BC HEALTH ACT RENEWAL PROJECT

Submission for the Public Health Act Consultation

BC Branch of the Canadian Institute of Public Health Inspectors

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Executive Summary

The existing Health Act defines a Public Health Inspector (PHI) as a holder of a Certificate in Public Health Inspection (Canada) [CPHI(C)] or person with equivalent training determined by the Canadian Institute of Public Health Inspectors' (CIPHI) Board of Certification. However the role of the PHI or Environmental Public Health (EPH) professional is not as definitive. The Health Act requires a PHI to be delegated in writing by the Medical Health Officer (MHO) in order to perform the expected administrative and inspectional responsibilities of the PHI. This required delegation by the MHO should be removed and the Environmental Public Health Professional should be directly appointed by the Act.

The Health Act renewal must recognize the current structures and processes of modern public health. Environmental Public Health professionals require modern legislative authority and tools to accomplish their current and expected function in the diversified role as a PHI.

Introduction

The BC Branch of the Canadian Institute of Public Health Inspectors is the only professional association representing the interests of PHI's/EPH professionals across British Columbia. We therefore have a vested interest in the revision of the new British Columbia Health Act. As an organization, CIPHI's mandate is to protect the health of Canadians, advance the environmental and health sciences, and enhance the field of public health inspection.

"Environmental Public Health (EPH) Services" is a term used to represent all of those services managed by public health agencies that deal with issues and risks pertaining to human health and the environment.

EPH professionals typically include Public Health Inspectors, Environmental Health Officers, Specialists and EPH program management. These dedicated individuals spend each day on the frontline of public health trying to improve environmental and social conditions for their communities. The general function of EPH programs and services is to protect public health and safety by ensuring safe food, safe water, safe housing, clean air, and healthy environments free of the threat of disease or injury.

EPH professionals not only conduct routine compliance inspections, but more importantly are directly involved in frontline functions such as:

- Communicable Disease Surveillance, Investigation & Management

- Risk Assessment, Management & Communication
- Health Hazard Complaint Investigations
- Sampling, Analysis & Interpretation of Data
- Permitting & Licensing of Developments
- Enforcement of Environmental & Public Health Legislation
- Public Education & Health Promotion
- Emergency Preparedness & Response

Strengths and Weaknesses of the Existing Health Act

Major Strengths of the Current Health Act that Effect the Role of a PHI

Section	Description
41	Municipality may appoint health officials
59	Powers of local board to enforce the termination of health hazards
61	Inspection authority
61.1	Entry warrant
62	Application to court
63	Order

Major Weaknesses of the Current Health Act that Effect the Role of a PHI

- Does not reflect current Environmental Public Health issues, science, technology and practice;
- Difficult legal structure for progressive compliance and enforcement work;
- Archaic wording;
- Too verbose;

- Out-dated structure;
- Restricted line of authority;
- Restricted lines of communication;
- Under utilizing the Provincial Health Officer and Medical Health Officers;
- Does not recognize the need for ongoing continuing education for Public Health Inspectors;
- Monetary penalties are not large enough deterrents.

Aspects of Public Health Activity that Should be Included in a Renewed Act

The re-draft should acknowledge the expansion of the realm of public health core programs and clearly define the functions and include mandated authority for CPHI(C) Environmental Public Health professionals in:

- Communicable Disease Follow-up/Investigation/Control;
- Food Safety;
- Drinking Water Quality Science;
- Indoor Air Quality;
- Outdoor Air/Air Shed Planning and Management;
- Environmental Toxicology;
- Tobacco Reduction Strategies;
- Injury Prevention;
- Emergency Response Planning – Natural Disasters, Industrial Disasters, Infrastructure Failure;
- Recreational Water;
- Community Sanitation;
- Healthy Community Environments Planning – Land Use, Facilities, Policies, Waste Disposal;
- Public Health Education and Promotion;

- Mandatory Continuing Education for Environmental Public Health Professionals.

Although the current Health Act defines a PHI as a holder of a Certificate of Public Health Inspection (Canada) or person with equivalent training determined by the Canadian Institute of Public Health Inspectors' Board of Certification, ongoing mandatory membership with the Institute is not required.

We are in an era of public health reform, as evidenced by the establishment of the Public Health Agency of Canada and the appointment Dr. David Butler-Jones as the first Chief Public Health Officer, and the establishment of a federal cabinet position for Dr. Carolyn Bennett, as the Minister of State (Public Health). This reform was precipitated in part by the Walkerton outbreak, SARS emergency, BSE crisis, WNV, and threats of biological terrorism.

These factors have resulted in several inquiries, reviews, and reports, such as:

- Naylor Report[1], and
- Kirby Report[2],

which have identified the need for ongoing professional maintenance of frontline staff and the establishment of core competencies for public health.

The profession cannot move forward without mandatory requirements to measure ongoing competency, standards of practice, and continuing education. The inclusion of such a requirement under the definition of a Public Health Inspector would support the recommendations outlined in these reports and display a commitment towards stabilizing and strengthening the public health workforce.

