



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

(Pursuant to Sections 30, 31, 32, 39 (6), 54, 56, 57, 67 (2) and 69 *Public Health Act*, S.B.C. 2008)

### ***HOSPITAL AND COMMUNITY (HEALTH CARE AND OTHER SERVICES) COVID-19 VACCINATION STATUS INFORMATION AND PREVENTIVE MEASURES – NOVEMBER 18, 2021***

The *Public Health Act* is at:

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

(excerpts enclosed)

- TO: THE REGIONAL HEALTH BOARDS, THE PROVINCIAL HEALTH SERVICES AUTHORITY, BRITISH COLUMBIA EMERGENCY HEALTH SERVICES, THE PROVIDENCE HEALTH CARE SOCIETY, THE MINISTER OF HEALTH, THE MINISTER OF MENTAL HEALTH AND ADDICTIONS, MANAGEMENT OF PROVINCIAL MENTAL HEALTH FACILITIES, COMMUNITY LIVING BRITISH COLUMBIA AND BOARDS OF MANAGEMENT OF HOSPITALS, EXCEPT STAND ALONE EXTENDED CARE HOSPITALS, DESIGNATED UNDER THE HOSPITAL ACT**
- TO: A PERSON EMPLOYED BY A REGIONAL HEALTH BOARD, THE PROVINCIAL HEALTH SERVICES AUTHORITY, BRITISH COLUMBIA EMERGENCY HEALTH SERVICES, THE PROVIDENCE HEALTH CARE SOCIETY, A PROVINCIAL MENTAL HEALTH FACILITY, OR COMMUNITY LIVING BRITISH COLUMBIA**
- TO: A PERSON CONTRACTED OR FUNDED TO PROVIDE, OR TO PROVIDE STAFF TO PROVIDE, CARE OR SERVICES IN A HOSPITAL OR THE COMMUNITY BY A REGIONAL HEALTH BOARD, THE PROVINCIAL HEALTH SERVICES AUTHORITY, BRITISH COLUMBIA EMERGENCY HEALTH SERVICES, THE PROVIDENCE HEALTH CARE SOCIETY, COMMUNITY LIVING BRITISH COLUMBIA, MINISTRY OF HEALTH OR MINISTRY OF MENTAL HEALTH AND ADDICTIONS**
- TO: A PERSON EMPLOYED, CONTRACTED OR FUNDED TO PROVIDE, OR TO PROVIDE STAFF TO PROVIDE, CARE OR SERVICES IN A HOSPITAL OR IN THE COMMUNITY BY A PERSON CONTRACTED OR FUNDED TO PROVIDE STAFF TO PROVIDE CARE OR SERVICES IN A HOSPITAL OR IN THE COMMUNITY BY A REGIONAL HEALTH BOARD, THE PROVINCIAL HEALTH SERVICES AUTHORITY, BRITISH COLUMBIA EMERGENCY HEALTH SERVICES, THE PROVIDENCE HEALTH CARE SOCIETY, COMMUNITY LIVING BRITISH**

**COLUMBIA, MINISTRY OF HEALTH OR MINISTRY OF MENTAL HEALTH AND ADDICTIONS**

**TO: AN INDIVIDUAL EMPLOYED, CONTRACTED OR FUNDED TO PROVIDE CARE OR SERVICES IN A HOSPITAL OR IN THE COMMUNITY BY A PERSON CONTRACTED OR FUNDED TO PROVIDE STAFF TO PROVIDE CARE OR SERVICES IN A HOSPITAL OR IN THE COMMUNITY BY A PERSON CONTRACTED OR FUNDEDE TO PROVIDE STAFF TO PROVIDE CARE OR SERVICES IN A HOSPITAL OF IN THE COMMUNITY BY A REGIONAL HEALTH BOARD, THE PROVINCIAL HEALTH SERVICES AUTHORITY, BRITISH COLUMBIA EMERGENCY HEALTH SERVICES, THE PROVIDENCE HEALTH CARE SOCIETY, COMMUNITY LIVING BRITISH COLUMBIA, MINISTRY OF HEALTH OR MINISTRY OF MENTAL HEALTH AND ADDICTIONS**

