



Health Protection Act (HPA)

Outline



- Scenario; A case of Tuberculosis
- The Public Health Tools Required
- The Principles and Values behind the Legislation
- The Authority the HPA gives us
- Specific questions

Disclaimer



- I am not a lawyer
- This is not a legal opinion
- Consult with the experts when required

A Case of Tuberculosis



- 29 year old male with active Pulmonary TB
- Considered very infectious
- Non-compliant with medications
- Has been admitted to hospital several times in an effort to ensure treatment so he will become non-infectious
- Left hospital against medical advice for the second time
- His ongoing actions are putting others at risk

A case of Tuberculosis



In situations such as this:

- The communicable disease is a threat to public health
- Public health professionals need some tools that go beyond the usual clinical tools to help us manage this threat

The public health tools required



Public Health Professionals must have the authority to:

- Receive reports on individuals with CDs
- Investigate if the person actually has a communicable disease
- Determine if there is a risk to public health
- Take action to reduce the risk to public health
- Deal with individuals who maybe unable or unwilling to take steps to decrease risk to others

The public health tools required



More specifically for a person with a Communicable Disease:

- Get medical records
(lab and x-ray results, treatment plans etc.)
- Request examination
- Place under care and treatment of a physician
- Stay away from others
(isolation, exclusion)

The public health tools required



For Contacts of the Case:

- Ask for and receive names and addresses
- Seek information on exposure and susceptibility
- Ask for medical records
- Recommend examination, preventative therapy, immunization
- Quarantine, exclusion

The public health tools required



Investigate places:

- Go into a dwelling or premises
- Examine layout and ventilation
- Find people and examine them
- Infection control issues (disinfection)

The public health tools required



The Health Protection Act:

- Provides those tools
- Tries to balance individual rights with the common good

The underlying principles and values



When we prepared the HPA we had to:

- Recognize the differences between individual care and public health
- Review the public health ethics literature

Individual Care vs Public Health



Individual Primary Care Provider

- Patient seeks out a Primary Care Provider because he/she has a problem
- The Primary Care Provider examines the patient and offers advice and treatment
- The Primary Care Provider avoids acting against the patient's best interests
- Patient accepts or rejects the advice
- Straightforward application of the principles of autonomy, beneficence, non-maleficence and justice

Individual Care vs Public Health



Public Health Practitioner

- Patient is the broader community or population
- The Public Health Practitioner seeks out the patient because he/she believes the patient has a problem
- The Public Health Practitioner may intervene with an individual in a manner that is not perceived by the individual to be in his or her best interests

The underlying principles and values



Public Health Practitioner:

- May take action that infringes on human rights
 - Compulsory testing, treatment or confining a person with TB invades autonomy and liberty
 - Surveillance and mandatory reporting invades privacy
- So while the individual interests are taken seriously, the Public Health Physician has to look at the bigger picture

The underlying principles and values



Harm principle

- The only purpose for which power can be exercised over an individual, against his will, is to prevent harm to others.
- His own good is not a sufficient warrant
- Weigh individual liberty versus protection of the public from harm

The underlying principles and values



Least restrictive and coercive means

- A variety of means exist to achieve public health ends
- Our authority should be reserved for exceptional circumstances
- More coercive methods should be employed only when less coercive methods have failed

The underlying principles and values



Reciprocity

- Complying with public health requests may impose a burden on some individuals
- Society must be prepared to assist individuals in their efforts to discharge their duties

The underlying principles and values



Other values:

- Privacy and confidentiality of health information
- Reasonableness
- Due process
- Transparency
- Protection of communities from undue stigmatization
- Equity

The underlying principles and values



TB example:

- Case is infectious so there is a potential for harm to others. Action in some form is justifiable
- Start with education, Directly observed therapy, supportive housing/income support etc
- Case conference
- Clear and transparent communication
- Facilitate help for case as necessary

Health Protection Act: Sections



1. Administration
2. Health hazard
3. Notifiable diseases
4. Communicable diseases
5. Public Health Emergency
6. Power of Entry
7. Food Safety

HPA: Sections



1. Administration

3. Notifiable diseases

4. Communicable diseases

HPA: Regulations



- Reporting of Notifiable Diseases and Conditions
- Communicable Diseases
- Reporting Requirements for HIV Positive Persons
- Confidentiality

HPA: Notifiable Diseases



- Notifiable diseases/conditions & deaths must be reported:
 - Non-communicable diseases
 - Communicable diseases
 - Dangerous diseases
- Dr's, Nurses, Lab techs etc. required by law to report to MOH i.e. can disclose private information

What information must be reported (Notifiable Disease)?

