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Monday 28 March 2011

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Lundi 28 mars 2011

**Standing Committee on
Social Policy**

Health Protection
and Promotion
Amendment Act, 2011

**Comité permanent de
la politique sociale**

Loi de 2011 modifiant
la Loi sur la protection
et la promotion de la santé

Chair: Shafiq Qaadri
Clerk: Trevor Day

Président : Shafiq Qaadri
Greffier : Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICY

Monday 28 March 2011

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Lundi 28 mars 2011

The committee met at 1404 in committee room 1.

HEALTH PROTECTION
AND PROMOTION
AMENDMENT ACT, 2011
LOI DE 2011 MODIFIANT
LA LOI SUR LA PROTECTION
ET LA PROMOTION DE LA SANTÉ

Consideration of Bill 141, An Act to amend the Health Protection and Promotion Act / Projet de loi 141, Loi modifiant la Loi sur la protection et la promotion de la santé.

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen, colleagues, welcome to the clause-by-clause consideration for Bill 141.

At the outset, just on behalf of the committee, I would like to thank two medical colleagues, Dr. Penny Sutcliffe and Dr. Kieran Moore, who took the time not only to read Hansard, but also to communicate some issues to the committee and to the Chair.

En français, je veux remercier mes deux collègues la D^r Penny Sutcliffe et le D^r Kieran Moore pour avoir attiré leur attention à ce projet de loi.

Unless there are any general comments, we'll move to clause-by-clause. I would invite Madame Gélinas to commence the presentation of NDP motion 1.

Anterior to that, we'll consider section 1.

No amendments having been received, shall section 1 carry? Carried.

Section 2, NDP motion 1: Madame Gélinas.

M^{me} France Gélinas: I move that the amendments to the Health Protection and Promotion Act in subsection 2(1) of the bill be amended by adding the following subsection:

“Reasonable compensation

“(1.2) Where the minister makes an order under subsection (1) with respect to premises that are municipally owned, the minister must pay fair and reasonable compensation for the use of the premises during the time they are being used for public health purposes.”

The Chair (Mr. Shafiq Qaadri): Madame Gélinas, regrettably, je dois déclarer que votre motion n'est pas à l'ordre. With extreme regret, I have to declare that your motion is not in order, and of course, the issue has to do with the passage of a money motion, which is an extreme violation of standing order 57.

Ms. Sylvia Jones: Not just a violation; an extreme violation?

The Chair (Mr. Shafiq Qaadri): In this week of budgetary concerns, with the provincial budget coming down, yes, I would consider it to be an extreme violation.

Are you satisfied with that?

M^{me} France Gélinas: Yes.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll now proceed to—yes, Ms. Sandals?

Mrs. Liz Sandals: I agree with the ruling you've just made. Is there any opportunity for me to comment on the content?

The Chair (Mr. Shafiq Qaadri): I'm advised by the clerk, who very subtly said no.

Mrs. Liz Sandals: Okay.

M^{me} France Gélinas: Can we have unanimous consent that she could make comments? Because I would be interested in hearing them.

The Chair (Mr. Shafiq Qaadri): If it is the will of the committee, then yes, proceed.

Mrs. Liz Sandals: I just wanted to let the committee know, for their information, that sections 77.4(9) and 77.4(10) actually already set out a mechanism by which affected persons can receive fair and reasonable compensation for the use of premises that are subject to the minister's orders. In fact, the existing process in the HPPA is actually more comprehensive than the process that you were trying to put in the amendment. The affected person is entitled to compensation by the crown for the use and occupation of the premises by agreement, and in the absence of an agreement, may actually apply to the OMB for settlement of the dispute.

I just wanted it on the record that that process is already there.

The Chair (Mr. Shafiq Qaadri): Thank you. Further commentary, rebuttals? Madame Gélinas.

M^{me} France Gélinas: What I was trying to get at with this is that although we're talking about public health, a lot of the public health workers will end up not being employees of public health but could very much end up being employees of municipalities themselves. “Can receive compensation” is really different from “will receive fair and reasonable compensation for the use of,” so I was trying to bring in more clarity as to, yes, you will receive compensation and the municipality won't be on the hook for insurance, for staff, for not having use of their facilities.

I agree that there is some language in the bill that talks to this, but it does not give certainty to any municipal association that they won't be on the hook for a whole bunch of expenses, not the least of them being mal-practice insurance.

