

Enactment of legislation to enforce infection prevention and control practices within personal service settings under the *HPPA*

TO: Chair and members of the Board of Health

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Recommendations

It is recommended that:

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

Key Points

- This report provides a rationale for the enactment of legislation under the HPPA to support inspection and enforcement activities within PSS.
- No provincial legislation currently exists that requires operators to comply with infection prevention and control (IPAC) best practices.
- Several provinces and territories within Canada have legislation specific to PSS premises, increasing the enforcement abilities of public health staff and providing an incentive for operators to comply with IPAC best practices.
- While education is considered the first step in gaining operator compliance, sometimes enforcement actions are the only means of gaining compliance with minimum requirements in order to ensure public safety.

- Several boards of health have submitted letters to The Honourable Kathleen Wynne, Premier of Ontario, in support of enacting legislation specific to PSS, and specifically in support of the creation of wording under the *Provincial Offences Act* (POA) that would allow public health staff additional enforcement options when dealing with infractions in these premises.

Discussion

Background

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

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

If additional enforcement is required to gain compliance from operators, a PHI may issue a Section 13 Order under the HPPA.⁴ This is a lengthy process and requires the PHI to believe that a “health hazard” (as defined under Section 1 of the HPPA) exists that may pose a risk to the health of any member of the public.⁴ This is in contrast to inspections of food premises (such as restaurants, grocery stores and institutional food service departments) – in these premises PHIs have several enforcement options, including the issuance of a Section 13 Order, a ticket under Part I of the POA or a direct summons to court under Part III of the POA.⁴⁻⁷ The additional enforcement options for food premises are due to the existence of a regulation under the HPPA that legislates specific requirements for food premises, and which is supported by a document

that sets out set monetary fines for any non-compliance with the regulation.^{5,7} This document allows PHIs across the province to issue tickets to operators on the spot, which has proven to be helpful both in gaining immediate compliance from operators as well as from other premise operators via general deterrence. Regulations exist under the HPPA for public swimming pools, recreational camps, spas and rabies, however none currently exist for personal service settings.

Analysis/Rationale

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

In addition to infection control complaints, WDGPH receives requests for information from members of the public, looking for guidance on where to go to receive personal services, particularly regarding services such as manicures, pedicures, tattooing or body piercing. Subsequent to BOH report BH.01.APR0214.R10 (Online disclosure of personal service settings inspection results), WDGPH made inspection results for PSS premises available online in October of 2014. This was to increase transparency of inspection results and to assist members of the public in making informed decisions when deciding where to go to receive a personal service.⁹ Public disclosure of inspection results has also been shown to have a positive impact on operator compliance with relevant legislation and best practices.¹⁰

Annual inspection of all PSS premises is an accountability indicator for the Ministry of Health and Long-Term Care.¹¹ The creation of legislation under the HPPA, specific to personal service settings would contribute to the standardization of minimum IPAC best practices in PSS premises, and assist public health staff in enforcing minimum standards. The overall goal is to prevent infectious disease transmission risks to PSS staff and members of the public who use these services. Several public health units in Ontario have written letters to The Honourable Kathleen Wynne, Premier of Ontario, in support of the creation of regulations specific to PSS and particularly those that offer invasive services, such as tattooing and body modification.^{12,13}

Conclusion

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

Ontario Public Health Standard

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

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

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

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

WDGPH Strategic Direction(s)

Check all that apply:

- Building Healthy Communities
We will work with communities to support the health and well-being of everyone.
- Service Centred Approach
We are committed to providing excellent service to anyone interacting with Public Health.
- Health Equity
We will provide programs and services that integrate health equity principles to reduce or eliminate health differences between population groups.
- Organizational Capacity
We will improve our capacity to effectively deliver public health programs and services.

Health Equity

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

Appendices

None.

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