

1998 BILL 38

Second Session, 24th Legislature, 47 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 38

PUBLIC HEALTH AMENDMENT ACT, 1998

THE MINISTER OF HEALTH

First Reading
Second Reading
Committee of the Whole
Third Reading
Royal Assent

BILL 38

1998

PUBLIC HEALTH AMENDMENT ACT, 1998

(Assented to _____, 1998)

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

Amends SA
1984 cP-27.1

1 The *Public Health Act* is amended by this Act.

2 Section 1 is amended

(a) **in clause (a.1) by striking out** “Public Health Advisory and Appeal Board” **and substituting** “Public Health Appeal Board”;

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

(b.2) “Chief Medical Officer” means the Chief Medical Officer of Health appointed by the Minister under section 22.01;

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

(e.2) “Deputy Chief Medical Officer” means the Deputy Chief Medical Officer of Health appointed by the Minister under section 22.01;

(d) **by repealing clause (f);**

(e) **by repealing clause (h) and substituting the following:**

(h) “executive officer” means an executive officer within the meaning of section 17 or 23;

Explanatory Notes

1 Amends chapter P-27.1 of the Statutes of Alberta, 1984.

2 Section 1 presently reads in part:

1 In this Act,

(a.1) "Board" means the Public Health Advisory and Appeal Board established under section 2;

(f) "Director" means a Director appointed by the Minister for the purposes of Part 4;

(h) "executive officer" means a person designated as an executive officer under section 17 or 23(3), and includes a medical officer of health;

(o) "medical officer of health" means a physician appointed by a regional health authority or designated by the Minister under this Act as a medical officer of health;

(u) "public place" includes any place in which the public has an interest arising out of the need to safeguard the public health and includes, without limitation,

(i) public conveyances and stations and terminals used in connection with them,

(ii) places of business and places where business activity is carried on,

(iii) learning institutions,

(f) in clause (o) by adding “, and includes the Chief Medical Officer and the Deputy Chief Medical Officer” at the end of the clause;

(g) by adding the following after clause (s):

(s.1) “prescribed”, with respect to a form, means a form that

(i) is in the form prescribed in the regulations, or

(ii) is in a form approved by the Chief Medical Officer, where no form has been prescribed in the regulations;

(h) in clause (u)(viii) by adding “including all rental accommodation,” after “accommodation facilities,”.

3 The heading preceding section 2 is repealed and the following is substituted:

PART 1

PUBLIC HEALTH APPEAL BOARD

4 Section 2 is amended

(a) by repealing subsection (1) and substituting the following:

Board
established

2(1) There is hereby established a Public Health Appeal Board consisting of not more than 5 members who shall be appointed by the Lieutenant Governor in Council.

(b) in subsection (8) by striking out “At least ½ of the members appointed” and substituting “Three members”;

(c) by repealing subsection (9) and substituting the following:

(9) The Board shall meet at the call of the chairman or on a resolution of the Board.

(d) in subsection (12) by striking out “required by” and substituting “for”;

- (iv) *institutions,*
- (v) *places of entertainment or amusement,*
- (vi) *places of assembly,*
- (vii) *dining facilities and licensed premises,*
- (viii) *accommodation facilities,*
- (ix) *recreation facilities,*
- (x) *medical, health, personal and social care facilities,
and*
- (xi) *any other building, structure or place visited by or
accessible to the public;*

3 Change in name of Board.

4 Section 2 presently reads in part:

2(1) There is hereby established a Public Health Advisory and Appeal Board consisting of not fewer than 7 but not more than 11 members who shall be appointed by the Lieutenant Governor in Council.

(8) At least ½ of the members appointed constitutes a quorum at a meeting of the Board.

(9) The Board shall meet at the request of the Lieutenant Governor in Council, at the call of the chairman and at the times fixed by resolution of the Board.

(12) The Minister may provide clerical and secretarial services required by the Board.

(e) by adding the following after subsection (12):

(13) Notwithstanding section 81.1(1)(a) of the *Financial Administration Act*, the Public Health Appeal Board continues after January 1, 1999.

5 Section 3 is repealed and the following is substituted:

Duties of
Board

3(1) The Board shall hear appeals pursuant to section 4.

(2) The Board may engage the services of persons having special technical, professional or other knowledge to assist it in the hearing of appeals.