The Chair (Mr. Shafiq Qaadri): Further comments? If not, we'll now proceed to PC motion 1.1, in which case I would like to inform my colleagues of the PC side that that presumably is an identical motion.

Mrs. Christine Elliott: It's not quite identical, Mr. Chair, but I understand. It's close enough—

The Chair (Mr. Shafiq Qaadri): Its violation is identical, as it is a money motion, and I would therefore respectfully advise you that it is out of order.

Interjection.

The Chair (Mr. Shafiq Qaadri): But since it is somewhat different, you're allowed to enter it into the record if you wish.

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Mrs. Christine Elliott: I move that the following subsection be added to the amendments to the Health Protection and Promotion Act set out in subsection 2(1) of the bill:

“Compensation for municipalities

“(2) Where the minister makes an order under subsection (1) with respect to premises that are municipally owned, the minister must pay fair and reasonable compensation for the use of the premises during the time they are being possessed and used for public health purposes.”

The Chair (Mr. Shafiq Qaadri): Thank you. Once again, the same advisement. Therefore, PC motion 1.1 is out of order.

We'll now proceed to NDP motion 2: Madame Gélinas.

M^{me} France Gélinas: I move that clause 77.4(3)(b) of the Health Protection and Promotion Act, as set out in subsection 2(2) of the bill, be amended by striking out “the risk of an outbreak” and substituting “the immediate risk of an outbreak”.

Do I get to talk to it?

The Chair (Mr. Shafiq Qaadri): The floor is yours.

M^{me} France Gélinas: Basically, what we are trying to do, and you will see that throughout all of the amendments that the NDP is putting forward, is narrow the scope of where the chief medical officer of health can make an order. Basically, we haven't had a good discussion as to what issues should be under local control and what issues should be under provincial coordination.

It wasn't that long ago that we had the G20 summit, and we saw how little pieces of laws that were put out there all of a sudden were used completely out of context, but were used nevertheless. I have worries that taking away the local control of a public health unit could be used in ways that will not improve the public health of Ontarians. You will see that I will put that forward, and this falls into a series of amendments that is coming that will really try to narrow it to the scope of what you have explained you wanted it to do.

I'm not really going against what you've explained you're trying to do; I'm trying to make sure that the language we use is reflective of the aim we're trying to achieve. The suggestion there is to change “the risk of an outbreak” to “the immediate risk of an outbreak” because, frankly, there is risk of an outbreak at any time; we just don't know when. Basically, there could be an outbreak of just about anything any time, and we all know this. Making the language clearer, I think, will lead to better public health.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. Ms. Sandals.

Mrs. Liz Sandals: I don't actually see what this has to do with the G20. However, the actual amendment is similar in part to government amendment motion 4, except that our motion does in one thing what NDP motions 2 and 3 take two steps to do. I would just like some insurance from Madame Gélinas that she will also be tabling NDP motion 3.

M^{me} France Gélinas: Yes, I will.

Mrs. Liz Sandals: Okay. So just to go on and speak about it, then, we will support this motion.

This amendment was actually proposed by several key public health stakeholders, in particular, the Association of Municipalities of Ontario, the Association of Local Public Health Agencies and the city of Toronto. Putting “immediate risk” in there would actually bring it into line with the language that is used in a number of other sections within the HPPA, so we're quite happy to support putting in “immediate risk” as opposed to just “risk.” We will support this.

The Chair (Mr. Shafiq Qaadri): Fair enough. Any further comments? Ms. Elliott.

Mrs. Christine Elliott: Just a brief comment: We would certainly agree with this amendment as well, in that this is a power which is presumably going to be used very sparingly. Just the use of “immediate” helps to put some boundaries around the times when it might be imposed.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 2? Those opposed? Carried.

Now, PC motion 2.1, I understand, is identical and therefore likely out of order and redundant, so we'll now proceed to NDP motion 3.

M^{me} France Gélinas: I move that clause 77.4(3)(b) of the Health Protection and Promotion Act, as set out in subsection 2(2) of the bill, be amended by striking out “the risk to the health of persons” and substituting “the immediate risk to the health of persons”.

Here, again, the series of amendments is to make sure that we narrow the scope where the chief medical officer of health can make an order.

I can't help but say that it also shows how this bill has been rushed through. That we have to come in during clause-by-clause to do that kind of language tightening-up is a little bit unsettling, given the importance of health promotion and protection and given the importance of public health. I'm happy that the government realizes this and is willing to make changes.

