

## **Policy on Achieving Compliance with the Public Health Act and Regulations**

Alberta Health Services Environmental Health employs a continuum of strategies, from imparting information to prosecution, to both promote and protect public health and to achieve compliance with the Public Health Act and Regulations. Education strategies are regularly enhanced and supported, as necessary, by a range of enforcement strategies crafted from the powers outlined within the legislative framework. A mix of education and enforcement strategies is often employed.

Opportunities are incorporated within these strategies, as designed by the department and as outlined within provincial legislation, to afford a measure of input and relief for clients who may be subject to the application of the legislation. Formal hearings, waivers and appeals are briefly described later in this document.

This policy is effective July 28, 2006 and is approved by the Director of Health Protection.

### **Education Strategies**

The following progressive steps may be taken as part of an education strategy:

1. Verbal Consultation.
2. Written Consultation.
3. Formal Educational Course or Presentation.
4. Written Inspection Report.

Public Health Inspectors are trained to utilize appropriate education strategies to achieve positive health outcomes and compliance with the provisions of public health legislation. They engage in information sharing, consultation, course delivery, and written communications to convey the necessary technical and non-technical information to clients, operators and the general public to enhance their understanding and appreciation for the public health objectives under consideration. Education strategies include:

#### **Verbal Consultation**

Inspectors provide technical information and advice to industry, operators, community associations, and the general public in person or by phone. Verbal consultations often supplement the information provided to operators during inspections.

#### **Written Consultation**

Inspectors provide letters, fact sheets, pamphlets, signs, and informative materials to supplement information provided during inspections.

## **Formal Educational Course or Presentation**

Inspectors provide formal and customized educational courses and presentations designed to meet the information needs of industry, operators, interest groups, and the general public.

## **Written Inspection Report**

Inspectors provide written reports to operators and clients following the completion of an inspection or investigation. Inspection reports generally contain educational information, the nature of any issues identified and some description of the pertinent legislation. The inspection report is provided to or served on the person to whom it is directed and states what the person is required to do and when it is to be done. A brief public health rationale is generally provided in the report for each of the item(s) under consideration, which is discussed with the person receiving the report, whenever possible, as part of the education strategy. The Inspector's name and phone number, and other contact information are provided within the reports, allowing the operator or client to seek further information or guidance.

## **Enforcement Strategies**

To complement the above noted education strategies, Inspectors may utilize a variety of enforcement strategies and tools to protect the health of the public. Inspectors are granted Executive Officer status by the Board of Alberta Health Services, providing them the necessary authority to undertake Executive Officer duties and administer provisions of the Public Health Act and associated Regulations. The following progressive enforcement strategies may be followed:

1. Formal hearings.
2. Executive Officer Order (verbal or written).
3. Refusal, Withdrawal or Suspension of a health approval or permit.
4. Originating Notices of Motion.
5. Charges and Prosecution.

## **Formal Hearing**

When a follow-up inspection(s) or investigation reveals that the recommendations, infractions, or contraventions listed on an inspection report(s) or an Executive Officer Order have not been completed or followed to the satisfaction of an Executive Officer, a formal hearing may be held with the responsible party. These formal meeting include the public health inspector, an environmental health coordinator, and the operator in a sharing of information and a review of the issues. These hearings are intended to gain compliance without the need for legal action or closure. They are organized to allow a review of circumstances surrounding the failure to achieve the requirements necessary to satisfy the conditions noted in the report or order and to establish a course of action to avoid legal action or closure. A formal hearing may precede or follow a written order.

## **Executive Officer Order**

Where an inspection or investigation reveals that inspection report action items are not being completed or an immediate public health nuisance exists, an Executive Officer Order may be issued to the responsible party. Executive Officers use a standardized template that is available on their laptops to create every written order. The order is formally communicated to the responsible party, outlining the necessary action to abate the public health nuisance or any contraventions of the Public Health Act and associated regulations. The Order sets out the reasons it was made, what the person is required to do, the time within which it must be done and highlights the recipient's rights to appeal the Order. All Executive Officer Closure Orders will be conspicuously posted at the place to which the order relates and a copy will also be posted within the Environmental Health Web Site for public viewing.

Where an inspection reveals that the conditions outlined within the Executive Officer Order have been satisfactorily corrected, the Executive Officers will use a standardized template that is available on their laptops to document that the written order is rescinded. The removal of the Order is formally communicated to the responsible party and posted within the Environmental Health Web Site for public viewing.

## **Refusal/Withdrawal/Suspension of Health Approval/Permit/License**

Many operators of facilities governed by the Public Health Act and associated Regulations require health approval before operating. Some facilities, such as food establishments and swimming pools, require the issuance of a permit or license. If such a facility does not meet regulatory requirements, health approval may not be granted, may be withdrawn, or may be suspended until regulatory requirements are met.

Health approvals, permits, and licenses are not transferable. Consequently, new owners of facilities must seek their own health approval before commencing operations. If an operator reopens an existing facility without first gaining health approval, the Inspector usually educates the owner on his/her obligations to seek health approval and records this infraction on the inspection report. The Inspector may also issue a Closure Order if this is not the first instance or if warranted by other public health considerations.

Permits or licenses to operate may be withdrawn or suspended if the owner fails to demonstrate the ability to consistently operate the premises in a safe manner.

## **Originating Notice**

In circumstances where an Inspector is denied entry to a public place or the owner is uncooperative, the Inspector will undertake to persuade them to cooperate and inform them of the authority provided in the legislation. When necessary, the Inspector will apply by originating notice to a judge of the Court of Queen's Bench for an Order directing the owner to do or refrain from doing anything the judge deems necessary to enable the Inspector to perform his/her duties under the legislation, such as entry to the premises, investigation of a nuisance, inspection of the facility, collection of samples,

etc. Failure to comply with a judge's order may result in enforcement actions including imprisonment.

### **Charges and Prosecution**

Charges and prosecution are the final steps in the enforcement strategy process. Charges are laid before the court, seeking appropriate enforcement and penalties. The resulting fines can be significant and failure to pay will result in a warrant for the offender's arrest as well as default jail time..

### **Waivers and Appeals**

A person may make a request to Alberta Health Services to waive specific regulatory requirements. If Alberta Health Services does not grant the request, the person can appeal this decision to the Public Health Appeal Board. Similarly, a person can appeal an Order of an Executive Officer. These options are outlined below:

1. Waivers.
2. Appeals.

### **Waivers**

The Public Health Act Waiver Regulation allows a person to apply to Alberta Health Services for a waiver of the following regulations: food, nuisance, recreation area, swimming pool, and work camps. The applicant must satisfy Alberta Health Services that the specific provisions in the legislation would cause a particular hardship to the applicant and that an adequate degree of protection to the public will be maintained. Waivers are not transferable.

### **Appeals**

Orders of an Executive Officer may be appealed, by the person(s) directly affected, to the Public Health Appeal Board. The Public Health Appeal Board has the authority to confirm, reverse or vary the Executive Officer Order. This occurs at a hearing scheduled within 30 days of the application.

Approved July 28, 2006



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Director, Health Protection

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