

1988 BILL 36

Third Session, 21st Legislature, 37 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 36

PUBLIC HEALTH AMENDMENT ACT, 1988

MR. DOWNEY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 36
Mr. Downey

BILL 36

1988

PUBLIC HEALTH AMENDMENT ACT, 1988

(Assented to _____, 1988)

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

- 1 *The Public Health Act is amended by this Act.*
- 2 *Section 1(h) is amended by adding "or 23(3)" after "17".*

- 3 *Section 8(1) is amended by striking out "and" at the end of clause (a), by adding "and" at the end of clause (b) and by adding the following after clause (b):*
 - (c) establish the name by which the local board of the health unit will be known.

- 4 *Section 10 is amended by adding the following after subsection (2):*
 - (3) An order disestablishing a health unit shall provide that the property of the local board remaining after the discharge of its obligations shall be distributed in accordance with the Minister's directions.

- 5 *Section 11(6) is amended by striking out "or any municipality within the health unit".*

- 6 *Section 21 is repealed and the following is substituted:*
 - 21(1)** Notwithstanding the *Medical Profession Act* and the *Pharmaceutical Association Act*, a community health nurse may provide preventive, treatment and emergency services permitted in the regulations.
 - (2) No liability attaches to a community health nurse by reason of any act done or omitted by the nurse in good faith in performing, in accordance with the regulations, any preventive, treatment or emergency services permitted in the regulations.

Explanatory Notes

- 1 This Bill will amend chapter P-27.1 of the Statutes of Alberta, 1984.
- 2 Section 1(h) presently reads:
 - 1 *In this Act,*
 - (h) *“executive officer” means a person designated as an executive officer under section 17, and includes a medical officer of health;*
- 3 Section 8(1) presently reads:
 - 8(1) *The order of the Lieutenant Governor in Council establishing a health unit shall*
 - (a) *establish the boundaries of the health unit and, where applicable, divide it into wards, and*
 - (b) *prescribe the date on which the health unit comes into operation.*
- 4 Section 10 presently reads:
 - 10(1) *The Lieutenant Governor in Council may alter the boundaries of a health unit and, where applicable, the boundaries of the wards.*
 - (2) *The Lieutenant Governor in Council may disestablish a health unit and the order shall provide for all matters pertaining to the winding-up of its affairs.*
- 5 Section 11(6) presently reads:
 - (6) *No employee of a local board or any municipality within the health unit may be appointed as a member of the local board.*
- 6 Section 21 presently reads:
 - 21(1) *A community health nurse may provide any treatment or emergency service provided for in the regulations.*
 - (2) *No liability attaches to a community health nurse by reason of an act of a preventive or emergency treatment nature done in good faith by the nurse in performing the duties that the nurse is authorized or required to perform under the regulations.*

7 *The following is added after Part 2:*

PART 2.1

FOUNDATIONS

22.1(1) A local board may by by-law establish a foundation.

(2) A by-law establishing a foundation after the coming into force of this subsection has no effect until a certified copy of the by-law is filed with the Minister.

(3) A foundation, on its establishment, is a corporation.

(4) A foundation consists of the following, who are the trustees of the foundation:

(a) the chairman of the local board;

(b) 2 persons who are members of the local board and are appointed by the local board;

(c) 2 persons who

(i) are residents of Alberta,

(ii) are not members of the local board, and

(iii) are appointed by the local board.

(5) Appointments referred to in subsection (4)(b) and (c) shall be made for terms not exceeding 3 years.

22.11 The trustees shall appoint a chairman of the foundation from among themselves.

22.2(1) The trustees may make by-laws governing the procedure and business of the foundation.

(2) Notwithstanding subsection (1), the trustees shall meet at least once a year on a date which, unless fixed by the by-laws, shall be fixed by the chairman of the foundation.