I would have much preferred that we had waited for the Ministry of Health and Long-Term Care, as well as Dr. King's report on H1N1, before the government brought those changes forward. I would have much preferred that pressing issues such as the lack of coordination between the LHINs, public health and primary care, which are all issues that were addressed in the H1N1 report, would have also been included. They're not there.

I can't help but think, "How could it be that they're bringing forward a Health Protection and Promotion Act that deals with public health, but yet public health was not consulted and saw this bill at the same time as I and every other Ontarian saw it?"

Anyway, it needs some tightening up in the language, and I hope they will support it.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 3?

Mrs. Liz Sandals: Yes. Just to say that it is true with virtually any report that there are many things that can be done simply by agreeing to do them. There are some things that need to be in one act, some things that need to be in some other act. What is brought forward here are the things coming out of Dr. King's report, which lead to amendments to the HPPA. Those things that require amendments in the HPPA are what's in the act.

We will, however, be supporting this amendment because, once again, it simply adds "immediate" to "risk."

The Chair (Mr. Shafiq Qaadri): Further comments?

Mrs. Christine Elliott: We support this amendment as well.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 3? Opposed? NDP motion 3 carried.

Government motion 4—

Mrs. Liz Sandals: It is now redundant.

The Chair (Mr. Shafiq Qaadri): Now redundant; withdrawn.

We proceed to NDP motion 5.

M^{me} France Gélinas: I move that clause 77.4(6)(b) of the Health Protection and Promotion Act, as set out in subsection 2(3) of the bill, be amended by striking out "risk" and substituting "immediate risk".

The idea behind this, again, is to make sure that there must be an immediate risk to public health before we give the chief medical officer of health the power to make an order.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 5?

Mrs. Liz Sandals: This is identical to government motion 6, so we will be supporting this motion.

The Chair (Mr. Shafiq Qaadri): Any comments?

Mrs. Christine Elliott: We concur. We've also submitted the same motion.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 5? Opposed? NDP motion 5 carried.

Government motion 6 and PC motion 6.1 are identical, redundant, withdrawn, annihilated.

Shall section 2 carry, as amended? Carried? Carried.

Section 3, NDP motion 7.

M^{me} France Gélinas: I move that subsection 77.9(1) of the Health Protection and Promotion Act, as set out in

section 3 of the bill, be amended by adding "on reasonable and probable grounds" after "of the opinion" in the portion before clause (a).

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Basically, by adding "on reasonable and probable grounds" as a requirement of evidence for the chief medical officer of health to issue a directive to a medical officer of health or a board of health, here again we narrow the opportunities to use such a directive as well as follow what has been explained to us as to the intent of this bill. I don't think it takes away the intent of the bill; it just makes it clearer so that it cannot be used in years to come for intents other than what the government had intended.

The Chair (Mr. Shafiq Qaadri): Thank you. NDP motion 7: Commentary? Ms. Sandals.

Mrs. Liz Sandals: We will not be supporting this amendment. As the people here are aware, the CMOH already has the power under other sections of the bill to issue directives to health care providers and health care entities. This is adding the power to issue directives to boards of health and medical officers of health.

The terminology that is suggested here, adding "on reasonable and probable grounds," is not in the other existing clauses. We think, in fact, it would add confusion to have people dissecting why one is stated one way and the other power to give directives stated in a different way when people try to unfold the act and the intent in later years.

So we will not be supporting this because we believe it actually causes confusion, not clarity.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments? Ms. Elliott.

Mrs. Christine Elliott: Though we understand the intent behind the amendment, unfortunately we won't be able to support it either on the grounds that it can perhaps be more confusing and could maybe cause some difficulties in making a decision where there's a need for immediacy—that it might get bogged down in a discussion as to what are reasonable and probable grounds. Presumably, the person making the decision in the first place is doing it on reasonable and probable grounds, or it wouldn't be done.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Elliott.

Those in favour of NDP motion 7? Those opposed?

M^{me} France Gélinas: Recorded vote, please.

Ayes

Gélinas.

Nays

Dhillon, Elliott, Jaczek, Johnson, Jones, Ramal, Sandals.

The Chair (Mr. Shafiq Qaadri): NDP motion 7 defeated.

NDP motion 8.

M^{me} France Gélinas: I move that clause 77.9(1)(a) of the Health Protection and Promotion Act, as set out in section 3 of the bill, be amended by striking out “a provincial, national or international public health event”.

