

# Manitoba Laws

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C.C.S.M. c. P210

## The Public Health Act

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(Assented to June 13, 2006)

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

### PART 1

#### INTRODUCTORY PROVISIONS

##### Definitions

1(1) The following definitions apply in this Act.

**"animal or other organism"** does not include a human being. (« animal ou autre organisme »)

**"chief public health officer"** means the chief provincial public health officer appointed under section 10. (« médecin hygiéniste en chef »)

**"communicable disease"** means an illness that is caused by the transmission of an infectious agent or its toxic products directly or indirectly from an infected person, animal or plant, an inanimate object or the environment. (« maladie contagieuse »)

**"contaminant"** means

- (a) radiation;
- (b) radioactive material;
- (c) biological matter that causes disease, including a toxic biological agent;
- (d) a chemical agent that produces a dangerous chemical reaction; or
- (e) any other toxic or dangerous material or substance. (« contaminant »)

**"contaminated"** means the condition of a person, or of his or her clothing or other personal effects, after exposure to a contaminant. (« contaminé »)

**"court"** means the Court of Queen's Bench. (« tribunal »)

**"director"** means a director appointed under section 17. (« directeur »)

**"emergency health hazard order"** means an order made under section 34. (« ordonnance sanitaire d'urgence »)

**"health care organization"** and **"health corporation"** have the same meaning as in *The Regional Health Authorities Act*. (« organisme de soins de santé » et « personne morale dispensant des soins de santé »)

**"health hazard"** means

- (a) a condition of a place or premises;
- (b) a plant, animal or other organism;
- (c) a substance or thing;
- (d) a solid, liquid or gas, or any combination of them; or

(e) an activity, condition or process;

that presents or might present a threat to public health. (« risque sanitaire »)

**"health hazard order"** means an order made under section 24. (« ordonnance sanitaire »)

**"health officer"** means a health officer appointed or designated under the regulations. (« agent hygiéniste »)

**"health professional"** means a physician or a registered nurse, or a member of a class of persons designated as health professionals in the regulations. (« professionnel de la santé »)

**"health region"** means a health region as defined in *The Regional Health Authorities Act*. (« région sanitaire »)

**"identifying information"** means information that, in the opinion of a medical officer, is sufficient to confirm a person's name, address and other contact information. (« renseignements signalétiques »)

**"inspector"** means a public health inspector appointed or designated under the regulations. (« inspecteur »)

**"isolation"** means the separation from others of a person or animal

(a) that is or might be infected with a communicable disease; or

(b) that is or might have been contaminated;

so as to prevent spread of the disease or contamination to a person or animal not so infected or contaminated. (« isolement »)

**"laboratory"** means

(a) a laboratory as defined in section 119 of *The Health Services Insurance Act*, but does not include a place where the diagnostic examination or treatment of persons is performed solely by means of radiation emitting or non-radiation emitting medical imaging devices; or

(b) any other facility designated as a laboratory in the regulations. (« laboratoire »)

**"medical officer"** means a medical officer of health appointed or designated under the regulations. (« médecin hygiéniste »)

**"medical testing"** includes diagnostic imaging and taking specimens of body tissues, blood or other fluids for laboratory examination. (« tests médicaux »)

**"minister"** means the minister appointed by the Lieutenant Governor in Council to administer this Act. (« ministre »)

**"municipality"** includes a community as defined in *The Northern Affairs Act*. (« municipalité »)

**"occupant"** includes

(a) a person who is in physical possession of a place or premises; and

(b) a person who has responsibility for or control over the condition of a place or premises or the activities carried on there, or control over persons allowed to enter a place or premises. (« occupant »)

**"owner"**, in relation to a place or premises, includes an agent or trustee of the owner, and any person who receives, or is entitled to receive, rent under a lease of the place or premises. (« propriétaire »)

**"person"** includes a partnership, and any other organization or entity whether incorporated or not. (« personne »)

**"personal health information"** means personal health information as defined in *The Personal Health Information Act*. (« renseignements médicaux personnels »)

**"personal information"** means personal information as defined in *The Freedom of Information and Protection of Privacy Act*. (« renseignements personnels »)

**"premises"** means lands and structures, or either of them, and any yards adjacent to them and structures associated with them, whether portable, temporary or permanent, and includes

(a) a body of water;

(b) a motor vehicle or trailer;

(c) a train or railway car;

(d) a boat, ship or similar vessel; and

(e) an aircraft;

and includes part of a premises. (« lieu »)

**"prescribed"** means prescribed by the regulations made under this Act. (version anglaise seulement)

**"public health nurse"** means a public health nurse appointed or designated under the regulations. (« infirmière d'hygiène publique »)

**"public health services"** includes health surveillance, population health assessment, health promotion, health protection, disease prevention and control, and injury prevention. (« services de santé publique »)

**"quarantine"** means

(a) in relation to a person or animal, to restrict freedom of movement of a person or animal that has been or might have been exposed to a communicable disease; and

(b) in relation to a place or premises, to prohibit or restrict entry into or leaving the place or premises;

so as to prevent the disease from spreading to a person or animal that has not been exposed to it. (« quarantaine »)

**"zoonotic disease"** means a communicable disease that is or might be capable of being transmitted directly or indirectly from

(a) an animal to a person; or

(b) a person to an animal. (« zoonose »)

#### **Reference to "Act" includes regulations**

1(2) A reference to "this Act" includes the regulations made under this Act.

#### **Purpose of Act**

2 The purpose of this Act is to enable the delivery of public health services to protect and promote the health and well-being of the people of Manitoba.

#### **Limit on restricting rights and freedoms**

3 If the exercise of a power under this Act restricts rights or freedoms, the restriction must be no greater than is reasonably necessary, in the circumstances, to respond to a health hazard, a communicable disease, a public health emergency or any other threat to public health.

## **PART 2**

### **PUBLIC HEALTH OFFICIALS AND REGIONAL HEALTH AUTHORITIES**

#### **MINISTER AND REGIONAL HEALTH AUTHORITIES**

#### **Minister's authority**

4(1) The minister has the authority to protect and promote the health and well-being of Manitobans.

#### **Minister's powers**

4(2) The minister may

- (a) establish public health goals;
- (b) establish guidelines and standards for public health services;
- (c) monitor the delivery of public health services to ensure they are delivered in accordance with guidelines and standards;
- (d) promote the integration of the public health services and policies under this Act with the services and policies of other government departments and agencies which affect public health;
- (e) promote co-operation with non-governmental organizations to develop and deliver public health services;
- (f) inquire into the causes of diseases, ill health, injuries and death, and determine steps that might be taken to reduce them;
- (g) participate in initiatives with other governments to strengthen public health services;
- (h) advise the government about public health issues generally.

#### **Minister may designate person to investigate**

5(1) The minister may, in writing, designate a director, the chief public health officer, a medical officer, an inspector, a public health nurse or any other person to investigate a matter referred to in clause 4(2)(f).

#### **Powers of investigator**

5(2) The person designated to investigate has the powers of a commissioner under Part V of *The Manitoba Evidence Act*.

**Responsibility of regional health authorities**

6 A regional health authority is responsible for the delivery and administration of public health services in its health region in accordance with this Act and any guidelines and standards established by the minister.

**Minister may give directions to RHA**

7 If the minister is of the opinion that a regional health authority has failed to deliver or administer public health services as required by section 6, he or she may give directions to the authority.

**Minister may provide public health services**

8 Despite anything in this Act or in any other Act or regulation, if the minister believes it is in the public interest to do so, the minister may

- (a) provide public health services or arrange for them to be provided in any area of the province, even if a municipality, regional health authority or other person is required to provide them; and
- (b) do anything else that he or she reasonably considers necessary to promote or ensure the provision of public health services in the province.

**Delegation by minister**

9 The minister may, in writing, delegate any of his or her powers or duties under this Act other than the power to make regulations.

**CHIEF PUBLIC HEALTH OFFICER****Appointment of chief provincial public health officer**

10 The minister must appoint a physician as chief provincial public health officer in accordance with the regulations.

**Advisory role of the chief public health officer**

11(1) The chief public health officer is responsible for advising the minister about public health issues on his or her own initiative or at the minister's request.

**Powers of chief public health officer**

11(2) The chief public health officer has all the powers of a medical officer.

**Other powers**

11(3) The chief public health officer may

- (a) issue directions to a director, medical officer, inspector, health officer or public health nurse about the exercise of any power or the carrying out of any duty under this Act; and
- (b) revoke or amend, by order, an order made under this Act by a director, medical officer, inspector, health officer or public health nurse.

**Acting status: chief public health officer**

12 If the chief public health officer is absent or unable to act or the office is vacant, the minister may designate a physician to act in his or her place, and that physician has all the powers of the chief public health officer.

**Delegation by chief public health officer**

13(1) Unless otherwise stated in this Act, the chief public health officer may delegate any of his or her powers or duties under this Act to any person.

**Powers that may not be delegated**

13(2) The chief public health officer may not delegate any of his or her powers or duties under section 14 or 15.

**Form of delegation**

13(3) A delegation must be in writing unless the chief public health officer reasonably believes that a threat to public health might arise or worsen in the time necessary to make a written delegation. In that case, a delegation may be made orally, but the chief public health officer must confirm it in writing within 72 hours or within any other period that is reasonable in the circumstances.

**Report on health status of Manitobans**

14(1) The chief public health officer must give the minister a report on the health status of Manitobans at least once every five years. The first report must be given before December 31, 2010.

**Other reports**

14(2) After consulting with the minister, the chief public health officer may prepare and distribute any other report respecting public health that he or she considers appropriate.

**Reports on apprehensions and detentions**

15(1) If the chief public health officer receives a report under section 55 or 66, he or she must prepare and give to the minister a report describing the circumstances of each emergency apprehension and temporary detention.

**When report to be given to minister**

15(2) A report under subsection (1) must be given to the minister before March 31 in the year after the chief public health officer receives a report under section 55 or 66.

**Tabling reports in Assembly**

16 The minister must table a copy of a report received under subsection 14(1) or section 15 in the Assembly within 15 days after receiving it if the Assembly is sitting or, if it is not, within 15 days after the next sitting begins.

## OFFICIALS

**Appointing directors**

17(1) The minister may appoint one or more persons as directors to perform the duties and functions of a director under this Act.

**Powers of director**

17(2) A director has all the powers of a medical officer, except that a director who is not a physician may not make an order under Part 4 (Disease Control) or Part 5 (Temporary Detention).

**Appointing medical officers of health**

18(1) Medical officers of health are to be appointed or designated in accordance with the regulations.

**Medical officer of health must be a physician**

18(2) A medical officer of health must be a physician.

**Chief public health officer may authorize physician**

19(1) If the chief public health officer reasonably believes that a threat to public health exists or might exist in an area of the province where no medical officer is available, the chief public health officer may authorize a physician to perform, on a temporary basis, the duties and functions of a medical officer in that area.

**Physician has powers of a medical officer**

19(2) A physician authorized under subsection (1) has all the powers of a medical officer under this Act, other than a power specifically excluded in the authorization.

**Appointing public health inspectors, health officers and public health nurses**

20 Public health inspectors, health officers, and public health nurses are to be appointed or designated in accordance with the regulations.

**Agreement re municipal by-laws**

21(1) A medical officer, inspector or health officer may enforce a municipal by-law only if there is an agreement authorizing that enforcement between the municipality and the person or authority who appointed or designated the medical officer, inspector or health officer.

**Enforcement of municipal licences, etc.**

21(2) An agreement is deemed to authorize enforcement of any licence, permit, approval or other authorization issued under the municipal by-law, unless the agreement specifically states otherwise.

**By-law powers and remedies available**

21(3) A medical officer, inspector or health officer may, in enforcing a by-law or the terms or conditions of a licence, permit, approval or other authorization,

- (a) use any powers and remedies available under the by-law; and
- (b) make a health hazard order in accordance with this Act if a health hazard is discovered.

