

Immunization of School Pupils Act

R.S.O. 1990, CHAPTER I.1

Consolidation Period: From April 19, 2021 to the e-Laws currency date.

Last amendment: 2021, c. 4, Sched. 11, s. 17.

Legislative History: [+]

Definitions

1 In this Act,

“Board” means the Health Services Appeal and Review Board under the *Ministry of Health and Long-Term Care Appeal and Review Boards Act, 1998*; (“Commission”)

“board” means a “board” as defined in the *Education Act*; (“conseil”)

“designated diseases” means diphtheria, measles, mumps, poliomyelitis, rubella, tetanus and any other disease prescribed by the Minister of Health and Long-Term Care; (“maladies désignées”)

“immunization record” means a record of immunization maintained by a medical officer of health under this Act; (“dossier d’immunisation”)

“medical officer of health” means “medical officer of health” as defined in the *Health Protection and Promotion Act*; (“médecin-hygiéniste”)

“nurse” means a member of the College of Nurses of Ontario; (“infirmière ou infirmier”)

“parent” includes an individual or a corporation that has the responsibilities of a parent; (“parent”)

“person” includes a board; (“personne”)

“physician” means a member of the College of Physicians and Surgeons of Ontario; (“médecin”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“pupil” means a pupil who is a minor; (“élève”)

“registered nurse in the extended class” means a member of the College of Nurses of Ontario who is a registered nurse who holds an extended certificate of registration; (“infirmière autorisée ou infirmier autorisé de la catégorie supérieure”)

“regulations” means regulations made under this Act; (“règlements”)

“school” means a “private school” and a “school” as defined in subsection 1 (1) of the *Education Act* and includes a beginners class within the meaning of the *Education Act*; (“école”)

“school day” means “school day” as defined in the *Education Act*; (“jour de classe”)

“statement of conscience or religious belief” means a statement by affidavit in the prescribed form by a parent of the person named in the statement that immunization conflicts with the sincerely held convictions of the parent based on the parent’s religion or conscience; (“déclaration de conscience ou de croyance religieuse”)

“statement of medical exemption” means a statement in the prescribed form signed by a physician or registered nurse in the extended class stating that the prescribed program of immunization in relation to a designated disease or designated diseases,

- (a) may be detrimental to the health of the person named in the statement, or
- (b) is unnecessary in respect of the person named in the statement by reason of past infection or laboratory evidence of immunity. (“déclaration d’exemption médicale”) R.S.O. 1990, c. I.1, s. 1; 1998, c. 18, Sched. G, s. 59 (1); 2002, c. 18, Sched. I, s. 11 (1); 2007, c. 10, Sched. E, s. 1; 2009, c. 33, Sched. 18, s. 17 (2); 2010, c. 10, s. 32; 2017, c. 11, Sched. 2, s. 1; 2021, c. 4, Sched. 11, s. 17 (2-4).

Section Amendments with date in force (d/m/y) [+]

Purpose of Act

2 The purpose of this Act is to increase the protection of the health of children against the diseases that are designated diseases under this Act. R.S.O. 1990, c. I.1, s. 2.

Duty of parent

3 (1) The parent of a pupil shall cause the pupil to complete the prescribed program of immunization in relation to each of the designated diseases. R.S.O. 1990, c. I.1, s. 3 (1); 2021, c. 4, Sched. 11, s. 17 (1).

Exception

(2) Subsection (1) does not apply to the parent of a pupil in respect of the prescribed program of immunization in relation to a designated disease specified by a physician or a registered nurse in the extended class in a statement of medical exemption filed with the proper medical officer of health and, where the physician or registered nurse in the extended class has specified an effective time period, only during the effective time period. 2007, c. 10, Sched. E, s. 2; 2021, c. 4, Sched. 11, s. 17 (1).

Same, statement of conscience or religious belief

(3) Subsection (1) does not apply to a parent who has completed an immunization education session with a medical officer of health or with a medical officer of health’s delegate that complies with the prescribed requirements, if any, and who has filed a statement of conscience or religious belief with the proper medical officer of health. 2017, c. 11, Sched. 2, s. 2; 2021, c. 4, Sched. 11, s. 17 (1).

Transitional

(4) Subsection (1) does not apply to a parent who, before the coming into force of section 2 of Schedule 2 to the *Protecting Patients Act, 2017*, filed a statement of conscience or religious belief with the proper medical officer of health. 2017, c. 11, Sched. 2, s. 2; 2021, c. 4, Sched. 11, s. 17 (1).