22.3 The objects of a foundation are

(a) to solicit and receive by gift, bequest, devise, transfer or otherwise, property of every nature and description,

(b) subject to any prior trust conditions imposed on the use of the property referred to in clause (a), to hold, use and administer the property generally for maintaining and enhancing the public health of the people in the health unit served by the local board and, in particular, to finance or assist in financing the construction, equipping, operation, maintenance and management of the local board's facilities, and

(c) to further public health education and health promotion in the health unit served by the local board.

22.4 A foundation may, subject to any prior trust conditions, transfer any of its property to the local board on any terms that it considers expedient.

22.5(1) The payment of any dividend or remuneration out of the funds of a foundation to any of the trustees is prohibited.

7 Local boards may establish foundations.

(2) A trustee may be reimbursed out of the funds of a foundation for the travelling and living expenses provided for in the by-laws that are necessarily incurred by him in the performance of his duties.

22.6(1) The fiscal year of a foundation shall be the same as that of the local board establishing it.

(2) A foundation shall prepare and, within 90 days after the end of each fiscal year, submit to the Minister an annual report, which shall include the audited financial statements and any other statements and reports that the Minister may require.

22.7 Notwithstanding anything in the *Trust Companies Act*, a foundation shall not be considered to be a trust company for the purposes of that Act.

22.8(1) A local board may not, except in accordance with this Part, establish a foundation that has as its objects any or all of the objects set out in section 22.3.

(2) No person shall operate a foundation, including a corporation established before the commencement of this section, that has as its objects any or all of the objects set out in section 22.3 without the consent of the Minister and except in accordance with any terms and conditions he prescribes.

22.9(1) In the event of the winding-up of a foundation, the property of the foundation shall be used

(a) firstly, in the payment of any costs incurred in the winding-up of the foundation,

(b) secondly, in the discharge of all liabilities of the foundation, and

(c) thirdly, to give effect, as far as possible, to any outstanding applicable trust conditions,

and the balance, if any, shall be disposed of in accordance with the regulations.

(2) A regulation referred to in subsection (1) must not be inconsistent with any trust condition under which the property is held.

8 *Section 23 is amended by adding the following after subsection (2):*

(3) The Minister may designate a person employed in the Department as an executive officer for the purposes of this Act.

9 *Section 31(1) and (2) are amended by adding “and comply with any other conditions prescribed” after “directed”.*

8 Minister may designate executive officers.

9 Section 31(1) and (2) presently read:

31(1) Every person who knows or has reason to believe that he is or may be infected with a communicable disease prescribed in the regulations for the purposes of this subsection shall immediately consult a physician to determine whether he is infected or not, and if he is found to be infected, shall submit to the treatment directed by the physician until the physician is satisfied that he is not infectious.

(2) Every person who knows or has reason to believe that he is or may be infected with a sexually transmitted disease prescribed in the regulations for the purposes of this subsection shall immediately consult a physician or attend a sexually transmitted disease clinic to determine whether he is

10 *Section 32 is repealed and the following is substituted:*

32 During a period in which a person or a minor under his custody, care or control is required by section 31 to submit to treatment or to comply with conditions, that person shall immediately notify the consulting physician, the clinic or the medical officer of health of the local board of any change in his address or the address of the minor, as the case may be.

11 *Section 49(1) is repealed and the following is substituted:*

49(1) Where a physician or community health nurse knows or has reason to believe that a person

(a) is infected with a disease prescribed in the regulations for the purposes of this section, and

(b) refuses or neglects

(i) to submit

(A) to a medical examination for the purpose of ascertaining whether or not he is infected with that disease, or

(B) to medical, surgical or other remedial treatment that has been prescribed by a physician and that is necessary to render the person non-infectious, or

(ii) to comply with any other conditions that have been prescribed by a physician as being necessary to mitigate the disease or limit its spread to others,

the physician or community health nurse shall immediately notify the medical officer of health in the prescribed form.

