

## Health Protection and Promotion Act

R.S.O. 1990, CHAPTER H.7

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**PART I**  
**INTERPRETATION**

**Interpretation**

**1. (1)** In this Act,

“Board” means the Health Services Appeal and Review Board under the *Ministry of Health Appeal and Review Boards Act, 1998*; (“Commission”)

“board of health” means a board of health established or continued under this Act and includes,

- (a) the regional municipalities of Durham, Halton, Niagara, Peel, Waterloo and York and the County of Oxford,

(b) a single-tier municipality that, under the Act establishing or continuing it, has the powers, rights and duties of a local board of health or a board of health established under this Act, and

(c) an agency, board or organization prescribed by regulation; (“conseil de santé”)

“Chief Medical Officer of Health” means the Chief Medical Officer of Health under this Act; (“médecin-hygiéniste en chef”)

“communicable disease” means a disease specified as a communicable disease by regulation made by the Minister; (“maladie transmissible”)

“dwelling unit” means real property used or designed for use as a home or as a place in which one or more persons may sleep; (“logement”)

“food” means food or drink for human consumption, and includes an ingredient of food or drink for human consumption; (“aliment”)

“food premise” means a premises where food or milk is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, sold or offered for sale, but does not include a private residence; (“dépôt d’aliments”)

“guidelines” means guidelines published by the Minister under this Act; (“lignes directrices”)

“health hazard” means,

(a) a condition of a premises,

(b) a substance, thing, plant or animal other than man, or

(c) a solid, liquid, gas or combination of any of them,

that has or that is likely to have an adverse effect on the health of any person; (“risque pour la santé”)

“health unit” means an area that, by or under any Act, is the area of jurisdiction of a board of health; (“circonscription sanitaire”)

“mandatory”, in relation to a health program or service, means a health program or service mentioned in section 5; (“obligatoire”)

“medical officer of health” means a medical officer of health of a board of health; (“médecin-hygiéniste”)

“milk” means milk from cows, goats or sheep; (“lait”)

“Minister” means Minister of Health and Long-Term Care; (“ministre”)

“Ministry” means Minister of Health and Long-Term Care; (“ministère”)

“municipal member”, in relation to a board of health, means a person appointed to the board of health by the council of a municipality; (“membre municipal”)

“obligated municipality” means, in relation to a health unit, any upper-tier municipality or single-tier municipality that is situated, in whole or in part, in the area that comprises the health unit; (“municipalité assujettie”)

“occupier” includes,

- (a) a person who is in physical possession of premises,
- (b) a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises, or
- (c) a person for the time being receiving the rent of premises, whether as principal or as agent or trustee for another person, or who would so receive the rent if the premises were let, or who is responsible for the payment of municipal taxes,

although there is more than one occupier of the same premises; (“occupant”)

“operator”, in relation to a food premise and small drinking water system, means a person who has responsibility for and control over an activity carried on at the food premise or the small drinking water system, although there is more than one operator of the same food premise or small drinking water system; (“exploitant”)

“person” includes a board of health, a municipality and any other corporation; (“personne”)

“physician” means a legally qualified medical practitioner; (“médecin”)

“premises” means lands and structures, or either of them, and includes,

- (a) water,
- (b) ships and vessels,
- (c) trailers and portable structures designed or used for residence, business or shelter,
- (d) trains, railway cars, vehicles and aircraft; (“lieu”)

“public health inspector” means a public health inspector of a board of health; (“inspecteur de la santé”)

“public health nurse” means a public health nurse of a board of health; (“infirmière-hygiéniste”)

“public pool” means a structure, basin, chamber or tank containing or intended to contain an artificial body of water for swimming, water sport, water recreation or entertainment, but does not include,

- (a) one that is located on a private residential property under the control of the owner or occupant and that is limited to use for swimming or bathing by the owner or occupant, members of their family and their visitors, or

(b) one that is used solely for commercial display and demonstration purposes;  
 (“piscine publique”)

“registered nurse in the extended class” means a member of the College of Nurses of Ontario who is a registered nurse holding an extended certificate of registration under the *Nursing Act, 1991*; (“infirmière autorisée ou infirmier autorisé de la catégorie supérieure”)

“regulations” means regulations made under this Act; (“règlements”)

“reportable disease” means a disease specified as a reportable disease by regulation made by the Minister; (“maladie à déclaration obligatoire”)

“residential building” means a structure that contains one or more dwelling units;  
 (“immeuble d’habitation”)

“sanitary facilities” means a room or rooms containing one or more toilets and one or more washbasins; (“installations sanitaires”)

“school” means a private school and a school as defined in the *Education Act*;  
 (“école”)

“school board” means a board as defined in the *Education Act*; (“conseil scolaire”)

“sexually transmitted disease” means a disease caused by an infectious agent usually transmitted during sexual contact; (“maladie sexuellement transmissible”)

“small drinking water system” means a small drinking water system as specified by regulation; (“petit réseau d’eau potable”)

“virulent disease” means,

- (a) Cholera,
- (b) Diphtheria,
- (c) Ebola virus disease,
- (d) Gonorrhoea,
- (e) Hemorrhagic fever,
- (f) Lassa fever,
- (g) Leprosy,
- (h) Marburg virus disease,
- (i) Plague,
- (j) Syphilis,
- (k) Smallpox,
- (l) Tuberculosis,

or a disease specified as a virulent disease by regulation made by the Minister. (“maladie virulente”) R.S.O. 1990, c. H.7, s. 1 (1); 1997, c. 30, Sched. D, s. 1; 1998, c. 18, Sched. G, s. 55 (1); 2000, c. 5, s. 14 (1); 2001, c. 25, s. 477 (1-3); 2006, c. 19, Sched. L, s. 11 (2, 3); 2007, c. 10, Sched. D, s. 1 (1, 2); 2007, c. 10, Sched. F, s. 1.

### **Closing of premises**

2. An order under this Act that requires the closing of premises is an order,

- (a) to shut the premises so as to prevent entrance or access to the premises by any person; and
- (b) to suspend the operation of any enterprise or activity on or in the premises,

except by such persons or for such purposes as are specified in the order. R.S.O. 1990, c. H.7, s. 1 (2).

### **Purpose**

2. The purpose of this Act is to provide for the organization and delivery of public health programs and services, the prevention of the spread of disease and the promotion and protection of the health of the people of Ontario. R.S.O. 1990, c. H.7, s. 2.

### **Act binds Crown**

3. This Act binds the Crown. R.S.O. 1990, c. H.7, s. 3.

## **PART II HEALTH PROGRAMS AND SERVICES**

### **Duty of board of health**

4. Every board of health,

- (a) shall superintend, provide or ensure the provision of the health programs and services required by this Act and the regulations to the persons who reside in the health unit served by the board; and
- (b) shall perform such other functions as are required by or under this or any other Act. R.S.O. 1990, c. H.7, s. 4.

### **Mandatory health programs and services**

5. Every board of health shall superintend, provide or ensure the provision of health programs and services in the following areas:

1. Community sanitation, to ensure the maintenance of sanitary conditions and the prevention or elimination of health hazards.
  - 1.1 The provision of safe drinking water by small drinking water systems.
2. Control of infectious diseases and reportable diseases, including provision of immunization services to children and adults.
3. Health promotion, health protection and disease and injury prevention, including the prevention and control of cardiovascular disease, cancer, AIDS and other diseases.

4. Family health, including,
  - i. counselling services,
  - ii. family planning services,
  - iii. health services to infants, pregnant women in high risk health categories and the elderly,
  - iv. preschool and school health services, including dental services,
  - v. screening programs to reduce the morbidity and mortality of disease,
  - vi. tobacco use prevention programs, and
  - vii. nutrition services.
- 4.1 Collection and analysis of epidemiological data.
- 4.2 Such additional health programs and services as are prescribed by the regulations.
5. Home care services that are insured services under the *Health Insurance Act*, including services to the acutely ill and the chronically ill. R.S.O. 1990, c. H.7, s. 5; 1997, c. 30, Sched. D, s. 2; 2007, c. 10, Sched. D, s. 1 (3).

**Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 5 is repealed by the Statutes of Ontario, 1994, chapter 26, section 71. See: 1994, c. 26, ss. 71, 76.**

### **School pupils**

[6. \(1\)](#) Every board of health shall provide such of the health programs and services as are prescribed by the regulations for the purposes of this section to the pupils attending schools within the health unit served by the board of health. R.S.O. 1990, c. H.7, s. 6 (1).

### **Consent of school**

[\(2\)](#) Subsection (1) does not apply in respect of pupils attending a school unless the person or organization that operates the school has agreed to the provision of the particular health program or service to the pupils attending the school. R.S.O. 1990, c. H.7, s. 6 (2).

### **Application of subs. (1)**

[\(3\)](#) Subsection (1) applies only in respect of the classifications of pupils prescribed by the regulations in respect of a health program or service. R.S.O. 1990, c. H.7, s. 6 (3).

### **Prohibition**

[\(4\)](#) Where a board of health is required by this Act or the regulations, on request of a person or organization that operates a school, to provide or ensure the provision of a health program or service, no person or organization that operates a school in the health unit served by the board of health shall provide or ensure the provision of the health program or service to a pupil in the school without the approval of the medical officer of health for the health unit. R.S.O. 1990, c. H.7, s. 6 (4).



### **Separate school rights preserved**

[\(5\)](#) Subsections (1) to (4) shall not be construed to adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the *Constitution Act, 1867* and the *Education Act*. R.S.O. 1990, c. H.7, s. 6 (5).

### **Guidelines**

[7. \(1\)](#) The Minister may publish guidelines for the provision of mandatory health programs and services and every board of health shall comply with the published guidelines. R.S.O. 1990, c. H.7, s. 7 (1).

### **Idem**

[\(2\)](#) Guidelines shall be transmitted to each board of health and shall be available for public inspection in the Ministry. R.S.O. 1990, c. H.7, s. 7 (2).

### **Not regulations**

[\(3\)](#) A guideline is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. R.S.O. 1990, c. H.7, s. 7 (3); 2006, c. 21, Sched. F, s. 136 (1).

### **Conflict**

[\(4\)](#) In the event of conflict between a regulation and a guideline, the regulation prevails. R.S.O. 1990, c. H.7, s. 7 (4).

### **Adoption of codes**

[\(5\)](#) A guideline may adopt by reference, in whole or in part, with such changes as are specified in the guideline, any code, formula, protocol or procedure and may require compliance with the code, formula, protocol or procedure so adopted. 2007, c. 10, Sched. D, s. 1 (4).

### **Rolling incorporation**

[\(6\)](#) If a guideline under subsection (5) so provides, a code, formula, protocol or procedure adopted by reference shall be a reference to it as amended from time to time and whether the amendment was made before or after the guideline was made. 2007, c. 10, Sched. D, s. 1 (4).

### **When effective**

[\(7\)](#) The adoption of an amendment to a code, formula, protocol or procedure that has been adopted by reference comes into effect upon the Ministry publishing notice of the amendment and transmitting the notice to each board of health. 2007, c. 10, Sched. D, s. 1 (4).

### **Extent of programs and services**

[8.](#) A board of health is not required by this Part to provide or ensure the provision of a mandatory health program or service referred to in this Part except to the extent and under the conditions prescribed by the regulations and the guidelines. R.S.O. 1990, c. H.7, s. 8.

### **Optional health programs and services**

**9.** A board of health may provide any other health program or service in any area in the health unit served by the board of health if,

- (a) the board of health is of the opinion that the health program or service is necessary or desirable, having regard to the needs of persons in the area; and
- (b) the councils of the municipalities in the area approve of the provision of the health program or service. R.S.O. 1990, c. H.7, s. 9.

## **PART III COMMUNITY HEALTH PROTECTION**

### **Duty to inspect**

**10. (1)** Every medical officer of health shall inspect or cause the inspection of the health unit served by him or her for the purpose of preventing, eliminating and decreasing the effects of health hazards in the health unit. R.S.O. 1990, c. H.7, s. 10 (1).

### **Idem**

**(2)** The duty of every medical officer of health under subsection (1) includes, but is not limited to, the duty to inspect or cause the inspection of the following:

1. Food premises and any food and equipment thereon or therein.
2. Premises used or intended for use as a boarding house or lodging house. R.S.O. 1990, c. H.7, s. 10 (2).

### **Complaint re health hazard related to occupational or environmental health**

**11. (1)** Where a complaint is made to a board of health or a medical officer of health that a health hazard related to occupational or environmental health exists in the health unit served by the board of health or the medical officer of health, the medical officer of health shall notify the ministry of the Government of Ontario that has primary responsibility in the matter and, in consultation with the ministry, the medical officer of health shall investigate the complaint to determine whether the health hazard exists or does not exist. R.S.O. 1990, c. H.7, s. 11 (1).

### **Report**

**(2)** The medical officer of health shall report the results of the investigation to the complainant, but shall not include in the report personal health information within the meaning of the *Personal Health Information Protection Act, 2004* in respect of a person other than the complainant, unless consent to the disclosure is obtained in accordance with that Act. 2004, c. 3, Sched. A, s. 86.

### **Conflict**

**(3)** The obligation imposed on the medical officer of health under subsection (2) prevails despite anything to the contrary in the *Personal Health Information Protection Act, 2004*. 2004, c. 3, Sched. A, s. 86.

### **Duty of M.O.H. re occupational and environmental health**

**12. (1)** Every medical officer of health shall keep himself or herself informed in respect of matters related to occupational and environmental health. R.S.O. 1990, c. H.7, s. 12 (1).

### **Provision of information to M.O.H.**

**(2)** The Ministry of the Environment, the Ministry of Health and Long-Term Care, the Ministry of Labour or a municipality shall provide to a medical officer of health such information in respect of any matter related to occupational or environmental health as is requested by the medical officer of health, is in the possession of the ministry or municipality and the ministry or municipality is not prohibited by law from disclosing. R.S.O. 1990, c. H.7, s. 12 (2); 2006, c. 19, Sched. L, s. 11 (3).

### **Authority of M.O.H. re small drinking water systems**

**12.1 (1)** A medical officer of health may, in respect of small drinking water systems, vary requirements in prescribed provisions of the regulations on a temporary basis and may establish interim requirements with which an owner or operator of the small drinking water system must comply. 2007, c. 10, Sched. D, s. 1 (5).

### **Limitation on power of M.O.H.**

**(2)** In exercising his or her authority under subsection (1), a medical officer of health shall ensure that the risk to the users of the small drinking water system is not increased by the variance in the requirements or by the establishment of interim requirements. 2007, c. 10, Sched. D, s. 1 (5).

### **Order by M.O.H. or public health inspector re health hazard**

**13. (1)** A medical officer of health or a public health inspector, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a health hazard. R.S.O. 1990, c. H.7, s. 13 (1).

### **Condition precedent to order**

**(2)** A medical officer of health or a public health inspector may make an order under this section where he or she is of the opinion, upon reasonable and probable grounds,

- (a) that a health hazard exists in the health unit served by him or her; and
- (b) that the requirements specified in the order are necessary in order to decrease the effect of or to eliminate the health hazard. R.S.O. 1990, c. H.7, s. 13 (2).

### **Time**

**(3)** In an order under this section, a medical officer of health or a public health inspector may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order. R.S.O. 1990, c. H.7, s. 13 (3).

**Idem**

- (4) An order under this section may include, but is not limited to,
- (a) requiring the vacating of premises;
  - (b) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
  - (c) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
  - (d) requiring the doing of work specified in the order in, on or about premises specified in the order;
  - (e) requiring the removal of anything that the order states is a health hazard from the premises or the environs of the premises specified in the order;
  - (f) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
  - (g) requiring the destruction of the matter or thing specified in the order;
  - (h) prohibiting or regulating the manufacturing, processing, preparation, storage, handling, display, transportation, sale, offering for sale or distribution of any food or thing;
  - (i) prohibiting or regulating the use of any premises or thing. R.S.O. 1990, c. H.7, s. 13 (4).

**Person directed**

- (5) An order under this section may be directed to a person,
- (a) who owns or is the occupier of any premises but where an order is directed to the occupier, the person making the order shall deliver or cause the delivery of a copy of the order to the owner of the premises;
  - (b) who owns or is in charge of any substance, thing, plant or animal or any solid, liquid, gas or combination of any of them; or
  - (c) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health or the public health inspector. R.S.O. 1990, c. H.7, s. 13 (5).

**Reasons for order**

(6) An order under this section is not effective unless the reasons for the order are set out in the order. R.S.O. 1990, c. H.7, s. 13 (6).

**Oral order**

(7) Where the delay necessary to put an order under this section in writing will or is likely to increase substantially the hazard to the health of any person, the medical

officer of health or the public health inspector may make the order orally and subsection (6) does not apply to the order. R.S.O. 1990, c. H.7, s. 13 (7).

### **Description of person directed**

(8) It is sufficient in an order under this section to direct the order to a person or persons described in the order, and an order under this section is not invalid by reason only of the fact that a person to whom the order is directed is not named in the order. R.S.O. 1990, c. H.7, s. 13 (8).

### **Directions by M.O.H.**

14. (1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health. R.S.O. 1990, c. H.7, s. 14 (1).

### **When M.O.H. may give directions**

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a health hazard exists in the health unit and the person to whom an order is or would be directed under section 13,

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or
- (d) requests the assistance of the medical officer of health in eliminating or decreasing the effect of the health hazard. R.S.O. 1990, c. H.7, s. 14 (2).

### **Contents of directions**

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the health hazard. R.S.O. 1990, c. H.7, s. 14 (3).

### **Idem**

- (4) Directions under this section may include, but are not limited to,
- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a health hazard or of an order made under this Act, or both;
  - (b) requiring the doing of work specified in the directions in, on or about any premises;
  - (c) requiring the removal of anything that the directions state is a health hazard from premises or the environs of premises specified in the directions;

- (d) requiring the detention of any matter or thing removed from any premises or the environs of any premises;
- (e) requiring the cleaning or disinfecting, or both, of any premises or thing specified in the directions;
- (f) requiring the destruction of any thing specified in the directions. R.S.O. 1990, c. H.7, s. 14 (4).

