

**The Sackville Memorial Hospital Foundation Incorporated
General By-Laws**

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INTRODUCTION

The Sackville Memorial Hospital Foundation Incorporated, was incorporated by letters patent issued pursuant to the *Companies Act of New Brunswick* on the 21st day of March 1961.

Five supplementary letters patent have since been issued, dated the 15th day of December, 1964; the 24th day of April, 1968; the 18th day of September, 1981; the 8th day of January, 1991; and the 10th day of December, 2020.

The Foundation has, pursuant to these letters patent, a certain purpose and objectives which are set out in Appendix 1 to these General By-Laws.

Furthermore, these letters patent provide that the Foundation's head office is in Sackville.

Under the *Companies Act*, a corporation must have meetings of its members, and must have meetings of its directors, each type of meeting for separate and distinct purposes.

Since all directors must be members under the Act, and since the Foundation has organized itself so that there are no members who are not directors, it is easy for the Foundation to do things at directors' meetings that can only be done at members' meetings, and *vice versa*.

It is the Chair's responsibility to see that this does not happen.

The Foundation could add members who are not directors by changing the by-laws, and it could eliminate the requirement for separate meetings through a special act.

Finally, from time to time the Board approves mission and vision statements for the Foundation. On the date that the following general by-laws were approved, those statements were as follows:

MISSION STATEMENT

The Mission of the Sackville Memorial Hospital is to raise funds and administer its resources to preserve, maintain, and enhance the quality of healthcare in the area served by the Sackville Memorial Hospital.

VISION STATEMENT

The vision of the Sackville Memorial Hospital Foundation is to support the best possible healthcare in the area served by the Sackville Memorial Hospital and to ensure the future of the hospital so that it remains a vibrant healthcare centre in the community.

The Foundation's general by-laws are as follows:

1. INTERPRETATION

1.01 DEFINITIONS

In these by-laws,

“Act” means the *Companies Act of New Brunswick*;

“Auxiliary” means the Sackville Memorial Hospital Auxiliary;

“Board”, or “Board of Directors”, means the Foundation's Board of Directors;

“Director” means a person elected or appointed to the Board;

“Foundation” means the Sackville Memorial Hospital Foundation Incorporated;

“General meeting” means a meeting of the Foundation's members;

“Hospital” means the Sackville Memorial Hospital; and

“member” means a member of the Foundation unless the context dictates otherwise.

1.02 NUMBER – GENDER

1.02.01 When used in these By-Laws, or in any amendment hereto, and when the context permits, words denoting the singular shall include the plural, and *vice versa*; words denoting the masculine shall include the feminine, and *vice versa*; and a person shall include a corporation.

2. MEMBERS

2.01 ROLE

2.01.01 The role of the members is to elect directors at the annual general meeting, to confirm by-laws passed by the directors when confirmation is required by the Act, to receive a full financial report concerning the Foundation at each annual general meeting, and to perform other duties and exercise other powers as are set out in the Act.

2.02 APPOINTMENT

2.02.01 Any person resident in the area served by the Hospital is eligible to become a member.

2.02.02 A person eligible to become a member will become a member as provided in section 2.05.07 below.

2.03 TERMINATION

2.03.01 A person ceases to be a member when he or she ceases to be a director.

2.04 MEETINGS

2.04.01 Meetings of the members of the Foundation are general meetings of the corporation and are referred to below as general meetings.

2.04.02 An annual general meeting shall be held on or before June 30th each year.

2.04.03 Special general meetings may be called by the Chair or, under section 102 of the Act, by 10% of the members.

2.04.04 Notice of general meetings shall be given at least five days before the meetings by ordinary mail, fax, or e-mail or, if necessary, by means of a notice which shall appear in a newspaper having a general circulation within the area served by the Hospital.

