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c 10 Health Protection and Promotion Act, 1983

Ontario

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CHAPTER 10

**An Act respecting the Protection
and Promotion of the Health of the Public**

Assented to February 23rd, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

INTERPRETATION

1.—(1) In this Act,

Interpre-
tation

1. "Board" means the Health Protection Appeal Board under this Act;
2. "board of health" means a board of health established or continued under this Act and includes,
 - i. the board of health under the *County of Oxford Act*, R.S.O. 1980,
c. 365
 - ii. a board of health under an Act establishing or continuing a regional municipality, and
 - iii. a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health;
3. "Chief Medical Officer of Health" means the Chief Medical Officer of Health under this Act;
4. "communicable disease" means a disease specified as a communicable disease by regulation made by the Minister;
5. "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;

6. "food" means food or drink for human consumption, and includes an ingredient of food or drink for human consumption;
7. "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;
8. "guidelines" means guidelines published by the Minister under this Act;
9. "health hazard" means,
 - i. a condition of a premises,
 - ii. a substance, thing, plant or animal other than man, or
 - iii. 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;
10. "health unit" means an area that, by or under any Act, is the area of jurisdiction of a board of health;
11. "mandatory", in relation to a health program or service, means a health program or service mentioned in section 5;
12. "medical officer of health" means a medical officer of health of a board of health;
13. "milk" means milk from cows, goats or sheep;
14. "Minister" means Minister of Health;
15. "Ministry" means Ministry of Health;
16. "municipal member", in relation to a board of health, means a person appointed to the board of health by the council of a municipality;
17. "municipality" means the corporation of a county, city, town, village, township or improvement district or of a district, metropolitan or regional municipality and a board, commission or other local authority

exercising any power in respect of municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory:

18. "occupier" includes.
 - i. a person who is in physical possession of premises.
 - ii. 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
 - iii. 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.

notwithstanding that there is more than one occupier of the same premises;

19. "operator", in relation to a food premise, means a person who has responsibility for and control over an activity there carried on, notwithstanding that there is more than one operator of the same food premise;
20. "physician" means a legally qualified medical practitioner;
21. "premises" means lands and structures, or either of them, and includes.
 - i. water,
 - ii. ships and vessels,
 - iii. trailers and portable structures designed or used for residence, business or shelter,
 - iv. trains, railway cars, vehicles and aircraft;
22. "public health inspector" means a public health inspector of a board of health;
23. "public health nurse" means a public health nurse of a board of health;

24. "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,
 - i. 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 his family and their visitors, or
 - ii. one that is used solely for commercial display and demonstration purposes;
25. "regulations" means regulations made under this Act;
26. "reportable disease" means a disease specified as a reportable disease by regulation made by the Minister;
27. "residential building" means a structure that contains one or more dwelling units;
28. "sanitary facilities" means a room or rooms containing one or more toilets and one or more washbasins;
29. "school" means a "private school" and a "school" as defined in the *Education Act*;
30. "school board" means a board as defined in the *Education Act*;
31. "sexually transmitted disease" means a disease caused by an infectious agent usually transmitted during sexual contact;
32. "virulent disease" means,
 - i. Cholera,
 - ii. Diphtheria,
 - iii. Ebola virus disease,
 - iv. Gonorrhoea,
 - v. Hemorrhagic fever,
 - vi. Lassa fever,

- vii. Leprosy,
- viii. Marburg virus disease,
- ix. Plague,
- x. Syphilis,
- xi. Smallpox,
- xii. Tuberculosis,

or a disease specified as a virulent disease by regulation made by the Minister.

(2) An order under this Act that requires the closing of premises is an order, Closing of premises

- (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.

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. Purpose

3. This Act binds the Crown. Act binds Crown

PART II

HEALTH PROGRAMS AND SERVICES

- 4.** Every board of health, Duty of 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.

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.
2. Control of communicable diseases, including provision of immunization services to children and adults.
3. Preventive dentistry, including provision of preventive dental services to persons residing in the health unit and provision of dental health education, oral hygiene and fluoride therapy programs to school children.
4. Family health, including,
 - i. provision of counselling services,
 - ii. establishment of family planning services,
 - iii. programs to identify pregnant women who are in high-risk health categories,
 - iv. provision of health services to infants, pregnant women in high-risk health categories and the elderly,
 - v. provision of preschool and school health services,
 - vi. collection and analysis of epidemiological data.
5. Home care services that are insured services under the *Health Insurance Act*, including services to the acutely ill and the chronically ill.
6. Nutrition, including provision of consulting and educational services and identification of nutrition services needed by persons residing in the health unit served by the board of health.
7. Public health education, including education in the prevention and control of life-style diseases.
8. Such additional health programs and services as are prescribed by the regulations.

R.S.O. 1980,
c. 197

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.

School pupils

(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.

Consent of school

(3) Subsection (1) applies only in respect of the classifications of pupils prescribed by the regulations in respect of a health program or service.

Application of subs. (1)

(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.

Prohibition

(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*.

Separate school rights preserved
1867, c. 3;
R.S.O. 1980,
c. 129

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.