Sections of the Current Health Act Which Work Well and that PHI's Currently Use

Section	Description
41	Municipality may appoint health officials
50	Manner in which local board may enforce its authority

1 National Advisory Committee on SARS and Public Health. October 2003.

2 Standing Senate Committee on Social Affairs, Science and Technology. November 2002.

51	Local boards charged with execution of regulations
55	Inspection of health hazards and reporting of toxic spills
57	Information of health hazards to local boards
58	Investigation to be made by local board
59	Powers of local board to enforce the termination of health hazards
61	Inspection authority
61.1	Entry warrant
62	Application to court
63	Order
66	Cleansing and disinfection of premises
69	Power to remove and destroy all infected matter
70	Termination of a health hazard involving serious loss
76	Power to order cleansing and disinfection
89	Disinfection measures
90	Infected conveyances
91	Disinfection of clothing and effects
92	Premises and apparatus for disinfection
93	Destruction of infected effects
94	Disinfection of infected premises
100	Force may be used in carrying out this Act or health regulations
101	Constables and all persons bound to assist health authorities
102	Appeal from orders
103	Offence and penalty

104	Offence and penalty
104.1	Additional sentencing authority
105	Penalties for offences in nature of defaults and omissions
106	Injunction
107	Evidence in prosecutions under sections 80 and 83
108	Recovery of penalties
109	Protection where noncompliance caused by inability
110	Remedy open to persons aggrieved by violation of Act
111	Contravention both of Act and bylaw
112	No judicial review
114	Service of documents

Section of the Current Health Act that Challenges the Functional Ability of the PHI

Delegation of Authority

Section 33(4) Powers of the medical health officer

"Subject to any other enactment, a health officer may, in writing, delegate to any person a power granted to him or her or a duty imposed on him or her under this or another enactment."

The Health Act is outdated and does not reflect the current state of affairs within public health. This document identifies the need for the recognition of autonomous authority for Environmental Public Health professionals in order to effectively carry out the duties demanded in today's public healthcare setting.

Background

Preamble

The "Health Act[3]" was originally promulgated in 1869 and is now 136 years old. It represents a service delivery model, business plan and reporting structure based on the Victorian British Medical Model. This was an appropriate structure 136 years ago, as the physician's groups were for the most part the only professional players in Public Health service delivery at the time (Appendix 1. Historical Synopsis – Legislative Library). This is no longer the case.

Public Health's service structure remains one of the last large corporate entities doing business based on a century old reporting structure and business plan. The adherence to a hierarchical structure reporting through the Medical Health Officer does not seem particularly efficient or effective for the delivery of the highly complex Public Health issues of today.

Section 1 of the 1982 Constitution Act of Canada speaks of "the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." It is a fundamental characteristic of Canadian society that any individual or group in Canada has the right of self-determination in a free and democratic society.

The profession of the Public Health Inspector has the right and freedom to pursue professional autonomy and self-determination. It can reasonably justify this self-determined autonomy on the basis of the history, evolution, training and experience of the profession. This paper is about the Public Health Inspector's right to pursue autonomy and self-determination. These ideals speak directly to "such reasonable limits … as can be demonstrably justified in a free and democratic society."

The "Public Health Inspector[4]" as a Public Health professional has existed for 110 years in British Columbia. As holders of the Certificate in Public Health Inspection (Canada)[5], Public Health Inspectors are highly trained and qualified professionals in their own right. The scope of practice for the Public Health Inspector has changed radically in that time.

It is time for the Environmental Public Health professional to obtain mandated professional recognition in the Health Act as independent professionals, working

3 The Health Act has also be known as "An Ordinance for Promoting the Public Health in the Colony of British Columbia – 1869", and "An Act for promoting the Public Health - 1888". It is currently known as The "HEALTH ACT, [RSBC 1996] CHAPTER 179".

4 The Public Health Inspector has also been known as a Sanitary Inspector, a Sanitarian, an Environmental Health Officer, and an Environmental Public Health Officer at various times. These terms are synonymous with each other.

5 Has also been known as CSI(C) or "Certificate in Sanitary Inspection (Canada), 1935-1965.

independently, with independent authority under the Act and Regulations, not subject to "delegation of authority" by the Medical Health Officer.

Legislative History[6] and Precedence for PHI Delegation

The first mention of the “Health Officer” in British Columbia is found in “An Ordinance for Promoting the Public Health in the Colony of British Columbia – February 23, 1869”. The Health Officer was appointed by the Governor in Council, later the Lieutenant Governor in Council after the Colony joined Confederation. Little attention was paid in the early legislation to who was or could be a “Health Officer”. Generally it was a temporary position filled by a local physician. The 1869 ordinance was replaced in 1888with “An Act for promoting the Public Health”. The “new” Health Act formally proclaimed on September 26th, 1895, with its accompanying “Sanitary Regulations” is the first mention of the “Sanitary Inspector” in Public Health in BC. The first “Sanitary Inspector” in the Province of British Columbia, Captain Sir Clive Phillipps-Wolley RN[7], was appointed by the Provincial Health Officer in early 1896. He was appointed Provincial Sanitary Inspector and devoted his whole time to organizing the sanitary services in the various parts of the Province. It is this Act and Sanitary Regulations, substantially unchanged since 1895, which has defined the professional relationship between the Medical Health Officer and the Public Health Inspector.

The early BC legislature and Lieutenant Governor in Council foresaw the need for a separate Public Health entity, the Sanitary Inspector, working collegially but independently of the Provincial Health Officer.

Health Act, Section 41 – Appointment of Public Health Inspectors:

> “A municipal council may appoint a medical health officer and a public health inspector or inspectors for the municipality, and may set the salaries to be paid to them, or 2 or more municipal councils may unite in the appointment of any of those officers, and the appointment of a medical health officer is subject to the approval of the Lieutenant Governor in Council.”
>
> Section 41 of the Health Act provides for the appointment of public health inspectors. This section applies to a health authority by virtue of section 19(3) of

6 http://www.collections.ic.gc.ca/digitalyearbook/05/chap05sub1a.html, BC Legislative Library Archives.

