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November 5, 2013

The Honourable Deborah Matthews, MPP  
Minister of Health and Long-Term Care  
10<sup>th</sup> Floor, Hepburn Block  
80 Grosvenor Street  
Toronto, Ontario M7A 2C4

Dear Minister Matthews:

**Re: *Healthy Kids Consultations - Proposed Menu Labelling Legislation***

On behalf of Toronto Public Health, I applaud your recent announcement regarding the Government of Ontario's commitment to introduce menu labelling legislation that will support Ontario families in making healthier choices when they eat away from home.

Ontario's leadership in this area is an important part of a comprehensive approach to addressing high rates of obesity and chronic diseases in this province. Menu labelling legislation is an important way to create supportive food environments that enable consumers to make healthier food choices for themselves and their families. In addition, the emerging evidence indicates that it can stimulate foodservice chains to create healthier menu items to meet customer demand. This latter effect means that everyone who purchases ready-to-eat foods away from home can benefit from menu labelling legislation, and not just those who use the menu labelling information to make a healthier choice.

The importance of a legislated approach cannot be overstated. Without a regulatory requirement, nutrition information is virtually never posted on restaurant menus in Canada. By mandating both calorie and sodium labelling, Ontario has the ability to lead Canada, rather than to follow what has been regulated in the U.S. for the sake of consistency. In our jurisdictional policy review, Toronto Public Health heard from public health stakeholders in Canada and internationally that the inclusion of sodium in our menu labelling recommendations was an evidence-based and forward-thinking strategy.

As you know, at the request of the Toronto Board of Health, Toronto Public Health has for the last three years worked to develop menu labeling policy options for Toronto and can offer insight into the Province's plans for provincial legislation.

Please consider the attached TPH submission and reference documents which provide more detailed recommendations on the proposed provincial menu labelling legislation as you continue to consult with key stakeholders. These recommendations are based on a

review of the experiences of U.S. jurisdictions that have enacted menu labelling legislation, scientific studies of menu labelling, Canada's experience with voluntary nutrition information provision programs, and Toronto Public Health research and consultations with the restaurant industry.

Thank you for making the commitment to making menu labelling a reality in this province, and for providing multiple avenues for public health to provide input to help shape the development of this legislation and its implementation. I look forward to engaging with your Ministry in more in-depth discussions related to implementation and enforcement issues and the implications, of this legislation for local public health agencies across the province.

Sincerely,

A handwritten signature in black ink, appearing to read "D. McKeown". The signature is fluid and cursive, with a large initial "D" and "M".

Dr. David McKeown  
Medical Officer of Health

Attachments:

1. Toronto Public Health. Menu Labelling – Making Key Nutrition Information Readily Available in Restaurants. Staff report from the Medical Officer of Health to the Toronto Board of Health, April 15, 2013.
2. Toronto Public Health. (April 2013). What's on the Menu: Making Key Nutrition Information Readily Available in Restaurant Chains. Toronto, Ontario.

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# **Toronto Public Health Submission to the Ministry of Health and Long-Term Care**

Re: Healthy Kids Consultation - Provincial  
Menu Labelling Legislation

November 1, 2013

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# TORONTO PUBLIC HEALTH RECOMMENDATIONS FOR DESIGNING PROVINCIAL MENU LABELLING LEGISLATION

The primary goal of provincial menu labelling legislation should be to enable Ontario residents to make informed decisions about key nutrients when purchasing 'ready-to-eat' foods away from home. This document provides Toronto Public Health's (TPH) recommendations for designing menu labelling legislation. These recommendations are based on a review of the experiences of other U.S. jurisdictions that have enacted menu labelling legislation, scientific studies of menu labelling, Canada's experience with voluntary nutrition information provision programs, and TPH research and consultations with the chain restaurant industry.<sup>1,2</sup> As TPH has not consulted with the range of other large chain establishments that sell ready-to-eat foods, such as grocers, theatres, and convenience stores, consultations with the range of other chain foodservice establishments would be required to ensure the recommended approach is appropriate for those settings.

