



INTERIM BORROWING BYLAW

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1.1 Definitions

In this Bylaw, the following terms when capitalized have the meaning ascribed to them below unless a different meaning is expressly stated:

- (a) **“Agent”** means a person, other than an AHS employee, Senior Officer or member of the Alberta Health Services Board, who is authorized to bind or purports to bind AHS, or who, ***directly or indirectly, controls AHS funds.***
- (b) **“AHS Representative”** means an AHS employee, Senior Officer, Agent and member of the Alberta Health Services Board.
- (c) **“Alberta Health Services” or “AHS”** is the regional health authority for the Province of Alberta.
- (d) **“Alberta Health Services Board” or “Board”** means the governance board of Alberta Health Services, appointed by the Minister of Health and Wellness.
- (e) **“Chair”** means the member of the Board appointed by the Minister of Health and Wellness to act as chair of the Board.
- (f) **“CEO”** means the person employed as the President and Chief Executive Officer for AHS.
- (g) **“Conflict of Interest Bylaw”** means the current AHS conflict of interest bylaw approved by the Board and Minister of Health and Wellness of Alberta.
- (h) **“Enactments”** means the *Regional Health Authorities Act*, R.S.A. 2000, c. R-10 and all regulations thereunder, as may be amended from time to time, or any successor legislation enacted by the Alberta Legislature to govern Alberta Health Services.
- (i) **“Regulation”** means the Regional Health Authorities Regulation, AR 15/95.
- (j) **“Senior Officer”** includes the CEO, vice president of AHS, any other executive accountable directly to the CEO, all chief operating officers, and any other person so designated by the CEO or the Alberta Health Services Board.

1.2 Compliance

Alberta Health Services shall comply with, and this Bylaw is subject to, any and all requirements and provisions in the Enactments, or any other Acts of the Alberta Legislature, and regulations made pursuant thereto and any directives issued by the Minister of Health and Wellness. If there is a conflict between this Bylaw and the Enactments, then the Enactments prevail.

1.3 Arm's Length

Alberta Health Services shall not enter into debt obligations, guarantees, indemnity transactions or capital leasing transactions with persons or entities in respect of which it is not dealing at arm's length, other than with the Province of Alberta or its agencies, or with a subsidiary of AHS. This Section shall not apply to usual and customary indemnities that may, if authorized by law, be given by AHS to members of the Board, officers or employees, or to the directors, officers or employees of any of its subsidiaries.

1.4 Disclosure

1.4.1 For the purposes of this Article 1.4, "**AHS Representative**" includes any person or entity that is not at arm's length with AHS.

1.4.2 If an AHS Representative reasonably suspects or is advised that he or she is or may be found to be in a non-arm's length relationship (the "**NAL Relationship**") in or respecting a transaction that is being considered, negotiated or agreed to by AHS, that AHS Representative must forthwith disclose the NAL Relationship as a perceived, potential or real conflict of interest in accordance with the procedures and requirements contained in the Conflict of Interest Bylaw upon becoming aware of the NAL Relationship. If the AHS Representative is not an AHS employee, Agent, Senior Officer or member of the Board, disclosure of the NAL Relationship must be made to AHS' compliance officer.

1.4.3 Notwithstanding Section 1.4.2 above, if AHS enters into a transaction with an AHS Representative, full disclosure of the transaction and the relationship with the AHS Representative must be made by any AHS Representative who knows of the transaction with the AHS Representative by disclosing that information to the compliance officer within one day after which such information is known. The compliance officer shall forthwith report that information to the CEO. The compliance officer will further report the information both to the Governance Committee and the Audit and Finance Committee at their first meetings after the date he or she is advised of that information.

1.4.4 With respect to any meeting of the Board at which the Board calls for its members to vote on a transaction in which a member has a Private Interest (as defined in the Conflict of Interest Bylaw), or a perceived, potential or real conflict of interest, the procedures and requirements contained in the Conflict of Interest Bylaw must be followed by the affected member.

1.5 Not an Obligation of the Government of Alberta

Where AHS enters into any debt transaction other than a line of credit, or establishes or amends a line of credit, or enters into any guarantee, capital lease or

indemnity obligation, it shall disclose to all parties to the transaction that the Government of Alberta is not obligated to pay any debt obligation of AHS except where the Government of Alberta has specifically assumed such an obligation.

1.6 Borrowing for Investments

Borrowing for the purpose of investing of any kind is not permitted, other than in a subsidiary corporation or as permitted by Section 1.9.2.

1.7 Limits on Financial Obligations

AHS shall use percentages of the “**Base Amount**” to specify limits with respect to its financial obligations. For the purposes of this Bylaw, the Base Amount for any financial year is equal to:

- (a) unrestricted Alberta Health and Wellness contributions for that year, plus
- (b) anticipated fees and charges for that year, less
- (c) any one-time contribution for that year from Alberta Health and Wellness.

The amount to be used as the Base Amount shall be as reported in AHS' Business Plan approved by the Minister of Health and Wellness for that year.

1.8 Debt Limit Amount

1.8.1 Capital Assets

Subject to Section 1.8.1.1, with respect to borrowing for capital asset purposes:

- (a) total aggregate debt obligation shall not exceed five percent (5%) of the Base Amount; and
- (b) total capital leasing obligations shall not exceed five percent (5%) of the Base Amount..

1.8.1.1 Exception for Specific Capital Assets

Upon the written approval of the Minister of Health and Wellness, debt or capital lease obligations may be incurred in excess of five percent (5%) of Base Amount to a maximum of ten percent (10%) of Base Amount, on a case by case basis. The aggregate of such obligations shall not exceed ten percent (10%) of Base Amount.