### **Recovery of expenses by action**

[15. \(1\)](#) The expenses incurred by a board of health in respect of a health hazard in, on or of any premises may be recovered from the owner or the occupier, or both, of the premises, with costs, by the board of health by action in a court of competent jurisdiction. R.S.O. 1990, c. H.7, s. 15 (1).

### **Statement to municipal clerk**

[\(2\)](#) In the alternative, where costs and expenses of a board of health that may be recovered from the owner or occupier of premises are not paid within sixty days after a demand to the owner or occupier for payment, the secretary of the board of health may transmit to the clerk of the municipality in which the premises are situated a statement setting out,

- (a) the amount of the costs and expenses;
- (b) the name of the owner of the premises; and
- (c) the location of the premises. R.S.O. 1990, c. H.7, s. 15 (2).

### **Collection**

[\(3\)](#) Upon receipt of the statement, the clerk of the municipality shall enter the amount in the collector's roll and the amount shall be collected in the same manner as municipal real property taxes and the amount collected shall be paid over to the board of health. R.S.O. 1990, c. H.7, s. 15 (3); 1999, c. 12, Sched. J, s. 32.

### **Recovery by occupier**

[\(4\)](#) Where an amount recovered by a board of health after a demand or under subsection (1) from an occupier of premises is, between the occupier and the owner of the premises, the responsibility of the owner, the occupier is entitled to recover the amount from the owner or to deduct the amount from any other amount due from the occupier to the owner. R.S.O. 1990, c. H.7, s. 15 (4).

### **Recovery by owner**

[\(5\)](#) Where an amount recovered by a board of health after a demand or under subsection (1) or (3) from an owner of premises is, between the owner and the occupier, the responsibility of the occupier, the owner is entitled to recover the amount from the occupier or to add the amount to any other amount due from the occupier to the owner. R.S.O. 1990, c. H.7, s. 15 (5).

### **Food premise**

**16. (1)** Every person who operates a food premise shall maintain and operate the food premise in accordance with the regulations. R.S.O. 1990, c. H.7, s. 16 (1).

### **Notice of intention to commence operation**

**(2)** Every person who intends to commence to operate a food premise shall give notice of the person's intention to the medical officer of health of the health unit in which the food premise will be located. R.S.O. 1990, c. H.7, s. 16 (2).

### **Persons employed on or in food premise**

**(3)** Every person employed on or in a food premise shall comply with the standards and requirements prescribed by the regulations for such persons. R.S.O. 1990, c. H.7, s. 16 (3).

### **Information**

**(4)** Every person who operates a food premise shall furnish the medical officer of health of the health unit in which the food premise is located with such information as the medical officer of health requests in respect of the manufacturing, processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in the food premise and the distribution of food from the food premise. R.S.O. 1990, c. H.7, s. 16 (4).

### **Records**

**(5)** Every person who operates a food premise shall keep such records in respect of the manufacturing, processing, preparation, storage, handling, display, transportation and sale, or offering for sale of food on or in the food premise and the distribution of food from the food premise as are prescribed by the regulations, and shall keep the records in such form, with such detail and for such length of time as are prescribed by the regulations. R.S.O. 1990, c. H.7, s. 16 (5).

### **Sale of diseased food**

**17.** No person shall sell or offer for sale any food that is unfit for human consumption by reason of disease, adulteration, impurity or other cause. R.S.O. 1990, c. H.7, s. 17.

### **Unpasteurized or unsterilized milk**

**18. (1)** No person shall sell, offer for sale, deliver or distribute milk or cream that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*. R.S.O. 1990, c. H.7, s. 18 (1).

### **Milk products**

**(2)** No person shall sell, offer for sale, deliver or distribute a milk product processed or derived from milk that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*. R.S.O. 1990, c. H.7, s. 18 (2).

## **Exception**

(3) Subsection (1) does not apply in respect of milk or cream that is sold, offered for sale, delivered or distributed to a plant licensed under the *Milk Act*. R.S.O. 1990, c. H.7, s. 18 (3).

## **Definition**

(4) In subsection (2),

“milk product” means a product processed or derived in whole or mainly from milk. R.S.O. 1990, c. H.7, s. 18 (4).

## **Seizure**

19. (1) A medical officer of health or a public health inspector who is of the opinion, upon reasonable and probable grounds, that a condition of any substance, thing, plant or animal other than man is a health hazard may seize or cause the seizure of the substance, thing, plant or animal. R.S.O. 1990, c. H.7, s. 19 (1).

## **Examination**

(2) The medical officer of health or public health inspector shall detain the substance, thing, plant or animal pending such examination or investigation as is necessary in his or her opinion or as is requested by the owner or person from whom the substance, thing, plant or animal was seized, to determine the existence of the health hazard. R.S.O. 1990, c. H.7, s. 19 (2).

## **Return**

(3) Where the examination or investigation indicates that a health hazard is not present, the medical officer of health or public health inspector shall release the substance, thing, plant or animal to the owner or person from whom it was seized. R.S.O. 1990, c. H.7, s. 19 (3).

## **Destruction**

(4) Where the examination or investigation indicates that a health hazard is present, the medical officer of health or public health inspector shall destroy or dispose of the substance, thing, plant or animal or take such other action as will eliminate or decrease the health hazard. R.S.O. 1990, c. H.7, s. 19 (4).

## **Food**

(5) Where food is seized under this section and the medical officer of health or public health inspector is of the opinion, upon reasonable and probable grounds, that the condition of the food is a health hazard, subsections (2) and (3) do not apply and he or she may destroy or dispose of the food or cause it to be destroyed or disposed of without further examination or investigation. R.S.O. 1990, c. H.7, s. 19 (5).

## **Facilities required in residential buildings**

20. Every person who owns a residential building shall provide,

- (a) potable water; and
- (b) sanitary facilities or a privy,



for the residents of the residential building. R.S.O. 1990, c. H.7, s. 20.

## PART IV COMMUNICABLE DISEASES

### Definitions, Part IV

**21. (1)** In this Part,

“institution” means,

(a) “charitable institution” within the meaning of the *Charitable Institutions Act*,

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause (a) is repealed by the Statutes of Ontario, 2007, chapter 8, section 210. See: 2007, c. 8, ss. 210, 232 (2).**

(b) premises approved under subsection 9 (1) of Part I (Flexible Services) of the *Child and Family Services Act*,

(c) “children’s residence” within the meaning of Part IX (Licensing) of the *Child and Family Services Act*,

(d) “day nursery” within the meaning of the *Day Nurseries Act*,

(e) “facility” within the meaning of the *Developmental Services Act*,

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause (e) is repealed by the Statutes of Ontario, 2008, chapter 14, section 53 and the following substituted:**

(e) “supported group living residence” within the meaning of the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*;

**See: 2008, c. 14, ss. 53, 64.**

(f) Repealed: 2001, c. 13, s. 17.

(g) “home for special care” within the meaning of the *Homes for Special Care Act*,

(h) “home” within the meaning of the *Homes for the Aged and Rest Homes Act*,

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause (h) is repealed by the Statutes of Ontario, 2007, chapter 8, section 210 and the following substituted:**

(h) “long-term care home” within the meaning of the *Long-Term Care Homes Act, 2007*,

**See: 2007, c. 8, ss. 210, 232 (2).**

(i) “psychiatric facility” within the meaning of the *Mental Health Act*,

- (j) “approved home” and “institution” within the meaning of the *Mental Hospitals Act*,
- (k) “correctional institution” within the meaning of the *Ministry of Correctional Services Act*,
- (l) “detention facility” within the meaning of section 16.1 of the *Police Services Act*,
- (m) “nursing home” within the meaning of the *Nursing Homes Act*,

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause (m) is repealed by the Statutes of Ontario, 2007, chapter 8, section 210. See: 2007, c. 8, ss. 210, 232 (2).**

- (n) “private hospital” within the meaning of the *Private Hospitals Act*,
- (o) place or facility designated as a place of secure custody under section 24.1 of the *Young Offenders Act* (Canada), whether in accordance with section 88 of the *Youth Criminal Justice Act* (Canada) or otherwise,
- (p) a prescribed place,

and includes any other place of a similar nature; (“établissement”)

“superintendent” means the person who has for the time being the direct and actual superintendence and charge of an institution. (“chef d’établissement”) R.S.O. 1990, c. H.7, s. 21 (1); 2001, c. 13, s. 17; 2002, c. 17, Sched. F, Table; 2006, c. 19, Sched. D, s. 8 (1); 2007, c. 10, Sched. F, s. 2.

### **Idem**

(2) In this Part,

“administrator”, “hospital”, “out-patient” and “patient” have the same meanings as in the *Public Hospitals Act*. R.S.O. 1990, c. H.7, s. 21 (2).

### **Order by M.O.H. re communicable disease**

22. (1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a communicable disease. R.S.O. 1990, c. H.7, s. 22 (1).

### **Condition precedent to order**

(2) A medical officer of health may make an order under this section where he or she is of the opinion, upon reasonable and probable grounds,

- (a) that a communicable disease exists or may exist or that there is an immediate risk of an outbreak of a communicable disease in the health unit served by the medical officer of health;
- (b) that the communicable disease presents a risk to the health of persons in the health unit served by the medical officer of health; and

- (c) that the requirements specified in the order are necessary in order to decrease or eliminate the risk to health presented by the communicable disease. R.S.O. 1990, c. H.7, s. 22 (2); 1997, c. 30, Sched. D, s. 3 (1).

### **Time**

(3) In an order under this section, a medical officer of health may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order. R.S.O. 1990, c. H.7, s. 22 (3).

### **What may be included in order**

- (4) An order under this section may include, but is not limited to,
- (a) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
  - (b) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
  - (c) requiring any person that the order states has or may have a communicable disease or is or may be infected with an agent of a communicable disease to isolate himself or herself and remain in isolation from other persons;
  - (d) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
  - (e) requiring the destruction of the matter or thing specified in the order;
  - (f) requiring the person to whom the order is directed to submit to an examination by a physician and to deliver to the medical officer of health a report by the physician as to whether or not the person has a communicable disease or is or is not infected with an agent of a communicable disease;
  - (g) requiring the person to whom the order is directed in respect of a communicable disease that is a virulent disease to place himself or herself forthwith under the care and treatment of a physician;
  - (h) requiring the person to whom the order is directed to conduct himself or herself in such a manner as not to expose another person to infection. R.S.O. 1990, c. H.7, s. 22 (4); 1997, c. 30, Sched. D, s. 3 (2).

### **Person directed**

- (5) An order under this section may be directed to a person,
- (a) who resides or is present;
  - (b) who owns or is the occupier of any premises;
  - (c) who owns or is in charge of any thing; or
  - (d) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health. R.S.O. 1990, c. H.7, s. 22 (5).

### **Class orders**

[\(5.0.1\)](#) An order under this section may be directed to a class of persons who reside or are present in the health unit served by the medical officer of health. 2003, c. 1, s. 15 (1).

### **Notice to class**

[\(5.0.2\)](#) If a class of persons is the subject of an order under subsection (5.0.1), notice of the order shall be delivered to each member of the class where it is practicable to do so in a reasonable amount of time. 2003, c. 1, s. 15 (1).

### **Same, general notice**

[\(5.0.3\)](#) If delivery of the notice to each member of a class of persons is likely to cause a delay that could, in the opinion of the medical officer of health, significantly increase the risk to the health of any person, the medical officer of health may deliver a general notice to the class through any communications media that seem appropriate to him or her, and he or she shall post the order at an address or at addresses that is or are most likely to bring the notice to the attention of the members of the class. 2003, c. 1, s. 15 (1).

### **Information in notice**

[\(5.0.4\)](#) A notice under subsection (5.0.3) shall contain sufficient information to allow members of the class to understand to whom the order is directed, the terms of the order, and where to direct inquiries. 2003, c. 1, s. 15 (1).

### **Hearing for class member**

[\(5.0.5\)](#) Where a class of persons is the subject of an order under subsection (5.0.1), any member of the class may apply to the Board for the purposes of requiring a hearing under section 44 respecting that member. 2003, c. 1, s. 15 (1).

### ***Health Care Consent Act, 1996***

[\(5.1\)](#) The *Health Care Consent Act, 1996* does not apply to,

- (a) a physician's examination of a person pursuant to an order under this section requiring the person to submit to an examination by a physician;
- (b) a physician's care and treatment of a person pursuant to an order under this section requiring the person to place himself or herself under the care and treatment of a physician. 1996, c. 2, s. 67 (1).

### **Additional contents of order**

[\(6\)](#) In an order under this section, a medical officer of health,

- (a) may specify that a report will not be accepted as complying with the order unless it is a report by a physician specified or approved by the medical officer of health;
- (b) may specify the period of time within which the report mentioned in this subsection must be delivered to the medical officer of health. R.S.O. 1990, c. H.7, s. 22 (6).

### **Reasons for order**

(7) An order under this section is not effective unless the reasons for the order are set out in the order. R.S.O. 1990, c. H.7, s. 22 (7).

22.1 Repealed: 2006, c. 26, s. 15 (1).

### **Order by M.O.H. re person under sixteen**

23. Where an order by a medical officer of health in respect of a communicable disease is directed to a person under sixteen years of age and is served upon the parent of the person or upon any other person who has the responsibilities of a parent in relation to the person under sixteen years of age, the parent or other person shall ensure that the order is complied with. R.S.O. 1990, c. H.7, s. 23.

### **Directions by M.O.H.**

24. (1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health. R.S.O. 1990, c. H.7, s. 24 (1).

### **When M.O.H. may give directions**

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a communicable disease exists in the health unit and the person to whom an order is or would be directed under section 22,

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or
- (d) requests the assistance of the medical officer of health in eliminating or decreasing the risk to health presented by the communicable disease. R.S.O. 1990, c. H.7, s. 24 (2); 1997, c. 30, Sched. D, s. 4 (1).

### **Contents of directions**

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or who are the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the risk to health presented by the communicable disease. R.S.O. 1990, c. H.7, s. 24 (3); 1997, c. 30, Sched. D, s. 4 (2).

### **Idem**

(4) Directions under this section may include, but are not limited to,

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a communicable disease or of an order made under this Act, or both;

- (b) requiring the cleaning or disinfecting, or both, of any thing or any premises specified in the directions;
- (c) requiring the destruction of any thing specified in the directions. R.S.O. 1990, c. H.7, s. 24 (4).

### **Recovery of expenses**

(5) The expenses incurred by a board of health in carrying out directions given by a medical officer of health in respect of a communicable disease may be recovered with costs by the board of health from the person to whom an order is or would be directed under section 22 in respect of the communicable disease by action in a court of competent jurisdiction. R.S.O. 1990, c. H.7, s. 24 (5).

### **Duty to report disease**

25. (1) A physician or a practitioner as defined in subsection (2) who, while providing professional services to a person who is not a patient in or an out-patient of a hospital, forms the opinion that the person has or may have a reportable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided. R.S.O. 1990, c. H.7, s. 25; 1998, c. 18, Sched. G, s. 55 (2).

### **Definition**

(2) In subsection (1),  
“practitioner” means,

- (a) a member of the College of Chiropractors of Ontario,
- (b) a member of the Royal College of Dental Surgeons of Ontario,
- (c) a member of the College of Nurses of Ontario,
- (d) a member of the Ontario College of Pharmacists,
- (e) a member of the College of Optometrists of Ontario,
- (f) a person registered as a drugless practitioner under the *Drugless Practitioners Act*, or

**Note: On a day to be named by proclamation of the Lieutenant Governor, clause (f) is repealed by the Statutes of Ontario, 2007, chapter 10, Schedule P, section 17 and the following substituted:**

(f) a member of the College of Naturopaths of Ontario,

**See: 2007, c. 10, Sched. P, ss. 17, 21 (2).**

- (g) a prescribed person. 1998, c. 18, Sched. G, s. 55 (3); 2007, c. 10, Sched. F, s. 3.

### **Carrier of disease**

26. A physician or registered nurse in the extended class who, while providing professional services to a person, forms the opinion that the person is or may be infected

with an agent of a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided. R.S.O. 1990, c. H.7, s. 26; 2007, c. 10, Sched. F, s. 4.

#### **Duty of hospital administrator to report re disease**

27. (1) The administrator of a hospital shall report to the medical officer of health of the health unit in which the hospital is located if an entry in the records of the hospital in respect of a patient in or an out-patient of the hospital states that the patient or out-patient has or may have a reportable disease or is or may be infected with an agent of a communicable disease. R.S.O. 1990, c. H.7, s. 27 (1).

#### **Duty of superintendent of institution to report re disease**

(2) The superintendent of an institution shall report to the medical officer of health of the health unit in which the institution is located if an entry in the records of the institution in respect of a person lodged in the institution states that the person has or may have a reportable disease or is or may be infected with an agent of a communicable disease. R.S.O. 1990, c. H.7, s. 27 (2).

#### **When report to be given**

(3) The administrator or the superintendent shall report to the medical officer of health as soon as possible after the entry is made in the records of the hospital or institution, as the case may be. R.S.O. 1990, c. H.7, s. 27 (3).

#### **Duty of school principal to report disease**

28. The principal of a school who is of the opinion that a pupil in the school has or may have a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the school is located. R.S.O. 1990, c. H.7, s. 28.

#### **Report by operator**

29. (1) The operator of a laboratory shall report to the medical officer of health of the health unit in which the person who gives rise to the case resides each case of a positive laboratory finding in respect of a reportable disease, as soon as possible after the making of the finding. R.S.O. 1990, c. H.7, s. 29 (1); 2007, c. 10, Sched. F, s. 5.

#### **Contents and time of report**

(2) A report under this section shall state the laboratory findings and shall be made within the time prescribed by the regulations. R.S.O. 1990, c. H.7, s. 29 (2).

#### **Definition**

(3) In this section,

“laboratory” has the same meaning as in section 5 of the *Laboratory and Specimen Collection Centre Licensing Act*. R.S.O. 1990, c. H.7, s. 29 (3).

#### **Communicable disease acquired at facility**

29.1 (1) Where a medical officer of health is of the opinion, based on information he or she has received, that a communicable disease may have been acquired through

exposure at a health facility, and the communicable disease has not been reported to the medical officer of health by that facility, the medical officer of health may report to the administrator of the health facility both the opinion and the basis on which the medical officer of health has come to the opinion. 2007, c. 10, Sched. F, s. 6.

