

## APPENDIX B - II - 3: PREPARING AND SERVING A HPPA SECTION 22 ORDER

### FROM THE HEALTH PROTECTION AND PROMOTION ACT, SECTION 22

**“22. (1)** A Medical Officer of Health, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a communicable disease. R.S.O. 1990, c. H.7, s. 22 (1).

#### **Condition precedent to order**

**(2)** A Medical Officer of Health may make an order under this section where he or she is of the opinion, upon reasonable and probable grounds,

- (a) that a communicable disease exists or may exist or that there is an immediate risk of an outbreak of a communicable disease in the health unit served by the Medical Officer of Health;
- (b) that the communicable disease presents a risk to the health of persons in the health unit served by the Medical Officer of Health; and
- (c) that the requirements specified in the order are necessary in order to decrease or eliminate the risk to health presented by the communicable disease. R.S.O. 1990, c. H.7, s. 22 (2); 1997, c. 30, Sched. D, s. 3 (1).

#### **Time**

**(3)** In an order under this section, a Medical Officer of Health may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order. R.S.O. 1990, c. H.7, s. 22 (3).

#### **What may be included in order**

**(4)** An order under this section may include, but is not limited to,

- (a) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
- (b) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
- (c) requiring any person that the order states has or may have a communicable disease or is or may be infected with an agent of a communicable disease to isolate himself or herself and remain in isolation from other persons;
- (d) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
- (e) requiring the destruction of the matter or thing specified in the order;
- (f) requiring the person to whom the order is directed to submit to an examination by a physician and to deliver to the Medical Officer of Health a report by the physician as to whether or not the person has a communicable disease or is or is not infected with an agent of a communicable disease;
- (g) requiring the person to whom the order is directed in respect of a communicable disease that is a virulent disease to place himself or herself forthwith under the care and treatment of a physician;
- (h) requiring the person to whom the order is directed to conduct himself or herself in such a manner as not to expose another person to infection. R.S.O. 1990, c. H.7, s. 22 (4); 1997, c. 30, Sched. D, s. 3 (2).

**Person directed**

[\(5\)](#) An order under this section may be directed to a person,

- (a) who resides or is present;
- (b) who owns or is the occupier of any premises;
- (c) who owns or is in charge of any thing; or
- (d) who is engaged in or administers an enterprise or activity,

in the health unit served by the Medical Officer of Health. R.S.O. 1990, c. H.7, s. 22 (5).

**Class orders**

[\(5.0.1\)](#) An order under this section may be directed to a class of persons who reside or are present in the health unit served by the Medical Officer of Health. 2003, c. 1, s. 15 (1).

**Notice to class**

[\(5.0.2\)](#) If a class of persons is the subject of an order under subsection (5.0.1), notice of the order shall be delivered to each member of the class where it is practicable to do so in a reasonable amount of time. 2003, c. 1, s. 15 (1).

**Same, general notice**

[\(5.0.3\)](#) If delivery of the notice to each member of a class of persons is likely to cause a delay that could, in the opinion of the Medical Officer of Health, significantly increase the risk to the health of any person, the Medical Officer of Health may deliver a general notice to the class through any communications media that seem appropriate to him or her, and he or she shall post the order at an address or at addresses that is or are most likely to bring the notice to the attention of the members of the class. 2003, c. 1, s. 15 (1).

**Information in notice**

[\(5.0.4\)](#) A notice under subsection (5.0.3) shall contain sufficient information to allow the members of the class to understand to whom the order is directed, the terms of the order, and where to direct inquiries. 2003, c. 1, s. 15 (1).

**Hearing for class member**

[\(5.0.5\)](#) Where a class of persons is the subject of an order under subsection (5.0.1), any member of the class may apply to the Board for the purposes of requiring a hearing under section 44 respecting that member. 2003, c. 1, s. 15 (1).

**Health Care Consent Act, 1996**

[\(5.1\)](#) The *Health Care Consent Act, 1996* does not apply to,

- (a) a physician's examination of a person pursuant to an order under this section requiring the person to submit to an examination by a physician;
- (b) a physician's care and treatment of a person pursuant to an order under this section requiring the person to place himself or herself under the care and treatment of a physician. 1996, c. 2, s. 67 (1).

**Additional contents of order**

[\(6\)](#) In an order under this section, a Medical Officer of Health,

- (a) may specify that a report will not be accepted as complying with the order unless it is a report by a physician specified or approved by the Medical Officer of Health;
- (b) may specify the period of time within which the report mentioned in this subsection must be delivered to the Medical Officer of Health. R.S.O. 1990, c. H.7, s. 22 (6).

### **Reasons for order**

set (7) An order under this section is not effective unless the reasons for the order are out in the order. R.S.O. 1990, c. H.7, s. 22 (7)."

### **In writing a Section 22 order consider the following:**

The "Health Protection and Promotion Act", Section 22, sets out the parameters including scope of the orders that a Medical Officer of Health may serve upon an individual. It is incumbent upon the writer of the order to include:

- Reasonable and probable grounds:
  - A communicable disease exists or may exist and there is a risk of an outbreak
  - The disease presents a risk to others
  - The requirements are necessary to decrease or eliminate the risk to health
- Inclusions/actions described in the Order:
  - Closure of part a premise
  - Placarding of a premise to give notice
  - Isolation of an individual who has or may have a communicable disease
  - Cleaning/disinfecting of a premise or thing (must be specific)
  - Destruction of the matter or thing (must be specific)
  - An individual to submit for examination by a physician and deliver a report of this examination to the Medical Officer of Health to confirm whether or not a person has a communicable disease or is infected with the agent of a communicable disease
  - An individual infected with a virulent communicable disease to place himself or herself under the care and treatment of a physician
  - An individual to conduct himself or herself in such a manner to not expose anyone else to the infection
- The order may be directed to a person (within the health unit jurisdiction) who:
  - Resides or is present
  - Who owns or occupies the premise
  - Who owns or is in charge of any thing
  - Who is engaged or administers a enterprise or activity

### **Consideration in writing a class order:**

- Class orders may be directed to a class of persons residing or are present in the health unit jurisdiction
- If a class of persons is directed under the order, a notice of the order must be delivered to each member of the class if practical to do so in a reasonable amount of time
- If the delivery of the notice will cause a delay which under the opinion of the Medical Officer of Health, significantly increases the risk of health of any individual, a general notice to the class may be made via any communications media which seems appropriate to the Medical Officer of Health. In addition, a posted notice at the address or addresses to bring the order to the attention to the members of the class should be undertaken
- The notice should include information to allow the members of the class to understand to whom the order is directed, terms of the order and to whom to direct inquires
- Any member of the class may apply to the Health Services Appeal and Review Board for purposes of a hearing under section 44.