12 *Section 50(1) is amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following after clause (c):*

(d) for a physician to prescribe any other conditions necessary to mitigate the disease or limit its spread to others.

13 *Section 53(2) is repealed and the following is substituted:*

(2) Where a person who has been required to submit to treatment or comply with conditions following his release fails to undergo treatment or comply with the conditions, a medical officer of health may issue an order in the prescribed form to a peace officer or other person to apprehend that person and return him to the facility.

infected or not, and if he is found to be infected, shall submit to the treatment directed by a physician until the physician is satisfied that he is not infectious.

10 Section 32 presently reads:

32 Where a person or a minor child under his custody, care or control is required by section 31 to submit to treatment for a disease, that person shall immediately notify the consulting physician, the clinic or the medical officer of health of the local board of any change in his address or the address of the minor child, as the case may be, during the period of treatment.

11 Section 49(1) presently reads:

49(1) Where a physician or community health nurse knows or has reason to believe that a person is infected with a disease prescribed in the regulations for the purposes of this section and the person refuses or neglects to submit to

(a) a medical examination for the purpose of ascertaining whether or not he is infected with that disease, or

(b) medical, surgical or other remedial treatment that has been prescribed by a physician and is necessary to mitigate the disease,

the physician or community health nurse shall immediately notify the medical officer of health in the prescribed form.

12 Section 50(1) presently reads:

50(1) A certificate is authority

(a) for any peace officer to apprehend the person named in it and convey him to any facility specified by the medical officer of health within 7 days of the date the certificate is issued,

(b) for a physician to conduct an examination on that person in the manner prescribed in the regulations and to detain the person at the facility for the period required to obtain the result of the examination, and

(c) for any physician to treat or prescribe treatment for that person in order to render that person non-infectious, with or without the consent of the person, and to detain the person for that purpose.

13 Section 53(2) presently reads:

(2) Where a person who has been required to submit to treatment following his release fails to undergo treatment, a medical officer of health may issue an order in the prescribed form to a peace officer or other person to apprehend that person and return him to the facility.

14 *Section 54(1) is repealed and the following is substituted:*

54(1) Where

- (a) 2 physicians, or
- (b) 1 physician supported by a laboratory report demonstrating evidence of an infectious agent

certifies that a person is infected with an organism that produces a disease prescribed in the regulations for the purposes of this section and that the person refuses or neglects

- (c) to submit to medical, surgical or other remedial treatment, or
- (d) to comply with any other conditions

that have been prescribed by a physician as being necessary to mitigate that disease or to limit its spread to others, the physician or physicians shall each issue an isolation order in the prescribed form.

15 *Section 57(1) is repealed and the following is substituted:*

57(1) Any person who has reasonable and probable grounds to believe that a person

- (a) is infected with a disease prescribed in the regulations for the purpose of this section, and
- (b) refuses or neglects
 - (i) to submit
 - (A) to a medical examination for the purpose of ascertaining whether or not he is infected with the disease, or
 - (B) to medical, surgical or other remedial treatment that has been prescribed by a physician and that is necessary to render the person non-infectious, or
 - (ii) to comply with any other conditions that have been prescribed by a physician as being necessary to mitigate the disease or limit its spread to others,

may bring an information under oath before a provincial court judge.

16 *Section 72 is amended*

(a) by repealing subsections (1), (2) and (3) and substituting the following:

72(1) Where, after an inspection under section 69 or 70, the executive officer has reasonable and probable grounds to believe that a nuisance exists in or on the public place or private place that was the subject of the inspection or that the place or the owner of it or any other person is in contravention of this Act or the regulations, he may issue a written order in accordance with this section.

(2) An order shall be served on the person to whom it is directed and shall set out the reasons it was made, what the

14 Section 54(1) presently reads:

54(1) Where

(a) 2 physicians, or

(b) 1 physician supported by a laboratory report demonstrating evidence of an infectious agent

certifies that a person is infected with an organism that produces a disease prescribed in the regulations for the purposes of this section and refuses or neglects to submit to medical, surgical or other remedial treatment that has been prescribed by a physician as being necessary to mitigate the disease, the physician or physicians shall each issue an isolation order in the prescribed form.