- 2.04.05 A majority of the members shall constitute a quorum.
- 2.04.06 Pursuant to section 103.2 of the Act, a member can participate in a general meeting by means of telephone or other communication facilities that permit all persons participating in the meeting to hear each other, and a person participating in a meeting by those means shall be deemed to be present at the meeting.
- 2.04.07 Any question of procedure which has not been provided for in these By-Laws, or by law, shall be determined by the Chair in accordance with “Robert’s Rules of Order”.
- 2.04.08 Members of the Auxiliary, the Hospital Administration and the Hospital Administration and the Friends of the Moncton Hospital may attend general meetings, as may the general public, and with the permission of the Chair they may participate in discussions, although they may not make or second motions, vote, or, except on the invitation of the Chair, attend in camera portions of such meetings.
- 2.04.09 Under section 103.1(1) of the Act, a resolution in writing signed by all the members entitled to vote on that resolution at a general meeting is as valid as if it had been passed at such a meeting.
- 2.04.10 Under section 103.1(2) of the Act, a resolution in writing dealing with matters required by the Act to be dealt with at a general meeting signed by all the members entitled to vote at that meeting, satisfies all the requirements of the Act relating to general meetings duly called, constituted and held.
- 2.04.11 Minutes shall be kept of each general meeting and copies of such minutes shall be circulated to all members on a timely basis.
- 2.04.12 The Chair of a general meeting shall not have a casting vote under section 103 of the Companies Act.
- 2.04.13 Members cannot vote by proxy under section 103 of the Companies Act.

2.05 ELECTION OF DIRECTORS

- 2.05.01 Directors shall, subject to section 3.03.03 below, be elected by the members.
- 2.05.02 At annual general meetings, the Nominating Committee will place in nomination no more than one name for each director position that is vacant or will become vacant on the adjournment of the meeting.
- 2.05.03 A person nominated must either be, or be eligible to become, a member in accordance with these By-Laws.
- 2.05.04 A director who has served continuously for at least eight full years, a full year being the time between consecutive annual general meetings, cannot be reelected or reappointed to the Board until he or she has been off the board for at least one full year.
- 2.05.05 The election of directors does not have to be by ballot.
- 2.05.06 A director will be elected for a term that will commence on the adjournment of the annual general meeting at which the election takes place and will be for either one or two full years, as 'full year' is defined in 2.05.04 above, but will not extend a director's continuous service to more than eight full years. An appointment by the Board to replace a director who did not complete his or her term is not taken into account since such an appointment must be for less than a full year.
- 2.05.07 A person elected or appointed as a director who is not a member will become a member automatically when his or her appointment as director commences.

3. BOARD OF DIRECTORS

3.01 NUMBER

- 3.01.01 The Board shall consist of nine (9) directors.

3.02 REMOVAL

3.02.01 Any director shall cease to hold office upon resolution passed to that effect by the Board at any meeting thereof of which notice specifying the intention to pass such resolution shall have been given.

3.03 POWERS

3.03.01 Under section 87(1) of the *Act*, the affairs of the Foundation shall be managed by the Board.

3.03.02 Under section 96 of the *Act*, the Board shall administer the affairs of the Foundation in all things, and may make or cause to be made any description of contract that the Foundation may by law enter into, and may make and amend by-laws not contrary to law or to the Foundation's letters patent as to the following matters:

- (a) the appointment, functions, duties and removal of all agents, officers and servants;
- (b) the time and place for the holding of annual meetings; the calling of meetings, regular and special, of the board and of the members; the quorum, the requirements as to proxies, and the procedure in all things at such meetings; and
- (c) the conduct, in all other particulars, of the affairs of the Foundation not otherwise provided for in the *Act*;

but every such by-law, excepting a by-law made respecting agents, officers and servants of the Foundation, unless in the meantime confirmed at a general meeting duly called for that purpose, has force only until the next annual general meeting.

