



A GUIDE TO THE HEALTH PROTECTION ACT AND REGULATIONS

Fall 2005



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INTRODUCTION

Purpose

This guide provides health professionals and others who have responsibilities under the Health Protection Act and Regulations with basic information in an easy-to-use format.

It provides an overview only. It is not intended to be a complete description or to replace reading the statute and regulations or seeking advice from a lawyer.

Amendments may be made to the legislation or to the regulations after the publication of this guide; therefore, it is important to refer to the most recent official version of the legislation which can be found on the Nova Scotia government website.

What the Health Protection Act is / does

- The Health Protection Act provides the legal framework enabling public health officials to protect the public and to prevent, detect, manage, and contain health threats without unduly interfering with civil rights and liberties
- deals with notifiable diseases or conditions, communicable diseases, health hazards, public health emergencies, and food safety
- lays out the duties and responsibilities of public health officials and of the ministers responsible
- is consistent with the health protection aspects of public health legislation in other provinces and territories
- accords sufficient weight to ethical values especially individual liberty, protection of the public from harm, reciprocity, and privacy and confidentiality of health information.

What the Health Protection Act does not do

- The Health Protection Act does not deal with health promotion or other public health functions
- provide a structure for the public health system
- cover all health hazards. There are many hazards to human health including occupational health and safety issues that are dealt with by other government departments including federal departments and agencies in addition to the provincial Department of Health

Layout of the Act

Table 1 shows the format and content of the Health Protection Act (HPA). The main points in the act will be briefly described.

Table 1 Format and Content of the Health Protection Act

| Part | Content | Section |
|------------------------------------|---|----------------|
| Introduction | Name of the Act Purpose Definitions | 1 to 3 |
| Part 1 Diseases and Health Hazards | Definitions | 4 |
| | Administration | 5 to 17 |
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| | Communicable Diseases | 32 to 52 |
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| | Power to Enter | 58 to 64 |
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Regulations

At the time of proclamation of the act, there are some new and some existing regulations in force. More will be written so it is important to refer to an appropriate up-to-date source for the latest information. The regulations provide more detail and some of them are referred to, where appropriate, in this guide.

CONTENT OF THE HEALTH PROTECTION ACT AND REGULATIONS

Introduction (Sections 1 to 3)

The formal name of the legislation is “An Act to Provide for the Protection of Health”. However, the less cumbersome name, the Health Protection Act (HPA), is used for easier reference.

Section (2) of the HPA makes a statement emphasizing the balance between individual rights and the public good.

Restrictions on private rights and freedoms arising as a result of the exercise of any power under this Act shall be no greater than are reasonably required, considering all of the circumstances, to respond to a health hazard, notifiable disease or condition, communicable disease or public health emergency.

Definitions appear in various parts of the act. Only select definitions are referred to in this guide, such as “health hazard” and “premises”.

Part 1: Diseases and Health Hazards

Part 1 of the act falls under the Minister of Health, while the Minister of Agriculture and Fisheries is responsible for Part 2.

Definitions

- The term “**institution**” includes a broad range of facilities such as a hospital, child-caring facility, a day care, a school, a correctional facility and a youth custody facility. Of special note, it also includes any place where supervisory or personal care is provided to individuals for compensation.
- The term “**personal services facility**” is used to describe a place where a tattooist, a barber or hairdresser, a cosmetologist, esthetician, pedicurist, or a person doing body piercing carry out their business.
- A **public health emergency** exists when a threat to health is serious and imminent. This threat is related to either a dangerous disease or a health hazard. An example would be a SARS outbreak.

Administration

Minister of Health

The Minister of Health must do a number of things under the act, while other things may be done at the discretion of the minister.