**TO: HEALTH PROFESSIONALS**

**TO: POST-SECONDARY INSTITUTIONS**

**TO: STAFF, FACULTY AND RESEARCHERS OF POST-SECONDARY INSTITUTIONS**

**TO: STUDENTS OF POST-SECONDARY INSTITUTIONS**

**TO: TRAINEES AND FELLOWS**

**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. Vaccination is safe, highly effective, and the single most important preventive measure a person can take to protect themselves, their families, and other persons with whom they come into contact from infection, severe illness and possible death from COVID-19. In particular:
  - (a) the vaccines available in British Columbia are highly effective, providing strong protection across all eligible age groups against infection and especially against severe illness;
  - (b) most British Columbians have strong and durable protection from SARS-CoV-2 resulting from the extended interval between dose one and dose two that is being utilized in British Columbia;
  - (c) a full course of vaccine provides more effective and durable protection against infection and severe illness than natural immunity from prior COVID-19 infection alone, or natural immunity in combination with a single-dose of vaccine; and

- (d) a full course of vaccine provides highly effective and durable protection from infection and in particular from severe illness resulting in hospitalization or death from the Delta variant with COVID-19, with illness being mostly milder in vaccinated people who become infected than in unvaccinated people.
- D. Vaccines, which prevent or reduce the risk of infection with SARS-CoV-2, have been and continue to be readily available in British Columbia and while substantial progress has been made in vaccinating the population of British Columbia 12 years of age and older, a portion of the public remains unvaccinated and there are communities where vaccination rates are low;
- E. Communities with low vaccination rates have experienced rapid spread of SARS-CoV-2, causing serious illness and increases in hospitalizations and intensive care admissions, primarily in unvaccinated people. By contrast, communities with high vaccination rates have seen corresponding lower transmission, case rates;
- F. Unvaccinated people are at a significantly greater risk than vaccinated people of being infected with SARS-CoV-2, and those who are infected, experience significantly higher rates of hospitalization, ICU-level care and invasive mechanical ventilation, complications and death when compared with vaccinated people. Unvaccinated people are also at higher risk of transmitting SARS-CoV-2 to other people, including vaccinated people;
- G. People who are vaccinated can be infected with SARS-CoV-2, but experience less severity of illness than unvaccinated people, especially in younger populations. Vaccinated persons who contract COVID-19 are also generally contagious for shorter periods of time, are less symptomatic, and are less likely to transmit SARS-CoV-2, when compared to unvaccinated infected persons;
- H. This situation has been exacerbated by the highly transmissible Delta variant of SARS-CoV-2, which is now the dominant variant of SARS-CoV-2 circulating in British Columbia, causing significantly more rapid transmission and increased severity of illness, particularly in younger unvaccinated people. Absent vaccination, British Columbia would be in a far more challenging situation than the fragile balance our current immunization rates have provided, but the transmissibility of the Delta variant means that higher vaccination rates than previously expected are now required to maintain this balance, control transmission, reduce case numbers and serious outcomes, and reduce the burden on the healthcare system, particularly hospital and intensive care admissions;
- I. Preserving the ability of the public health and health care systems to protect and care for the health needs of the population, including providing care for health needs other than COVID-19, is critical. High incidence of transmission and illness in one or more regions have spill-over effects on health care delivery across the Province, including in critical care and surgical services. Our public health and health care systems are currently experiencing severe stress, and are stretched beyond capacity in their efforts to prevent and respond to illness resulting from the transmission of COVID-19 in the population, primarily among unvaccinated people;
- J. Both the public health and the health care systems are using disproportionate amounts of their resources in their efforts to prevent and respond to the transmission of SARS-CoV2, and to provide care for those who become ill with COVID-19, primarily unvaccinated people who comprise the majority of hospitalizations and ICU admissions;