### **Definition**

(2) In this section,

“health facility” means a hospital to which the *Public Hospitals Act* applies, a long-term care facility regulated under a statute of Ontario, a psychiatric facility within the meaning of the *Mental Health Act*, or a person or entity prescribed as a health facility. 2007, c. 10, Sched. F, s. 6.

### **Orders to deal with communicable disease outbreaks**

**29.2 (1)** Subject to subsection (2), a medical officer of health may make an order requiring a public hospital or an institution to take any actions specified in the order for the purposes of monitoring, investigating and responding to an outbreak of communicable disease at the hospital or institution. 2007, c. 10, Sched. F, s. 6.

### **When order may be made**

(2) A medical officer of health may make an order under subsection (1) if he or she is of the opinion, upon reasonable and probable grounds, that an outbreak of a communicable disease exists or may exist at the public hospital or institution, and that the communicable disease presents a risk to the health of persons in the public hospital or institution, and that the measures specified in the order are necessary in order to decrease or eliminate the risks to health associated with the outbreak. 2007, c. 10, Sched. F, s. 6.

### **Time**

(3) In an order under this section, a medical officer of health may specify the time or times when or the period or periods of time within which the order must be complied with. 2007, c. 10, Sched. F, s. 6.

### **Person directed**

(4) An order under this section may be directed to the administrator of the public hospital or the superintendent of the institution, and the administrator or superintendent shall ensure that the actions provided for in the order are taken. 2007, c. 10, Sched. F, s. 6.

### **Reasons for order**

(5) An order under this section is not effective unless the reasons for the order are set out in the order. 2007, c. 10, Sched. F, s. 6.

### **Definitions**

(6) In this section,

“institution” means an institution as defined in subsection 21 (1); (“établissement”)

“public hospital” means a hospital to which the *Public Hospitals Act* applies. (“hôpital public”) 2007, c. 10, Sched. F, s. 6.



### **Duty to report death**

**30.** A physician or registered nurse in the extended class who signs a medical certificate of death in the form prescribed by the regulations under the *Vital Statistics Act* where the cause of death was a reportable disease or a reportable disease was a contributing cause of death shall, as soon as possible after signing the certificate, report thereon to the medical officer of health of the health unit in which the death occurred. R.S.O. 1990, c. H.7, s. 30; 2007, c. 10, Sched. F, s. 7.

### **Reports by M.O.H. re diseases**

**31. (1)** Every medical officer of health shall report to the Ministry in respect of reportable diseases and in respect of deaths from such diseases that occur in the health unit served by the medical officer of health. R.S.O. 1990, c. H.7, s. 31 (1).

### **Reports by M.O.H. re events**

**(2)** Every medical officer of health shall report to the Ministry within seven days after receiving a report concerning a reportable event under section 38 that occurs in the health unit served by the medical officer of health. R.S.O. 1990, c. H.7, s. 31 (2).

### **Communication between medical officers of health**

**32. (1)** A medical officer of health may transmit to another medical officer of health or to the proper public health official in another jurisdiction any information in respect of a person in relation to whom a report in respect of a reportable disease has been made under this Act. R.S.O. 1990, c. H.7, s. 32 (1).

### **Transmittal of report**

**(2)** Where the person in respect of whom a report is made under this Part to a medical officer of health does not reside in the health unit served by the medical officer of health, the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides. R.S.O. 1990, c. H.7, s. 32 (2).

### **Communicable diseases of the eyes**

**33. (1)** Every physician, public health nurse or other health care professional person attending at the birth of a child shall ensure that the requirements prescribed by the regulations in respect of communicable diseases of the eyes of the new-born child are complied with. R.S.O. 1990, c. H.7, s. 33.

### ***Health Care Consent Act, 1996***

**(2)** The *Health Care Consent Act, 1996* does not apply to the requirements prescribed by the regulations in respect of communicable diseases of the eyes of the new-born child. 1996, c. 2, s. 67 (2).

### **Physician or extended class nurse to report refusal or neglect of treatment**

**34. (1)** Every physician and every registered nurse in the extended class shall report to the medical officer of health the name and residence address of any person who is under the care and treatment of the physician or the nurse in respect of a communicable disease and who refuses or neglects to continue the treatment in a manner and to a degree satisfactory to the physician or the nurse. 2007, c. 10, Sched. F, s. 8 (1).

### **Report to be made to M.O.H.**

(2) A report under subsection (1) shall be made to the medical officer of health serving the health unit in which the physician or registered nurse in the extended class provided the care and treatment. R.S.O. 1990, c. H.7, s. 34 (2); 2007, c. 10, Sched. F, s. 8 (2).

### **Transmittal to M.O.H. where person resides**

(3) Where the person does not reside in the health unit served by the medical officer of health mentioned in subsection (2), the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides. R.S.O. 1990, c. H.7, s. 34 (3).

### **Additional information**

(4) A physician or registered nurse in the extended class who makes a report under subsection (1) shall report to the medical officer of health at such times as are prescribed by the regulations any additional information prescribed by the regulations. R.S.O. 1990, c. H.7, s. 34 (4); 2007, c. 10, Sched. F, s. 8 (3).

### **Order by Ontario Court of Justice**

35. (1) Upon application by a medical officer of health, a judge of the Ontario Court of Justice, in the circumstances specified in subsection (2), may make an order in the terms specified in subsection (3). R.S.O. 1990, c. H.7, s. 35 (1); 2002, c. 18, Sched. I, s. 9 (1).

### **When court may make order**

(2) An order may be made under subsection (3) where a person has failed to comply with an order by a medical officer of health in respect of a communicable disease that is a virulent disease,

- (a) that the person isolate himself or herself and remain in isolation from other persons;
- (b) that the person submit to an examination by a physician;
- (c) that the person place himself or herself under the care and treatment of a physician; or
- (d) that the person conduct himself or herself in such a manner as not to expose another person to infection. R.S.O. 1990, c. H.7, s. 35 (2).

### **Contents of order**

(3) In an order under this section, the judge may order that the person who has failed to comply with the order of the medical officer of health,

- (a) be taken into custody and be admitted to and detained in a hospital or other appropriate facility named in the order;
- (b) be examined by a physician to ascertain whether or not the person is infected with an agent of a virulent disease; and

- (c) if found on examination to be infected with an agent of a virulent disease, be treated for the disease. R.S.O. 1990, c. H.7, s. 35 (3); 1997, c. 30, Sched. D, s. 5; 2003, c. 1, s. 15 (2).

### **Capability of hospital or facility**

(4) The judge shall not name a hospital or other facility in an order under this section unless the court is satisfied that the hospital or other facility is able to provide detention, care and treatment for the person who is the subject of the order. 2003, c. 1, s. 15 (3).

### **Delivery to hospital**

- (5) An order under this section is authority for any person,
- (a) to locate and apprehend the person who is the subject of the order;
    - (a.1) to enter any place provided for in the order, including a private residence, for the purposes of locating or apprehending the person who is the subject of the order, where the judge is satisfied based on information provided under oath, that there are reasonable and probable grounds to believe that the person will be found in the place; and
  - (b) to deliver the person who is the subject of the order to the hospital or other facility named in the order. R.S.O. 1990, c. H.7, s. 35 (5); 2003, c. 1, s. 15 (4); 2007, c. 10, Sched. F, s. 9 (1).

### **Police assistance**

(6) An order under this section may be directed to any police force in Ontario, and the police force shall do all things reasonably able to be done to locate, apprehend and deliver the person in accordance with the order. 2007, c. 10, Sched. F, s. 9 (2).

### **Care and treatment**

(7) An order under this section is authority to detain the person who is the subject of the order in the hospital or other facility named in the order and to care for and examine the person and to treat the person for the virulent disease in accordance with generally accepted medical practice for a period of not more than six months from and including the day that the order was issued. R.S.O. 1990, c. H.7, s. 35 (7); 2003, c. 1, s. 15 (5); 2007, c. 10, Sched. F, s. 9 (3).

### ***Health Care Consent Act, 1996***

- (7.1) The *Health Care Consent Act, 1996* does not apply to,
- (a) an examination of a person to ascertain whether he or she is infected with an agent of a virulent disease, pursuant to an order made under this section;
  - (b) treatment of a person for a virulent disease, pursuant to an order made under this section. 1996, c. 2, s. 67 (3).

### **Physician responsible**

[\(8\)](#) The person authorized by the by-laws of the hospital shall designate a physician to have responsibility for the care and treatment of the person named in the order or, where the by-laws do not provide the authorization, the administrator of the hospital or a person delegated by the administrator shall designate a physician to have responsibility for the care and treatment of the person named in the order. 2003, c. 1, s. 15 (6).

### **Designation of physician**

[\(8.1\)](#) Where a person who is the subject of an order is detained in a facility other than a hospital, the administrator of the facility shall designate a physician to have responsibility for care and treatment of the person named in the order. 2003, c. 1, s. 15 (6).

### **Reports**

[\(9\)](#) The physician responsible for a person under subsection (8) or (8.1) shall report in respect of the care and treatment of the person and their condition to the medical officer of health serving the health unit in which the hospital or other facility is located. 2003, c. 1, s. 15 (6).

### **Idem**

[\(10\)](#) The physician shall report in the manner, at the times and with the information specified by the medical officer of health and the medical officer of health may specify the manner and times of reporting and the information that shall be reported. R.S.O. 1990, c. H.7, s. 35 (10).

### **Order to continue detention and treatment**

[\(11\)](#) Where, upon motion by the medical officer of health serving the health unit in which the hospital or other appropriate facility is located, a judge of the court is satisfied,

- (a) that the person continues to be infected with an agent of a virulent disease; and
- (b) that the discharge of the person from the hospital or other appropriate facility would present a significant risk to the health of the public,

the judge by order may extend the period of detention and treatment for not more than six months, and upon further motions by the medical officer of health the judge may extend the period of detention and treatment for further periods each of which shall not be for more than six months. R.S.O. 1990, c. H.7, s. 35 (11); 2003, c. 1, s. 15 (7); 2007, c. 10, Sched. F, s. 9 (4).

### **Release and discharge from hospital or other facility**

[\(12\)](#) A person detained in accordance with an order under this section shall be released from detention and discharged from the hospital or other facility upon the certificate of the medical officer of health serving the health unit in which the hospital or other facility is located. R.S.O. 1990, c. H.7, s. 35 (12); 2003, c. 1, s. 15 (8).

### **Certificate of M.O.H.**

[\(13\)](#) The medical officer of health shall inform himself or herself as to the treatment and condition of the person and shall issue his or her certificate authorizing the release and discharge of the person as soon as the medical officer of health is of the opinion that the person is no longer infected with an agent of the virulent disease or that the release and discharge of the person will not present a significant risk to the health of members of the public. R.S.O. 1990, c. H.7, s. 35 (13).

### **Hearing of application or motion**

[\(14\)](#) An application mentioned in subsection (1) or a motion mentioned in subsection (11) shall be heard in private, but, if the person in respect of whom the application or motion is made requests otherwise by a notice filed with the clerk of the court before the day of the hearing, the judge shall conduct the hearing in public except where,

- (a) matters involving public security may be disclosed; or
- (b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public. R.S.O. 1990, c. H.7, s. 35 (14).

### **Effect on proceeding before Board**

[\(15\)](#) An application under this section applies to stay a proceeding before or an appeal from a decision or order of the Board in respect of the same matter until the application is disposed of by the judge of the Ontario Court of Justice and where the judge makes an order under this section, no person shall commence or continue a proceeding before or an appeal from a decision or order of the Board in respect of the same matter. R.S.O. 1990, c. H.7, s. 35 (15); 2002, c. 18, Sched. I, s. 9 (2).

### **Appeal**

[\(16\)](#) Any party to an application or motion under subsection (1) or (11) may appeal from the decision or order to the Superior Court of Justice. R.S.O. 1990, c. H.7, s. 35 (16); 2002, c. 18, Sched. I, s. 9 (3).

### **Stay**

[\(17\)](#) The filing of a notice of appeal does not apply to stay the decision or order appealed from unless a judge of the court to which the appeal is taken so orders. R.S.O. 1990, c. H.7, s. 35 (17).

### **Appeal to Court of Appeal**

[\(18\)](#) Any party to the proceeding may appeal from the judgment of the Superior Court of Justice to the Court of Appeal, with leave of a judge of the Court of Appeal on special grounds, upon any question of law alone. R.S.O. 1990, c. H.7, s. 35 (18); 2002, c. 18, Sched. I, s. 9 (4).

### **Grounds for leave**

[\(19\)](#) No leave for appeal shall be granted under subsection (18) unless the judge of the Court of Appeal considers that in the particular circumstances of the case it is

essential in the public interest or for the due administration of justice that leave be granted. R.S.O. 1990, c. H.7, s. 35 (19).

### **Where person withdraws from care and treatment**

**36. (1)** Where a medical officer of health has made an order in respect of a communicable disease that is a virulent disease requiring a person to place himself or herself under the care and treatment of a physician or to take other action specified in the order and the person withdraws from the care and treatment or fails to continue the specified action, section 35 applies with necessary modifications and for the purpose, the person shall be deemed to have failed to comply with an order of the medical officer of health. R.S.O. 1990, c. H.7, s. 36 (1).

### **Failure to comply with isolation order**

**(2)** Where a person who is infected with an agent of a communicable disease has failed to comply with an order by a medical officer of health that the person isolate himself or herself and remain in isolation from other persons, section 35 applies with necessary modifications. R.S.O. 1990, c. H.7, s. 36 (2).

### **Examination of person under detention**

**37. (1)** A physician or registered nurse in the extended class who provides medical services in a correctional institution, a place of secure custody, a detention facility or a place of temporary detention and who is of the opinion that a person detained therein is infected or may be infected with an agent of a communicable disease shall notify forthwith the medical officer of health of the health unit in which the institution is located. R.S.O. 1990, c. H.7, s. 37 (1); 2007, c. 10, Sched. F, s. 10.

### **Order by M.O.H. re person under detention**

**(2)** A medical officer of health by order may require the superintendent of a correctional institution, a place of secure custody, a detention facility or a place of temporary detention located in the health unit served by the medical officer of health to take such action as is specified in the order to prevent the infection of others by a person who is detained in the correctional institution, place of secure custody, detention facility or place of temporary detention and who has been examined and found to be infected with an agent of a communicable disease. R.S.O. 1990, c. H.7, s. 37 (2).

### **Definitions**

**(3)** In this section,

“correctional institution” has the same meaning as in the *Ministry of Correctional Services Act*; (“établissement correctionnel”)

“detention facility” has the same meaning as in section 16.1 of the *Police Services Act*; (“installation de détention”)

“place of secure custody” means a place or facility designated as a place of secure custody under section 24.1 of the *Young Offenders Act* (Canada), whether in accordance with section 88 of the *Youth Criminal Justice Act* (Canada) or otherwise; (“lieu de garde en milieu fermé”)

“place of temporary detention” means a place or facility designated as a place of temporary detention under the *Youth Criminal Justice Act* (Canada). (“lieu de détention provisoire”) R.S.O. 1990, c. H.7, s. 37 (3); 2002, c. 17, Sched. F, Table; 2006, c. 19, Sched. D, s. 8 (2, 3).

## **Immunization**

### **Definitions**

**38. (1)** In this section,

“immunizing agent” means a vaccine or combination of vaccines administered for immunization against diphtheria, tetanus, poliomyelitis, pertussis, measles, rubella, hepatitis B, rabies, *Haemophilus influenzae b* infections, influenza, meningococcal C, pneumococcal, and varicella diseases or a disease specified in regulations made by the Minister; (“agent immunisant”)

“reportable event” means,

- (a) persistent crying or screaming, anaphylaxis or anaphylactic shock occurring within forty-eight hours after the administration of an immunizing agent,
- (b) shock-like collapse, high fever or convulsions occurring within three days after the administration of an immunizing agent,
- (c) arthritis occurring within forty-two days after the administration of an immunizing agent,
- (d) generalized urticaria, residual seizure disorder, encephalopathy, encephalitis or any other significant occurrence occurring within fifteen days after the administration of an immunizing agent, or
- (e) death occurring at any time and following upon a symptom described in clause (a), (b), (c) or (d). (“événement à déclaration obligatoire”) R.S.O. 1990, c. H.7, s. 38 (1); 2007, c. 10, Sched. F, s. 11 (1).

### **Duty to inform**

**(2)** If consent to the administration of an immunizing agent has been given in accordance with the *Health Care Consent Act, 1996*, the physician or other person authorized to administer the immunizing agent shall cause the consenting person to be informed of the importance of immediately reporting to a physician or a registered nurse in the extended class any reaction that might be a reportable event. 2007, c. 10, Sched. F, s. 11 (2).

### **Duty to report reactions**

**(3)** A physician, a member of the College of Nurses of Ontario or a member of the Ontario College of Pharmacists who, while providing professional services to a person, recognizes the presence of a reportable event and forms the opinion that it may be related to the administration of an immunizing agent shall, within seven days after recognizing the reportable event, report thereon to the medical officer of health of the health unit

where the professional services are provided. R.S.O. 1990, c. H.7, s. 38 (3); 1998, c. 18, Sched. G, s. 55 (4).

### **Idem**

(4) A medical officer of health who receives a report under subsection (3) concerning a person who resides in another health unit shall transmit the report to the medical officer of health serving the health unit in which the person resides. R.S.O. 1990, c. H.7, s. 38 (4).

### **Confidentiality**

39. (1) No person shall disclose to any other person the name of or any other information that will or is likely to identify a person in respect of whom an application, order, certificate or report is made in respect of a communicable disease, a reportable disease, a virulent disease or a reportable event following the administration of an immunizing agent. R.S.O. 1990, c. H.7, s. 39 (1).