The Minister must do the following:

- appoint staff such as medical officers of health (including the Chief and Deputy Chief), and designate public health nurses and public health inspectors and decide what qualifications, skills, and standards these staff must meet
- designate these staff with specific authority under the act
- publish guidelines, standards, and targets for health protection programs and require district health authorities to comply
- provide an annual report to the legislature on health protection issues
- report to the legislature on the response to a public health emergency, if one were to occur

In addition to the things that the Minister must do as noted above, he or she may also:

- provide direction to the Chief Medical Officer of Health (CMOH) or to District Health Authorities (DHAs) or institutions regarding notifiable diseases and health hazards
- enter into agreements with other jurisdictions and organizations
- establish appropriate public health laboratory services
- provide a publicly funded immunization program, including deciding which vaccines and which individuals will be included in the program
- declare a public health emergency upon the recommendation of the CMOH (see public health emergency section for more details)
- make recommendations to the Minister responsible for the Emergency Measures Act on issues around public health emergencies that should be included in emergency measures plans required under the act
- Order a general immunization program in the province or any part of the province where a public health emergency has been declared for the purpose of preventing the spread of communicable disease.

Medical Officers of Health (MOH)

The Chief Medical Officer, the Deputy Chief Medical Officer and medical officers are physicians specifically trained in public health. They have considerable responsibility and authority under the act and are accountable to the Minister. They are commonly known as medical officers of health.

Chief Medical Officer of Health (CMOH)

The Chief Medical Officer of Health receives direction from the Minister of Health and has the following responsibilities under the act:

- directs and monitors the work of the Deputy Chief Medical Officer of Health and medical officers of health
- carries out epidemiological investigations related to communicable diseases, notifiable diseases, and health hazards
- develops a surveillance plan for notifiable diseases and conditions
- develops a communication plan
- provides the means so that an individual can take specific action to protect the health of the public, which they could not otherwise afford to do
- orders the control of vectors, which are responsible for transmitting communicable diseases
- can delegate his or her powers, duties, and functions to other public health staff such as the Deputy Chief Medical Officer, a medical officer, a public health nurse, or a public health inspector

Deputy Chief Medical Officer of Health (DCMOH)

- has the power of the Chief Medical Officer of Health when the Chief Medical Officer of Health is not available

Medical Officer of Health (MOH)

- directs the public health nurse and public health inspector when they are assisting him or her in enforcing the act and regulations
- assesses risks to the health of the public, may investigate potential risks to public health and take steps to decrease or eliminate the risk
- take reasonable action to protect public health anywhere in the province where there may be a risk, including issuing public advisories or bulletins - the medical officer of health must inform the Minister or the Deputy Minister either before taking action or as soon as possible after taking action

Information

MOHs require a broad range of information in order to investigate/assess and prevent risks to public health. A MOH may access or order data or records from all possible sources including other government departments, other levels of government, NGOs, hospitals, and Canadian Blood Services.

The information received by a MOH or a public health nurse or a public health inspector in the course of their work in its broadest sense must be carefully safeguarded.

The Confidentiality Regulations provide detail related to how the confidentiality of information is to be maintained. They define business and personal information and make it clear that the MOH must keep personal and business information that they receive by authority of the act in a secure location with access only by the MOH or staff authorized by the MOH.

There are some of exceptions to the points noted above:

- The CMOH may share information with other jurisdictions or parties when it is necessary to fulfill his or her duties. However, the Confidentiality Regulations require the CMOH to enter into an agreement with the other party so that the information is not further disclosed without the consent of the CMOH.
- A MOH may publicly release the identity of a person with a communicable disease as a last resort to protect public health.
- Information may be provided in court, etc., if the Minister directs.
- Where ordered by a Supreme Court Judge in a public inquiry

Health Hazards

A **health hazard** is defined as follows. It includes physical hazards such as substances, radiation, noise, vibration, and heat as well as the condition of premises. It also includes a broad range of hazards such as some plants, animals, and organisms (e.g., bacteria and viruses). In addition, an activity, such as tattooing, could be classified as a hazard if not conducted according to standards.

The term “health hazard” has purposefully been left non-specific in order to cover a broad range of threats to health, both those currently known as well as those yet unknown.

The HPA lays out how health hazards are dealt with in a generic way. The Health Hazard Regulations provide more detail. The contents of both the act and regulations are described below. In addition, there is regulation-making power for dealing with health hazards in specific settings, such as swimming pools and tattoo parlours.

The act allows for some specific health hazards to be made reportable to the MOH. The MOH can ask for reports in writing and may require the person who is felt to be responsible for a potential health hazard to provide information as part of the investigation that the MOH carries out.

After reviewing the report and other information, the MOH may decide that a health hazard does not exist. The reporting person will be informed of this decision.