6 Section 6(1) is repealed and the following is substituted:

5 Section 3 presently reads:

3(1) The Board

- (a) shall advise the Minister on matters pertaining to the public health;*
- (b) shall, on being requested to do so by the Minister,*
 - (i) make investigations or inquiries into,*
 - (ii) collect information relating to, or*
 - (iii) conduct research into*
any matter relating to the public health, and make its report in the manner and at the time specified by the Minister;
- (c) shall, on being requested to do so by an order of the Lieutenant Governor in Council, hold public hearings for the purpose of receiving submissions on matters pertaining to the public health specified in the order, and make its report to the Minister in the manner and at the time specified in the order;*
- (d) may engage the services of persons having special technical, professional or other knowledge in connection with an investigation, inquiry, research or public hearing it conducts;*
- (e) shall hear appeals pursuant to section 4.*

(2) The Minister may from time to time authorize the payment of sums of money to the Board to obtain supplies and services that in his opinion are required by it to exercise any powers and to perform any of the duties and functions under subsection 1(b), (c) and (d).

6 Section 6(1) presently reads:

6(1) The Board shall make a report in each year to the Minister

Annual report

6(1) The Board shall make a report in each year to the Minister summarizing generally its activities and affairs in the preceding year.

7 Section 17 is amended by adding the following after subsection (2):

(3) A person who is appointed as a medical officer of health under this section is, by virtue of the appointment, also an executive officer.

8 The following is added after section 22:

Chief Medical Officer

22.01(1) The Minister may appoint a person as Chief Medical Officer of Health and a person as Deputy Chief Medical Officer of Health for the purposes of this Act.

(2) The Deputy Chief Medical Officer may act in the place of the Chief Medical Officer during the Chief Medical Officer's temporary absence or temporary inability to act.

(3) The Chief Medical Officer may in writing delegate to the Deputy Chief Medical Officer any power, duty or function conferred or imposed on the Chief Medical Officer under this Act or the regulations.

Powers of Chief Medical Officer

22.02(1) The Chief Medical Officer

- (a) shall, on behalf of the Minister, monitor the health of Albertans and make recommendations to the Minister and regional health authorities on measures to protect and promote the health of the public and to prevent disease and injury,
- (b) shall act as a liaison between the Government and regional health authorities, medical officers of health and executive officers in the administration of this Act,
- (c) shall monitor activities of regional health authorities, medical officers of health and executive officers in the administration of this Act, and

(a) *summarizing generally its activities and affairs in the preceding year, and*

(b) *containing any report made by it under section 3(1)(b) or (c) during the preceding year.*

7 Section 17 presently reads:

17(1) A regional health authority shall appoint a person as a medical officer of health and persons as executive officers for the regional health authority for the purpose of carrying out this Act and the regulations.

(2) The Minister may appoint a person as a medical officer of health for a regional health authority if the regional health authority fails to do so.

8 Chief Medical Officer of Health, Deputy Chief Medical Officer of Health and their powers.

- (d) may give directions to regional health authorities, medical officers of health and executive officers in the exercise of their powers and the carrying out of their responsibilities under this Act.

(2) Where the Chief Medical Officer is of the opinion that a medical officer of health or executive officer is not properly exercising powers or carrying out duties under this Act in respect of a matter, the Chief Medical Officer may assume the powers and duties of the medical officer of health or executive officer in respect of the matter and act in that person's place.

(3) Where the Chief Medical Officer decides to act under subsection (2), the Chief Medical Officer shall forthwith give a notice in writing setting out the reasons why the Chief Medical Officer has so decided to

- (a) the medical officer of health or executive officer,
- (b) where applicable, the regional health authority by whom the medical officer or executive officer is employed or for whom the medical officer of health or executive officer acts as agent, and
- (c) the Minister.

Diseases
under
surveillance

22.03(1) Where

- (a) a disease is not prescribed as a notifiable disease under the regulations, and
- (b) the Chief Medical Officer considers that it is advisable to keep the disease under surveillance in order to assess the impact of the disease and the need for further intervention under this Act,

the Chief Medical Officer may by notice in writing require a medical officer of health, a physician or a director of a laboratory to provide to the Chief Medical Officer at the times and in the manner set out in the notice any information in respect of the disease that is set out in the notice.

(2) A person who receives a notice under subsection (1) shall comply with it.

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

(2.1) A person who is designated as a medical officer of health under subsection (2) is, by virtue of the appointment, also an executive officer.

10 The following is added after section 30:

Provision of information

30.1(1) Where a medical officer of health reasonably believes that a person has engaged in or is engaging in any activity that is causing or may cause a threat to the health of the public or a class of the public, the medical officer of health may by notice in writing require the person to provide to the medical officer of health within the time specified in the notice any information respecting the activity that is specified in the notice.

(2) A person who receives a notice under subsection (1) shall comply with it.

