June 14, 2017

Hon. Eric Hoskins
Minister of Health & Long Term Care
10th Floor, Hepburn Block
80 Grosvenor Street
Toronto, Ontario M7A 2C4

Dear Minister Hoskins:

Re: Requesting Support for the Enactment of Legislation under the Health Protection & Promotion Act (HPPA) to Allow for Inspection and Enforcement Activities of Personal Service Settings

I am writing to you on behalf of the Board of Health for Niagara Region.

We thank you for your emphasis on transparency and patient safety during your tenure as Minister. Under your leadership, local public health agencies now investigate complaints concerning infection prevention and control (IPAC) in a wider array of facilities, and we disclose our investigation findings in short order to the public. While this work has resulted in considerable additional work for local public health during a time of constrained funding, we think the residents and many visitors to Niagara are safer because of it.

I am writing today to request your government’s help in streamlining this work to ensure Ontarians can expect the highest standards of IPAC practices. Specifically, we have endorsed the enclosed requests by Wellington-Dufferin-Guelph Public Health and the Board of Health for the District of Algoma Health Unit to enact a regulation specific to personal service settings (PSS) coupled with the authority to ticket under the Provincial Offenses Act.

Local public health agencies inspect all PSS to ensure adherence to IPAC standards of practice. Whether through these proactive inspections or through complaint investigations, when deficiencies in IPAC practices are identified, we seek to rectify the practices using education in the first instance. While effective in the vast majority of cases, on occasion, repeated attempts to educate prove unsuccessful at bringing about needed changes. In these cases, graduated enforcement processes are needed.

Currently, the only enforcement measures afforded under the HPPA are the closure of the premise and the use of legal orders. These are blunt and coercive tools that are not always proportionate. As well, when a PSS owner/operator does not adhere to a legal order to correct practices, the
process of laying a charge for breach of the order is lengthy, costly, and, most critically, delays correction of the health risk. Where education is ineffective, but the health risk is not sufficiently severe to justify a closure or legal order, there are currently no tailored enforcement tools that would permit a graduated escalation of actions.

Conversely in food premises, where deficiencies in food safety are identified, there is the option of issuing a ticket under Part I of the Provincial Offences Act. This is possible since food safety practices have been embedded in a regulation specific for food safety (Regulation 562: Food Premises) coupled with a schedule of offences listed in a regulation under the Provincial Offences Act (Regulation 950: Proceedings Commenced by Certificate of Offence). The time needed to prepare and serve the ticket is also considerably less than the time required for a closure or legal order under the HPPA. Few tickets are actually issued for food safety; the threat of receiving tickets alone deters owners/operators from operating in contravention of established standards of practice.

A provincial regulation specific to IPAC practices in PSS, coupled with a schedule of offences under the Provincial Offences Act would facilitate adherence to best practice standards, and not impose any new or additional requirements on PSS businesses. More importantly, it would better protect the public by enabling swifter correction of IPAC breeches, reduce the need for heavy-handed enforcement, and reduce expenditure of provincial and local tax dollars on enforcement. Such a PSS enforcement regimen would also align with other public health enforcement regimens.

Thank you for considering this request, and for your ongoing leadership of Ontario’s integrated health system.

Yours Truly,

Alan Caslin
Regional Chair

Cc:
David Williams, Chief Medical Officer of Health
Roselle Martino, Assistant Deputy Minister, Population & Public Health Division
Association of Local Public Health Agencies
Ontario Boards of Health
Niagara MPPs

Encl.
Algoma Public Health Letter to Premier (March 29, 2017)
March 29, 2017

The Honourable Kathleen Wynne
Premier of Ontario
Legislative Building, Queen's Park
Toronto, ON M7A 1A1

Dear Premier Wynne,

Re: Requesting Support for Enactment of Legislation under the HPPA to Allow for the Inspection and Enforcement Activities of Personal Service Settings.

At its meeting on March 22, 2017, the Board of Health for the District of Algoma Health Unit considered the correspondence forwarded by Wellington-Dufferin-Guelph Public Health in regards to support for enactment of legislation under the to allow for the inspection and enforcement activities of personal service settings.

