

**Section 4 Approvals Protocol: Under the *Public
Hospitals Act***

Stakeholders' Copy

**LHIN Liaison Branch
Relations & Coordination Unit
Ministry of Health and Long-Term Care**

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1. Purpose

The purpose of this protocol is to set out the process that the Ministry of Health and Long-Term Care (Ministry) and Local Health Integration Networks (LHINs) will follow when considering a hospital's proposal under section 4 of the *Public Hospitals Act*.

This protocol formalizes existing practices and should be used in conjunction with other applicable policies and legislative requirements.

2. Application and Scope

This protocol applies to the Ministry, LHINs and to hospitals, as defined under section 1 of the *Public Hospitals Act* ("the Act"). The Act defines a hospital as any institution, building or other premises or place that is established for the purposes of the treatment of patients and that is approved under the Act as a public hospital.

3. Applicable Legislation

Subsection 4 (1) of the Act sets out that "no application to incorporate a hospital or amalgamate two or more hospitals under the Corporations Act or under a private Act shall be proceeded with until it has first received the approval of the Minister".

Subsection 4(2) of the Act sets out that "no institution, building or other premises or place shall be operated or used for the purposes of a hospital unless the Minister of Health and Long-Term Care ("the Minister") has approved the operation or use of the premises or place for that purpose."

Subsection 4(3) of the Act sets out that "no additional building or facilities shall be added to a hospital until the plans therefore have been approved by the Minister".

Subsection 4(4) of the Act sets out that "no land, building or other premises or place or any part thereof acquired or used for the purposes of a hospital shall be sold, leased, mortgaged or otherwise disposed of without the approval of the Minister."

Subsection 4(5) of the Act sets out that "any approval given or deemed to have been given under this Act in respect of a hospital may be suspended by the Minister or revoked by the Lieutenant Governor in Council if the Minister or the Lieutenant Governor in Council, as the case may be, considers it in the public interest to do so".

The Minister delegated his powers under clause 4(2) and 4(4) of the Act to the public servant who occupies (or may occupy from time to time) the position of Director, LHIN Liaison Branch, Health System Accountability and Performance Division.

The Minister also delegated his powers under clause 4(3) of the Act to the public servant who occupies (or may occupy from time to time) the position of Assistant Deputy Minister, Health System Information Management and Investment Division.

4. Process - Roles and Responsibilities

Section 4(1): Requesting Approval to Incorporate a Hospital or Amalgamate two or more Hospitals

Subsection 4 (1) of the Act sets out that “no application to incorporate a hospital or amalgamate two or more hospitals under the Corporations Act or under a private Act shall be proceeded with until it has first received the approval of the Minister”.

Step 1 - Hospital Submits Business Case

An application to incorporate a hospital or to amalgamate two or more hospitals should be directed to the LHIN Chief Executive Officer (CEO). The application must be signed by the hospital's CEO or someone with signing authority. The request should be made at **least 60 business days** before a decision is required to allow for LHIN and Ministry review. The application must include a business case outlining the following:

- The opportunities for the incorporation and/or amalgamation
- The financial, service and human resources implications
- Potential impact on the community
- Details of community engagement
- Community/stakeholder issues and how they are / or will be addressed
- Copies of draft letters patent and/or application for incorporation
- Copies of the draft by-laws
- Resolution from the Board of Directors of the hospitals wishing to amalgamate
- Amalgamation agreement

Note: Other legislation, including the *Local Health System Integration Act, 2006*, may include additional requirements for the integration of services or the amalgamation by two or more hospitals.

Step 2 - LHIN Review and Advice to Ministry

While hospitals are asked to submit their business cases to the LHINs' CEOs only the Minister or his/her delegate has the authority to approve requests under section 4 of the Act. Hospitals are asked to submit their business cases to the LHINs to reflect the accountability and funding relationship between LHINs and hospitals. The LHIN's role in providing advice to the Ministry is an important element of the process. By requiring hospitals to first submit their business cases to the LHINs, the Ministry is ensuring that LHINs are aware and can comment on decisions that may have significant implications for the local health system.