15 Section 57(1) presently reads:

57(1) Any person who has reasonable and probable grounds to believe that a person

(a) may be infected with a disease prescribed in the regulations for the purpose of this section, and

(b) refuses or neglects to submit to

(i) an examination for the purpose of ascertaining whether or not he is infected with the disease, or

(ii) medical, surgical or other remedial treatment that has been prescribed by a physician and is necessary to render the person non-infectious,

may bring an information under oath before a provincial court judge.

16 Section 72 presently reads in part:

72(1) Where, after an inspection under section 69 or 70, the executive officer has reasonable and probable grounds to believe that a nuisance exists in or on the public place or private place that was the subject of the inspection or that the place or the owner of it is in contravention of this Act or the regulations, he may issue a written order in accordance with this section.

(2) An order shall be directed to and served on the owner and shall set out the reasons it was made, what the owner is required to do and the time within which it must be done.

(3) Where the order is directed to an owner who is not the registered owner, a copy of it shall also be served forthwith on the registered owner.

person is required to do and the time within which it must be done.

(3) Where the order is directed to a person who is not the registered owner, a copy of it shall also be served forthwith on the registered owner.

(b) in subsection (6) by striking out “on the owner”.

17 Section 73(7) and (8) are repealed and the following is substituted:

(7) Where an amount recovered under this section by a local board from a person other than the registered owner of the land to which the order relates is, as between that person and the registered owner, the responsibility of the registered owner, that person is entitled to recover the amount from the registered owner or to deduct the amount from any other amount due from him to the registered owner.

(8) Where an amount recovered under this section by a local board from the registered owner of land is, as between the registered owner and another person, the responsibility of that other person, the registered owner is entitled to recover the amount from that other person or to deduct the amount from any other amount due from him to that other person.

- (4) *An order may include, but is not limited to, provisions for the following:*
- (a) *requiring the vacating of the place or any part of it;*
 - (b) *declaring the place or any part of it to be unfit for human habitation;*
 - (c) *requiring the closure of the place or any part of it;*
 - (d) *requiring the doing of work specified in the order in, on or about the place;*
 - (e) *requiring the removal from the place or the vicinity of the place of anything that the order states causes a nuisance;*
 - (f) *requiring the destruction of anything specified in the order;*
 - (g) *prohibiting or regulating the selling, offering for sale, supplying, distributing, displaying, manufacturing, preparing, preserving, processing, packaging, serving, storing, transporting or handling of any food or thing in, on, to or from the place.*
- (5) *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 executive officer may issue the order orally.*
- (6) *As soon as is reasonably possible after issuing an oral order under subsection (5), the executive officer shall serve a written version of the order on the owner in accordance with subsections (2) and (3).*

17 Section 73 presently reads in part:

- (4) *Where a local board carries out an order under this section and the person to whom the order is directed fails, within 60 days after a demand for payment, to pay the expenses incurred by the local board, the secretary of the local board may transmit to the clerk of the municipality in which the land concerned is located a statement setting out*
- (a) *the amount of the expenses,*
 - (b) *the name of the registered owner of the land to which the order relates, and*
 - (c) *the location of the land to which the order relates.*
- (5) *On receipt of a statement under subsection (4), the municipality shall place the amount of the expenses incurred in carrying out the order on the tax roll as an additional tax against the land concerned and that amount*
- (a) *forms a lien on the land in favour of the municipality, and*
 - (b) *shall, for all purposes, be deemed to be taxes imposed and assessed on the land and delinquent under the Municipal Taxation Act from the date the expenses were incurred, and that Act and the Tax Recovery Act apply to the enforcement, collection and recovery of the amount.*
- (6) *Any amount collected by the municipality by virtue of subsection (5) shall be paid to the local board.*
- (7) *Where an amount recovered under this section by a local board from an occupier or other person in possession of land is, between the occupier or other person and the registered owner, the responsibility of the registered owner, the occupier or other person is entitled to recover the amount from the registered owner or to deduct the amount from any other amount due from him to the registered owner.*
- (8) *Where an amount recovered under this section by a local board from a registered owner of land is, between the registered owner and the occupier or other person in possession of the land, the responsibility of the occupier*

