

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

1ST SESSION, 42ND LEGISLATURE, ONTARIO
69 ELIZABETH II, 2020

Bill 227

**An Act to amend the Health Protection and Promotion Act
with respect to the positions of Chief Medical Officer of Health and
Associate Chief Medical Officer of Health and related matters**

Ms F. Gélinas

Private Member's Bill

1st Reading November 4, 2020

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill amends the *Health Protection and Promotion Act* to make the Chief Medical Officer of Health an officer of the Assembly and to provide for various related matters, including specifying the manner in which the Chief Medical Officer of Health may be appointed or removed from office, as well as the appointment of a temporary Chief Medical Officer of Health in specific circumstances. Consequential amendments are made to section 81.1, respecting the position of Associate Chief Medical Officer of Health. The Act is also amended to provide for the appointment of a select committee in the event of a declaration of an emergency under the *Emergency Management and Civil Protection Act* that relates to a public health event or a pandemic or may have health impacts anywhere in Ontario. The mandate of the select committee consists of receiving advice from, and providing advice to, the Chief Medical Officer of Health with respect to the situation that gave rise to the declaration of emergency. Finally, section 86.3 of the Act is repealed.

**An Act to amend the Health Protection and Promotion Act
with respect to the positions of Chief Medical Officer of Health and
Associate Chief Medical Officer of Health and related matters**

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1 Subsections 81 (1) to (1.3) of the *Health Protection and Promotion Act* are repealed and the following substituted:

Chief Medical Officer of Health

(1) There shall be a Chief Medical Officer of Health who is an officer of the Assembly.

2 Subsections 81.1 (4) and (5) of the Act are repealed and the following substituted:

Functions, duties, etc.

(4) An Associate Chief Medical Officer of Health shall perform such functions and duties as the Chief Medical Officer of Health may specify in writing.

3 The Act is amended by adding the following sections:

Appointment

81.1.1 (1) The Assembly shall, by order, appoint the Chief Medical Officer of Health.

Selection by panel

(2) Unless decided otherwise by unanimous consent of the Assembly, an order shall be made under subsection (1) only if the person to be appointed has been selected by unanimous agreement of a panel composed of one member of the Assembly from each recognized party and, if there are independent members in the Assembly, one independent member, chaired by the Speaker who is a non-voting member.

Term of office

81.1.2 (1) The Chief Medical Officer of Health shall hold office for a term of five years and may be reappointed for one further term of five years.

Selection by panel

(2) Subsection 81.1.1 (2) applies with respect to a reappointment under subsection (1) of this section.

Continuation in office

(3) By order of the Assembly, the Chief Medical Officer of Health may continue to hold office after expiry of their term of office until a temporary Chief Medical Officer of Health is appointed or until a successor is appointed.

Removal or suspension

81.1.3 (1) The Assembly may, by order passed by a vote of at least two thirds of the members of the Assembly, remove or suspend the Chief Medical Officer of Health from office for cause.

Suspension if Assembly not in session

(2) If the Assembly is not in session, the Board of Internal Economy may on unanimous agreement suspend the Chief Medical Officer of Health for cause.

Duration of suspension

(3) A suspension under subsection (1) continues until revoked by order of the Assembly or until the Chief Medical Officer of Health is removed from office pursuant to subsection (1).

Same

(4) Unless the Board of Internal Economy revokes the suspension before the next sitting of the Assembly, a suspension under subsection (2) continues until revoked by order of the Assembly or until the Chief Medical Officer of Health is removed from office pursuant to subsection (1).

Same

(5) Despite subsection (4), no suspension imposed under subsection (2) continues past the 20th sessional day of the next sitting of the Assembly.

Report to Assembly

(6) The Board of Internal Economy shall report to the Assembly any action taken under subsections (2) and (4) at the earliest opportunity of the next sitting of the Assembly.

Meaning of “not in session”

(7) For the purposes of this section and sections 81.1.5 and 81.1.7, the Assembly is not in session when it is,

- (a) prorogued; or
- (b) adjourned for an indefinite period or to a day that is more than seven days after the date on which the Assembly was adjourned.

Salary and benefits

81.1.4 (1) The Board of Internal Economy shall determine the salary and benefits of the Chief Medical Officer of Health.

Pension plan

(2) Subject to subsections (3) and (4), the Chief Medical Officer of Health is a member of the Public Service Pension Plan.

Notice re pension plan

(3) Within 60 days after his or her appointment takes effect, the Chief Medical Officer of Health may notify the Speaker in writing that he or she elects not to be a member of the Public Service Pension Plan.

Same

(4) If the Chief Medical Officer of Health gives notice of their election to the Speaker in accordance with subsection (3), the election is irrevocable and is deemed to have taken effect when the appointment took effect.

Expenses

(5) Subject to the approval of the Board of Internal Economy, the Chief Medical Officer of Health is entitled to be reimbursed for reasonable expenses that he or she incurs in respect of anything done under this Act.