11 The heading “Notification” preceding section 31 is repealed.

12 The following is added before section 31:

Information to medical officer of health

30.2(1) Where a medical officer of health knows or has reason to believe

(a) that a person suffering from a communicable disease is or may be in or has frequented or may have frequented a public place, or

(b) that a public place may be contaminated with a communicable disease,

the medical officer of health may by notice in writing to the person in charge of the public place require that person to provide to the medical officer of health within the time specified in the notice any information relating to the public place, the person and the communicable disease that is specified in the notice.

9 Section 23 presently reads:

23(1) Repealed 1996 c31 s13.

(2) The Minister may designate a physician as a medical officer of health for the purpose of Part 4.

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

10 Provision of information to medical officer of health.

11 Unnecessary heading deleted.

12 Requirement to provide information to medical officer of health.

- (2) A person who receives a notice referred to in subsection (1) shall comply with it.

13 The following is added after section 34:

Submission of
specimens to
Provincial
Laboratory

34.1 Where examination of a specimen at a laboratory indicates the existence or possible existence of a communicable disease prescribed in the regulations for the purposes of this section, the director of the laboratory conducting the examination shall ensure that a sample, together with a description of the type of examination that was carried out, is provided to the Provincial Laboratory of Public Health in accordance with the regulations.

14 Section 39(1) is repealed and the following is substituted:

Isolation and
quarantine

39(1) A medical officer of health who knows of or has reason to suspect the existence of a communicable disease within the boundaries of the health region in which the medical officer of health has jurisdiction may initiate an investigation to determine whether any action is necessary to protect the public health.

(1.1) Where the investigation confirms the presence of a communicable disease, the medical officer of health

- (a) shall carry out the measures that the medical officer of health is required by this Act and the regulations to carry out, and
- (b) may do any or all of the following:
 - (i) take whatever steps the medical officer of health considers necessary
 - (A) to suppress the disease in those who may already have been infected with it,
 - (B) to protect those who have not already been exposed to the disease,
 - (C) to break the chain of transmission and prevent spread of the disease, and

13 Submission of specimens to Provincial Laboratory.

14 Section 39(1) presently reads:

39(1) A medical officer of health who knows of or has reason to suspect the existence of a communicable disease within the boundaries of the health region in which he has jurisdiction may

- (a) initiate an investigation to determine whether any action is necessary to protect the public health, and*
- (b) where the presence of a communicable disease is confirmed, carry out any measures prescribed in the regulations in respect of that communicable disease.*

(D) to remove the source of infection;

(ii) by order

(A) prohibit a person from attending a school,

(B) prohibit a person from engaging in the person's occupation, or

(C) prohibit a person from having contact with other persons or any class of persons

for any period and subject to any conditions that the medical officer of health considers appropriate, where the medical officer of health determines that the person's engaging in that activity could transmit an infectious agent;

(iii) issue written orders for the decontamination or destruction of any bedding, clothing or other articles that have been contaminated or that the medical officer of health reasonably suspects have been contaminated.

(1.2) A medical officer of health shall forthwith notify the Chief Medical Officer of any action taken under subsection (1.1)(b).

15 Section 63 is amended

(a) **in subsection (1) by striking out** "the Director" **and substituting** "the Chief Medical Officer or by a regional health authority or an employee or agent on its behalf" **and by striking out** "or the *Venereal Diseases Prevention Act*";

(b) **in subsection (2) by striking out** "the Director" **wherever it occurs and substituting** "the Chief Medical Officer";

(c) **in subsection (3) by striking out** "the Director" **and substituting** "the Chief Medical Officer or by a regional health authority or an employee or agent on its behalf";

(d) **in subsection (4) by striking out** "by the Director may be disclosed by the Director" **and substituting** "by the

15 Section 63 presently reads in part:

63(1) Information contained in any file, record, document or paper maintained by the Director that comes into existence through anything done under this Part or the Venereal Diseases Prevention Act and that indicates that a person is or was infected with a communicable disease shall be treated as private and confidential in respect of the person to whom the information relates and shall not be published, released or disclosed in any manner that would be detrimental to the personal interest, reputation or privacy of that person.

(2) For the purposes of assessing and improving the standards of care furnished to persons suffering from communicable diseases, compiling statistics with respect to communicable diseases, conducting research into communicable diseases, or for any reason relating to communicable disease which the Director considers to be in the interest of protecting the public health, the Director may require any physician or health practitioner to furnish him with the following information:

Chief Medical Officer or by a regional health authority or an employee or agent on its behalf may be disclosed by the Chief Medical Officer or the regional health authority, employee or agent”.