The Board of Health for the District of Algoma Health Unit passed the following resolution in support of Wellington-Dufferin-Guelph Public Health's request for support:

Resolution 2017-

WHEREAS the Hepatitis C rate in Algoma between 2012-2016 has increased by 7.2% compared with a decrease in the province of 4%; and

WHEREAS some services provided by Personal Service Settings (PSS) potentially expose individuals to bloodborne infections; and

WHEREAS due to the lack of legislation for PSS, APH instituted an optional program where operators are provided with a "Registered for Inspection " certificate that they post at their premise to showcase to the patrons that they have voluntarily been inspected; and

WHEREAS education and training are the first steps to ensure Infection Prevention and Control Practices (IPAC) best practices are adhered to, there are occasions when enforcement maybe needed; and

WHEREAS due to the lack of legislation, associated regulations, and set fee schedules to allow for issuing of certificates of offence (tickets) for enforcement purposes, API-I has had to utilize more cumbersome and inefficient Section 13 orders to ensure compliance; and

WHEREAS some PSS providers are conducting the procedures in uninspected environments such as private homes in the Algoma district, and

WHEREAS creation of provincial legislation governing PSSs would support a consistent, progressive enforcement model amongst Ontario's public health units.

THEREFORE BE IT RESOLVED THAT the Algoma Public Health Board support the Wellington Dufferin-Guelph Public Health in recommending that the Government of Ontario
enact legislation under the HPPA to support inspection and enforcement activities within PSSs; and

FURTHER THAT this resolution is shared with the Minister of Health and Long Term Care, Members of Provincial Parliament, Chief Medical Officer of Health, Association of Local Public Health Agencies and all Ontario Boards of Health.

Sincerely,

Dr. Marlene Spruyt Bsc, MD, CCFP, FCFP, MSc-PH
Medical Officer of Health/CEO
On behalf of Algoma Public Health Board of Health

Encl. Wellington-Dufferin-Guelph Public Health correspondence

cc: Hon. Dr. Eric Hoskins, Minister of Health and Long-Term Care
Dr. David Williams, Chief Medical Officer of Health
Michael Mantha, MPP Algoma-Manitoulin
Association of Local Public Health Agencies
Ontario Public Health Units
January 4, 2017

DELIVERED VIA E-MAIL & REGULAR MAIL

The Honourable Kathleen Wynne
Premier of Ontario
Legislative Building, Queen’s Park
Toronto, ON M7A 1A1

Dear Premier,

Re: Requesting Support for Enactment of Legislation under the HPPA to Allow for the Inspection and Enforcement Activities of Personal Service Settings

On behalf of the Board of Health of Wellington-Dufferin-Guelph Public Health (WDGPH), I am writing to request your support of the enactment of legislation under the Health Promotion and Protection Act (HPPA) to allow for the inspection and enforcement activities of personal service settings.

Six provinces and territories currently have specific legislation for the regulation of personal service settings which increases the enforcement abilities of public health staff and provides an incentive for operators to comply with infection protection and control best practices. Ontario has no provincial legislation that requires operators to comply with these best practices.

In those provinces and territories where regulations exist, non-compliance with the regulations by personal service setting staff or operators can result in a conviction and/or monetary fines, without requiring public health staff to prove the existence of a health hazard in order to proceed with enforcement actions.

The creation of legislation under the HPPA, specific to personal service settings, would contribute to the standardization of minimum infection best practices in personal service settings. Based on an assessment of complaints received by WDGPH, most complaints in personal service settings are associated with potentially invasive services such as manicure, pedicure and aesthetics services. The enactment of legislation for all premises offering personal services could help mitigate infection control risks to staff working in these premises and members of the public receiving these services.

The most recent complaint to WDGPH was in December 2016 and pertained to the cleanliness of reusable tools and equipment and the reuse of single-use items such as nail files and buffer blocks. If legislation was in place that allowed for inspection and enforcement procedures similar to those in food premises, a ticket could have been issued on the spot with a set fine for non-compliance with infection prevention and control best practices. This would have helped lower infection risks for current staff and clients as well as been an...
incentive for ongoing infection control for this specific owner and a general incentive for the wider community of personal service setting operators.

Recently, WDGPH has observed an expansion in the range of services offered within personal service settings to include more invasive services such as micro-needling, botox injections and microdermabrasion. The invasive nature of these services is accompanied by an increased risk of subsequent infection if infection prevention and control practices are not followed during the provision of these services. In many cases, these services are being offered by non-Regulated Health Professionals, meaning that inspection of these services and enforcement of minimum infection control best practices falls to public health.

It is therefore our hope that you will consider enacting legislation for infection protection and control requirements for all personal service settings under the HPPA, supported by short-form wording under the Provincial Offences Act.

Thank you for giving this correspondence your every consideration.