The *Act* provides that certain by-laws require confirmation by at least two-thirds of the votes cast at a general meeting, including by-laws that authorize

- a) the removal of the name of a member from the Foundation registry,
- b) the surrender of the charter,
- c) an application for supplementary letters patent changing the Foundation's powers,
- d) borrowing,
- e) a change in the number of directors, and
- f) authorizing the election of an executive committee.

3.03.03 Any vacancy on the Board that occurs between annual general meetings may be filled by the Board, with a person who is eligible to become a member, and who is not ineligible to be appointed as a director under section 2.05.04, for a term that will end on the adjournment of the next annual general meeting. This person shall become a member when his or her appointment as director is effective and shall cease to be a member when his or her appointment ends, unless his or her membership continues as a result of a further appointment as director.

3.04 USE OF RESOURCES

3.04.01 As a registered charity, the Foundation is only permitted to use its funds, personnel and property in two ways as follows: 1) It can carry on charitable activities under its direction and control through its employees or volunteers, or through intermediaries with whom the Foundation takes an active and controlling part in a charitable program or project; or 2) It can make gifts to qualified donees, usually other registered charities such as Regional Health Authority "B" (the Horizon Health Network).

3.05 MEETINGS

3.05.01 Regular meetings of the Board shall be held a minimum of four (4) times per year between consecutive annual general meetings at such times and places as the Board

or, in default thereof, the Chair may determine. Special meetings can be called by the Chair or by a majority of the directors.

- 3.05.02 Notice of a regular, special or committee meeting of the Board stating in general terms the purpose or purposes of such meeting shall be given five (5) days before such meeting. Such notice shall be deemed to have been given and received if sent by mail, fax, or email, or if delivered to the place of residence or employment of a director.
- 3.05.03 The inadvertent omission to give notice of a meeting, or the non-receipt of a notice by a director, shall not invalidate any resolution passed or any proceedings taken or any business transacted at any meeting of the Directors.
- 3.05.04 A Board meeting may be held at any time or place without previous notice if all the directors are present.
- 3.05.05 At meetings of the Board, a majority of directors is a quorum.
- 3.05.06 In the absence of a resolution to the contrary, the order of of business at regular meetings of the Board shall be as follows:
- Calling the meeting to order,
 - Approval of the Agenda,
 - Adoption of the minutes of the last meeting,
 - Business Arising from the last meeting's minutes,
 - Auxiliary Update,
 - Presentation of Reports of Officers and committees,
 - Correspondence, and
 - Other Business.

- 3.05.07 Minutes shall be kept of each Board meeting and copies of such minutes shall be circulated to all directors on a timely basis.
- 3.05.08 Any question of procedure pertaining to any Board or Board committee meeting which has not been provided for by law or in these By-Laws shall be determined by the Chair in accordance with "Robert's Rules of Order".
- 3.05.09 Pursuant to section 94.2 of the Act, a director is hereby authorized to participate in a meeting of directors, and a member is hereby authorized to participate in a meeting of a Board committee, by means of telephone or other communication facilities that permit all persons participating in the meeting to hear each other, and a director or Board Committee member participating in a meeting by those means shall be deemed to be present at that meeting.
- 3.05.10 Under section 94.1(1) of the Act, a resolution in writing signed by all the directors entitled to vote on that resolution at a meeting of directors or a committee of directors is as valid as if it had been passed at a meeting of directors or a committee of directors.
- 3.05.11 Members of the Auxiliary, the Hospital Administration and the Friends of the Moncton Hospital, and others who are authorized by the Board, may attend meetings of the Board, and with the permission of the meeting may participate in discussions, although they may not make or second motions, vote, or, unless they are authorized by the Board to do so, attend in camera portions of such meetings.

3.06 REMUNERATION

- 3.06.01 Directors shall receive no remuneration for their services but may be reimbursed for their reasonable expenses.