**PART 3****COMMUNITY HEALTH PROTECTION****PUBLIC HEALTH ADVISORIES****Public health advisory affecting one health region**

22(1) A medical officer who reasonably believes that there is or might be a threat to public health in a health region may issue a public health advisory that

- (a) describes the nature of the threat;
- (b) describes any steps that persons in the health region should take to protect themselves; and
- (c) includes any additional information that the medical officer considers necessary.

**Publicizing a public health advisory**

22(2) The medical officer may publicize a public health advisory in any way that he or she considers appropriate, including the following:

- (a) delivering or sending copies of the advisory to members of the public who are or might be affected by the threat;
- (b) publishing the advisory in a newspaper having general circulation in Manitoba or distributed in the area that is or might be affected by the threat;
- (c) broadcasting the advisory on a radio or television station received throughout Manitoba or in the area that is or might be affected by the threat;
- (d) posting copies of the advisory in publicly accessible locations in the area that is or might be affected by the threat;
- (e) publishing a copy of the advisory on the Internet.

**Advisory affecting two or more health regions**

23 Only the chief public health officer, or a medical officer authorized by the chief public health officer, may issue a public health advisory affecting two or more health regions.

**HEALTH HAZARD ORDERS****Health hazard order — medical officer**

24(1) A medical officer may make a health hazard order if he or she reasonably believes that

- (a) a health hazard exists or might exist; and
- (b) an order is necessary to prevent, eliminate, remedy, reduce or otherwise deal with it.

**Health hazard order — inspector or health officer**

24(2) An inspector or, if permitted by the regulations, a health officer, may make a health hazard order if he or she reasonably believes that

- (a) a health hazard exists or might exist
  - (i) in relation to a food handling establishment, a swimming pool or other water recreational facility, or any other prescribed place, premises or activity,
  - (ii) because of a failure or suspected failure to comply with a regulation made under this Act,
  - (iii) because of a failure or suspected failure to comply with a term or condition of a licence, permit, approval or other authorization issued under this Act, or

(iv) because of a failure or suspected failure to comply with a municipal by-law, or with a licence, permit, approval or other authorization issued under a municipal by-law; and

(b) an order is necessary to prevent, eliminate, remedy, reduce or otherwise deal with the health hazard.

#### **To whom order may be directed**

25 A health hazard order may be directed to one or more of the following:

- (a) an owner or occupant of a place or premises, or a person who appears to be in charge of it;
- (b) a person who owns or is in charge of, or appears to be in charge of, a plant, animal or other organism, a substance or thing, or a solid, liquid or gas;
- (c) a person who is engaged in or carries out a business, activity or process;
- (d) any other person or member of a class of persons specified in the regulations.

#### **Content of order**

26(1) A health hazard order may require a person to do or cause anything to be done, or refrain from doing anything, that the person making the order reasonably considers necessary to prevent, eliminate, remedy, reduce or otherwise deal with the health hazard, including one or more of the following:

- (a) investigate or monitor an activity, condition or process, carry out tests, examinations or analyses, record information or provide the person making the order with any information that he or she requires;
- (b) isolate, hold, contain, remove or destroy a plant, animal or other organism, a substance or thing, or a solid, liquid or gas;
- (c) eliminate or reduce the number of animals or other organisms — whether intentionally kept or otherwise found in a place or on premises — that might transmit a communicable disease;
- (d) quarantine a place or premises that is occupied or has been occupied by an animal or other organism that might transmit a communicable disease;
- (e) refrain from using, or limit the use of, a plant, animal or other organism, a substance or thing, or a solid, liquid or gas;
- (f) refrain from or limit manufacturing, processing, storing, handling, displaying, transporting, selling, distributing, or the offering for sale or distribution of a plant, animal or other organism, a substance or thing, or a solid, liquid or gas;
- (g) construct, excavate, install, modify, replace, remove, reconstruct or do any other work in relation to a place or premises, or a thing;
- (h) clean or disinfect a place, premises or thing;
- (i) subject to subsections (2) and (3), close or restrict the use of a place or premises, or require a place or premises to be vacated;
- (j) treat or quarantine an animal.

#### **Limit on inspector's power re dwellings**

26(2) An inspector must not make a health hazard order that requires a person who owns and occupies a dwelling to vacate it.

#### **Limit on health officer's power re dwellings**

26(3) A health officer must not make a health hazard order that requires a person occupying a dwelling to vacate it.

#### **Order to close place or premises**

26(4) An order that requires a place or premises to be closed is an order

- (a) to shut or block access to it so as to prevent entrance or access by any person, other than persons specified in the order; and
- (b) to suspend the carrying out of any business, activity or process in or on the place or premises.

#### **Placarding**

26(5) A person who makes a health hazard order may placard a place or premises so as to give notice of the order.

#### **Placard must not be concealed, altered, etc.**

26(6) No person shall conceal, alter, deface or remove a placard.

**Order may relate to a disease**

27 Nothing in Part 4 (Disease Control) prevents an order from being made under this Part respecting a health hazard that arises in relation to a communicable disease.

**Medical officer may carry out order or seek assistance**

28(1) If a person to whom a health hazard order is directed fails to comply with it, a medical officer may

- (a) take, or cause to be taken, any action that the medical officer considers necessary to carry out the order; and
- (b) request the assistance of a peace officer or any other person to carry out the order.

**Order to pay costs**

28(2) A medical officer may, by order, require a person to whom a health hazard order is directed to pay the costs of any action taken under this section, other than costs incurred and collected by a municipality under subsection (4).

**Enforcement of order**

28(3) An order to pay costs may be filed in the court and enforced as if it were an order of the court.

**Cost recovery by municipality**

28(4) If a municipality assists in carrying out an order under clause (1)(b), its costs are a debt owing to the municipality, and the municipality may collect the debt from any person to whom the health hazard order was directed, using any means available to it.

**Appeal of a health hazard order**

29(1) A person to whom a health hazard order is directed may appeal the order by

- (a) filing a notice of application with the court; and
- (b) serving a copy of the notice of application on the person who made the order.

**Time for filing and serving**

29(2) A notice of application must be filed and served within seven days after the order being appealed from was served on the applicant, or such further time as the court may allow.

**No stay of order**

29(3) An appeal of an order does not stay the order pending the appeal, unless the court orders a stay.

**Person who made the order is party to appeal**

29(4) The person who made the order is a party to the appeal.

**Appeal heard as a new matter**

29(5) The court must consider the appeal as a new matter.

**Court's powers on appeal**

29(6) Upon hearing an appeal, the court may

- (a) set aside, vary or confirm the order; or
- (b) make any order that in its opinion the person who made the order should have made.

**SEIZURE AND DESTRUCTION OF HAZARDOUS THINGS****Seizure of hazardous things**

30(1) A medical officer or inspector or, if permitted by the regulations, a health officer, may seize any plant, animal or other organism, substance or any other thing, or a representative sample of any of them, that he or she reasonably believes is a health hazard, if seizing it is necessary to

- (a) examine, test or investigate it to determine whether it is a health hazard; or
- (b) prevent, eliminate, remedy, reduce or otherwise deal with the health hazard.

**Right to reclaim if no hazard**

30(2)

If, after examining, testing or investigating anything seized under subsection (1), the person who seized it is satisfied that it is not a health hazard, he or she must notify the owner or other person from whom it was seized. The owner or other person may reclaim it unless it was destroyed or consumed while being examined, tested or investigated.

#### **Unclaimed things**

30(3) If the owner or other person from whom anything was seized under subsection (1) does not reclaim it within seven days after being notified under subsection (2), the person who seized it may destroy or otherwise dispose of it.

#### **Destruction or disposition of hazardous things**

30(4) If, after examining, testing or investigating anything seized under subsection (1), the person who seized it is satisfied that the thing is a health hazard, he or she may take any action that he or she reasonably considers necessary to prevent, eliminate, remedy, reduce or otherwise deal with the health hazard, or to prevent the health hazard from recurring. This may include destroying or otherwise disposing of it.

#### **Cost of examination or testing**

30(5) A medical officer may make an order requiring the owner or other person from whom anything was seized under subsection (1) to pay the costs incurred in examining, testing or investigating it.

#### **Enforcement of order**

30(6) An order to pay costs may be filed in the court and enforced as if it were an order of the court.

#### **Appeal of seizure**

31(1) The owner or other person from whom anything was seized under section 30 may appeal the seizure by

- (a) filing a notice of application with the court; and
- (b) serving a copy of the notice of application on the person who made the seizure.

#### **Time for filing and serving**

31(2) A notice of application must be filed and served within seven days after the seizure, or such further time as the court may allow.

#### **Person who made the seizure is a party to appeal**

31(3) The person who made the seizure is a party to the appeal.

#### **Appeal heard as a new matter**

31(4) The court must consider the appeal as a new matter.

#### **Court's powers on appeal**

31(5) Upon hearing an appeal, the court may

- (a) confirm the seizure;
- (b) set aside the seizure and order anything seized to be returned to the owner or person from whom it was seized; or
- (c) make any other order the court considers appropriate.

#### **Food as a health hazard**

32(1) Subject to the regulations, when a medical officer, inspector or health officer reasonably believes that any food, or the condition of any food, is a health hazard or does not comply with the regulations, he or she may, despite section 30, seize and destroy or dispose of the food, without further examination, testing or investigation.

#### **No appeal of seizure**

32(2) An action taken under subsection (1) may not be appealed.

### HEALTH HAZARD EMERGENCIES

#### **Health hazard emergency — serious and immediate threat**

33 A medical officer may, in accordance with sections 34 and 35, make an emergency health hazard order or take emergency action if he or she reasonably believes

- (a) a health hazard exists or might exist that presents a serious and immediate threat to public health; and

(b) immediate action is necessary to prevent, eliminate, remedy, reduce or otherwise deal with it.

#### **Emergency health hazard order**

34(1) A medical officer may make an emergency health hazard order in the circumstances described in section 33, in which case sections 25 to 28 apply with necessary changes.

#### **Emergency health hazard order (inspector)**

34(2) An inspector may make an emergency health hazard order under this section if he or she reasonably believes that

- (a) the conditions under which a medical officer may make an emergency health hazard order exist; and
- (b) in the time necessary for a medical officer to make an order, a threat to public health described in section 33 could arise or worsen;

and the limit on an inspector's powers under subsection 26(2) (limit re dwellings) does not apply to the making of such an order.

#### **Notice to medical officer**

34(3) An inspector who makes an order under subsection (2) must notify a medical officer of the circumstances of the order as soon as practicable.

#### **Order expires unless extended**

34(4) An order made by an inspector under subsection (2) expires 72 hours after it is made unless it is extended by a medical officer.

#### **Medical officer may extend, revoke or amend inspector's order**

34(5) A medical officer may

- (a) extend an order made by an inspector under subsection (2) for any additional period that he or she reasonably believes necessary; or
- (b) revoke or amend the order to the extent that it has not yet been carried out.

#### **No appeal of emergency health hazard order**

34(6) An order made under this section may not be appealed.

#### **Emergency action by medical officer**

35(1) Despite any other provision of this Act, if a medical officer reasonably believes that, in the time necessary to make an emergency health hazard order under section 34 or to allow for compliance with it, a threat to public health described in section 33 could arise or worsen, he or she may take, or cause to be taken, any action described in

- (a) subsection 26(1) (health hazard order);
- (b) subsection 30(1) (seizure); or
- (c) subsection 30(4) (destruction).

#### **Emergency action by inspector**

35(2) An inspector has the same power as a medical officer under subsection (1) if he or she reasonably believes that, in the time necessary for a medical officer to take action or cause action to be taken, a threat to public health described in section 33 could arise or worsen.