7 Sir Clive Phillipps-Wolley (1854-1918) came to Canada from England in 1896 and settled in Victoria, British Columbia. He entered the Royal Navy in 1901, became sub-lieutenant in 1904 and lieutenant two years later. He was promoted lieutenant commander February 1914 and commanded the destroyer Albatross until his appointment to the Hogue in July 1914. Captain Phillips-Wolley served on the HMS Hogue during WW1. (RN – Royal Navy).

the Health Authorities Act and section 2 of the Health Authorities Act Regulation. This section is seldom used and recognizes the evolving nature of the profession. Although the appointment is not comprehensive, the power to appoint under section 41 of the Health Act is separate and apart from the power of a health authority to appoint officers and hire employees under section 11 of the Health Authorities Act. The appointment of the PHI under section 41 of the Health Act is necessary for the PHI to have and to exercise the powers of a PHI or the purposes of the various health related statutes and regulations.

The legislation does not provide for the appointment of the PHI to be made by a delegate of the board or council. Although section 8(2)(e) of the Health Authorities Act permits a board or council, by bylaw approved by the Minister, to delegate administrative or management duties to its employees, the appointment of the PHI under the Health Act would not constitute an administrative or management duty. Therefore the appointment of a PHI can be made by resolution of the board or council.

Drinking Water Protection Act, Section 3 – Appointment of Drinking Water Officers

"3 (1) Unless another person is appointed under subsection (2), the drinking water officer for an area is (a) the person appointed by the medical health officer as the drinking water officer,
(2) The minister may, by order, appoint persons, by name or by title, as drinking water officers and establish the area of their jurisdiction."

In many jurisdictions the Public Health Inspector was appointed as Drinking Water Officers. Sub-section 2 recognizes that other professional groups may be suitable to this appointment.

Food Safety Act, Section 8

"8 (1) The minister may appoint persons, or persons within a class of persons, to be inspectors.
(2) In an appointment under subsection (1), the minister may
(a) limit the powers and functions that an inspector may exercise under this Act, and
(b) make the appointment subject to terms and conditions."

The Minister of Health Services has exercised his discretion under section 8 to appoint all practicing PHI's with Certificates in Public Health Inspection (Canada) with the regional health authorities as inspectors under this Act.

The appointments under Section 41 of the Health Act, Section 3 of the Drinking Water Protection Act and Section 8 of the Food Safety Act are separate and apart from delegations by the Medical Health Officer under Section 33(4) of the Health Act. These appointments allow the public health inspector to have and to exercise the powers of a public health inspector, drinking water officer or the purposes of the inspector for various health related statutes and regulations.

The Public Health Bylaws regulation enacted under section 9 of the BC Community Charter sets out categories of public health as:

(a) the protection, promotion or preservation of the health of individuals;
(b) the maintenance of sanitary conditions in a municipality;

(Appendix 2 – Consultation Agreement between the Ministry of Health Services, Ministry of Community, Aboriginal and Women's Services, and the Union of British Columbia Municipalities).

However the municipality is restricted in enacting these bylaws as they must consult with the regional health board or the Medical Health Officer, due to the financial or resource burden to the program.

Section 523(1) of the Local Government Act provides power to regional districts to adopt public health bylaws to maintain, promote or preserve public health or maintain sanitary conditions, and must consult with the regional health board or Medical Health officer.

These enactments recognize the need to define the public health roles and responsibilities of each public health discipline and their function. It is clear that Legislature has envisioned the Environmental Public Health professional as a separate and autonomous entity. An autonomous structure which has been implemented in other Canadian jurisdictions (Appendix 3 – Health Act Comparison from Other Canadian Jurisdictions).

The Professional Development of the Public Health Inspector[8]

Public Health Inspection as a profession in BC was first introduced in 1896 and has evolved through a series of progressive educational and professional development steps starting with the PHI, originally the Sanitary Inspector, as an adjunct without formal Public Health training to the Provincial Health Officer. This continued through the use of correspondence courses and on-the-job training under the direction of the Medical Health Officer and the auspices of the BC Ministry of Health until 1967.

8 The history of the evolution of the Public Health Inspector can be found in detail at http://www.ciphi.ca/history.htm.

The 2-year Diploma through BC Institute of Technology and Ryerson Poly-Technical Institute in Toronto was introduced in 1967. During this period the PHI was subject to the direction and delegation of the Medical Health Officer through the Ministry of Health.

The present iteration of professional development utilizes the Bachelor of Technology degree in Environmental Health or Public Health. There are 6 educational institutions in Canada accredited by the Board of Certification of the Canadian Institute of Public Health Inspectors which delivers the Environmental/Public Health Program:

- Ryerson University, Toronto, ON
- BC Institute of Technology, Burnaby, BC
- Concordia University College of Alberta, Edmonton, AB
- University College of Cape Breton (UCCB), Sydney, NS
- NB Community College (French Language) through UCCB, Bathurst, NB
- First Nations University of Canada, Regina, SK

The core curriculum for Environmental Health includes:

- Communicable Disease Follow-up/Investigation/Control;
- Food Safety;
- Drinking Water Quality Science;
- Indoor Air Quality;
- Outdoor Air/Air Shed Planning and Management;
- Environmental Toxicology;
- Tobacco Reduction Strategies;
- Injury Prevention;
- Emergency Response Planning – Natural Disasters, Industrial Disasters, Infrastructure Failure;
- Recreational Water, Swimming Pools, Hot Tubs, Water Slides;
- Community Sanitation;
- Healthy Community Environments Planning – Land Use, Facilities, Policies, Waste Disposal;

- Sewage Disposal Methods, Soils, Hydrogeology;
- Investigative Technique;
- Progressive Compliance Processes;
- Progressive Enforcement Processes;
- Public Health Education and Promotion;
- Legislative Interpretation;
- Research Methodology;
- Standard Methods for Lab Analysis;
- Information Technology;
- Communications.