3.07 INDEMNIFICATION

- 3.07.01 Pursuant to section 95 of the Act, each director, former director, officer or former officer of the Foundation or his or

her heirs, executors, estate and effects is, with the consent of the Foundation and at all times indemnified and saved harmless out of the funds of the Foundation from and against all costs, charges and expenses whatsoever that the director, former director, officer or former officer sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him or her for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him or her in or about the execution of the duties of his or her office, and also from and against all other costs, charges and expenses that the director, former director, officer or former officer sustains or incurs in or about or in relation to the affairs of the Foundation, except costs, charges or expenses that are occasioned by his or her own wilful neglect or default.

3.08 VALIDATION OF IRREGULARITIES

- 3.08.01 A decision of the Board shall, notwithstanding that it be afterwards discovered that there was an inadvertent defect in the election or appointment of a person who voted concerning the decision, be valid if that person's vote did not affect the decision.
- 3.08.02 No director shall participate in a discussion or debate or vote on any matter in which he or she has a conflict of interest.
- 3.08.03 Neither the auditor nor the solicitor of the Foundation shall be a Director.

3.09 RESIGNATION

- 3.09.01 A director may resign by written notice addressed to the Board.

4. OFFICERS

4.01 OFFICERS

- 4.01.01 The officers of the Foundation shall be as follows:

Chair

Vice Chair

Treasurer

Secretary

and other officers as may be required from time to time by the Board.

4.01.02 Officers will be elected by the Board and, except for the Secretary, must be directors.

4.02 ELECTION

4.02.01 The officers shall be elected by the Board immediately following each annual general meeting, and such Officers shall serve until the expiration of the next annual general meeting.

4.02.02 If an officer's position shall become vacant, the Board may elect a replacement.

4.02.03 Any officer shall cease to hold office upon resolution passed to that effect by the Board at any meeting thereof of which notice specifying the intention to pass such resolution shall have been given.

4.03 DUTIES

4.03.01 CHAIR

The Chair shall call and preside at general and Board meetings, sit on all committees, see that all orders and resolutions of general meetings and the Board are carried into effect, and have such other duties as usually pertain to this office.

4.03.02 VICE CHAIR

The Vice Chair shall assist the Chair, shall have all the powers and perform all the duties of the Chair in the

absence or disability of the Chair, and shall have such other duties as may from time to time be assigned by the Board.

4.03.03 SECRETARY

The Secretary shall keep proper records of all meetings of the members and the directors; have charge of all minute books, documents and registers required to be kept by law; be custodian of all correspondence to and from the Board; be the custodian of the Seal; be responsible for giving such notice as is required in these By-Laws of all general meetings and Board meetings; and have such other duties as may from time to time be assigned by the Board.

4.03.04 TREASURER

The Treasurer shall have charge of all accounts, monies and securities unless otherwise arranged by the Board; keep full and accurate records of all receipts and disbursements; provide full and accurate reports of all financial holdings and transactions; provide an annual report to the Board showing the financial position of the Foundation and such other financial reports as the Board may from time to time require; have all accounts audited by the auditor appointed by the Board who meets the qualifications set out in the letters patent; and perform such other duties as may from time to time be assigned by the Board.

5. COMMITTEES

5.01 EXECUTIVE COMMITTEE

5.01.01 Under section 88 of the Act, the board may elect from its number an executive committee consisting of not less than three, which executive committee has power to fix its quorum at not less than a majority of its members.

5.02 STANDING COMMITTEES

5.02.01 At the first Board meeting following an annual general meeting, the Board shall appoint the chairs and members of the following committees which shall be the standing committees of the Board:

Finance Committee

Fundraising / Planned Giving Committee

Nominating / Communications Committee

5.03 AD HOC COMMITTEES

5.03.01 The Board may from time to time establish other committees, set their terms of reference, and appoint their members and chairs.

5.04 JOINT COMMITTEES

5.04.01 Foundation / Auxiliary Education Committee

5.05 COMMITTEE COMPOSITIONS AND RESPONSIBILITIES

5.05.01 Executive Committee

The Executive Committee will have the power to transact all regular business between the regular meetings of the Directors, subject to any regulations imposed from time to time by the Directors, and shall report such actions to the Directors at the next meeting.