Upon receiving the proposal from the hospital, the LHIN will review it against the criteria set out in step 1 and any other criteria the LHIN considers appropriate and that have been provided to the hospital. The LHIN should then prepare and submit its written advice to the Ministry along

with the supporting documents provided by the hospital. In preparing its advice the LHIN should consider the following:

- Is the hospital's proposal consistent with the LHIN's vision and priorities for the local health system, including the LHIN's Integrated Health Service Plan?
- Does the proposal have funding implications for the hospital and/or LHIN? Who will assume the funding responsibilities, if any?

The LHIN's written advice should include:

- A statement whether or not it supports the hospital's proposal.
- Any risks associated with proceeding or not proceeding
- Any other matter the LHIN considers important

The LHIN should endeavour to forward the business case and its written advice to the Ministry within **30 business days** of the receipt of the hospital's request.

Step 3 – Ministry Review

The LHIN Liaison Branch, Health System Accountability and Performance Division, Ministry of Health and Long-Term Care will coordinate the Ministry's review of the business case and oversee the preparation of any necessary documents for approval consideration.

The Ministry will endeavour to review and provide a written response in appropriately **20 business days** after receiving the application. The timeline for processing the request could be affected should the Ministry require additional information from the LHIN and/ or the hospital and the timeliness of that response.

Section 4(2): Requesting Approval to Operate an Institution, Building or Premises as a Hospital

Subsection 4(2) of the Act sets out that "no institution, building or other premises or place shall be operated or used for the purposes of a hospital unless the Minister of Health and Long-Term Care ("the Minister") has approved the operation or use of the premises or place for that purpose."

Step 1 - Hospital Submits Business Case

A hospital requesting approval to operate an institution, building or premises as a hospital should prepare and submit a business case to the LHIN's CEO. The business case must be signed by the hospital's CEO or someone with signing authority. The request should be made at **least 60 business days** before a decision is required to allow for LHIN and Ministry review.

The business case should address the following:

A. Executive Summary

- Provide a rationale for request. This should include a clear articulation why the hospital wishes to designate the building/premises as a hospital.
- Identify any service and/or human resources implications.

B. Background and Current Status

- Provide a brief history of the issue.
- Provide a full description of the property (i.e. full municipal address if a building or floor/suite number).
- Development status (i.e., rezoning requirements)

C. Financial Implications

- Identify the current expenditures and the projected impact of any increases on the operating costs.
- Provide all start-up, one-time capital and annual operating costs.
- Conduct a cost/benefit analysis which includes a multi-year financial plan addressing the sources of funding for both capital and operating costs. For operating costs, this should describe the hospital's current financial position.

D. Alternative Solutions

- Provide an analysis of the alternative options considered.

E. Recommendation

- Identify the recommended option and explain why it is the preferred option.

In addition to the business case, the hospital should provide:

- A draft copy of the lease or purchase and sale agreement for leased or purchased premises
- A fair market value analysis of lease rates for similar properties in the area

There are no provisions in the *Public Hospitals Act* that requires hospitals to obtain approval to purchase property. However, it would be prudent for a hospital to submit a business case to both their LHIN and the Ministry for consideration prior to proceeding with any purchase. Of interest to both the Ministry and LHIN would be such issue as proximity and access to highways/roads, municipal services, environmental considerations, as well as future financial considerations. Upon review of the business case, the Ministry and the LHIN would be able to advise the hospital accordingly.

Step 2 - LHIN Review and Advice to Ministry

Upon receiving the proposal from the hospital, the LHIN will review it against the criteria set out in step 1 and any other criteria the LHIN considers appropriate and that have been provided to the hospital. The LHIN should then prepare and submit its written advice to the Ministry along with the supporting documents provided by the hospital. In preparing its advice the LHIN should consider the following:

- Is the hospital's proposal consistent with the LHIN's vision and priorities for the local health system, including the LHIN's Integrated Health Service Plan?
- Does the proposal have funding implications for the hospital and/or LHIN? Who will assume the funding responsibilities, if any?