Basically, this has to do with the definition of the term “public health event.” It is not a term that is currently defined in the Health Protection and Promotion Act. Basically, it is a term that is used a whole lot; you can Google any search engine that you want and put in “public health event,” and you will see everything from a conference, an education day, a meeting—basically anything that public health does is a public health event. Furthermore, it is an unnecessary addition to the bill, as there are already provisions given where a chief medical officer of health can issue a directive.

This is the kind of issue where the ministry should have sat down with ALPHA, they should have sat with the public health units themselves, to go over this bill before they introduced it. It always feels really weird to me that we have a public health bill and yet we have representatives from public health telling us that they knew nothing about this bill, they were not consulted. Here, they now have to live with the consequences of it and, frankly, they have some reservation.

To take out “a provincial, national or international public health event,” in my view, will make the bill cleaner, crisper and easier for everybody to understand, while still moving in the direction of what the intent of the minister and the ministry is.

To keep it as is—basically the ability, or the possibility, to expand the scope of the application of the bill would be there. I don’t think that would be wise, because an international public health event could very well be an international conference, and I don’t think that should trigger taking power away from the local public health unit.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 8? Ms. Sandals?

Mrs. Liz Sandals: If one reads the clause which this amendment proposes to amend, and reads it as if this amendment were accepted, it would end up saying “that there exists, or there is an immediate risk of, a pandemic or an emergency with health impacts anywhere in Ontario.” In other words, it would explicitly remove the right of the CMOH to deal with some sort of health hazard, health emergency, which is currently occurring outside of Ontario but which, it is obvious, is going to have health impacts inside Ontario.

Let’s use a couple of examples. Let’s suppose that there was some sort of chemical explosion south of Buffalo, for the sake of argument, and that it’s quite clear that the toxic cloud is headed towards Ontario. I want the chief medical officer of health to be able to very quickly work with the medical officers of health and get out a directive that says, “This is how we’re going to manage in the various jurisdictions of Ontario when the toxic cloud arrives.”

Another example: Half of Ontario goes to Florida for March break. There is some sort of highly contagious

epidemic going around in Florida. Everybody’s coming back to Ontario to a whole bunch of different jurisdictions for public health units within Ontario. I want the chief medical officer of health to be able to prepare for a coordinated response as all sorts of people who might have been infected, or who are infected, are returning to Ontario.

Quite frankly, I don’t know what ALPHA was thinking when it suggested this, because to me it just doesn’t make sense that we would deliberately bar the chief medical officer of health from anticipating when really bad health impacts can come from beyond our borders.

In fact, one of the things that Dr. King talked about in her H1N1 report was the fact that particularly the Toronto area, because it’s such an international travel hub, is highly susceptible to international health risks.

So we absolutely will not be accepting this particular amendment. It just totally destroys the intent of what we’re trying to do here.

The Chair (Mr. Shafiq Qaadri): Further comments on NDP motion 8? Ms. Elliott, then Madame Gélinas.

Mrs. Christine Elliott: Unfortunately, we also will be unable to support this amendment, on the basis that we don’t want to cut back on any powers and responsibilities that the chief medical officer of health might have, and to undercut his or her ability to deal with international situations.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Elliott. Madame Gélinas?

M^{me} France Gélinas: I think we’re starting to see where we differ and, I guess, why we voted against this bill in second reading; that is, the examples you gave are all very good examples of where we need our public health, but they’re all very good examples of where we need our local public health unit to take action.

The two examples you’ve just given—the people returning from Florida and some kind of clouds of environmental toxins coming over—those particular health units that are close to Buffalo, those particular health units that have a lot of travelers, are the ones who know best how to protect the health of the people within their geographical area. To think that we need the chief medical officer of health to come and tell the public health units, which are the ones that connect the most with and the ones that work day in and day out with those populations—this is where the Liberal government and the NDP differ. The balance there, to me, has not been explored enough.

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The way your public health units function in Ontario is a jewel because of their ability to adapt to the local circumstances, because of their ability to work things out until they have a consensus and they’re ready to move forward.

I fully agree that there are public health emergencies that require quick manoeuvring and quick movement, but to say that because it comes from abroad, because it comes from Buffalo, suddenly the chief medical officer of health is in a better position than the local medical

officer of health—I disagree with you. I disagree with this.

The right balance has not been found. To take away the power of a local health unit and to give it an overseeing power from the provincial chief medical officer of health—this is something new to public health in Ontario. This is something that has not been thought out properly, and this is something that will be ill-defined in the bill that we are working on right now.

