



Ontario Public Health Association
 l'Association pour la santé publique de l'Ontario
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The mission of OPHA is to provide leadership on issues affecting the public's health and to strengthen the impact of people who are active in public and community health

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Charitable Registration
 Number 11924 8771 RR0001

February 12th, 2016

Jackie Wood
 A/Director
 Strategic Initiatives Branch
 Population and Public Health Division
 Ministry of Health and Long Term Care

Dear Ms. Wood,

OPHA would like to congratulate the Ministry of Health and Long Term Care for your ongoing work with the Healthy Menu Choices Act, 2015.

Thank you for the opportunity to provide further input on the contextual statement that would be posted on menus.

OPHA recommends having one succinct, non-gender-specific contextual statement for adults which would read, **“The average adult requires about 2000 calories per day, however, individual calorie needs vary.”**; AND, *similarly*, one succinct, non-gender-specific contextual statement for children’s (4 - 12 years old) standard food items, that is **“The average child requires about 1500 calories per day; however, individual calorie needs vary.”**

While we recognize that your request included two options for input, we strongly urge you to consider a modified version of the first option. The above statement is succinct and understandable while specific enough to apply to the general population. Health Canada, FDA, USDA and various jurisdictions with menu labelling legislation have a similar statement and/or approach when tackling nutrition facts labelling, menu labelling and as a reference point for general nutrition advice. Evidence from other jurisdictions that have used similar *general* statements has shown this approach to be effective in increasing consumers understanding of calorie information and purchasing behaviors. Additionally, we presume the alternative we are suggesting would be favourably received by retail establishments since this modified version would be easier to implement and requires less menu space.



OPHA is concerned that the proposed second contextual statement would not achieve its intended purpose because total daily calorie reference is not included and consumers would be required to refer to a website to fully understand the significance of the caloric information.

Finally, to maximize the public health impact of this policy and promote health equity, OPHA encourages your Ministry to be mindful of the broad range of literacy levels among consumers by **adopting an approach to nutrition communication that ensures health equity**. Low nutrition literacy is a common phenomenon well documented in the literature. However, research has shown that educational and promotional materials improve the outcomes of labeling initiatives. As such, **OPHA recommends that additional information on healthy eating and using nutrition information be provided to consumers as part of a public education campaign during the implementation period and beyond, rather than as a component of a contextual statement.**

In the attached appendix, we have included an evidence-based rationale and considerations underpinning our recommendations. We appreciate being able to convey the concerns and expertise of our members. In addition, we would welcome the opportunity to further discuss our recommendations, the role of Nutrition Resource Centre and ways NRC might support the implementation of this important legislation and the related regulations.

Sincerely,



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Ontario Public Health Association Response – Healthy Menu Choices Act, 2015

OPHA Recommendations

With regard to the proposed contextual statement options, OPHA supports a modified version of option one, with a similar statement for children’s standard food items. OPHA’s recommendations are as follows:

- One succinct, non-gender-specific contextual statement for adults which states: **“The average adult requires about 2000 calories per day, however, individual calorie needs vary.”**
 - One succinct, non-gender-specific contextual statement for children (4 - 12 years old) which states: **“The average child requires about 1500 calories per day; however, individual calorie needs vary.”**
 - Additional information on healthy eating and using nutrition information be provided to consumers as part of a public education campaign during implementation period and beyond, rather than as a component of a contextual statement.
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OPHA Response:

Purpose of a contextual statement:

The purpose of a contextual statement is to facilitate the comprehension and use of nutritional calorie postings by consumers to make healthier choices at the point of purchase when eating in a food service establishment. Calorie disclosure alone is meaningless to a consumer if an individual is unaware of total daily reference requirement for calories, and may not lead to the consumer making healthier choices.

When calories and the numeric value for total daily caloric needs are communicated in tandem, by design, the consumer is enabled to understand the significance of the calorie information being provided in the context of their daily diet.¹ As such, OPHA recommends that a contextual statement would include a reference value in order to increase the uptake and comprehension of nutrition information and to maximize opportunities for consumers to make healthier choices.

