to the Appeals Committee.

(6) The Authority may refuse to make a correction or amendment that has been requested in respect of—

(a) a professional opinion or observation made by a health professional about the applicant; or

(b) a record that was not originally created by the Authority.

(7) The failure of the Authority to respond to a request in accordance with this section within the 30-day period or any extended period referred to in subsection (2) is to be treated as a decision to refuse to make the correction or amendment.

Refusal to correct or amend health information

42. (1) Where the Authority refuses to make a correction or amendment under section 41, the Authority must tell the applicant that the applicant may elect to do either of the following—

(a) appeal the decision to the Appeals Committee;

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(b) submit a statement of disagreement setting out in 500 words or less the requested correction or amendment and the applicant's reasons for disagreeing with the decision of the Authority;

but may not elect both.

(2) An applicant who elects to submit a statement of disagreement must submit the statement to the Authority within 30 days after the written notice of refusal has been given to the applicant under section 41(5) or within any extended period under section 43.

(3) On receiving the statement of disagreement, the Authority must—

(a) if reasonably practicable, attach the statement to the record that is the subject of the requested correction or amendment; and

(b) provide a copy of the statement of disagreement to any person to whom the Authority has disclosed the record in the year preceding the applicant's request for the correction or amendment.

Extending time

43. (1) The Authority may extend the time for responding to a request under section 36(1) or 41(1) for an additional period of up to 30 days, if—

(a) the request does not give enough detail to enable the Authority to identify the record that is requested or to be corrected or amended; or

(b) a large number of records are involved in the request and responding within the period set out in section 40(1) or 41(2), as the case may be, would unreasonably interfere with the operations of the Authority;

before deciding whether to grant access to a record or to make the correction or amendment requested.

(2) If the time is extended under subsection (1), the Authority must tell the applicant—

(a) the reason for the extension; and

(b) when a response can be expected.

Confidentiality of health information

44. (1) In this section—

"individually identifying", when used to describe health information, means that the identity of the individual who is the subject of the information can be readily ascertained from the information;

"non-identifying", when used to describe health information, means that the identity of the individual who is the subject of the information cannot be readily ascertained from the information.

(2) The Authority shall not disclose health information except in accordance with this section.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(3) The Authority may disclose non-identifying health information for any purpose.

(4) The Authority may disclose individually identifying health information to the individual who is the subject of the health information or to one of the following persons if that person is entitled to exercise the rights or powers of the individual in any of the following circumstances—

(a) if the individual is under 18 years of age, to the parent or guardian of the individual;

(b) if the individual is deceased and was 18 years of age or over immediately before his or her death, to the individual's personal representative, if the disclosure relates to the administration of the individual's estate;

(c) if the individual is 18 years of age or over and a licensee or other person has been appointed to care for or act for the individual under any Act of the Legislature or otherwise, to the guardian or representative, if the disclosure relates to the rights or powers of the guardian or representative;

(d) if a power of attorney has been granted by the attorney, to the attorney, if the disclosure relates to the powers conferred by the power of attorney;

(e) to a person with the written authorisation of the individual to act on the individual's behalf;

(f) in circumstances prescribed for the purpose of this paragraph.

(5) The Authority may disclose individually identifying health information to a person other than the individual who is the subject of the information if the individual has consented to the disclosure to that person in writing signed by the individual and the disclosure is in accordance with the consent.

(6) The Authority may disclose health information without the consent of the individual who is the subject of the information—

(a) to a person for—

(i) the purpose of determining or verifying the category of payment of health services, the eligibility for insurance coverage for health services, the exemption from payment or from full payment of health services, for enforcing the payment of health services or for any other similar purpose,

(ii) the purpose of conducting investigations, discipline proceedings, inspections or other similar proceedings relating to a health service provider,

(iii) internal management purposes, including resource allocation, policy development, quality improvement, monitoring, audit, evaluation, reporting, or for other similar purposes,

(iv) carrying out any purpose authorised by any Act or regulation or other law in force in Anguilla, including without limitation any Act or regulation or other law respecting public or environmental health, or

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(v) a purpose permitted, and subject to such conditions as are imposed, by regulation;

(b) to a person who is responsible for providing continuing treatment and care to the individual if the individual is unable to consent;

(c) to family members of the individual or to another person with whom the person is believed to have a close personal relationship, if the information is given in general terms and concerns the presence, location, condition, diagnosis, progress and prognosis of the individual on the day the information is disclosed and the disclosure is not contrary to the express request of the individual;

(d) where the individual is injured, ill or deceased, so that family members of the individual or another person with whom the individual is believed to have a close personal relationship or a friend of the individual can be contacted if the disclosure is not contrary to the express request of the individual;

(e) to an official of a prison or other similar official of a custodial institution in which the individual is being lawfully detained if the purpose of the disclosure is to allow the provision of health services to the individual;

(f) to a person authorised to conduct an audit of the information if the person agrees not to disclose it except as required to accomplish the audit;

(g) for the purpose of a court proceeding or a proceeding before a quasi-judicial tribunal to which the Authority is a party;