Guidelines

(2) Guidelines shall be transmitted to each board of health and shall be available for public inspection in the Ministry.

Idem

(3) A guideline is not a regulation within the meaning of the *Regulations Act*.

Application of R.S.O. 1980, c. 446

(4) In the event of conflict between a regulation and a guideline, the regulation prevails.

Conflict

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.

Extent of 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,

Optional health programs and services

- (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.

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 for the purpose of preventing, eliminating and decreasing the effects of health hazards in the health unit.

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.

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.

Report

(2) The medical officer of health shall report the results of the investigation to the complainant, but shall not include in the report medical information in respect of a person other than the complainant without the consent of the person or, in the case of a child, of a parent or other person who has lawful custody of the child.

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

12.—(1) Every medical officer of health shall keep himself informed in respect of matters related to occupational and environmental health.

Provision of information to M.O.H.

(2) The Ministry of the Environment, the Ministry of Health, 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.

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.

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

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

Condition
precedent to
order

- (a) that a health hazard exists in the health unit served by him; and
- (b) that the requirements specified in the order are necessary in order to decrease the effect of or to eliminate the health hazard.

(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.

Time

(4) An order under this section may include, but is not limited to,

Idem

- (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.

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.

Reasons for order

- (6) An order under this section is not effective unless the reasons for the order are set out in the order.

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.

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.

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.

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.

(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.

Contents of
directions

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

Idem

- (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.

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.

Recovery of
expenses by
action

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.

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.

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.

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.

Food
premises

16.—(1) Every person who operates a food premise shall maintain and operate the food premise in accordance with the regulations.

Notice of
intention to
commence
operation

(2) Every person who intends to commence to operate a food premise shall give notice of his intention to the medical officer of health of the health unit in which the food premise will be located.

Persons
employed on
or in food
premises

(3) Every person employed on or in a food premise shall comply with the standards and requirements prescribed by the regulations for such persons.

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.

(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. Records

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. Sale of diseased food

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*. Unpasteurized or unsterilized milk
R.S.O. 1980, c. 266

(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*. Milk products

(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*. Exception

(4) In subsection (2), "milk product" means a product processed or derived in whole or mainly from milk. Interpretation

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. Seizure

(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 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. Examination

- 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.
- 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.
- 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 may destroy or dispose of the food or cause it to be destroyed or disposed of without further examination or investigation.

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.

PART IV

COMMUNICABLE DISEASES

Interpre-
tation

21.—(1) In this Part,

(a) “institution” means,

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

(ii) “children’s institution” within the meaning of the *Children’s Institutions Act*,

(iii) “children’s mental health centre” within the meaning of the *Children’s Mental Health Services Act*,

(iv) “children’s residence” within the meaning of the *Children’s Residential Services Act*,

R.S.O. 1980,
c. 64

R.S.O. 1980,
c. 67

R.S.O. 1980,
c. 69

R.S.O. 1980,
c. 71

- (v) "day nursery" within the meaning of the *Day Nurseries Act*, R.S.O. 1980, c. 111
- (vi) "facility" within the meaning of the *Developmental Services Act*, R.S.O. 1980, c. 118
- (vii) "approved home" and "home for retarded persons" within the meaning of the *Homes for Retarded Persons Act*, R.S.O. 1980, c. 201
- (viii) "home for special care" within the meaning of the *Homes for Special Care Act*, R.S.O. 1980, c. 202
- (ix) "home" within the meaning of the *Homes for the Aged and Rest Homes Act*, R.S.O. 1980, c. 203
- (x) "psychiatric facility" within the meaning of the *Mental Health Act*, R.S.O. 1980, c. 262
- (xi) "approved home" and "institution" within the meaning of the *Mental Hospitals Act*, R.S.O. 1980, c. 263
- (xii) "correctional institution" within the meaning of the *Ministry of Correctional Services Act*, R.S.O. 1980, c. 275
- (xiii) "lock-up" within the meaning of section 206 of the *Municipal Act*, R.S.O. 1980, c. 302
- (xiv) "nursing home" within the meaning of the *Nursing Homes Act*, R.S.O. 1980, c. 320
- (xv) "private hospital" within the meaning of the *Private Hospitals Act*, R.S.O. 1980, c. 389
- (xvi) "sanitarium" within the meaning of the *Private Sanitaria Act*, R.S.O. 1980, c. 391
- (xvii) "training school" within the meaning of the *Training Schools Act*, R.S.O. 1980, c. 508

and includes any other place of a similar nature;

- (b) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of an institution.

(2) In this Part, "administrator", "hospital", "out-patient" and "patient" have the same meanings as in the *Public Hospitals Act*. Idem
R.S.O. 1980,
c. 410

Order by
M.O.H. re
communi-
cable 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.

Condition
precedent to
order

(2) A medical officer of health may make an order under this section where he 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.

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.

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 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 forthwith under the care and treatment of a physician;
- (h) requiring the person to whom the order is directed to conduct himself in such a manner as not to expose another person to infection.

(5) An order under this section may be directed to a person, Person directed

- (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.