Section Amendments with date in force (d/m/y) [+]

Offence

4 Every person who contravenes section 3 is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. R.S.O. 1990, c. I.1, s. 4.

Certificate by M.O.H. as evidence

5 In proceedings under section 4, a certificate by a medical officer of health as to whether or not he or she has received a statement of medical exemption, a statement of conscience or religious belief or a statement of religious belief is admissible in evidence as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the medical officer of health. R.S.O. 1990, c. I.1, s. 5.

Order for suspension re designated diseases

6 (1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order may require a person who operates a school in the area served by the medical officer of health to suspend from attendance at the school a pupil named in the order. R.S.O. 1990, c. I.1, s. 6 (1).

Grounds for order re designated diseases

(2) The circumstances mentioned in subsection (1) are,

- (a) that the medical officer of health has not received,
- (i) a statement from a physician, nurse or prescribed person showing that the pupil has completed the prescribed program of immunization in relation to the designated diseases,
 - (ii) an unexpired statement of medical exemption in respect of the pupil, or
 - (iii) a statement of conscience or religious belief in respect of the pupil and confirmation that the parent has completed the education session described in subsection 3 (3); and
- (b) that the medical officer of health is not satisfied that the pupil has completed, has commenced and will complete or will commence and complete the prescribed program of immunization in relation to the designated diseases. R.S.O. 1990, c. I.1, s. 6 (2); 2007, c. 10, Sched. E, s. 3; 2017, c. 11, Sched. 2, s. 3; 2021, c. 4, Sched. 11, s. 17 (1).

Section Amendments with date in force (d/m/y) [+]

Term of suspension

7 A suspension under an order by a medical officer of health under section 6 is for a period of twenty school days. R.S.O. 1990, c. I.1, s. 7.

Service of copy of order upon parent

8 (1) A medical officer of health who makes an order under section 6 shall serve a copy of the order upon a parent of the pupil. R.S.O. 1990, c. I.1, s. 8 (1); 2021, c. 4, Sched. 11, s. 17 (1).

Written reasons

(2) An order under section 6 is not valid unless written reasons for the order are included in or attached to the order. R.S.O. 1990, c. I.1, s. 8 (2).

Repeated orders

(3) A medical officer of health may make orders under section 6 from time to time in respect of a pupil where the circumstances specified in the section for making the order continue to exist. R.S.O. 1990, c. I.1, s. 8 (3).

Section Amendments with date in force (d/m/y) [+]

Rescission of order

9 A medical officer of health who has made an order under section 6 shall rescind the order where the circumstances for making the order no longer exist. R.S.O. 1990, c. I.1, s. 9.

Statement by physician or nurse

10 Every physician or member of the College of Nurses of Ontario who administers an immunizing agent to a child in relation to a designated disease shall furnish to a parent of the child a statement signed by the physician or member of the College of Nurses of Ontario showing that the physician or member of the College of Nurses of Ontario has administered the immunizing agent to the child. 2007, c. 10, Sched. E, s. 4; 2021, c. 4, Sched. 11, s. 17 (1).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 10 of the Act is repealed and the following substituted: (See: 2017, c. 11, Sched. 2, s. 4)

Statements by providers of immunizing agents

10 (1) Every physician, nurse or prescribed person who administers an immunizing agent to a child in relation to a designated disease shall provide to a parent of the child a statement that shows that the immunizing agent has been administered. 2017, c. 11, Sched. 2, s. 4.

Note: On the day section 4 of Schedule 2 to the *Protecting Patients Act*, 2017 comes into force, the French version of subsection 10 (1) of the Act is amended. (See: 2021, c. 4, Sched. 11, s. 17 (5))

Information for M.O.H.

(2) Every physician, nurse or prescribed person who administers an immunizing agent to a child in relation to a designated disease shall provide the prescribed information to the medical officer of health for the public health unit in which the immunizing agent was administered. 2017, c. 11, Sched. 2, s. 4.

Section Amendments with date in force (d/m/y) [+]

Record of immunization

11 (1) Every medical officer of health shall maintain a record of immunization in the form and containing the information prescribed by the regulations in respect of each pupil attending school in the area served by the medical officer of health. R.S.O. 1990, c. I.1, s. 11 (1).

Review of record

(2) A medical officer of health shall keep under review the immunization record maintained by the medical officer of health in respect of a pupil who has not completed the prescribed program of immunization in relation to the designated diseases. R.S.O. 1990, c. I.1, s. 11 (2).

