



## **ORDER OF THE PROVINCIAL HEALTH OFFICER**

(Pursuant to Sections 30, 31, 32, 39 (3), 53, 54 (1) (k), 56, 57 (1), 67 (2) and 69 *Public Health Act*, S.B.C. 2008)

### ***COVID-19 VACCINATION STATUS INFORMATION AND PREVENTIVE MEASURES ORDER– August 20, 2021***

The *Public Health Act* is at:

<http://www.bclaws.ca/civix/content/complete/statreg/08028/?xsl=/templates/browse.xsl>

(excerpts enclosed)

- TO: PERSONS WHO OPERATE AND PERSONS WHO ADMIT PERSONS TO OR PROVIDE HOUSING IN LONG TERM CARE FACILITIES, PRIVATE HOSPITALS, STAND ALONE EXTENDED CARE HOSPITALS DESIGNATED UNDER THE HOSPITAL ACT, ASSISTED LIVING RESIDENCES WHICH PROVIDE REGULAR ASSISTANCE WITH ACTIVITIES OF DAILY LIVING, INCLUDING EATING, MOBILITY, DRESSING, GROOMING, BATHING OR PERSONAL HYGIENE, PROVINCIAL MENTAL HEALTH FACILITIES (HEREINAFTER REFERRED TO AS AN “OPERATOR”, AN “ADMITTER” OR A “FACILITY” OR COLLECTIVELY AS “OPERATORS”, “ADMITTERS” OR AS “FACILITIES”)**
- TO: PERSONS WHO EMPLOY STAFF WHO WORK IN FACILITIES INCLUDING OPERATORS AND CONTRACT EMPLOYERS (HEREINAFTER REFERRED TO AS AN “EMPLOYER” OR COLLECTIVELY AS “EMPLOYERS”)**
- TO: PERSONS IN CARE, PATIENTS AND RESIDENTS OF FACILITIES (HEREINAFTER REFERRED TO AS A “RESIDENT” OR COLLECTIVELY AS “RESIDENTS”)**
- TO: PERSONS WHO WORK IN FACILITIES (HEREINAFTER REFERRED TO AS A “STAFF MEMBER” OR COLLECTIVELY AS “STAFF”)**
- TO: OUTSIDE HEALTH CARE AND PERSONAL CARE PROVIDERS**
- TO: OUTSIDE SUPPORT AND PERSONAL SERVICES PROVIDERS**
- TO: OTHER OUTSIDE PROVIDERS**

**WHEREAS:**

- A. On March 17, 2020 I provided notice under section 52 (2) of the *Public Health Act* that the transmission of the infectious agent SARS-CoV-2, which has caused cases, clusters and outbreaks of a serious communicable disease known as COVID-19 among the population of the Province of British Columbia, constitutes a regional event, as defined in section 51 of the *Public Health Act*;
- B. A person infected with SARS-CoV-2 can infect other people with whom the infected person is in contact;
- C. The presence of virus variants of concern in the Province, in particular the Delta variant, has heightened the risk to the population generally and particularly to the frail elderly and persons with underlying medical concerns;
- D. Vaccines which prevent or reduce the risk of infection with SARS-CoV-2 have been and continue to be made available to residents and staff in British Columbia;
- E. Although the vaccination rate of residents and staff is generally high in many facilities, there are facilities where this is not the situation, and in all facilities there are residents and staff who are not vaccinated;
- F. Unvaccinated persons are at higher risk than vaccinated persons of being infected with SARS-CoV-2 and of transmitting SARS-CoV-2 to other persons, including vaccinated persons;
- G. Residents of facilities are typically elderly and usually have chronic health conditions or compromised immune systems which makes them particularly vulnerable to severe illness and death from COVID-19, even if they are vaccinated;
- H. Operators need to know the vaccination status of residents in order to implement infection prevention and control measures to protect residents and staff, including adjusting the schedules of non-vaccinated staff in the event that a facility is under enhanced surveillance for COVID-19, or there is an outbreak of COVID-19;
- I. Operators and contract employers need to know the vaccination status of staff in order to enforce preventive measures ordered by me;
- J. Medical health officers need to know the vaccination status of residents and staff at a facility on both an aggregate and individual level in order to be in a position to most effectively plan for a response to, and for the management of, an exposure or outbreak of COVID-19 at the facility;
- K. The presence of an unvaccinated outside provider in a facility creates a risk to residents and staff;
- L. I recognize the effects which the measures I have put and am now putting in place to protect the health of the residents and staff of facilities may have on people who are unvaccinated, and, with this in mind, have engaged and will continue to engage in a process of reconsideration of these measures, based upon the information and evidence available to me, including infection rates, sources of transmission, the presence of clusters and outbreaks, particularly in facilities, the number of people in hospital and in intensive care, deaths, the emergence of and risks posed by virus variants of concern, vaccine availability, immunization rates, the vulnerability of particular populations and reports from the rest of Canada and other jurisdictions, with a view to balancing the interests of the

public, including constitutionally protected interests, against the risk of harm to residents and staff of facilities created by the presence of unvaccinated persons in facilities;