Throughout this evolution there was and is the final requirement of a practicum and national certification exams, by the Board of Certification of the Canadian Institute of Public Health Inspectors. This process is analogous to the process of registration as described under Section 9 of the Nurses (Registered) Act:

> "9 (1) For the better administration of this Act and the affairs of the association, the board of directors may make rules.
> (2) Without limiting subsection (1), the board of directors may make rules respecting the following:
> (a) The curricula and standards of schools of nursing; …
> (c) Registration of persons wishing to become registered nurses; …"

The education, training, and certification of PHI's mirrors or exceeds the training and certification of other public health disciplines from industrialized 1st world nations. In most jurisdictions, both in Canada and abroad, Public Health Inspectors (and professions of a similar nature) work under independent authority in the historic Environmental and Public Health Protection program areas as part of a multi-disciplinary team.

The professional development of Public Health Inspectors in the last 110 years, and the recent moves by other jurisdictions toward autonomy for the Environmental Public Health professional has moved the CPHI(C) to the point where it is necessary to redefine the profession in British Columbia as a separate but equal partner of the Public Health Team.

The Role of the Medical Health Officer

The Medical Health Officer (MHO) is a medical expert with a specialty in Community Medicine and Public Health. With the evolution of the Environmental Public Health professional should result in an evolution of the role of the Medical Health Officer. A better utilization of the MHO's expertise may result in better public health outcomes as they could focus more on Population Health and advocacy for social and cultural health issues, perhaps in a role similar to the Provincial Health Officer.

Similarly there will be a need for a medical consultant in the public health field, particularly in leading the development of communicable disease control, investigation and follow-up.

A New Working Relationship

The working relationship between Environmental Public Health professionals and with most other BC public health disciplines will remain largely unchanged. The significant change will be the relationship with the Medical Health Officer. This relationship traditionally has been vertical.

It is the firmly held belief of the BC Branch of the Canadian Institute of Public Health Inspectors and its members that the relationship becomes horizontal, separate but equal, working collegially but with independent authority.

This will require a change of appointment language in the enabling Acts and accompanying Regulations. The appointments under Section 41 of the Health Act, Section 3 of the Drinking Water Protection Act and Section 8 of the Food Safety Act allow for this type of relationship except in relation to the Communicable Disease Regulations and the Industrial Camp Regulations under the Health Act.

There has been a shift in knowledge and experience between the MHO and PHI. The MHO is not directly involved, daily or monthly, in many of the issues of environmental public health practice. In fact the PHI more often works very independently from the MHO. Often the MHO will defer to the PHI as the expert in the legislation and application of it. The PHI has more of the technical and detailed knowledge of the issue than an MHO. It is this shift in knowledge and experience that needs to be acknowledged. The MHO and PHI function more as equals in promoting good public health practice, working as a team rather than in a subservient role. With the evolution, history, education and training, the PHI can clearly provide the functions of environmental public health practice without the direction or delegation of an MHO.

This type of relational change will require a clear understanding of what are the functions of Medical Health Officers and Environmental Public Health professionals. There is a need for both disciplines in public health. As the knowledge and issues expand in the field of public health there will be more than enough work for both disciplines to be fully engaged in the business of public health without having to cover the same ground.

Appointment of Public Health Inspector[9]

Section 41 of the Health Act provides for the appointment of Public Health Inspectors. This section applies to a health authority by virtue of section 19(3) of the Health Authorities Act and section 2 of the Health Authorities Act Regulation.

The power to appoint under section 41 of the Health Act is separate and apart from the power of a health authority to appoint officers and hire employees under section 11 of the Health Authorities Act. The appointment of the PHI under section 41 of the Health Act is necessary for the public health inspector to have and to exercise the powers of a PHI or the purposes of the various health related statutes and regulations.

The legislation does not provide for the appointment of the PHI to be made by a delegate of the board or council. Although section 8(2)(e) of the Health Authorities Act permits a board or council, by bylaw approved by the Minister, to delegate administrative or management duties to its employees, the appointment of the PHI under the Health Act would not constitute an administrative or management duty. Therefore, the appointment of a PHI should be made by resolution of the board or council.

Recommendations

The BC Branch of the Canadian Institute of Public Health Inspectors recommends the following and innovative measures for the renewal of the BC Health Act:

1. Redefine the role of the Provincial Health Officer to reflect the autonomous role in social, political, and cultural change advocacy at the provincial level, reporting to Legislature and Cabinet.

2. Redefine the role of the Medical Health Officer to reflect social, political, and cultural change advocacy through the adoption of the Population Health model for health care delivery.

9 http://www.sms.bc.ca/health/2000/august2000.html

3. Redefine the role of the Certified Public Health Inspector/Environmental Public Health professional to reflect the educational and functional evolution of the profession.

4. Specify that a Public Health Inspector/Environmental Public Health professional, as holders of the Certificate in Public Health Inspection (Canada), be acknowledged as an autonomous public health profession.

5. Directly appoint Certified Public Health Inspectors/Environmental Public Health professionals under the Act instead of by delegation from the Medical Health Officer.

6. Entrench the duties of the Sanitary Inspector as defined by section 8 of the Sanitary Regulations as the role and duties of the Public Health Inspectors/Environmental Public Health professional.

7. Acknowledge the expanding realm of the public health core programs to include mandated authority for Public Health Inspectors/Environmental Public Health professionals in these core areas:

    - Communicable Disease Follow-up/Investigation/Control;
    - Food Safety;
    - Drinking Water Quality Science;
    - Indoor Air Quality;
    - Outdoor Air/Air Shed Planning and Management;
    - Environmental Toxicology;
    - Tobacco Reduction Strategies;
    - Injury Prevention;
    - Emergency Response Planning – Natural Disasters, Industrial Disasters, Infrastructure Failure;
    - Recreational Water;
    - Community Sanitation;
    - Healthy Community Environments Planning – Land Use, Facilities, Policies, Waste Disposal;
    - Public Health Education and Promotion.