### **Exceptions**

(2) Subsection (1) does not apply,

- (0.a) where the disclosure is authorized under this Act or the *Personal Health Information Protection Act, 2004*;
- (a) in respect of an application by a medical officer of health to the Ontario Court of Justice that is heard in public at the request of the person who is the subject of the application;
- (b) where the disclosure is made with the consent of the person in respect of whom the application, order, certificate or report is made;
- (c) where the disclosure is made for the purposes of public health administration;
- (d) in connection with the administration of or a proceeding under this Act, the *Regulated Health Professions Act, 1991*, a health profession Act as defined in subsection 1 (1) of that Act, the *Public Hospitals Act*, the *Health Insurance Act*, the *Canada Health Act* or the *Criminal Code* (Canada), or regulations made thereunder; or
- (e) to prevent the reporting of information under section 72 of the *Child and Family Services Act* in respect of a child who is or may be in need of protection. R.S.O. 1990, c. H.7, s. 39 (2); 1998, c. 18, Sched. G, s. 55 (5); 1999, c. 2, s. 36; 2002, c. 18, Sched. I, s. 9 (5); 2007, c. 10, Sched. F, s. 12.

### **Supply of drugs, etc., by unqualified person prohibited**

40. (1) No person other than a physician or a registered nurse in the extended class shall attend upon, prescribe for or supply or offer to supply a drug, medicine, appliance or treatment to or for another person for the purpose of alleviating or curing a sexually transmitted disease. R.S.O. 1990, c. H.7, s. 40 (1); 2007, c. 10, Sched. F, s. 13.



### **Exception re pharmacist**

[\(2\)](#) Subsection (1) does not apply to a member of the Ontario College of Pharmacists who dispenses to a person upon a written prescription signed by a physician or who sells to a person a drug, medicine or appliance. R.S.O. 1990, c. H.7, s. 40 (2); 1998, c. 18, Sched. G, s. 55 (6).

## **PART V RIGHTS OF ENTRY AND APPEALS FROM ORDERS**

### **Rights of entry and powers of inspection**

#### **Interpretation, persons**

[41. \(1\)](#) The persons referred to in subsections (3) to (5) and (8), (10) and (11) are the following:

1. An inspector appointed by the Minister.
2. A medical officer of health.
3. A public health inspector.
4. A person acting under a direction given by a medical officer of health. R.S.O. 1990, c. H.7, s. 41 (1).

#### **Interpretation, purposes**

[\(2\)](#) The purposes mentioned in subsections (3) to (5) and (11) are the following:

1. The purpose of this Act.
2. The enforcement of any section of this Act or the regulations.
3. The exercise of a power or the carrying out of a duty under this Act or the regulations.
4. The carrying out of a direction given under this Act. R.S.O. 1990, c. H.7, s. 41 (2).

#### **Entry**

[\(3\)](#) A person mentioned in subsection (1) may enter and have access to, through and over any premises for a purpose mentioned in subsection (2). R.S.O. 1990, c. H.7, s. 41 (3).

#### **Examinations**

[\(4\)](#) A person mentioned in subsection (1) may make examinations, investigations, tests and inquiries for a purpose mentioned in subsection (2). R.S.O. 1990, c. H.7, s. 41 (4).

#### **Samples or extracts**

[\(5\)](#) A person mentioned in subsection (1) may make, take and remove or require the making, taking and removal of copies, samples or extracts related to an examination, investigation, test or inquiry for a purpose mentioned in subsection (2). R.S.O. 1990, c. H.7, s. 41 (5).

### **Reasonable times**

(6) The authority under subsections (3) to (5) shall be exercised only at reasonable times. R.S.O. 1990, c. H.7, s. 41 (6).

### **Private residence**

(7) Subsection (3) is not authority to enter a room actually used as a dwelling without the consent of the occupier. 2007, c. 10, Sched. D, s. 1 (6).

### **Operator to cease operation**

(8) A person mentioned in subsection (1) may require an operator of a food premise or a small drinking water system to cease the operation of, to dismantle or to excavate, or to do any combination of them on, any equipment on, in or forming part of the food premise or small drinking water system for the purpose of an examination, investigation, test or inquiry. 2007, c. 10, Sched. D, s. 1 (6).

### **Compliance with requirement**

(9) An operator of a food premise or small drinking water system shall comply promptly with a requirement under subsection (8). 2007, c. 10, Sched. D, s. 1 (6).

### **Copies**

(10) A copy of any written or recorded material related to an examination, investigation, test or inquiry and purporting to be certified by a person mentioned in subsection (1) is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original. R.S.O. 1990, c. H.7, s. 41 (10).

### **Application for warrant**

(11) If an occupier of premises,

- (a) denies entry or access to, through or over the premises to a person mentioned in subsection (1);
- (b) instructs a person mentioned in subsection (1) to leave the premises;
- (c) obstructs a person mentioned in subsection (1) who is acting for a purpose mentioned in subsection (2);
- (d) refuses to comply with a request for the production of any thing or any plant or animal the production of which is requested for the purpose of an examination, investigation, test or inquiry or for a purpose mentioned in subsection (2),

a person mentioned in subsection (1) may apply to a justice of the peace for a warrant under section 43. R.S.O. 1990, c. H.7, s. 41 (11).

### **Obstruction**

42. (1) No person shall hinder or obstruct an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction of a medical officer of health lawfully carrying out a power, duty or direction under this Act. R.S.O. 1990, c. H.7, s. 42 (1).

### **Private residence**

(2) A refusal of consent to enter a room actually used as a dwelling is not and shall not be deemed to be hindering or obstructing within the meaning of subsection (1). R.S.O. 1990, c. H.7, s. 42 (2); 2007, c. 10, Sched. D, s. 1 (7).

### **Warrant by justice of the peace**

**43. (1)** Where a justice of the peace is satisfied on evidence upon oath,

(a) that there is reasonable and probable ground for believing that it is necessary,

(i) to enter and have access to, through and over any premises,

(ii) to make examinations, investigations, tests and inquiries, and

(iii) to make, take and remove samples, copies or extracts related to an examination, investigation, test or inquiry,

or to do any of such things, for the purpose of this Act, the enforcement of any section of this Act or the regulations, the exercise of a power or the carrying out of a duty under this Act or the regulations or the carrying out of a direction given under this Act; and

(b) that an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction given by a medical officer of health,

(i) has been denied entry to the premises,

(ii) has been instructed to leave the premises,

(iii) has been obstructed, or

(iv) has been refused production of any thing or any plant or animal related to an examination, investigation, test or inquiry,

by the occupier of the premises,

the justice of the peace may issue a warrant in the form prescribed by the regulations authorizing an inspector appointed by the Minister, a medical officer of health, a public health inspector and any person who is acting under a direction given by a medical officer of health, or any of them, to act as mentioned in clause (a) in respect of the premises specified in the warrant, by force if necessary, together with such police officer or officers as they call upon to assist them. R.S.O. 1990, c. H.7, s. 43 (1).

### **Execution of warrant**

(2) A warrant issued under this section shall be executed at reasonable times as specified in the warrant. R.S.O. 1990, c. H.7, s. 43 (2).

### **Expiry of warrant**

(3) A warrant issued under this section shall state the date on which it expires, which shall be a date not later than fifteen days after the warrant is issued. R.S.O. 1990, c. H.7, s. 43 (3).

### **Application without notice**

(4) A justice of the peace may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises. R.S.O. 1990, c. H.7, s. 43 (4).

### **Right to hearing**

**44. (1)** An order by a medical officer of health or a public health inspector under this Act shall inform the person to whom it is directed that the person is entitled to a hearing by the Board if the person mails or delivers to the medical officer of health or public health inspector, as the case requires, and to the Board, within fifteen days after a copy of the order is served on the person, notice in writing requiring a hearing and the person may also require such a hearing. R.S.O. 1990, c. H.7, s. 44 (1).

### **Oral order**

(2) An oral order or an order directed to a person described but not named in the order need not contain the information specified in subsection (1) but a person to whom the order is directed may require a hearing by the Board by giving the notices specified in subsection (1) within fifteen days after the day the person first knows or ought to know the contents of the order. R.S.O. 1990, c. H.7, s. 44 (2).

### **Effect of order**

(3) Although a hearing is required in accordance with this Part, an order under this Act takes effect,

- (a) when it is served on the person to whom it is directed; or
- (b) in the case of an oral order or an order directed to a person described but not named in the order, when the person to whom it is directed first knows or ought to know the contents of the order,

but the Board, upon application with notice, may grant a stay until the proceedings before the Board are disposed of. R.S.O. 1990, c. H.7, s. 44 (3).

### **Powers of Board**

(4) Where the person to whom an order is directed requires a hearing by the Board in accordance with subsection (1) or (2), the Board shall appoint a time and place for and hold the hearing and the Board may by order confirm, alter or rescind the order and for such purposes the Board may substitute its findings for that of the medical officer of health or public health inspector who made the order. R.S.O. 1990, c. H.7, s. 44 (4); 1997, c. 30, Sched. D, s. 6.

### **Time for hearing**

(5) The Board shall hold a hearing under this section within fifteen days after receipt by the Board of the notice in writing requiring the hearing and the Board may, from time to time, at the request or with the consent of the person requiring the hearing, extend the time for holding the hearing for such period or periods of time as the Board considers just. R.S.O. 1990, c. H.7, s. 44 (5).

### **Extension of time for hearing**

[\(6\)](#) The Board may extend the time for the giving of notice requiring a hearing under this section by the person to whom the order of the medical officer of health or public health inspector is directed either before or after the expiration of such time where it is satisfied that there are apparent grounds for granting relief to the person following upon a hearing and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension. R.S.O. 1990, c. H.7, s. 44 (6).

### **Parties and evidence**

[45. \(1\)](#) The medical officer of health or public health inspector who made the order, the person who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board. R.S.O. 1990, c. H.7, s. 45 (1).

### **Examination of documentary evidence**

[\(2\)](#) Any party to the proceedings before the Board shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. R.S.O. 1990, c. H.7, s. 45 (2).

### **Members holding hearing not to have taken part in investigation, etc.**

[\(3\)](#) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or representative of the party except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an advisor independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law. R.S.O. 1990, c. H.7, s. 45 (3).

### **Recording of evidence**

[\(4\)](#) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Superior Court of Justice. R.S.O. 1990, c. H.7, s. 45 (4); 2002, c. 18, Sched. I, s. 9 (6).

[\(5\)](#) Repealed: 1998, c. 18, Sched. G, s. 55 (7).

### **Release of documentary evidence**

[\(6\)](#) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to the person by the Board within a reasonable time after the matter in issue has been finally determined. R.S.O. 1990, c. H.7, s. 45 (6).

### **Appeal to court**

[46. \(1\)](#) Any party to the proceedings before the Board under this Act may appeal from its decision or order to the Divisional Court in accordance with the rules of court. R.S.O. 1990, c. H.7, s. 46 (1); 1998, c. 18, Sched. G, s. 55 (8).

### **Stay of order**

(2) Where an appeal is taken under subsection (1) in respect of an order that was stayed by the Board, a judge of the Superior Court of Justice upon application may grant a further stay until the appeal is disposed of. R.S.O. 1990, c. H.7, s. 46 (2); 2002, c. 18, Sched. I, s. 9 (7).

### **Record to be filed in court**

(3) Where any party appeals from a decision or order of the Board, the Board shall forthwith file with the Divisional Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal. R.S.O. 1990, c. H.7, s. 46 (3).

### **Minister entitled to be heard**

(4) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. R.S.O. 1990, c. H.7, s. 46 (4).

### **Powers of court on appeal**

(5) An appeal under this section may be made on questions of law or fact or both and the court may confirm, alter or rescind the decision of the Board and may exercise all powers of the Board to confirm, alter or rescind the order as the court considers proper, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper. R.S.O. 1990, c. H.7, s. 46 (5).

**47.** Repealed: 1998, c. 18, Sched. G, s. 55 (9).

## **PART VI HEALTH UNITS AND BOARDS OF HEALTH**

### **Boards of health**

**48.** There shall be a board of health for each health unit. R.S.O. 1990, c. H.7, s. 48.

### **Composition of board of health**

**49. (1)** A board of health is composed of the members appointed to the board under this Act and the regulations. R.S.O. 1990, c. H.7, s. 49 (1).

### **Municipal members**

(2) There shall be not fewer than three and not more than thirteen municipal members of each board of health. R.S.O. 1990, c. H.7, s. 49 (2).

### **Appointments by Lieutenant Governor in Council**

(3) The Lieutenant Governor in Council may appoint one or more persons as members of a board of health, but the number of members so appointed shall be less than the number of municipal members of the board of health. R.S.O. 1990, c. H.7, s. 49 (3).

## **Remuneration**

(4) A board of health shall pay remuneration to each member of the board of health on a daily basis and all members shall be paid at the same rate. R.S.O. 1990, c. H.7, s. 49 (4).

## **Expenses**

(5) A board of health shall pay the reasonable and actual expenses of each member of the board of health. R.S.O. 1990, c. H.7, s. 49 (5).

## **Rate of remuneration**

(6) The rate of the remuneration paid by a board of health to a member of the board of health shall not exceed the highest rate of remuneration of a member of a standing committee of a municipality within the health unit served by the board of health, but where no remuneration is paid to members of such standing committees the rate shall not exceed the rate fixed by the Minister and the Minister has power to fix the rate. R.S.O. 1990, c. H.7, s. 49 (6).

## **Term of office**

(7) The term of office of a municipal member of a board of health continues during the pleasure of the council that appointed the municipal member but, unless ended sooner, ends with the ending of the term of office of the council. R.S.O. 1990, c. H.7, s. 49 (7).

## **Disqualification**

(8) The seat of a municipal member of a board of health becomes vacant for the same reasons that the seat of a member of council becomes vacant under subsection 259 (1) of the *Municipal Act, 2001* or section 204 of the *City of Toronto Act, 2006*, as the case may be. R.S.O. 1990, c. H.7, s. 49 (8); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 23 (1).

## **Non-application**

(9) Subsections (1) to (8) do not apply to,

(a) the regional municipalities of Durham, Halton, Niagara, Peel, Waterloo and York and the County of Oxford; or

(b) a single-tier municipality that, under the Act establishing or continuing it, has the powers, rights and duties of a local board of health or a board of health. 2001, c. 25, s. 477 (4).

## **Exception**

(10) Subsections (4) to (6) apply despite section 283 of the *Municipal Act, 2001* and section 222 of the *City of Toronto Act, 2006*. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 23 (2).

## **Member of municipal council**

(11) Subsections (4) and (5) do not authorize payment of remuneration or expenses to a member of a board of health, other than the chair, who is a member of the council of

a municipality and is paid annual remuneration or expenses, as the case requires, by the municipality. R.S.O. 1990, c. H.7, s. 49 (11).

### **Agreement with council of band**

**50. (1)** A board of health for a health unit and the council of the band on a reserve within the health unit may enter into an agreement in writing under which,

- (a) the board agrees to provide health programs and services to the members of the band; and
- (b) the council of the band agrees to accept the responsibilities of the council of a municipality within the health unit. R.S.O. 1990, c. H.7, s. 50 (1).

### **Appointment of member by council of band**

**(2)** The council of the band that has entered into the agreement has the right to appoint a member of the band to be one of the members of the board of health for the health unit. R.S.O. 1990, c. H.7, s. 50 (2).

### **Joint appointment**

**(3)** The councils of the bands of two or more bands that have entered into agreements under subsection (1) have the right to jointly appoint a person to be one of the members of the board of health for the health unit instead of each appointing a member under subsection (2). R.S.O. 1990, c. H.7, s. 50 (3).

### **Term**

**(4)** An appointment under this section may be for one, two or three years. R.S.O. 1990, c. H.7, s. 50 (4).

### **Definitions**

**(5)** In this section,

“band”, “council of the band” and “reserve” have the same meanings as in the *Indian Act* (Canada). R.S.O. 1990, c. H.7, s. 50 (5).

### **Term of office**

**51. (1)** A member of a board of health appointed by the Lieutenant Governor in Council may be appointed for a term of one, two or three years. R.S.O. 1990, c. H.7, s. 51 (1).

### **Vacancy**

**(2)** Where a vacancy occurs in a board of health by the death, disqualification, resignation or removal of a member, the person or body that appointed the member shall appoint a person forthwith to fill the vacancy for the remainder of the term of the member. R.S.O. 1990, c. H.7, s. 51 (2).

### **Disqualification**

**(3)** No person whose services are employed by a board of health is qualified to be a member of the board of health. R.S.O. 1990, c. H.7, s. 51 (3).



### **Board to be corporation**

**52. (1)** Every board of health is a corporation without share capital. R.S.O. 1990, c. H.7, s. 52 (1).

### **Certain Acts do not apply**

**(2)** The *Corporations Act* and the *Corporations Information Act* do not apply to a board of health. R.S.O. 1990, c. H.7, s. 52 (2).

### **Real property**

**(3)** A board of health may acquire and hold real property for the purpose of carrying out the functions of the board and may sell, exchange, lease, mortgage or otherwise charge or dispose of real property owned by it. R.S.O. 1990, c. H.7, s. 52 (3).

### **Consents required**

**(4)** Subsection (3) does not apply unless the board of health has first obtained the consent of the councils of the majority of the municipalities within the health unit served by the board of health. R.S.O. 1990, c. H.7, s. 52 (4); 2002, c. 18, Sched. I, s. 9 (8).

### **Name of board**

**53.** The name of each board of health shall be Board of Health for the  
*(inserting the name of the health unit)*

Health Unit in English and Conseil de santé de la circonscription sanitaire de

*(inserting the name of the health unit)*

in French. R.S.O. 1990, c. H.7, s. 53.

### **Quorum**

**54.** A majority of the members of a board of health constitutes a quorum of the board. R.S.O. 1990, c. H.7, s. 54.

### **Non-application**

**55.** Sections 52 to 54 and 56 to 59 do not apply to,

- (a) the regional municipalities of Durham, Halton, Niagara, Peel, Waterloo and York and the County of Oxford; or
- (b) a single-tier municipality that has the powers, rights and duties of a local board of health or a board of health established under this Act. 2001, c. 25, s. 477 (5).

### **By-laws**

**56. (1)** A board of health shall pass by-laws respecting,

- (a) the management of its property;
- (b) banking and finance;
- (c) the calling of and proceedings at meetings; and
- (d) the appointment of an auditor. R.S.O. 1990, c. H.7, s. 56 (1).