(6) In an order under this section, a medical officer of health, Additional contents of order

- (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.

(7) An order under this section is not effective unless the reasons for the order are set out in the order. Reasons for order

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

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.

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 20,

- (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.

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.

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.

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.

25. A physician or a person registered under Part II, IV, V or VI of the *Health Disciplines Act* to practise a health discipline or a person registered as a drugless practitioner under the *Drugless Practitioners Act* 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.

Duty to report disease
R.S.O. 1980, cc. 196, 127

26. A physician 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.

Carrier of 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.

Duty of hospital administrator 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.

Duty of superintendent of institution to report re disease

(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.

When report to be given

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.

Duty of school principal to report disease

29.—(1) The operator of a laboratory shall report to the medical officer of health of the health unit in which the laboratory is located each case of a positive laboratory finding in respect of a reportable disease, as soon as possible after the making of the finding.

Report by operator

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.

Interpre-
tation
R.S.O. 1980,
c. 409

(3) In this section "laboratory" has the same meaning as in section 59 of the *Laboratory and Specimen Collection Centre Licensing Act*.

Duty to
report death
R.S.O. 1980,
c. 524

30. A physician 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.

Reports by
M.O.H. re
diseases

31. 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.

Communi-
cation
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.

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.

Communi-
cable
diseases of
the eyes

33. 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.

Physician to
report refusal
or neglect of
treatment

34.—(1) Every physician 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 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.

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 provided the care and treatment.

(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.

Transmittal to M.O.H. where person resides

(4) A physician 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.

Additional information

35.—(1) Upon application by a medical officer of health, a provincial offences court, in the circumstances specified in subsection (2), may make an order in the terms specified in subsection (3).

Order by provincial offences court

(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.

When court may make order

- (a) that the person isolate himself and remain in isolation from other persons;
- (b) that the person submit to an examination by a physician;
- (c) that the person place himself under the care and treatment of a physician; or
- (d) that the person conduct himself in such a manner as not to expose another person to infection.

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

Contents of order

- (a) be taken into custody and be admitted to and detained in a hospital 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.

(4) A court shall not name a hospital in an order under this section unless the court is satisfied that the hospital is able to

Capability of hospital

provide detention, care and treatment for the person who is the subject of the order.

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; and
 - (b) to deliver the person who is the subject of the order to the hospital named in the order.

Police
assistance

(6) An order under this section may be directed to a police force that has jurisdiction in the area where the person who is the subject of the order may be located, 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.

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 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 four months from and including the day that the order was issued.

Physician
responsible

(8) The person authorized by the by-laws of the hospital shall designate a physician to have responsibility for the 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 person named in the order.

Reports

(9) The physician responsible for treating the person in the hospital shall report in respect of the treatment and the condition of the person to the medical officer of health serving the health unit in which the hospital is located.

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.

Order to
continue
detention
and
treatment

(11) Upon application by the medical officer of health serving the health unit in which the hospital is located, a provincial offences court that 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 would present a significant risk to the health of the public.

by order may extend the period of detention and treatment for not more than four months, and upon further applications by the medical officer of health the court may extend the period of detention and treatment for further periods each of which shall not be for more than four months.

(12) A person detained in accordance with an order under this section shall be released from detention and discharged from the hospital upon the certificate of the medical officer of health serving the health unit in which the hospital is located.

Release and discharge from hospital

(13) The medical officer of health shall inform himself as to the treatment and condition of the person and shall issue his 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.

Certificate of M.O.H.

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

Hearing of application

- (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.

(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 provincial offences court and where the provincial offences court 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.

Effect on proceeding before Board

(16) In subsections (1) to (15), "provincial offences court" and "court" mean a provincial offences court presided over by a provincial judge.

Interpretation

Appeal

R.S.O. 1980,
c. 400

(17) Any party to the proceedings before the provincial offences court under subsection (1) or (11) may appeal from its decision or order, in accordance with the rules under the *Provincial Offences Act* for appeals from the decision of a provincial judge, to the county or district court of the county or district in which the adjudication was made.

Stay

(18) 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.

Appeal to
Court of
Appeal

(19) Any party to the proceedings may appeal from the judgment of the county or district court to the Court of Appeal, with leave of a justice of appeal on special grounds, upon any question of law alone in accordance with the rules under the *Provincial Offences Act* for appeals to the Court of Appeal.

Grounds for
leave

(20) No leave for appeal shall be granted under subsection (19) unless the justice 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.

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 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.

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 and remain in isolation from other persons, section 35 applies with necessary modifications.

Examination
of person
under
detention

37.—(1) A physician who provides medical services in a correctional institution, a training school, a lock-up or an observation and detention home 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.

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 training school, a lock-up or an observation and detention home 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, training school, lock-up or observation and detention home and who has been examined and found to be infected with an agent of a communicable disease.