#### **Inspector's power to order vacating of a dwelling**

35(3) For greater certainty, an inspector taking emergency action or causing it to be taken under this section may require a person who owns and occupies a dwelling to vacate it.

#### **Notice to medical officer**

35(4) An inspector who takes action or causes it to be taken under this section must notify a medical officer of the action taken as soon as practicable.

#### **Minimum action**

35(5) Any action taken under this section must be the minimum action that the person taking it reasonably believes is necessary to deal with the threat to public health.

**Medical officer or inspector may seek assistance**

35(6) A medical officer or inspector may request the assistance of a peace officer or any other person in taking any action under this section.

**Order to pay costs**

36(1) Where action is taken under section 35, a medical officer may, by order, require any person to whom an emergency health hazard order could have been directed under this Part to pay the costs of the action.

**Enforcement of order to pay costs**

36(2) An order to pay costs may be filed in the court and enforced as if it were an order of the court.

**Cost recovery by municipality**

36(3) If a municipality assists in taking any action under section 35, its costs are a debt owing to the municipality, and the municipality may collect the debt from any person to whom the health hazard order was directed, using any means available to it.

**Peace officer to assist**

37 A peace officer requested to provide assistance under section 34 or 35 must take reasonable steps to do so.

**APPEAL OF ORDER TO PAY COSTS****Appeal of order to pay costs**

38(1) A person to whom an order to pay costs is directed under subsection 28(2), 30(5) or 36(1) may appeal the order to the court.

**Court's power on appeal**

38(2) On hearing an appeal, the court may

- (a) confirm or vary the amount of costs that may be recovered; or
- (b) refer the issue of the amount of costs back to the person who made the order to pay costs for further consideration, in accordance with any direction of the court.

**REPORTING HEALTH HAZARDS****Duty to report health hazards**

39 A person who

- (a) is required by the regulations to report a health hazard described in the regulations; and
- (b) reasonably believes that a health hazard described in the regulations exists;

must promptly report that belief, and the basis for it, to a medical officer, an inspector or other person in accordance with the regulations.

**Any person may report suspected health hazard**

40(1) Any person who reasonably believes that a health hazard exists may report that belief, and the basis for it, to a medical officer, inspector or other person specified in the regulations.

**Infection control practices as a "health hazard"**

40(2) For greater certainty, "health hazard" in subsection (1) includes a failure by a hospital, personal care home or other facility or place described in subsection 45(1) to take adequate precautions to control or minimize the risk of transmission of a communicable disease.

**If information personal or confidential**

40(3) A person acting in good faith may make a report under subsection (1) even if it requires the disclosure of personal information, personal health information, or proprietary or confidential information.

**PART 4  
DISEASE CONTROL**

## DIVISION 1

### REPORTING REQUIREMENTS FOR DISEASES

#### Reporting of reportable disease: health professional

41(1) A health professional who becomes aware that a person has a reportable disease must make a report in accordance with the regulations.

#### Reporting of reportable disease: laboratory

41(2) A person in charge of a laboratory must make reports respecting reportable diseases in accordance with the regulations.

#### Reporting of zoonotic disease in animals: veterinarian

41(3) A veterinarian or other person of a class prescribed by regulation who becomes aware that an animal has a zoonotic disease or a condition that is a reportable disease must make a report in accordance with the regulations.

#### Reporting of zoonotic disease: laboratory

41(4) A person in charge of a veterinary laboratory must make reports respecting zoonotic diseases or conditions that are reportable diseases in accordance with the regulations.

#### Definitions

41(5) The following definitions apply in this section.

**"reportable disease"** means a disease or condition prescribed in the regulations as a reportable disease. (« maladie à déclaration obligatoire »)

**"veterinary laboratory"** means a place where operations and procedures in relation to animals, including collecting specimens from their bodies, are performed for the purpose of diagnosis, prevention or treatment of disease. (« laboratoire vétérinaire »)

#### Reporting when treatment refused

42(1) A health professional who has been treating a person infected with a communicable disease must promptly make a report to a medical officer if

- (a) the infected person refuses or neglects to continue the treatment; and
- (b) the health professional reasonably believes the person presents a threat to public health.

#### Details of report

42(2) The health professional's report must include the information required by the regulations.

#### Reporting non-compliance with order

42(3) A health professional who is treating a person to whom an order has been directed under this Part must promptly notify a medical officer if he or she becomes aware that the person is not complying with the order.

## DIVISION 2

### COMMUNICABLE DISEASE ORDERS

#### ORDER TO INDIVIDUALS

#### Communicable disease order

43(1) A medical officer may, by order, require a person to do or refrain from doing anything specified in the order, if the medical officer reasonably believes that

- (a) a communicable disease exists or may exist; and
- (b) an order is necessary to prevent, reduce or eliminate a threat presented by the disease.

#### Content of order

43(2) The order may require a person who is or might be infected with or has been or might have been exposed to the communicable disease to do one or more of the following:

- (a) submit to medical examination or medical testing, or both;
- (b) receive treatment, but only if the medical officer believes the person is infected, and only until the medical officer considers the person no longer presents a threat to public health;
- (c) be immunized or take other preventive measures;
- (d) conduct himself or herself in a manner that will not expose others to infection, or take other precautions;
- (e) present himself or herself for admission to a hospital or other facility and remain there once admitted, until the medical officer considers the person no longer presents a threat to public health;
- (f) isolate or quarantine himself or herself in a place specified by the medical officer and remain in isolation or quarantine until the medical officer considers the person no longer presents a threat to public health.

#### **Additional content of order**

43(3) In addition, an order under this section may require one or more of the following:

- (a) if a person is or might be infected with or has been or might have been exposed to a communicable disease, require him or her to refrain from any activity or employment that could spread the disease, until the medical officer considers the person no longer presents a threat to public health;
- (b) require an employer to exclude from a place of employment a person who is or could be prohibited from employment under clause (a);
- (c) require a place or premises to be quarantined, if they are occupied or have been occupied by a person who the medical officer reasonably believes has been or might have been exposed to a communicable disease;
- (d) require a person to whom an order is directed under this section to
  - (i) contact a specified health professional, hospital or other facility for help in complying with the order,
  - (ii) report to the medical officer on actions taken to comply with the order, at the time and in the manner specified in the order, or
  - (iii) do anything reasonably necessary to give effect to the order;
- (e) require closure of a school or daycare to prevent the spread of a communicable disease.

#### **Person may object to treatment or immunization**

43(4) An order requiring a person to receive treatment or be immunized under subsection (2) is not enforceable if the person objects under section 97.

#### **Duty of hospital or facility**

43(5) The owner or operator of a hospital or other facility to which a person presents himself or herself for admission under clause (2)(e) must

- (a) admit the person and keep the person there until the medical officer considers the person no longer presents a threat to public health; or
- (b) if it does not have the necessary resources, direct the person to another hospital or facility that does, and inform the medical officer that it has done so.

#### **Placarding of quarantined place**

43(6) A medical officer may placard a place or premises to give notice of a quarantine order made under clause (3)(c), and no person shall conceal, alter, deface or remove a placard.

#### **Order re contact with health professional, hospital**

43(7) A copy of an order made under subclause (3)(d)(i) must be sent to the health professional, hospital or other facility specified in the order.

### ORDER TO PROFESSIONALS AND FACILITIES

#### **Order to physician, etc. to comply with treatment protocol**

44 A medical officer may, by order, require a health professional or other person attending a patient to comply with a protocol or guideline approved by the chief public health officer for controlling communicable disease.

**Order to minimize transmission risk in hospital, etc.**

45(1) If a medical officer reasonably believes that an in-patient or resident of a hospital, a personal care home, or another facility or place for the care or treatment of the elderly or other persons highly vulnerable to infection,

- (a) is or might be infected with or has been or might have been exposed to a communicable disease; and
- (b) presents a threat to public health;

the medical officer may order the owner or operator of the facility or place to take any precautions the medical officer considers necessary to control or minimize the risk of transmitting the disease.

**Order to improve infection control practices**

45(2) If a medical officer reasonably believes that the infection control practices, or the absence of such practices, at a facility or place mentioned in subsection (1) present a risk of transmission of a communicable disease in the facility or place, the medical officer may order the owner or operator to take any action he or she considers necessary to control or minimize the risk.

**Examinations of persons in schools, etc.**

46(1) In order to investigate a case or suspected case of a communicable disease, a medical officer or a public health nurse or other person authorized by a medical officer may examine any pupil, patient or resident of a school, daycare, hospital, personal care home, or other facility or place that provides care or treatment.

**Consent not required**

46(2) An examination may take place without the consent of the person being examined or the owner, operator or person in charge of the facility.

**DIVISION 3****APPREHENSION, DETENTION, EXAMINATION AND TREATMENT****COURT ORDER TO APPREHEND A PERSON****Application for order to apprehend**

47(1) If a person fails to comply with an order under subsection 43(2), a medical officer may apply to a justice for an order to apprehend the person.

**Grounds**

47(2) An application for an order to apprehend may be made only if the medical officer reasonably believes that, if not apprehended, the person will present a threat to public health.

**Application may be made without notice**

47(3) An application to apprehend may be made without notice to the person to be apprehended.

**Justice may make apprehension order**

47(4) If, on application, a justice is satisfied that

- (a) a person has failed to comply with an order under subsection 43(2); and
- (b) the person will present a threat to public health if he or she is not apprehended;

the justice may order that the person be apprehended.

**Order directed to peace officer**

47(5) An order to apprehend may be directed to any person, including any or all peace officers in Manitoba.

**Duty of peace officer**

47(6) A peace officer to whom an order to apprehend is directed must take reasonable steps to locate and apprehend the person named in the order, and must bring the person before the justice who issued the order, or another justice, without delay.

**Duty to inform**

47(7) A person who apprehends another person must promptly inform the person of the reason for the apprehension, where the person is being taken, and the right to retain and instruct counsel in accordance with section 96.

## HEARING

**Action on apprehension**

48(1) When a person who has been apprehended is brought before a justice, the justice may order the person into the custody of a peace officer or other person, or to any place the justice considers appropriate, until a hearing is held and a determination is made under this section.

**Hearing**

48(2) The justice before whom the person is brought must hold a hearing on an urgent basis to determine if an order should be made under section 49.

**Person may be absent**

48(3) If the justice considers it necessary to protect public health or because it is not reasonably practicable for the apprehended person to attend, the hearing may take place in the absence of the apprehended person, but only if the person can participate in the hearing by telephone or teleconference or similar means.

## ORDER OF JUSTICE TO EXAMINE, TREAT AND DETAIN

**When justice may make order**

49(1) After the hearing, the justice may make an order described in subsection (2) if he or she is satisfied that

- (a) the person has failed to comply with an order under subsection 43(2); and
- (b) the person presents a threat to public health because he or she is or might be infected with a communicable disease, or has been or might have been exposed to a communicable disease.

**Content of order**

49(2) An order under subsection (1) may require a person to do one or more of the following:

- (a) submit to medical examination or medical testing or both;
- (b) receive treatment;
- (c) be immunized or take other preventive measures;
- (d) conduct himself or herself in a manner that will not expose others to infection, or take other precautions;
- (e) present himself or herself for admission to a hospital or other facility, and remain there once admitted;
- (f) be isolated or quarantined;
- (g) report to a medical officer on actions taken to comply with the order;
- (h) be detained in a place specified in the order for any purpose mentioned in clauses (a) to (f).

**Person may object to treatment or immunization**

49(3) An order requiring a person to receive treatment or be immunized under subsection (2) is not enforceable if the person objects under section 97.

**Hospital must admit**

49(4) When an order is made requiring a person to be admitted to a hospital or other facility under clause (2)(e), subsection 43(5) (duty of hospital or facility) applies.

**Detention for 90 days**

49(5) An order requiring a person to be detained under clause (2)(h) is authority to detain the person named in the order for any purpose specified in the order, for no more than 90 days.