## **Idem**

- (2) A board of health may pass by-laws respecting,
- (a) the appointment, duties and removal of officers (other than the medical officer of health or an associate medical officer of health) and employees, and the remuneration, pensions and other benefits of officers and employees; and
  - (b) any other matter necessary or advisable for the management of the affairs of the board of health. R.S.O. 1990, c. H.7, s. 56 (2).

## **First meeting**

57. (1) A board of health shall hold its first meeting of each year not later than the 1st day of February. R.S.O. 1990, c. H.7, s. 57 (1).

## **Chair and vice-chair**

(2) At the first meeting of a board of health in each year, the members of the board shall elect one of the members to be chair and one to be vice-chair of the board for the year. R.S.O. 1990, c. H.7, s. 57 (2).

## **Minutes**

58. A board of health shall keep or cause to be kept minutes of its proceedings and the text of the by-laws and resolutions passed by it. R.S.O. 1990, c. H.7, s. 58.

## **Fees**

58.1 A board of health may charge fees for such services and in such amounts as the Minister may approve. 1997, c. 15, s. 5 (1).

## **Financial records**

59. (1) A board of health shall keep or cause to be kept,
- (a) books, records and accounts of its financial affairs;
  - (b) the invoices, receipts and other documents in its possession that relate to the financial affairs of the board. R.S.O. 1990, c. H.7, s. 59 (1).

## **Annual financial statements**

(2) A board of health shall cause to be prepared statements of its financial affairs in each year including but not limited to,

- (a) an annual statement of income and expenses;
- (b) an annual statement of assets and liabilities; and
- (c) an annual estimate of expenses for the next year. R.S.O. 1990, c. H.7, s. 59 (2).

## **Retention of records**

(3) A board of health need not keep any records, statements, minutes, accounts or other materials beyond the period of time prescribed by the regulations. R.S.O. 1990, c. H.7, s. 59 (3).

60. Repealed: 1997, c. 26, Sched.

### **Duty of board of health**

**61.** Every board of health shall superintend and ensure the carrying out of Parts II, III and IV and the regulations relating to those Parts in the health unit served by the board of health. R.S.O. 1990, c. H.7, s. 61.

### **Medical officer of health**

**62. (1)** Every board of health,

(a) shall appoint a full-time medical officer of health; and

(b) may appoint one or more associate medical officers of health,

of the board of health. R.S.O. 1990, c. H.7, s. 62.

### **Vacancy**

**(2)** If the position of medical officer of health of a board of health becomes vacant, the board of health and the Minister, acting in concert, shall work expeditiously towards filling the position with a full-time medical officer of health. 2002, c. 32, s. 171.

### **Report, CMOH**

**(3)** The annual report of the Chief Medical Officer of Health under section 81 shall include a summary of the medical officer of health and associate medical officer of health vacancies in Ontario. 2007, c. 10, Sched. F, s. 14.

### **Use of title**

**63.** A board of health shall not describe the position of a person whose services are employed by the board by a title that incorporates the title “medical officer of health” or “médecin-hygiéniste”, or the designation “M.O.H.” or “m.-h.” or other designation representing the title, unless the person is the medical officer of health, associate medical officer of health or acting medical officer of health of the board. R.S.O. 1990, c. H.7, s. 63.

### **Eligibility for appointment**

**64.** No person is eligible for appointment as a medical officer of health or an associate medical officer of health unless,

(a) he or she is a physician;

(b) he or she possesses the qualifications and requirements prescribed by the regulations for the position; and

(c) the Minister approves the proposed appointment. R.S.O. 1990, c. H.7, s. 64.

**65.** Repealed: 2005, c. 29, s. 4.

### **Dismissal**

**66. (1)** A decision by a board of health to dismiss a medical officer of health or an associate medical officer of health from office is not effective unless,

(a) the decision is carried by the vote of two-thirds of the members of the board;  
and

(b) the Minister consents in writing to the dismissal. R.S.O. 1990, c. H.7, s. 66 (1).

### **Notice and attendance**

(2) A board of health shall not vote on the dismissal of a medical officer of health unless the board has given to the medical officer of health,

- (a) reasonable written notice of the time, place and purpose of the meeting at which the dismissal is to be considered;
- (b) a written statement of the reason for the proposal to dismiss the medical officer of health; and
- (c) an opportunity to attend and to make representations to the board at the meeting. R.S.O. 1990, c. H.7, s. 66 (2).

### **Medical officer of health**

67. (1) The medical officer of health of a board of health reports directly to the board of health on issues relating to public health concerns and to public health programs and services under this or any other Act. 1997, c. 30, Sched. D, s. 7 (1).

### **Direction of staff**

(2) The employees of and the persons whose services are engaged by a board of health are subject to the direction of and are responsible to the medical officer of health of the board if their duties relate to the delivery of public health programs or services under this or any other Act. R.S.O. 1990, c. H.7, s. 67 (2); 1997, c. 30, Sched. D, s. 7 (2).

### **Management**

(3) The medical officer of health of a board of health is responsible to the board for the management of the public health programs and services under this or any other Act. 1997, c. 30, Sched. D, s. 7 (3).

### **Area of authority**

(4) The authority of the medical officer of health of a board of health under this Act and the regulations is limited to the health unit served by the board of health. R.S.O. 1990, c. H.7, s. 67 (4).

### **Duties of associate M.O.H.**

68. (1) The associate medical officer of health of a board of health, under the direction of the medical officer of health of the board, shall assist in the performance of the duties of the medical officer of health and, for the purpose, has all the powers of the medical officer of health. R.S.O. 1990, c. H.7, s. 68 (1).

### **Where M.O.H. absent or unable to act**

(2) Where the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act, the associate medical officer of health of the board shall act as and has all the powers of the medical officer of health. R.S.O. 1990, c. H.7, s. 68 (2).

## **Acting M.O.H.**

**69. (1)** Where,

- (a) the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act; and
- (b) there is no associate medical officer of health of the board or the associate medical officer of health of the board is also absent or unable to act,

the board of health shall appoint forthwith a physician as acting medical officer of health. R.S.O. 1990, c. H.7, s. 69 (1).

## **Powers and duties**

**(2)** An acting medical officer of health of a board of health shall perform the duties and has authority to exercise the powers of the medical officer of health of the board. R.S.O. 1990, c. H.7, s. 69 (2).

## **Attendance at meetings of boards**

**70.** The medical officer of health of a board of health is entitled to notice of and to attend each meeting of the board and every committee of the board, but the board may require the medical officer of health to withdraw from any part of a meeting at which the board or a committee of the board intends to consider a matter related to the remuneration or the performance of the duties of the medical officer of health. R.S.O. 1990, c. H.7, s. 70.

## **Staff**

**71. (1)** Every board of health shall engage the services of such persons, including public health nurses, as are considered necessary to carry out the functions of the board of health, including the duties of the board of health in respect of mandatory health programs and services. R.S.O. 1990, c. H.7, s. 71 (1).

## **Qualifications**

**(2)** No board of health shall engage the services of any person in a professional, administrative or technical classification unless the person meets the qualifications and requirements prescribed by the regulations for the classification. R.S.O. 1990, c. H.7, s. 71 (2).

## **Public health nurse**

**(3)** No board of health shall engage any person as a public health nurse unless the person is a member of the College of Nurses of Ontario who is a registered nurse and,

- (a) has the public health nursing education prescribed by the regulations from a degree granting institution in Canada or at a degree granting institution outside Canada that is accepted as equivalent by such an institution in Canada; and
- (b) meets such additional qualifications and requirements as are prescribed by the regulations. R.S.O. 1990, c. H.7, s. 71 (3); 1998, c. 18, Sched. G, s. 55 (10).

### **Payment by obligated municipalities**

**72. (1)** The obligated municipalities in a health unit shall pay,

- (a) the expenses incurred by or on behalf of the board of health of the health unit in the performance of its functions and duties under this or any other Act; and
- (b) the expenses incurred by or on behalf of the medical officer of health of the board of health in the performance of his or her functions and duties under this or any other Act. 1997, c. 30, Sched. D, s. 8.

### **Same**

**(2)** In discharging their obligations under subsection (1), the obligated municipalities in a health unit shall ensure that the amount paid is sufficient to enable the board of health,

- (a) to provide or ensure the provision of health programs and services in accordance with sections 5, 6 and 7, the regulations and the guidelines; and
- (b) to comply in all other respects with this Act and the regulations. 1997, c. 30, Sched. D, s. 8.

### **Agreement**

**(3)** The obligated municipalities in a health unit shall pay the expenses referred to in subsection (1) in such proportion as is agreed upon among them. 1997, c. 30, Sched. D, s. 8.

### **If no agreement**

**(4)** If the obligated municipalities in a health unit fail to agree on the proportion of the expenses referred to in subsection (1) to be paid by each of them, each obligated municipality in the health unit shall pay the proportion of such expenses that is determined in accordance with the regulations. 1997, c. 30, Sched. D, s. 8.

### **Notice to obligated municipalities**

**(5)** A board of health shall give annually to each obligated municipality in the health unit served by the board of health a written notice that complies with the following requirements:

1. The notice shall specify the amount that the board of health estimates will be required to defray the expenses referred to in subsection (1) for the year specified in the notice.
2. If the obligated municipalities in the health unit have entered into an agreement under subsection (3) respecting the proportion of the expenses referred to in subsection (1) to be paid by each of them, the notice shall specify the amount for which the obligated municipality is responsible in accordance with the agreement.
3. If the obligated municipalities in the health unit have not entered into an agreement under subsection (3) respecting the proportion of the expenses

referred to in subsection (1) to be paid by each of them, the notice shall specify the amount for which the obligated municipality is responsible in accordance with the regulations.

4. The notice shall specify the times at which the board of health requires payments to be made by the obligated municipality and the amount of each payment required to be made. 1997, c. 30, Sched. D, s. 8.

#### **Where additional expenses incurred**

(6) If, after a notice is given by a board of health under subsection (5) in respect of a year, additional expenses referred to in subsection (1) that were not anticipated at the time the notice was given are incurred during the year, the board of health may give another written notice to each obligated municipality in the health unit specifying the additional amount for which the obligated municipality is responsible under this section and the time at which the additional amount must be paid. 1997, c. 30, Sched. D, s. 8.

#### **Estimates**

(7) If the actual expenses of a board of health and its medical officer of health for any year are greater than the estimated expenses for the year, the board of health shall, in preparing its estimate of the amount required to defray the expenses referred to in subsection (1) for the following year, provide for any deficit from the preceding year. 1997, c. 30, Sched. D, s. 8.

#### **Payment in accordance with notice**

(8) An obligated municipality that is given a notice by a board of health under this section shall pay to the board of health the amounts required by the notice at the times required by the notice. 1997, c. 30, Sched. D, s. 8.

#### **Municipal authority**

(9) An obligated municipality has all the powers necessary to comply with this section, including the power to enter into and carry out an agreement referred to in subsection (3). 1997, c. 30, Sched. D, s. 8.

73.-75. Repealed: 1997, c. 30, Sched. D, s. 9.

#### **Grants**

76. The Minister may make grants for the purposes of this Act on such conditions as he or she considers appropriate. 1997, c. 15, s. 5 (2).

#### **Merger of health units**

77. (1) Where two or more health units are merged, the boards of health of the merged health units are dissolved. R.S.O. 1990, c. H.7, s. 77 (1).

#### **Assets and liabilities**

(2) Where two or more health units are merged, the assets owned by or under the management and control, as the case may be, and the liabilities of the boards of health of the merged health units are, without compensation, assets owned by or under the

management and control and liabilities of the board of health of the new health unit. R.S.O. 1990, c. H.7, s. 77 (2).

#### **Alteration of boundaries of health units**

(3) Where the boundaries of health units are altered so that an area formerly in one health unit is included in another health unit, the assets owned by or under the management and control and the liabilities of the board of health of the health unit of which the area was formerly a part and that relate to the area are, without compensation, assets owned by or under the management and control, as the case may be, and liabilities of the board of health of the health unit in which the area is included. R.S.O. 1990, c. H.7, s. 77 (3).

#### **Order by Minister**

(4) Where the boards of health are unable to agree on a matter under subsection (3), the Minister may make an order determining the matter. R.S.O. 1990, c. H.7, s. 77 (4).

## **PART VI.1 PROVINCIAL PUBLIC HEALTH POWERS**

#### **Chief Medical Officer of Health may act where risk to health**

**77.1 (1)** If the Chief Medical Officer of Health is of the opinion that a situation exists anywhere in Ontario that constitutes or may constitute a risk to the health of any persons, he or she may investigate the situation and take such action as he or she considers appropriate to prevent, eliminate or decrease the risk. 2007, c. 10, Sched. F, s. 15.

#### **Same**

- (2) For the purpose of subsection (1), the Chief Medical Officer of Health,
- (a) may exercise anywhere in Ontario,
    - (i) any of the powers of a board of health, including the power to appoint a medical officer of health or an associate medical officer of health, and
    - (ii) any of the powers of a medical officer of health; and
  - (b) may direct a person whose services are engaged by a board of health to do, anywhere in Ontario, whether within or outside the health unit served by the board of health, any act,
    - (i) that the person has power to do under this Act, or
    - (ii) that the medical officer of health for the health unit served by the board of health has authority to direct the person to do within the health unit.
- 2007, c. 10, Sched. F, s. 15.

#### **Authority and duty of person directed to act**

(3) If the Chief Medical Officer of Health gives a direction under clause (2) (b) to a person whose services are engaged by a board of health,



- (a) the person has authority to act, anywhere in Ontario, whether within or outside the health unit served by the board of health, to the same extent as if the direction had been given by the medical officer of health of the board of health and the act had been done in the health unit; and
- (b) the person shall carry out the direction as soon as practicable. 2007, c. 10, Sched. F, s. 15.

### **Section 22 powers**

[\(4\)](#) For the purpose of the exercise by the Chief Medical Officer of Health under subsection (2) of the powers of a medical officer of health, a reference in section 22 to a communicable disease shall be deemed to be a reference to an infectious disease. 2007, c. 10, Sched. F, s. 15.

### **Application to judge where risk to health**

[77.2 \(1\)](#) If the Chief Medical Officer of Health is of the opinion that a situation exists anywhere in Ontario that constitutes or may constitute a risk to the health of any persons, he or she may apply to a judge of the Superior Court of Justice for an order under subsection (2). 2007, c. 10, Sched. F, s. 15.

### **Order of judge of Superior Court of Justice**

- [\(2\)](#) If an application is made under subsection (1), the judge,
- (a) may order the board of health of a health unit in which the situation causing the risk exists to take such action as the judge considers appropriate to prevent, eliminate or decrease the risk caused by the situation; and
  - (b) may order the board of health of a health unit in which the health of any persons is at risk as a result of a situation existing outside the health unit to take such action as the judge considers appropriate to prevent, eliminate or decrease the risk to the health of the persons in the health unit. 2007, c. 10, Sched. F, s. 15.

### **Request to board of health for information**

[77.3 \(1\)](#) The Chief Medical Officer of Health may request a board of health to provide such information in respect of the board of health and the health unit served by the board of health as the Chief Medical Officer of Health specifies. 2007, c. 10, Sched. F, s. 15.

### **Same**

[\(2\)](#) The Chief Medical Officer of Health may specify the time at which, and the form in which, the information must be provided. 2007, c. 10, Sched. F, s. 15.

### **Duty to comply**

[\(3\)](#) A board of health that receives a request for information under this section shall provide the information in accordance with the request. 2007, c. 10, Sched. F, s. 15.

### **Possession of premises for temporary isolation facility**

[77.4 \(1\)](#) The Minister, in the circumstances mentioned in subsection (3), by order may require the occupier of any premises to deliver possession of all or any specified part of the premises to the Minister to be used as a temporary isolation facility or as part of a temporary isolation facility. 2007, c. 10, Sched. F, s. 15.

### **Extension**

[\(2\)](#) An order under subsection (1) shall set out an expiry date for the order that is not more than 12 months after the day of its making and the Minister may extend the order for a further period of not more than 12 months. 2007, c. 10, Sched. F, s. 15.

### **Grounds for order**

[\(3\)](#) The Minister may make an order under subsection (1) where the Chief Medical Officer of Health certifies in writing to the Minister that,

- (a) there exists or there is an immediate risk of an outbreak of a communicable disease anywhere in Ontario; and
- (b) the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease. 2007, c. 10, Sched. F, s. 15.

### **Delivery of possession**

[\(4\)](#) An order under subsection (1) may require delivery of possession on the date specified in the order. 2007, c. 10, Sched. F, s. 15.

### **Hearing and submissions**

[\(5\)](#) The Minister need not hold or afford to any person an opportunity for a hearing or afford to any person an opportunity to make submissions before making an order under subsection (1). 2007, c. 10, Sched. F, s. 15.

### **Order for possession**

[\(6\)](#) Where a judge of the Superior Court of Justice is satisfied on evidence upon oath,

- (a) that there has been or is an immediate risk of an outbreak of a communicable disease anywhere in Ontario;
- (b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease; and
- (c) that the occupier of the premises,
  - (i) has refused to deliver possession of the premises to the Minister in accordance with the Minister's order under subsection (1),
  - (ii) is not likely to comply with the Minister's order under subsection (1), or
  - (iii) cannot be readily identified or located and as a result the Minister's order under subsection (1) cannot be carried out promptly,

the judge may issue an order directing the sheriff for the area in which the premises are located, or any other person whom the judge considers suitable, to put and maintain the Minister and any persons designated by the Minister in possession of the premises, by force if necessary. 2007, c. 10, Sched. F, s. 15.

### **Execution of order**

[\(7\)](#) An order made under this section shall be executed at reasonable times as specified in the order. 2007, c. 10, Sched. F, s. 15.

### **Application without notice**

[\(8\)](#) A judge may receive and consider an application for an order under this section without notice to and in the absence of the owner or the occupier of the premises. 2007, c. 10, Sched. F, s. 15.

### **Compensation**

[\(9\)](#) The occupier of the premises is entitled to compensation from the Crown in right of Ontario for the use and occupation of the premises and in the absence of agreement as to the compensation the Ontario Municipal Board, upon application in accordance with the rules governing the practice and procedure of that board, shall determine the compensation in accordance with the *Expropriations Act*. 2007, c. 10, Sched. F, s. 15.