Order by M.O.H.

12 (1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order may require a person who operates a school located in the health unit served by the medical officer of health to exclude from the school a pupil named in the order. R.S.O. 1990, c. I.1, s. 12 (1).

Grounds for order

(2) The circumstances mentioned in subsection (1) are,

- (a) that the medical officer of health is of the opinion, upon reasonable and probable grounds, that there is an outbreak or an immediate risk of an outbreak of a designated disease in the school at which the pupil attends; and
- (b) that the medical officer of health has not received,
 - (i) either a statement from a physician, nurse or prescribed person showing that the pupil has completed the prescribed program of immunization in relation to the designated disease or other information satisfying the medical officer of health that the pupil has completed the prescribed program, or
 - (ii) a statement of medical exemption in the prescribed form signed by a physician or a registered nurse in the extended class stating that the prescribed program of immunization in relation to the designated disease is unnecessary in respect of the pupil by reason of past infection or laboratory evidence of immunity. R.S.O. 1990, c. I.1, s. 12 (2); 2007, c. 10, Sched. E, s. 5; 2017, c. 11, Sched. 2, s. 5.

Term of order

(3) An order under subsection (1) remains in force until rescinded in writing by the medical officer of health. R.S.O. 1990, c. I.1, s. 12 (3).

Rescission of order

(4) A medical officer of health who makes an order under subsection (1) shall rescind the order as soon as the medical officer of health is satisfied that the outbreak or the immediate risk of the outbreak of the designated disease has ended. R.S.O. 1990, c. I.1, s. 12 (4).

Service of copy of order

(5) The medical officer of health shall serve a copy of the order under subsection (1) upon a parent of the pupil and, where the pupil is sixteen or seventeen years of age, upon the pupil. R.S.O. 1990, c. I.1, s. 12 (5); 2021, c. 4, Sched. 11, s. 17 (1).

Service of copy of rescinding order

(6) The medical officer of health shall serve a rescinding order made under subsection (4) upon the person who operates the school and shall serve a copy of the order upon a parent of the pupil and, where the pupil is sixteen or seventeen years of age, upon the pupil. R.S.O. 1990, c. I.1, s. 12 (6); 2021, c. 4, Sched. 11, s. 17 (1).

Written reasons

(7) An order under subsection (1) shall include written reasons for the making of the order. R.S.O. 1990, c. I.1, s. 12 (7).

Section Amendments with date in force (d/m/y) [+]**Hearing and submissions**

13 A medical officer of health need not hold or afford to any person an opportunity for a hearing or afford to any person an opportunity to make submissions before making an order under this Act. R.S.O. 1990, c. I.1, s. 13.

Notice of transfer of pupil

14 (1) Where a pupil transfers from a school, the person who operates the school shall give notice of the transfer in the prescribed form to the medical officer of health serving the area in which the school is located. R.S.O. 1990, c. I.1, s. 14 (1).

Transmittal of copy of immunization record

(2) Where the notice under subsection (1) states that the pupil is transferring to a school in an area under the jurisdiction of another medical officer of health, the medical officer of health shall send a copy of the immunization record of the pupil to the other medical officer of health. R.S.O. 1990, c. I.1, s. 14 (2).

Notice

15 (1) Where a medical officer of health makes an order under this Act requiring the suspension of a pupil or requiring that a pupil be excluded from a school due to an outbreak or an immediate risk of an outbreak of a designated disease, the medical officer of health shall serve upon a parent of the pupil or, where the pupil is sixteen or seventeen years of age, upon the pupil a notice of entitlement to a hearing. R.S.O. 1990, c. I.1, s. 15 (1); 2021, c. 4, Sched. 11, s. 17 (1).

Idem

(2) A notice under subsection (1) shall inform the parent or pupil, as the case may be, that the parent or pupil is entitled to a hearing by the Board if the parent or pupil mails or delivers to the medical officer of health, to the Board and to the person who operates the school, within fifteen days after the notice is served on the parent or pupil, notice in writing requiring a hearing and the parent or pupil may so require such a hearing. R.S.O. 1990, c. I.1, s. 15 (2); 2021, c. 4, Sched. 11, s. 17 (6).

Opportunity to show compliance and to examine documents

(3) Where a hearing by the Board is required in accordance with this section, the medical officer of health shall afford to the parent or pupil requiring the hearing a reasonable opportunity before the hearing,

- (a) to show or to achieve compliance with all lawful requirements concerning the subject-matter of the hearing; and
- (b) to examine any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. R.S.O. 1990, c. I.1, s. 15 (3); 2021, c. 4, Sched. 11, s. 17 (7).