Temporary Chief Medical Officer of Health

81.1.5 (1) If the Chief Medical Officer of Health is unable to fulfil the duties of his or her office or if the office becomes vacant, the Assembly may, by order, appoint a temporary Chief Medical Officer of Health.

Selection by panel

(2) Unless decided otherwise by unanimous consent of the Assembly, an order shall be made under subsection (1) only if the person to be appointed has been selected by unanimous agreement of a panel composed of one member of the Assembly from each recognized party and, if there are independent members in the Assembly, one independent member, chaired by the Speaker who is a non-voting member.

Appointment if Assembly not in session

(3) If, while the Assembly is not in session, the Chief Medical Officer of Health is unable to fulfil the duties of his or her office or the office becomes vacant, the Board of Internal Economy may appoint a temporary Chief Medical Officer of Health.

Powers, salary and benefits

(4) A temporary Chief Medical Officer of Health shall have the powers and duties of the Chief Medical Officer of Health and shall be paid a salary and benefits determined by the Board of Internal Economy and, subject to the approval of the Board, be reimbursed for reasonable expenses that he or she incurs in respect of anything done under this Act.

Duration of office

(5) A temporary Chief Medical Officer of Health shall hold office until,

- (a) the Chief Medical Officer of Health is able to fulfil the duties of the office, where the appointment resulted from the Chief Medical Officer of Health being unable to do so;
- (b) where the appointment resulted from a suspension of the Chief Medical Officer of Health, the suspension is revoked by order of the Assembly, by the Board of Internal Economy under subsection 81.1.3 (4) or by operation of subsection 81.1.3 (5);
- (c) the Assembly appoints a different temporary Chief Medical Officer of Health under subsection (1); or
- (d) the Assembly appoints a Chief Medical Officer of Health under section 81.1.1.

Subsequent appointment not prohibited

81.1.6 A person who continues his or her first term as Chief Medical Officer of Health under subsection 81.1.2 (3) or who is appointed as a temporary Chief Medical Officer of Health is not prohibited from a subsequent appointment as Chief Medical Officer of Health under section 81.1.1 and, in the case of such an appointment, the previous time in office does not count toward the term of office set out in subsection 81.1.2 (1).

Restrictions re other work, etc.

81.1.7 (1) The Chief Medical Officer of Health shall not be a member of the Assembly and shall not, without prior approval by the Assembly, or by the Board of Internal Economy when the Assembly is not in session, hold any other office or employment.

Exception

(2) Despite subsection (1), the Chief Medical Officer of Health may hold more than one office to which he or she has been appointed by the Assembly or the Board of Internal Economy.

Oath of office

81.1.8 Before beginning the duties of their office, the Chief Medical Officer of Health shall take an oath or affirmation to faithfully and impartially exercise the functions of the office.

Nature of office

81.1.9 (1) The Chief Medical Officer of Health holds office for a fixed term.

Notice not required

(2) No notice to the Chief Medical Officer of Health is required before the expiry of the Chief Medical Officer of Health's term of office.

Transition

81.1.10 (1) The Chief Medical Officer of Health in office immediately before the day the *Public Health Accountability Act (In Honour of Dr. Sheela Basrur)*, 2020 receives Royal Assent is deemed to be in the first term of his or her appointment and shall continue to hold office for the remainder of the term.

Same

(2) For greater certainty, the time that the Chief Medical Officer of Health referred to in subsection (1) served prior to the day the *Public Health Accountability Act (In Honour of Dr. Sheela Basrur)*, 2020 receives Royal Assent is counted as part of the Chief Medical Officer of Health's first term.

Select Committee if health emergency declared

81.1.11 (1) If an order is made under section 7.0.1 of the *Emergency Management and Civil Protection Act* declaring that an emergency exists throughout Ontario or in any part of Ontario and the emergency relates to a public health event or a pandemic or may have health impacts anywhere in Ontario, a select committee of the Assembly shall be appointed under this section as soon as reasonably possible after the declaration of emergency.

Composition

(2) Despite anything to the contrary in the Standing Orders, the select committee appointed under subsection (1) shall be composed of an equal number of members from the recognized parties in the Assembly.

Terms of reference

(3) The select committee shall receive advice from, and provide advice to, the Chief Medical Officer of Health with respect to the situation that gave rise to the declaration of emergency.

Dissolution

(4) The select committee shall be dissolved three months after the end of the declaration of the emergency, subject to the declaration of any subsequent emergency referred to in subsection (1) prior to its dissolution.

4 Section 86.3 of the Act is repealed.

5 Subsection 86.4 (1) of the Act is amended by striking out “or the Chief Medical Officer of Health” in the portion before paragraph 1 and by repealing paragraph 2.

Commencement

6 This Act comes into force on the day it receives Royal Assent.

Short title

7 The short title of this Act is the *Public Health Accountability Act (In Honour of Dr. Sheela Basrur)*, 2020.