5.05.02 Finance Committee

The Finance Committee shall consist of a minimum of three (3) Directors including the Treasurer and may include non-directors. The Committee shall advise the Board in regard to all financial matters.

5.05.03 Foundation / Auxiliary Education Committee

The Education Committee is a joint committee with the Auxiliary. It is composed of three directors appointed by the Foundation, two persons appointed by the Auxiliary, and three members of the Hospital's staff appointed by the Hospital. The three Hospital appointees are non-voting, although one, appointed by the Hospital, chairs the Committee. The committee has the authority, following guidelines that have been approved, and using the budgets assigned, by the Foundation and the Auxiliary, to reimburse travel and education expenses of Hospital staff.

5.05.04 Fundraising / Planned Giving Committee

The Fundraising / Planned Giving Committee shall consist of a minimum of two (2) directors, and may include non-directors. It shall co-ordinate all aspects of fundraising and shall ensure that procedures are in place that respects the dignity and privacy of donors and beneficiaries.

5.05.05 Nominating / Communications Committee

The Nominating / Communications Committee shall consist of a minimum of two (2) Directors, and may include individuals who are not directors. It will recommend individuals for all positions to be filled by the Board or the members. It shall be responsible for communications activities as needed.

6. BANKING

6.01 INVESTMENT OF MONEY

- 6.01.01 All monies received by the Foundation shall be deposited or invested as designated by the Board.
- 6.01.02 Funds shall be segregated between funds that are required to support current activities and funds that can be invested to produce income to support activities in perpetuity.
- 6.01.03 Funds required to support current activities will be invested with the prime objective to maintain its nominal value.

6.01.04 Funds that can be invested to produce income which will support activities in perpetuity will be invested in a portfolio that will have an expected real rate of return as set out in the Foundation's investment policy.

6.02 BORROWING

6.02.01 The Board may, pursuant to section 81(1) of the Act, borrow money from time to time upon the credit of the Foundation.

7. **CONTRACTS**

7.01 EXECUTION

7.01.01 Any contract, certificates, documents or instruments in writing requiring the signature of the Foundation may be signed by any two (2) officers, or by an individual or individuals duly authorized by the Board to sign the instrument or document, and all instruments so signed shall be binding upon the Foundation without any further authorization or formality.

8. **SEAL**

8.01 DESCRIPTION & USE

8.01.01 The Seal of the Foundation shall consist of the words "The Sackville Memorial Hospital Foundation Incorporated, Incorporated 1961 New Brunswick", written, engraved or impressed, and shall be attested by the signature of the signing officers unless otherwise ordered by the Directors.

8.01.02 The seal may, when required, be affixed to a contract, certificate, document or other instrument in writing by the individual or individuals authorized to sign the instrument.

9. AUDITORS

9.01 APPOINTMENT AND REPORT TO MEMBERS

9.01.01 As required by the Foundation's Letters Patent, the Board shall hire a "Chartered Accountant or firm of Chartered Accountants" to audit the accounts of the Foundation at least once in each calendar year.

9.01.02 As required by section 123 of the Act, the Board "shall lay before its shareholders annually at or before the general meeting of the [Foundation] for the election of directors, a full statement of the affairs and financial position of the [Foundation]" which will include a copy of the accounts audited with the auditor's report thereon.

10. FISCAL YEAR

10.01 DATES

10.01.01 The fiscal year of the Foundation shall be the period from the 1st of April to the 31st of March following.

11. SURRENDER OF CHARTER

11.01 REQUIREMENTS

11.01.01 Under the Act, the charter of the Foundation may be surrendered if

- (a) a by-law has been enacted by the board and approved by at least two-thirds of its members to surrender the charter,
- (b) it has parted with its property, and
- (c) it has no debts or liabilities.