**Release**

49(6) A medical officer must keep informed about the detained person's condition, and issue a certificate authorizing the person's release as soon as the medical officer considers that release would not present a threat to public health.

**Termination of order**

49(7) An order under this section terminates when a certificate is issued authorizing the person's release.

**Court order required to detain further**

50(1) If, before the period of detention ordered under clause 49(2)(h) expires, a medical officer reasonably believes that it should be extended because the person's release would present a threat to public health, he or she may apply to the court for an order extending the period of detention for any purpose mentioned in subsection 49(2) for no more than 90 additional days.

**Extension**

50(2) The court may make an order extending the period of detention if it is satisfied that the person's release would present a threat to public health.

**Additional extensions**

50(3) A medical officer may make additional applications to extend the period of detention under subsection (1), and the court may extend the period for further periods of no more than 90 days each.

**Detention continues until decision is made**

51 When a detained person is brought before a justice for a hearing under section 48, or a medical officer applies for an order under section 50, the detained person must remain in detention until a decision is made following the hearing, even if the decision is made after the current period of detention would otherwise end.

**Minimum period only**

52 A period of detention ordered under section 49 or 50 must, in the opinion of the person making the order, be no longer than is required to protect public health.

**EMERGENCY DETENTION ORDER BY MEDICAL OFFICER****Emergency detention order for virulent disease**

53(1) A medical officer may make an emergency detention order under this section if he or she reasonably believes that

- (a) a person has failed to comply with an order under subsection 43(2) in relation to a virulent and highly communicable disease; and
- (b) the person presents a serious and immediate threat to public health.

**Refusal to provide identifying information**

53(2) If a person to whom an order under subsection 43(2) is directed refuses to provide identifying information to a medical officer, that refusal is deemed to be a failure to comply with the order for the purpose of subsection (1).

**Content of order**

53(3) An emergency detention order may require one or more of the following:

- (a) that a person be apprehended and taken to and detained in a place specified in the order;
- (b) that a person be isolated, quarantined or hospitalized;
- (c) that a person take any precautions the medical officer reasonably considers necessary to contain the immediate threat of transmission of the communicable disease.

**Order directed to peace officer**

53(4) An emergency detention order may be directed to any person, including any or all peace officers in Manitoba.

**Duty of peace officer**

53(5) A peace officer to whom an emergency detention order is directed must take reasonable steps to locate and apprehend the person named in the order, and must take the person to the place specified in the order without delay.

**Duty to inform**

53(6) A person who apprehends another person must promptly inform the person of the reason for the apprehension, where the person is being taken, and the right to retain and instruct counsel in accordance with section 96.

**Hospital must admit**

53(7) Subsection 43(5) (duty of hospital or facility) applies to an emergency detention order, with necessary changes.

**Detention for 72 hours only**

53(8) An order under this section expires 72 hours after the person is first apprehended.

#### **Hearing and order**

54(1) As soon as possible, but no later than 72 hours after a person is apprehended under an emergency detention order, the medical officer must — if he or she reasonably considers that the person should continue to be detained, or that an order under subsection 49(2) is required — apply to a justice for a hearing. In that case, subsection 48(3) and sections 49 to 52 apply with necessary changes.

#### **Urgent basis**

54(2) Upon receiving the application, the justice must hold a hearing on an urgent basis.

#### **Detention continues until decision is made**

54(3) A detained person must remain in detention until a decision is made following the hearing, even if the decision is not made within 72 hours after the person was apprehended.

#### **Report on apprehension**

55 A medical officer who issues an emergency detention order under section 53 must, as soon as practicable, describe the circumstances of the apprehension in a written report to the chief public health officer, in the form he or she requires.

## **DIVISION 4 IMMUNIZATION**

#### **Definitions**

56 The following definitions apply in this Division.

"**immunizing agent**" means a vaccine or immune globulin used to prevent a communicable disease. (« agent d'immunisation »)

"**reportable event**" means an adverse event or symptom prescribed in the regulations. (« incident à signaler »)

#### **Consent required**

57(1) Before administering an immunizing agent to a patient, the health professional administering it must obtain consent from the patient or from the person authorized to consent on the patient's behalf under subsection (3) or (4).

#### **Duty to inform patients**

57(2) Before obtaining consent, the health professional administering an immunizing agent must ensure that the patient or person authorized to consent on the patient's behalf is informed, orally or in writing, of

- (a) the expected benefits and material risks of the immunizing agent;
- (b) any other information that a reasonable person in the same circumstances would require in order to make a decision about the immunization; and
- (c) the importance of immediately consulting with the person administering the immunizing agent, or with another health professional, if a reportable event occurs.

#### **Adult patient not competent to consent**

57(3) If an adult patient is not competent to consent to the administration of an immunizing agent, the health professional administering it must ensure that the information described in subsection (2) is given to a person authorized, in accordance with the regulations, to consent on the patient's behalf.

#### **If patient is a child**

57(4) If the patient is a child, the information described in subsection (2) must be given to the child's parent or guardian if the child

- (a) is under 16 years of age, unless the health professional administering the immunizing agent reasonably believes the child is able to understand the nature and effect of the information and is able to appreciate the consequences of a decision; or
- (b) is 16 years of age or older, if the health professional administering the immunizing agent reasonably believes the child is not able to understand the nature and effect of the information or able to appreciate the consequences of a decision.

**Previous adverse reaction after immunization**

58 Before administering an immunizing agent, a health professional must

- (a) inquire whether the patient has previously had a reaction that could reasonably have been related to the administration of an immunizing agent; and
- (b) take steps, in accordance with professional standards of practice, to determine if there are any known contra-indications to administration.

**Duty to report reaction**

59 Within seven days after becoming aware of a reportable event, a health professional must report it in accordance with the regulations.

**DIVISION 5****TANNING EQUIPMENT****Definitions**

59.1(1) The following definitions apply in this Division.

**"commercial tanning operation"** means a business or undertaking in which a person is permitted to use tanning equipment.  
(« entreprise commerciale de bronzage »)

**"health care facility"** means a place where a person may receive medical examination, treatment or care, and includes a hospital, clinic and medical practitioner's office. (« établissement de santé »)

**"operator"** means the owner of the commercial tanning operation, and includes the person who manages or controls a commercial tanning operation. (« exploitant »)

**"tanning equipment"** means a device that can be equipped with one or more ultraviolet lamps and induces skin tanning or other cosmetic effects. It does not include any such device that is used solely in a health care facility in the production of therapeutic effects for medical purposes. (« appareil de bronzage »)

**Prohibition — children using tanning equipment**

59.1(2) No operator shall permit a child to use tanning equipment in a commercial tanning operation.

**Exception for prescription**

59.1(2.1) Despite subsection (2), a child may use tanning equipment in a commercial tanning operation if the child is using the device in accordance with a written prescription issued by a health professional designated by regulation for the purpose of this subsection.

59.1(3) [Repealed] S.M. 2015, c. 6, s. 2.

**Defence of accused**

59.1(4) In a prosecution or a proceeding for a contravention of subsection (2), an accused has a defence if he or she can prove on a balance of probabilities that, before permitting a child to use tanning equipment, the accused attempted to verify that the child was at least 18 years old by asking for and being shown documentation prescribed in the regulations to verify age, and reasonably believed that the documentation was authentic and that the person was at least 18 years old.

**Evidentiary presumption re tanning equipment**

59.1(5) In a prosecution or a proceeding for a contravention under this Division, evidence that a device was used, or was purported to be used, in whole or in part, by a person for skin tanning or other cosmetic effects is, in the absence of evidence to the contrary, proof that the device is tanning equipment.

S.M. 2010, c. 37, s. 2; S.M. 2015, c. 6, s. 2.

**Posting of warning signs**

59.2 An operator must, in accordance with the regulations, post signs in the premises of a commercial tanning operation about

- (a) the health risks of using tanning equipment; and
- (b) the prohibition against children using tanning equipment.

S.M. 2010, c. 37, s. 2; S.M. 2015, c. 6, s. 3.

**Protective eyewear**

59.2.1 An operator must ensure that each person who uses tanning equipment in the commercial tanning operation is provided with protective eyewear, which meets the prescribed standards, in accordance with the regulations.

S.M. 2015, c. 6, s. 4.

**Prohibition — advertising aimed at children**

59.2.2(1) No person shall direct the advertising or marketing of the use of tanning equipment in a commercial tanning operation to children.

**Interpretation of subsection (1)**

59.2.2(2) The prohibition in subsection (1) includes the following:

- (a) with respect to advertising, to direct the advertising so that it
  - (i) is placed in publications or other media that are targeted at persons who are less than 18 years old,
  - (ii) employs depictions that are targeted at persons who are less than 18 years old, or
  - (iii) is, with respect to persons who are less than 18 years old, false or misleading or likely to create an erroneous impression about the health effects or health risks of using tanning equipment; and
- (b) with respect to marketing, to direct the marketing so that it
  - (i) is carried on in or at locations primarily intended for use by persons who are less than 18 years old,
  - (ii) employs depictions that are targeted at persons who are less than 18 years old, or
  - (iii) is, with respect to persons who are less than 18 years old, false or misleading or likely to create an erroneous impression about the health effects or health risks of using tanning equipment.

S.M. 2015, c. 6, s. 4.

**Person may report suspected violation**

59.3(1) Any person who reasonably believes that a violation of this Division has occurred, or may occur, may report the circumstances leading to that belief to a medical officer, an inspector or other person specified in the regulations.

**Protection from liability**

59.3(2) No action or other proceeding may be brought against a person for providing information in good faith under this Division.

**Adverse employment action prohibited**

59.3(3) No employer shall take adverse employment action against an employee because that person provided information in good faith under this Division.

**Interference or harassment prohibited**

59.3(4) No person shall interfere with or harass a person who provides information under this Division.

S.M. 2010, c. 37, s. 2.

**PART 5****TEMPORARY DETENTION****DETENTION FOR IDENTIFICATION****Temporary detention for identification**

60(1) A medical officer may make a temporary detention order requiring a person to be apprehended and detained, if the medical officer reasonably believes that

- (a) the person has been or might have been exposed to a virulent and highly communicable disease;
- (b) the person's condition must be monitored to determine if the person must take measures to prevent, reduce or eliminate the threat to public health that the disease presents; and

(c) the person refuses or is unable to provide his or her identifying information to a medical officer, to a public health nurse, or to a peace officer or other person who has been authorized by a medical officer to request the information.

**Order to apprehend and detain**

60(2) A temporary detention order may require the person in respect of whom it is made to be apprehended and be delivered to and detained in a place specified in the order.

**Order directed to peace officer**

60(3) A temporary detention order may be directed to any person, including any or all peace officers in Manitoba.

**Duty of peace officer**

60(4) A peace officer to whom a temporary detention order is directed must take reasonable steps to locate and apprehend the person named in the order, and must take the person to the place specified in the order.

**Duty to inform**

60(5) A person who apprehends another person under this section must promptly inform the person of the reason for the apprehension, where the person is being taken, and the right to retain and instruct counsel in accordance with section 96.

**Duration of order**

60(6) A temporary detention order expires 72 hours after it is made.

**Application for continued detention**

61(1) As soon as practicable, but no later than 72 hours after a person is apprehended under a temporary detention order, a medical officer may, if the person continues to refuse or is unable to provide his or her identifying information, apply to a justice for a decision as to whether continued detention of the person is justified.

**Urgent basis**

61(2) Upon receiving an application, the justice must hold a hearing on an urgent basis.

**Detention continues until decision is made**

61(3) When an application is made under subsection (1), the detained person must remain in detention until a decision is made following the hearing, even if the decision is not made within 72 hours after the person was apprehended.

**Person may be absent**

61(4) A hearing may take place in the absence of the detained person if it is not reasonably practicable for the person to attend, but only if he or she can participate in the hearing by telephone or teleconference or similar means.