### **Procedure**

[\(10\)](#) Except in respect of proceedings before the Ontario Municipal Board in accordance with subsection (9), the *Expropriations Act* does not apply to proceedings under this section. 2007, c. 10, Sched. F, s. 15.

### **Emergency procurement, etc., of medications and supplies**

[77.5 \(1\)](#) Subject to subsections (3) and (4), the Minister may make an order,

- (a) authorizing the procurement, acquisition and seizure of any medications and supplies provided for in the order; and
- (b) requiring any person provided for in the order to provide the medications and supplies to any person provided for in the order, on the date or within the dates provided for in the order. 2007, c. 10, Sched. F, s. 15.

### **Other provinces and territories**

[\(2\)](#) Nothing in this section shall require a person subject to an order to provide to the Minister or to another person specified in the order a quantity of medications and supplies if there exists or may exist an immediate risk that the health of patients in another province or territory of Canada would be jeopardized. 2007, c. 10, Sched. F, s. 15.

### **When order may be made**

[\(3\)](#) The Minister may make an order under subsection (1) where the Chief Medical Officer of Health has certified in writing that,

- (a) there exists or there may exist an immediate risk to the health of persons anywhere in Ontario;
- (b) the medications and supplies are necessary to address the risk; and
- (c) the Chief Medical Officer of Health is of the opinion that regular procurement processes for medication and supplies are unable to meet the needs of persons in Ontario. 2007, c. 10, Sched. F, s. 15.

### **Restriction, private residence**

(4) An order under subsection (1) may not authorize entry into a private residence without the consent of the occupier. 2007, c. 10, Sched. F, s. 15.

### **No hearing required**

(5) The Minister is not required to hold a hearing or give any person an opportunity to be heard or to make submissions before making an order under subsection (1). 2007, c. 10, Sched. F, s. 15.

### **Provision of information**

(6) For the purposes of this section, the Minister may issue a direction requiring any person to provide such information as the Minister considers necessary in order to identify persons who may have medications and supplies, and any person to whom such a direction is made shall comply with it. 2007, c. 10, Sched. F, s. 15.

### **Order of Superior Court judge**

(7) Where a judge of the Superior Court of Justice is satisfied, on information provided under oath on an application without notice, that a person provided for in an order under subsection (1) or a direction under subsection (6) has failed to comply with the order or direction, the judge may,

- (a) in the case of a failure to comply with an order under subsection (1), make an order directing a sheriff, police force, or any person or persons provided for in the judge's order, to seize the medications and supplies provided for in the Minister's order; or
- (b) in the case of a failure to comply with a direction under subsection (6), make an order requiring that the direction be complied with. 2007, c. 10, Sched. F, s. 15.

### **Reasonable times**

(8) An order under subsection (1) or (7) or a direction under subsection (6) may be exercised at any reasonable time provided for in the order or direction. 2007, c. 10, Sched. F, s. 15.

### **Compensation for loss of property**

(9) If, as the result of the making an order under this section, a person suffers a loss, including a taking, of any personal property, the Lieutenant Governor in Council may by order authorize the reasonable compensation of the person for the loss in

accordance with such guidelines as may be approved by the Lieutenant Governor in Council. 2007, c. 10, Sched. F, s. 15.

### **Not expropriation**

[\(10\)](#) Nothing done under an order made under subsection (1) constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law and there is no compensation for the loss, including a taking, of any real or personal property except in accordance with subsection (9). 2007, c. 10, Sched. F, s. 15.

### **Definition**

[\(11\)](#) In this section,

“medications and supplies” include antitoxins, antivirals, serums, vaccines, immunizing agents, antibiotics and other pharmaceutical agents, medical supplies and medical equipment. 2007, c. 10, Sched. F, s. 15.

### **Order to provide information**

[77.6 \(1\)](#) Subject to subsections (2) and (3), where the Chief Medical Officer of Health is of the opinion, based on reasonable and probable grounds, that there exists an immediate and serious risk to the health of persons anywhere in Ontario, he or she may issue an order directing any health information custodian indicated in the order to supply the Chief Medical Officer of Health or his or her delegate with any information provided for in the order, including personal health information. 2007, c. 10, Sched. F, s. 15.

### **Restriction**

[\(2\)](#) The Chief Medical Officer of Health may only make an order under subsection (1) if he or she is of the opinion, based on reasonable and probable grounds, that the information is necessary to investigate, eliminate or reduce the immediate and serious risk to the health of persons, and the information supplied must be no more than is reasonably necessary to prevent, eliminate or reduce the risk. 2007, c. 10, Sched. F, s. 15.

### **Further restriction**

[\(3\)](#) Despite anything in the *Personal Health Information Protection Act, 2004* or the *Freedom of Information and Protection of Privacy Act*, the information provided to the Chief Medical Officer of Health must only be used or disclosed to investigate, eliminate or reduce the risk and for no other purpose. 2007, c. 10, Sched. F, s. 15.

### **Must comply**

[\(4\)](#) A health information custodian that is served with an order under subsection (1) shall comply with the order within the time and in the manner provided for in the order. 2007, c. 10, Sched. F, s. 15.

### **Definitions**

[\(5\)](#) In this section,

“health information custodian” means a health information custodian within the meaning of the *Personal Health Information Protection Act, 2004*; (“dépositaire de renseignements sur la santé”)

“personal health information” means personal health information within the meaning of the *Personal Health Information Protection Act, 2004*. (“renseignements personnels sur la santé”) 2007, c. 10, Sched. F, s. 15.

### **Directives to health care providers**

77.7 (1) Where the Chief Medical Officer of Health is of the opinion that there exists or there may exist an immediate risk to the health of persons anywhere in Ontario, he or she may issue a directive to any health care provider or health care entity respecting precautions and procedures to be followed to protect the health of persons anywhere in Ontario. 2007, c. 10, Sched. F, s. 15.

### **Precautionary principle**

(2) In issuing a directive under subsection (1), the Chief Medical Officer of Health shall consider the precautionary principle where,

- (a) in the opinion of the Chief Medical Officer of Health there exists or may exist an outbreak of an infectious or communicable disease; and
- (b) the proposed directive relates to worker health and safety in the use of any protective clothing, equipment or device. 2007, c. 10, Sched. F, s. 15.

### **Must comply**

(3) A health care provider or health care entity that is served with a directive under subsection (1) shall comply with it. 2007, c. 10, Sched. F, s. 15.

### **No coercion of professionals**

(4) For greater certainty, a directive under subsection (1) may not be used to compel regulated health professionals to provide services without their consent. 2007, c. 10, Sched. F, s. 15.

### **No conflict with OHS Act**

(5) Despite subsection (1), in the event of a conflict between this section and the *Occupational Health and Safety Act* or a regulation made under it, the *Occupational Health and Safety Act* or the regulation made under it prevails. 2007, c. 10, Sched. F, s. 15.

### **Definitions**

(6) In this section,

“health care provider or health care entity” means:

1. A regulated health professional or a person who operates a group practice of regulated health professionals.
2. A service provider within the meaning of the *Long-Term Care Act, 1994* who provides a community service to which that Act applies.

3. A community care access corporation within the meaning of the *Community Care Access Corporations Act, 2001*.
4. A hospital within the meaning of the *Public Hospitals Act*, a private hospital within the meaning of the *Private Hospitals Act*, a psychiatric facility within the meaning of the *Mental Health Act*, an institution within the meaning of the *Mental Hospitals Act* or an independent health facility within the meaning of the *Independent Health Facilities Act*.
5. A pharmacy within the meaning of Part VI of the *Drug and Pharmacies Regulation Act*.
6. A laboratory or a specimen collection centre as defined in section 5 of the *Laboratory and Specimen Collection Centre Licensing Act*.
7. An ambulance service within the meaning of the *Ambulance Act*.
8. A paramedic under the *Ambulance Act*.
9. A home for special care within the meaning of the *Homes for Special Care Act*.
10. A nursing home under the *Nursing Homes Act*, a home under the *Homes for the Aged and Rest Homes Act*, or a charitable institution under the *Charitable Institutions Act*.
11. A centre, program or service for community health or mental health whose primary purpose is the provision of health care.
12. A prescribed person or entity; (“fournisseur de soins de santé ou entité chargée de la fourniture de soins de santé”)

“precautionary principle” has the meaning prescribed in regulations made by the Lieutenant Governor in Council; (“principe de précaution”)

“regulated health professional” means a health practitioner whose profession is regulated under the *Regulated Health Professions Act, 1991* or the *Drugless Practitioners Act*. (“membre d’une profession de la santé réglementée”) 2007, c. 10, Sched. F, s. 15.

**May collect specimens, etc.**

**77.8 (1)** Subject to subsection (2), where the Chief Medical Officer of Health is of the opinion, based on reasonable and probable grounds, that there exists an immediate and serious risk to the health of persons anywhere in Ontario, he or she may,

- (a) collect, retain and use previously collected specimens and collect, retain and use information respecting the analysis of previously collected specimens, perform tests on any previously collected specimen of or from any person, animal or plant, living or deceased or any other thing, and acquire any previously collected specimens or test results as he or she considers reasonably necessary to investigate, eliminate or reduce the risk to health;

- (b) order any person or entity to provide previously collected specimens or previously gathered information or permit the performance of tests on previously collected specimens for the purposes of clause (a); and
- (c) disclose the results of specimen or test analyses to a medical officer of health or similar public health authority in any jurisdiction in or outside of Ontario, as he or she considers reasonably necessary to investigate, eliminate or reduce the risk to the health of persons anywhere in Ontario. 2007, c. 10, Sched. F, s. 15.

### **Restriction**

(2) Nothing in subsection (1) permits the Chief Medical Officer of Health to compel an individual to provide a bodily sample or submit to tests without the individual's consent. 2007, c. 10, Sched. F, s. 15.

### **Same**

(3) Despite the *Personal Health Information Protection Act, 2004* and the *Freedom of Information and Protection of Privacy Act*, the specimens and information collected by the Chief Medical Officer of Health under this section must only be used or disclosed to investigate, eliminate or reduce the risk to health and for no other purpose. 2007, c. 10, Sched. F, s. 15.

### **Comply with order**

(4) A person or entity that is served with an order under clause (1) (b) shall comply with the order within the time and in the manner provided for in the order. 2007, c. 10, Sched. F, s. 15.

### **Personal information**

(5) For the purposes of this section, the Chief Medical Officer of Health has the power to collect, use, retain and disclose personal information, including personal health information. 2007, c. 10, Sched. F, s. 15.

### **Definitions**

(6) In this section,

“personal health information” means personal health information within the meaning of the *Personal Health Information Protection Act, 2004*; (“renseignements personnels sur la santé”)

“personal information” means personal information within the meaning of the *Freedom of Information and Protection of Privacy Act*. (“renseignements personnels”) 2007, c. 10, Sched. F, s. 15.

## **PART VII ADMINISTRATION**

### **Investigation re disease and mortality**

**78. (1)** The Minister has power to make investigations respecting the causes of disease and mortality in any part of Ontario. R.S.O. 1990, c. H.7, s. 78 (1).



### **Direction to investigate**

(2) The Minister may direct an officer of the Ministry or any other person to investigate the causes of any disease or mortality in any part of Ontario. R.S.O. 1990, c. H.7, s. 78 (2).

### **Powers of investigator**

(3) For the purposes of the investigation, the person directed by the Minister has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. R.S.O. 1990, c. H.7, s. 78 (3).

### **Public health laboratory centres**

**79. (1)** The Minister may establish and maintain public health laboratory centres at such places and with such buildings, appliances and equipment as the Minister considers proper. R.S.O. 1990, c. H.7, s. 79 (1).

### **Direction by Minister**

(2) The Minister may give direction from time to time to a public health laboratory centre as to its operation and the nature and extent of its work, and the public health laboratory centre shall comply with the direction. R.S.O. 1990, c. H.7, s. 79 (2).

### **Inspectors**

**80. (1)** The Minister may appoint in writing one or more employees of the Ministry or other persons as inspectors. R.S.O. 1990, c. H.7, s. 80 (1).

### **Duty**

(2) An inspector shall make inspections of health units to ascertain the extent of compliance with this Act and the regulations and the carrying out of the purpose of this Act. R.S.O. 1990, c. H.7, s. 80 (2); 1997, c. 30, Sched. D, s. 10.

### **Limitation**

(3) The Minister in an appointment may limit the duties or the authority or both of an inspector in such manner as the Minister considers necessary or advisable. R.S.O. 1990, c. H.7, s. 80 (3).

### **Directions and reports**

(4) The Minister may require an inspector to act under the direction of or to report to the Minister, the Deputy Minister of Health and Long-Term Care, the Chief Medical Officer of Health or other officer of the Ministry. R.S.O. 1990, c. H.7, s. 80 (4); 2006, c. 19, Sched. L, s. 11 (4).

### **Certificate of appointment**

(5) The Minister shall issue to every inspector a certificate of appointment and every inspector, in the execution of his or her duties under this Act and the regulations, shall produce his or her certificate of appointment upon request. R.S.O. 1990, c. H.7, s. 80 (5).

## **Chief Medical Officer of Health**

**81. (1)** The Lieutenant Governor in Council shall appoint a Chief Medical Officer of Health on the address of the Legislative Assembly. 2004, c. 30, s. 1 (1).

### **Term of office**

**(1.1)** Subject to subsection (1.2), the Chief Medical Officer of Health holds office for a term of five years and may be reappointed for a further term or terms by the Lieutenant Governor in Council on the address of the Legislative Assembly. 2004, c. 30, s. 1 (1).

### **Removal**

**(1.2)** The Lieutenant Governor in Council may remove the Chief Medical Officer of Health for cause on the address of the Legislative Assembly. 2004, c. 30, s. 1 (1).

### **Transitional**

**(1.3)** The Chief Medical Officer of Health who held office immediately before the day subsection 1 (1) of the *Health Protection and Promotion Amendment Act, 2004* comes into force shall be deemed to have been appointed under subsection (1), with his or her initial term of five years commencing on that day. 2004, c. 30, s. 1 (1).

### **Qualifications**

**(2)** No person is qualified to be or to act as Chief Medical Officer of Health unless he or she is a physician of at least five years standing and possesses the qualifications prescribed by the regulations for the position of medical officer of health. R.S.O. 1990, c. H.7, s. 81 (2).

### **Duty of Chief M.O.H. re occupational and environmental health**

**(3)** The Chief Medical Officer of Health shall keep himself or herself informed in respect of matters related to occupational and environmental health. R.S.O. 1990, c. H.7, s. 81 (3).

### **Annual report**

**(4)** The Chief Medical Officer of Health shall, in every year, make a report in writing on the state of public health in Ontario, and shall deliver the report to the Speaker of the Legislative Assembly. 2004, c. 30, s. 1 (2).

### **Laying before Assembly**

**(5)** The Speaker shall lay the report before the Assembly at the earliest reasonable opportunity. 2004, c. 30, s. 1 (2).

### **Minister's copy**

**(6)** The Chief Medical Officer of Health shall deliver a copy of the report to the Minister at least 30 days before delivering it to the Speaker. 2004, c. 30, s. 1 (2).

### **Other reports**

**(7)** The Chief Medical Officer of Health may make any other reports respecting the public health as he or she considers appropriate, and may present such a report to the public or any other person he or she considers appropriate. 2004, c. 30, s. 1 (3).

## **Associate Chief Medical Officer of Health**

**81.1 (1)** The position of Associate Chief Medical Officer of Health is established. 2007, c. 10, Sched. F, s. 16.

### **Person who shall hold position**

**(2)** Subject to subsection (3), the position of Associate Chief Medical Officer of Health shall be held by the person or persons who, by virtue of their position, hold the title of “Associate Chief Medical Officer of Health” in the Ministry. 2007, c. 10, Sched. F, s. 16.

### **Qualifications**

**(3)** No person is qualified to be or to act as an Associate Chief Medical Officer of Health unless he or she is a physician of at least five years standing and possesses the qualifications prescribed by the regulations for the position of medical officer of health. 2007, c. 10, Sched. F, s. 16.

### **Functions, duties, etc.**

- (4)** An Associate Chief Medical Officer of Health,
- (a) shall perform such functions and duties as the Chief Medical Officer of Health may specify in writing; and
  - (b) shall act in the place of the Chief Medical Officer of Health when the Chief Medical Officer of Health is absent or is unable to perform the functions of his or her office or when the office of Chief Medical Officer of Health is vacant. 2007, c. 10, Sched. F, s. 16.

### **Regulations**

**(5)** The Minister may make regulations clarifying, modifying or restricting the functions, powers and duties of Associate Chief Medical Officers of Health. 2007, c. 10, Sched. F, s. 16.

### **Agreements**

**81.2 (1)** The Minister may enter into an agreement with the board of health of any health unit for the purpose of setting out requirements for the accountability of the board of health and the management of the health unit. 2007, c. 10, Sched. F, s. 16.

### **May include services**

**(2)** An agreement under subsection (1) may also provide for services which are to be provided by boards of health in addition to any services set out in this Act or the regulations. 2007, c. 10, Sched. F, s. 16.

### **Assessors**

**82. (1)** The Minister shall appoint assessors for the purposes of this Act. 1997, c. 30, Sched. D, s. 11.

### **Written appointment**

**(2)** An appointment under subsection (1) shall be in writing. 1997, c. 30, Sched. D, s. 11.

### **Assessment**

(3) An assessor may carry out an assessment of a board of health for the purpose of,

- (a) ascertaining whether the board of health is providing or ensuring the provision of health programs and services in accordance with sections 5, 6 and 7, the regulations and the guidelines;
- (b) ascertaining whether the board of health is complying in all other respects with this Act and the regulations; or
- (c) assessing the quality of the management or administration of the affairs of the board of health. 1997, c. 30, Sched. D, s. 11.

### **Right of entry**

(4) In carrying out an assessment of a board of health, an assessor may, without a warrant, enter and inspect,

- (a) any premises occupied by the board of health;
- (b) any premises where health programs or services that are required to be provided or ensured by the board of health under this Act are provided; and
- (c) any premises where the board of health performs any function required under this or any other Act. 1997, c. 30, Sched. D, s. 11.

