

# Menu Labelling Protocol, 2018

Population and Public Health Division,  
Ministry of Health and Long-Term Care

**Effective: January 1, 2018**

**Revised: May, 2018**

## Preamble

The Ontario Public Health Standards: Requirements for Programs, Services, and Accountability (Standards) are published by the Minister of Health and Long-Term Care under the authority of section 7 of the *Health Protection and Promotion Act* (HPPA) to specify the mandatory health programs and services provided by boards of health.<sup>1,2</sup> The Standards identify the minimum expectations for public health programs and services. Boards of health are accountable for implementing the Standards including the protocols and guidelines that are referenced in the Standards. Protocols are program and topic-specific documents incorporated into the Standards which provide direction on how boards of health shall operationalize specific requirement(s) identified in the Standards.

## Purpose

The purpose of this protocol is to provide direction to boards of health to support the enforcement of the *Healthy Menu Choices Act, 2015* and its Regulation 50/16 (HMCA) including requirements with respect to:

- 1) The display of calorie information for standard food items that are sold or offered for sale (as those standard food items are defined in the HMCA) on menus and tags/labels at the regulated food service premises and on menus that are distributed outside the premises; and
- 2) The display of:
  - a) The contextual statement regarding average daily caloric requirements on signs and menus;
  - b) Calorie information on signs where food and drink items are self-serve; and
  - c) Calorie information for alcoholic beverages on signs and menus.<sup>3,4</sup>

Regulations which are relevant to this protocol include Ontario Regulation 50/16 (General) made under the HMCA.<sup>4</sup>

## Reference to the Standards

This section identifies the standard and requirement to which this protocol relates.

### Chronic Disease Prevention and Well-Being

**Requirement 4.** The board of health shall enforce the *Healthy Menu Choices Act, 2015*, in accordance with the *Menu Labelling Protocol, 2018* (or as current).

# Operational Roles and Responsibilities

## Inspection

All regulated food service premises to which the HMCA applies are subject to an inspection by Minister of Health and Long-Term Care (Minister)-appointed inspectors under the HMCA. Boards of health shall enforce the HMCA at all regulated food service premises, including, but not limited to: grocery stores, movie theatres, restaurants, cafeterias, quick service restaurants, and convenience stores with 20 or more locations in Ontario.<sup>3</sup>

- 1) The board of health shall:
  - a) Have Minister-appointed inspectors conduct an inspection for each existing regulated food service premises within the public health unit by the end of 2017. If the inspection of the regulated food service premises reveals compliance concerns with the HMCA, additional compliance re-inspections must be undertaken until such time as the inspector is satisfied that the premises is in full compliance with the HMCA. All re-inspections shall be conducted as necessary within a timeframe not to exceed one year, to address compliance concerns that were identified during the initial inspection. If the regulated food service premises remains non-compliant after re-inspection, charges should be considered as appropriate under the *Provincial Offences Act*.<sup>5</sup>
  - b) Have Minister-appointed inspectors conduct an inspection for each new regulated food service premises within one year of opening. If the inspection reveals compliance concerns with the HMCA, additional compliance re-inspections must be undertaken until such time as the inspector is satisfied that the premises is in full compliance with the HMCA. All re-inspections shall be conducted as necessary within a timeframe not to exceed one year, to address compliance concerns that were identified during the initial inspection. If the regulated food service premises remains non-compliant after re-inspection, charges should be considered as appropriate under the *Provincial Offences Act*.<sup>5</sup>
  - c) Once the criteria in paragraphs (a) or (b) are satisfied and the regulated food service premises is in compliance with the HMCA, have Minister-appointed inspectors respond within 10 business days to all complaints in relation to the HMCA and take appropriate action to ensure that compliance is achieved.
  - d) If requirements of the HMCA change, have Minister-appointed inspectors conduct inspections as required to ensure compliance with the requirements of the HMCA that have changed. For example, re-inspections may be required given that the revised contextual statement requirement came into force on January 1, 2018.

Enforcement with respect to online menus, menu applications, and menus that are distributed outside the regulated food service premises shall be complaints driven.

- 2) The board of health shall, with respect to online menus, menu applications, and menus distributed outside the regulated food service premises, respond to all complaints within a reasonable timeframe, not to exceed one year, and take appropriate action until compliance is achieved or consider charges under the *Provincial Offences Act* if it is not possible to achieve compliance.<sup>5</sup>

## Information to be Displayed

- 3) As part of each inspection, the board of health shall:
  - a) Inspect for compliance with the requirements to display calorie information and the contextual statement on menus and, in respect of calorie information, on labels or tags; and
  - b) Inspect for compliance with the requirements to post calorie information on signs.