I agree with the two examples you've given us. They are good examples of public health emergencies where our medical officers of health, locally, have trained, are prepared and will do a bang-on response, and they don't need the chief medical officer of health to tell them what to do.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mrs. Liz Sandals: I guess, perhaps, because I live within an hour of the border, if there's a toxic cloud headed our way from outside of the country, I don't want half a dozen different groups of people coming up with half a dozen different responses. I want all the best scientists in Ontario to work with the chief medical officer of health to find the best response, and to get it out there. That doesn't mean that there need to be directives issued to people who aren't in the way.

This legislation allows the chief medical officer of health to selectively issue directives to the public health units, which are actually affected, but I certainly want a coordinated response, rather than having five getting it right and the sixth getting it wrong.

The Chair (Mr. Shafiq Qaadri): We'll proceed, then, to the vote. Those in favour of NDP motion 8—recorded, Ms. Gélinas or no?

Mme France Gélinas: Sure. Good idea.

Le Président (M. Shafiq Qaadri): Merci pour votre soutien.

Ayes

Gélinas.

Nays

Dhillon, Elliott, Jaczek, Johnson, Jones, Ramal, Sandals.

The Chair (Mr. Shafiq Qaadri): NDP motion 8 defeated.

NDP motion 9.

Mme France Gélinas: I move that clause 77.9(1)(b) of the Health Protection and Promotion Act, as set out in section 3 of the bill, be amended by striking out "or to otherwise" and substituting "and to otherwise".

Basically, the reason for this is to ensure that the chief medical officer of health's directive can only be issued if it is necessary to coordinate an emergency response and to protect the health of persons. Currently, the clause allows for either of these incidents, basically. If either

one of them is there, the chief medical officer of health could issue a directive.

I would, here again, tend to say that I would much rather that everybody comes and puts their shoulders to the wheel when there is a public health emergency, pandemic or whatever else.

Only when you use the leadership, the skills and the knowledge of everyone in public health will we end up with the best health outcomes for the people of Ontario. You do this by setting a system where people have to collaborate together, people have to feel engaged. This is how we will get the best outcome—by bringing forward more and more opportunity to dictate to local public health.

To me, if we have to issue a directive, it's because the local public health unit did not agree, so there's basically—to me, this is what would bring forward those directives. We have everything to lose by going down this route without really thinking it through: It has to be needed to protect the health of the person and because we need coordination of an emergency response, both of them together. It brings people together. It allows all of the expertise to be for the benefit of the health of the people of Ontario.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 9? Ms. Sandals.

Mrs. Liz Sandals: I guess this is where the computer science person in me clicks in and has to note that clause (b) has to be read together with clause (a). That is, it says that clause (a) and clause (b) must be true in the act.

Let's put them together and see what the act says, the way it is currently structured. It says that the CMOH may issue a directive if the CMOH "is of the opinion that,

"(a) there exists, or there is an immediate risk of, a provincial, national or international public health event, a pandemic or an emergency with health impacts anywhere in Ontario; and

"(b) that the policies or measures are necessary to support a coordinated response...."

So that's one circumstance under which the CMOH could issue a directive, which seems to me that in and of itself, that is quite a rigorous description of some sort of a health emergency.

Or there's another description: "(a) there exists, or there is an immediate risk of a provincial, national or international public health event, a pandemic or an emergency with health impacts anywhere in Ontario; and

"(b) that the policies or measures are necessary ... to otherwise protect the health of persons." Again, that in and of itself is quite a rigorous standard.

So while it is true it says this standard or that standard, when you read it as a whole, with the precursor in clause (a) which already sets up a standard, there are two rigorous standards here. We think that each of those standards, in and of itself, is sufficient for the CMOH to issue a directive and that we do need to give the CMOH some flexibility.

We will not be supporting the amendment.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments to NDP motion 9? Mrs. Elliott.

Mrs. Christine Elliott: We believe that they do need to be read together, so we would support this amendment, having put forward an identical amendment right behind it.

The Chair (Mr. Shafiq Qaadri): Thank you. If we're ready to vote—unless there's further comments? Madame Gélinas.

M^{me} France Gélinas: I've tried to make changes to the first clause that was read. I really want people to realize that, many years down from now, when we're not around anymore to remember what we were trying to do, those laws will still be there. A public health event won't be defined and the need for coordination will override the knowledge, skills and resources of a local health unit that has this relationship with the people who they're trying to protect who have worked with them. All of a sudden, all you need is a need for coordination, and then best practice for entire populations will be put aside because of the need to coordinate.