- M. I further recognize that constitutionally-protected interests include the rights and freedoms guaranteed by the *Canadian Charter of Rights and Freedoms*, including the right to life, liberty and security of the person, along with freedom of religion and conscience, freedom of thought, belief, opinion and expression, freedom of peaceful assembly and freedom of association. These rights and freedoms, are not, however, absolute and are subject to reasonable limits, prescribed by law as can be demonstrably justified in a free and democratic society. These limits include proportionate, precautionary and evidence-based restrictions to prevent loss of life, serious illness and disruption of our health system and society. When exercising my powers to protect the health of the public from the risks posed by COVID-19, I am aware of my obligation to choose measures that limit the *Charter* rights and freedoms of British Columbians less intrusively, where doing so is consistent with public health principles;
- N. In addition, I recognize the interests protected by the *Human Rights Code* and the privacy interests of residents, staff and outside providers, and have taken all of these into consideration when exercising my powers to protect the health interests of residents and staff in facilities;
- O. I have reason to believe and do believe that
- (i) a lack of information about the vaccination status of resident and staff interferes with the suppression of SARS-CoV-2 in facilities and constitutes a health hazard under the *Public Health Act*;
  - (ii) the presence of an unvaccinated staff member or an unvaccinated outside provider in a facility constitutes a health hazard under the *Public Health Act*;
  - (iii) in order to mitigate the risk of the transmission of SARS-CoV-2 arising from the presence of unvaccinated persons in facilities, operators, medical health officers and I need information about the vaccination status of residents and staff, and employers need information about the vaccination status of staff;
  - (iv) in order to confirm the vaccination status of residents and staff in facilities, I need to collect personal information about residents from admitters and operators, and personal information about staff from employers, and to match this information with information in the Provincial Immunization Registry;
  - (v) Sections 30, 31, 32, 39, 53, 54 (1) (k) 56, and 57 (1) and (2), and 67 (2) of the *Public Health Act* authorize me to
    1. order operators and admitters to report to me personal information in a resident's record, or collected from a resident;
    2. order operators to collect and retain vaccination status information from outside providers;
    3. order employers of staff in facilities to use personal information about staff in their staff records for the purpose of reporting it to me;
    4. order employers to collect personal information from staff which is not in their staff

records for the purpose of reporting it to me;

5. order staff in facilities to provide personal information to employers for the purpose of reporting it to me;
6. collect the personal information of residents from operators and admitters, and of staff from employers, and use this information to confirm the vaccination status of residents and staff by matching it with information in the Provincial Immunization Registry;
7. disclose the vaccination status of residents to operators, so that operators may implement infection prevention and control measures in facilities;
8. disclose the vaccination status of staff in facilities to operators and employers, so that operators and employers may implement preventive measures ordered by me or a medical health officer, other infection and control measures ordered by me or a medical health officer, or as necessary;
9. disclose the vaccination status of residents and staff in facilities to medical health officers for the purpose of preventing and responding to exposures to, and outbreaks of, COVID-19 in facilities;
10. order preventive measures to protect residents and staff in facilities from the risk of transmission of SARS-CoV-2;
11. prohibit some outside providers who have not provided proof of vaccination from being in a facility;

(vi) it is in the public interest for me to exercise the powers in sections 30, 31, 32, 39, 53, 54 (1) (k) 56, and 57 (1) and (2), and 67 (2) of the *Public Health Act* **TO ORDER** as follows:

## **DEFINITIONS:**

### **In this Order**

“**admitter**” includes an operator;

“**category of staff member**” means a job description in accordance with Schedule 1;

“**close contact**” means within two metres of another person;

“**medical mask**” means a medical grade face mask that meets the ASTM International and ISO (or equivalent) performance requirements for bacterial filtration efficiency, particulate filtration efficiency, fluid resistance, pressure differential, flame spread, skin sensitivity and cytotoxic testing;

“**occasional**” means not being present on an ongoing basis in either one or different facilities;

“**operator**” means a board designated under the *Health Authorities Act*, a board of management of a stand-alone extended care hospital designated under the *Hospital Act*, a licensee under the *Hospital Act*, a licensee or a registrant under the *Community Care and Assisted Living Act*, and a director of a Provincial mental health facility which is designated under the *Mental Health Act*;