(3) In this section,

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| | Interpre-
tation |
| (a) "correctional institution" has the same meaning as in the <i>Ministry of Correctional Services Act</i> ; | R.S.O. 1980,
c. 275 |
| (b) "lock-up" has the same meaning as in section 206 of the <i>Municipal Act</i> ; | R.S.O. 1980,
c. 302 |
| (c) "observation and detention home" has the same meaning as in the <i>Provincial Courts Act</i> ; | R.S.O. 1980,
c. 398 |
| (d) "training school" has the same meaning as in the <i>Training Schools Act</i> . | R.S.O. 1980,
c. 508 |

38.—(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 or a virulent disease.

Confiden-
tiality

(2) Subsection (1) does not apply,

Exceptions

- | | |
|--|---|
| (a) in respect of an application by a medical officer of health to a provincial offences court 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 <i>Health Disciplines Act</i> , the <i>Public Hospitals Act</i> , the <i>Health Insurance Act</i> , the <i>Medical Care Act</i> (Canada) or the <i>Criminal Code</i> (Canada), or regulations made thereunder; or | R.S.O. 1980,
cc. 196, 410,
197
R.S.C. 1970,
cc. M-8, C-34 |
| (e) to prevent the reporting of information under section 49 of the <i>Child Welfare Act</i> in respect of the abuse or the suspected abuse of a child. | R.S.O. 1980,
c. 66 |

Supply of
drugs, etc.,
by
unqualified
person
prohibited

39.—(1) No person other than a physician 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.

Exception re
pharmacist
R.S.O. 1980,
c. 196

(2) Subsection (1) does not apply to a pharmacist licensed under Part VI of the *Health Disciplines Act* who dispenses to a person upon a written prescription signed by a physician or who sells to a person a drug, medicine or appliance.

PART V

RIGHTS OF ENTRY AND APPEALS FROM ORDERS

Interpreta-
tion, persons

40.—(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.

Interpre-
tation,
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.

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).

Examinations

(4) A person mentioned in subsection (1) may make examinations, investigations, tests and inquiries for a purpose mentioned in subsection (2).

(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). Samples or extracts

(6) The authority under subsections (3) to (5) shall be exercised only at reasonable times. Reasonable times

(7) Subsection (3) is not authority to enter a private residence without the consent of the occupier. Private residence

(8) A person mentioned in subsection (1) may require an operator of a food premise to cease the operation of or to dismantle, or both, any equipment on or in the food premise, for the purpose of an examination, investigation, test or inquiry. Food premise

(9) An operator of a food premise shall comply promptly with a requirement under subsection (8). Compliance with requirement

(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. Copies

(11) If an occupier of premises, Application for warrant

- (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 42.

41.—(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 med- Obstruction

ical officer of health lawfully carrying out a power, duty or direction under this Act.

Private
residence

(2) A refusal of consent to enter a private residence is not and shall not be deemed to be hindering or obstructing within the meaning of subsection (1).

Warrant by
justice of the
peace

42.—(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.

(2) A warrant issued under this section shall be executed at reasonable times as specified in the warrant. Execution 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. Expiry of warrant

(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. Ex parte application

43.—(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 he 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 him, notice in writing requiring a hearing and he may also require such a hearing. Notice of right to hearing

(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. Oral order

(3) Notwithstanding that a hearing is required in accordance with this Part, an order under this Act takes effect, Effect of order

(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.

(4) Where the person to whom an order is directed requires a hearing by the Board in accordance with subsection (1) or (2). Powers of Board

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.

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.

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 *prima facie* 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.

Parties

44.—(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.

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.

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 his representative 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.

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 Supreme Court.

(5) No member of the Board shall participate in a decision of the Board following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Only members at hearing to participate in decision

(6) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.

Release of documentary evidence

45.—(1) Any party to the proceedings before the Board may appeal from its decision or order to the Divisional Court in accordance with the rules of court.

Appeal to court

(2) Where an appeal is taken under subsection (1) in respect of an order that was stayed by the Board, a judge of the High Court upon application may grant a further stay until the appeal is disposed of.

Stay of order

(3) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme 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.

Record to be filed in court

(4) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Minister entitled to be heard

(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.

Powers of court on appeal

46.—(1) The Health Protection Appeal Board is established and shall be composed of not fewer than five members appointed by the Lieutenant Governor in Council.

Health Protection Appeal Board

(2) The Lieutenant Governor in Council shall designate a chairman and one or more vice-chairmen from among the members of the Board.

Chairman and vice-chairmen

(3) If the chairman is absent or unable to act or if there is a vacancy in the office of chairman, a vice-chairman shall act as and have all the powers of the chairman.

Vacancy

- Terms** (4) The members of the Board shall be appointed for such terms as may be determined by the Lieutenant Governor in Council and may be reappointed for further terms.
- Remuneration** (5) The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.
- Quorum** (6) Three members of the Board constitute a quorum.
- Sittings** (7) The chairman of the Board may from time to time assign the members of the Board to its various sittings and may change any such assignment.
- Practice and procedure** (8) The Board may determine its own practice and procedure in relation to a hearing.
- Decision** (9) The Board shall give a copy of its decision, together with written reasons therefor, to the parties to the proceedings.
- Hearings to be public, exceptions** (10) A hearing by the Board shall be open to the public except where the Board is of the opinion that matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the Board shall hold the hearing, or the part of the hearing concerning such matters, in private.