A report must include, to the extent possible,

- (a)** the name, age, address, ethnicity and sex of the person who is the subject of the report;
- (b)** the name of the notifiable disease or condition or the illness that is being reported;
- (c)** all clinical and epidemiological details pertinent to the diagnosis and follow-up of the person who is the subject of the report; and
- (d)** the name and profession of, and contact information for, the reporting person,
and any additional information required by the medical officer for case management and prevention of transmission of the notifiable disease or condition or the illness.

Authority Provided by the Health Protection Act



Minister:

- Appoint CMOH, MOHs, PHNs, PHIs
- Set qualifications, skills and standards for staff
- Publish guidelines, standards and targets etc.
- Require DHAs/institutions to comply
- Provide a publicly funded immunization program including which vaccines and which individuals will be included in the program

Authority Provided by the Health Protection Act



Medical Officer of Health

- Direct the public health nurse and public health inspector to assist him or her in enforcing the Act and Regulations. [S11]
- Investigate any situation that may constitute a risk to public health and take action to decrease the risk. [S8(3)]

Authority Provided by the Health Protection Act



Medical Officer of Health

- take reasonable action to protect the public health including issuing public advisories and bulletins and inform the Minister or Deputy Minister either before taking action or as soon as practicable after taking action. [*S8(1) and (2)*]

Authority Provided by the Health Protection Act



Medical Officer of Health

- Access data or records from many sources including hospital records. [*S15(1) and S16(1) and (2)*]
- Communicate to the public the identity of a person who has a communicable disease if necessary to protect public health. [*S15(3)*]
- Receive and investigate reports of notifiable diseases and conditions. [*Reporting of Notifiable Diseases and Conditions Regulations*]

Authority Provided by the Health Protection Act



Medical Officer of Health

- Write an order to deal with a case or contact of a communicable disease or to prevent transmission of a communicable disease. [S32]
- Monitor the treatment and condition of a detained person and issue a certificate for release. [S43(3)]
- Require anyone with knowledge of the situation to provide information on the suspected sources of disease and on the people who may have been exposed.

Authority Provided by the Health Protection Act



Medical Officer of Health

- Require cleaning or disinfecting of premises
- Direct a school principal, day care administration etc to refuse a person who has a CD or in contact with a CD from attending the facility
- Prohibit public gatherings
- Investigate and take steps to manage an outbreak
- Require a laboratory to transmit specimens

Authority Provided by the Health Protection Act



Public Health Nurse

- Assists the MOH in enforcing the Act and Regulations
- A PHN who is investigating a suspected case of a communicable disease has the same power as a MOH to:
 - Enter any premises other than a dwelling at a reasonable time in order to inspect, investigate, examine, test, analyze or inquire
 - Enter a dwelling with consent
 - Require any person to provide the public health nurse with personal information including personal information or business information or to produce records or documents
 - Call for assistance from any constable, police officer, or peace officer

Questions



One school would not provide any information on a student who was a contact of a case of GC without written proof about the HPA.

Answer



- 15 (1) A medical officer may access or order data or records from all possible sources of information, including municipalities, Canadian Blood Services and other government departments, for the purpose of carrying out the duties of the medical officer under this Act and the regulations.
- Require anyone with knowledge of the situation to provide information on the suspected sources of disease and on the people who may have been exposed. ? regulations

Answer



58 (1) When reasonably required to administer or determine compliance with this Act or the regulations or to investigate a potential health hazard or communicable disease, a medical officer may enter any premises, other than a dwelling, at any reasonable time, and may

(e) require any person to

(i) provide the medical officer with information, including personal information, personal health information or proprietary or confidential business information, and

(ii) produce any document or record, including a document or record containing personal information, personal health information or proprietary or confidential business information,

and examine or copy the information, document or record, or take it to copy or retain as evidence;

Answer



(2) A public health nurse has the same powers as a medical officer under clauses 58(1)(a) and (e) and subsection 58(3) for the purposes of investigating a suspected case of a communicable disease or exposure to a health hazard.