Sincerely,

Nancy Sullivan
Chair, Wellington-Dufferin-Guelph Board of Health

Encl. to enforce infection prevention and control practices within personal service settings, Board of Health Report, December, 2016)

cc (via e-mail):
Hon. Dr. Eric Hoskins, Minister of Health and Long-Term Care
MPP Liz Sandals, Guelph
MPP Sylvia Jones, Dufferin-Caledon
MPP Ted Arnott, Wellington-Halton Hills
Dr. David Williams, Chief Medical Officer of Health
Association of Local Public Health Agencies
Ontario Boards of Health
Recommendations

It is recommended that:

1. The Board of Health receive this report for information.
2. The Chair, on behalf of the Board of Health, write a letter to the Honourable Kathleen Wynne, Premier of Ontario, in support of the creation of regulations for Personal Service Settings (PSS).

Key Points

- This report provides a rationale for the enactment of legislation under the HPPA to support inspection and enforcement activities within PSS.
- No provincial legislation currently exists that requires operators to comply with infection prevention and control (IPAC) best practices.
- Several provinces and territories within Canada have legislation specific to PSS premises, increasing the enforcement abilities of public health staff and providing an incentive for operators to comply with IPAC best practices.
- While education is considered the first step in gaining operator compliance, sometimes enforcement actions are the only means of gaining compliance with minimum requirements in order to ensure public safety.
Several boards of health have submitted letters to The Honourable Kathleen Wynne, Premier of Ontario, in support of enacting legislation specific to PSS, and specifically in support of the creation of wording under the Provincial Offences Act (POA) that would allow public health staff additional enforcement options when dealing with infractions in these premises.

Discussion

Public health staff across the province of Ontario enforce infection prevention and control (PAC best practice recommendations under the Infection Prevention and Control Best Practices for Personal Service Settings document (2009) by performing annual inspection of all PSS, with additional inspections in response to operator requests, complaints and to follow-up on any outstanding issues identified during routine compliance inspections. 1-3 In accordance with the Infection Prevention and Control in Personal Service Settings Protocol (2015), if WDGPH receives a complaint regarding a PSS, public health staff are required to initiate a response to the complaint within 24 hours in order to 'determine the risk of communicable disease transmission, and the appropriate board of health response' and must then 'take action based on the findings of its assessment, up to and including issuing orders under the HPPA' 2-4. Currently public health inspectors (PHIs) conduct routine, follow-up and complaint inspections of PSS premises, using the Infection Prevention and Control Best Practices for Personal Service Settings document (2009) as a guideline, and classify identified infractions as either 'critical' or 'non-critical', with critical infractions defined as those that potentially pose an infection control risk if found to be non-compliant with best practices. PHIS revisit premises to ensure that infractions are corrected and will work with operators in order to achieve compliance with minimum infection control best practices.

This year, WDGPH has received 26 PSS complaints from the public regarding infection control (the majority associated with manicure/pedicure/aesthetic services) as well as several public requests for infection control information. The majority of complaints associated with PSS were due to the re-use of single-use disposable items or due to infection following a cut or other injury accidentally received during a manicure/pedicure or other potentially invasive service. While onsite operator education can be helpful in gaining voluntary compliance in correcting infection control infractions, public health staff have limited enforcement actions available to them to ensure compliance in premises with repeat infractions or where operators are unwilling to comply with IPAC best practices.

If additional enforcement is required to gain compliance from operators, a PHI may issue a Section 13 Order under the HPPA 4 This is a lengthy process and requires the PHI to believe that a "health hazard" (as defined under Section 1 of the HPPA) exists.
that may pose a risk to the health of any member of the public.4 This is in contrast to inspections of food premises (such as restaurants, grocery stores and institutional food service departments) — in these premises PHIs have several enforcement options, including the issuance of a Section 13 Order, a ticket under Part t of the POA or a direct summons to court under Part III of the POA 4-7. The additional enforcement options for food premises are due to the existence of a regulation under the HPPA that legislates specific requirements for food premises, and which is supported by a document that sets out set monetary fines for any non-compliance with the regulation 57. This document allows PHIS across the province to issue tickets to operators on the spot, which has proven to be helpful both in gaining immediate compliance from operators as well as from other premise operators via general deterrence. Regulations exist under the HPPA for public swimming pools, recreational camps, spas and rabies, however none currently exist for personal service settings.

In early 2016, a provincial working group was created with the purpose of updating the Ontario Best Practices document; an equivalent federal working group is currently updating a similar document for use by provinces that don't have specific guidelines for PSS premises. Six provinces and territories in Canada currently have legislation for the regulation of PSS premises; Alberta, Newfoundland/Labrador, NWT, Yukon, Nunavut and Nova Scotia, with the remaining provinces relying on provincial or federal guidance documents, as applicable. In those provinces and territories where regulations exist for PSS premises, non-compliance with the regulations can result in a conviction and/or strict monetary fines, without requiring public health staff to prove the existence of a health hazard in order to proceed with enforcement actions.