- K. While people who have contracted SARS-CoV-2 may develop some natural immunity for a period of time following infection, the strength and duration of that immunity varies depending on a multitude of factors, including severity of infection. The risk of reinfection and hospitalization is significantly higher in people who remained unvaccinated after contracting SARS-CoV-2 than in those who were vaccinated post-infection. Vaccination, even after infection, remains an important measure to protect against reinfection. It does so by providing a stronger immune response that is known to be effective for a longer period of time and against a wider variety of strains of SARS-CoV-2 that are currently circulation in British Columbia, including the Delta variant;
- L. Unvaccinated people in close contact with other people can promote the transmission of SARS-CoV-2 and increase the number of people who develop COVID-19 and become seriously ill;
- M. Persons receiving health care, personal care or home support in hospital or community settings often are of an advanced age, have chronic health conditions or compromised immune systems which make them particularly vulnerable to severe illness and death from COVID-19, even if they are vaccinated;
- N. Vaccination is the single most important preventive measure health professionals, visitors to hospitals, providers of care or services in hospital or community settings, and the staff or contractors of an organization which provides care or services in hospital or community settings can take to protect patients, residents and clients, and the health care and personal care workforce, from infection, severe illness and possible death from COVID-19;
- O. There are clear, objective criteria for determining whether a person has a medical deferral to a COVID-19 vaccination, and very few people fall into this category;
- P. There are difficulties and risks in accommodating persons who are unvaccinated, since no other measures are nearly as effective as vaccination in reducing the risk of contracting or transmitting SARS-Co-2, and the likelihood of severe illness and death;
- Q. I have considered and continue to consider based on the currently available generally accepted scientific evidence whether other measures, such as natural immunity, PCR testing or rapid antigen testing, are as effective as vaccination in reducing the risk of transmission SARS-Co-2 and or the severity of illness if infected;
- R. Routine COVID-19 testing of asymptomatic people is not recommended in BC and PCR testing capacity is reserved for people who may be ill with COVID-19 to promote public health case identification, follow up and control measures. Asymptomatic testing increases the likelihood of generating false positive tests, which can unnecessarily consume public health resources in following up false positive tests. Similarly, rapid testing, which is followed up with confirmatory PCR testing for positive tests, is reserved for specific settings in which additional layers of protection are needed to protect people at higher risk of serious outcomes of COVID-19, such as in long-term care and assisted living facilities, or in remote communities where obtaining results of PCR testing may be delayed.
- S. The public needs to have confidence that when they receive health care from a health professional they are not putting their health at risk;
- T. Preserving the ability of the public health and health care systems to protect and care for the health

needs of the population is critical;

- U. The retention of public confidence in the safety and integrity of the public health and health care systems is critical;
- V. Employers need to know the vaccination status of staff in order to enforce preventive measures ordered by me or the medical health officer;
- W. Medical health officers need to know the vaccination status of staff in order to most effectively respond to exposures to or outbreaks of COVID-19 among patients, residents, clients or staff;
- X. I recognize the effect which the measures I am putting in place to protect the health of patients, residents and clients and other staff in hospital and community settings 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 people affected by the Order, including constitutionally protected interests, against the risk of harm created by unvaccinated persons providing health or personal care or other support or services in hospital or community settings;
- Y. 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. 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 death, 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;
- Z. In addition, I recognize the interests protected by the *Human Rights Code* and have taken these into consideration when exercising my powers to protect the health interests of patients, residents and clients and persons who provide health care, personal care, home support or other services in hospital or community settings;
- AA. I am also mindful that the volume of requests for reconsideration of my Orders, and the time and expertise which considering them entails, has become beyond my capacity and that of my office and team of medical health officers to manage, and is using resources which are better directed at assessing and responding to the protection of the public as a whole;
- BB. This Order does not apply to a place to which the *Residential Care Vaccination Status COVID-19 Information Order* and the *Residential Care COVID-19 Preventive Measures Order* apply, except with respect to the deployment of the staff or students of a post-secondary institution to a residential care facility, and the variance of the reconsideration provisions in the *Residential Care COVID-19 Preventive Measures Order*;

CC. For further certainty, this Order does not apply to the First Nations Health Authority, First Nations Health Service Organizations, Treaty First Nations, the Nisga'a Nation, the Métis Nation of BC, or to health care, personal care, home support or other services provided or funded by one of those bodies;

I have reason to believe and do believe that

- (a) a lack of information on the part of employers and operators about the vaccination status of staff interferes with the suppression of SARS-CoV-2 in hospital and community settings, and constitutes a health hazard under the *Public Health Act*;
- (b) an unvaccinated person who provides care or services in a hospital or community setting puts patients, residents, clients, staff and other persons who provide care or services at risk of infection with SARS-CoV-2, and constitutes a health hazard under the *Public Health Act*;
- (c) an unvaccinated staff member of an organization which provides care or services in a hospital or community setting puts other staff who provide care or services, and patients, residents and clients in hospital and community settings, at risk of infection with SARS-CoV-2, and constitutes a health hazard under the *Public Health Act*;
- (d) in order to mitigate the risk of the transmission of SARS-CoV-2 created by an unvaccinated person as described above, it is necessary for me to exercise the powers in sections 30, 31, 32, 39, 53, 54, 56, 57, 67 (2) and 69 of the *Public Health Act* **TO ORDER** as follows:

**THIS ORDER REPEALS AND REPLACES THE *HOSPITAL AND COMMUNITY (HEALTH CARE AND OTHER SERVICES) COVID-19 VACCINATION STATUS INFORMATION AND PREVENTIVE MEASURES ORDERS MADE ON NOVEMBER 9, 2021***

**AND CONFIRMS THE VARIATION OF THE RECONSIDERATION PROVISIONS IN *THE HOSPITAL AND COMMUNITY (HEALTH CARE AND OTHER SERVICES) COVID-19 VACCINATION STATUS INFORMATION AND PREVENTIVE MEASURES ORDER OF OCTOBER 25, THE RESIDENTIAL CARE COVID-19 PREVENTIVE MEASURES ORDERS OF SEPTEMBER 2, OCTOBER 4, 8 AND 21, 2021, AND THE COVID-19 VACCINATION STATUS INFORMATION AND PREVENTIVE ORDERS OF AUGUST 20 AND 31, SEPTEMBER 9 AND 27, 2021.***

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**DEFINITIONS:****In this Order**

**“British Columbia Emergency Health Services”** means the corporation continued under the *Emergency Health Services Act*;

**“care”** means health care, personal care or community care;

**“care location”** means

- (a) a hospital,
- (b) hospital facilities,
- (c) a research facility or research centre associated with a hospital or other care location;
- (d) a Provincial mental health facility,
- (e) a BC Cancer Agency facility
- (f) a residential care facility licensed under the *Community Care and Assisted Living Act* to provide one of the following types of care prescribed or described in section 2 of the Residential Care Regulation:
  - (i) Child and Youth Residential;
  - (ii) Hospice;
  - (iii) Mental Health;
  - (iv) Substance Use;
  - (v) Community Living; or,
  - (vi) Acquired Injury,
- (g) an assisted living residence registered under the *Community Care and Assisted Living Act* in one of the following classes prescribed in section 3 of the Assisted Living Regulation:
  - (i) Mental Health,
  - (ii) Persons with Disabilities, for adults receiving assisted living services due primarily to a disability; or
  - (iii) Supportive Recovery,
- (h) a home operated by or under contract with Community Living British Columbia but not including the home of a home share provider,
- (i) a public health office,
- (j) a clinic operated by a regional health authority, the Provincial Health Services Authority, British Columbia Emergency Health Services or Providence Health Care Society to provide health care,
- (k) an urgent and primary care centre,
- (l) a child development centre,
- (m) a community health centre,
- (n) an adult day care,
- (o) a laboratory facility,
- (p) a diagnostic facility,
- (q) a vehicle from which health care is provided,
- (r) a private residence in which a patient or client resides,
- (s) a school,

- (t) a post-secondary student health services facility,
- (u) a supervised consumption site,
- (v) an overdose prevention site,
- (w) a correctional facility,
- (x) another other place where care is provided.

but does not include a place excluded from the application of this Order by posting on the PHO's website;

**“community care”** includes home nursing, nursing support for school students, health services for post-secondary students, home support, mental health, drug and alcohol care, continuing care, crisis support, life skills coaching, social skills coaching, counselling, day care for adults, health care provided in an office or clinic, care provided by a child development centre, support provided to a client of Community Living British Columbia, supervised consumption, overdose prevention and public health;

**“Community Living British Columbia”** means the authority established under the *Community Living Authority Act*;

**“exemption”** means a variance issued to a person under the *Public Health Act* on the basis of a medical deferral to a vaccination, which permits a person to work, despite not being vaccinated;

**“health care”** means anything that is done for a therapeutic, preventive, palliative, rehabilitative, diagnostic, cosmetic or other purpose related to health;

**“health professional”** has the same meaning as in the *Public Health Act*;

**“home share provider”** means an individual who provides accommodation and care to a client of Community Living British Columbia in the individual's private residence;

**“hospital”** means an institution designated by the minister under the *Hospital Act* to provide acute care, extended care, convalescent care or rehabilitation care, but does not include a stand-alone extended care hospital;

**“in a care location”** includes any place where a patient, resident or client of a care location is being provided with care or services by a staff member or student;