**When justice may make order**

61(5) After a hearing, the justice may make a detention order described in subsection (6) if he or she is satisfied that

- (a) the person has been or might have been exposed to a virulent and highly communicable disease;
- (b) the person's condition must be monitored to determine if he or she must take measures to prevent, reduce or eliminate the threat to public health presented by the disease; and
- (c) the person refuses or is unable to provide his or her identifying information.

**Content of order**

61(6) A detention order under this section may require that the person be detained in a place specified in the order

- (a) until the person provides his or her identifying information; or
- (b) if the person does not provide the information, for the minimum period necessary to determine that he or she does not present a threat to public health.

**Release**

62(1) A medical officer must keep informed as to whether a person subject to an order under section 60 or 61 has provided his or her identifying information and, unless further action is taken under this Act to detain the person, issue a certificate authorizing the person's release as soon as

- (a) the information is provided; or

(b) the medical officer determines that the person does not present a threat to public health.

#### **Termination of order**

62(2) An order under section 60 or 61 terminates when a certificate is issued authorizing the person's release or further action is taken under this Act to detain the person.

### DETENTION FOR DECONTAMINATION

#### **Temporary detention for decontamination**

63(1) A medical officer may make a decontamination order in respect of a person if he or she reasonably believes that

- (a) the person, or his or her clothing or other personal effects, has been or might have been exposed to a contaminant;
- (b) if not decontaminated, the person, or his or her clothing or other personal effects, presents a serious and immediate threat to public health; and
- (c) the person refuses or is unable to submit to decontamination procedures, which may include isolation, that the medical officer considers necessary to deal with the threat.

#### **Content of order**

63(2) A decontamination order under this section may require that the person in respect of whom it is made

- (a) be apprehended;
- (b) be delivered to and detained in a place specified in the order;
- (c) submit to decontamination procedures, which may include isolation; and
- (d) take preventive measures to deal with the threat to public health.

#### **Minimum action**

63(3) A decontamination order must not include requirements beyond the minimum action the medical officer reasonably considers necessary to contain the immediate threat to public health.

#### **Action by peace officers and other persons**

63(4) A decontamination order may be directed to any person, including any or all peace officers in Manitoba, and a peace officer to whom the order is directed must take reasonable steps to carry it out.

#### **Duty to inform**

63(5) A person who apprehends another person under a decontamination order must promptly inform the person of the reason for the apprehension, where the person is being taken, and the right to retain and instruct counsel in accordance with section 96.

#### **Duration of order**

63(6) A decontamination order expires 72 hours after it is made.

#### **Application for further action**

64(1) If a medical officer reasonably believes that — in order to prevent, eliminate, remedy, reduce or otherwise deal with a threat to public health presented by contamination — further action must be taken beyond the requirements of a decontamination order under section 63, the medical officer may apply to a justice for a decision as to what further action is to be taken.

#### **Information given to detained person**

64(2) As soon as practicable after forming a belief that further action is required under subsection (1), the medical officer must ensure that the person is promptly informed

- (a) as to what further action is required;
- (b) that an application for a hearing has been made, and, if applicable, that detention will continue until a decision is made following the hearing; and
- (c) of the person's right to retain and instruct counsel in accordance with section 96.

#### **Application within 72 hours**

64(3)

An application under subsection (1) must be made as soon as practicable but no later than 72 hours after the person was apprehended.

**Urgent basis**

64(4) Upon receiving an application, the justice must hold a hearing on an urgent basis.

**Order in effect until decision is made**

64(5) When an application for further action is made under subsection (1), the decontamination order remains in effect until a decision is made following the hearing, even if the decision is made after the 72 hour period of detention would otherwise end.

**Person may be absent**

64(6) If the justice considers it necessary to protect public health or because it is not reasonably practicable for the detained person to attend, a hearing may take place in the absence of the detained person, but only if he or she can participate in the hearing by telephone or teleconference or similar means.

**When justice may make order**

64(7) After the hearing, the justice may make an order described in subsection (8), if he or she is satisfied that

- (a) the person, or his or her clothing or other personal effects, has been or might have been exposed to a contaminant;
- (b) action must be taken beyond the requirements of an order under section 63 in order to prevent, eliminate, remedy, reduce or otherwise deal with the threat to public health presented by the contamination; and
- (c) the person refuses or is unable to submit to the decontamination procedures that the medical officer considers necessary to prevent, eliminate, remedy, reduce or otherwise deal with the threat.

**Content of order**

64(8) An order under this section may require the person to do one or more of the following:

- (a) be detained in a place specified in the order, for the minimum period the justice considers necessary to protect public health, but not exceeding 90 days;
- (b) submit to medical examination or medical testing, or both;
- (c) receive treatment;
- (d) be immunized;
- (e) be isolated;
- (f) submit to any further action described in the order to decontaminate the person or his or her clothing or other personal effects;
- (g) take preventive measures to deal with the threat to public health presented by the contamination.

**Person may object to treatment or immunization**

64(9) An order requiring a person to receive treatment or be immunized under subsection (8) is not enforceable if the person objects under section 97.

**Court order required to detain further**

64(10) If, before a period of detention ordered under clause (8)(a) expires, a medical officer reasonably believes that it should be extended because the person, if released, will present a threat to public health, sections 50 to 52 (court order to extend detention) apply with necessary changes.

**Release**

65(1) A medical officer must

- (a) keep informed as to whether a person detained under an order under section 63 or 64 has submitted to and completed the decontamination procedures required by the order; and
- (b) issue a certificate authorizing the person's release as soon as the person has done so, unless further action is taken under this Act to detain the person.

**Termination of order**

65(2) An order under section 63 or 64 terminates when a certificate is issued authorizing the person's release.

## REPORTING TEMPORARY DETENTION

**Report on detention order**

66 A medical officer who issues an order under section 60 (temporary detention for identification) or 63 (temporary detention for decontamination) must, as soon as practicable, describe the circumstances of the apprehension in a written report to the chief public health officer, in the form he or she requires.

**PART 6****PUBLIC HEALTH EMERGENCY****Public health emergency**

67(1) The chief public health officer may take one or more of the special measures described in subsection (2) if he or she reasonably believes that

- (a) a serious and immediate threat to public health exists because of an epidemic or threatened epidemic of a communicable disease; and
- (b) the threat to public health cannot be prevented, reduced or eliminated without taking special measures.

**Special measures**

67(2) The chief public health officer may take the following special measures in the circumstances set out in subsection (1):

- (a) issue directions, for the purpose of managing the threat, to a regional health authority, health corporation, health care organization, operator of a laboratory, operator of a licensed emergency medical response system, health professional or health care provider, including directions about
  - (i) identifying and managing cases,
  - (ii) controlling infection,
  - (iii) managing hospitals and other health care facilities and emergency medical response services, and
  - (iv) managing and distributing equipment and supplies;
- (b) order the owner, occupant or person who appears to be in charge of any place or premises to deliver up possession of it to the minister for use as a temporary isolation or quarantine facility;
- (c) order a public place or premises to be closed;
- (d) order persons not to assemble in a public gathering in a specified area;
- (e) order a person who the chief public health officer reasonably believes is not protected against a communicable disease to do one or both of the following:
  - (i) be immunized, or take any other preventive measures,
  - (ii) refrain from any activity or employment that poses a significant risk of infection, until the chief public health officer considers the risk of infection no longer exists;
- (f) order an employer to exclude from a place of employment any person subject to an order under subclause (e)(ii).

**Minister's approval required**

67(3) The chief public health officer must not issue a direction or order under clauses (2)(a) to (d) without first obtaining the minister's approval.

**Person may object to immunization**

67(4) An order under clause (2)(e) requiring a person to be immunized is not enforceable if the person objects under section 97.

**Limited delegation of authority**

68 The chief public health officer may not delegate a power or authority under this Part except to a medical officer, or to a director who is a physician.

**Temporary isolation or quarantine facility**

69(1) If an owner, occupant or person in charge of a place or premises to whom an order to deliver up possession has been directed under clause 67(2)(b)

(a) refuses to deliver up possession of the place or premises to the minister in accordance with the order, or is likely to refuse to do so; or

(b) cannot be readily identified or located and, as a result, the order cannot be carried out promptly;

the chief public health officer may apply to the court for an order under subsection (2).

#### **Court order**

69(2) If the court is satisfied that the conditions for an application under subsection (1) are met, the court may make an order directing a person, including any or all peace officers in Manitoba, to put the minister or any person designated by the minister in possession of the place or premises, using any force that is reasonably necessary.

#### **Order may be made without notice**

69(3) An order under this section may be made without notice to the owner, occupant or person in charge of the place or premises.

#### **Compensation re isolation or quarantine facility**

70(1) The owner or occupant of a place or premises used as a temporary isolation or quarantine facility under this Part is entitled to receive compensation from the Crown in right of Manitoba for the use and occupation of the place or premises.

#### **How compensation determined**

70(2) In the absence of an agreement about compensation, the Land Value Appraisal Commission under *The Land Acquisition Act*, upon application in accordance with that commission's rules of procedure, must determine the compensation payable in accordance with *The Expropriation Act*.

## **PART 7**

### **INTOXICATING SUBSTANCES**

#### **Definitions**

71 The following definitions apply in this Part.

**"intoxicating substance"** means

- (a) glues, adhesives, cements, cleaning solvents, thinning agents and dyes containing toluene or acetone;
- (b) petroleum distillates or products containing petroleum distillates including naphtha, mineral spirits, Stoddard solvent, kerosene, gasoline, mineral seal oil and other related distillates of petroleum;
- (c) fingernail or other polish removers containing acetone, aliphatic acetates or methyl ethyl ketone;
- (d) aerosol disinfectants and other aerosol products containing ethyl alcohol; and
- (e) any other product or substance that is prescribed by regulation as an intoxicating substance for the purposes of this Part. (« substance intoxicante »)

**"paraphernalia"** means any equipment, product or material that may enable an intoxicating substance to be used as an intoxicant. (« attirail pour substances intoxicantes »)

**"provide"** means give, sell, offer to sell, lend, or deliver possession of. (« fournir »)

**"use as an intoxicant"** means to inhale, administer or otherwise introduce into a person's respiratory system the vapours of an intoxicating substance for the purpose of inducing euphoria, hallucinations or intoxication. (« utiliser comme substance intoxicante »)

#### **Seizure of intoxicating substances**

72(1) An inspector or peace officer who has reasonable grounds to believe that

- (a) an intoxicating substance has been repackaged for the purpose of facilitating its use as an intoxicant;
- (b) a person has provided an intoxicating substance to another person where there was a reasonable basis to believe that the other person would use the substance as an intoxicant; or
- (c) a person is in possession of an intoxicating substance for the purpose of using it as an intoxicant or providing it to another person for use as an intoxicant;

may seize the intoxicating substance, and any other intoxicating substances in the possession of the person, and bring the items seized before a justice.

### **Seizure of paraphernalia**

72(2) An inspector or peace officer who has reasonable grounds to believe that a person is in possession of paraphernalia for the purpose of enabling an intoxicating substance to be used as an intoxicant may seize it and bring it before a justice.

### **Search re intoxicating substances and paraphernalia**

72(3) An inspector or peace officer who has reasonable grounds to believe that a person is in possession or control of personal effects, a receptacle, a container or a motor vehicle containing an intoxicating substance or paraphernalia that is liable to seizure under subsection (1) or (2), may, without a warrant, search the personal effects, receptacle, container or motor vehicle and seize the intoxicating substance or the paraphernalia.

### **Seizure on site**

73(1) If an item seized under section 72 is of such a kind or in such quantity that it cannot be readily removed, the inspector or peace officer may, pending an order under subsection 74(6),

- (a) seize the item without removing it; and
- (b) take measures necessary to ensure that it remains secured, including appointing as his or her agent the person who was in possession or control, or another responsible person at the place or premises, to retain or take custody of the item.