PART VI

HEALTH UNITS AND BOARDS OF HEALTH

- Boards of health** **47.** There shall be a board of health for each health unit.
- Composition of board of health** **48.**—(1) A board of health is composed of the members appointed to the board under this Act and the regulations.
- Municipal members** (2) There shall be not fewer than three and not more than thirteen municipal members of each board of health.
- 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.
- 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.

- (5) A board of health shall pay the reasonable and actual expenses of each member of the board of health. Expenses
- (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. Rate of remuneration
- (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. Term of office
- (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 section 39 of the *Municipal Act*. Disqualification
R.S.O. 1980,
c. 302
- (9) Subsections (1) to (8) do not apply to, Application
of
subss. (1-8)
R.S.O. 1980,
c. 365
- (a) the board of health under the *County of Oxford Act*;
- (b) a board of health under an Act establishing or continuing a regional municipality; or
- (c) a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health.
- (10) Subsections (4) to (6) apply notwithstanding sections 240 to 245 of the *Municipal Act* (which relate to remuneration and expenses of members of local boards). Application
of R.S.O.
1980, c. 302
- (11) Subsections (4) and (5) do not authorize payment of remuneration or expenses to a member of a board of health, other than the chairman, who is a member of the council of a municipality and is paid annual remuneration or expenses, as the case requires, by the municipality. Member of
municipal
council
- 49.—**(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, Agreement
with council
of band
- (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.

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.

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).

Term

(4) An appointment under this section may be for one, two or three years.

Interpre-
tation
R.S.C. 1970,
c. I-6

(5) In this section, “band”, “council of the band” and “re-serve” have the same meanings as in the *Indian Act* (Canada).

Term of
office

50.—(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.

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.

Disqualifi-
cation

(3) No person whose services are employed by a board of health is qualified to be a member of the board of health.

Board to be
corporation

51.—(1) Every board of health is a corporation without share capital.

Application
of
R.S.O. 1980,
cc. 95, 96

(2) The *Corporations Act* and the *Corporations Information Act* do not apply to a board of health.

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.

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 and has obtained the consent of the Minister.

52. The name of each board of health shall be the "Board of Health for the
(inserting the name of the health unit)
 Health Unit". Name of board

53. A majority of the members of a board of health constitutes a quorum of the board. Quorum

54. Sections 51 to 53 and 55 to 58 do not apply to a regional corporation that, under the Act establishing or continuing the regional municipality, has the powers and rights and is subject to the duties of a local board of health or of a board of health. Application of ss. 51-53, 55-58

55.—(1) A board of health shall pass by-laws respecting. By-laws

- (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.

(2) A board of health may pass by-laws respecting. Idem

- (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.

56.—(1) A board of health shall hold its first meeting of each year not later than the 1st day of February. First meeting

(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 chairman and one to be vice-chairman of the board for the year. Chairman

57. 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. Minutes

58.—(1) A board of health shall keep or cause to be kept. Financial records

- (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.

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.

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.

Certain
boards of
health in
Metropolitan
Toronto

59.—(1) With respect to the board of health for the health unit related to each municipality specified in subsection (2),

- (a) the council of the municipality shall stand in the place of and has the powers and is subject to the duties of the board of health in respect of the appointment, reappointment and dismissal of the medical officer of health and the associate medical officers of health of the board of health;
- (b) the council of the municipality shall provide to the board of health such employees of the municipality, including public health nurses, as the council of the municipality considers 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; and
- (c) the council of the municipality shall appoint the auditor of the board of health.

Muni-
cipalities
specified

(2) The municipalities referred to in subsection (1) are the following:

1. The Borough of Etobicoke.
2. The City of North York.
3. The Borough of Scarborough.
4. The City of Toronto.

60. 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.

Duty of board of health

61. Every board of health,

Medical officer 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.

62. 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 the designation "M.O.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.

Use of title

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

Eligibility for appointment

(a) he is a physician;

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

(c) the Minister approves the proposed appointment.

64.—(1) Every medical officer of health and every associate medical officer of health of a board of health shall retire at the end of the month in which he attains the age of sixty-five years.

Retirement

(2) A board of health, with the approval of the Minister, may reappoint the medical officer of health or associate medical officer of health, as the case may be, for a period not exceeding one year at a time until the end of the month in which the medical officer of health or associate medical officer of health attains the age of seventy years.

Extension

65.—(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,

Dismissal

- (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.

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.

Executive officer

66.—(1) The medical officer of health of a board of health is the executive officer of the board.

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.

Management and administration

(3) The medical officer of health of a board of health is responsible to the board of health for the management and administration of the health programs and services and business affairs of the board.

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.

Duties of associate M.O.H.

67.—(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.

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.

68.—(1) Where,Acting
M.O.H.

- (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.

(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.

Powers and
duties

69. 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.

Attendance
at meetings
of boards

70.—(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.

Staff

(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.

Qualifi-
cations

(3) No board of health shall engage any person as a public health nurse unless the person is a registered nurse within the meaning of Part IV of the *Health Disciplines Act* and,

Public health
nurseR.S.O. 1980,
c. 196

- (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.