**“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;

**“operator”** means the person responsible for managing a care location;

**“peer worker”** means a person with lived experience who provides support or guidance to a patient, resident or client receiving care or services in a care location, whether or not the person is paid to do so, or receives an honorarium or other benefit;

**“personal care”** means assistance with the activities of daily living, including eating, moving about, dressing and grooming, bathing and other forms of persons hygiene, and assistance with managing medication;

**“photo identification”** means one of the following:

- (a) a photo BC Services Card within the meaning of the Identification Card regulation;
- (b) a temporary or permanent driver’s licence, issued by a government of a province of Canada;
- (c) a certificate of Indian Status;
- (d) a Métis Nation British Columbia citizenship and identification card;
- (e) a passport attesting to citizenship or other national status, issued by a government of any jurisdiction and including a photograph of the holder;
- (f) a military identification card that is issued by a government of any jurisdiction, which includes a photograph of the holder and is satisfactory to an employer;
- (g) another form of identification that is issued by a government of any jurisdiction, which includes a photograph of the holder and is satisfactory to an employer;

**“post-secondary student health services facility”** means a place on the campus of a post-secondary institution where health professionals provide primary health care to post-secondary students;

**“primary health care”** means initial diagnosis, treatment or referral;

**“proof of an exemption request”** means a response from the Office of the Provincial Health Officer or the medical health officer that a request for reconsideration for the purpose of seeking a medical exemption complies with the requirements of this Order;

**“proof of vaccination”** means

- (a) in the case of a person who is more than 18 years of age, photo identification and a vaccine card;
- (b) in the case of a person who is 18 years of age or younger, a vaccine card;

but does not include the requirement to provide photo identification in the case of a staff member;

**“Provincial mental health facility”** means a place designated as a Provincial mental health facility by the minister under section 3 (1) of the *Mental Health Act* and appearing in Schedule A to Ministerial Order M 393/2016, at <https://www.health.gov.bc.ca/library/publications/year/2016/facilities-designatedmental-health-act.pdf>, unless otherwise stated;

**“Provincial Health Services Authority”** means the society of that name incorporated under the *Societies Act*;

**“Providence Health Care Society”** means the society of that name incorporated under the *Societies Act*;

**“regional health authority”** means a board designated under the *Health Authorities Act*;

**“residential care facility”** means a long term care facility, a private hospital, a stand-alone extended care hospital, or an assisted living residence for seniors;

**“school”** means a place in which any of the following operates:

- (a) a school as defined in the *School Act*;
- (b) a francophone school as defined in the *School Act*;
- (c) a Provincial school as defined in the *School Act*;
- (d) an independent school as defined in the *Independent School Act*;
- (e) but does not include a First Nation school certified as an independent school under the *Independent School Act*;

**“services”** means

- (a) dietary, kitchen, housekeeping, inside maintenance services or inside construction work,
- (b) administrative or managerial services,

but does not include urgent or emergency inside maintenance services or construction work.

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

**“vaccinated”** means to have received, at least 7 days previously, all doses of a vaccine or a combination of vaccines as recommended by

- (a) the provincial health officer, with respect to vaccines approved for use in Canada by the department of the federal government responsible for regulating drugs, or
- (b) the World Health Organization, with respect to vaccines approved by the World Health Organization but not approved for use in Canada;

**“vaccine”** means a vaccine intended for use in humans against SARS-CoV-2;

**“vaccine card”** means proof in one of the following forms that the holder is vaccinated:

- (a) electronic proof or a printed copy of an electronic proof,
  - (i) issued by the government in the form of a QR code, accessible through the Health Gateway online platform, and
  - (ii) showing the name of the holder;
- (b) proof in writing, issued by the government for the purpose of showing proof of vaccination in accordance with orders of the provincial health officer made under the Public Health Act;
- (c) proof, whether electronic or in writing, issued
  - (i) by the government of Canada or of a province of Canada, and
  - (ii) for the purpose of showing proof of vaccination in accordance with an order made in the exercise of a statutory power with respect to the protection of public health or the facilitation of international travel.