The principles listed below also guided the development of these recommendations.

Menu labelling legislation should:

- be broad reaching to ensure it benefits a large proportion of the population that "eats out";
- focus on chains that have the capacity to do menu labeling;
- apply a consistent approach across different types of restaurant chains (e.g., quick-service, full-service, buffet, drive-thru);
- incorporate the strengths of Informed Dining, the voluntary nutrition information provision program endorsed by the restaurant industry; and
- build on menu labelling legislation enacted in U.S. jurisdictions as compliance has been high.

## General Recommendations

The Province of Ontario should:

1. Mandate the posting of both sodium and calorie values on the menu/menu board/food item tags. The Toronto Public Health report, [\*What's on the Menu: Making key nutrition readily available in restaurant chains\*](#),<sup>3</sup> outlines the health evidence and rationale for both; this submission places particular emphasis on the strong health argument for including sodium on the menu.
2. Dedicate resources towards evaluating the implementation and impact of the menu labelling legislation across the province, including:
  - a. restaurant compliance;

- b. consumer awareness, understanding and use of the nutrition information provided on the menu and the additional nutrition information provided upon request;
  - c. consumers' compensatory behaviour after eating out at a restaurant that has menu labelling;
  - d. restaurants sales; and
  - e. changes to the nutrient profile of chain restaurant menu items.
3. Ensure adequate funding is allocated to public health units to enforce the menu labelling legislation; and
4. Dedicate resources towards educating the public on how to use menu labelling information, and consider adopting or adapting Toronto Public Health's "[Savvy Diner](#)" brand to build on the existing recognition of this brand's association with menu labelling.

Please also consider the following detailed recommendations from TPH that have been organized according to the five topic areas being addressed in the consultations on the proposed provincial menu labelling legislation sponsored by the Ministry of Health and Long Term Care (MOHLTC).

## 1. Who the legislation should apply to

**The legislation should apply to the diverse range of large foodservice chains with 10 or more locations nationwide that prepare and sell ready-to-eat foods, including quick- and full-service restaurants, drive-thrus, buffet restaurants, cafeterias, grocery and convenience stores, theatres, and food trucks.**

Larger chain restaurant establishments constitute a large proportion of the "eating away from home" market in Ontario and can therefore benefit a large proportion of the population that eats out. Large restaurant chains use highly standardized recipes for food preparation. This enables them to readily analyze nutrient content. Chains with ten or more locations nationwide represent an appropriate threshold for determining which businesses the legislation should apply to as menu standardization and overall capacity to do menu labelling is quite likely ensured. Many such restaurant chains already routinely analyze their menu and provide nutrition information for their standard menu items on their website and/or in some other way. For these restaurant chains, the cost of nutrient analysis would be minimized. In U.S. municipalities which enacted menu labeling legislation, compliance has been very high, demonstrating that menu labelling is practically and economically feasible for large restaurant chains.<sup>4,5</sup> In King County, compliance rose from 77% in 2009 (one year after the law took effect) to 94% by mid-2010.<sup>6</sup>

In addition to restaurant chains, a diverse range of other large chain establishments make and/or sell ready to eat foods. Large grocery chains selling "home meal replacements", for example, are becoming a growing competitor to restaurant chains. It could be beneficial to employ a staged approach in implementing and enforcing the legislation as it may be more complex for certain types of foodservice establishments that do not currently analyze the

"ready-to-eat" foods they sell (e.g., grocery and convenience stores). These types of establishments may require more time to comply with the legislation.

## **2. What nutrition information should be included**

**The legislation should mandate the posting of calorie (kcal) and sodium (milligrams) values per serving for all standard items on the menu, menu board, drive-thru menu board, and/or individual food item tags, and a standardized contextual statement about daily calorie and sodium needs of healthy adults. As menu labelling does not constitute a health claim, mandating the posting of sodium values, as opposed to sodium warnings (e.g., high sodium or very high sodium) is most appropriate.**

Given that hypertension is among the leading preventable risk factors for death in Canada and that food consumed in restaurants and foodservice establishments accounts for 18% of the average total sodium consumed per day, making sodium information readily available to consumers can help benefit a large proportion of the adult population with hypertension in Ontario (24%). The wide variation in sodium content both within and between foodservice establishments makes it impossible for consumers to know or guess sodium levels in their food.