The LHIN's written advice should include:

- A statement whether or not it supports the hospital's proposal.
- Any risks associated with proceeding or not proceeding
- Any other matter the LHIN considers important

The LHIN should endeavour to forward the business case and its written advice to the Ministry within **30 business days** of the receipt of the hospital's request.

Step 3 - Ministry Review

The LHIN Liaison Branch, Health System Accountability and Performance Division, Ministry of Health and Long-Term Care will coordinate the Ministry's review of the business case and oversee the preparation of any necessary documents for approval consideration.

The Ministry will endeavour to review and provide a written response in appropriately **20 business days** after receiving the application. The timeline for processing the request could be affected should the Ministry require additional information from the LHIN and/ or the hospital and the timeliness of that response.

Section 4(3): Requesting Approval to add Additional Building or Facilities to a Hospital

The process described below for business case submissions is under development as part of Schedule 5 of the Ministry-LHIN Accountability Agreement (MLAA), which sets out the general provisions for MOHLTC and LHINs related to capital initiatives. Work is underway through the MOHLTC/LHIN Capital Working Group in reviewing the early planning stages of the capital planning process which currently includes the Pre-Proposal, Proposal/Business Case and the Functional Program stages. Therefore, the content and process for submission as described below may be revised.

Subsection 4(3) of the Act sets out that "no additional building or facilities shall be added to a hospital until the plans therefore have been approved by the Minister".

Step 1 – Hospital Submits Business Case

A hospital requesting approval to add an additional building or facilities to a hospital should prepare and submit a business case to the LHIN's CEO. The business case must be signed by the hospital's CEO or someone with signing authority. The request should be made at **least 60 business days** before a decision is required to allow for LHIN and Ministry review.

The business case should address the following:

A. Executive Summary

- The rationale for adding to the building or facilities.
- Identify any service and/or human resources implications.

B. Background and Current Status

- Provide a brief history of the issue.
- Provide a full description of the property (i.e. full municipal address if a building or floor/suite number).
- Development status (i.e., rezoning requirements) and design plans

C. Financial Implications

- Identify the current expenditures and the projected impact of any increases on the operating costs.
- Provide all start-up, one-time capital and annual operating costs.
- Conduct a cost/benefit analysis which includes a multi-year financial plan addressing the sources of funding for both capital and operating costs. For operating costs, this should describe the hospital's current financial position.

D. Alternative Solutions

- Provide an analysis of the alternative options considered.

E. Recommendation

- Identify the recommended option and explain why it is the preferred option.

Step 2 - LHIN Review

Upon receiving the proposal from the hospital, the LHIN will review it against the criteria set out in step 1 and any other criteria the LHIN considers appropriate and that have been provided to the hospital. The LHIN should then prepare and submit its written advice to the Ministry along with the supporting documents provided by the hospital. In preparing its advice the LHIN should consider the following:

- Is the hospital's proposal consistent with the LHIN's vision and priorities for the local health system, including the LHIN's Integrated Health Service Plan?
- Does the proposal have funding implications for the hospital and/or LHIN? Who will assume the funding responsibilities, if any?

The LHIN's written advice should include:

- A statement whether or not it supports the hospital's proposal.
- Any risks associated with proceeding or not proceeding
- Any other matter the LHIN considers important

The LHIN should endeavour to forward the business case and its written advice to the Ministry within **30 business days** of the receipt of the hospital's request.

Step 3 - Ministry Review

The LHIN Liaison Branch, Health System Accountability and Performance Division, Ministry of Health and Long-Term Care will coordinate the Ministry's review of the business case and oversee the preparation of any necessary documents for approval consideration.

The Ministry will endeavour to review and provide a written response in appropriately **20 business days** after receiving the application. The timeline for processing the request could be affected should the Ministry require additional information from the LHIN and/ or the hospital and the timeliness of that response.

Section 4(4): Requesting Approval to Lease or Sell Hospital Property

Subsection 4(4) of the Act sets out that "no land, building or other premises or place or any part thereof acquired or used for the purposes of a hospital shall be sold, leased, mortgaged or otherwise disposed of without the approval of the Minister."

The hospital should prepare and submit for approval a property disposal plan before initiating the sale of hospital property. The disposal plan should be submitted to the LHIN Liaison Branch which is responsible for coordinating the Ministry's review.