8. Support the current application for the establishment of a College of Environmental Public Health/Public Health Inspection under the Health Professionals Act.

9. Pursue mandatory Registration in the Canadian Institute of Public Health Inspectors and continuing education for all practicing Public Health Inspectors/ Environmental Health Officers as Environmental Public Health professionals in British Columbia.

Appendix 1

Historical Synopsis – Legislative Library[10]

“On the 23rd of February, 1869, the "Health Ordinance, 1869." was passed, the preamble reciting: "Whereas it is necessary to adopt measures with the object of preventing or guarding against the origin, rise or progress of endemic, epidemic, or contagious diseases, and to protect the health of the inhabitants of this Colony, and for the purpose to grant to the Governor-in-Council extraordinary powers to be used when urgent occasion demands." This Act remained in force at the time of the consolidation of the Provincial Statutes in 1888, and, with the exception of the preamble, was incorporated into that consolidation as Chap. 55. Its provisions were found to be inadequate when put to the test at the time of the smallpox epidemic in 1892.
The development of health legislation in British Columbia has followed the same course that such legislation has usually followed in the several Provinces, States of the Union, and other countries. The incentive of every improvement in the laws concerning the health of the people has been a visitation, or threatened visitation, of some dreaded disease.

Smallpox Epidemic

In the summer of 1892 the disease was on several occasions imported from the Orient, and on one of these occasions the infection seemed to have been so broadcast. The sudden outbreak caused a panic throughout the Coast cities. Over 150 cases occurred, and there were thirty deaths. The money loss to the community, direct and indirect, was very great. The money paid out by the City of Victoria alone was some $60,000. It also affected more or less severely all the Coast cities.

The need of a better Health Act was made apparent by this epidemic, consequently at the next session of the Legislature the then Attorney-General and Premier, Hon. Theodore Davie, introduced an Act modeled on the Ontario Public Health Act which was very much more comprehensive and complete. An important feature of the new Act was the establishment of a Provincial Board of Health, consisting of five members.

Regulations by Order-in Council

Previous to the epidemic of 1892 very little work had been done under the old Act. Many of its provisions could not be made use of until action had been taken by the Lieutenant-Governor-in-Council. Until the year mentioned no important order-in-council had been passed under this Act. But at the beginning of the outbreak in the summer of that year,

10 http://www.collections.gc.ca/digitalyearbook/05/chap05sub1a.html

a popular demand induced the Provincial Government to take the necessary action to prevent the further spread of the disease. Dr. Davie was then appointed as Provincial Health Officer, and acting under the regulations that were quickly drawn up and proclaimed under authority of the Act, he was able to effectually check the spread of the epidemic. Of course, under the authority of the Municipal Act, Municipal Councils were empowered to legislate on health matters, but action taken by virtue of such authority was necessarily restricted in scope and lacked unanimity when uniformity and concertness were required.

During the same year cholera had been prevalent in many of the cities of Europe, particularly Hamburg, and this continent was seriously threatened by several infected ships arriving at the New York quarantine station. The approach of this plague served a good turn, since it, too, influenced the growing opinion as to the necessity of more effective legislation regarding the public health. As one result of this opinion a set of sanitary regulations were promulgated by order-in-council.

The "Health Act, 1893," was broader in its provisions than the old one, and completed bringing into existence an efficient Board of Health for the Province, which was to study the causes and labour to prevent disease, not merely to deal with should it unfortunately make its appearance. Local Boards of Health were also created, consisting in municipalities of the Council, and in outlying districts of the Government Agent or of such other constitution as the Lieutenant-Governor-in-Council might see fit.

Scope of the Health Act

When the bill was passed by the Legislature the excitement in connection with the epidemics of smallpox and cholera had subsided and the Act was not brought into force at once. Owing, however, to the widespread prevalence of cholera in Japan and its arrival at Honolulu the Act was proclaimed on September 26th, 1895. Probably serious outbreaks of diphtheria, typhoid and scarlet fever in various parts of the Province also influenced the taking of this step. Among the duties assigned by the Act to the newly appointed Board were the following: To take cognizance of the interests of health and life among the people; to study the vital statistics of the Province; to make sanitary investigations and enquiries regarding the causes of disease and especially of epidemics; also of the causes of mortality and the effects of localities, employments, conditions, habits, and other circumstances upon the health of the people; make suggestions regarding the prevention and limitation of contagious and infectious diseases, inquire into the action to that end being taken by local Boards of Health; also to inquire into the sanitary condition of public institutions and buildings; to acquire and disseminate information concerning the public health and distribution of sanitary literature; to issue regulations (subject to the approval of the Lieutenant-Governor-in-Council) for the prevention, treatment, mitigation and suppression of epidemic, endemic, infectious, or contagious disease. Speaking broadly, it is, in fact, the duty of the Board

to concern itself with all things affecting or likely to affect the public health. A consideration of the duties thus imposed upon the Board makes it apparent that the Provincial Board of Health has a most important work to perform.

The Board at once commenced the work of organization. It prepared regulations regarding smallpox, scarlet fever and diphtheria and supplemented them by a well-digested pamphlet on disinfection; the regulations embody provisions for the enforcement of modern methods of isolation and quarantine, disinfection, vaccination, etc. They provide for the appointment of medical and other health officers, establishment of isolation hospitals and suspect stations.

There was at first a disposition to underrate the usefulness of the Board, more especially as the expense of carrying the work on the scale contemplated by the Act involved considerable expense during "time of peace," and as a consequence the appropriation made by the Legislature was limited. A series of events occurred, however, to call for active interference and the unexpended balance of the previous year was called into requisition by order-in-council, which enabled the Board to perform its functions more fully than would otherwise have been possible.