After calories, sodium is the nutrient of greatest concern and interest to consumers, and there is evidence that sodium values on a menu could have a greater positive impact on consumer purchases than calorie labelling alone. A recent experimental study from the University of Toronto with a panel of 3,081 Canadians tested the effect of different formats of menu labelling on food purchase intentions using menus from four different restaurant types. More than one quarter (26%) of panelists chose to change their orders after seeing calories and sodium values on the menu. Panelists who saw sodium information and changed their order decreased the sodium level of their meals by an average of 681-1360 mg, a significantly higher reduction in sodium than those who saw calories only on the menu.<sup>7</sup> In addition, an evaluation of Philadelphia's menu labelling law found that customers at a full-service restaurant chain in Philadelphia (where calories, sodium, saturated fat, trans fat and carbohydrates are posted on menus) ordered fewer calories and less sodium than customers at the same restaurant chain outside of Philadelphia where menu labeling was not in effect.<sup>8</sup>

Including a contextual statement explaining an adult's daily calorie and sodium intake requirements would increase understanding and use of this nutrition information, as suggested by several studies. Education campaigns can be used to increase consumer awareness and understanding about menu labelling information and daily calorie and sodium intake needs of different age groups. Several jurisdictions, including New York City and Tacoma-Pierce County, incorporated these elements into their menu labelling strategies.

Calorie and sodium information should be provided for all standard items, with standard being defined as items sold or on the menu for more than 60 days. This approach is

consistent with Informed Dining, and ensures consumers access to nutritional information on seasonal items which would be missed with a more liberal definition of "standard menu item".

### **3. How nutrition information should be posted and made available**

#### **Menu/Menu board**

**The legislation should ensure that calorie and sodium values are posted on the menu, menu board or food item tag in a clear and conspicuous manner (e.g., the same typeface, font, and size as the price or other information about the menu item) so that the information is visible prior to ordering.**

To increase visibility and consumer use of the calorie and sodium information in restaurants, the format and location of this information need to be given careful consideration. Posting calorie and sodium values in the same typeface, font, and size as the price or other information about the menu item gives the information as much visual prominence as these other pieces of information that influence choice selection. Consideration could also be given to using a different colour to ensure that the nutrition information stands out.<sup>9</sup>

The same approach should be applied to different types of restaurants. In this way, consumers can come to expect to see the same kind of information on the menu/menu board/food item tag whether they are dining at a quick-service, full-service, or drive-thru restaurant.

For buffet restaurants and other establishments that sell items that are not listed on a menu/menu board (e.g., take-away counters, grab 'n go areas, cafeterias), the amount of calories and sodium should be listed per item or per reference amount (e.g., per 100 grams) on food item tags.

In the context of foods that come in different flavours and/or varieties, calorie and sodium ranges should be used only in limited situations as they create uncertainty for the consumer, and the ranges could be quite wide for certain foods, making the information less useful. A review of the approaches taken by other jurisdictions in relation to labeling foods that come in different flavours and varieties should be considered.

#### **Full nutrition information**

**The legislation should ensure that full nutrition information (calories plus the 13 nutrients on the Nutrition Facts table) is available on site, upon customer request, and a statement indicating that full nutrition information is available upon request should be included on the menu, menu board, or drive-thru menu board or in another prominent location.**

Full nutrition information should be available upon request for consumers with special dietary needs. Consistent with the Informed Dining approach, the full nutrition information should include calories and 13 nutrients found on a Nutrition Facts table for all standard menu items in a clear, standardized table format, with calorie and sodium content highlighted, and a standardized statement about daily calorie and sodium needs of healthy adults. Consistency in presentation of full nutrition information is an improvement over the many different ways in which it is currently provided by restaurant chains. In this way, consumers with specific dietary concerns will come to know what to expect and how to read the full nutrition information, when they choose to review it. Restaurants with menus on their websites should make this nutrition information available in the same format.

