

2007 Bill 14

Third Session, 26th Legislature, 56 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 14

PANDEMIC RESPONSE STATUTES AMENDMENT ACT, 2007

MRS. JABLONSKI

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 14
Mrs. Jablonski

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PANDEMIC RESPONSE STATUTES AMENDMENT ACT, 2007

(Assented to , 2007)

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

Disaster Services Act

Amends RSA 2000 cD-13

1(1) The *Disaster Services Act* is amended by this section.

(2) Section 18(4) is repealed and the following is substituted:

(4) Unless continued by a resolution of the Legislative
Assembly, an order under subsection (1) expires at the earlier of
the following:

- (a) at the end of 14 days, but if the order is in respect of a
pandemic influenza, at the end of 90 days;
- (b) when the order is terminated by the Lieutenant Governor
in Council.

Explanatory Notes

Disaster Services Act

1(1) Amends chapter D-13 of the Revised Statutes of Alberta 2000.

(2) Section 18(4) presently reads:

(4) An order under subsection (1) expires at the end of 14 days unless continued by a resolution of the Legislative Assembly.

Employment Standards Code

Amends RSA 2000 cE-9

2(1) The *Employment Standards Code* is amended by this section.

(2) Section 82(1)(b) is amended by adding the following after subclause (i):

(i.1) contrary to section 52.91 of the *Public Health Act*,

Government Organization Act

Amends RSA 2000 cG-10

3(1) The *Government Organization Act* is amended by this section.

(2) Schedule 7.1 is amended

(a) by adding the following after section 3:

Public health emergency

3.1 For the purposes of preventing, combating or alleviating a public health emergency as defined in the *Public Health Act*, the Minister may by order authorize a person or category

Employment Standards Code

2(1) Amends chapter E-9 of the Revised Statutes of Alberta 2000.

(2) Section 82(1)(b) presently reads:

82(1) An employee may make a written complaint to an officer that

(b) the employment of the employee was suspended or terminated or the employee was laid off

(i) contrary to section 52(1) after the employee started maternity leave or because the employee was entitled to or had started parental leave,

(ii) for the sole reason that garnishment proceedings are being or might be taken against the employee,

(iii) because the employee gave evidence or may give evidence at any inquiry or in any proceeding or prosecution under this Act,

(iv) because the employee requested or demanded anything to which the employee is entitled under this Act, or

(v) because the employee made or is about to make any statement or disclosure that may be required of the employee under this Act.

Government Organization Act

3(1) Amends chapter G-10 of the Revised Statutes of Alberta 2000.

(2) Public health emergency. Section 4(1) of Schedule 7.1 presently reads in part:

4(1) No person shall perform a restricted activity or a portion of it on or for another person unless

(a) the person performing it

of persons to perform one or more restricted activities subject to any terms or conditions the Minister may prescribe.

- (b) in section 4(1)(a) by striking out “or” at the end of subclause (ii) and adding the following after subclause (ii):**

(ii.1) is authorized to perform it by an order under section 3.1,
or

Public Health Act

Amends RSA 2000 cP-37

4(1) The *Public Health Act* is amended by this section.

(2) Section 22(1) is amended

- (a) by striking out “a physician,”;**
(b) by striking out “the physician,” wherever it occurs and substituting “the”.

(3) Section 26 is amended by striking out “physician, a”.

- (i) *is a regulated member as defined in the Health Professions Act, and is authorized to perform it by the regulations under the Health Professions Act,*
- (ii) *is authorized to perform it by a regulation under section 3, or*
- (iii) *is authorized to perform it by another enactment,*

Public Health Act

4(1) Amends chapter P-37 of the Revised Statutes of Alberta 2000.

(2) Section 22(1) presently reads:

22(1) Where a physician, a health practitioner, a teacher or a person in charge of an institution knows or has reason to believe that a person under the care, custody, supervision or control of the physician, health practitioner, teacher or person in charge of an institution is infected with a communicable disease prescribed in the regulations for the purposes of this subsection, the physician, health practitioner, teacher or person in charge of an institution shall notify the medical officer of health of the regional health authority

- (a) by the fastest means possible in the case of a prescribed disease that is designated in the regulations as requiring immediate notification, or*
- (b) within 48 hours in the prescribed form in the case of any other prescribed disease.*

(3) Section 26 presently reads:

26 A physician, a health practitioner, a teacher or a person in charge of an institution who knows of or has reason to suspect the existence of

- (a) a communicable disease in epidemic form,*
- (b) another illness or health condition occurring at an unusually high rate, or*

(4) Section 40(1)(b) is repealed and the following is substituted:

- (b) for a physician to perform any test or physical examination required to determine whether that person has a communicable disease and to detain that person at the facility for the period required to obtain the result of the examination,

(5) Section 45(1) is repealed and the following is substituted:

Authority of isolation order

45(1) An isolation order under section 44 is authority for a health practitioner to observe, examine, care for, treat, obtain biological specimens from, control and detain in a facility the person named in it with or without that person's consent until the order is cancelled under section 46.