If the MOH feels a health hazard or potential health hazard exists, he or she may conduct a risk assessment. This will be followed up with a management plan and a communication plan. If the issue is one in which another government department or jurisdiction has authority, then the MOH will refer the matter to the appropriate authority.

If the MOH believes that a health hazard exists and an order is necessary to deal with the health hazard, he or she may make an order. The order may be made against a person who owns or occupies a premises, or appears to be responsible for a health hazard. It is important to note that voluntary compliance is pursued before an order is written.

Orders may be wide ranging. Examples may include; ordering a premise vacated, removing a health hazard, or regulating the use of a premise. The action given in the order must be necessary to decrease the effect of or eliminate the health hazard.

If a health hazard exists and the management plan is not being followed, then the MOH can write an order that contains specific instructions or requirements for dealing with the health hazard.

If the order is not carried out the MOH can make arrangements to have the terms of the order carried out and may recover the costs from the person responsible.

A public health inspector has the same authority as a MOH to issue an order if a serious health hazard is identified and an order is necessary to deal with it and a MOH cannot be reached for direction. The order must be for the minimum action required to deal with the threat to public health and the MOH must be notified as soon as possible.

Any order may be appealed to the Minister within 10 days. The Minister's decision can then be appealed to the Supreme Court of Nova Scotia.

Notifiable Diseases or Conditions

The Reporting of Notifiable Diseases and Conditions Regulation lists the specific diseases or conditions that must be reported to a MOH.

These include

- communicable diseases such as measles
- dangerous diseases, which are a subset of communicable diseases and include Ebola, Lassa fever, Plague, Smallpox, SARS, Tuberculosis, other viral hemorrhagic fevers, and influenza virus of pandemic potential
- conditions that are of public health importance, such as vaccine-associated adverse events

There are several different groups of people who are required to report cases of notifiable disease to the MOH. The belief that a person may have a notifiable disease may come about either through examining the patient, a lab test, a biopsy or autopsy.

Persons required to report include

- physicians
- registered nurses
- medical laboratory technologists
- principal of a public school or operator of a private school
- administrator of an institution including Day Cares, universities and community colleges
- employees of Canadian Blood Services

In addition, physicians, registered nurses, or administrators of institutions are required to report any situation in which a disease is occurring more frequently than would normally be expected or in a rare or unusual form. This is designed to detect outbreaks and emerging infectious diseases.

A physician signing a death certificate is also required to report if the person who died had a notifiable disease or condition when they died. In addition, the Deputy Registrar General under the Vital Statistics Act is required to report when a death certificate indicates that the deceased person had a notifiable disease or condition at the time of death.

The reporter must provide the demographic, clinical, personal, and epidemiological details required by the MOH. All the details around reporting are contained in the Reporting of Notifiable Diseases and Conditions Regulations and the Nova Scotia Surveillance Guidelines for Notifiable Diseases and Conditions.

The report is made to the MOH who is assigned to the area where the reporting person works.

The MOH may request copies of class lists, absentee reports, daily logs, etc., from schools and day cares.

There are specific requirements for testing and reporting of HIV infection. These are outlined in the Reporting Requirements for HIV Positive Persons Regulations. These regulations also refer to several guidelines. See Appendix B for the list of guidance documents.

Communicable Diseases

This section describes how a medical officer of health deals with communicable diseases.

The MOH receives reports of either a notifiable disease or a condition reporting requirement or a report of something unusual. He or she must investigate these reports and take steps to control the disease and protect the public health using the **Nova Scotia Communicable Disease Manual** for guidance. The Chief Medical Officer of Health approves this manual.

Meanwhile, the physician reporting a communicable disease must take steps to prevent transmission of the disease while the MOH receives the report and starts the investigation. In addition, if a patient with a communicable disease is non-compliant with treatment, then his or her physician must report this the MOH.

As part of his or her investigation, the MOH may require a person associated with spreading a communicable disease to provide information on his or her activities. The MOH may also require anyone with knowledge of the situation to provide information on the suspected sources of the disease and on people who may have been exposed, i.e., contacts.