Step 1 – Hospital Submits Business Case

A hospital requesting approval to lease or sell hospital property should prepare and submit a business case to the LHIN's CEO at **least 60 business days** before a decision is required to allow for LHIN and Ministry review. The business case must be signed by the hospital's CEO or someone with signing authority.

The business case should address the following:

A. Executive Summary

- The rationale for leasing or selling the property.
- An indication that the property will not be required by the hospital in the future.
- Identify funding implications, if any, for the hospital's operations.
- An indication of how the money from the lease or sale of the property will be used.

- A legal description of the property, the full municipal address (if an entire building is being leased or sold or the floor or suite number if it is not the entire building) and location of the property.
- The impact of the sale on programs, services, and human resources, if any. If there is an impact, what are the mitigation strategies?

B. Alternative Solutions

- Provide an analysis of the alternative options considered.

C. Recommendation

- Identify the recommended option and explain why it is the preferred option.

In addition to the business case, the hospital should provide:

- Proof the hospital’s board of directors approved the lease or sale and is requesting the Minister’s approval.
- At least one independent appraisals of the property to be leased or sold.
- A draft copy of the lease or draft copy of the agreement of purchase and sale

D. Capital Component

As part of the business case, the hospital **must clearly** confirm that the following two conditions will be met:

1. that the lease or sale of hospital property will not change the hospital’s Master Plan options and/or Site Plan. Or, if the HSP does not have a current Master Plan/ Master Program, that the HSP (along with its Health Care Facility Designers and relevant Health Care Facility Stakeholders) will verify that the lease or sale will not have a negative impact on the Vision for the facility and its site(s). The ministry’s Master Planning Guide specifies that a Master Plan *must provide for optimum flexibility to adapt to changes in community needs as well as changes in health care delivery. P1 of 11, Version 1, June 9, 2007;* and
2. that if the hospital is in the planning or construction phase of an approved major project, that the lease or sale of hospital property will not have an impact on the pre-existing project if it is at the same site of the hospital, and (b) will not negatively impact the hospital’s Master Local Share plan.

Step 2 - LHIN Review and Advice to Ministry

LHINs are not expected or asked to comment on the capital component (section D) in their written advice to the Ministry.

Upon receiving the proposal from the hospital, the LHIN should review it against the criteria set out in step 1 and any other criteria the LHIN considers appropriate and that has been provided

to the hospital. The LHIN should then prepare and submit its written advice to the Ministry along with the supporting documents provided by the hospital. In preparing its advice the LHIN should consider the following:

- Is the hospital's proposal consistent with the LHIN's vision and priorities for the local health system, including the LHIN's Integrated Health Service Plan?
- Does the proposal have funding implications for the hospital and/or LHIN? Who will assume the funding responsibilities, if any?

The LHIN's written advice should include:

- A statement whether or not it supports the hospital's proposal
- Any risks associated with proceeding or not proceeding
- Any other matter the LHIN considers important

The LHIN should endeavour to forward the business case and its written advice to the Ministry within **30 business days** of the receipt of the documentation from the hospital.

Step 3 - Ministry Review

The LHIN Liaison Branch, Health System Accountability and Performance Division, Ministry of Health and Long-Term Care will coordinate the Ministry's review of the business case and oversee the preparation of any necessary documents for approval consideration.

The Ministry will endeavour to review and provide a written response in appropriately **20 business days** after receiving the application. The timeline for processing the request could be affected should the Ministry require additional information from the LHIN and/ or the hospital and the timeliness of that response.

Section 4(5): Suspension or Revocation of Approval

Subsection 4(5) of the Act sets out that "any approval given or deemed to have been given under this Act in respect of a hospital may be suspended by the Minister or revoked by the Lieutenant Governor in Council if the Minister or the Lieutenant Governor in Council, as the case may be, considers it in the public interest to do so".

It is Ministry practice not to revoke or suspend approvals under s. 4(5). It is the Ministry's position that an approval of a hospital site lapses upon the sale or lease of the site to a non-hospital entity.