Powers of Board where hearing

(4) Where a hearing is required in accordance with this section, the Board shall appoint a time and place for and hold the hearing and the Board by order may confirm, alter or rescind the decision or order of the medical officer of health and for such purposes the Board may substitute its finding for that of the medical officer of health. R.S.O. 1990, c. I.1, s. 15 (4).

Time for hearing

(5) The Board shall hold a hearing under this section within fifteen days after receipt by the Board of the notice in writing requiring the hearing and the Board may, from time to time at the request or with the consent of the person requiring the hearing, extend the time for holding the hearing for such period or periods of time as the Board considers just. R.S.O. 1990, c. I.1, s. 15 (5).

Parties

(6) The medical officer of health, the parent or pupil who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board. R.S.O. 1990, c. I.1, s. 15 (6); 2021, c. 4, Sched. 11, s. 17 (8).

Effect of order

(7) Despite the fact that a hearing is required in accordance with this section, an order under this Act by a medical officer of health takes effect when it is served on the person to whom it is directed. R.S.O. 1990, c. I.1, s. 15 (7).

Members holding hearing not to have taken part in investigation, etc.

(8) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or representative of the party except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law. R.S.O. 1990, c. I.1, s. 15 (8).

Recording of evidence

(9) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Superior Court of Justice. R.S.O. 1990, c. I.1, s. 15 (9); 2002, c. 18, Sched. I, s. 11 (2).

Findings of fact

(10) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. R.S.O. 1990, c. I.1, s. 15 (10).

(11) Repealed: 1998, c. 18, Sched. G, s. 59 (2).

Release of documentary evidence

(12) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to the party by the Board within a reasonable time after the matter in issue has been finally determined. R.S.O. 1990, c. I.1, s. 15 (12).

Section Amendments with date in force (d/m/y) [+]**Appeal to court**

16 (1) Any party to the proceedings before the Board under this Act may appeal from its decision or order to the Divisional Court in accordance with the rules of court. R.S.O. 1990, c. I.1, s. 16 (1).

Record to be filed in court

(2) Where any party appeals from a decision or order of the Board under this Act, the Board shall forthwith file in the Superior Court of Justice the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal. R.S.O. 1990, c. I.1, s. 16 (2); 2002, c. 18, Sched. I, s. 11 (3).

Powers of court on appeal

(3) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the Board and may exercise all powers of the Board to confirm, alter or rescind the order that is the subject of the appeal and to substitute its findings for that of the person who made the order as the court considers proper and for such purposes the court may substitute its opinion for that of the person who made the order or of the Board, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper. R.S.O. 1990, c. I.1, s. 16 (3).

Section Amendments with date in force (d/m/y) [+]**Regulations by Lieutenant Governor in Council**

17 (1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing forms and providing for their use and requiring that statements of conscience or religious belief be in the form of affidavits;
- (c) governing the custody, recording, inspection and destruction of records in respect of immunizations in relation to designated diseases;
- (d) prescribing programs of immunization in respect of designated diseases, including specifying immunizing agents and the number and timing of dosages of immunizing agents;
- (e) classifying children, pupils or persons and exempting any such class from any provision of this Act or the regulations and prescribing conditions to which such exemption shall be subject;
- (f) requiring and governing reports by persons who operate schools to medical officers of health in respect of records and documentation related to the immunization of children applying for admission to the schools and pupils and former pupils in the schools;

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection 17 (1) of the Act is amended by adding the following clause: (See: 2017, c. 11, Sched. 2, s. 6)

- (f.1) respecting and governing the information described in subsection 10 (2), including, without being limited to, specifying one or more methods by which the information is to be provided, and requiring the information to be provided by such a method;
- (g) respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1990, c. I.1, s. 17.

Regulations by Minister

(2) The Minister of Health and Long-Term Care may make regulations prescribing designated diseases for the purposes of this Act. 2002, c. 18, Sched. I, s. 11 (4).

Section Amendments with date in force (d/m/y) [+]

Service

18 (1) Any notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by ordinary mail addressed to the person to whom it is to be given, served or delivered at his or her last known address. R.S.O. 1990, c. I.1, s. 18 (1).

When service deemed made

(2) A notice, order or other document sent by ordinary mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, the person did not receive the notice, order or other document until a later date through absence, accident, illness or other cause beyond the person's control. R.S.O. 1990, c. I.1, s. 18 (2).