In specific situations if a MOH's recommendations are not followed and a MOH believes that

- there is a case of a communicable disease or a risk of an outbreak
- the situation presents a risk to public health and
- action is required to decrease the risk to the public

Then the MOH can write an order requiring a person to:

- be examined by a physician
- go into isolation or quarantine
- place himself under the care and treatment of a physician
- take steps so as not to expose others to infection including staying away from work or school

If the person fails to comply, the MOH may apply to the provincial court. The judge can order the person to be isolated, quarantined, examined, or treated. Police may be called upon to assist if required. A person can be detained for up to four months and then a further order is required. An order can be appealed to the Nova Scotia Court of Appeal.

If an individual who fails to comply with an order of the MOH is suffering from a dangerous disease and is a significant and imminent threat to public health, the MOH can apprehend and detain the individual for 72 hours while a court order is being sought.

The MOH can also write an order that may require other actions such as cleaning and disinfecting premises, destroying something that is associated with a risk of disease transmission, or closing a premise.

The MOH may also direct a school principal, a day care administrator and other institutional administrators to refuse a person who has a case of a communicable disease or who has been in contact with a communicable disease from attending the facility.

A MOH can also prohibit public gatherings if necessary to prevent transmission of a communicable disease.

If a possible outbreak is identified, the MOH must investigate and take steps to manage the outbreak. This may include advising others of the necessary measures required to prevent further illness.

As part of the investigation process, the MOH may require a laboratory to transmit specimens to a public health laboratory for further analysis.

To prevent communicable disease, the Minister can order an immunization program.

The MOH also directs the handling of the body of a person who died of a dangerous disease to protect others from infection. In general, no body can be disinterred, transported, and reburied without the permission of the Attorney General or the MOH. Burial regulations (in development) and the document entitled *Guidance for Handling Human Remains with Communicable Diseases* will provide more information for funeral directors and public health officials on this topic.

Public Health Emergency

In the act, a public health emergency is defined as an imminent and serious threat to public health that is posed by a dangerous disease or health hazard.

It is important to note that under the act a **dangerous disease** includes:

- Ebola
- Lassa fever
- Plague
- Smallpox
- Severe acute respiratory syndrome (SARS)
- Tuberculosis
- Or any other communicable disease designated as a dangerous disease under the regulations, e.g., influenza virus of pandemic potential

The Chief Medical Officer of Health is responsible to assess whether or not a public health emergency exists. If he or she believes a public health emergency exists and that special measures are required to respond to the public health emergency, then the CMOH recommends to the Minister that a public health emergency be declared in all of the province or only part of

the province. This declaration then allows the CMOH to implement special measures. These measures might include (but are not limited to):

- implementing an immunization program; note that there is no ability to implement mandatory immunization in Nova Scotia even in a public health emergency
- setting priorities for which individuals or groups should receive active and passive immunizing agents (i.e. vaccines and immune globulins), drugs, medical supplies or equipment
- closing a public place such as a school or other place where the public gathers
- limiting access to certain parts of the province
- evacuating people from a certain part of the province
- installing facilities or other relevant construction work including sanitary facilities
- procuring first right, at a reasonable cost, to active and passive immunizing agents, drugs, medical supplies, equipment from any organization or corporation and confiscating the items if needed from wholesalers, District Health Authorities, and pharmacies, physicians, institutions, etc.

In addition to the above list, the CMOH can take any other measure he or she reasonably believes is necessary.

When the CMOH believes the public health emergency is over, he or she advises the Minister who then declares it over.

The Minister may order that a premise be used as an isolation or quarantine facility. If the owner does not co-operate, a judge of the Supreme Court of Nova Scotia can order that a peace officer ensure the premise is in the possession of the Minister or his or her designate. When the Minister no longer requires the premise, he or she will ensure it is cleansed and disinfected and restored to the same state as before he or she took possession. The owner will be compensated.

The Minister can assist individuals with the cost of complying with special measures required during a public health emergency.

During a public health emergency, a MOH may do what is reasonably required to deal with the public health emergency. This includes entering a dwelling without a warrant (See also Power of Entry section).

Note that the Minister may make recommendations to the Minister responsible for the Emergency Measures Act about public health issues that should be included in emergency measures plans required under the act.

Power to Enter

To investigate potential health hazards and communicable diseases and to administer or determine compliance with the act or regulations, a MOH may need to enter a premise or a dwelling.