¹ National Archives and Records Administration, Department of Health and Human Services (2014) Federal Register. [Food Labeling; Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments; Calorie Labeling of Articles of Food in Vending Machines; Final Rule](#). Vol. 79, No. 230

As a paradigm policy, USA's federal legislation (U.S. Food and Drug Administration/FDA's final rule) explicitly articulates in its regulations not only how the contextual statement should be posted but the purpose for the statement. The federal register states:

“...the restaurant or similar retail food establishment shall disclose in a clear and conspicuous manner—(l) (aa) in a nutrient disclosure statement adjacent to the name of the standard menu item, on the menu listing the item for sale, the number of calories contained in the standard menu item, as usually prepared and offered for sale; (bb) a succinct statement concerning suggested daily caloric intake, as specified by the Secretary by regulation and posted prominently on the menu and designed to enable public to understand, in the context of total daily diet, the significance of the caloric information that is provided on the menu;...”²

Principles of contextual statement design:

Internationally, there are a number of defined principles for contextual statements that should be met to ensure that the statement is designed such that the consumer is able to understand calorie information in the context of total daily diet.¹ For example, the FDA has articulated the following principles of contextual statement design¹:

- It is succinct;
- It is written in plain language;
- The total calorie value is framed so that it is NOT representative of everyone, rather it is clear that it represents an average or estimate (i.e. the “average” adult requires XX calories... or... adults need “about” XX calories);
- It facilitates comparison of calorie postings to total calories; and
- It informs consumers that individual needs vary.¹

Proposed contextual statement option 1:

1. A contextual statement that reflects gender based variation in daily caloric needs.

For example, “*The average female adult requires XX calories per day and the average male adult requires XX calories per day, however, individual calorie needs may vary.*”

² 2010 Patient Protection and Affordable Care Act. [SEC. 4205 Nutrition Labelling of Standard Menu Items at Chain Restaurants](#)

OPHA's comments on option 1

While the proposed first option meets many of the principles for designing a contextual statement, the differentiation by sex increases the wordiness rendering the statement less succinct. This **differentiation by sex is not relevant** given the small range of variation in average daily caloric needs between sedentary male and female adults. Many other jurisdictions have not made this distinction when designing their contextual statements in menu labelling regulations; opting for one non-gender-specific statement that is simple to understand and apply when making a food choice at the point of purchase in a food service establishment. USA's federal regulations, for example, require the following contextual statement for adults: "2,000 calories a day is used for general nutrition advice, but calorie needs vary."

In line with FDA's ruling, **OPHA does not support an adult contextual statement with multiple caloric reference values or that specifies factors that contribute to individual variation in calorie needs, such as sex or physical activity**, as the phrase "individual calorie needs vary" suggests that it is not representative of everyone. The average daily caloric requirement for adults should be 2000 calories which is consistent with the percent daily value reference set by Health Canada and the FDA for use on the Nutrition Facts Table. **This 2,000 daily calorie value has been established federally, in both Canada and the United States, as the standard reference value for nutrition facts labelling, menu labelling and general nutrition advice for adults.**^{1,3}

Communication of the 2,000 calorie reference value has proven to increase awareness and uptake of calorie information. According to a study examining consumer understanding of calorie labelling, knowledge of the 2,000-calorie value for general nutrition advice was low among study participants, indicating low nutrition literacy among the public.⁴ However, when participants received messaging about the 2,000-calorie reference value, 39% of participants reported raised awareness of their calorie consumption and 52% agreed this information would be used when making food choices in the future.⁴ More to the point, the use of a single number, rather than a range or multiple numbers, simplifies the information for the consumer and, according to research exploring messages to communicate calories on the menu, a simplified contextual statement with a general guideline of 2,000 daily calories is preferred by consumers.⁵

³ Canadian Food Inspection Agency. (2016) [Information on the Nutrition Facts Table: Daily Intake](#)

⁴ Abel et al. (2015) Consumer Understanding of Calorie Labeling: A healthy Monday E-Mail and Text Message Intervention <http://www.ncbi.nlm.nih.gov/pubmed/25082982>

⁵ Darden. [Communicating Calories Consumer-Tested Messages About Calories on the](#)

OPHA recommends modifying first proposed contextual statement option for adults as follows:

“The average adult requires about 2000 calories per day, however, individual calorie needs vary.”