**“outside health care or personal care provider”** means a physician, nurse, physiotherapist, occupational therapist, home support worker, practicum student providing health care or personal care, faculty member of a health care or personal care educational or training facility, emergency medical assistant, patient transport worker or any other non-staff member who provides health care or personal care to a resident, but does not include a visitor;

**“outside support or personal service provider”** means a volunteer, hired companion, barber, hairdresser, nail esthetician or any other non-staff member who provides personal support or a personal service to a resident, but not include a visitor;

**“other outside provider”** means a person other than a resident, staff member, visitor, outside health care provider, outside personal care provider, outside support provider or outside personal service provider, who is in a facility, and includes an entertainer, animal therapy provider and maintenance person.

**“PCR test”** means a polymerase chain reaction test administered by a publicly funded program or a publicly paid health care provider;

**“proof of vaccination”** means providing official written documentation that a person has been vaccinated either in paper or online format;

**“regular”** means being present at least once a month on an ongoing basis in either one or different facilities;

**“unvaccinated”** means that a person does not meet the definition of “vaccinated” and includes

- a. a staff member who has not provided the information required to be provided under this Order, and;
- b. a staff member who has not been vaccinated in British Columbia, and who does not provide their vaccination history as required by this Order;

**“vaccinated”** means a person who is at least 14 days post-receipt of the full series of a World Health Organization (“WHO”) approved vaccines against infection by SARS-CoV-2, or a combination of approved WHO vaccines.

## **A. OPERATORS AND ADMITTERS**

### **MUST:**

1. Use the following information about current residents which is already in resident files, or collect the following information from current residents, and from new residents at the time of admission, and provide it with the name and address of the facility to me by September 1, 2021, at the [data entry portal](#):
  - a. the resident’s legal first and last names;
  - b. the resident’s birthdate; and

- c. the resident's personal health number.

## **B. RESIDENTS**

### **MUST:**

1. Provide the following information to the operator of the facility in which they reside, or to an admitter at the time of admission:
  - a. the resident's legal first and last names;
  - b. the resident's birthdate; and
  - c. the resident's personal health number.
2. If the resident has been vaccinated outside British Columbia, enter their vaccination history at <https://www.immunizationrecord.gov.bc.ca/>.

## **C. EMPLOYERS**

### **MUST:**

1. Provide the following information from staff records, or collect the following information from new and current staff, including staff on leave for any reason, and provide this information, with the name and address of the facility in which the staff member works, and the category to which the staff member belongs, by September 1, 2021, to me at the [data entry portal](#):
  - a. the staff members legal first and last names;
  - b. the staff member's birthdate; and
  - c. the staff member's personal health number.

## **D. STAFF**

### **MUST:**

1. Provide the following information to their employer:
  - a. their legal first and last names;
  - b. their birthdate; and
  - c. their personal health number.

2. If the staff member has been vaccinated outside British Columbia, enter their vaccination history at <https://www.immunizationrecord.gov.bc.ca/>.

#### **E. PREVENTIVE MEASURES APPLICABLE TO STAFF**

**Commencing on September 8, 2021, the following preventive measures and requirements come into effect:**

1. An unvaccinated staff member must wear a medical mask which covers their nose and mouth when in a facility, or when accompanying a resident away from a facility.
2. Despite section 1, an unvaccinated staff member may remove a medical mask when consuming food or a beverage.
3. An unvaccinated staff member must be tested for COVID-19 by means of a rapid test at a facility at every shift.
4. If a rapid test result for an unvaccinated staff member is positive, the unvaccinated staff member must
  - a. notify the operator, and employer if not the operator, of the test result,
  - b. leave the facility as soon as it is operationally safe to do so,
  - c. arrange to have a PCR test as soon as possible,
  - d. advise the operator and employer, if not the operator, of the result of the PCR test, and
  - e. not return to the facility, unless
    - i. the result of the PCR test is negative, or,
    - ii. if the PCR test result is positive,
      - A. 10 days have passed from the time of the positive rapid test result, or
      - B. the staff member's return has been approved by the medical health officer.
5. An operator and employer, if not the operator, must require an unvaccinated staff member to wear a medical mask which covers their nose and mouth when in a facility, or when accompanying a resident away from a facility.
6. An operator must make provision for the rapid testing of unvaccinated staff for COVID-19 in the facility, and the operator and employer, if not the operator, must require an unvaccinated staff member to be tested as required in section 3.