It's a question of balance, and I think we would have the best balance to achieve the best-quality public health outcome if we link the two together. Think about it: It needs to be coordinated to protect the health of persons. It's not a big step, but to have it there alone, that is, "You can issue directives just on the basis of needing to coordinate even though it doesn't protect the health of persons," that opens all sorts of doors.

I think we would have a much stronger, better bill if we changed the "or" for an "and."

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The Chair (Mr. Shafiq Qaadri): Thank you. We'll proceed, then, to the vote.

M^{me} France Gélinas: Recorded.

Ayes

Elliott, Gélinas, Jones.

Nays

Dhillon, Jaczek, Johnson, Ramal, Sandals.

The Chair (Mr. Shafiq Qaadri): NDP motion 9 is defeated.

PC motion 9.1 is out of order, as it is identical with NDP motion 9.

We'll proceed now to NDP motion 10.

M^{me} France Gélinas: I move that clause 77.9(1)(b) of the Health Protection and Promotion Act, as set out in section 3 of the bill, be amended by striking out "to otherwise protect the health of persons" and substituting "to otherwise prevent, eliminate or decrease the risk to the health of persons in Ontario".

Basically, this is put forward to ensure consistency with the language already used in the Health Protection and Promotion Act.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 10?

Mrs. Liz Sandals: Well, simply, we do not believe that it clarifies it, because it's different from the wording elsewhere in this section. So again, it seems to introduce another level of ambiguity.

The Chair (Mr. Shafiq Qaadri): Comments?

Mrs. Christine Elliott: We would support this motion on the basis that, again, it does provide more consistency with the existing language and gives a bit more certainty.

The Chair (Mr. Shafiq Qaadri): We'll proceed to the vote, then.

M^{me} France Gélinas: Recorded.

The Chair (Mr. Shafiq Qaadri): Recorded. Un vote enregistré pour motion 10.

Ayes

Elliott, Gélinas, Jones.

Nays

Dhillon, Jaczek, Johnson, Ramal, Sandals.

The Chair (Mr. Shafiq Qaadri): NDP motion 10 defeated.

PC motion 10.1 is out of order, as it is identical, as I understand.

We'll proceed now to NDP motion 11.

M^{me} France Gélinas: I move that clause 77.9(2)(b) of the Health Protection and Promotion Act, as set out in section 3 of the bill, be struck out and the following substituted:

"(b) health hazards;"

Basically, here again, I tried to narrow the interpretation of the proposed amendment to the Health Protection and Promotion Act and ensure consistency with the language of the act. I'll leave it at that for now.

The Chair (Mr. Shafiq Qaadri): Comments on NDP motion 11?

Mrs. Liz Sandals: Yes. As far as we can see, this has the same effect as government motion 12. Although the wording is slightly different, it seems to have the same effect, so we will support this motion. I would agree with my colleague from the NDP that the term "health hazards" is already used elsewhere in the HPPA, so in fact it will improve the clarity to use a term which is already defined.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals. Further comments?

Mrs. Christine Elliott: We agree that this is substantially in the same form as an amendment which we have dealing with the same issues, so we will also be supporting it.

The Chair (Mr. Shafiq Qaadri): Now, as Chair I'm happy to proceed with the vote on NDP motion 11, particularly since we have all-party support. I just invite you to have a look at—it seems that government motion 12 and PC motion 12.1, I think, are perhaps a little bit

more detailed. Perhaps there's a little bit more text there. So I just invite—since we're likely going to pass at least one of these motions from one of said parties, which would you like?

Mrs. Liz Sandals: Chair, could we ask legislative counsel just to comment on our conclusion that in the end, they achieve the same thing? As long as they do, we'll hold on to the first one up.

The Chair (Mr. Shafiq Qaadri): Sure. I will allow legislative counsel to do so. The clerk is reinforcing that we do have NDP motion 11 in front of us now, so before we proceed to that vote I will allow legislative counsel, but we do need to clear up NDP motion 11.

Mr. Ralph Armstrong: Ralph Armstrong, legislative counsel. It's just a drafting choice. They are all identical on the ground.

Mrs. Liz Sandals: So we can pass this one.

The Chair (Mr. Shafiq Qaadri): Fair enough. Those in favour of NDP motion 11? Those opposed? NDP motion 11 carried.

I understand, essentially, that 12 and 12.1 are out of order as they're more or less identical.

NDP motion 13.

