

	Saskatchewan Health Regional Health Services Policy & Procedure Manual	Status: Current
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Section: Population Health/Population Health Services	Branch Contact: 787-8847	
Title: A BRIEF ORIENTATION TO THE PUBLIC HEALTH ACT, 1994		

INTENT:

To inform regional health authority members of the powers and responsibilities of a regional health authority appointed as a local authority under the Act, to outline powers and responsibilities of medical health officers and the minister, and to make members aware that they may be called upon from time to time to sit on an appeal board when hazard abatement orders are appealed.

LEGISLATIVE AUTHORITY:

RELATED GUIDELINES (Links):

None

A Brief Orientation To The Public Health Act, 1994



Saskatchewan
Health

**A Brief Orientation
To
*The Public Health Act, 1994***

January 2006

INTRODUCTION

Saskatchewan, like each of the other provinces, has public health laws in place to protect the public from communicable diseases, injuries and hazards. Many of the public health laws in this province are embodied in *The Public Health Act, 1994* and related regulations. In several provinces, government departments or ministries administer these laws directly, while other provinces, including Saskatchewan, British Columbia, Alberta, and Ontario, administer them through local authorities such as health districts, health authorities, or municipalities.

The primary purpose of this summary is to inform regional health authority members of the powers and responsibilities of a regional health authority appointed as a local authority under the Act, to outline powers and responsibilities of medical health officers and the minister, and to make members aware that they may be called upon from time to time to sit on an appeal board when hazard abatement orders are appealed. A secondary objective is to provide a clearer understanding of the term public health.

DIVISION OF POWERS

The Public Health Act, 1994 divides powers among:

1. Local authorities
2. Designated public health officers (i.e. medical health officers)
3. The Minister of Health

1. LOCAL AUTHORITIES

Of primary interest to regional health authority members are the local authority powers. During 1997 when the Act was proclaimed, government appointed 11 district health boards (known as the host district boards) as local authorities. Local authority powers under the Act, in part, cover:

- health hazard abatement;
- food safety and drinking water safety;
- administration of regulations under the Act; and
- approval of municipal bylaws having public health significance (except for tobacco control bylaws).

Since the regional health authority (replacing the host district health board) as local authority will not be administering its powers at the operational level, there are provisions in the Act allowing local authorities to delegate powers to public health officers such as medical health officers and public health inspectors. Saskatchewan Health understands that each host district health board passed a resolution delegating its powers to public health officers. Provisions within *The Regional Health Authorities Act* transfer the local authority appointments made by government from district health boards to the new regional health authorities. The district health board resolutions that delegated powers to public health officers remain in effect, as well.

2. Designated Public Health Officers (i.e. medical health officers)

As mentioned above, local authority powers can be (and have been) delegated to public health officers, the category of which includes medical health officers and public health inspectors. The Act also allows the minister to designate a public health officer as a “medical health officer”. The communicable disease control powers in the Act are reserved for “medical health officers”. Since the communicable disease control powers exercised by designated public health officer powers are, in large part, extraordinary powers (for example, can issue an order requiring a person to be tested by a physician), only medical health officers can be designated as designated public health officers as stated in *The Public Health Officers Regulations*. These regulations also establish the qualifications of a medical health officer: he or she must be a registered physician who should have specialized knowledge in public health or community medicine.

In summary, medical health officers have two sets of powers – first, powers delegated to them (as public health officers) from the local authority, and second, powers of a designated public health officer to control communicable diseases as designated by the minister.

All the medical health officers within the province and who are employed by or on contract with regional health authorities, Saskatchewan Health, First Nations, or the Federal government have province-wide jurisdiction. This was necessary to ensure medical health officers providing back-up coverage to health regions have the necessary authority to control communicable diseases. All regional health authorities are consulted before a medical health officer is given province-wide jurisdiction.

3. MINISTER OF HEALTH

Powers and responsibilities of the minister, in part, include:

- issuing orders to control serious public health threats, including epidemics;
- designating public health officers as medical public health officers;
- entering into agreements;
- establishing goals, establishing program standards, evaluating programs; and
- approving bylaws passed under *The Public Health Act, 1994*.

The minister also has the powers of a local health authority. The minister's department, Saskatchewan Health, is, among other things, responsible for developing and updating public health legislation, regulations and policies, conducting province-wide communicable disease surveillance, managing vaccine purchases and distribution, leading special projects such as the Public Health/Population Health Services project completed in 2001, and generally providing leadership in the area of public and population health.

PUBLIC HEALTH APPEALS AND OTHER REGULATIONS

The local authority (i.e. regional health authority) is responsible for administering the regulations listed in Appendix I. One regulation in particular, The Public Health Appeals Regulation, will interest regional health authority members as it may directly involve them in hearing appeals against orders issued by public health officers. The regulations establish a 3 person appeal board for the hearing of appeals: a representative of Saskatchewan Health, a medical health officer not involved in the issuance of the order, and a member of the regional health authority for the local authority area in which the order was issued.

REGULATORY LIABILITY

The regional health authority, as a local authority having powers under *The Public Health Act, 1994*, should be aware of regulatory liability issues. Regulatory liability can be summarized as follows.