Additionally, OPHA recommends that the adult contextual statement NOT be applied to children’s meals. Children, under the age of 13 years, belong to an age group that has a great variation in daily caloric requirements when compared to adults. Moreover, as Public Health Ontario’s preliminary research findings have demonstrated, the use of a contextual statement, specifically for children and in tandem with calories information, enabled parents to make the healthier food choice for their child from the offerings at two well-known food service premises. A contextual statement specifically for children should be included when there is a children’s menu and/or anywhere a children’s food item is listed, depicted or displayed.

A contextual statement for children is important to provide parents with an appropriate reference value when making food choices on behalf of their children. **Average reference values for adults are inaccurate when applied to children and could lead to significant overconsumption of calories when misinterpreted by parents.** For example, in the evaluation of Philadelphia’s menu labelling legislation, one study — examining the nutritional content of food on menus in food service establishments — found that children’s meals averaged 53% of calories (based on 1400 kcal/d) for an entire day and provided over 70% of daily recommended levels of sodium (based on 1610mg/day) and saturated fat.⁶ If parents in these food service premises were to compare the caloric and sodium content of these children’s meals to the average adult’s reference value for calories and sodium, parents would interpret these meals as meeting only ~37% of their child’s average daily requirement for calories and only ~49% of their child’s average daily requirement for sodium, which may lead them to believe that the meal is `healthier` or less of a concern with regard to calories or sodium.

The misinterpretation of children’s nutrition information by parents in food service premises is highly concerning. **Misinterpretation of information by parents may not only lessen the intended impact of the policy but could potentially contribute to childhood obesity as parents may choose higher calorie meals for their child.**

When developing a contextual statement for children, the following are critical considerations for calculating the reference value for average daily caloric requirement for children.

- i. Age Range - The selected age cut-offs will affect the numeric reference value for daily caloric needs.⁷ As this statement will apply to a child’s meal, such as a ‘Happy Meal’ at McDonald’s, the age

⁶ Drexel University, School of Public Health. (2013) [Menu Labeling Evaluation: Recommendations for Restaurants](#)

⁷ Institute of Medicine of the National Academies Press (2005) [Dietary Reference Intakes for Energy, Carbohydrate, Fiber, Fat, Fatty Acids, Cholesterol, Protein and Amino Acids](#)

range should reflect the typical age range that food service establishments use for eligibility to purchase a child's meal (e.g. 4 - 12 years old). This age range for a child's contextual statement is similar to that set in USA's federal legislation.¹ As adolescents' daily caloric range is similar to adults and they would not typically consume a child's meal, this age group should not have a separate reference value or contextual statement from adults. Moreover, the inclusion of adolescents (13 -18 years of age) in energy requirement calculations for children will increase the reference value considerably and would not reflect the age range intended for a child's meal or the daily caloric needs for a child. **As such, OPHA recommends using 4 - 12 years old as the age range for calculating the reference value for a child's contextual statement.**

- ii. Activity Level - Just under 7% of Canadian children and youth achieve the guideline of 60 minutes of moderate-to-vigorous physical activity (MVPA) per day at least 6 days a week.⁸ Based on this information, the average Canadian child's estimated energy requirements (EER) can be based on sedentary or low active physical activity level. This approach consistent with USA's federal legislation, which based children's estimated calorie needs on sedentary children; opting to not focus on additional calories consumed by a sub-set of active children.¹ This is also the consistent approach used when federal health agencies, including Health Canada, FDA and USDA, have established the adult daily calorie reference amount as basis for general nutrition advice for adults and nutrition facts labelling.¹

Given the two considerations above, calorie reference values were calculated using the estimated Energy Requirements (EER) for boys and girls.⁶ For children the average calories per day required for boys (age 4 to 12) is about 1600 calories and for girls about 1480 calories – averaging to 1540 (~1500 kcal) calories per day.