Typhoid in Kootenay

The most important of the forces united to demand this action on the part of the Government was what threatened to be a serious outbreak of typhoid fever in the mining region of the Kootenay country. A great number of people had lately been attracted to these districts, but there had practically been no attention paid by anyone to sanitation. The inevitable consequences of neglect, of proper sanitary supervision and lack of previous preparation to cope with an outbreak of disease soon became manifest. The condition of affairs was alarming. His Honour the Lieutenant Governor, after a visit to this portion of the Province, brought the facts to the attention of the Premier in a letter dated May 27th, 1896, in which it was recommended that the Health Act be put in force without delay. This letter was laid before the Board with the request that the necessary action be taken immediately. The information placed before the Board from this and other sources made it apparent that many places in the Province were in a condition favourable to the spread of disease, should it make its appearance. The Board, after full discussion and consideration of all these facts, prepared a set of sanitary regulations applicable to the whole Province.

Sanitary Regulations

The main features of these regulations are as follows: Provision is made for the effective abatement of nuisances injurious to the public health. The pollution of all classes of drinking water and running streams is made punishable. Public water supply, drainage and sewerage are dealt with and the duty imposed upon local health

authorities of constructing the necessary works. The abolition of the unsanitary privy-pit and cesspool system and substitution of earth-closets is called for. Improved methods for the disposal of wastewaters is required. The adoption of an efficient scavengering service must be inaugurated or other effective means, such as burning or burying, employed for the disposal of faecal matter, garbage and refuse in each community. Inspection and regulation of slaughterhouses, dairies, piggeries and market gardens are provided for. The sale of food and drink unfit for use is prohibited. Duties of local Boards of Health, Medical Officers and Sanitary Inspectors are prescribed. Other subjects affecting the public health are comprehensively dealt with. In fact, between the "Health Act, 1893," and the various regulations of the Board the range of preventive medicine has been covered to considerable extent.

The Board also passed a resolution instructing the then Secretary, Dr. A. T. Watt, to prepare pamphlets dealing with various sanitary topics, infectious diseases, etc. A resolution was likewise passed suggesting that the Government instruct the Secretary to visit the different towns and settlements of the Province for the purpose of acquiring information as to the sanitary needs of those places and giving instructions to local health officers. A trip was subsequently taken with very satisfactory results. Many matters in much need of attention were examined into and action taken thereon. After his return, Dr. Watt pointed out the necessity for the appointment of a Provincial Sanitary Inspector who should devote his whole time to organizing the sanitary services in the various parts of the Province. Capt. Clive Phillipps-Wolley was accordingly appointed and preceded at once to the Kootenay country, where he spent the latter part of the summer and the fall. He succeeded in placing the towns he visited in a greatly improved condition.

As to the political issues involved, or the personal work of the members of the Board of Health, however meritorious, it is not within the Scope of this volume to discuss, except to say that as an officially constituted organization its usefulness and necessity have been demonstrated. Efficiently controlled, it is a guarantee of protection against epidemic forms of disease which, by contact with the Orient through steamship communication, are frequently imminent, The Board has been but a short time in existence, and in addition to the efforts already put forth towards improved sanitary condition, it has made numerous suggestions which will doubtless be shortly incorporated in the health code”

Appendix 2

Consultation Agreement between Ministry of Health Services, Ministry of Community, Aboriginal and Women's Services, and Union of British Columbia Municipalities

Contents

A. Agreement on Consultation

WHEREAS section 277 of the *Community Charter* provides for the minister responsible and the Union of British Columbia Municipalities (UBCM) to enter into consultation agreements on any matter that affects local government or the Province;

AND WHEREAS the Minister of Health Services is the minister responsible for the protection of Public Health and access to Health Services, and the Minister of Community, Aboriginal and Women's Services is the minister responsible for the *Community Charter*,

AND WHEREAS section 9(1) of the *Community Charter* establishes that municipal bylaws in relation to the protection of Public Health are subject to the requirements for concurrent regulatory authority. Under section 8(3)(i), municipalities may enact public health bylaws, and section 9(4) provides that a ministerial regulation may provide restrictions and conditions on that municipal authority;

AND WHEREAS the parties to this agreement share a desire to maintain the effectiveness of the Ministerial Regulation respecting public health bylaws;

THEREFORE THE PARTIES AGREE that pursuant to section 277 of the *Community Charter* this Consultation Agreement sets out the consultation requirements for monitoring, reviewing and amending a Ministerial Regulation enacted under s. 9(4) of the *Community Charter*.

1. Definitions

For purposes of this Agreement:

Public Health means the protection, promotion or preservation of the health of individuals, or the maintenance of sanitary conditions within a local government's jurisdiction. Health Services means services provided by health professionals and the facilities in which those services are delivered to the public. Health Authority means a Regional Health Board as defined in the *Health Authorities Act*.

2. Purpose of the Consultation Agreement

The purpose of this Consultation Agreement is to establish an effective intergovernmental mechanism to share information regarding the operation of the Public Health Bylaws Regulation. The Agreement establishes the framework by which the parties monitor, review and amend the Ministerial Regulation over time. The Agreement also sets out the process by which local government bylaws covered by the regulation will be deposited or approved, and then brought into force.

3. Consultation Body

The Union of British Columbia Municipalities' Health and/or Environment Committee shall conduct consultations between the Ministry of Health Services and UBCM regarding the Public Health Bylaws Regulation. The committee may also consider requests to amend this Agreement. The Health Committee will manage any necessary referrals process to the Environment Committee.

4. Consultation Process

From time to time the Minster of Health Services will forward to the consultation bodies (the Health and/or Environment Committees) all proposals received from municipal governments to amend the Ministerial Regulation or the bylaw approval protocol. The Committees may meet to review these proposals and report to the Ministers responsible and UBCM Executive with any recommendations for amending the Ministerial Regulation or this Agreement.