Regulatory agencies that do not properly enforce legislation, regulations and policies for which they have responsibility could be liable for damages suffered by a person resulting from the non-enforcement. This type of liability, commonly known as regulatory liability, is quite different

from the more common known cases of liability involving negligent actions of employees or of occupier's liability where agencies have hazardous conditions on their lands or buildings.

Regulatory liability has been the subject of a number of recent Supreme Court of Canada decisions. In those cases, the court distinguishes between two types of decisions made by regulators: Policy Decisions (i.e. very general programmatic delivery and enforcement decisions) and Operational Decisions (decisions made in the course of carrying out delivery of a program or enforcement). In general, regulators are not liable where the harm results from a policy decision but can be where it is an operational decision.

Differentiating policy and operational decisions is not a simple task, given decisions are made at many levels throughout the organization. Regardless, where an agency is not fulfilling its regulatory duties due to staff shortages or other reasons, it is highly desirable for that agency to have in place a plan, with rationale, for prioritizing programs in order to minimize exposure to regulatory liability. Further, it is important that the highest levels within the organization sign off the plan, which in the case of a health region is the chief executive officer and the regional health authority.

PUBLIC HEALTH AND POPULATION HEALTH – UNDERSTANDING THE CONCEPTS

It is important to note that the application of public health protection legislation and regulations is only one of many means used to influence behavior and attitudes to further public health ends. Easily accessible programs and services, health education, research, population health promotion approaches, economic incentives, and other initiatives or activities, as well, do affect individual and community choices that can lead to better health outcomes. Clearly, the face of public health is changing in a way that considers all factors or means of influence. Because of changes in public health approaches there has been some confusion about the term “public health” within the context of the more recent term “population health”. Appendix II “Public Health Defined” helps to increase understanding of the terms among public health and other staff responsible for administering public health programs

Appendix I

List of Regulations Under *The Public Health Act, 1994*

1. Bakeshop Regulations¹
2. Disease Control Regulations
3. Milk Pasteurization Plant Regulations
4. Plumbing and Drainage Regulations
5. Public Accommodation Regulations
6. Public Eating Establishment Regulations¹
7. Public Health Appeals Regulations
8. Health Hazard Regulations
9. Public Health Officers Regulations
10. Sanitation Regulations (food sections only)
11. Shoreland Pollution Control Regulations
12. Swimming Pool Regulations

¹ The proposed Food Safety Regulations (expected to be in place later 2006) will consolidate provisions in the Bakeshop Regulations, the Public Eating Establishment Regulations and the Food Safety section of the Sanitation Regulations.

(List amended June 2005)

Appendix II

Public Health Defined

Over the years, "public health" has been defined differently by various agencies in various jurisdictions. One example is:

Public Health is one of blending knowledge with social values to shape responses to problems that require collective action after they have crossed the boundary from the acceptable to the unacceptable.....It seeks to extend the benefits of current knowledge in ways that will have the maximum impact on the health status of the population. It does so through identifying problems that call for collective action to protect, promote and improve health, primarily through prevention strategies. This public health is unique in its interdisciplinary approach and methods, its emphasis on preventive strategies and its linkage with government and decision-making, and its dynamic adaptation to new problems placed on its agenda. Above all else, it is a collective effort to identify and address the unacceptable realities that result in preventable and avoidable health outcomes and it is the composite effort and activities that are carried out by people committed to these ends. (Turnoch, Bernard J. (1997). Public Health: What It Is and How It Works. Gaithersburg, Maryland: Aspen Publishers. P. 10-11)

Within the context of Saskatchewan's public health tradition, the term is generally used in two ways.

"Public health" in the first sense refers to a particular objective sought and the methods used in achieving that objective. Public health activities change with changing technology and social values, but the objectives remain the same: to reduce the amount of disease, pre-mature death and disease-produced discomfort and disability in a population. The methods employed are generally those that target several people, a group, a community or society. A communicable disease control regulation that applies to all people within a province, a non-smoking bylaw that applies to a particular community, an injury prevention program, the offering of group classes related to prenatal health, nutrition, dental health and so on meet these two criteria.

Second, "public health" is commonly referred to as a formally organized sector of the health system with programs and services offered by nutritionists, medical health officers, dental health educators, health promoters, public health nurses, and public health inspectors. Public health also offers support services that include the collection and analysis of health statistics (vital statistics, disease trends, health of the population/community, etc) and laboratory testing. The statement "We need to consult with public health before setting communicable disease control procedures in our facility" is an example of this 'organizational' usage.

It is the method - that is, the system or group approach, that distinguishes public health activities from typical prevention activities. As an example, a physician who encourages his/her patient to stop smoking is viewed as a prevention activity. On the other hand, a health region that organizes an information/education program encouraging all physicians to regularly impart prevention messages to their patients is viewed as a public health activity. What distinguishes the two approaches is that the latter effort targets a group of physicians and the former just a single patient, even though both activities share a prevention element.

Public health as a method is sometimes confused with the population health approach. Public health agencies are key players in implementing the population health approach. The population health approach puts more emphasis on the importance of the determinants of health (poverty, education, housing, socio-economic status, etc.) and recognizes that many social and health problems facing communities have multiple and interacting causes which require a well coordinated and multi-sectoral response.

The challenge of public health as an organization is to revitalize its current methods by embracing population health approaches more fully.