(h) for the purpose of complying with a subpoena, warrant or order issued or made by a court, person or body having jurisdiction to compel the production of information or of complying with a rule of court that relates to the production of the information;

(i) when authorised by the Governor in Council under section 6 of the Statistics Act and subject to that Act, for the purpose of collecting statistics;

(j) to any person if the Authority believes, on reasonable grounds, that the disclosure will avert or minimize an imminent danger to the health or safety of a person or the public;

(k) if the individual lacks the mental capacity to consent and, in the opinion of the Authority, the disclosure is in the best interests of the individual;

(l) to the descendant of a deceased person or a person who is acting on behalf of a descendant or a person providing health services to the descendent, if the disclosure is reasonably necessary, in the Authority's opinion, to provide health services to the descendant;

(m) if the disclosure is authorised or required by an Act, regulation or other law; or

(n) to any prescribed person or in any prescribed circumstances.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Administration of sections 35 to 44

45. The Board shall by by-law establish a scheme for the administration of sections 36 to 45, which shall include—

(a) appointing an officer or employee of the Authority who, or a committee of the Authority which, is entitled to exercise on behalf of the Authority, the responsibilities and powers of the Authority under those sections; and

(b) establishing a system for making a record of what was done to comply with those sections and when it was done.

Offences and punishment

46. (1) A member of the Board or of a committee of the Board, whether or not also a member of the Board, officer, employer or agent of the Authority who, without reasonable excuse, discloses health information contrary to section 44, and any person to whom the information is disclosed who uses it contrary to a condition or agreement referred in section 44(6) on its further disclosure, is guilty of an offence and liable on conviction to a fine of $5,000.

(2) An officer or employee who is convicted is liable to be disciplined.

INFORMATION RETURNS AND REGULATIONS

Minister may require returns of information

47. Subject to section 44, the Authority shall without delay furnish such returns of information as the Minister may, by notice in writing, require.

Regulations by Governor in Council

48. (1) The Governor in Council may make regulations for the better carrying out of this Act and more particularly regulations—

(a) governing the health services and level of health services required or permitted to be provided by the Authority;

(b) prescribing the health services fees and charges to be paid by persons or classes of persons to the Authority for health services provided by the Authority and the persons or classes of persons exempt or partially exempt from payment of those fees and charges and the conditions, if any, upon which persons are entitled to an exemption or partial exemption;

(c) prescribing personal care services fees and charges to be paid by persons or classes of persons to the Authority for personal care services provided by the Authority and the persons or classes of persons exempt or partially exempt from payment of those fees and charges and the conditions, if any, upon which persons are entitled to an exemption or partial exemption;

(d) providing for how, when and by whom prescribed health service fees and charges and prescribed personal care service fees and charges are to be paid including the

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

provision of security for the payment of any or all of those fees and charges and the imposition of interest on late payment and determining how that interest is calculated and compounded;

(e) prescribing anything that may be prescribed under this Act;

(f) permitting disclosure for a purpose referred to in section 44(6)(a)(v) and imposing conditions on the disclosure;

(g) exempting the Authority from liability to pay any taxation, duties, imposts, levies and rates, including income tax, withholding taxes, corporation tax, tax on profits, advance corporation tax, accumulation tax, capital gains tax, capital transfer tax, gift tax, inheritance tax, value added tax, customs duty, capital duty, excise duties, import duties, development land tax, stamp duty, stamp duty reserve tax and generally any tax, duty, impost, levy or rate or other amount and any interest, penalty or fine in connection therewith which would otherwise be payable in respect of the operations, activities, investments and profits of the Authority and from any exchange or other restriction or control in relation to the remittance of funds by the Authority to others whether within or outside Anguilla;

(h) imposing a fine of not more than $1,000 for a contravention of the regulations.

(2) A regulation prescribing a fee or charge may be made retroactive to 1st January of the financial year in which it is payable.

(3) Without limiting paragraph (1)(b), prescribed health service fees and charges may be different for health services depending on the facility where, or on the time of day when, the prescribed health service or charge is rendered or on any other factor.

APPEALS COMMITTEE

Definitions for sections 50 to 59

49. In sections 50 to 59—

"Chairperson" means Chairperson of the Appeals Committee designated under section 52(1);

"Deputy Chairperson" means the Deputy Chairperson of the Appeals Committee designated under section 52(1);

"member" means a member of the Appeals Committee.

Appeals Committee

50. (1) There is established an Appeals Committee.

(2) The Appeals Committee shall consist of 4 members who shall be public officers in the Ministry appointed by the Governor in Council for such term as he or she considers appropriate.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(3) A previous appointment as a member does not affect a person's eligibility to be re-appointed as a member.

(4) The Appeals Committee is deemed to be properly constituted notwithstanding that there is a vacancy on the Committee or a defect in the appointment of a member.

(5) If a member is—

(a) absent from Anguilla; or

(b) unable to act;

the Minister may appoint a public officer in the Ministry to act during the member's absence or inability.

Immunity of members of Appeals Committee

51. No action for damages or other proceeding may be commenced against a member of the Appeals Committee for anything done or not done in good faith by the member while carrying out his or her responsibilities or exercising his or her powers under this Act.