7. An operator and employer, if not the operator, must require an unvaccinated staff member who tests positive after a rapid test to leave the facility immediately it is operationally safe to do so.
8. An unvaccinated staff member who does not wear a medical mask which covers their nose and mouth, or get tested as required in section 3, must not be in a facility.
9. An unvaccinated staff member who does not provide an operator and employer, if not the operator, with a negative PCR test result after receiving a positive test result from a rapid test must not return to a facility until 10 days have passed from the time of the positive rapid test result, unless an earlier return by the staff member is approved by the medical health officer.
10. An operator and employer, if not the operator, must not permit an unvaccinated staff member who is not wearing a medical mask which covers their nose and mouth, or who does not get tested as required in section 3, to be in a facility.
11. An operator and employer, if not the operator, must not permit an unvaccinated staff member who tests positive on a rapid test to return to a facility, until the staff member provides a negative PCR test result, or 10 days have passed from the time of the positive rapid test result, unless an earlier return by the staff member is approved by the medical health officer.

## **F. OUTSIDE HEALTH CARE OR PERSONAL CARE PROVIDERS**

1. An outside health care or personal care provider who does not provide an operator with proof of vaccination, and who is in a facility, must:
  - a. wear a face covering which covers their nose and mouth,
  - b. maintain a two metre distance from every other person in the facility, except for the resident to whom they are providing care,
  - c. not be in close contact with a resident to whom they are providing care, unless it is necessary in order to provide care to the resident.
2. An outside health care or personal care provider who does not provide an operator with proof of vaccination, and who is not in compliance with section 1, must not be in a facility.
3. An operator must not permit a regular outside health care or personal care provider who does not provide proof of vaccination, and who is not in compliance with section 1, to be in a facility.
4. An operator must make and retain a record of proof of vaccination provided by an outside health care or personal care provider, and must provide information from this record, or the record itself, to me or to the medical health officer, on request.



**Commencing on October 12, 2021, the following requirements come into effect and replace the requirements above:**

5. An outside health care or personal care provider who does not provide an operator with proof of vaccination must not be in a facility.
6. An operator must request proof of vaccination from an outside health care or personal care provider who seeks access to a facility.
7. An operator must not permit an outside health care or personal care provider who has not provided proof of vaccination to be in a facility.
8. An operator must make and retain a record of proof of vaccination provided by an outside health care or personal care provider, and must provide information from this record, or the record itself, to me or to the medical health officer, on request.

#### **G. OUTSIDE SUPPORT OR PERSONAL SERVICE PROVIDERS**

1. An outside support or personal service provider who does not provide an operator with proof of vaccination must not be in a facility.
2. An operator must request proof of vaccination from a regular outside support or personal service provider who seeks access to a facility.
3. An operator must not permit an outside support or personal service provider who has not provided proof of vaccination to be in a facility.
4. An operator must make and retain a record of proof of vaccination provided by an outside support or personal service provider, and must provide information from this record, or the record itself, to me or to the medical health officer, on request.

#### **H. REGULAR OTHER OUTSIDE PROVIDERS WHO HAVE CLOSE CONTACT WITH A RESIDENT**

1. A regular other outside provider who has close contact with a resident and who does not provide an operator with proof of vaccination must not be in a facility.
2. An operator must request proof of vaccination from a regular other outside provider who has close contact with a resident and who seeks access to a facility.
3. An operator must not permit a regular other outside provider who has close contact with a resident, who has not provided proof of vaccination, to be in a facility.
4. An operator must make and retain a record of proof of vaccination provided by a regular other outside provider who has close contact with a resident, and must provide information from this record, or the record itself, to me or to the medical health officer, on request.

## **I. REGULAR OTHER OUTSIDE PROVIDERS WHO DO NOT HAVE CLOSE CONTACT WITH A RESIDENT**

1. A regular other outside provider who does not have close contact with a resident, who does not provide an operator with proof of vaccination, and who is in a facility must:
  - a. wear a face covering which covers their nose and mouth,
  - b. maintain a two metre distance from every other person in the facility.
2. A regular other outside provider who does not have close contact with a resident, who does not provide an operator with proof of vaccination, and who is not in compliance with section 1 must not be in a facility.
3. An operator must not permit a regular other outside provider who does have close contact with a resident, who does not provide proof of vaccination, and who is not in compliance with section 1 to be in a facility.
4. An operator must make and retain a record of proof of vaccination provided by a regular other outside provider who has close contact with a resident, and must provide information from this record, or the record itself, to me or to the medical health officer, on request.