5. Consultation Principles

5.1 The Committees and Ministries will be guided in their work by the principles of governance and municipal-provincial relations as provided for in Part 1 of the *Community Charter*.

In relation to this agreement the parties further agree that:

- local matters should be managed locally to the maximum extent possible;
- the provincial interest in matters that extend beyond the local community must be recognized;
- protection of Public Health should be paramount;
- provincial and local roles in regulating with respect to the Public Health should be clear;
- implementation of regulations should be efficient and cost effective; and
- in any regulatory scheme, residents should be treated fairly.

5.2 The Committees shall consider and evaluate any amendments to the Ministerial Regulation or this Agreement in the context of these principles.

B. Agreement on Bringing Bylaws into Effect

6. Introduction

Under the Public Health Bylaws Regulation, a bylaw created by a local government that intends to regulate matters related to Public Health, or

access to health services in the community, may be subject to certain restrictions or conditions before it has legal effect. Bylaws may not be created under the regulation that contradict, or are less stringent than Provincial or Federal Health Legislation, for example, a bylaw created related to sanitation of food premises. Nor can bylaws be created under the regulation where another provincial authority has jurisdiction, for example involving pesticide use, or outdoor burning as it relates to air quality. Bylaws may, however, regulate in matters of local jurisdiction so long as both Federal and Provincial provisions can be met. This regulation is not intended to cover local bylaws authorized by other provisions of the *Community Charter* or any other enactments or statutes unless there is a clear Public Health implication.

The Committees agree not to recommend any changes to the Ministerial Regulation that would in any way allow a local bylaw to be enacted that is less stringent than, or in contradiction to any Provincial or Federal Health enactment.

6.1 Bylaws Requiring Deposit

In the context of the Public Health Bylaws Regulation, the term “deposit” means that a copy of the bylaw is to be forwarded to the minister for record keeping purposes. This is a less onerous process than was previously required under the *Local Government Act*. Bylaws requiring **deposit** are those which deal with the following subject matter:

- the protection promotion, or preservation of the health of individuals, and
- the maintenance of sanitary conditions in the municipality.

Rationale

The deposit of these types of bylaws with the minister will allow Ministry staff to monitor standards set by municipalities and identify best practices, while at the same time providing local autonomy regarding these matters. The Ministry may in turn track the types of health related bylaws throughout BC and recommend codes of practice for subjects frequently regulated. Bylaws requiring deposit include those municipal bylaws that regulate some aspect of public health that go beyond powers provided in local government legislation., Also requiring deposit are bylaws which refer to responsibilities of health authorities provided in other legislation, however bylaws may not add additional responsibilities to Health

authorities without seeking approval under part 6.2 of this document.

The following process is agreed to:

- At any time prior to 3rd reading of the bylaw, the municipality will consult with the contact designated by the local health authority. This may be done at any time prior to adoption, but is recommended to take place early on in the process.
- After third reading, a copy of the bylaw, together with evidence that consultation with the health authority has taken place will be forwarded by the municipality to the Minister of Health Services for deposit. Once received, confirmation of deposit from the minister's office will be sent to the municipality within 10 working days.
- A Council may not legally adopt the bylaw until it has been deposited with the Minister, and consultation with the health authority has taken place.

6.2 Bylaws Requiring Approval

In order to have legal effect, the Minister of Health Services must **approve** bylaws which contain provisions relating to the following matters:

- the restriction, or potential restriction, of any individual's access to health services;
- any matter that may have resource implications for regional health boards, the Nisga'a Nation or the Provincial Health Services Authority;
- any matter containing elements of bylaws requiring approval combined with elements of bylaws requiring deposit.

Rationale

The province has an interest in overseeing any bylaw that may restrict access to health services. If a bylaw requires action to be taken by a health authority, Nisga'a Nation or the Provincial Health Services Authority it must be ensured that the health authority has the resources to carry out additional responsibilities as contemplated by the bylaw.

The following process is agreed to:

- At any time prior to 3rd reading of the bylaw, the municipality will consult with the designated contact from the local health authority, and if the bylaw affects the Nisga'a Nation or the Provincial Health Services Authority, consult with these bodies as well. This may be done at any

time prior to adoption, but is recommended to take place early on in the process.

- After third reading, a copy of the bylaw, together with evidence that consultation with the health authority has taken place, will be forwarded by the municipality to the Minister of Health Services for approval. The municipality may choose to submit a draft to the minister prior to third reading to flag possible issues early on, which may speed up the approval process when the final draft is submitted.
- Once received by the minister's office, proposed bylaws the regulation will be reviewed to determine:
  - If the local government has the statutory authority to enact the bylaw, or If it conflicts with another enactment;
  - If proper process has been followed;
  - If adequate consultation has taken place with the designated contact from the local health authority;
  - If the health authority is to be responsible, or partially responsible for enforcement of the proposed bylaw, whether appropriate and sufficient health authority resources are available for administration of the bylaw; and
  - If the bylaw may unreasonably affect individuals' access to health services.
- Once the review is complete, the Minister may approve the bylaw in whole, require amendment to the bylaw prior to approval, or reject the bylaw. The Minister will respond to the bylaw approval request within 30 working days of receiving the request for approval.
- A Council may not legally adopt the bylaw until it has been approved by the Minister, and consultation with the health authority has been undertaken as per the above.

7. Submitting a Proposed Bylaw to the Ministry of Health Services

Proposed bylaws requiring deposit or approval by the Minister prior to adoption are to be submitted to:

Health Protection Planning Division
Ministry of Health Services
1515 Blanchard Street, 4th Floor
Victoria BC V8W 3C8
Phone: (250) 952-1469
Fax: (250) 952-1713

C. Terms and Administration of this Agreement

8. Term of the Agreement

The parties may agree to amend or terminate this Agreement at any time. This Agreement will be reviewed every three years from the date of signing.