M^{me} France Gélinas: I move that clause 77.9(2)(d) of the Health Protection and Promotion Act, as set out in section 3 of the bill, be struck out.

Basically, it is to remove the ability of the chief medical officer of health to issue a directive for a matter prescribed in regulation made by the minister.

We all know that regulation is something that nobody gets to see except for the members of the government before they are made. I think it is in line with our general position that the minister should not have carte blanche in terms of deciding when the chief medical officer of health can intervene. To have language like this in a bill is not going to serve the people of Ontario well. Let's have a clean, tight bill that says, "Here. We are giving our chief medical officer of health a new power of co-ordination when it is needed." But to have a matter prescribed in regulation by the minister is just too broad.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas, I just want to confirm: You were reading NDP motion 13, correct?

M^{me} France Gélinas: Yes.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? Ms. Sandals.

Mrs. Liz Sandals: Yes. What we're trying to achieve with this motion is to get in front of new and emerging issues. If you look at what we've done historically, we have an ice storm, and then we amend the emergency measures act to deal with an ice storm after the fact. Then we have SARS, and we amend HPPA to deal with it after the fact. Then we have a blackout, and we amend the emergency measures act to deal with it after the fact. Then we have H1N1, and we amend the act to deal with things after the event.

At some point, we need to have the confidence in people like the chief medical officer of health of the province of Ontario to identify new threats that we

haven't thought of before as being provincial health emergencies and to actually have the authority to get in front of it. The only thing that is certain in health emergency management is that new health emergencies will arise that we haven't thought of yet. This allows us to finally try to get in front of it.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mrs. Christine Elliott: Normally, we would like to see as much as possible be placed in the bill itself and not be left to regulation, but I would agree with Ms. Sandals that there are some scenarios that we can't even contemplate right now, so I do believe we need to have the flexibility to be able to deal with them, particularly in an emergency situation. Unfortunately, we won't be able to support this amendment.

The Chair (Mr. Shafiq Qaadri): Any further comments? We'll proceed, then, to the vote.

M^{me} France Gélinas: Recorded vote.

Ayes

Gélinas.

Nays

Elliott, Jaczek, Johnson, Jones, Ramal, Sandals.

The Chair (Mr. Shafiq Qaadri): NDP motion 13 defeated.

PC motion 13.1, Ms. Elliott.

Mrs. Christine Elliott: I move that section 77.9 of the Health Protection and Promotion Act, as set out in section 3 of the bill, be amended by adding the following subsection:

"Chief nursing officers

"(10) In acting under this section, and generally under this act, chief nursing officers shall be used in every public health unit to inform community and region-based planning, strengthen emergency response, increase buy-in and facilitate evaluation."

The Chair (Mr. Shafiq Qaadri): Further comments?

Mrs. Christine Elliott: The reason that this was included was at the request of the RNAO, who presented the view that many of these public health scenarios need to be dealt with by nurses on the ground, so it would be helpful to have a chief nursing officer to coordinate the response.

The Chair (Mr. Shafiq Qaadri): Further comments? Madame Gélinas.

M^{me} France Gélinas: I was quite surprised when I heard about the position of chief nursing officer in public health units. I have, since then, gone on to the website and seen that they were there, but until Doris Grinspan, the executive director of RNAO came, I had never heard of such a position. I'm quite intrigued and interested. I know very little about it, but it sounds like a good idea to me.

The Chair (Mr. Shafiq Qaadri): Further comments? Ms. Sandals.

Mrs. Liz Sandals: We will not be supporting this, not because we don't support the concept but because we need to think about this a little bit more carefully because it is a relatively new concept, the concept of chief nursing officer.

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Certainly, the government does strongly support having nursing leadership in health organizations, including public health units, and we're actually taking action to ensure implementation of nursing leadership positions—I don't know what they'll be called—in all 36 Ontario public health units. The target is January 2013.

The reason that we think it's premature to put it in the legislation, and we're looking at January 2013, is, in fact, that a working group is being established in collaboration with RNAO and the Association of Nursing Directors and Supervisors in Ontario Official Health Agencies. The working group will be mandated to identify and recommend roles and responsibilities of chief nursing officers or equivalent nursing leadership positions in the public health context and, obviously, in others as well.

So we need to do that consultation with our stakeholder organizations and get this chief nursing officer role and mandate and the more appropriate detailed language worked out before we actually go amending the HPPA.

The Chair (Mr. Shafiq Qaadri): Any further comments on this particular motion, PC motion 13.1?

Seeing none, we'll proceed to the vote.