16 Section 69(2) is amended by adding the following after clause (b):

- (b.1) make reasonable oral or written inquiries of any person who the executive officer believes on reasonable grounds may have information relevant to the subject-matter of the inspection;

- (a) *a report containing the name and address of any patient of that physician or health practitioner who is, was or may have been suffering from a communicable disease and a description of the diagnostic and treatment services provided to him;*
 - (b) *medical or other records, or extracts or copies thereof, in respect of that patient and in the possession of the physician or health practitioner.*
- (3) *Information obtained by the Director pursuant to this section shall be treated as private and confidential and, subject to subsection (4), shall not be published, released or disclosed in any manner that would be detrimental to the personal interest, reputation or privacy of the patient.*
- (4) *Information obtained by the Director may be disclosed by the Director*
- (a) *to any person when required by law;*
 - (b) *to the person to whom the information relates or his legal representative;*
 - (c) *in statistical form if the person to whom it relates is not revealed or made identifiable;*
 - (d) *to a person conducting bona fide research or medical review if the disclosure is made so as to ensure confidentiality of the information;*
 - (e) *to a person or body conducting an investigation or disciplinary proceedings pursuant to legislation governing a profession or occupation that is specified in the regulations when*
 - (i) *the information is requested by the person or body in accordance with the procedure governing the investigation or disciplinary proceedings, and*
 - (ii) *the person to whom the information relates consents to the disclosure.*

16 Section 69(2) presently reads:

- (2) *An executive officer making an inspection under subsection (1) may*
- (a) *at any reasonable hour enter in or on the public place that is the subject of the inspection;*
 - (b) *require the production of any books, records or other documents that are relevant to the purpose of the inspection and examine them, make copies of them or remove them temporarily for the purpose of making copies;*

17 Section 70 is amended by adding the following after clause (a):

- (a.1) make reasonable oral or written inquiries of any person who the executive officer believes on reasonable grounds may have information relevant to the subject-matter of the inspection;

18 Section 75 is amended

(a) in subsection (1)

(i) by adding the following after clause (b.1):

- (b.2) respecting the provision of samples to the Provincial Laboratory of Public Health for the purposes of section 34.1;
- (b.3) respecting the keeping of records for the purposes of Part 4 including, without limitation, regulations setting out
 - (i) who must keep records,
 - (ii) what information must be kept in the records and the form in which records must be kept, and
 - (iii) confidentiality provisions in respect of the records;

(ii) in clause (k) by striking out “inspectors” and substituting “executive officers”;

(b) in subsection (1.1)

(c) *inspect and take samples of any substance, food, medication or equipment being used in or on the public place;*

(d) *perform tests, take photographs or make recordings in respect of the public place.*

17 Section 70 presently reads:

70 Where an executive officer believes on reasonable and probable grounds that a nuisance exists in or on a private place or that the private place or the owner of it is in contravention of this Act or the regulations, he may, with the consent of the owner or pursuant to an order under section 71,

(a) *enter in or on the private place at a reasonable hour and inspect it;*

(b) *take samples of any substance, food, medication or equipment being used in or on the private place;*

(c) *perform tests, take photographs and make recordings in respect of the private place.*

18 Section 75 presently reads in part:

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

(k) *respecting the qualifications of persons employed as inspectors by regional health authorities;*

(1.1) If a code, standard or body of rules relates to any matter on which regulations may be made under subsection (1) and the code, standard or body of rules has been published by an association or person and copies are available, the Lieutenant Governor in Council may, in addition to or instead of any regulation that may be made under subsection (1), by regulation declare the code, standard or body of rules to be in force either in whole or in part and with any specified variations.

(2) The Minister may make regulations prescribing forms for the purposes of section 4(3) and Part 4.

- (i) **by adding “, guideline” after “standard” wherever it occurs;**
 - (ii) **by striking out “by an association or person and copies are available” and substituting “and is available to the public”;**
- (c) in subsection (2) by striking out “prescribing” and substituting “respecting”.**

19 In the following provisions “Director” is struck out wherever it occurs and “Chief Medical Officer” is substituted:

section 33(3);
section 34(b);
section 37;
section 38;
section 54(3);
section 56(2);
section 66(2), (3);
section 67.

20 Notwithstanding the termination of the appointments of the members of the Public Health Advisory and Appeal Board on the coming into force of this Act, those persons retain their powers as members for the purpose only of completing proceedings and business commenced before the coming into force of this Act.

21 The *Conflicts of Interest Act* is amended in Part 3 of the Schedule by striking out “Public Health Advisory and Appeal Board” and substituting “Public Health Appeal Board”.

22 This Act comes into force on Proclamation.

19 Consequential to amendment in section 7.

20 Completion of business of existing Board members.

21 Consequential amendment.

22 Coming into force.