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**TO:** Chair and members of the Board of Health

**MEETING DATE:** December 6, 2017

**REPORT NO:** **BH.01.DEC0617.R32** Pages: 6

**PREPARED BY:** Jessica Morris, Manager, Environmental Health

**APPROVED BY:** Christopher Beveridge, Director, Health Protection

*Original signed document on file*

**SUBMITTED BY:** Dr. Nicola J. Mercer, MD, MBA, MPH, FRCPC  
Medical Officer of Health & CEO

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## Recommendations

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It is recommended that the Board of Health:

1. **Receive this report for information.**

## Key Points

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- As of January 1, 2017, Public Health Inspectors have been monitoring compliance with the *Healthy Menu Choices Act (HMCA)* and its accompanying regulation O. Reg. 50/16.
- This legislation requires food premises with more than 20 locations in Ontario to display the number of calories for every standard food item, on menus (including menu boards), labels, and display tags. They must also display contextual information to help educate customers about their daily caloric requirements.
- Wellington, Dufferin and Guelph has 408 food premises whereby this new legislation applies. Public Health Inspectors are appointed by the Ministry of Health and Long Term Care (MOHLTC) to enforce the *HMCA* through compliance inspections, food premise operator education, address complaints and proceed with enforcement action, if required.

## Discussion

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The *HMCA* Regulations came into force on January 1, 2017, with the aim to help Ontarians make healthier food and beverage choices when dining out. The *HMCA* strives to raise public awareness about the calorie content of food and beverages eaten outside the home and encourages industry to provide alternatives to high calorie menu items.<sup>1</sup> Owners and operators of food service premises that are part of a chain with 20 or more locations, in Ontario, are required to display calorie information for every standard food and beverage item on their menus and on display tags/labels or signs where standard food items are put on display or are self-serve.<sup>2</sup>

Regulated food premises are required to post a statement regarding average daily caloric requirements to help consumers put the calorie information into context. For example, in 2017, premises are required to display “The average adult requires approximately 2,000 to 2,400 calories per day; however, individual calorie needs may vary.”<sup>1</sup> Premises will be required in 2018 to display “Adults and youth (ages 13 and older) need an average of 2,000 calories a day, and children (ages 4 to 12) need an average of 1,500 calories a day. However, individual needs vary.”<sup>1</sup>

All food service premises to which the *HMCA* applies are subject to a compliance inspection. Boards of Health are responsible for enforcement of the *HMCA* at food premises, including, but not limited to: (i) restaurants; (ii) quick-service restaurants; (iii) convenience stores; (iv) grocery stores; (v) movie theatres; (vi) public-facing cafeterias; (vii) bakeries; (viii) food trucks; (ix) buffets; (x) ice cream shops; and (xi) coffee shops, with more than 20 locations operating in Ontario.<sup>3</sup>

The menu labelling legislation requires calorie posting for restaurant-type standard food items in regulated food service premises. Items that require calorie posting are food or drink items that: (i) are served or processed and prepared primarily at the premises; (ii) are intended for immediate consumption; (iii) do not require further preparation by a consumer before consumption (i.e. foods that are generally considered to be ‘ready to eat’); and (iv) are sold or offered for sale in servings that are standardized for portion and content.<sup>1</sup>

## Legislative Exemptions

Food service premises exempt from the menu labelling legislation include: (i) Food service premises that operate for less than 60 days in a calendar year (consecutively or non-consecutively); (ii) food service premises located in a public or private school (i.e. elementary, intermediate and secondary); (iii) food service premises located in a correctional facility; and (iv) food service premises that are located in a child care centre.<sup>1</sup>

Food and beverage items exempt from the legislation include: (i) temporary or limited time offer menu items; (ii) self-serve condiments; (iii) patient meals in hospitals, long-term care homes, psychiatric facilities, and retirement homes; and (iv) special order items. Also, if the product is sold with an affixed Nutritional Facts Table (NFT) that already displays nutritional information, it is exempt from displaying the information twice.

## Roles and Responsibilities

The MOHLTC is responsible for administering, developing and implementing the *HMCA*. They also provide direction through the Ontario Public Health Standards, Protocols and Directives to Minister-appointed Inspectors. Wellington-Dufferin-Guelph Public Health (WDGPH) is responsible for monitoring compliance and enforcement, with the *HMCA*.<sup>2</sup>

The MOHLTC provided webinar training, guidance documents and a variety of resources to help Public Health Inspectors educate operators, conduct compliance inspections and carry out progressive enforcement, if required. Multiple management teleconferences with the MOHLTC and Public Health Units (PHUs) have occurred during the implementation phase of the Legislation rollout.

The MOHLTC has set up an online discussion board where PHUs can share legislative challenges and develop consistent solutions. Visual images of food premise menu boards are frequently discussed, as there can be legislative interpretation issues. The MOHLTC has had multiple consultations with food industry stakeholders and have taken their input into consideration when crafting the Legislation and applicable supporting Resource materials.