#### **4. How to best implement legislation/regulations, including time required for implementation**

**Implementation timelines should take into consideration the needs of the diversity of large chain establishments that would be affected by the legislation and the needs of public health units across the province.**

Toronto Public Health has consulted with restaurant chain executives who indicated that they would need 9-18 months to implement menu labelling requirements. They mentioned that it will take time to test, analyze, and update all the nutritional values, renovate retail locations to accommodate larger menu boards, and/or redesign and install new drive-thru boards.

A staged approach to implement the legislation should be considered to take into account the different levels of preparedness across different types of foodservice chains to do menu labelling. For instance, restaurant chains which are already providing nutrition information may be able to implement the regulation within a 12 month period, while other foodservice chains may require an additional 6 months to comply.

As public health units will be required to monitor and enforce the legislation, they require adequate time and resources to prepare for implementation.

Full compliance with the provincial legislation may take one to three years to achieve. The first year of implementation should focus on monitoring and education and enforcement could begin during year two of the implementation period. To support implementation, the MOHLTC, in consultation with public health units, should develop a menu labeling guidance document for educating affected establishments about the legislation. A guide to nutrient analysis for dissemination to all affected establishments should also be developed for use by affected establishments.



## 5. How best to monitor and enforce legislation/regulations

**Enforcement should be incorporated into existing food safety inspection programs which are the responsibility of public health units, and focus on ensuring implementation requirements are met.**

Incorporating enforcement of this new legislation into the public health units' food safety inspection programs would reduce the administrative costs of developing a new infrastructure. It would also benefit foodservice establishments as they will not have to work with another administrative structure. This is the approach taken in U.S. jurisdictions, for similar reasons.

The legislation should require that affected foodservice establishments use a reliable and verifiable method of nutritional analysis to arrive at nutrition information, and that the nutrition information is accurate within the acceptable variability ranges as defined in the Canadian Food Inspection Agency's Guide to Nutrition Labelling and Advertising. In this age of heightened consumer and media engagement and intensive competition, it is in the best interest of affected establishments to ensure the accuracy of their nutrition information. The role of public health inspectors should be to assess whether: a) a reliable and verifiable method of nutritional analysis is used to arrive at nutrition information; b) the required information is posted on the menu/menu board/food item tags, and in the appropriate format; and c) the full nutrition information is available in the required format, upon request. This approach is consistent with enforcement of Informed Dining as well.

In addition to the role of local public health units assessing and monitoring compliance with the legislation, there should also be a provincial quality assurance role to assess accuracy of the posted nutrient values for large foodservice chains at the corporate level. It is recommended that Ministry resources be allocated to a quality assurance program, using the principles of the Nutrition Labelling Compliance Test in the CFIA's Guide to Nutrition Labelling and Advertising as a model.