**Commencing on October 12, 2021, the following requirements come into effect and replace the requirements above:**

5. A regular other outside provider who does not have close contact with a resident, and who does not provide an operator with proof of vaccination, must not be in a facility.
6. An operator must request proof of vaccination from a regular other outside provider who does not have close contact with a resident, and who seeks access to a facility.
7. An operator must not permit a regular other outside provider who does not have close contact with a resident, and who has not provided proof of vaccination, to be in a facility.
8. An operator must make and retain a record of proof of vaccination provided by a regular other outside provider who does not have close contact with a resident, and must provide information from this record, or the record itself, to me or to the medical health officer, on request.

## **J. OCCASIONAL OTHER OUTSIDE PROVIDERS WHO HAVE CLOSE CONTACT WITH A RESIDENT**

1. An occasional other outside provider who has close contact with a resident, who does not provide an operator with proof of vaccination and who is in a facility must:
  - a. wear a face covering which covers their nose and mouth,
  - b. maintain a two metre distance from every person in the facility, except a resident with whom it is necessary that they be in close contact,

- c. not be in close contact with a resident unless this is necessary.
- 2. An occasional other outside provider who has close contact with a resident, who does not provide an operator with proof of vaccination and who is not in compliance with section 1, must not be in a facility.
- 3. An operator must not permit an occasional other outside provider who has close contact with a resident, who does not provide an operator with proof of vaccination and who is not in compliance with section 1, to be in a facility.
- 4. An operator must make and retain a record of proof of vaccination provided by an occasional other outside provider who has close contact with a resident, and must provide information from this record, or the record itself, to me or to the medical health officer, on request.

**Commencing on October 12, 2021, the following requirements come into effect and replace the requirements above:**

- 5. An occasional other outside provider who has close contact with a resident, and who does not provide an operator with proof of vaccination, must not be in a facility.
- 6. An operator must request proof of vaccination from an occasional other outside provider who has close contact with a resident, and who seeks access to a facility.
- 7. An operator must not permit an occasional other outside provider who has close contact with a resident, and who has not provided proof of vaccination, to be in a facility.
- 8. An operator must make and retain a record of proof of vaccination provided by an occasional other outside provider who has close contact with a resident, and must provide information from this record, or the record itself, to me or to the medical health officer, on request.

**K. OCCASIONAL OTHER OUTSIDE PROVIDERS WHO DO NOT HAVE CLOSE CONTACT WITH A RESIDENT**

- 1. An occasional other outside provider who does not have close contact with a resident, who does not provide an operator with proof of vaccination and who is in a facility must:
  - a. wear a face covering which covers their nose and mouth,
  - b. maintain a two metre distance from every other person in the facility.
- 2. An occasional other outside provider who does not have close contact with a resident, who does not provide an operator with proof of vaccination and who is not in compliance with section 1, must not be in a facility.

3. An operator must not permit an occasional other outside provider who does not have close contact with a resident, who does not provide an operator with proof of vaccination and who is not in compliance with section 1, to be in a facility.
4. An operator must make and retain a record of proof of vaccination provided by an occasional other outside provider who does not have close contact with a resident, and must provide information from this record, or the record itself, to me or to the medical health officer, on request.

**L. SPECIFICATION OF THE MEDICAL HEALTH OFFICER TO RECEIVE A NOTICE DELIVERED UNDER SECTION 56 (2) OF THE *PUBLIC HEALTH ACT* AND TO ISSUE AN INSTRUCTION UNDER SECTION 56 (3)**

Under the authority vested in me by section 56 of the *Public Health Act*, I

1. specify the medical health officer for the geographic region of the Province in which a facility is located to receive a notice delivered under section 56 (2) of the *Public Health Act* with respect to preventive measures which apply to a person with respect to the facility; and
2. designate the medical health officer to issue an instruction to the person who delivered the notice.

**M. DELEGATION OF AUTHORITY TO THE MEDICAL HEALTH OFFICER TO CONSIDER AND MAKE A DECISION WITH RESPECT TO A REQUEST FOR RECONSIDERATION MADE UNDER SECTION 43 WITH RESPECT TO THIS ORDER**

Under the authority vested in me by section 69 of the *Public Health Act*, I delegate my authority under section 43 of the *Public Health Act* to the medical health officer for the geographic region of the Province in which a facility is located to receive, consider, and make a decision with respect to a request for reconsideration related to the facility.