(6) Section 52.1 is amended by renumbering it as section 52.1(1) and by adding the following after subsection (1):

(2) On the making of an order under subsection (1) and for up to 60 days following the lapsing of that order, a person referred to in subsection (3) may by order, without consultation, suspend or modify the application or operation of all or part of an enactment subject to the terms and conditions that person may prescribe if the person is satisfied that its application or operation is not in the public interest.

(3) The following persons may make an order under subsection (2):

- (a) the Minister responsible for the enactment;
- (b) if the Minister responsible for the enactment is not available, the Minister of Health and Wellness.

(7) The following is added after section 52.2:

Significant likelihood of pandemic influenza

52.21(1) Where, on the advice of the Chief Medical Officer, the Lieutenant Governor in Council is satisfied that

- (a) there is a significant likelihood of pandemic influenza, and

- (c) *a communicable disease or another illness or health condition that is caused by a nuisance or other threat to the public health*

shall immediately notify the medical officer of health of the regional health authority by the fastest means possible.

- (4) Section 40(1)(b) presently reads:

40(1) A certificate is authority

- (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,*

- (5) Section 45(1) presently reads:

45(1) Where isolation is ordered pursuant to section 44 the order or orders are sufficient authority with or without the consent of the person named in them to observe, examine, care for, treat, obtain biological specimens from, control and detain the person named in them in a facility until the person is released under section 46.

- (6) Section 52.1 presently reads:

52.1 Where, on the advice of the Chief Medical Officer, the Lieutenant Governor in Council is satisfied that

- (a) *a public health emergency exists or may exist, and*
- (b) *prompt co-ordination of action or special regulation of persons or property is required in order to protect the public health,*

the Lieutenant Governor in Council may make an order declaring a state of public health emergency relating to all or any part of Alberta.

- (7) Significant likelihood of pandemic influenza.

- (b) prompt co-ordination of action is required in order to avert or minimize the pandemic,

the Lieutenant Governor in Council may authorize a Minister to make orders under subsection (2).

(2) A Minister authorized under subsection (1) may by order, without consultation, suspend or modify the application or operation of all or part of an enactment for which that Minister is responsible subject to the terms and conditions that Minister may prescribe if the Minister is satisfied that its application or operation may directly or indirectly unreasonably hinder or delay action required in order to protect the public health.

(8) Section 52.4 is repealed and the following is substituted:

Publication of order

52.4 The following persons shall publish and make available the details of an order under section 52.1, 52.2 or 52.21 in the manner the person considers appropriate:

- (a) if the order is made under section 52.1(1) or 52.21(1), the Minister;
- (b) if the order is made under section 52.1(2) or 52.21(2), the Minister who made the order;
- (c) if the order is made under section 52.2, the regional health authority that made the order.

(9) Section 52.6 is amended by adding the following after subsection (1):

(1.1) On the making of an order under section 52.1(1) in respect of pandemic influenza and during the state of public health emergency, the Chief Medical Officer may, subject to any terms and conditions the Chief Medical Officer may impose, authorize the absence from employment of any persons

- (a) who are ill with pandemic influenza, or
- (b) who are caring for a family member ill with pandemic influenza.

(8) Section 52.4 presently reads:

52.4 Immediately after the making of an order under section 52.1 or 52.2, the Minister or the regional health authority shall cause the details of the order to be published by any means of communication that the Minister or regional health authority considers will make the details of the order known to the majority of the population of the area to which the order relates.

(9) Section 52.6 presently reads:

52.6(1) On the making of an order under section 52.1 or 52.2 and during the state of public health emergency the Minister or the regional health authority may do any or all of the following for the purpose of preventing, combating or alleviating the effects of the public health emergency and protecting the public health:

- (a) acquire or use any real or personal property;*
- (b) authorize or require any qualified person to render aid of a type the person is qualified to provide;*
- (c) authorize the conscription of persons needed to meet an emergency;*

(10) Section 52.8 is amended

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

Termination of public health emergency order

52.8(1) An order under section 52.1(1) or 52.21(1) lapses, unless continued by a resolution of the Legislative Assembly, at the earlier of the following:

- (a) at the end of 30 days, but if the order is in respect of pandemic influenza, at the end of 90 days;
- (b) when the order is terminated by the Lieutenant Governor in Council.

- (b) in subsection (2) by striking out “52.1” and substituting “52.1(1) or 52.21(1)”.**

(11) The following is added after section 52.81:

Termination of suspension orders

52.811(1) An order under section 52.1(2) or 52.21(2) lapses, unless it is sooner continued by an order of the Lieutenant Governor in Council, at the earliest of the following:

- (a) 60 days after the related order under section 52.1(1) or 52.21(1) lapses;
- (b) when the order is terminated by the Minister who made the order;
- (c) when the order is terminated by the Lieutenant Governor in Council.

(2) The Minister who makes an order under section 52.1(2) or 52.21(2) shall, by order, terminate that order when that Minister is satisfied that the order is no longer in the public interest.