## References

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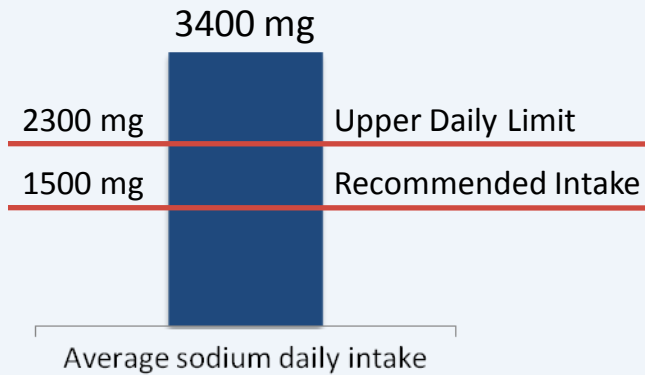
- <sup>1</sup> Toronto Public Health. (June 2013). Exploring Nutrition Information When Eating Out in Toronto: In-Depth Interviews, Toronto Chain and Franchise Restaurants. Report prepared by the Food Policy Research Initiative including Catherine L. Mah, Andrew Thomas, and Helen Thang.
- <sup>2</sup> Toronto Public Health. (June 2013). Views on a Toronto Public Health Menu Labelling Pilot Project: Stakeholder Consultations. Toronto, Ontario. June 2013.
- <sup>3</sup> Toronto Public Health. (April 2013). What's on the Menu: Making Key Nutrition Information Readily Available in Restaurants. Toronto, Ontario.
- <sup>4</sup> Personal communication with Public Policy Attorney, City of Philadelphia, Department of Public Health Municipal Services Building, August 2, 2013.
- <sup>5</sup> Email communication with Director, Policy Bureau of Chronic Disease Prevention & Tobacco Control, New York City Department of Health & Mental Hygiene, July 31, 2013.
- <sup>6</sup> Email communication with Legislative Affairs Officer, Public Health, Seattle & King County, August 13, 2013.
- <sup>7</sup> Scourboutakos, M. & L'Abbé, M. Restaurant Menu-Labelling: Exploring the Gaps in the Literature. Department of Nutritional Sciences, University of Toronto, Graduate Student Seminar, October 3, 2013.
- <sup>8</sup> Personal communication with Public Policy Attorney, City of Philadelphia, Department of Public Health Municipal Services Building, October 23, 2013. Publication is in press.
- <sup>9</sup> BMRB Social Research. (2009). *An Evaluation of Provision of Calorie Information by Catering Outlets*. Prepared for the U.K. Social Science Research Unit, Food Standards Agency. Retrieved February 7, 2013 from [http://foodbase.org.uk/admintools/reportdocuments/471-1-839\\_evalcalinfocateringoutlets.pdf](http://foodbase.org.uk/admintools/reportdocuments/471-1-839_evalcalinfocateringoutlets.pdf).

# Why the Province should Mandate Sodium Values on Menus



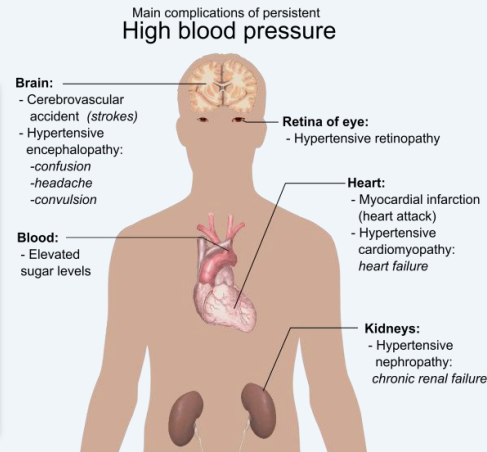
## Most of us consume excess sodium

The average sodium daily intake in Canada is **2x higher** than the recommended intake



## Increased sodium intake can lead to high blood pressure

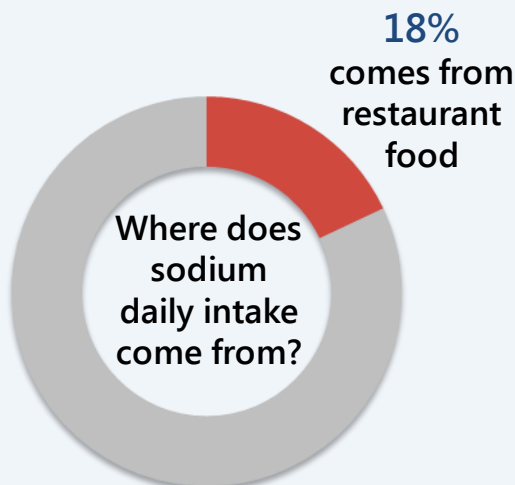
**1 in 4** adults in Ontario have high blood pressure