Note the distinction between a **premise** and a **dwelling**. A premise includes lands, structures, and conveyances but does not include a dwelling, which is where people live.

Entering a premise

A MOH can enter a premise at any reasonable time. Once inside he or she can do a number of things such as inspect, examine, analyze, test, take samples, collect information, take pictures, use machinery, excavate, etc. He or she can also require a person to provide information, or records including personal information, personal health information and proprietary or business information.

If the owner or occupier of the premises is not co-operative or cannot be located, the MOH can seek a warrant from a justice of the peace who can consider the request even if the owner isn't present or has not received notice of the request. The justice of the peace can then issue a warrant so that the necessary actions can occur. The warrant can be carried out by the MOH, public health inspector, public health nurse, or any person acting under the direction of the MOH. They can call upon police officers to assist them.

Entering a dwelling

A MOH may enter and inspect a dwelling with the consent of the owner or occupier of the dwelling. If entry is refused, the owner is absent, or the dwelling is unoccupied, the MOH may seek a warrant in the same manner as for a premises.

During a public health emergency

A MOH may enter a dwelling without a warrant and take such action as he or she believes necessary to deal with a public health emergency.

Role of the public health inspector

A public health inspector has the same power as a MOH:

- to enter premises (other than a dwelling) at a reasonable time
- enter a dwelling with permission
- carry out a number of functions such as inspection, examination etc.
- apply to a justice of the peace for a warrant
- act under a warrant

In a public health emergency, the public health inspector also has the same power as a MOH, if the MOH has authorized the public health inspector or the public health inspector believes the action is necessary and he cannot locate a MOH

- to enter and inspect premises and dwellings at any time without a warrant
- take such actions as he believes necessary to prevent, control or deal with a public health emergency

Role of the public health nurse

Note that a public health nurse does not have all the powers of a public health inspector.

A public health nurse has the same power as a MOH to

- enter any premises other than a dwelling at a reasonable time in order to inspect, investigate, examine, test, analyze, or inquire
- enter a dwelling with consent
- require any person to provide personal information including personal health information or business information or to produce records or documents
- copy the information or take it to copy and retain as evidence

Assistance

A MOH, public health nurse, or public health inspector can ask a police officer for assistance if required.

General

This part of the act deals with some specific legal issues including:

- designation and certificates from an analyst
- penalties for offences under the act
- prohibiting the sale of vaccines and immune globulins that are provided free of charge
- regulation-making powers

Part II: Food Safety

Part II of the Health Protection Act deals with food safety. This part is the responsibility of the Minister of Agriculture and Fisheries rather than the Minister of Health.

The Minister has the authority to delegate the responsibility for food safety activities to an Administrator and inspectors.

The Administrator must hold a Certified Public Health Inspector designation from the Canadian Institute of Public Health Inspectors. The Administrator is responsible for issuing permits and also has the authority to suspend or revoke a food establishment permit.

There are typically four conditions under which the Administrator may revoke or suspend a permit. These are:

- a. Past conduct of the applicant gives reason that the future operation of a food establishment wouldn't be in adherence to the regulation.
- b. The applicant does not or will not have the proper facility and equipment needed to operate a food establishment.
- c. The applicant is not complying or can not comply with the regulations.
- d. The operation of the food establishment is or will be a risk to human health.

The Administrator will work very closely with the MOH if a food related health hazard exists or may exist.

Any applicant has the right of appeal to the Minister if the Administrator refuses to grant a permit or has suspended or revoked a permit.

The Administrator may designate classes of food establishments that require permits. Typical classes are for restaurants, grocery stores, temporary food services events and mobile food establishments.

This Part also identifies that food establishments must be constructed and maintained so that no conditions exist that may put human health at risk. The Act also requires that food establishments have appropriate maintenance, cleaning and sanitation programs to prevent contamination.

These are specific regulations concerning the sale of food, requiring that unwholesome, stale or decayed food cannot be sold and, if found, that an inspector may seize and destroy foodstuff. This part also makes it illegal for any person with a disease previously identified in the Act and regulations to work in the specific aspect of the food industry.