**N. MEDICAL HEALTH OFFICER ORDERS**

Recognizing that the risk differs in different regions of the province, and that medical health officers are in the best position to assess local circumstances with respect to the risk of the transmission of communicable diseases in facilities, **I FURTHER ORDER:**

1. A medical health officer may make an order subsequent to this Order for the purpose of imposing more restrictive limitations or conditions with respect to facilities in the whole or part of the geographic area of the province for which the medical health officer is designated, or with respect to a particular facility.
2. While it is in force, a provision in an order made by a medical health officer subsequent to this Order, which imposes more restrictive limitations or requirements than this Order with respect to one or more facilities, or one or more classes of facilities, applies in the whole or part of the geographic area of the province for which the medical health officer is designated, according to the terms of the order, despite the provisions of this Order.

This Order does not have an expiration date.

You are required under section 42 of the *Public Health Act* to comply with this Order.

Failure to comply with this Order is an offence under section 99 (1) (k) of the *Public Health Act*.

Pursuant to section 56 (2) of the *Public Health Act*, a person required to take preventive measures may deliver a written notice to the medical health officer from a medical practitioner stating that the health of the person who must comply would be seriously jeopardized if the person did comply, and a copy of each portion of the person's health record relevant to the statement, signed and dated by the medical practitioner.

A person to whom an instruction is issued by the medical health officer under section 56 (3) of the *Public Health Act* is required to comply with the instruction.

Pursuant to section 43 of the *Public Health Act*, you may request a medical health officer to reconsider this Order if you:

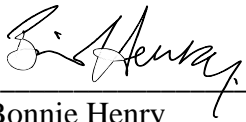
- (a) have additional relevant information that was not reasonably available to me or another health officer when the order was issued or varied,
- (b) have a proposal that was not presented to me or another health officer when the order was issued or varied but, if implemented, would
  - (i) meet the objective of the order, and
  - (ii) be suitable as the basis of a written agreement under section 38 [*may make written agreements*], or
- (c) require more time to comply with the order.

If you fail to comply with this Order, I have the authority to take enforcement action against you under Part 4, Division 6 of the *Public Health Act*.

You may contact me at:

Dr. Bonnie Henry, Provincial Health Officer  
4th Floor, 1515 Blanshard Street  
PO Box 9648 STN PROV GOVT, Victoria BC V8W 9P4  
Fax: (250) 952-1570  
Email: [ProvHlthOffice@gov.bc.ca](mailto:ProvHlthOffice@gov.bc.ca)

DATED THIS: 20<sup>th</sup> day of August 2021

SIGNED:   
\_\_\_\_\_  
Bonnie Henry  
MD, MPH, FRCPC  
Provincial Health Officer

DELIVERY BY: Posting to the BC Government and the BC Centre for Disease Control websites.

Enclosure: Excerpts of the *Public Health Act*.

**Schedule 1****Staff Categories for Reporting**

<b>Person Type</b>	<b>Sub-Type</b>	<b>Staff Type</b>
Staff	Direct Care	RN
		LPN
		HCA
		Other
	Administrative	NA
	Support Services	Food Service
		Housekeeping
		Maintenance
		Other

**ENCLOSURE****Excerpts of the Public Health Act [SBC 2008] c. 28*****Definitions******1 In this Act:***

**"health hazard"** means

- (a) a condition, a thing or an activity that
  - (i) endangers, or is likely to endanger, public health, or
  - (ii) interferes, or is likely to interfere, with the suppression of infectious agents or hazardous agents, or
- (b) a prescribed condition, thing or activity, including a prescribed condition, thing or activity that
  - (i) is associated with injury or illness, or
  - (ii) fails to meet a prescribed standard in relation to health, injury or illness;

**When orders respecting health hazards and contraventions may be made**

**30** (1) A health officer may issue an order under this Division only if the health officer reasonably believes that

- (a) a health hazard exists,
- (b) a condition, a thing or an activity presents a significant risk of causing a health hazard,
- (c) a person has contravened a provision of the Act or a regulation made under it, or
- (d) a person has contravened a term or condition of a licence or permit held by the person under this Act.

(2) For greater certainty, subsection (1) (a) to (c) applies even if the person subject to the order is complying with all terms and conditions of a licence, a permit, an approval or another authorization issued under this or any other enactment.

**General powers respecting health hazards and contraventions**

**31** (1) If the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, a health officer may order a person to do anything that the health officer reasonably believes is necessary for any of the following purposes:

- (a) to determine whether a health hazard exists;
- (b) to prevent or stop a health hazard, or mitigate the harm or prevent further harm from a health hazard;
- (c) to bring the person into compliance with the Act or a regulation made under it;
- (d) to bring the person into compliance with a term or condition of a licence or permit held by that person under this Act.