(3) The Lieutenant Governor in Council may continue an order that would otherwise lapse under subsection (1) for a period

(d) authorize the entry into any building or on any land, without warrant, by any person;

(e) provide for the distribution of essential health and medical supplies and provide, maintain and co-ordinate the delivery of health services.

(2) Nothing in this section limits or abrogates the operation of any other provision in this Act or the regulations that imposes a duty or confers a power on any person.

(10) Section 52.8 presently reads:

52.8(1) An order under section 52.1 lapses at the end of 30 days unless it is sooner terminated by the Lieutenant Governor in Council or is continued by a resolution of the Legislative Assembly.

(2) Where, on the advice of the Chief Medical Officer, the Lieutenant Governor in Council considers that a public health emergency no longer exists in an area in relation to which an order was made under section 52.1, the Lieutenant Governor in Council shall make an order terminating the declaration in respect of that area.

(11) Expiry of waiver orders.

that does not exceed 180 days after the lapsing of the related order under section 52.1(1) or 52.21(1).

(12) Section 52.83 is amended by striking out “section 52.1 or 52.2” **and substituting** “section 52.1, 52.2 or 52.21”.

(13) Section 52.91 is repealed and the following is substituted:

Termination of employment prohibited

52.91 No employer shall terminate, restrict or in any way discriminate against an employee for an absence from employment

- (a) that is in respect of and occurs during a public health emergency declared under section 52.1 and
 - (i) that is by reason only of the employee having being subject to a certificate issued pursuant to section 39, or
 - (ii) that is by reason only of the employee having been subject to an isolation order pursuant to section 44,
- (b) that is by reason only of the employee having been conscripted pursuant to section 52.6(1)(c), or
- (c) that is authorized under section 52.6(1.1).

(14) Section 53(2) is amended by striking out “physician or” **wherever it occurs.**

(12) Section 52.83 presently reads:

52.83 The Regulations Act does not apply to an order made under section 52.1 or 52.2.

(13) Section 52.91 presently reads:

52.91 No person shall terminate the employment of any other person by reason only of that other person's having been conscripted pursuant to section 52.6.

(14) Section 53(2) presently reads:

(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 that the Chief Medical Officer considers to be in the interest of protecting the public health, the Chief Medical Officer may require any physician or health practitioner to furnish the Chief Medical Officer with the following information:

(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

(15) Section 66(1) is amended by adding the following after clause (mm):

- (nn) respecting any other matter that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

(16) Section 66.1 is repealed and the following is substituted:

Protection from liability

66.1(1) No action for damages may be commenced against

- (a) the Crown or a Minister of the Crown,
- (b) a regional health authority or a member, employee or agent of a regional health authority,
- (c) an employee under the administration of the Minister,
- (d) the Chief Medical Officer, the Deputy Chief Medical Officer, an executive officer or a medical officer of health,
- (e) a health practitioner,
- (f) a teacher, a person in charge of an institution or a medical director of a facility,
- (g) the Alberta Cancer Board, or
- (h) a provincial health board established under the *Regional Health Authorities Act*

for anything done or not done by that person in good faith while carrying out duties or exercising powers under this or any other enactment.

(2) No action for damages may be commenced against any person or organization acting under the direction of the Crown, a Minister of the Crown, the Chief Medical Officer, the Deputy Chief Medical Officer or a medical officer of health for anything done or not done by that person or organization in

description of the diagnostic and treatment services provided to the patient;

- (b) medical or other records, or extracts or copies of them, in respect of that patient and in the possession of the physician or health practitioner.*

(15) Section 66(1) presently reads in part:

66(1) The Lieutenant Governor in Council may make regulations

- (mm) authorizing the waiving or mitigation of the application of any of the provisions of the regulations in particular cases, respecting the circumstances under which the waiver or mitigation may be granted and respecting the conditions to which a grant of a waiver or mitigation is subject.*

(16) Section 66.1 presently reads:

66.1 No action for damages may be commenced against

- (a) the Minister,*
- (b) a member, employee or agent of a regional health authority,*
- (c) an employee under the administration of the Minister,*
- (d) the Chief Medical Officer, the Deputy Chief Medical Officer, an executive officer or a medical officer of health,*
- (e) a health practitioner, or*
- (f) a teacher, a person in charge of an institution or a medical director of a facility*

for anything done or not done by that person in good faith while carrying out duties or exercising powers under this or any other enactment.

good faith directly or indirectly related to a public health emergency while carrying out duties or exercising powers under this or any other enactment.

(17) The following is added after section 66.1:

Court enforcement

66.2(1) The Court of Queen's Bench may, on application by way of originating notice by the Minister, a regional health authority or, in the case of section 59, 60 or 61, an executive officer, make any order it considers necessary to enforce this Act.

(2) An application under this section may be heard in any manner the Court considers appropriate and may be heard before the originating notice is filed.

(3) An interim order may be made under this section on an ex parte application.

(17) Court enforcement.