### **Time of entry**

(5) The power in subsection (4) to enter and inspect premises without a warrant may be exercised only during regular business hours. 1997, c. 30, Sched. D, s. 11.

### **Private residence**

(6) Subsection (4) does not authorize an assessor to enter a private residence without the consent of the occupier. 1997, c. 30, Sched. D, s. 11.

### **Use of force prohibited**

(7) An assessor is not entitled to use force to enter and inspect premises. 1997, c. 30, Sched. D, s. 11.

### **Evidence of appointment**

(8) An assessor who enters premises under this section shall produce, on request, evidence of his or her appointment. 1997, c. 30, Sched. D, s. 11.

### **Powers of assessors upon entry**

- (9) Upon entering premises under this section, an assessor,
- (a) may examine any record or document that is relevant to the assessment, including financial and book-keeping records and minutes and by-laws of the board of health;
  - (b) may demand the production for examination of any record or document described in clause (a);

- (c) may make copies of any record or document described in clause (a) and may, on providing a receipt, remove any such record or document from the premises in order to copy it; and
- (d) may question any person on matters relevant to the assessment. 1997, c. 30, Sched. D, s. 11.

### **Return of records and documents**

[\(10\)](#) An assessor who removes a record or document from the premises shall return it to the premises within a reasonable time. 1997, c. 30, Sched. D, s. 11.

### **Admissibility of copies**

[\(11\)](#) A copy made under clause (9) (c) that purports to be certified by an assessor as being a true copy of the original is admissible in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the original. 1997, c. 30, Sched. D, s. 11.

### **Power to request that information be sent**

[\(12\)](#) An assessor may at any time request a board of health to send him or her, at the time specified by the assessor, any information, including copies of any record or document, that is relevant to an assessment under this section. 1997, c. 30, Sched. D, s. 11.

### **Compliance**

[\(13\)](#) If an assessor demands the production for examination of a record or document under clause (9) (b), the person having custody of the record or document shall comply with the demand. 1997, c. 30, Sched. D, s. 11.

### **Same**

[\(14\)](#) If an assessor questions a person under clause (9) (d), the person shall answer the assessor's questions. 1997, c. 30, Sched. D, s. 11.

### **Same**

[\(15\)](#) If an assessor requests a board of health to send information under subsection (12), the board of health shall comply with the request. 1997, c. 30, Sched. D, s. 11.

### **Assistance**

[\(16\)](#) At the request of an assessor, a board of health shall provide, in respect of the records and documents that the assessor is entitled to examine under clause (9) (a) and in respect of the information that the assessor requests the board of health to send under subsection (12), such assistance and explanations as are reasonably necessary to enable the assessor to carry out his or her assessment of the board of health. 1997, c. 30, Sched. D, s. 11.

### **No obstruction**

[\(17\)](#) No person shall hinder or obstruct an assessor conducting an assessment of a board of health. 1997, c. 30, Sched. D, s. 11.

### **Direction to board of health**

**83. (1)** The Minister may give a board of health a written direction described in subsection (2) if he or she is of the opinion, based on an assessment under section 82, that the board of health has,

- (a) failed to provide or ensure the provision of a health program or service in accordance with section 5, 6 or 7, the regulations or the guidelines;
- (b) failed to comply in any other respect with this Act or the regulations; or
- (c) failed to ensure the adequacy of the quality of the administration or management of its affairs. 1997, c. 30, Sched. D, s. 11.

### **Same**

**(2)** In a direction under this section, the Minister may require a board of health,

- (a) to do anything that the Minister considers necessary or advisable to correct the failure identified in the direction; or
- (b) to cease to do anything that the Minister believes may have caused or contributed to the failure identified in the direction. 1997, c. 30, Sched. D, s. 11.

### **Compliance with direction**

**(3)** A board of health that is given a direction under this section shall comply with the direction,

- (a) within the period of time specified in the direction; or
- (b) if no period of time is specified in the direction, within 30 days from the day the direction is given. 1997, c. 30, Sched. D, s. 11.

### **Power to take steps to ensure direction is carried out**

**84. (1)** If, in the opinion of the Minister, a board of health has failed to comply with a direction under section 83 within the period of time required under subsection 83 (3), the Minister may do whatever is necessary to ensure that the direction is carried out, including but not limited to,

- (a) providing or ensuring the provision of any health program or service in accordance with sections 5, 6 and 7, the regulations and the guidelines;
- (b) exercising any of the powers of the board of health or the medical officer of health of the board of health;
- (c) appointing a person to act as the medical officer of health of the board of health in the place of the medical officer of health appointed by the board;
- (d) providing advice and guidance to the board of health, the medical officer of health of the board of health, and any person whose services are engaged by the board of health;

- (e) approving, revoking or amending any decision of the board of health, the medical officer of health of the board of health, or any person whose services are engaged by the board of health; and
- (f) accessing any record or document that is in the custody or under the control of the board of health, the medical officer of health of the board of health, or any person whose services are engaged by the board of health. 1997, c. 30, Sched. D, s. 11.

### **No obstruction**

(2) No person shall hinder or obstruct the Minister in the exercise of his or her powers under subsection (1). 1997, c. 30, Sched. D, s. 11.

### **Effect of Board hearing**

(3) The Minister may exercise his or her powers under subsection (1) even though a hearing by the Board in respect of the direction has been required or is proceeding under section 85. 1997, c. 30, Sched. D, s. 11.

### **Effect of Board decision**

(4) If the Board determines, after a hearing under section 85, that the board of health has complied with the direction, the Minister shall not thereafter exercise his or her powers under subsection (1) and shall cease to exercise any of such powers that he or she had already begun to exercise before the Board rendered its decision. 1997, c. 30, Sched. D, s. 11.

### **Notice of failure to comply**

**85. (1)** If, in the opinion of the Minister, a board of health has failed to comply with a direction under section 83 within the period of time required under subsection 83 (3), the Minister may give the board of health a notice of failure to comply. 1997, c. 30, Sched. D, s. 11.

### **Same**

(2) A notice of failure to comply shall be in writing and shall inform the board of health that the board of health is entitled to a hearing by the Board to determine whether the board of health has complied with the direction, if the board of health requires the hearing in accordance with subsection (3). 1997, c. 30, Sched. D, s. 11.

### **Entitlement to hearing**

(3) A board of health that is given a notice of failure to comply is entitled to a hearing by the Board to determine whether the board of health has complied with the direction if, within 15 days after the day the notice of failure to comply is given to the board of health, the board of health mails or delivers to the Board and to the Minister a notice in writing requiring a hearing by the Board. 1997, c. 30, Sched. D, s. 11.

### **Hearing**

(4) If a board of health requires a hearing in accordance with subsection (3), the Board shall appoint a time and place for, and hold, the hearing. 1997, c. 30, Sched. D, s. 11.

## **Parties**

[\(5\)](#) The parties to a hearing under this section are the board of health that has required the hearing, the Minister and such other persons as the Board may specify. 1997, c. 30, Sched. D, s. 11.

## **Other provisions apply with modifications**

[\(6\)](#) Subsections 44 (5) and (6) and 45 (2) to (6) apply with necessary modifications to a hearing under this section. 1997, c. 30, Sched. D, s. 11.

## **Powers of Board**

[\(7\)](#) After a hearing under this section, the Board,

- (a) may determine that the board of health has complied with the direction and, in doing so, may substitute its opinion for that of the Minister; or
- (b) may determine that the board of health has not complied with the direction and order the board of health to do, or not to do, such things as the Board specifies in order to comply with the direction. 1997, c. 30, Sched. D, s. 11.

## **No appeal**

[\(8\)](#) Section 46 does not apply to a decision or order of the Board under this section. 1997, c. 30, Sched. D, s. 11.

[86.-86.2](#) Repealed: 2007, c. 10, Sched. F, s. 17.

## **Authorization or direction of C.M.O.H.**

[86.3 \(1\)](#) The Minister may authorize or direct the Chief Medical Officer of Health in writing to exercise any right or power or perform any duty that is granted to or vested in the Minister under section 82, 83, 84 or 85. 1997, c. 30, Sched. D, s. 11; 2004, c. 30, s. 5.

## **Limitations, etc.**

[\(2\)](#) An authorization or a direction under subsection (1) may contain such limitations, restrictions, conditions and requirements as the Minister considers appropriate. 1997, c. 30, Sched. D, s. 11.

## **Expenses**

[86.4 \(1\)](#) If the Minister or the Chief Medical Officer of Health acts under section 84 to ensure that a direction given to a board of health under section 83 is carried out, the Minister may treat all or part of the following expenses as a debt due to the Crown in right of Ontario by the obligated municipalities in the health unit served by the board of health:

1. The expenses of the Minister in acting under section 84.
2. The expenses of the Chief Medical Officer of Health in acting under section 84.
3. The expenses of the assessment of the board of health that gave rise to the direction to the board of health. 1997, c. 30, Sched. D, s. 11.



## **Same**

[\(2\)](#) If, under section 86, the Chief Medical Officer of Health investigates a situation in a health unit or takes action in a health unit to prevent, eliminate or decrease a risk, the Minister may treat all or part of the following expenses as a debt due to the Crown in right of Ontario by the obligated municipalities in the health unit:

1. Repealed: 2004, c. 30, s. 6 (2).
2. The expenses of the Chief Medical Officer of Health in acting under section 86. 1997, c. 30, Sched. D, s. 11; 2004, c. 30, s. 6.

## **Collection from obligated municipalities**

[\(3\)](#) If the Minister intends to treat all or part of the expenses referred to in subsection (1) or (2) as a debt due by the obligated municipalities in the health unit, the Minister may certify to the treasurer of each obligated municipality in the health unit the amount due by the obligated municipality to the Crown in right of Ontario in respect of the expenses or the part of the expenses, and the treasurer shall, within seven days after being given the certificate, pay to the Minister of Finance the amount set out in the certificate. 1997, c. 30, Sched. D, s. 11.

## **Interest**

[\(4\)](#) The Minister may require an obligated municipality to pay interest on any part of the amount set out in a certificate issued under subsection (3) that remains unpaid after the date it is due under subsection (3), in such amounts as may be determined in accordance with the regulations and at such times and in such manner as may be prescribed by the regulations. 1997, c. 30, Sched. D, s. 11.

## **Debt**

[\(5\)](#) The amount set out in a certificate given to the treasurer of an obligated municipality under subsection (3), together with the interest, if any, that the Minister requires the obligated municipality to pay under subsection (4), is a debt owing by the obligated municipality to the Crown in right of Ontario and may be recovered by any remedy or procedure available to the Crown by law. 1997, c. 30, Sched. D, s. 11.

[87.](#) Repealed: 2007, c. 10, Sched. F, s. 17.

## **Northern Ontario Public Health Service**

[88.](#) The agency of the Province of Ontario known as Northern Ontario Public Health Service shall provide, in the parts of Ontario that are designated by the Minister and that are not in a health unit,

- (a) the health programs and services that a board of health is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and other public health professionals whose services may be employed by a board of health. R.S.O. 1990, c. H.7, s. 88.

### **Health services in isolated municipalities**

**89. (1)** Where a municipality is not within a health unit, the Minister and the corporation of the municipality may enter into an agreement under which the Minister will ensure the provision in the municipality of,

- (a) the health programs and services that a board is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and the other public health professionals whose services may be employed by a board of health. R.S.O. 1990, c. H.7, s. 89 (1).

### **Idem**

**(2)** An agreement mentioned in subsection (1) may relate only to particular health programs or services or to particular functions and may specify the charges to be made for any or all of them. R.S.O. 1990, c. H.7, s. 89 (2).

### **Repeal of ss. 88, 89**

**90. (1) Sections 88 and 89 are repealed on a day to be named by proclamation of the Lieutenant Governor. R.S.O. 1990, c. H.7, s. 90 (1).**

### **Application of subs. (1)**

**(2)** Subsection (1) does not apply until the day that each area in Ontario is within a health unit. R.S.O. 1990, c. H.7, s. 90 (2).

### **Agreement with organization**

**91.** The Minister may enter into an agreement with any organization in accordance with which the organization will provide, in the part of Ontario that is specified in the agreement and that is not in a health unit,

- (a) the health programs and services that a board of health is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and other public health professionals that may be employed by a board of health. R.S.O. 1990, c. H.7, s. 91.

### **Personal information**

**91.1 (1)** A medical officer of health may, subject to any conditions that may be prescribed in the regulations, directly or indirectly collect personal information for the purposes of this Act or for purposes related to administration of a public health program or service that is prescribed in the regulations. 2002, c. 18, Sched. I, s. 9 (11).

### **Use or retention of personal information**

**(2)** A medical officer of health may use or retain personal information, subject to any conditions that are prescribed in the regulations, for the purposes of this Act or for purposes related to the administration of a public health program or service that is prescribed in the regulations. 2002, c. 18, Sched. I, s. 9 (11).

## **Disclosure**

[\(3\)](#) A medical officer of health may disclose personal information to another medical officer of health if any conditions that are prescribed in the regulations have been met and if the disclosure is necessary for the purposes of this Act or for purposes related to administration of a public health program or service that is prescribed in the regulations. 2002, c. 18, Sched. I, s. 9 (11).

## **Refusal to disclose**

[\(4\)](#) A medical officer of health shall not disclose the information if, in his or her opinion, the disclosure is not necessary for a purpose mentioned in subsection (3). 2002, c. 18, Sched. I, s. 9 (11).

## **Obligation**

[\(5\)](#) Before disclosing personal information obtained under this section, a medical officer of health shall delete from it all names and identifying numbers, symbols or other particulars assigned to individuals unless,

- (a) disclosure of the names or other identifying information is necessary for the purposes described in subsection (3); or
- (b) disclosure of the names or other identifying information is otherwise authorized under the *Freedom of Information and Protection of Privacy Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, or the *Personal Health Information Protection Act, 2004*. 2002, c. 18, Sched. I, s. 9 (11); 2006, c. 19, Sched. L, s. 4.

## **Regulations**

[\(6\)](#) The Minister may make regulations prescribing anything that may be prescribed for the purposes of this section. 2002, c. 18, Sched. I, s. 9 (11).

## **Hearings**

[92.](#) The Minister, the Chief Medical Officer of Health, a medical officer of health or a public health inspector need not hold or afford to any person an opportunity for a hearing before making an order or giving directions under this Act. R.S.O. 1990, c. H.7, s. 92.

## **Appointment of public health professionals**

[93.](#) The Minister may appoint a person to perform the duties and exercise the authority in a part of Ontario that is designated by the Minister and that is not within a health unit that may be performed and exercised in a health unit by a medical officer of health, a public health inspector, a public health nurse or any other public health professional whose services may be engaged by a board of health. R.S.O. 1990, c. H.7, s. 93.

## **Provincial analysts**

[94.](#) The Lieutenant Governor in Council may appoint one or more provincial analysts for the purposes of this Act and every other Act in which a provincial analyst is mentioned. R.S.O. 1990, c. H.7, s. 94.

### **Protection from personal liability**

[95. \(1\)](#) No action or other proceeding for damages or otherwise shall be instituted against the Chief Medical Officer of Health or the Associate Chief Medical Officer of Health, a member of a board of health, a medical officer of health, an associate medical officer of health of a board of health, an acting medical officer of health of a board of health or a public health inspector or an employee of a board of health who is working under the direction of a medical officer of health for any act done in good faith in the execution or the intended execution of any duty or power under this Act or for any alleged neglect or default in the execution in good faith of any such duty or power. 2007, c. 10, Sched. F, s. 18.

### **Crown liability**

[\(1.1\)](#) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability for the acts or omissions of a minister of the Crown or a Crown employee referred to in subsection (1) and the Crown is liable under that Act as if subsection (1) had not been enacted. 2007, c. 10, Sched. F, s. 18.

### **Persons acting under order**

[\(1.2\)](#) No action or other proceeding lies or shall be instituted against any person acting pursuant to an order, direction or directive made under section 77.5, 77.6, 77.7 or 77.8 for any act done in good faith in the exercise or performance, or the intended exercise or performance of any duty under an order, direction or directive or for neglect or default in the good faith exercise or performance of such a duty. 2007, c. 10, Sched. F, s. 18.

### **Exception**

[\(2\)](#) Subsection (1) does not apply to prevent an application for judicial review or a proceeding that is specifically provided for in this Act. R.S.O. 1990, c. H.7, s. 95 (2).

### **Board of health not relieved of liability**

[\(3\)](#) Subsection (1) does not relieve a board of health from liability for damage caused by negligence of or action without authority by a person referred to in subsection (1), and a board of health is liable for such damage in the same manner as if subsection (1) had not been enacted. R.S.O. 1990, c. H.7, s. 95 (3).

### **Protection from liability for reports**

[\(4\)](#) No action or other proceeding shall be instituted against a person for making a report in good faith in respect of a communicable disease or a reportable disease in accordance with Part IV. R.S.O. 1990, c. H.7, s. 95 (4).

## **PART VIII REGULATIONS**

### **Regulations**

[96. \(1\)](#) The Lieutenant Governor in Council may make regulations,

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing forms and providing for their use;
- (c) classifying persons, organizations, premises, places, animals, plants and things, or any of them, for the purposes of the regulations;
- (d) prescribing standards and requirements in respect of any matter in relation to which regulations may be made under this Act and requiring compliance with such standards and requirements;
- (e) exempting any person, organization, premises, food, substance, thing, plant, animal other than man, solid, liquid, gas, heat, radiation or combination of any of them, or any class of any of them from any provision of this Act or the regulations and prescribing conditions that shall apply in respect of any such exemption. R.S.O. 1990, c. H.7, s. 96 (1); 2001, c. 30, s. 2; 2006, c. 26, s. 15 (2).

### **Regulations relating to Part II**

(2) The Lieutenant Governor in Council may make regulations relating to Part II, prescribing standards and requirements for health programs and services and requiring boards of health to comply with the standards and requirements or either of them. R.S.O. 1990, c. H.7, s. 96 (2).