OPHA recommends the following contextual statement to support the use of calorie information by parents for selecting children's food items/meals:

“The average child requires about 1500 calories per day; however, individual calorie needs vary.”

⁸ Statistics Canada <http://www.statcan.gc.ca/pub/82-625-x/2011001/article/11553-eng.htm>

Proposed contextual statement option 2:

- 2. A contextual statement that does not provide a numeric value for caloric need but provides a reference to a ministry web page with reputable sources of information for individuals to determine their daily caloric needs.**

For example: “*Individual daily caloric needs vary depending on gender, age and activity level. For more information on healthy eating visit XXX.*” (Ministry healthy eating URL to be inserted).

OPHA’s comments on option 2

The proposed second contextual statement option is not designed such that it will achieve the intended purpose of a contextual statement, which is to enable consumers to understand the significance of calories information on menus in the context of total daily diet to facilitate healthier food choices in food service establishments at the point of purchase. Moreover, this proposed option does not meet the essential principles for contextual statement design. It is not succinct, and more importantly, does not provide a reference value for total calories.

Low nutrition literacy is a common phenomenon documented in the literature.^{4,9,10,11} For example, in Abel et al.’s study exploring consumer understanding of calorie labelling, more than half of the study group could not identify the 2,000-calorie reference value for general nutrition advice.⁴ Moreover, **research has shown that educational and promotional materials improve the outcomes of labeling initiatives.**^{12,13,14} To maximize the public health impact of this policy and promote health equity, **OPHA encourages your Ministry to be mindful of the broad range of literacy levels among consumers by adopting an approach to nutrition communication that ensures health equity.**

⁹ Bleich, S. N., & Pollack, K. M. (2010). The publics’ understanding of daily caloric recommendations and their perceptions of calorie posting in chain restaurants. *BMC Public Health*, 10, 1-10. <http://bmcpublichealth.biomedcentral.com/articles/10.1186/1471-2458-10-121>

¹⁰ Elbel, B., Gyamfi, J., & Kersh, R. (2011). Child and adolescent fastfood choice and the influence of calorie labeling: A natural experiment. *International Journal of Obesity*, 35, 493-500. <http://www.ncbi.nlm.nih.gov/pubmed/21326209>

¹¹ Krukowski, R. A., Harvey-Berino, J., Kolodinsky, J., Narsana, R. T., & DeSisto, T. P. (2006). Consumers may not use or understand

calorie labeling in restaurants. *Journal of the American Dietetic Association*, 106, 917-920. https://www.researchgate.net/publication/7062778_Consumers_May_Not_Use_or_Understand_Calorie_Labeling_in_Restaurants

¹² Bergen, D., & Yeh, M. (2006). Effects of energy-content labels and motivational posters on sales of sugar-sweetened beverages: Stimulating sales of diet drinks among adults study. *Journal of the American Dietetic Association*, 106, 1866-1869. https://www.researchgate.net/publication/7062778_Consumers_May_Not_Use_or_Understand_Calorie_Labeling_in_Restaurants

¹³ French, S. A., Jeffery, R. W., Story, M., Brietlow, K. K., Baxter, J. S., Hannan, P., & Snyder, M. P. (2001). Pricing and promotion effects on low-fat vending snack purchases: The CHIPS study. *American Journal of Public Health*, 91, 112-117. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1446491/>

¹⁴ Roberto, C. A., Larsen, P. D., Agnew, H., Baik, J., & Brownell, K. D. (2010). Evaluating the impact of menu labeling on food choices and intake. *American Journal of Public Health*, 100, 312-318. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2804627/>

OPHA does not support the second option as a viable contextual statement as it would not facilitate the use and uptake of calorie information to make healthier food choices and, ultimately, would lessen intended impact of this healthy public policy. **OPHA does support the provision of further information on healthy eating and using nutrition information, however, this should be in part of the public education campaign when implementing the legislation, rather than as a component of the contextual statement.**

For examples social marketing and public/industry education and support materials that have been used in other jurisdictions while implementing menu labelling legislation, we encourage the Ministry to refer to Appendix E, *Supporting Materials*, of OPHA's consultation report for Healthy Menu Choices Act, 2015, which can be found [here](#).