1.8.2 Working Capital

- (a) In this Section 1.8.2, “**Debt Obligations for Working Capital Purposes**” includes:
 - (i) bank indebtedness due on demand or in less than one (1) year, including revolving loans, short-term borrowings of up to one (1) year;
 - (ii) the current portion of long-term debt; and
 - (iii) the current portion of capital lease obligations.

- (b) With respect to borrowing or Debt Obligations for Working Capital Purposes:
 - (i) the total Debt Obligation for Working Capital Purposes, including through lines of credit, shall not exceed ten percent (10%) of the Base Amount; and
 - (ii) the total debt available through lines of credit shall not exceed ten percent (10%) of the Base Amount.

1.8.3 Guarantees and Indemnities

The maximum permitted obligations through documents whose primary purpose are guarantees and indemnities, excluding usual and customary indemnities given by AHS to the members of the Board, officers or employees, or to the directors, officers or employees of any of its subsidiaries, shall not exceed five percent (5%) of the Base Amount.

1.8.4 Overall Limit

In this Section 1.8.4, “**Total Obligations**” includes debt obligations for capital asset purposes, Debt Obligations for Working Capital Purposes plus any other debt including long-term debt, capital leases, guarantee obligations and indemnity obligation, but excluding pension obligations of AHS, unamortized capital contributions, or other deferred credits.

Subject to Section 1.8.1.1, Total Obligations whether under Sections 1.8.1, 1.8.2, 1.8.3, or otherwise, shall not exceed eleven percent (11%) of the Base Amount.

1.9 Additional Limitations on Borrowing and Indemnities

- 1.9.1** Where AHS borrows for the purposes of acquiring or constructing a capital asset, the repayment term of the loan must not exceed the estimated useful life of the capital asset. This Section 1.9.1, does not apply to the acquisition of land without improvements.
- 1.9.2** AHS shall not borrow for the purpose of financing an ancillary operation, being the sale of goods and services that are unrelated to the direct provision of health services for which AHS is responsible, unless the following conditions are met:
- (a) the estimated net revenue to be generated by the ancillary operation must be at least equal to the amount to be repaid under the borrowing; and
 - (b) no property other than property wholly used or to be used in the ancillary operation may be given as security for the repayment of the loan.
- 1.9.3** If AHS borrows in a foreign currency, it shall ensure that the risk of exchange rate fluctuations for the payment of the principal and interest amounts are offset or reduced in accordance with Subsections 2.4(6), 2.4(7), 2.4(8) and 2.4(9) of the Regulation.

1.9.4 Further Limitations

- (a) Subject to the provisions in this Section 1.9.4, AHS shall not give an indemnity or guarantee with respect to the obligations of another person.
- (b) AHS may give an indemnity or guarantee with respect to the obligations of a subsidiary health corporation of AHS.
- (c) AHS shall ensure that its potential liability under an indemnity or guarantee provided under Subsection (b) does not exceed the lesser of:
 - (i) the value of AHS' equity investment in the subsidiary; and
 - (ii) an amount determined by multiplying AHS' percentage ownership of the subsidiary times the total debt obligations of the subsidiary.
- (d) AHS may give indemnities as described in and to the extent allowed by Subsection 2.5(4) (s.124 of the Business Corporations Act, R.S.A. 2000, c.B-9) and Subsection 2.5(5) (indemnification to employees) of the Regulation. Those indemnities may be similar to usual and customary indemnities given by AHS to members of the Board, officers or employees, or to the directors, officers or employees of any of its subsidiaries.
- (e) AHS shall not give an indemnity or guarantee with respect to the obligations of a foundation (as defined in the Regulation).

- 1.9.5 AHS shall not borrow for the purpose of financing the purchase of securities within the meaning of the *Securities Act*, R.S.A. 2000, c.S-4.
- 1.9.6 The operating loan or line of credit used must be managed in such a way so as not to expose AHS to undue risk of having permanent operating debt.
- 1.9.7 Care and professional standards of judgment shall be exercised by AHS in all borrowing decisions.

1.10 Board Approval

Except for borrowing transactions made on the line of credit, each transaction relating to debt, guarantees, indemnities or capital leasing must be approved by a resolution of the Board in advance of the transaction and recorded in the minutes of the meeting at which the resolution was approved. The minutes shall contain the following at a minimum:

- (a) in the case of a debt obligation, the maximum amount of money to be borrowed and the purposes for which the money is to be borrowed;
- (b) in the case of an indemnity or guarantee:
 - (i) the maximum amount of the potential liability of AHS under the indemnity or guarantee;
 - (ii) the purpose for which the indemnity or guarantee is given; and
 - (iii) the terms and conditions of the indemnity or guarantee;
- (c) in the case of a capital leasing transaction, the purpose for entering into the capital leasing transaction and the value of the assets that will be leased;
- (d) the terms and conditions of repayment of the debt obligation or the payment under the capital leasing obligation;
- (e) the source of the money from which the debt obligation or the payments under the capital leasing obligation will be paid;
- (f) the source of the money from which potential liability on indemnities and guarantees will be paid; and
- (g) the nature of the involvement of the transaction of any person or entity in respect of which AHS is not dealing at arm's length.

1.11 Coming into Effect

This Interim Bylaw is effective upon the approval of the Minister of Health and Wellness and upon approval, will replace the East Central Health Bylaw currently in place. A permanent Bylaw will supersede this Interim Bylaw upon the approval of the Minister of Health and Wellness.

Adopted by the members of the Alberta Health Services Board this 24 day of September, 2009.

_____ “Original signed by” _____
Ken Hughes, Chair
Alberta Health Services Board

Approved in accordance with the Enactments this 29 day of October, 2009.

_____ “Original signed by” _____
Minister of Health and Wellness