Question



- Can you comment on privacy and confidentiality of client interviews and information?

Answer



- The MOH and PHN collect a lot of information during their work related to the HPA
- The information received must be carefully safeguarded as per the Confidentiality Regulations

Answer



Exceptions:

- CMOH can share with other jurisdictions or parties when necessary to fulfill his duties but should have an agreement with the other party re usage.
- MOH may publicly release the identity of a person with a CD as a last resort to protect public health
- Special provisions for legal cases and inquiries

Questions



When does the Health Protection Act supersede the Privacy Act? Where is this in writing?

Answer



- Section 107 of the HPA identifies specific sections that are exempt from FOIPOP.
- These sections include:
 - The MOH may access data from all sources including hospital records
 - The MOH may require any person to provide further information on any report of a notifiable disease or condition

Answer



Exception from freedom of information legislation

- S 107- Sections 15, 16, 31, 40, 42 and 50, clause 58(1)(e), clauses 74(1)(p), (s), (t) and (y) and Section 104 apply notwithstanding the Freedom of Information and Protection of Privacy Act. *2004, c. 4, s. 107.*

Questions



HIV- Unwilling and Unable. What exactly is our role here at PHS?

Answer- Unwilling and Unable



- Unwilling and Unable refers to an individual who is unwilling or, for many reasons, unable to take steps to prevent transmission of a communicable disease to others.
- Most often used in the context of HIV
- The HPA gives MOHs significant powers to deal with such cases but certain criteria have to be met.

Answer- Unwilling and Unable



- Criteria include:
- MOH must have reason to believe:
 - the person has or may have a CD
 - the communicable disease presents a risk to the public health; and
 - the requirements specified in the order are necessary in order to decrease or eliminate the risk to the public health presented by the communicable disease,

Answer- Unwilling and Unable



- If the criteria are met the MOH can order:
 - examination by a physician
 - care and treatment
 - isolation or quarantine
 - cleaning, disinfecting
 - closing premises

Answer- Unwilling and Unable



- If the person doesn't comply the MOH can seek an Order by the Court to:
 - detain, isolate, quarantine, treat
 - designated facility and physician
- The person can Appeal
- Emergency apprehension for limited time
 - e.g. Tuberculosis

Answer- Unwilling and Unable



But remember the values and principles:

- Due process
- Least restrictive and coercive means etc.

An Unable and Unwilling policy lays out the steps to deal with this situation working slowly up to a Court Order.

We don't have a U2 policy in NS

Question



We were instructed during our orientation that we do only passive surveillance on HIV cases. Could you please clarify the role here in NS about PHS follow up for HIV. There seems to be confusion between our role and the role of the HIV clinic.

Answer



See Reporting Requirements for HIV Positive Persons Regulations

- 8(a) If a person who requests nominal testing from a physician tests positive, the physician must report to the Medical Officer
- Name
 - Risk Factors
 - Information on receipt or donation of blood or tissues
 - Confirmation that reasonable attempts have been made to notify partners
 - Any additional epidemiological information required in guidelines issues by the CMOH

Answer



The HIV clinic is carrying out the physicians responsibilities under the HPA.

Question



What if the client had Chlamydia and lied repeatedly about taking treatment and continued to test positive for chlamydia?

Answer



- Follow due process
- Use the least restrictive and coercive means to seek compliance
- Take into account the nature of the disease and the route of transmission

Question



Can you describe different testing for HIV
i.e. anonymous, non-nominal, nominal

Answer



Nominal Testing:

- Patient's name is on the lab req.

Non-Nominal:

- Patient's name and code on chart in Dr's office
- Code is on lab requisition
- Code is made up as per the regulations
- MOH can ask for name depending on the reisk factors

Answer



Anonymous Testing:

- Code on lab req known only to patient
- No record of patient's name on chart
- Done only in site designated by the Minister
- Pre and post test counselling
- Collection of risk factor information



Thank you!