### **Regulations relating to Part III**

- (3) The Lieutenant Governor in Council may make regulations relating to Part III,
- (a) in respect of any matter related to the health or safety of persons in, on or about public pools, and requiring owners and operators of public pools to comply with such regulations, including, but not limited to,
    - (i) governing the construction, alteration, repair, location, operation, maintenance and use, or prohibiting any of them, of such pools and related buildings, appurtenances and equipment,
    - (ii) requiring the installation and maintenance of safety equipment,
    - (iii) requiring the presence of lifeguards and other staff, and
    - (iv) prescribing standards and requirements in respect of lifeguards and staff and requiring compliance with such standards and requirements;
  - (b) governing the construction, equipment, facilities (including sanitary facilities), operation and maintenance of food premises, and prescribing standards and requirements in respect thereof;
  - (c) regulating, restricting or prohibiting the manufacturing, processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in food premises and the distribution of food from food premises, and prescribing standards and requirements in respect thereof;

- (d) prescribing chemical and microbiological standards for food and requiring compliance therewith;
- (e) prescribing standards and requirements in respect of persons who operate food premises and in respect of persons who are employed on or in food premises and requiring compliance therewith;
- (f) Repealed: 1997, c. 15, s. 5 (3).
- (g) governing and prohibiting the procurement, transportation, handling and sale of water by tank truck or other portable container for human consumption, and requiring the approval of a medical officer of health to the procurement, transportation, handling and sale of water by such means;
- (h) respecting the records that shall be kept in respect of the source of supply, date of packaging or production and the distribution of any food;
- (i) governing and requiring the labelling, identification or coding of food and containers of food that is manufactured, processed, prepared, stored, handled, displayed, transported, sold or offered for sale on or in food premises or distributed from food premises and specifying the type of labelling, identification or coding and the information required on the labels, identification or coding;
- (j) regulating, restricting or prohibiting the construction, alteration, repair, location, operation, maintenance and use of food vending machines;
- (k) prescribing standards and requirements in respect of recreational camps and requiring owners and operators of recreational camps to comply with such standards and requirements;
- (l) prescribing standards and requirements in respect of lumbering camps, mining camps, railway construction works or other places where labour is employed in territory without municipal organization and requiring owners and operators of such camps, works or other places to comply with such standards and requirements;
- (m) governing small drinking water systems;
- (n) prescribing provisions in regulations dealing with small drinking water systems which may be varied by a medical officer of health for the purposes of section 12.1;
- (o) prescribing chemical, biological and radiological standards for water from small drinking water systems and requiring compliance with them;
- (p) in respect of any matter related to the health or safety of persons who receive or who may receive water from small drinking water systems;
- (q) requiring owners and operators of small drinking water systems to comply with prescribed requirements, including, but not limited to, requirements,

- (i) governing the construction, alteration, repair, location, operation, maintenance and use, or prohibiting any of them, of small drinking water systems and related buildings, appurtenances and equipment,
- (ii) in respect of the presence of staff, other than the operator, and
- (iii) prescribing standards and requirements in respect of owners and operators of small drinking water systems and in respect of persons who are employed in connection with the systems;
- (r) respecting records that must be kept in respect of small drinking water systems;
- (s) specifying powers and duties of medical officers of health and public health inspectors in respect of small drinking water systems, including authorizing medical officers of health and public health inspectors to issue mandatory directions in respect of individual small drinking water systems subject to such conditions as may be set out in the regulation;
- (t) prescribing reporting requirements by owners and operators of small-drinking water systems, including requirements for reporting to the public and the matters on which owners and operators are to report. R.S.O. 1990, c. H.7, s. 96 (3); 1997, c. 15, s. 5 (3); 2007, c. 10, Sched. D, s. 1 (8).

#### **Transition, small drinking water systems**

[\(3.1\)](#) The Lieutenant Governor in Council may make regulations providing for transitional matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable in connection with the regulation of small drinking water systems and requiring compliance with the provisions of the regulations. 2007, c. 10, Sched. D, s. 1 (9).

#### **Regulations relating to Part IV**

- [\(4\)](#) The Lieutenant Governor in Council may make regulations relating to Part IV,
- (a) governing the establishment, equipment, operation and maintenance of clinics for the examination and treatment of persons in respect of sexually transmitted diseases;
  - (b) governing the handling, transportation and burial of bodies of persons who have died of a communicable disease or who had a communicable disease at the time of death;
  - (c) requiring and governing the detention, isolation, handling, laboratory examination, taking of specimens from or destruction of any animal that has or may have a disease or a condition that may adversely affect the health of any person;
  - (d) requiring the reporting of cases of animals that have or may have diseases that adversely affect the health of persons or that may adversely affect the health of any person, specifying diseases of animals that adversely affect the health of

- persons, specifying the classes of persons who shall make such reports and specifying the persons to whom such reports shall be made;
- (e) requiring and governing the immunization of domestic animals against any disease that may adversely affect the health of any person;
  - (f) respecting the reporting of bites of persons by animals or contacts to persons that may result in human rabies, and requiring such reporting, specifying the persons or class of persons who must make such reports and requiring and governing the furnishing of additional information and the form and content of such reports and additional information;
  - (g) requiring the payment of the costs incurred in complying with any action required under clause (c) and specifying by whom such costs shall be paid;
  - (h) governing the handling and disposition of dead animals and specimens or products therefrom in the case of animal diseases communicable to man or conditions that may adversely affect the health of any person;
  - (i) specifying additional persons who shall report the existence or the probable existence of reportable diseases or communicable diseases, and specifying the medical officers of health to whom such reports shall be made. R.S.O. 1990, c. H.7, s. 96 (4).

#### **Regulations relating to Part VI**

- (5) The Lieutenant Governor in Council may make regulations relating to Part VI,
- (a) designating any area in Ontario as a health unit;
  - (b) prescribing the names of health units;
  - (c) altering the boundaries of or dissolving any health unit established or continued by or under this Act;
  - (d) subject to Part VI, specifying for each board of health,
    - (i) the number of municipal members of the board,
    - (ii) by whom each of the municipal members of the board shall be appointed,
    - (iii) the area or place that each municipal member of the board is to represent,
    - (iv) the qualifications for appointment for each municipal member of the board,
- but this clause does not apply in respect of,
- (v) the regional municipalities of Durham, Halton, Niagara, Peel, Waterloo and York and the County of Oxford, or



- (vi) a single-tier municipality that, under the Act establishing or continuing it, has the powers, rights and duties of a local board of health or a board of health;
- (vii) Repealed: 2001, c. 25, s. 477 (6).
- (e) assigning additional duties to inspectors or any class of them appointed by the Minister;
- (f) specifying records that boards of health and persons appointed or whose services are engaged by boards of health shall compile, and governing the custody, keeping, inspection and disclosure of information from such records, including, but not limited to, records in respect of,
  - (i) the proceedings of boards of health,
  - (ii) the text of by-laws and resolutions of boards of health,
  - (iii) the financial and administrative affairs of boards of health,
  - (iv) mandatory health programs and services,
  - (v) other health programs and services,
  - (vi) medical services and health services provided by persons appointed or whose services are engaged by boards of health;
- (g), (h) Repealed: 1997, c. 15, s. 5 (4).
- (i) for the purpose of subsection 72 (4), prescribing the methods of calculating or the bases for determining the proportion of the expenses referred to in subsection 72 (1) to be paid by each of the obligated municipalities in a health unit in the absence of an agreement between them under subsection 72 (3);
- (j) providing that section 72 does not apply to all or part of the expenses referred to in subsection 72 (1) in respect of one or more boards of health and their medical officers of health, prescribing the expenses and the boards of health to which section 72 does not apply and the circumstances or time period in which section 72 does not apply, and providing in the place of section 72 a different scheme for the payment of such expenses. R.S.O. 1990, c. H.7, s. 96 (5); 1997, c. 15, s. 5 (4); 1997, c. 30, Sched. D, s. 13 (1); 2000, c. 5, s. 14 (4); 2001, c. 25, s. 477 (6).

**Regulation under clause (5) (j)**

(5.1) A regulation under clause (5) (j) may,

- (a) require that all or part of the expenses referred to in subsection 72 (1) of two or more boards of health and their medical officers of health be shared among all or some of the municipalities in the health units served by the boards of health and prescribe the methods of calculating or the bases for determining the

proportion of such expenses to be paid by each municipality that is required to share the expenses;

- (b) require a municipality in one health unit to pay all or part of the expenses referred to in subsection 72 (1) of a board of health and medical officer of health of another health unit;
- (c) provide that a municipality is not responsible for any or part of the expenses referred to in subsection 72 (1) of one or more boards of health and their medical officers of health;
- (d) provide for payment of the expenses referred to in subsection 72 (1) by residents of territory without municipal organization, provide that the expenses may be collected under the *Provincial Land Tax Act, 2006* as if they were taxes imposed under that Act and provide for the remittance of the amounts collected under that Act to specified boards of health;
- (e) govern the processes of obtaining and making payment, including prescribing notices that must be given to the entities responsible for payment and prescribing the times at which and the manner in which payments must be made;
- (f) provide for any matter for which section 72 provided. 1997, c. 30, Sched. D, s. 13 (2); 2006, c. 33, Sched. Z.3, s. 13.

### **Regulations relating to Part VII**

6 The Lieutenant Governor in Council may make regulations relating to Part VII,

- (a) assigning additional duties to assessors appointed under this Act;
- (b) prescribing the method of determining the amounts of interest that the Minister may require obligated municipalities to pay under subsection 86.4 (4) and prescribing the times at which and the manner in which payment of such amounts must be made. 1997, c. 30, Sched. D, s. 13 (2).

### **Minister's regulations**

97. The Minister may make regulations,

- (a) specifying diseases as communicable diseases, reportable diseases and virulent diseases for the purposes of this Act;
- (b)-(f) Repealed: 2006, c. 26, s. 15 (3).
- (g) specifying diseases for the purposes of the definition of "immunizing agent" in subsection 38 (1). 2001, c. 30, s. 3; 2006, c. 26, s. 15 (3); 2007, c. 10, Sched. F, s. 19.

### **Scope of regulations**

98. (1) A regulation may be general or particular in its application, may be limited in its application to any class prescribed by the regulations and may be limited as to time or place or both. R.S.O. 1990, c. H.7, s. 98 (1).

### **Adoption of codes**

(2) A regulation may adopt by reference, in whole or in part, with such changes as are specified in the regulation, any code, formula, standard or procedure, and may require compliance with any code, formula, standard or procedure so adopted. R.S.O. 1990, c. H.7, s. 98 (2).

### **Classes**

(3) A class may be defined in the regulations with respect to any attribute, quality or characteristic or combination of them and may be defined to include any persons, places, premises, organizations, animals, plants or things whether or not of the same type or with the same attributes, qualities or characteristics. R.S.O. 1990, c. H.7, s. 98 (3).

### **Form, etc., of reports or notices**

99. Except as otherwise provided in this Act, a report or notice required under this Act or the regulations shall be made in the form and manner, at or within the period of time and containing the information prescribed by the regulations. R.S.O. 1990, c. H.7, s. 99.

## **PART IX ENFORCEMENT**

### **Offence, orders**

100. (1) Any person who fails to obey an order made under this Act is guilty of an offence. R.S.O. 1990, c. H.7, s. 100 (1).

### **Offence, reports**

(2) Any person who contravenes a requirement of Part IV to make a report in respect of a reportable disease, a communicable disease or a reportable event following the administration of an immunizing agent is guilty of an offence. R.S.O. 1990, c. H.7, s. 100 (2).

### **Offence, specified provisions**

(3) Any person who contravenes section 16, 17, 18, 20, 39 or 40, subsection 41 (9), 42 (1), 72 (5), (7) or (8), clause 77.1 (3) (b), subsection 77.3 (3) or 77.5 (6), section 77.7, subsection 82 (13), (14), (15), (16) or (17), 83 (3) or 84 (2) or section 105 is guilty of an offence. 2007, c. 10, Sched. F, s. 20.

### **Offence, regulations**

(4) Any person who contravenes a regulation is guilty of an offence. R.S.O. 1990, c. H.7, s. 100 (4).

### **Penalty**

101. (1) Every person who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$5,000 for every day or part of a day on which the offence occurs or continues. R.S.O. 1990, c. H.7, s. 101 (1).

## **Corporation**

(2) Where a board of health, a municipality or any other corporation is convicted of an offence under this Act, the maximum penalty that may be imposed for every day or part of a day on which the offence occurs or continues is \$25,000 and not as provided in subsection (1). R.S.O. 1990, c. H.7, s. 101 (2); 1997, c. 30, Sched. D, s. 15 (1).

## **Directors, officers, employees and agents**

(3) Where a corporation, other than a board of health or a municipality, is convicted of an offence under this Act,

- (a) each director of the corporation; and
- (b) each officer, employee or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is guilty of an offence unless he or she satisfies the court that he or she took all reasonable care to prevent the commission of the offence. R.S.O. 1990, c. H.7, s. 101 (3); 1997, c. 30, Sched. D, s. 15 (2).

## **Proceedings to restrain contravention of order or directive**

102. (1) Despite any other remedy or any penalty, the contravention by any person of an order made under this Act or of a directive relating to a small drinking water system may be restrained by order of a judge of the Superior Court of Justice upon application without notice by the person who made the order or issued the directive or by the Chief Medical Officer of Health or the Minister. 2007, c. 10, Sched. D, s. 1 (10).

## **Proceedings to prohibit continuation or repetition of contravention**

(2) Where any provision of this Act or the regulations is contravened, despite any other remedy or any penalty imposed, the Minister or the Chief Medical Officer of Health may apply to a judge of the Superior Court of Justice for an order,

- (a) prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the judge, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention; and
- (b) requiring the person committing the contravention to take any action that is, in the opinion of the judge, necessary or advisable for the purpose of reducing the likelihood of a continuation or repetition of the contravention. 2007, c. 10, Sched. F, s. 21.

## **Enforcement**

(2.1) Where a judge has made an order based on an application under subsection (2), the order may be enforced in the same manner as any other order or judgment of the Superior Court of Justice. 2007, c. 10, Sched. F, s. 21.

### ***Health Care Consent Act, 1996***

**(3)** The *Health Care Consent Act, 1996* does not apply to a treatment that is required by an order made under this section. 1996, c. 2, s. 67 (5).

### **Copy of order as evidence**

**103. (1)** A copy of an order purporting to be made by the Minister, the Chief Medical Officer of Health, a medical officer of health or a public health inspector is, without proof of the office or signature of the Minister, the Chief Medical Officer of Health, the medical officer of health or the public health inspector, as the case may be, receivable in evidence as proof, in the absence of evidence to the contrary, of the making of the order and of its contents for all purposes in any action, proceeding or prosecution. R.S.O. 1990, c. H.7, s. 103 (1).

### **Certificate as evidence**

**(2)** A certificate as to the result of any test that purports to be signed by a provincial analyst is, without proof of the office or signature of the provincial analyst, receivable in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the certificate for all purposes in any action, proceeding or prosecution. R.S.O. 1990, c. H.7, s. 103 (2).

### **Effect of compliance with order**

**104.** A person who in good faith and in a reasonable manner, in complying or attempting to comply with an order under Part III, takes or refrains from taking any action shall not be convicted of an offence in respect of such taking or refraining from taking of action. R.S.O. 1990, c. H.7, s. 104.

### **Furnishing false information**

**105.** No person shall furnish false information knowingly to an inspector appointed by the Minister, an assessor appointed under section 82, the Chief Medical Officer of Health, a medical officer of health, a public health inspector or a person who is carrying out any power, duty or direction under this Act or is otherwise acting in the lawful performance of his or her duties under this Act. R.S.O. 1990, c. H.7, s. 105; 1997, c. 30, Sched. D, s. 16.

### **Service**

**106. (1)** Any notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by ordinary mail addressed to the person to whom it is to be given, served or delivered at the person's last known address or in the case of an order to which subsection 22 (5.0.1) applies, as provided in subsections 22 (5.0.2) and (5.0.3). R.S.O. 1990, c. H.7, s. 106 (1); 2007, c. 10, Sched. F, s. 22.

### **When service deemed made**

**(2)** A notice, order or other document sent by ordinary mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good

faith, the person did not receive the notice, order or other document until a later date through absence, accident, illness or other cause beyond the person's control. R.S.O. 1990, c. H.7, s. 106 (2).

## **PART X TRANSITION**

### **Health units**

**107.** Every health unit established by or under the *Public Health Act*, being chapter 409 of the Revised Statutes of Ontario, 1980, and in existence immediately before the 1st day of July, 1984, is continued as a health unit under this Act. R.S.O. 1990, c. H.7, s. 107.

### **Boards of health continued**

**108.** Every local board of health or board of health established by or under the *Public Health Act*, being chapter 409 of the Revised Statutes of Ontario, 1980, and in existence immediately before the 1st day of July, 1984, is continued as a board of health under this Act. R.S.O. 1990, c. H.7, s. 108.

### **Board member continued in office**

**109.** The members of a board of health or a local board of health in office immediately before the 1st day of July, 1984, shall continue in office until the expiration of the terms for which they were appointed or until the office otherwise becomes vacant. R.S.O. 1990, c. H.7, s. 109.

### **Medical officers of health continued in office**

**110.** The medical officers of health and associate medical officers of health of boards of health, local boards of health or municipalities in office immediately before the 1st day of July, 1984, are continued in office, subject to the provisions of Part VI respecting retirement and dismissal. R.S.O. 1990, c. H.7, s. 110.

### **By-laws continued**

**111. (1)** The by-law in Schedule B to and any by-law passed under section 156 or 157 of the *Public Health Act*, being chapter 409 of the Revised Statutes of Ontario, 1980, that is in force immediately before the 1st day of July, 1984, shall remain in force, except in so far as it conflicts with this Act or the regulations, until revoked by the council or board of health where such by-law is in force, and for the purpose of enforcement such by-law shall be deemed to be a regulation. R.S.O. 1990, c. H.7, s. 111 (1).

### **Compliance**

**(2)** Every board of health shall ensure compliance with the by-laws mentioned in subsection (1) within the health unit served by the board of health. R.S.O. 1990, c. H.7, s. 111 (2).

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