9. Administration of the Agreement

The key contacts for administering this Agreement are:

- Assistant Deputy Minister, Population Health and Wellness, Ministry of Health Services;
- Assistant Deputy Minister, Local Government Department, Ministry of Community, Aboriginal and Women's Services; and
- Executive Director, Union of British Columbia Municipalities.

10. Commitment

In Witness of an Agreement to adhere to the terms established in this Consultation Agreement, the parties have executed this Agreement at Richmond, British Columbia, this ___ th day of 2004.

SIGNED on behalf of the Province of British Columbia by:

[original signed by]

Honorable Colin Hansen	Honorable Murray Coell
Minister of Health Services	Minister of Community, Aboriginal and Women's Services

SIGNED on behalf of the Union of British Columbia Municipalities by:

[original signed by]

Mayor Frank Leonard	Susan Gimse
President	Chair, Health Committee

Appendix 3

Health Act Comparison from Other Canadian Jurisdictions

There are a variety of legislative mandates surrounding CPHI(C)'s in Canada. A review of existing legislation from 8 of 12 provincial and territorial jurisdictions shows 6 of 8 (Newfoundland and Labrador, Nova Scotia, New Brunswick, Nunavut, Saskatchewan, and Manitoba), where the Public Health Inspector holds independent authority under appointment by the provincial Minister having jurisdiction or by the local or regional government or board having jurisdiction. BC Legislation has been outlined to allow for both delegation by a Medical Health Officer or appointment by the Health Authority Board or Minister.

Newfoundland and Labrador

Health And Community Services Act - Chapter P-37.1

An Act Respecting The Protection Of The Health Of The Public And The Provision Of Community Services

2. In this Act,
   - (b) "health officer" means an officer of the department designated as a health officer by the minister;
   - (c) "inspector" means an officer of the department designated as an inspector by the minister.

Nova Scotia

An Act To Amend And Consolidate The Acts Relating To Public Health

Interpretation
2. In this Act,
   - (k) "inspector" includes sanitary inspector, inspector of sanitary conditions and public health inspector;
   - (y) "sanitary inspector" means a sanitary inspector appointed by the Minister or by a municipal council and includes a public health inspector;

Departmental sanitary inspector

8. (1) The Minister may appoint persons in the public service to be departmental sanitary inspectors and may define the territorial limits within which such sanitary inspector shall perform his duties.

Powers and duties

(2) A departmental sanitary inspector shall have and may exercise within the territory in which he is appointed and, if so authorized by the Minister, anywhere within the Province, all the powers of an inspector and shall perform such duties as are assigned to him by the Minister. R.S., c.195, s. 8.

Prince Edward Island

Public Health Act - Chapter P-30

1. In this Act

(c) “health officer” means a person appointed under section 2;

2. The Minister shall appoint suitably qualified persons as health officers who shall act, under the direction of the Chief Health Officer, in enforcing this Act and the regulations.

New Brunswick

Public Health Act - Chapter P-22.4

"public health inspector" means a public health inspector appointed under section 62;

Public health inspectors

62. The Minister may appoint one or more persons as public health inspectors who shall perform the duties required of a public health inspector under this Act and the regulations and such other duties as may be assigned by the Minister.

Nunavut

Public Health Act

"Health Officer" means a Health Officer appointed under subsection 3(2) or 6(2);

"sanitary inspector" means a sanitary inspector appointed by the Commissioner or under section 8.

3 (2) Subject to section 6, the Commissioner may for each Health District appoint a licensed or duly qualified medical practitioner as Medical Health Officer and other suitable persons as Health Officers.

3 (3) Every Medical Health Officer or Health Officer appointed under subsection (2) may exercise the powers conferred and shall perform the duties and functions imposed by this Act and the regulations.

4. For the purposes of this Act, a Medical Health Officer or sanitary inspector has all the powers of a Health Officer.

8. Where no agreement referred to in section 12 is in force, the council of a municipality may appoint sanitary inspectors and public health nurses and define their duties and fix their remuneration.

Saskatchewan

The Public Health Act, 1994 - Chapter P-37.1

An Act Respecting Public Health

PART I

Short Title and Interpretation

2. In this Act:
(gg) “public health officer” means a person who is:
(i) certified by the minister pursuant to section 9; or
(ii) a member of a class of persons prescribed as public health officers;

Manitoba

The Public Health Act

Public Health Inspectors

Appointment of public health inspectors
8.(1) Every municipality may appoint a public health inspector of the municipality.

Remuneration
8.(2) The remuneration of a public health inspector appointed under subsection (1) shall be paid by the municipality appointing him.

Appointment by minister
8.(3) The minister may appoint a public health inspector where a municipality has not made an appointment under subsection (1), for such term, and at such remuneration, as may be determined by the minister; and the remuneration shall be paid from the Consolidated Fund with money authorized by an Act of the Legislature to be paid and applied for the purposes of this Act.

Duties of public health inspectors
9. A public health inspector shall assist the medical officer of health in the municipality or district, for which he is appointed in enforcing this Act and the regulations and the provisions of any other Act of the Legislature relating to health or safety or any regulations or by-laws made or passed pursuant thereto, and perform such duties and functions as are imposed on him under this Act and the regulations or under any other Act of the Legislature or any regulation or by-law made or passed pursuant thereto.

Acknowledgements

BC Branch Public Health Act Renewal Project Committee:

Gordon Stewart (Chair)
Don Corrigal
Kuljeet Chattha
Shawn Parhar
Timothy Millard
Steve Chong, BC Branch President (ex-officio)