The remainder of this Part addresses administration procedures and processes including the power of entry granted to inspectors and the Administrator, as well as the ability of the government to make many types of regulations respecting the sale and production of food.

SUMMARY

The Health Protection Act provides Nova Scotians with contemporary public health legislation. It is designed to protect the health of the public while at the same time safeguarding individual rights.

The legislation allows public health officials to deal with the known threats to public health and has sufficient flexibility to protect against emerging issues.

There is also comprehensive regulation making power.

Appendix A List of Notifiable Diseases and Conditions

Dangerous diseases specified in Act

All diseases specified in clause 4(c) of the Act which include:

Ebola
Lassa fever
Plague
Smallpox
Severe acute respiratory syndrome (SARS)
Tuberculosis

Dangerous diseases designated by regulations

Crimean congo hemorrhagic fever
Influenza virus of pandemic potential
Marburg hemorrhagic fever
Viral hemorrhagic fevers – other

Other communicable diseases

Acquired immunodeficiency syndrome (AIDS)
Acute flaccid paralysis (AFP)
Amebiasis
Anthrax
Botulism
Brucellosis
Campylobacteriosis
Chancroid
Chlamydia
Cholera
Congenital rubella syndrome
Creutzfeld-Jakob disease- classic (CJD)
Creutzfeld-Jakob disease- new variant (vCJD)
Cryptosporidiosis
Cyclosporiasis
Diphtheria
Encephalitis (viral)
Giardiasis
Gonorrhea
Group A streptococcal disease invasive
Group B streptococcal disease of the newborn
Haemophilus influenzae type b (HIB) invasive disease
Hantavirus pulmonary syndrome (HPS)
Hepatitis A
Hepatitis B
Hepatitis C
Hepatitis D
Hepatitis E
Human immunodeficiency virus (HIV)
HTLV I & II
Human granulocytic ehrlichiosis (HGE)
Influenza laboratory confirmed
Legionellosis

Leprosy (Hansen's disease)
Listeriosis
Lyme disease
Lymphogranuloma venereum
Malaria
Measles
Meningitis (bacterial)
Meningitis (viral)
Meningococcal disease invasive
Methicillin resistant staphylococcus aureus (MRSA)
Mumps
Paratyphoid
Pertussis
Pneumococcal disease invasive
Poliomyelitis
Q Fever
Rabies
Relapsing fever
Respiratory outbreaks in long term care facilities
Rocky Mountain spotted fever
Rubella
Salmonellosis
Shellfish poisoning (amnesic)
Shellfish poisoning (domoic)
Shellfish poisoning (paralytic)
Shigellosis
Syphilis
Tetanus
Toxoplasmosis
Trichinellosis
Tularemia
Typhoid
Vancomycin resistant enterococcus (VRE)
Verotoxigenic escherichia coli Infection
West Nile virus (WNV)
Yellow fever
Yersiniosis

Non-communicable Diseases and Conditions

Vaccine associated adverse events (VAAE)

Appendix B
List of Guidance Documents related to the Health Protection Act and Regulations

| Regulation | Reference | Guidance Document |
|---|--|---|
| Reporting of Notifiable Diseases and Conditions Regulations | S2(1)(b) S5 | Nova Scotia Surveillance Guidelines for Notifiable Diseases and Conditions |
| Communicable Disease Regulations | S2(1)(f) S3(3) | Nova Scotia Communicable Disease Manual |
| Reporting of HIV Positive Persons Regulations | | |
| | Pre-test Counselling Guidelines (Part II, Section 5(1)) | <u>For physicians:</u> Canadian Medical Association Counselling Guidelines for HIV Testing, 1995. www.cma.ca/cpgs.hiv/prelim.htm |
| | Post-test Counselling Guidelines (Part II, Section 6(1) & (2)) | <u>For counselors:</u> Nova Scotia Department of Health Guidelines for pre- and post- test counselling in Anonymous HIV Antibody Testing April, 1994 |
| | Occupational Exposure Counselling Guidelines (Part II, Section 5(2)) and (Part II, Section 6(2)) | An Integrated Protocol to Manage Health Care Workers Exposed to Bloodborne Pathogens CCCR Supplement Vol. 23S2 March, 1997 www.hc-sc.gc.ca/hpb/lcdc/publicat/pathogms/index.html |
| | Partner Notification Guidelines (Part V, Section 9(a,c)), and (Part V, Section 10(a,b)) | Guidelines for Practice For Partner Notification in HIV/AIDS: Report of the F/P/T/ Advisory Committee on HIV/AIDS, Jan, 1997 www.clearinghouse.cpha.ca/pubs/ch/partner_e.htm |
| | Epidemiological Reporting Guidelines (Part III, Section 7(2)) (Part III, Section 8(1) & (2)) and (Part IV, Section 8(2)) | Nova Scotia Department of Health's Procedures and Protocols for Anonymous HIV Testing, April, 1994 |