18 *Section 75(1) is amended*

(a) *by adding the following after clause (c.1):*

(c.2) respecting the immunization of children attending or wishing to attend a day care facility within the meaning of the *Social Care Facilities Licensing Act*;

(b) *in clause (e.1) by striking out “prescribing” and substituting “respecting the establishment of”;*

(c) *by repealing clause (l.1) and substituting the following:*

(l.1) respecting the manner in which and the terms and conditions subject to which a local board may acquire, hold and dispose of property and respecting the circumstances under which the acquisition, holding or disposition of property by a local board is prohibited;

(d) *by adding the following after clause (o.1):*

(o.2) governing the winding-up of a foundation under Part 2.1;

(e) *by adding the following after clause (p.1):*

(p.2) authorizing a local board to charge fees for goods and services provided by or on behalf of the local board in respect of its carrying out its duties and exercising its powers under this Act, and respecting the amounts of the fees that may be charged;

(f) *in clause (q) by adding “preventive,” before “treatment”.*

19 *Section 81 is amended by adding the following after subsection (3):*

(4) Where a person is convicted of an offence under this Act, the judge, in addition to any other penalty he may impose, may order the person to comply with the provision of this Act or the regulations or the order for the contravention of which he was convicted.

20 *The following is added after section 86:*

86.1(1) *Notwithstanding anything in this Act, the Minister may, in the manner and subject to any terms and conditions he considers appropriate, appoint the members of the local board of*

(a) *the Jasper National Park Health Unit, and*

(b) *the Banff National Park Health Unit.*

(2) *The Minister’s power to appoint members of a local board under subsection (1), and the terms of office of the members of a local board appointed pursuant to subsection (1), cease on the*

or other person, the registered owner is entitled to recover the amount from the occupier or other person or to deduct the amount from any other amount due from him to the occupier or other person.

18 Section 75(1) presently reads in part:

75(1) The Lieutenant Governor in Council may make regulations

(e.1) prescribing standards for food and providing for the destruction of any food that does not meet those standards;

(k) respecting the qualifications of persons employed as inspectors by local boards;

(l.1) providing that a local board may not act under section 16(2)(b) without the prior written consent of the Minister, and respecting the circumstances under which the local board may not so act;

(q) prescribing the treatment and emergency services that may be provided by a community health nurse for the purposes of section 21;

19 Section 81 presently reads:

81(1) A person who contravenes this Act, the regulations, an order under section 72 or an order of a medical officer of health or physician under Part 4 is guilty of an offence.

(2) A person who contravenes an order under section 72 or an order of a medical officer of health or physician under Part 4 is liable to a fine of not more than \$100 for each day the contravention continues.

(3) A person who contravenes this Act or the regulations is, if no penalty in respect of that offence is prescribed elsewhere in this Act, liable to a fine of not more than \$2000 in the case of a first offence and \$5000 in the case of a subsequent offence.

20 Appointment of local boards in national parks.

appointment under section 9(4) of a local board in respect of the health unit.

(3) The board of the Jasper National Park Health Unit established pursuant to Order in Council numbered OC 1527/59 and the board of the Banff National Park Health Unit established pursuant to Order in Council numbered OC 1526/59, as they have existed from time to time, are deemed to have been validly constituted.

21 Section 3 comes into force on Proclamation.

21 Coming into force.