Chairperson, Deputy Chairperson and interim chairperson

52. (1) The Minister shall designate one member to be Chairperson and another member to be Deputy Chairperson of the Appeals Committee.

(2) The Deputy Chairperson may act in place of the Chairperson if the Chairperson is absent or unable to act or the office of Chairperson is vacant.

(3) If, by reason of the absence or incapacity of the Chairperson or Deputy Chairperson or a vacancy in either of those offices, the Appeals Committee does not have a chairperson, the Committee may designate one of its members as an interim chairperson.

Appeals

53. (1) The following persons may appeal to the Appeals Committee—

(a) a health professional who is aggrieved by a decision of a committee established by by-law under section 19 regarding his or her application for privileges, an alteration in his or her privileges or the cancellation of his or her privileges;

(b) a member of the public who is aggrieved by a decision of a committee established by by-law under section 19 regarding a complaint;

(c) an individual who makes a request to the Authority for access to health information and who is aggrieved by the decision of the Authority to refuse access to a record or part of a record under section 39;

(d) an individual who makes a request to the Authority for the correction or amendment of his or her health information, who is aggrieved by the decision of the Authority to make the correction or amendment under section 41 and who elects to appeal the decision to refuse the request.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(2) An appeal shall be commenced by filing a notice of appeal in writing with the Chairperson setting out the grounds of the appeal within 30 days after the person receives notice in writing of the decision or within such later time, which shall not be more than 6 months after the person's receipt of notice in writing of the decision, as the Appeals Committee permits.

(3) The Chairperson shall without delay give a copy of the notice of appeal to the Chief Executive Officer.

Records and documents to be forwarded

54. The Authority shall without delay forward to the Appeals Committee any records and documents or copies of records and documents that the Appeals Committee requests in relation to the appeal and shall return them to the Authority without delay after the hearing is concluded.

Hearings

55. (1) The Appeals Committee shall conduct a hearing respecting the matter for which a notice of appeal is filed.

(2) The Chief Executive Officer shall give reasonable notice of the hearing to the appellant and to the Authority.

(3) The Appeals Committee shall determine its own practice and procedure, but shall give a full opportunity to the appellant and the Authority to present evidence and make submissions.

(4) The hearing shall be held in private unless the Appeals Committee is of the opinion that all or part of the hearing should be held in public.

Investigation

56. The Appeals Committee may, before or during a hearing, carry out any investigation or inspection that it considers necessary.

Evidence

57. Evidence may be given before the Appeals Committee in any manner that the Appeals Committee considers appropriate and the Appeals Committee is not bound by the rules of law applicable in judicial proceedings.

Right to examine filed material

58. The Appeals Committee shall give the appellant and the Authority a reasonable opportunity to examine all material filed with the Appeal Committee that is relevant to the appeal.

Decisions of Appeals Committee

59. (1) After holding a hearing, the Appeals Committee may—

(a) confirm, vary or rescind the decision appealed against; or

(b) make any decision that the committee or the Authority, as the case may be, could have made.

(2) Three members of the Appeals Committee is a quorum.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

(3) A decision of the majority of the Appeals Committee present and voting is the decision of the Appeals Committee.

(4) In the event of a tie vote on a matter, the Chairperson, Deputy Chairperson or interim chairperson presiding at the hearing has a second or casting vote.

(5) The decision of the Appeals Committee shall be in writing and shall set out its reasons for coming to the decision.

(6) A copy of the decision shall as soon as reasonably practicable be given to the appellant and the Authority.

CITATION AND TRANSITIONAL PROVISIONS

Application of section 20 of the Interpretation and General Clauses Act

60. For greater certainty, section 20 of the Interpretation and General Clauses Act applies to the Medical and Dental Fees Regulations.

Citation

61. This Act may be cited as the Health Authority of Anguilla Act, Revised Statutes of Anguilla, Chapter H3.

Transitional provisions: regulations

62. Notwithstanding sections 63 and 64, the Governor in Council may make regulations—

(a) providing for any transitional matter not dealt with or not sufficiently dealt with by this Act; and

(b) when he or she considers appropriate, clarifying the personal property that vests in the Authority under section 63(b).

Transitional provisions: land, personal property and contracts

63. (1) On 1 January 2004—

(a) the Government of Anguilla shall enter into a lease with the Authority of the land occupied by the designated organisations;

(b) the personal property of the Government associated with operations of the designated organisations vests in the Authority; and

(c) the contracts for the supply of goods and services to designated organisations are assigned to the Authority and shall be enforceable as fully and effectually as if the Authority had been a party to that contract instead of the Government.

(2) The Board and the Minister shall as soon as possible prepare an inventory of personal property and contracts referred to respectively in paragraphs (1)(b) and (c) and, when it is signed, it is conclusive evidence of the effect of those paragraphs.

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai

Transitional provisions: Strategic Plan for Health

64. On 1 January 2004 the Strategic Plan for Health 2003–2008 approved by the Governor in Council before 1 January 2004 is deemed to have been established under section 2(1).

_____

© Government of Anguilla
Copying/unauthorised distribution strictly prohibited
Printed by Authority by
The Regional Law Revision Centre Inc
www.lawrevision.ai