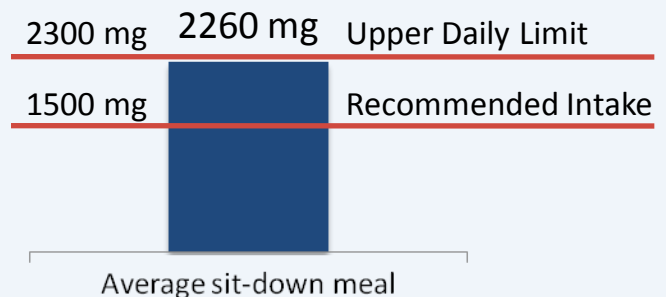
## Average restaurant chain meals are high in sodium



**1 in 10** meals are eaten at a restaurant



Sodium consumed in a restaurant meal comprises **150%** of the recommended intake



# We underestimate sodium levels in restaurant foods by over 250%



Restaurant Chain #1  
700 calories  
970 mg sodium

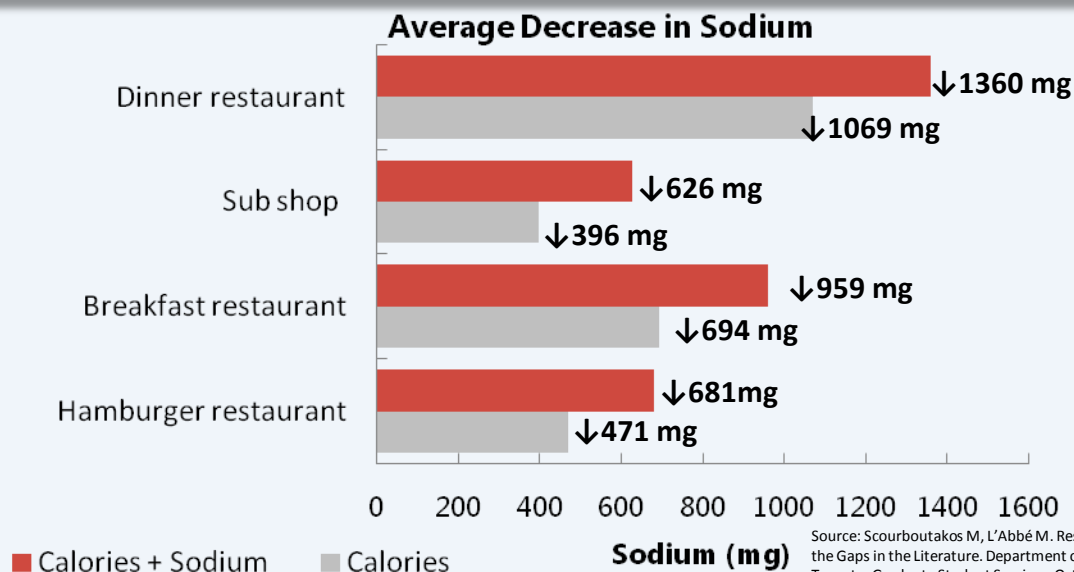
No two chicken wraps are created equal



Restaurant Chain #2  
1370 calories  
2960 mg sodium

## Calorie + sodium menu labelling leads to ordering less sodium

Calorie + sodium labelling leads to a significantly greater decrease in sodium ordered compared to calorie only labelling



Source: Scourboutakos M, L'Abbé M. Restaurant Menu-Labeling: Exploring the Gaps in the Literature. Department of Nutritional Sciences, University of Toronto, Graduate Student Seminar, October 3rd 2013.

## Reducing daily sodium intakes could result in huge health savings

Reducing average sodium intakes in Canada to recommended levels could:

PREVENT **23,500** cardiovascular disease events per year in Canada

REDUCE the prevalence of hypertension in Canada by **30%**

SAVE **\$18.47 billion** in direct and indirect costs (1998 dollars)

For more information: Toronto Public Health. What's on the Menu: Making Key Nutrition Information Readily Available in Restaurants. Toronto, Ontario. April 2013.