### **Responsibilities of agent**

73(2) A person appointed as an agent under clause (1)(b) must ensure that any item placed in his or her custody is preserved and not removed from the place or premises, pending an order under subsection 74(6).

### **Justice to hold hearing**

74(1) A justice must hold a hearing in relation to an item seized under section 72 or 73.

### **Notice of show cause hearing**

74(2) Before the hearing, the inspector or peace officer who seized the item must give notice of the hearing to the person in possession or control of the item at the time of seizure.

### **How notice given**

74(3) The notice must either be given personally or be sent to the person's last known address at least 10 days before the hearing.

### **Service of notice dispensed with**

74(4) A justice may dispense with the requirement to give notice under subsection (2) if the item, when seized, was not in the possession or control of a person, or if the person in possession or control is unknown or cannot be located after reasonable effort.

### **Formal rules of evidence not to apply**

74(5) At a hearing, evidence may be given before the justice in any manner that the justice considers appropriate, and the justice is not bound by the rules of law respecting evidence applicable to judicial proceedings.

### **Order**

74(6) At the conclusion of the hearing, the justice shall

- (a) order that any intoxicating substance seized be forfeited if the justice is satisfied that the substance was
  - (i) repackaged for the purpose of facilitating its use as an intoxicant,
  - (ii) provided to another person where there was a reasonable basis to believe that the other person would use the substance as an intoxicant, or
  - (iii) possessed for the purpose of using it as an intoxicant, or for providing it to another person for use as an intoxicant;
- (b) order that any paraphernalia seized be forfeited if the justice is satisfied that the person was in possession or control of the paraphernalia for the purpose of using it, or causing or permitting it to be used, for the purpose of facilitating an intoxicating substance to be used as an intoxicant; or
- (c) if no order is made under clause (a) or (b),

- (i) order that the item seized be returned to the owner or the person it was seized from, or
- (ii) order the item forfeited, if the item, when seized, was not in the possession or control of a person, or if the owner or the person in possession or control is unknown or cannot be located after reasonable effort.

**Order is final**

74(7) The order of a justice is final and is not subject to appeal.

**No compensation**

75 No compensation is payable to a person for a seizure under section 72 or 73, or forfeiture ordered under section 74, of an intoxicating substance or paraphernalia.

**Evidence of nature of substance**

76(1) Wording or other information appearing

- (a) on the labels attached to the bottles, packages, tins, tubes or other containers in which an intoxicating substance is provided or displayed;
- (b) in any printed or written descriptive material displayed with or accompanying an intoxicating substance when provided; or
- (c) in any advertising material respecting an intoxicating substance published or distributed by the maker or a seller of the intoxicating substance;

is, in the absence of evidence to the contrary, proof of the nature of the substance.

**Proof by analysis**

76(2) At a hearing under section 74, a certificate of analysis given by an analyst appointed or designated under the regulations is, in the absence of evidence to the contrary, proof of the facts stated in the certificate and of the authority of the person giving it, without further proof of the person's appointment or signature.

**PART 8****INFORMATION GATHERING AND SHARING AND HEALTH SURVEILLANCE****DEFINITIONS****Definitions**

77 The following definitions apply in this Part.

**"government agency"** means a government agency as defined under *The Freedom of Information and Protection of Privacy Act*. (« organisme gouvernemental »)

**"government department"** means a department, branch or office of the executive government of the province. (« ministère »)

**"information"** includes personal information, personal health information, proprietary information and confidential information. (« renseignements »)

**"person"** includes a government agency and a government department. (« personne »)

**REQUIREMENT TO PROVIDE INFORMATION ABOUT PUBLIC HEALTH THREATS****Information about public health threat**

78(1) The chief public health officer may require any person to provide information that the chief public health officer reasonably considers necessary to assess the threat that a disease presents to public health, and to plan for and deal with the threat.

**Officials authorized to collect information**

78(2) The chief public health officer may, in writing, authorize a director, medical officer, inspector, health officer, public health nurse or regional health authority to collect the information required under subsection (1) on his or her behalf.

**Duty to provide information**

79 A person required to provide information under section 78 must do so.

## INFORMATION SHARING

### Information sharing: minister and chief public health officer

80 For the purpose of assessing the impact of, and planning for and dealing with, a threat to public health, the minister or the chief public health officer may disclose information to each other and to any of the following:

- (a) a director, medical officer, inspector, public health nurse or health officer;
- (b) a government department or government agency;
- (c) an educational body, health care body or local government body as defined under *The Freedom of Information and Protection of Privacy Act*;
- (d) a department or agency of the Government of Canada or of another province or territory of Canada;
- (e) a person or entity designated by the Government of Canada or by the government of another province or territory of Canada as being responsible for public health services;
- (f) a band as defined in the *Indian Act (Canada)*;
- (g) the government of a foreign country, or of a state, province or territory of a foreign country;
- (h) an organization representing one or more governments, or an international organization of states.

### Information sharing: medical officers, etc.

81 Subject to the regulations, for the purpose of administering or determining compliance with this Act, a director, medical officer, inspector, health officer or public health nurse may disclose information to any person described in the regulations.

## HEALTH SURVEILLANCE

### Health surveillance system

82(1) The minister has the authority to establish and maintain, or cause to be established and maintained, a provincial system of health surveillance for the ongoing, systematic collection, analysis, interpretation, publication and distribution of information necessary to

- (a) gain an overall understanding of the health status of Manitobans;
- (b) anticipate, assess, monitor and plan for health needs and threats to public health;
- (c) monitor and evaluate developments respecting public health and threats to public health;
- (d) guide decisions and actions respecting public health;
- (e) monitor and evaluate public health services;
- (f) facilitate public health research and planning;
- (g) produce public health advisories, reports and other notices; or
- (h) permit timely access to and distribution of information.

### Registries of information

82(2) The provincial health surveillance system must include the registries of information established and maintained in accordance with the regulations, and may include other information and other collections and compilations of information.

### Trustee may be designated to maintain a registry

82(3) Subject to the regulations, a registry forming part of the provincial health surveillance system may be established, maintained, or both, by a person who is a trustee under *The Personal Health Information Act* and who is designated in the regulations for this purpose.

### Collecting, etc. information for system

82(4) For the purposes of the provincial health surveillance system, the minister, and any person authorized by the minister, may

- (a) obtain or collect information from any source;
- (b) use, analyze and interpret information in the system;
- (c) link information in the system with other information, whether the information is in the system or outside of it; and

(d) disclose information in the system.

## PART 9 COMPLIANCE

### ENTRY AND INSPECTION

#### **General powers of entry and inspection for medical officer**

83(1) When reasonably required to administer or determine compliance with this Act or a municipal by-law, a medical officer may enter and inspect any place or premises, other than a dwelling, at any reasonable time.

#### **Entry into dwelling with consent**

83(2) Despite subsection (1), a medical officer may enter and inspect a dwelling with the consent of the owner or occupant.

#### **Warrant for entry into dwelling**

83(3) On application by a medical officer, a justice may at any time issue a warrant authorizing the medical officer and any other person named in the warrant to enter and inspect a dwelling, if the justice is satisfied there are reasonable grounds to believe that

- (a) entry to the dwelling is necessary for the purpose of administering or determining compliance with this Act or a municipal by-law; and
- (b) in respect of the dwelling,
  - (i) entry has been refused or there are reasonable grounds to believe that entry will be refused, or
  - (ii) the occupant is temporarily absent.

#### **Abandoned building not a dwelling**

83(4) In this section, "**dwelling**" does not include a building that a medical officer, inspector, health officer or public health nurse reasonably believes to have been abandoned.

#### **Conditions**

83(5) A warrant may be made subject to any conditions that may be specified in it.

#### **Entry into premises in public health emergency**

83(6) When a medical officer reasonably believes there is a serious and immediate threat to public health due to a health hazard or a communicable disease, he or she may

- (a) enter and inspect any place or premises, including a dwelling, at any time and without a warrant; and
- (b) exercise any of his or her powers under this Act for the purpose of preventing, eliminating, remedying, reducing or otherwise dealing with the threat.

#### **Entry by inspector, health officer**

83(7) An inspector and, if permitted by the regulations, a health officer

- (a) has the powers of a medical officer under subsections (1) to (3); and
- (b) has the powers of a medical officer under subsection (6) if
  - (i) a medical officer has authorized the inspector or health officer to exercise the powers, or
  - (ii) the inspector or health officer reasonably believes that immediate action is necessary and there is no time to locate a medical officer.

#### **Entry by public health nurse**

83(8) In relation to a communicable disease, a public health nurse

- (a) has the powers of a medical officer under subsection (2); and
- (b) has the powers of a medical officer under subsections (1) and (6) if
  - (i) a medical officer has authorized the public health nurse to exercise the powers, or

- (ii) the public health nurse reasonably believes that immediate action is necessary and there is no time to locate a medical officer.

#### **Assistance to officials**

84 In exercising a power under section 83, a medical officer, inspector, health officer or public health nurse may request such assistance from a peace officer or other person as he or she reasonably considers necessary.

#### **Warrant for search and seizure**

85(1) A justice, upon being satisfied by information on oath that there are reasonable grounds to believe that

- (a) an offence under this Act or a municipal by-law is being or has been committed; and
- (b) there is, in a place, premises, vehicle or receptacle, any thing that there are reasonable grounds to believe will afford evidence of the offence;

may at any time issue a warrant authorizing any person named in the warrant to enter and search the place, premises, vehicle or receptacle for any such thing, and to seize it and as soon as practicable bring it before a justice, or report on it to a justice, to be dealt with according to law.

#### **Application without notice**

85(2) A warrant under this section may be issued upon application without notice.

#### **Securing evidence**

85(3) A medical officer, inspector or health officer who reasonably believes that conditions exist for obtaining a warrant under this section to enter and search a place, premises, vehicle or receptacle may do anything reasonably necessary to secure the place or premises — or to secure or remove the vehicle or receptacle — pending the application for a warrant.

### ADDITIONAL INSPECTION POWERS

#### **Inspection powers of medical officer**

86(1) When reasonably required to administer or determine compliance with this Act or a municipal by-law, a medical officer may

- (a) make any inspection, investigation, examination, test, analysis or inquiry that he or she considers necessary;
- (b) detain or cause to be detained any motor vehicle, trailer, train, railway car or aircraft, or any boat, ship or similar vessel;
- (c) require a plant, animal or other organism, a substance or thing, or a solid, liquid or gas to be produced for inspection, examination, testing or analysis;
- (d) bring testing or analytical equipment into or onto a place or premises, and use it to conduct a test or analysis;
- (e) take samples of a plant, animal or other organism, a substance or thing, or a solid, liquid or gas;
- (f) require any person to provide information or produce any document or record, for examining or copying;
- (g) take photographs or videotapes of a place or premises, or of
  - (i) a condition or process,
  - (ii) a plant, animal or other organism,
  - (iii) a substance or thing, or
  - (iv) a solid, liquid or gas,
 at or in a place or premises;
- (h) use any machinery, equipment or other thing located at or in a place or premises; or
- (i) require that any machinery, equipment or other thing located at or in a place or premises be operated, used or dismantled under specified conditions.

#### **Additional powers re serious and immediate threat**

86(2) If a medical officer reasonably believes that a serious and immediate threat to public health exists and that action is required under this subsection to prevent, eliminate, remedy, reduce or otherwise deal with the threat, he or she may do one or both of the following:

- (a) bring any machinery, equipment or other thing into or onto a place or premises;

(b) excavate or cause an excavation to be carried out, on or at a place or premises.

#### **Powers of inspector, health officer**

86(3) An inspector, and, if permitted by the regulations, a health officer, has the powers of a medical officer under subsections (1) and (2).