Mrs. Christine Elliott: Recorded vote.

Ayes

Elliott, Gélinas, Jones.

Nays

Jaczek, Johnson, Ramal, Sandals.

The Chair (Mr. Shafiq Qaadri): PC motion 13.1 is defeated.

Shall section 3, as amended, carry? Carried.

Section 4, government motion 14: Ms. Sandals.

Mrs. Liz Sandals: I move that section 4 of the bill be amended by adding the following subsection:

“(0.1) Subsection 95(1) of the act is amended by adding ‘or of a municipality’ after ‘an employee of a board of health.’”

Let me explain what's going on here, if I may. If you look at section 4 of the bill, it deals with section 95, and section 95 of the health protection act deals with protection from personal liability.

The amendment that is currently there just makes sure that the directives that the CMOH will be issuing, possibly, are covered from the protection from personal liability.

Another issue which has been raised by the city of Toronto, but we understand that the same situation occurs in some of the other regional boards of health, is that the

way that section 95 is currently worded, it talks about protecting from personal liability the employees of boards of health. It happens in some of the municipalities, like the city of Toronto and some of the regional municipalities, that the people who work for the board of health are actually, technically, employees of the municipality, and you could therefore make an argument they're outside of the protection from personal liability.

We just want to make it absolutely clear that in those cases, where the board of health employees may be direct employees of municipalities as opposed to direct employees of boards of health, that they are, in fact, covered by protection from personal liability.

This is something that we're including at the request of some of those municipalities that have that particular technical concern about the wording.

The Chair (Mr. Shafiq Qaadri): Further comments on government motion 14?

Mrs. Christine Elliott: Unfortunately, we won't be able to support this amendment on the basis, basically, that it's redundant. There already is that coverage there.

The Chair (Mr. Shafiq Qaadri): Further comments?

M^{me} France Gélinas: I am still not sure I fully understand what this—I think I understand what it is trying to do. I'm not sure I agree that what we're doing will achieve that. Can anybody help me?

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Gélinas. Is help available?

Mrs. Liz Sandals: I can read you what the amended clause will say. Would that be helpful? Or at least part of the amended clause.

“No action or other proceeding for damages or otherwise shall be instituted against the chief medical officer of health or an associate chief medical officer of health, a member of a board of health, a medical officer of health, an associate medical officer of health of a board of health, an acting medical officer of health of a board of health or a public health inspector or an employee of a board of health” and we're adding, “or of a municipality.” It will be, “an employee of a board of health or of a municipality”—it goes on at the end of all that long list—“who is working under the direction of a medical officer of health for any act done in good faith in the execution or the intended execution of any duty or power under this act,” blah, blah, blah, blah. Okay? You don't need the “blah, blah, blah, blah.”

M^{me} France Gélinas: No. Thank you.

Mrs. Liz Sandals: Does that help you understand what the intent is?

M^{me} France Gélinas: Yes, it does.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sandals. Just an extra challenge for Hansard there, but in any case—

Mrs. Liz Sandals: That's spelled b-l-a-h.

The Chair (Mr. Shafiq Qaadri): Thank you. Any further comments on government motion 14? We'll proceed then to the vote. Those in favour of government motion 14? Opposed? Government motion 14 carries.

Shall section 4, as amended, carry? Carried.

Section 5, government motion 15.

Mrs. Liz Sandals: This is now housekeeping I move that clause 97(c) of the Health Protection and Promotion Act, as set out in section 5 of the bill, be amended by striking out “environmental health”.

This is the clause where it sets out the authority to define. Seeing as we struck out the words “environmental health,” we no longer need the authority to define them. We replaced them with “health hazard,” and “health hazard” is already defined.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments?

Mrs. Christine Elliott: We agree with this amendment for the reasons stated by Ms. Sandals.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments?

M^{me} France Gélinas: I have no problem with the amendment.

The Chair (Mr. Shafiq Qaadri): We’ll proceed to the vote. Those in favour of government motion 15? Opposed? Motion 15 carried.

Shall section 5, as amended, carry? Carried.

Having received no amendments to date on sections 6, 7 and 8 inclusive, if it’s the will of the committee we can entertain the vote on all three sections simultaneously. Shall sections 6, 7 and 8 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 141, as amended, carry? Carried.

Shall I report the bill to the House, as amended? Carried.

Is there any further business before this committee? I thank you for your relatively good cheer and plausible fellowship. Thank you. Committee adjourned.

The committee adjourned at 1458.

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