The requirements in respect of information to be displayed on menus, labels, or tags are set out in section 2 of the Act, and further specified in s. 6 and 7 of the regulation in respect of calorie information and section 9 in respect of the contextual statement.<sup>3,4</sup>

The requirements in respect of information to be displayed on signs are set out in subsection 2(6) of the Act and further specified in s. 8 of the regulation in respect of calorie information.<sup>3,4</sup>

## Enforcement Activity

- 4) The board of health shall employ an effective compliance strategy which includes a balance of education, inspection, and progressive enforcement. “Progressive enforcement” means the use of more stringent enforcement options to reflect the frequency and severity of the level of non-compliance.

Compliance monitoring and enforcement activities include education visits, inspections, inquiries into complaints, issuing warnings, and laying charges under the HMCA.

## Data Collection and Reporting

- 5) The board of health shall maintain a current inventory of all food service premises, which includes:
  - a) Name of the food service premises;
  - b) Name of owner/operator;
  - c) Premises address; and
  - d) Premises type.
- 6) The board of health shall provide to the Ministry of Health and Long-Term Care (the “ministry”) annually the inventory of all food service premises in an Excel format. The ministry will collate the data and share the list of chains of food service premises to which the HMCA may apply with boards of health prior to each calendar year.<sup>3</sup>

- 7) The board of health shall collect and maintain up-to-date inspection and enforcement data, which should be recorded after each visit and provided to the ministry upon request. Inspection and enforcement data means a record of every enforcement activity conducted for the purpose of determining compliance with HMCA, including:
- a) Education visits;
  - b) Inspections;
  - c) Warnings issued; and
  - d) Charges laid.<sup>3</sup>

## Authority of an Inspector

The Minister of Health and Long-Term Care appoints inspectors for the purposes of HMCA (s.3 (1) of the Act). Medical officers of health have discretion to select and nominate staff to be designated as inspectors under the HMCA (e.g., public health inspectors, public health nurses, dietitians, etc.)<sup>3</sup>

An inspector may, during regular business hours, enter a regulated food service premises or business premises of a company that owns, operates, franchises or licenses one or more regulated food service premises to determine whether the owner or operator is in compliance with the HMCA, and for this purpose, may conduct an inspection in accordance with section 3(7) of the HMCA.<sup>3</sup>

Any person who contravenes any provision of the HMCA or its regulations, including those who hinder, obstruct or otherwise interfere with an inspector in the conduct of his/her duties is guilty of an offence. Warnings or tickets can be issued where a Minister-appointed inspector finds a violation of the Act or its regulations.<sup>3</sup>

For a comprehensive list of inspector authority and powers refer to Section 3 of the HMCA.<sup>3</sup>

## Education and Training

- 8) The board of health shall ensure that the appointed inspectors designated under the HMCA are trained in accordance with ministry-sanctioned training within one year of appointment.

## Glossary

**Chain of Food Service Premises:** means 20 or more food service premises in Ontario that operate under the same or substantially the same name, regardless of ownership, and that offer the same or substantially the same standard food items.

**Inspection:** means an inspection conducted by a person appointed as an inspector pursuant to section 3 of the HMCA.

**Inspector:** means a person appointed as an inspector by the Minister of Health and Long-Term Care pursuant to section 3 of the HMCA.

**Progressive Enforcement:** means the use of more stringent enforcement options to reflect the frequency and severity of the level of non-compliance.

**Regulated Food Service Premises:** means

- 1) A food service premises that is part of a chain of food service premises, and
- 2) Any other food service premises that may be provided for in the regulations.

## References

1. Ontario. Ministry of Health and Long-Term Care. Ontario public health standards: requirements for programs, services, and accountability, 2018. Toronto, ON: Queen's Printer for Ontario; 2018. Available from: URL address.
2. *Health Protection and Promotion Act*, RSO 1990, c H.7. Available from: <https://www.ontario.ca/laws/statute/90h07>
3. *Healthy Menu Choices Act*, SO 2015, c 7, Sched. 1. Available from: <https://www.ontario.ca/laws/statute/15h07>
4. O Reg, 50/16 (General). Available from: <https://www.ontario.ca/laws/regulation/160050>
5. *Provincial Offences Act*, RSO 1990, c P.33. Available from: <https://www.ontario.ca/laws/statute/90p33>