Ontario is the first province in Canada to legislate menu labelling requirements. British Columbia has a voluntary nutritional information program called Informed Dining which was launched in May 2013. Manitoba announced its support for Informed Dining in September 2013.<sup>4</sup>

## The Local Perspective

The MOHLTC has appointed 20 WDGPH Public Health Inspectors (PHIs) under the *HMCA*. WDGPH PHIs are conducting an inspection for each new and existing regulated food service premises within the public health unit within the first year of implementation, 2017. When completing their regular food safety compliance inspection, PHIs conduct the *HMCA* compliance inspection, at the same visit.

Wellington, Dufferin and Guelph have 408 food premises under this Legislation and each premises requires one compliance inspection in 2017. Food premises opening in 2018, and beyond, will receive one compliance inspection. Any *HMCA* complaints will be followed up within a 10 day timeframe as outlined in the legislation.<sup>3</sup> Legislative interpretation collaboration with other PHUs has been necessary to achieve consistent compliance with multiple food premise locations in other PHUs.

When conducting an *HMCA* compliance inspection, Public Health Inspectors must determine who legally owns the business, and/or what individual has control over the food premise menu board display. If a corporate head office has full control and the premise is out of compliance, WDGPH is to contact the PHU where the Head Office resides to determine enforcement action. If the franchisee has full control and the premise is out of compliance, WDGPH is to conduct enforcement action. WDGPH does not have any applicable head offices in its jurisdiction.

The *HMCA* inspection reports will be required to be disclosed on the WDGPH website, beginning January 2019. Reports must be accessed separately from the food premise inspection reports. Therefore, they will not be on the current WDGPH Check Before You Choose disclosure website. This MOHLTC requirement is to prevent the public from confusing the two inspection results - food safety and menu labelling.

## Conclusion

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WDGPH PHIs are currently conducting menu labelling compliance inspections, while completing food safety inspections, at food premises with more than 20 locations, in Ontario, to enable the public to select foods with lower caloric counts, when dining out.

## Ontario Public Health Standard

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Chronic Disease Prevention Requirement #16:

The Board of Health shall implement and enforce the Healthy Menu Choices Act, 2015 in accordance with the Menu Labelling Compliance Protocol, 2017 (or as current).

## WDGPH Strategic Direction(s)

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Check all that apply:

- Health Equity:** We will provide programs and services that integrate health equity principles to reduce or eliminate health differences between population groups.
- Organizational Capacity:** We will improve our capacity to effectively deliver public health programs and services.
- Service Centred Approach:** We are committed to providing excellent service to anyone interacting with WDG Public Health.
- Building Healthy Communities:** We will work with communities to support the health and well-being of everyone.

## Health Equity

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Since all regulated food premises are subject to the same Legislation, the public can expect to see consistency in caloric information when eating outside the home. Making informed choices is the basis for this legislation to allow the public to notice the varying degrees of calories in specific foods to make healthier choices.

## References

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1. Ontario. Ministry of Health and Long-Term Care. A Guide to Menu Labelling Requirements in Regulated Food Service Premises in Ontario. Toronto, ON: Queen's Printer for Ontario; 2016
2. Ontario. Ministry of Health and Long-Term Care. Healthy Menu Choices Act: Menu Labelling Enforcement Directive. Toronto, ON: Queen's Printer for Ontario; 2017
3. Ontario. Ministry of Health and Long-Term Care. Menu Labelling Compliance Protocol. Toronto, ON: Queen's Printer for Ontario; 2017.
4. Ontario. Ministry of Health and Long-Term Care. Menu Labelling Frequently Asked Questions & Answers. Toronto, ON: Queens's Printer for Ontario; 2017.

## Appendices

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Appendix "A" – Displaying Calories on a Restaurant Menu

# Appendix “A”

## Example #2: Displaying calories on a restaurant menu

**Shareable Appetizers**

**Spinach Dip** \$6.99  
300 Cals/serving, serves 4

**Nachos** \$13.99  
400 Cals/serving, serves 4

**Bruschetta** \$7.99  
250 Cals/serving, serves 2

**Salads**

**House Salad** \$8.99  
320 Cals

**Cesar Salad** \$10.99  
520 Cals

**Entrees**

**Chicken** \$16.99  
*Chicken, mashed potatoes and grilled vegetables*  
600 Cals

**Steak** \$23.99  
*T-bone steak with mashed potatoes and grilled vegetables*  
890 Cals

**Vegetable Stir-Fry** \$15.99  
*Assorted vegetables cooked in a teriyaki sauce and served on rice*  
450 Cals

**Salmon** \$20.99  
*Salmon with grilled vegetables and a house salad*  
600 Cals

**Desserts**

**Chocolate Mousse Cake** \$6.99  
450 Cals

**Neopolitan Ice-cream** \$3.99  
250 Cals

**Drinks**

**Pop** \$1.99  
0-190 Cals

**Juice** \$1.99  
120-140 Cals

**Sparkling Water** \$1.99  
0 Cals

Adults and youth (ages 13 and older) need an average of 2,000 calories a day, and children (ages 4 to 12) need an average of 1,500 calories a day. However, individual needs vary.

\*For requirements regarding the contextual statement between January 1, 2017 and December 31, 2017, please refer to the Contextual Statement section in this document.

1. Ontario. Ministry of Health and Long-Term Care. A Guide to Menu Labelling Requirements in Regulated Food Service Premises in Ontario. Toronto, ON: Queen’s Printer for Ontario; 2016