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THE SARS COMMISSION SECOND INTERIM REPORT - SARS AND PUBLIC HEALTH LEGISLATION

The Health and Emergency Medical Services Committee recommends that:

1. **Staff be directed to make a presentation to Committee regarding the Region's level of preparedness in the event of a pandemic outbreak or similar event;**

2. **The recommendation contained in the following report, May 12, 2005, from the Commissioner of Health Services be received.**

1. RECOMMENDATION

It is recommended that:
1. Committee and Council receive this report for information.

2. PURPOSE

The purpose of this report is to update Committee and Council on the significant issues raised by the Campbell Report and the review of these issues by the Ministry of Health and Long-Term Care (MOHLTC) Capacity Review Committee (CRC).

3. BACKGROUND

In the wake of the SARS crisis, several reports have provided direction to the MOHLTC. The National Advisory Committee on SARS and Public Health chaired by Dr. David Naylor, reported in October 2003. The Expert Panel on SARS and Infectious Disease Control chaired by Dr. David Walker reported in April 2004. The first Interim Report of the SARS Commission by Mr. Justice Archie Campbell was also released in April 2004. They each underscored the need for the revitalization of our public health system and brought forward a number of key recommendations.

The MOHLTC responded to these reports by releasing "Operation Health Protection" in June 2004, a three-year action plan with public health renewal as a strategic direction. A number of actions have already been taken. Many others are still in progress. Among other things, a key action was to strike the CRC, whose purpose is to advise the Minister of Health and Long Term Care on options to improve the configuration and function of the local public health unit system. The CRC will make its final recommendations by December 2005. The CRC is reviewing:

- Core Capacities of Public Health

- Public Health Human Resources
- Research and Knowledge Transfer requirements in public health
- Public Health System Accountabilities
- Public Health Funding
- Governance and Structure of local public health units

The Second Interim Report of the SARS Commission (Campbell Report) was released in April 2005. This report deals with the legislative framework within which public health authorities carry out their duties. The analysis includes recommendations on leadership issues, governance, reforms to the *Health Protection and Promotion Act* (HPPA), health protection powers, and public health resources. It is a lengthy report (500 pages and 113 recommendations). Some of Campbell's recommendations, particularly those relating to governance, will be considered by the CRC, as its deliberations proceed over the remainder of this year.

4. ANALYSIS AND OPTIONS

The Campbell Commission's first interim report recommended major changes in the public health system. Justice Campbell notes that the government has taken action and has committed to responding to the recommendations of his initial report, but that much more still needs to be done. The second interim report released in April 2005, deals with legislation to strengthen the HPPA, and to enact emergency powers for public health disasters. Justice Campbell also comments extensively on how Bill 138, an *Act to Amend the Emergency Management Act*, should be reviewed to determine if it is an adequate vehicle for public health emergency powers in its current iteration. Some of the highlights of the Campbell Report will be summarized briefly below.

4.1 Leadership

The Commission recommends that the HPPA be amended to provide for every local medical officer of health a degree of independence that is parallel to that of the Chief Medical Officer of Health. This would include:

- Giving the local medical officer of health the same reporting duties and authority as the Chief Medical Officer of Health
  a) to report every year publicly on the state of public health in the unit. This report must be provided to the local board of health and the Chief Medical Officer of Health 30 days prior to it being made public; and
  b) to make any reports respecting the public's health as he or she considers appropriate, and to present such a report to the public or any other person, at any time he or she considers appropriate.

- Protecting the independence of the local medical officer of health by providing that no adverse employment action be taken against any medical officer of health in respect of the good faith exercise of those reporting powers and duties.

4.2 Governance

This section summarizes the advantages and drawbacks of the shared governance model of public health by the province and municipalities. Justice Campbell notes there is considerable debate over this issue. He recommends that:

- By the end of 2007, after the implementation of the recommendations of the pending public health capacity review, the province should decide whether the present system can be fixed with a reasonable outlay of resources. If not, funding and control of public health should be uploaded 100% to the province.

While the debate continues over split governance versus 100% uploading to the province, he recommends five immediate measures should be taken:

- Ensure that those whose duties relate to the delivery of public health services are directly accountable to, and under the authority of the medical officers of health; and amend the HPPA to state that the medical officer of health is the chief executive officer of the board of health.
- Amend the HPPA stating that the Chief Medical Officer of Health shall publish standards for the provision of mandatory health programs and services, and that every board shall comply with the published standards that shall have the force of law.
- Require by law regular monitoring and auditing of local health units to ensure compliance with provincial standards
- Increase provincial representation on local boards of health and set qualifications for board membership
- Introduce a package of governance standards for local boards of health

4.3 Reforms to the *Health Protection and Promotion Act*

The report recommends clarification of a number of items including:

- Clarify definitions of disease categories and consider updating definition of health hazard.
- Adjust the standard of intervention as needed so the standard relates to the power being wielded (e.g. take action based on opinion that there is a risk to the public's health exists versus opinion based on reasonable and probable grounds).
- Revise Section 22 of the HPPA, which gives medical officers of health the power to protect the public from communicable diseases to remove ambiguities.

4.4 Stronger Health Protection Powers

This section recommends:

- Clarification of role and authority with respect to hospital infectious disease surveillance and control.
- That the daily powers in the HPPA of investigation, mitigation and risk management that prevent public health emergencies from developing need to be strengthened. These include items such as access to information, reporting requirements, the power to temporarily detain individuals for the purpose of protecting the public's health from immediate health threats, and a limited power to enter a dwelling in specific circumstances.

4.5 Public Health Resources

Justice Campbell outlines a number of areas where resources will be needed including:

- Establishing the new Ontario Health Protection and Promotion Agency.
- Implementing recommendations of the assessment of the public health lab system.
- Integrating the public health laboratory into the new Agency.
- Implementing the recommendations of the CRC of local public health.
- Revitalizing the province's Public Health Division.
- Increasing the provincial share of local public health funding from the current 55% to 75% by January 2007.
- Funding the increased levels of monitoring, auditing and enforcement related to mandatory program standards.

A concluding statement in this section of the report reads, "As the province moves into the latter stages of Operation Health Protection, stages when significant funding will be required, the challenge will be to provide the necessary resources to sustain the momentum for change despite the government's other budgetary pressures."

5. FINANCIAL IMPLICATIONS

There are no immediate financial implications associated with this report. The recommendations of the CRC (expected in December 2005), and the MOHLTC response to both the Campbell Report and the CRC, will likely have financial implications for local public health units over the next few years.

6. LOCAL MUNICIPAL IMPACT

There is no local municipal impact associated with this report.

7. CONCLUSION

The purpose of this report is to ensure Committee and Council are aware of the significant issues raised by the Campbell report and those under review by the CRC. In addition, the CRC will be doing site visits of all health units in the fall to gather information. A health unit survey is now being finalized to be used to gather baseline health unit data for the CRC. The final response will be determined by the government after the CRC has finished its work in December 2005.

The Senior Management Group has reviewed this report.