#### **Powers of public health nurse**

86(4) A public health nurse has the powers of a medical officer under subsection (1) if authorized to exercise them by a medical officer, either orally or in writing. In the authorization, the medical officer may give the public health nurse authority to exercise all or some of the powers under subsection (1).

#### **Assistance to officials**

86(5) A medical officer, inspector, health officer or public health nurse exercising a power under this section may be assisted by any other person he or she considers necessary. The person assisting may, if directed by the official, exercise any of the powers that the medical officer, inspector, health officer or public health nurse may exercise.

#### **Assistance of owner or occupant**

86(6) The owner, occupant or person in charge of a place or premises, and any other person found there, must

- (a) give a person exercising a power under this section all reasonable assistance to enable the person to carry out his or her duties; and
- (b) provide the person with any information reasonably required.

### IDENTIFICATION, RECORDS AND EVIDENCE

#### **Identification to be shown**

87 A person carrying out an inspection under this Part must show his or her identification if requested to do so.

#### **Use of data processing system and copying equipment**

88(1) A person carrying out an inspection under this Part may

- (a) use a data processing system at a place or premises where records, documents or things are kept, to examine any data contained in or available to the system;
- (b) reproduce, in the form of a printout or other intelligible output, any record from the data contained in or available to a data processing system at the place or premises; and
- (c) use any copying equipment at the place or premises to make copies of any record or document.

#### **Removal of records, etc. to make copies**

88(2) If a person carrying out an inspection is not able to make copies of records or documents at the place or premises being inspected, he or she may remove them from the place or premises to make copies. The person must make the copies as soon as practicable and return the original records or documents to the place or premises from which they were removed.

#### **Copies as evidence**

89 A record or document certified by a director or medical officer to be a printout or copy of a record or document obtained under this Part

- (a) is admissible in evidence without proof of the office or signature of the person purporting to have made the certificate; and
- (b) has the same probative force as the original record or document.

### OFFENCES AND PENALTIES

#### **Offences**

90(1) A person is guilty of an offence who

- (a) contravenes a provision of this Act;
- (b) fails to comply with an order made under this Act or with a term or condition of a licence, permit, approval or other authorization issued under this Act;

- (c) knowingly makes a false or misleading statement to the minister, the chief public health officer, a director, a medical officer, an inspector, a health officer, a public health nurse or any other person acting under the authority of this Act;
- (d) knowingly makes a false or misleading statement in an application, report, record or return given or required under this Act, or knowingly provides false or misleading information under this Act;
- (e) hinders, obstructs or interferes with, or attempts to hinder, obstruct or interfere with, the minister, the chief public health officer, a director, a medical officer, an inspector, a health officer, a public health nurse or any other person acting under the authority of this Act; or
- (f) conceals or destroys, or attempts to conceal or destroy, any record, information or thing relevant to an inspection or investigation under this Act.

**Continuing offence**

90(2) When an offence under this Act continues for more than one day, the person is guilty of a separate offence for each day the offence continues.

**Directors and officers of corporations**

90(3) If a corporation commits an offence under this Act, a director or officer of the corporation who authorized, permitted or acquiesced in the commission of the offence is also guilty of the offence.

**Penalties**

- 90(4) A person other than a corporation who is guilty of an offence under this Act is liable on summary conviction,
- (a) for an offence other than an offence described in clause (b), to a fine of not more than \$50,000. or imprisonment for a term of not more than six months, or both; and
  - (b) for an offence resulting from the failure to comply with an emergency health hazard order, to a fine of not more than \$100,000. or imprisonment for a term of not more than one year, or both.

**Penalties for corporations**

- 90(5) A corporation that is guilty of an offence under this Act is liable on summary conviction,
- (a) for an offence other than an offence described in clause (b), to a fine of not more than \$500,000.; and
  - (b) for an offence resulting from the failure to comply with an emergency health hazard order, to a fine of not more than \$1,000,000.

**Time limit for prosecution**

90(6) A prosecution for an offence under this Act may be commenced not later than two years after the day the alleged offence was committed.

**COURT ORDERS TO PROHIBIT OR REQUIRE ACTIONS****Court order where order or direction contravened**

- 91(1) Despite any other remedy or penalty, if a person contravenes an order under this Act or a direction under clause 67(2) (a) (special measures), the court may — on application made without notice by the person who made the order, or by the chief public health officer or the minister — make an order
- (a) prohibiting the person from doing anything that contravenes the order or direction; or
  - (b) requiring the person to do anything necessary to comply with the order or direction.

**Court order where Act contravened**

- 91(2) Despite any other remedy or penalty, if a person contravenes any provision of this Act, the court may, on application without notice by the chief public health officer or the minister, make an order preventing the person
- (a) from continuing or repeating the contravention; or
  - (b) from doing anything that will, or is likely to, result in the contravention continuing or being repeated.

**Terms and conditions**

91(3) The court may make an order under this section on any terms or conditions that it considers appropriate.

## PART 10

### DISINTERMENT

#### Order for disinterment

92(1) No person shall, for any purpose, disinter a body buried in a cemetery, building, structure or other place, unless he or she obtains an order from the minister authorizing the disinterment.

#### Granting of order

92(2) On receiving an application made in accordance with the regulations, the minister may, if he or she considers it appropriate to do so, make an order for disinterment of a body. Two signed copies of the order must be issued to the person applying.

#### Authority to cemetery owner, etc.

93(1) If an order is made under subsection 92(2), the owner or person in charge of the cemetery, building, structure or place in which the body is buried must allow the disinterment to take place.

#### Body must be disposed of as ordered

93(2) A person who disinters a body, or causes a body to be disinterred, under an order made under subsection 92(2) must dispose of the body only in the manner authorized by the order.

#### Permit for re-burial

94 Subject to section 95, the Director of Vital Statistics must issue a burial permit for the burial, removal or other disposition of a disinterred body, upon receiving the following:

- (a) a written request for a burial permit;
- (b) a signed order for disinterment of the body made under subsection 92(2); and
- (c) payment of the fee prescribed by regulation under *The Vital Statistics Act*.

#### Proceedings under Fatality Inquiries Act

95 Nothing in this Act

- (a) limits the authority of the chief medical examiner under *The Fatality Inquiries Act*, or of the minister responsible for administering that Act; or
- (b) affects the requirements and procedures for obtaining a burial permit for the burial, removal, or other disposition of a body disinterred under an order made under *The Fatality Inquiries Act*.

## PART 11

### GENERAL PROVISIONS

#### RIGHTS

#### Duty to inform re right to counsel

96(1) A peace officer or other person who detains another person under this Act must, without delay,

- (a) inform the detained person of his or her right to counsel; and
- (b) allow the detained person the opportunity to exercise that right.

#### Detention of brief duration

96(2) Subsection (1) does not apply in relation to a detention of brief duration that is promptly terminated after action to assess or otherwise deal with an immediate threat to public health has been taken.

#### Right to contact counsel may be delayed if public health threat

96(3) The opportunity to exercise the right to counsel under subsection (1) is subject to any delay that is reasonably necessary to prevent a threat to public health from arising or becoming worse because of the exercise of the right.

#### No treatment or immunization if person objects

97

Despite any other provision of this Act, no person is required to comply with an order made under this Act requiring him or her to receive treatment or be immunized, if the person objects to the treatment or immunization.

#### PROVISIONS APPLICABLE TO ORDERS AND DIRECTIONS

##### **Person need not be named**

98(1) An order or direction under this Act is not invalid for the sole reason that a person to whom it is directed is not named but is merely described.

##### **Directed to one or more persons or to a class of persons**

98(2) An order or direction may be directed to one or more persons, or to a class of persons.

##### **Terms and conditions**

98(3) An order or direction may contain terms and conditions, including terms and conditions about the way in which it is to be carried out.

##### **Deadline**

98(4) An order or direction may specify the time within which or the date by which it must be complied with.

##### **Order or direction must be complied with**

99 A person to whom an order or direction is directed under this Act must comply with it.

#### ORAL ORDERS

##### **Oral orders — medical officer**

100(1) A medical officer may make an order orally under any of the following sections if he or she reasonably believes that, in the time necessary to make a written order, the threat to public health might worsen:

- (a) section 34 (emergency health hazard order);
- (b) section 43 (communicable disease order);
- (c) section 53 (emergency detention order for virulent disease);
- (d) section 60 (temporary detention for identification);
- (e) section 63 (temporary detention for decontamination).

##### **Oral orders — inspector**

100(2) An inspector may make an order orally under section 34 (emergency health hazard order) if he or she reasonably believes that, in the time necessary to make a written order, the threat to public health might worsen.

##### **Notice to medical officer**

100(3) An inspector who makes an oral order must notify a medical officer of the circumstances of the order as soon as practicable.

##### **Confirming the order in writing**

100(4) An oral order must be confirmed in writing within 72 hours, or within such other period as is reasonable in the circumstances.

#### SERVICE OF ORDERS

##### **To whom order must be given**

101(1) An order made under this Act must be given to the person or persons to whom the order is directed.

##### **Order given personally or by mail**

101(2) An order may be given

- (a) personally;
- (b) by registered or certified mail sent to the last known address of the person or persons to whom the order is directed; or
- (c) in a prescribed manner.

**Service on large number of persons**

101(3) If an order is directed to the public at large, or to such a large number of persons that the chief public health officer or a medical officer considers it impractical to serve persons individually, it may be given

- (a) by publishing it in a newspaper having general circulation in Manitoba or distributed in the area directly affected;
- (b) by broadcasting it on a television or radio station received throughout Manitoba or in the area directly affected;
- (c) by posting copies of it in publicly accessible locations in the area directly affected; or
- (d) in any other prescribed manner.

**REPORTING AND INFORMATION****Duty to report is in addition to other duties**

102 A requirement to report or provide information under this Act is in addition to any requirement under other legislation or elsewhere.

**Duty to provide information**

103(1) A requirement to report or provide information under this Act applies even if

- (a) it requires the disclosure of personal information or personal health information;
- (b) it requires the disclosure of proprietary information or confidential information; or
- (c) disclosure of the information is restricted by legislation or otherwise.

**If information subject to solicitor-client privilege**

103(2) A requirement to report or provide information under this Act does not apply to information that is subject to solicitor-client privilege.

**Limits re personal and personal health information**

103(3) When a person acting under the authority of this Act requires another person to provide personal information or personal health information, or discloses personal information or personal health information about another person, the following rules apply:

- (a) personal information and personal health information must be required or disclosed only if non-identifying information will not accomplish the purpose for which information is required or disclosed;
- (b) personal information or personal health information required or disclosed must be limited to the minimum amount necessary to accomplish the purpose for which it is required or disclosed.

**PROTECTION OF PERSONS WHO REPORT****No retaliation**

104 No person shall discipline, suspend, demote, dismiss, discharge, harass, interfere with or otherwise disadvantage another person, or threaten to do any of those things to another person who, in good faith,

- (a) complies with a requirement to report or provide information under this Act; or
- (b) voluntarily reports or provides information about a health hazard under section 40.

**Persons reporting protected from liability**

105 No action or proceeding may be brought against a person who in good faith

- (a) complies with a request or requirement to report or provide information under this Act; or
- (b) voluntarily reports or provides information about a health hazard under section 40.

**LIABILITY PROTECTION****Protection from liability**

106(1) No action or proceeding may be brought against the minister, the chief public health officer, a director, a medical officer, an inspector, a health officer, a public health nurse or any other person acting under the authority of this Act, the regulations or a municipal by-law for anything done or not done, or for any neglect,

(a) in the performance or intended performance of a duty under this Act, the regulations or a municipal by-law; or

(b) in the exercise or intended exercise of a power under this Act, the regulations or a municipal by-law;

unless the person was acting in bad faith.

#### **Protection for person providing assistance**

106(2) A person who provides assistance under this Act has the same protection as a person referred to in subsection (1), unless he or she acts in bad faith.