Expenses

71.—(1) The expenses incurred by or on behalf of a board of health in the performance of the functions and duties of the board of health and the medical officer of health of the board of health under this and any other Act shall be borne and paid by the municipalities in the health unit served by the board of health in such proportion as is agreed upon or, in default of agreement, in such proportion as is prescribed by the regulations.

Municipal authority

(2) The council of a municipality in a health unit has all the powers necessary to enter into and to carry out an agreement in respect of payment of the expenses of the board of health of the health unit or, in default of agreement, to pay the amount that is the responsibility of the municipality in accordance with the proportions prescribed by the regulations.

Reports

72. Every board of health shall provide the Minister or the council of a municipality in the health unit served by the board of health with such information in respect of the board and the health unit served by the board at such times and in such form as the Minister or the council may require.

Financial inspectors

73.—(1) The Minister may direct in writing financial inspectors appointed by the Minister to inspect, examine and audit books, accounts, reports and records maintained by or for boards of health and to report to the Minister with such information, in the form and manner and at the time or within the period of time specified by the Minister.

Obstruction

(2) No person shall obstruct a financial inspector in the performance of his duties under this Act and the regulations.

Information

(3) Every board of health shall furnish a financial inspector with such information regarding its affairs as the financial inspector from time to time requires.

Access to records

(4) Every board of health or other person shall give a financial inspector access to and assistance in respect of all books, accounts, reports, records, files, minutes and other papers, things and property in any form maintained for or on account of or belonging to or in use by the board and necessary to the performance of the duties of the financial inspector.

Where Minister is of opinion that management or administration of affairs of board of health are inadequate

74.—(1) The Minister may give directions under subsection (2) where, having regard to the content of a report of an investigation or examination by the Chief Medical Officer of Health or a financial inspector as to the quality of the management or administration of the affairs of a board of health, the Minister is of the opinion that the quality of the management or administration of the affairs of the board of health is

adversely affecting or is likely to adversely affect the health of members of the public or the provision of health programs or services by the board of health.

(2) Under this section, the Minister may direct the Chief Medical Officer of Health to provide advice and guidance to a board of health and to the medical officer of health and the administrative and professional staffs of the board of health for the purpose of improving the quality of the management and administration of the affairs of the board of health.

Directions by
Minister

(3) Where the Minister gives a direction under subsection (2) in respect of a board of health, it is the duty of the board of health and of the medical officer of health and the members of the administrative and professional staffs of the board of health to receive and consider the advice and guidance of the Chief Medical Officer of Health and of any person acting under the instructions of the Chief Medical Officer of Health.

Duty of
board of
health

(4) Where the Chief Medical Officer of Health, while acting under a direction by the Minister under subsection (2), requests in writing that the board of health or the medical officer of health or any member of the administrative or professional staff of the board of health do any act that they have authority to do and, in the opinion of the Chief Medical Officer of Health, they fail to do so, the Chief Medical Officer of Health may do the act on behalf of the board of health or the medical officer of health or the member of the administrative or professional staff of the board of health and the act is as effective as if done by the board of health or the medical officer of health or the member of the administrative or professional staff, as the case may be.

Action on
behalf of
board of
health, etc.

(5) While a direction by the Minister under subsection (2) is in force in respect of a board of health, no act of the board of health or of the medical officer of health or the administrative professional staff of the board of health is valid unless approved in writing by the Chief Medical Officer of Health but this subsection does not apply to a professional health service provided to any person.

Action by
board of
health

(6) The Chief Medical Officer of Health and a person acting under the instructions of the Chief Medical Officer of Health have the same rights as the board of health, the medical officer of health and the members of the administrative and professional staffs of the board of health in respect of the documents, records (including medical records) and information of the board of health.

Right of
access

Duration of directions

(7) A direction by the Minister under subsection (2) is valid until rescinded by the Minister.

Grants

75. The Minister may pay grants,

(a) to boards of health;

(b) to persons or organizations prescribed by the regulations,

for the purpose of this Act or for such purpose as is prescribed by the regulations.

Merger of health units

76.—(1) Where two or more health units are merged, the boards of health of the merged health units are dissolved.

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.

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.

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.

PART VII

ADMINISTRATION

Investigation re disease and mortality

77.—(1) The Minister has power to make investigations respecting the causes of disease and mortality in any part of Ontario.

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.

(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.

Powers of investigator

R.S.O. 1980, c. 411

78.—(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.

Public health laboratory centres

(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.

Direction by Minister

79.—(1) The Minister may appoint in writing one or more employees of the Ministry or other persons as inspectors.

Appointment of inspectors

(2) An inspector shall make inspections of health units and in respect of boards of health, medical officers of health and other public health professionals to ascertain the extent of compliance with this Act and the regulations and the carrying out of the purpose of this Act.

Duty

(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.

Limitation

(4) The Minister may require an inspector to act under the direction of or to report to the Minister, the Deputy Minister of Health, the Chief Medical Officer of Health or other officer of the Ministry.