(2) A health officer may issue an order under subsection (1) to any of the following persons:



- (a) a person whose action or omission
  - (i) is causing or has caused a health hazard, or
  - (ii) is not in compliance with the Act or a regulation made under it, or a term or condition of the person's licence or permit;
- (b) a person who has custody or control of a thing, or control of a condition, that
  - (i) is a health hazard or is causing or has caused a health hazard, or
  - (ii) is not in compliance with the Act or a regulation made under it, or a term or condition of the person's licence or permit;
- (c) the owner or occupier of a place where
  - (i) a health hazard is located, or
  - (ii) an activity is occurring that is not in compliance with the Act or a regulation made under it, or a term or condition of the licence or permit of the person doing the activity.

### **Specific powers respecting health hazards and contraventions**

- 32** (1) An order may be made under this section only
- (a) if the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, and
  - (b) for the purposes set out in section 31 (1) [*general powers respecting health hazards and contraventions*].
- (2) Without limiting section 31, a health officer may order a person to do one or more of the following:
- (a) have a thing examined, disinfected, decontaminated, altered or destroyed, including
    - (i) by a specified person, or under the supervision or instructions of a specified person,
    - (ii) moving the thing to a specified place, and
    - (iii) taking samples of the thing, or permitting samples of the thing to be taken;
  - (b) in respect of a place,
    - (i) leave the place,
    - (ii) not enter the place,
    - (iii) do specific work, including removing or altering things found in the place, and altering or locking the place to restrict or prevent entry to the place,
    - (iv) neither deal with a thing in or on the place nor dispose of a thing from the place, or deal with or dispose of the thing only in accordance with a specified procedure, and
    - (v) if the person has control of the place, assist in evacuating the place or examining persons found in the place, or taking preventive measures in respect of the place or persons found in the place;
  - (c) stop operating, or not operate, a thing;
  - (d) keep a thing in a specified place or in accordance with a specified procedure;
  - (e) prevent persons from accessing a thing;

- (f) not dispose of, alter or destroy a thing, or dispose of, alter or destroy a thing only in accordance with a specified procedure;
- (g) provide to the health officer or a specified person information, records, samples or other matters relevant to a thing's possible infection with an infectious agent or contamination with a hazardous agent, including information respecting persons who may have been exposed to an infectious agent or hazardous agent by the thing;
- (h) wear a type of clothing or personal protective equipment, or change, remove or alter clothing or personal protective equipment, to protect the health and safety of persons;
- (i) use a type of equipment or implement a process, or remove equipment or alter equipment or processes, to protect the health and safety of persons;
- (j) provide evidence of complying with the order, including
  - (i) getting a certificate of compliance from a medical practitioner, nurse practitioner or specified person, and
  - (ii) providing to a health officer any relevant record;
- (k) take a prescribed action.

(3) If a health officer orders a thing to be destroyed, the health officer must give the person having custody or control of the thing reasonable time to request reconsideration and review of the order under sections 43 and 44 unless

- (a) the person consents in writing to the destruction of the thing, or
- (b) Part 5 [*Emergency Powers*] applies.

### **Contents of orders**

**39** (3) An order may be made in respect of a class of persons.

(6) A health officer who makes an order may vary the order

- (a) at any time on the health officer's own initiative, or
- (b) on the request of a person affected by the order, following a reconsideration under section 43 [*reconsideration of orders*].

### **Duty to comply with orders**

**42** (1) A person named or described in an order made under this Part must comply with the order.

(2) Subsection (1) applies regardless of whether the person leaves the geographic area for which the health officer who made the order is designated.

### **Reconsideration of orders**

**43** (1) A person affected by an order, or the variance of an order, may request the health officer who issued the order or made the variance to reconsider the order or variance if the person

- (a) has additional relevant information that was not reasonably available to the health officer when the order was issued or varied,
  - (b) has a proposal that was not presented to the health officer when the order was issued or varied but, if implemented, would
    - (i) meet the objective of the order, and
    - (ii) be suitable as the basis of a written agreement under section 38 [*may make written agreements*], or
  - (c) requires more time to comply with the order.
- (2) A request for reconsideration must be made in the form required by the health officer.
- (3) After considering a request for reconsideration, a health officer may do one or more of the following:
- (a) reject the request on the basis that the information submitted in support of the request
    - (i) is not relevant, or
    - (ii) was reasonably available at the time the order was issued;
  - (b) delay the date the order is to take effect or suspend the order, if satisfied that doing so would not be detrimental to public health;
  - (c) confirm, rescind or vary the order.
- (4) A health officer must provide written reasons for a decision to reject the request under subsection (3) (a) or to confirm or vary the order under subsection (3) (c).
- (5) Following a decision made under subsection (3) (a) or (c), no further request for reconsideration may be made.
- (6) An order is not suspended during the period of reconsideration unless the health officer agrees, in writing, to suspend it.
- (7) For the purposes of this section,
- (a) if an order is made that affects a class of persons, a request for reconsideration may be made by one person on behalf of the class, and
  - (b) if multiple orders are made that affect a class of persons, or address related matters or issues, a health officer may reconsider the orders separately or together.
- (8) If a health officer is unable or unavailable to reconsider an order he or she made, a similarly designated health officer may act under this section in respect of the order as if the similarly designated health officer were reconsidering an order that he or she made.