### MISCELLANEOUS

#### **Reasonable force may be used**

107 A director, medical officer, inspector, health officer, public health nurse or other person who is required or authorized under this Act or a municipal by-law to do anything or prevent anything from being done may use such reasonable force as is necessary to accomplish what is required or what he or she is authorized to do.

#### **Action under one provision not a bar to other action**

108 Unless otherwise stated in this Act, taking action on a matter under Parts 3 to 7 in relation to a person, place or premises is not a bar to taking further action under any provision of any of those Parts on the same matter in relation to the same person, place or premises.

#### **Supply of drugs, medical supplies, etc.**

109(1) The minister may, without charge, supply drugs, medical supplies, and immunizing or other agents to health professionals, regional health authorities, and operators of health care facilities.

#### **Selling drugs, medical supplies, etc.**

109(2) No person shall sell or offer for sale any drug, medical supply, or immunizing or other agent that the minister has supplied to any person without charge.

#### **Certificate of analyst admissible**

110(1) A certificate or report appearing to be signed by an analyst — or a copy or extract of the certificate or report certified by the analyst as a true copy or extract — stating that the analyst has analyzed a substance, and giving the results, is admissible in evidence in any proceeding as proof of the facts stated, unless the contrary is shown. Proof of the analyst's appointment or signature is not required.

#### **Service of certificate or report on other parties**

110(2) A party to any proceeding intending to produce a certificate or report as evidence in the proceeding must give notice of that intention and a copy of the certificate or report to each other party at least seven days before the date fixed for the hearing of the proceeding.

#### **Act binds the Crown**

111 This Act binds the Crown.

## PART 12 REGULATIONS

#### **Regulations**

112(1) The Lieutenant Governor in Council may make regulations

- (a) respecting the appointment or designation of officials referred to in this Act, including qualifications required for appointment or designation;
- (b) specifying the powers under this Act that may be exercised by a health officer;
- (c) designating persons as health professionals;
- (d) respecting the prevention, detection, control and remediation of health hazards, including prescribing a place, premises or activity for the purpose of subclause 24(2)(a)(i);
- (e) for the purpose of clause 25(d), specifying persons to whom a health hazard order may be directed;

- (f) respecting the reporting of health hazards under sections 39 and 40, including
  - (i) describing the health hazards that must be reported under section 39,
  - (ii) requiring persons to report health hazards under section 39, and
  - (iii) specifying persons to whom reports are to be made under sections 39 and 40;
- (g) respecting the prevention, detection, control, treatment and classification of diseases, including
  - (i) the responsibilities of health professionals in the treatment of persons infected with or exposed to a communicable disease, and
  - (ii) the requirements that must be satisfied before a determination may be made that a person is no longer infected;
- (h) respecting the isolation, hospitalization, or quarantine of a person who is or may be infected with or has been or may have been exposed to a communicable disease;
- (i) governing the procedures for obtaining apprehension orders under section 47, making applications under sections 54, 61 and 64 and obtaining warrants under sections 83 and 85;
- (j) respecting the location, construction, maintenance, plumbing, water supply, sanitation, heating, ventilation, air quality, equipment, furnishings, lighting, disinfestation, disinfection and decontamination of buildings and other premises;
- (k) respecting the location, construction, maintenance, operation, disinfestation and decommissioning of waste disposal grounds, incinerators, and other means of disposing of refuse and waste material;
- (l) respecting the accumulation and disposal of refuse, waste material and litter on private or public property;
- (m) respecting the location, approval and operation of premises where food is prepared, offered for sale, consumed, stored, handled, transported, produced or processed;
- (n) respecting the location, construction, furnishings, equipment, maintenance, sanitation and disinfecting of
  - (i) premises where animals are slaughtered, and
  - (ii) premises in which food or food products are prepared, cured, preserved, stored or packaged for sale or distribution;
- (o) respecting the manufacturing, processing, packaging, labelling, preparation, storage, handling, display, transportation, distribution, sale or offering for sale of any food;
- (p) respecting the seizure or recall of food or other products that present or may present a threat to public health;
- (q) respecting the terms and conditions under which information may be disclosed by directors, medical officers, inspectors, health officers and public health nurses under section 81, and the persons to whom it may be disclosed;
- (r) respecting the establishment and maintenance of registries for the purpose of section 82, including the designation of trustees who may establish or maintain registries;
- (s) respecting records, reports and returns to be made under this Act by any person, including the maintenance, retention and destruction of such records, reports and returns;
- (t) respecting the health or safety of persons at public events;
- (u) respecting the location, construction, maintenance, sanitation and operation of
  - (i) public accommodations,
  - (ii) camps,
  - (iii) resorts, and
  - (iv) public attractions involving animals,and establishing standards and requirements in respect of them;
- (v) respecting the location, construction, maintenance, sanitation and operation of personal service facilities, including facilities for tattooing or body-piercing;
- (w) requiring a person carrying on a business, trade, industry, occupation or other activity to be licensed or registered or to obtain a permit;
- (x) respecting the following matters in relation to an activity referred to in clause (w):
  - (i) the application for a licence or permit for, or for the registration of, the activity,
  - (ii) the terms and conditions under which a licence or permit may be granted or a registration allowed,

- (iii) the cancellation, revocation, or suspension of any such licence, permit, or registration;
- (y) prohibiting the carrying on of any business, trade, industry, occupation or any other activity, that is or may be a threat to public health;
- (z) respecting the construction, location, maintenance, cleaning and disinfection of drains, sewerage systems, sewers, sewage treatment plants, sewage disposal plants, privies and other wastewater management systems;
- (aa) respecting the construction, provision, maintenance, operation and purification of potable water systems, and potable water supplies, including the testing and analysis of water and the inspection, approval and protection of sources of water supply;
- (bb) respecting the pollution of wells, groundwater, surface water and springs, and the cutting and storing of ice;
- (cc) respecting the destruction or control of rodent pests, insect pests, and vermin of all kinds, and the means used to destroy or control them;
- (dd) respecting the examination or testing of animals for contamination, chemical residues, communicable diseases or other conditions that are or may be a threat to public health;
- (ee) respecting
  - (i) the confinement, isolation, quarantine, treatment, immunization, disposition or destruction of animals as a result of contamination, chemical residues, diseases or other conditions that are or may be a threat to public health,
  - (ii) the disposition of dead animals that are or may be a threat to public health, and
  - (iii) fixing the responsibility for disposing of an animal or a dead animal on any public authority, the owner, or the person causing the death;
- (ff) respecting the control of plants, animals or other organisms that are disease vectors;
- (gg) respecting the handling, transportation, burial, disinterment or re-interment of the bodies of deceased persons, including persons who died of a communicable disease or had a communicable disease at the time of death;
- (hh) respecting the use of ionizing and non-ionizing radiation in respect of humans;
- (hh.1) respecting the use of tanning equipment in a commercial tanning operation, including
  - (i) [repealed] S.M. 2015, c. 6, s. 5,
  - (ii) specifying persons to whom reports are to be made under subsection 59.3(1),
  - (iii) respecting the form, content and placement of warning signs that must be posted in commercial tanning operations;
  - (iv) designating health professionals for the purpose of subsection 59.1(2.1), and
  - (v) respecting the providing of, and prescribing standards for, protective eyewear that is to be provided to persons using tanning equipment in a commercial tanning operation;
- (hh.2) respecting or prohibiting the use of specified types of tanning equipment in commercial tanning operations, including tanning equipment that does not require an attendant to control its operation;
- (ii) respecting means of preventing accidental injury or death, and respecting safety measures in respect of matters not dealt with specifically under another Act;
- (jj) respecting swimming pools, whirlpools and other recreational water facilities;
- (kk) respecting the construction, manufacturing, labelling, repair, alteration, renovation, recovering, destruction, inspection and sale of bedding and other upholstered or stuffed articles;
- (ll) prescribing any product or substance as an intoxicating substance for the purposes of Part 7;
- (mm) extending or qualifying the descriptions of intoxicating substances in section 71;
- (nn) governing fees to be paid with respect to any matter regulated or any service provided under this Act;
- (oo) establishing standards and requirements in respect of any matter in relation to which regulations may be made under this Act and requiring compliance with such standards and requirements;
- (pp) respecting the manner of giving or serving orders, directions and other documents;
- (qq) defining words and phrases that are used in this Act but are not defined in this Act;
- (rr) prescribing any matter required or authorized by this Act to be prescribed;
- (ss) respecting additional transitional provisions;

(tt) respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable.

### Ministerial regulations

112(2). The minister may make regulations

- (a) designating a facility as a laboratory for the purpose of the definition "laboratory" in subsection 1(1);
- (b) prescribing diseases and conditions as reportable diseases;
- (c) respecting the reporting of diseases and conditions;
- (d) prescribing communicable diseases as diseases requiring contact notification;
- (e) respecting the notification of contacts for diseases requiring contact notification, including identification of contacts, persons who must notify contacts, the manner and time within which notification must occur or be attempted;
- (f) for the purpose of subsection 42(2), respecting information to be included in a health professional's report when a person refuses or neglects to continue treatment;
- (g) respecting the storage and handling of immunizing agents;
- (h) for the purpose of section 56, prescribing an adverse event or symptom as a reportable event;
- (i) for the purpose of subsection 57(3), specifying persons authorized to consent to the administration of an immunizing agent on behalf of an adult patient;
- (j) for the purpose of section 59, respecting the reporting of a reportable event;
- (k) respecting records that must be made and maintained in relation to the administration of immunizing agents;
- (l) respecting the procurement, distribution and availability of drugs, medical supplies, anti-toxins, vaccines, serums, immunizing agents and other pharmaceutical goods, to ensure their availability to the public in an emergency.

### Adopting codes and standards

112(3). A regulation may adopt by reference, in whole or in part, any code or standard, and it may adopt it as amended from time to time, and subject to any changes that the maker of the regulation considers necessary.

### Regulation may apply to part of province, classes of persons

112(4). A regulation may be general or particular in its application and may apply to one or more classes of persons, and to the whole or any part of the province.

[S.M. 2008, c. 42, s. 79](#); [S.M. 2010, c. 37, s. 3](#); [S.M. 2015, c. 6, s. 5](#).

## PART 13

### CONSEQUENTIAL AMENDMENTS

113 to 117 **NOTE: These sections made up Part 13 of the original Act and contained consequential amendments to other Acts that are now included in those Acts.**

## PART 14

### TRANSITION, REPEAL, C.C.S.M. REFERENCE AND COMING INTO FORCE

#### "Former Act" defined

118 In sections 119 to 121, "**former Act**" means *The Public Health Act*, R.S.M. 1987, c. P210, as it read immediately before the coming into force of this Act.

#### Officials deemed to continue under this Act

119 A person who is a director, a medical officer of health, a public health inspector or a public health nurse under the former Act or its regulations on the day that Part 2 of this Act comes into force is deemed to be a director, a medical officer, an inspector or a public health nurse, respectively, under this Act.

#### Licences, permits, approvals etc. deemed to continue

120 A licence, permit, approval, registration or other authorization issued under the former Act or its regulations and valid on the day this Act comes into force is deemed to be a licence, permit, approval, registration or other authorization under this Act, and any terms and conditions of the authorization continue to apply.

*Regulations made under former Act*

121 A regulation made under the former Act and that is in effect on the day this Act comes into force is deemed to have been validly made under this Act.

**Repeal**

122 The *Public Health Act*, R.S.M. 1987, c. P210, is repealed.

**C.C.S.M. reference**

123 This Act may be referred to as chapter P210 of the *Continuing Consolidation of the Statutes of Manitoba*.

**Coming into force**

124 This Act comes into force on a day to be fixed by proclamation.

**NOTE: S.M. 2006, c. 14 came into force by proclamation on April 1, 2009.**

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