Directions and reports

(5) The Minister shall issue to every inspector a certificate of appointment and every inspector, in the execution of his duties under this Act and the regulations, shall produce his certificate of appointment upon request.

Certificate of appointment

80.—(1) The Minister shall appoint in writing an employee of the Ministry as Chief Medical Officer of Health.

Chief Medical Officer of Health

(2) No person is qualified to be or to act as Chief Medical Officer of Health unless he 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.

Qualifications

Duty of Chief
M.O.H. re
occupational
and environ-
mental health

(3) The Chief Medical Officer of Health shall keep himself informed in respect of matters related to occupational and environmental health.

Examinations
of records by
Chief
Medical
Officer of
Health

81.—(1) The Chief Medical Officer of Health has the right to examine all by-laws, minutes and records of a board of health.

Copies

(2) A board of health shall provide the Chief Medical Officer of Health with a copy of any by-law, minute or record requested by the Chief Medical Officer of Health.

Delegation

(3) The Chief Medical Officer of Health may delegate in writing his authority under subsections (1) and (2) to any person.

Where board
of health not
providing
health
program or
service

82.—(1) Where the Minister is of the opinion that a board of health is not providing or ensuring the provision of a health program or service in accordance with sections 5 to 7 and the regulations and guidelines, the Minister may direct the Chief Medical Officer of Health to provide or ensure the provision of the health program or service.

Expenses

(2) The Minister may deduct from grants paid by the Minister to the board of health an amount equal to all or part of the expenses incurred by the Chief Medical Officer of Health in carrying out a direction under subsection (1).

Where
situation of
risk to health

83. Where the Minister is of the opinion that a situation exists anywhere in Ontario that constitutes or may constitute a risk to the health of persons, the Minister may direct the Chief Medical Officer of Health to investigate the situation and to take such action as the Chief Medical Officer of Health considers appropriate to prevent, eliminate and decrease the risk to health caused by the situation.

Powers of
Chief
Medical
Officer of
Health

84.—(1) For the purposes of sections 82 and 83, the Chief Medical Officer of Health,

(a) has, and may exercise anywhere in Ontario, 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.

(2) Where the Chief Medical Officer of Health gives a direction under subsection (1) to a person whose services are engaged by a board of health,

Authority and duty of person directed to act

- (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.

85.—(1) The expenses or part of the expenses of carrying out a direction by the Chief Medical Officer of Health in respect of any duty or function of a board of health or a medical officer of health may be treated by the Minister either as a debt due by the board of health or as a debt due by the corporations of the municipalities in the health unit served by the board of health.

Expenses

(2) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the board of health, the Minister may deduct an amount equal to the amount of the expenses or the part of the expenses from amounts that would otherwise be payable by the Minister to the board of health.

Idem

(3) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the corporations of the municipalities within the health unit served by the board of health, the Minister may certify to the treasurer of each of the municipalities the amount due by the municipality to the Crown in right of Ontario in respect of the expenses or the part of the expenses, and the treasurer shall pay to the Treasurer of Ontario the amount set out in the certificate.

Idem

86.—(1) The Minister, in the circumstances mentioned in subsection (2), 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.

Possession of premises for temporary isolation facility

(2) The Minister may make an order under subsection (1) where a medical officer of health certifies to the Minister,

Grounds for order

- (a) that there exists or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located; and
- (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.

Delivery of possession

(3) An order under subsection (1) may require delivery of possession on the date specified in the order.

Hearing and submissions

(4) 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).

Warrant for possession

(5) Where a judge of the county or district court of the county or district in which the premises are located is satisfied on evidence upon oath,

- (a) that there has been or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located;
- (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 a warrant in the form prescribed by the regulations directing the sheriff of the county or district, 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.

Execution of warrant

(6) A warrant issued under this section shall be executed at reasonable times as specified in the warrant.

(7) A judge 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. *Ex parte application*

(8) The Minister shall not continue the use of the premises as a temporary isolation facility or as part of a temporary isolation facility after the communicable disease ceases to present a significant risk to the health of persons in the area where the premises are located. *Termination of use of premises*

(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 Land Compensation Board under the *Expropriations Act*, upon application in accordance with the rules governing the practice and procedure of the Board, shall determine the compensation. *Compensation*
R.S.O. 1980, c. 148

(10) Except in respect of proceedings before the Land Compensation Board in accordance with subsection (9), the *Expropriations Act* does not apply to proceedings under this section. *Application of R.S.O. 1980, c. 148*

87. 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, *Northern Ontario Public Health Service*

- (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.

88.—(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, *Health services in isolated municipalities*

- (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.

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.

Repeal of ss. 87, 88

89.—(1) Sections 87 and 88 are repealed on a day to be named by proclamation of the Lieutenant Governor.

Application of subs. (1)

(2) Subsection (1) does not apply until the day that each area in Ontario is within a health unit.

Agreement with organization

90. 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.

Hearings

91. 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.

Appointment of public health professionals

92. 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.

Provincial analysts

93. 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.

Protection from personal liability

94.—(1) No action or other proceeding for damages or otherwise shall be instituted against 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 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.