### **Part applies despite other enactments**

53 During an emergency, this Part applies despite any provision of this or any other enactment, including

- (a) in respect of the collection, use or disclosure of personal information, the *Freedom of Information and Protection of Privacy Act* and the *Personal Information Protection Act*, and

(b) a provision that would impose a specific duty, limit or procedural requirement in respect of a specific person or thing,

to the extent there is any inconsistency or conflict with the provision or other enactment.

### **Emergency preventive measures**

**56** (1) The provincial health officer or a medical health officer may, in an emergency, order a person to take preventive measures within the meaning of section 16 [*preventive measures*], including ordering a person to take preventive measures that the person could otherwise avoid by making an objection under that section.

(2) If the provincial health officer or a medical health officer makes an order under this section, a person to whom the order applies must comply with the order unless the person delivers to a person specified by the provincial health officer or medical health officer, in person or by registered mail,

(a) a written notice from a medical practitioner stating that the health of the person who must comply would be seriously jeopardized if the person did comply, and

(b) a copy of each portion of that person's health record relevant to the statement in paragraph (a), signed and dated by the medical practitioner.

(3) If a person delivers a notice under subsection (2), the person must comply with an instruction of the provincial health officer or a medical health officer, or a person designated by either of them, for the purposes of preventing infection with, or transmission of, an infectious agent or a hazardous agent.

(4) The provincial health officer, or a medical health officer with the approval of the provincial health officer, may apply to a judge of the Provincial Court for an order to detain a person who

(a) does not comply with an order under this section or an instruction under subsection (3), or

(b) delivers a notice under subsection (2) but in respect of whom an instruction under subsection (3) would not be reasonably practical in the circumstances.

(5) For the purposes of subsection (4) of this section,

(a) the application must be made in the manner set out in the regulations,

(b) a judge of the Provincial Court, on receiving the application, may make an order described in section 49 (3) [*application to court if danger to public health*] if satisfied by evidence on oath or affirmation that the circumstances described in subsection (4) of this section exist, and

(c) section 49 (4) to (7) applies.

### **Emergency powers respecting reporting**

**57** (1) The provincial health officer may, in an emergency, order that a specified infectious agent, hazardous agent, health hazard or other matter be reported under this section.

(2) If an order is made under this section, a person required by the order to make a report must promptly report, to the extent of his or her knowledge, to a medical health officer the information required by the order.

(3) If a person is required to make a report under this Act, the provincial health officer may in an emergency order the person exempt from the requirement, or vary the requirement.

### **Provincial health officer may act as health officer**

**67** (1) The provincial health officer may exercise a power or perform a duty of a medical health officer under this or any other enactment, if the provincial health officer

(a) reasonably believes that it is in the public interest to do so because

(i) the matter extends beyond the authority of one or more medical health officers and coordinated action is needed, or

(ii) the actions of a medical health officer have not been adequate or appropriate in the circumstances, and

(b) provides notice to each medical health officer who would otherwise have authority to act.

(2) During an emergency under Part 5 [*Emergency Powers*], the provincial health officer may exercise a power or perform a duty of a health officer under this or any other enactment, and, for this purpose, subsection (1) does not apply.

(3) If the provincial health officer acts under subsection (1), the provincial health officer may order a health authority to assist the provincial health officer, and the health authority must ensure that its employees and appointees comply with the order.

(4) For the purposes of exercising a power or performing a duty under this or any other enactment, the provincial health officer may exercise a power of inspection that a health officer may exercise under this Act, and, for this purpose, Division 1 [*Inspections*] of Part 4 applies.

### **Delegation by provincial health officer**

**69** The provincial health officer may in writing delegate to a person or class of persons any of the provincial health officer's powers or duties under this Act, except the following:

(a) a power to further delegate the power or duty;

(b) a duty to make a report under this Act.

### **Offences**

**99** (1) A person who contravenes any of the following provisions commits an offence:

...

(k) section 42 [*failure to comply with an order of a health officer*], except in respect of an order made under section 29 (2) (e) to (g) [*orders respecting examinations, diagnostic examinations or preventive measures*];