In addition to infection control complaints, WDGPH receives requests for information from members of the public, looking for guidance on where to go to receive personal services, particularly regarding services such as manicures, pedicures, tattooing or body piercing. Subsequent to BOH report BH.O1 .APR0214.RIO (Online disclosure of personal service settings inspection results), WDGPH made inspection results for PSS premises available online in October of 2014. This was to increase transparency of inspection results and to assist members of the public in making informed decisions when deciding where to go to receive a personal service. 9 Public disclosure of inspection results has also been shown to have a positive impact on operator compliance with relevant legislation and best practices. 10

Annual inspection of all PSS premises is an accountability indicator for the Ministry of Health and Long-Term Care. 11 The creation of legislation under the HPPA, specific to personal service settings would contribute to the standardization of minimum 'PAC best practices in PSS premises, and assist public health staff in enforcing minimum standards. The overall goal is to prevent infectious disease transmission risks to PSS staff and members of the public who use these services. Several public health units in
Ontario have written letters to The Honourable Kathleen Wynne, Premier of Ontario, in support of the creation of regulations specific to PSS and particularly those that offer invasive services, such as tattooing and body modification.12.13

**Conclusion**

Legislation regulating PSS activities along with annual public health inspections are necessary to reduce infection control risks to the public. Having PSS Regulations would give public health inspectors enforceable infection control requirements while assessing PSS practices.

**Ontario Public Health Standard**

The management of infectious diseases, inspection of PSS and increased public awareness of infection prevention and control practices are required under the Infectious Diseases Program Standards (2008), with the goal of reducing the burden of infectious diseases of public health importance.

Specific requirements of the Infectious Diseases Program Standard are outlined in:

**Requirement #14**: The board of health shall inspect settings associated with risk of infectious diseases of public health importance in accordance with the Infection Prevention and Control in Licensed Day Nurseries Protocol, 2008 (or as current); the Infection Prevention and Control in Personal Services Settings Protocol, 2008 (or as current); and the Risk Assessment and Inspection of Facilities Protocol, 2008 (or as current).

**Requirement #10**: The board of health shall ensure that the medical officer of health or designate receive reports of and responds to complaints regarding infection prevention and control practices in settings for which no regulatory bodies, including regulatory colleges exist, particularly personal service settings. This shall be done in accordance with the Infection Prevention and Control in Personal Services Settings Protocol, 2008 (or current) and the Infection Prevention and Control Practices Complaint Protocol, 2008 (or as current).

**W GPH Strategic Direction(s)**

Check all that apply:

- Enactment of legislation to enforce infection prevention and control practices within personal service settings under the HPPA BH.01.DEC0716.R21
Building Healthy Communities
[Check] We will work with communities to support the health and well-being of everyone.

Service Centred Approach
We are committed to providing excellent service to anyone interacting with Public Health.

Health Equity
[Check] We will provide programs and services that integrate health equity principles to reduce or eliminate health differences between population groups.

Organizational Capacity
We will improve our capacity to effectively deliver public health programs and services.

Health Equity

The proposed legislation applies a compliance centered approach to equitably increase positive outcomes to all users of these services equally and would ensure that workers in PSS establishments understand their obligations and are protected from risk by a comprehensive communication plan promoting the proposed legislated requirements.

Appendices

None.

References


Enactment of legislation to enforce infection prevention and control practices within personal service settings under the HPPA BH.01.DEC0716.R21

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standards/docs/infection prevention personal services.pdf

Health Protection and Promotion Act, R.S.O. 1990. Accessed online at:
http://www.elaws.gov.on.ca/html/statutes/english/elaws_statutes_90h07_e.htm


Provincial Offences Act. R.S.O. 1990. Accessed online at:
https://www.ontario.ca/laws/statute/90p33


Online Disclosure of Personal Service Settings Inspection Results. Accessed online at: http://www.wdqpublichealth.ca/?q=bohreports


Personal communication. (2016). Letter from the Peterborough County-City Health Unit Board of Health to The Honourable Kathleen Wynne.

Personal communication. (2016). Letter from the Sudbury & District Health Unit Board of Health to The Honourable Kathleen Wynne.

Enactment of legislation to enforce infection prevention and control practices within personal service settings under the HPPA BH.01.DEC0716.R21

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