(2) Subsection (1) does not apply to prevent an application for judicial review or a proceeding that is specifically provided for in this Act. Exception

(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. Board of health not relieved of liability

(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. Protection from liability for reports

PART VIII

REGULATIONS

95.—(1) The Lieutenant Governor in Council may make regulations. 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.

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.

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) governing and prohibiting the construction, equipment, facilities (including sanitary facilities), establishment, operation and maintenance of slaughterhouses; prescribing and requiring compliance with standards and requirements in respect of the foregoing and prohibiting the slaughter of animals in any place other than a slaughter-house;
- (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.

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.

(5) The Lieutenant Governor in Council may make regulations relating to Part VI,

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 board of health under the *County of Oxford Act*, R.S.O. 1980, c. 365
- (vi) a board of health under an Act establishing or continuing a regional municipality, or
- (vii) a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health;
- (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) authorizing boards of health to charge fees for specific services and prescribing the amounts of the fees;
- (h) prescribing the methods of calculating or the bases for determining the amounts of grants by the Minister to boards of health, persons and organizations and prescribing the manner and times of payment of such grants and prescribing conditions that shall apply in respect of such grants.

Regulations
by Minister

96. The Minister may make regulations specifying diseases as communicable diseases, reportable diseases and virulent diseases for the purposes of this Act.

Scope of
regulations

97.—(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.

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.

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.

98. 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. Form, etc., of reports or notices

PART IX

ENFORCEMENT

99.—(1) Any person who fails to obey an order made under this Act is guilty of an offence. Offence, orders

(2) Any person who contravenes a requirement of Part IV to make a report in respect of a reportable disease or a communicable disease is guilty of an offence. Offence, reports

(3) Any person who contravenes section 16, 17, 18, 20, 38 or 39, subsection 40 (9), subsection 41 (1), subsection 73 (2) or section 104 is guilty of an offence. Offence, sections of Act

(4) Any person who contravenes a regulation is guilty of an offence. Offence, regulations

100.—(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. Penalty

(2) Where a 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). Corporation

(3) Where a corporation is convicted of an offence under this Act, Directors, officers, employees and agents

(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 satisfies the court that he took all reasonable care to prevent the commission of the offence.

Proceedings
to restrain
contra-
vention of
order

101.—(1) Notwithstanding any other remedy or any penalty, the contravention by any person of an order made under this Act may be restrained by order of a judge of the Supreme Court or a local judge of the High Court upon application without notice by the person who made the order or by the Chief Medical Officer of Health or the Minister.

Proceedings
to prohibit
continuation
or repetition
of contra-
vention

(2) Where any provision of this Act or the regulations is contravened, notwithstanding any other remedy or any penalty imposed, the Minister may apply to a judge of the Supreme Court for an order 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 court, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court.

Copy of
order as
evidence

102.—(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.

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.

Effect of
compliance
with order

103. 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.

Furnishing
false
information

104. No person shall furnish false information knowingly to an inspector appointed by the Minister, 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 duties under this Act.

Service

105.—(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 his last known address.

(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, he did not receive the notice, order or other document until a later date through absence, accident, illness or other cause beyond his control.

When service deemed made

PART X

TRANSITION AND REPEALS

106. Every health unit established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a health unit under this Act.

Health units
R.S.O. 1980,
c. 409

107. Every local board of health or board of health established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a board of health under this Act.

Boards of
health
continued

108. The members of a board of health or a local board of health in office immediately before this Act comes into force shall continue in office until the expiration of the terms for which they were appointed or until the office otherwise becomes vacant.

Board
member
continued in
office

109. 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 this Act comes into force are continued in office, subject to the provisions of Part VI respecting retirement and dismissal.

Medical
officers of
health
continued in
office

110.—(1) The by-law in Schedule B to and any by-law passed under section 156 or 157 of the *Public Health Act* that is in force immediately before this Act comes into force shall remain in force, except in so far as it conflicts with this Act or the regulations, until revoked by the council or board where such by-law is in force, and for the purpose of enforcement such by-law shall be deemed to be a regulation.

By-laws
continued

(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.

Compliance

Repeals

111.—(1) The *Public Health Act*, being chapter 409 of the Revised Statutes of Ontario, 1980, except the title thereto and sections 3, 4, 5, 59 to 75 and subsections 150 (2), (3) and (4), is repealed.

Idem

(2) The title to the *Public Health Act* is repealed and the following substituted therefor:

LABORATORY AND SPECIMEN COLLECTION CENTRE
LICENSING ACT

Idem

(3) The following are repealed:

1. The *Sanatoria for Consumptives Act*, being chapter 463 of the Revised Statutes of Ontario, 1980.
2. The *Venereal Diseases Prevention Act*, being chapter 521 of the Revised Statutes of Ontario, 1980.
3. Section 2 of *The Borough of North York Act, 1977*, being chapter 95.
4. *The Borough of Etobicoke Act, 1980*, being chapter 92.

Commence-
ment

112. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

113. The short title of this Act is the *Health Protection and Promotion Act, 1983*.