Appendix 1

PURPOSE AND OBJECTIVES

The purpose and objectives of the Foundation are set out in its 2020 supplementary letters patent as follows:

The purpose of the Foundation is the promotion of health in the area served by the Sackville Memorial Hospital (hereinafter called “the Hospital”), as that area is determined by the Foundation’s Board of Directors from time to time, through the application of the Foundation’s resources to the support of

- (a) additions and improvements to, and replacement, maintenance and repair of, the Hospital’s facilities, equipment and furnishings;
- (b) the operation of the Hospital;
- (c) the training of staff of the Provincial health authority which operates the Hospital who are working in the Hospital or in the area served by the Hospital;
- (d) the care, welfare, comfort and well-being of the patients of the Hospital; and
- (e) other charitable activities that will meet the purpose of the Foundation, provided those activities are carried out by qualified donees, by the Foundation itself, or by others who, as required by Canadian law, carry out the activities under the direction and control of the Foundation.

Furthermore, the following purposes and objectives from the Foundation’s 1961 letters patent are also still in effect:

“to invest and reinvest the capital assets of the Foundation in such investments as it shall consider desirable, not being restricted to securities authorized by law for investment by Trustees;

“to delegate, if it sees fit, to a Trust Company qualified to do business in the Province of New Brunswick and to be selected by it, the duty of acting as custodian of part or all of the assets of the Foundation and of managing such assets as well as keeping the accounts of the Foundation and any

such delegation may at any time be revoked by the Foundation with or without appointment of a Trust Company in place of such Trust Company;

“To receive property at any time from any person, firm or corporation to be added to the capital assets of the Foundation, provided such additional property is acceptable to the Foundation;

“From time to time to distribute gifts received by it and not expressed to be gifts of a capital nature in the same manner as it may distribute income arising from its own capital funds;

“To make such By-laws, rules and regulations as the Foundation may see fit concerning the management of the affairs of the Foundation, the choice of, duties and powers of the Directors and officers, the admission and expulsion of members and generally for the administration and management of its affairs, and to alter and repeal all or any of such Bylaws, rules and regulations from time to time as it may see fit and also to delegate to its Board of Directors all or any of the powers of passing, altering and repealing such By-laws, rules and regulations;

“To do all such other things as may seem directly or indirectly to be incidental to or conducive to or convenient or proper for the accomplishment of the purposes of the Foundation or the attainment of the above objects or expedient for the protection of the Foundation and its members.

Finally, also from the Foundation’s 1961 letters patent,

“The Foundation shall be without share capital and shall hold all property, both real and personal, acquired by it by purchase, gift, bequest, devise or otherwise and the income and profit arising therefrom in trust for the objects for which incorporation is sought, and it is declared as follows:

- (a) that no dividend shall be declared or paid to any member of the Foundation;
- (b) that the Foundation shall not carry on any business or trade for the profit of its members;
- (c) that the accounts of the Foundation shall be audited at least once in each calendar year by a Chartered Accountant or firm of Chartered Accountants, and a copy of the said accounts so audited with the

auditor's report thereon shall be produced at the Annual Meeting of the Foundation;

- (d) that the members of the Foundation and its officers may in relation to the Foundation, employ and act on the opinion or advice or information obtained from any lawyer, accountant, valuer, broker or other expert and shall not be responsible for any loss occasioned by acting or not acting thereon; they shall be entitled to employ such assistance as in their opinion may be necessary or desirable for the proper discharge of their duties and pay proper and reasonable compensation for all such advice and assistance; the members and officers of the Foundation shall not be liable except for wilful misconduct or intentional breach of trust.”

The Foundation's letters patent set a limit on its power and right to acquire real and personal property, a limit that had been increased by a supplementary letters patent on a number of occasions. That limit was removed by supplementary letters patent issued in 2020 so that, as provided in s.18(2)(g) of the Companies Act, the Foundation may acquire real and personal property of an unlimited cost value.