Appendix C Roles and Responsibilities of Public Health Professionals

Chief Medical Officer of Health (CMOH)

The Chief Medical Officer of Health (CMOH) is appointed by the Minister of Health who establishes the qualifications, skills and standards required. [S6(1) (a) and (b)]. The CMOH must be a physician. [S6(3)]

Roles and Responsibilities:

In addition to the duties of a medical officer of health, the Chief Medical Officer of Health

- Directs and monitors the work of the Chief Medical Officer and medical officers of health. [S10]
- Carries out epidemiological investigations related to communicable diseases, notifiable diseases and health hazards. [S13]
- Develops a surveillance plan for notifiable diseases and conditions. [S14(1)(a)]
- Develops a communication plan and protocol. [S14(1)(b)]
- Provides the means so that an individual can take specific action in order to protect the health of the public, which they could not otherwise afford to do. [S12(a)]
- Orders the control of vectors, which are responsible for transmitting communicable diseases. [S12(b)]
- Can delegate his or her powers, duties and functions to other public health staff such as the deputy chief medical officer, a medical officer, a public health nurse or a public health inspector. [S9(1)]
- May give directions to the Deputy Chief Medical Officer of Health or the medical officers of health for the purpose of enforcing the Act or Regulations. [S9(2)]
- Has immunity for performance of any duty or any power exercised under this Act that has been exercised in good faith. [S12]
- May share with other jurisdictions or parties any information the CMOH considers necessary to carry out his or her functions and duties of the CMOH. [S15(2)]
- May recommend to the Minister that a public health emergency be declared in all or part of the province if a public health emergency exists and it cannot be mitigated or remedied without special measures. [S53(1)]
- Can implement a broad range of special measures when a public health emergency exists. [S53(2)]
- Advises the Minister when the public health emergency has ended. [S53(3)]

Deputy Chief Medical Officer of Health (DCMOH)

The Deputy Chief Medical Officer of Health (DCMOH) is appointed by the Minister of Health who establishes the qualifications, skills and standards required. [S6(1)(a) and (b)] The DCMOH must be a physician.

Roles and Responsibilities:

In addition to the duties of a MOH, the DCMOH acts as the CMOH when the CMOH is not available or is unable to act. [S9(3)]

Medical Officer of Health (MOH)

The medical officers of health are appointed by the Minister of Health who establishes the qualifications, skills and standards required. [S6(1)(a) and (b)]. MOHs must be physicians.

Roles and Responsibilities:

- Direct the public health nurse and public health inspector to assist him or her in enforcing the Act and Regulations. [S11]
- Has immunity for performance of any duty or any power exercised under this Act that has been exercised in good faith. [S12]
- Investigate any situation that may constitute a risk to public health and take action to decrease the risk. [S8(3)]
- Take reasonable action to protect the public health including issuing public advisories and bulletins and inform the Minister or Deputy Minister either before taking action or as soon as practicable after taking action. [S8(1) and (2)]
- Access data or records from many sources including hospital records. [S15(1) and S16(1) and (2)]
- Communicate to the public the identity of a person who has a communicable disease if necessary to protect public health. [S15(3)]
- Conduct risk assessments in relation to existing or potential health hazards. [S18(1)]
- Monitor and audit potential or existing health hazards. [S18(2)]
- Issue an order designed to address a health hazard. [S20 to 25]
- Develop risk management and risk communication plans. [Health Hazard Regulations]
- Receive and investigate reports of notifiable diseases and conditions. [Reporting of Notifiable Diseases and Conditions Regulations]
- Write an order to deal with a case or contact of a communicable disease or to prevent transmission of a communicable disease. [S32]
- Monitor the treatment and condition of a detained person and issue a certificate for release. [S43(3)]
- Direct access to and the handling and transport of the body of a person who died of a dangerous disease. [S51]
- Direct the disinterment, removal, transportation and reinterment of a human body. [S52]
- Enter any premise other than a dwelling at a reasonable time in order to investigate and manage a health hazard or communicable disease. [S58(1) (a) to (j)]
- Enter a dwelling with consent (without consent during a public health emergency) or with a warrant in order to investigate and manage a health hazard or communicable disease. [S58(3)]
- Take such action as the MOH reasonably believes is necessary to prevent, control or deal with a public health emergency. [S60(b)]

Public Health Inspector (PHI)

A public health inspector means a public health inspector designated under the act. [S3(g)]. Public health inspectors are designated by the Minister from among employees in the public service of the province or employees of the Government of Canada or the government of another province of Canada. [S6(1)(c)]. The Minister also sets the qualifications, skills and standards required to carry out their duties [S6(1)(d)].

Roles and Responsibilities:

- May be delegated the powers, duties, and functions of the CMOH [S9(1)]
- In a public health emergency, enter and inspect a premises or dwelling without a warrant [S(101)]
- Assist the MOH in enforcing the act and regulations [S11]
- Has immunity for performance of any duty or any power exercised under this act that has been exercised in good faith. [S12]
- Has the same power as MOH to make an order regarding a health hazard if he or she believes that a health hazard exists, an order is necessary to deal with the health hazard, and the health hazard will pose a serious threat to the public in the time it takes to contact the MOH and have the MOH issue the order. [S20(4), S25]. The order has to be the minimum necessary and the MOH has to be informed as soon as practicable. [S20(5) and (6)]
- Responsible for monitoring a person named in an order and report their condition to the medical officer of health. [S41(b)]
- Has the same power as a MOH under certain circumstances such as if the MOH has authorized it and if the public health inspector believes that immediate action is necessary and there is no time to locate a MOH. [S61(a)(b)]
- Investigate potential risks to public health
- When designated by a MOH be responsible for the monitoring of a person named in an order to deal with a communicable disease [S41(a)] and report to a MOH any and all information regarding the person named in a quarantine order
- May enter any premises, other than a dwelling at a reasonable time to administer or determine compliance with the act or regulations and may [S58(1), 61(d) and (b)]
 - Make any inspection, investigation, test MOH deems necessary
 - Require any substance, plant, animal to be produced for testing
 - Seize or take samples
 - Require any person to provide the MOH with documents including personal or proprietary or confidential business information
 - Take photographs or videotapes
- May enter and inspect a dwelling with consent [S58(3)]
- May use such reasonable force or obtain such assistance from a police officer or other person as he reasonably believes is necessary [S61(3) and S65(2)]

Public Health Nurse (PHN)

Under the act a public health nurse means a public health nurse employed by a district health authority, or any other individual designated as a public health nurse by the Minister. [S4(r)]. A public health nurse must be a duly qualified registered nurse. [S6(2)(d)(4)]

The Minister can designate a public health nurse from among employees in the public service of the province or employees of the Government of Canada or the government of another province of Canada. [S6(1)(c)].

The Minister sets the qualifications, skills, and standards required for designation.

Roles and Responsibilities:

A public health nurse

- Has immunity for performance of any duty or any power exercised under this act that has been exercised in good faith. [S12]
- Assists the MOH in enforcing the act and regulations. [S11]
- May be responsible for monitoring a person named in an order and reporting their condition to the medical officer of health. [S41(b)]
- A public health nurse who is investigating a suspected case of a communicable disease or exposure to a health hazard, has the same power as a MOH to [S61(2)]
 - enter any premises other than a dwelling at a reasonable time in order to inspect, investigate, examine, test, analyze, or inquire [S58 (1)(a)]
 - enter a dwelling with consent [S51(3)]
 - require any person to provide the public health nurse with personal information including personal information or business information or to produce records or documents [S58(1)(e)]
 - copy the information or take it to copy and retain as evidence [S58(1)(e)]
- A public health nurse can call for assistance from any constable, police officer, or peace officer. [S61(3)]