**A. REGIONAL HEALTH AUTHORITIES, THE PROVINCIAL HEALTH SERVICES AUTHORITY, BRITISH COLUMBIA EMERGENCY HEALTH SERVICES, THE PROVIDENCE HEALTH CARE SOCIETY, THE BOARD OF MANAGEMENT OF A HOSPITAL, THE MANAGEMENT OF A PROVINCIAL MENTAL HEALTH FACILITY AND COMMUNITY LIVING BRITISH COLUMBIA**

**In this Part**

**employer” means**

- (a) a regional health authority,
- (b) the Provincial Health Services Authority,
- (c) British Columbia Emergency Health Services,
- (d) the Providence Health Care Society,
- (e) the board of management of a hospital,
- (f) the management of a Provincial mental health facility,
- (g) Community Living British Columbia, or
- (h) the operator of a care location with respect to a fellow or trainee, who is in a care location for training, research or associated administrative purposes.

**“staff member” means**

- (a) an individual employed by a regional health authority, the Provincial Health Services Authority, British Columbia Emergency Health Services, the Providence Health Care Society or Community Living British Columbia,
- (b) an individual who provides care, services or health related research in a care location under contract with a regional health authority, the Provincial Health Services Authority, British Columbia Emergency Health Services, the Providence Health Care Society or Community Living British Columbia,
- (c) an individual employed by or under contract with the board of management of a hospital, or the management of a Provincial mental health facility, to provide care, services or health related research in a hospital or a Provincial mental health facility, or
- (d) a health professional with facility privileges,
- (e) a fellow or trainee, who is in a care location for training, research or associated administrative purposes.

but does not include a home share provider or a peer worker.

**B. OTHER EMPLOYERS****In this Part****“employer” means**

- (a) a person under contract with or funded by a regional health authority, the Provincial Health Services Authority, British Columbia Emergency Health Services, the Providence Health Care Society, Community Living British Columbia, the Ministry of Health or the Ministry of Mental Health and Addictions to employ, contract with or fund a person to provide care, services or health related research in a care location,
- (b) a person under contract with or funded by a person described in (a) to employ or contract with a person to provide care, services or health related research in a care location, or

- (c) a person who provides a staff member to provide care or services to a client funded under the Choice in Supports for Independent Living program, but does not include the individual client or client support group funded under the Choice in Supports for Independent Living program;

**“staff member”** means

- (a) an individual employed by, under contract with or funded by an employer to provide care, services or health related research in a care location,
- (b) an individual providing care or services to a client under the Choice in Supports for Independent Living program,

but does not include a home share provider or a peer worker.

### **C. VACCINATION STATUS INFORMATION**

#### **THIS PART APPLIES TO EMPLOYERS AND STAFF MEMBERS IN PARTS A AND B**

##### **In this Part**

**“WHITE”** means the Workplace Health Indicator Tracking and Evaluation Data Base.

#### **I. EMPLOYERS WITHOUT ACCESS TO WHITE**

- 1. An employer must request proof of vaccination, or an exemption, from each staff member, and must keep a record of the staff member’s vaccination status.
- 2. A staff member must provide their employer or an operator with proof of vaccination, or an exemption, on request from their employer or an operator.

#### **II. EMPLOYERS WITH ACCESS TO WHITE**

- 1. An employer must confirm a staff member’s vaccination status from WHITE,
- 2. If an employer does not find information about a staff member’s vaccination status in WHITE, the employer must request the staff member to provide proof of vaccination, or an exemption and keep a record of the staff member’s vaccination status.

#### **III. GENERAL**

- 1. A staff member must provide their employer with proof of vaccination, or an exemption, on request from their employer.
- 2. A staff member must provide an operator with proof of vaccination, or an exemption, on request from an operator, and an operator may keep a record of the staff member’s vaccination status.
- 3. An employer must disclose information about the vaccination status of their staff members on both an aggregate and individual level to me or the medical health officer, on request, for the purpose of preventing, or responding to, exposures to, or clusters or outbreaks of, COVID-19 in

a care location.

#### D. POST-SECONDARY INSTITUTIONS

##### In this Part

“**employer**” means a post-secondary institution;

“**HSPnet database**” means the Health Sciences Placement Network which provides a web-based system for managing practice education in the health sciences.” (<https://hspcanada.net/about-hspnet/>);

“**post-secondary institution**” includes an entity that provides any of the following programs:

- (a) an educational or training program provided under
  - (i) the *College and Institute Act*,
  - (ii) the *Royal Roads University Act*,
  - (iii) the *Thompson Rivers University Act*,
  - (iv) the *University Act*,
  - (v) the *Private Training Act*, or
  - (vi) the *Chartered Professional Accountants Act*,
- (b) a program provided in accordance with a consent given under the *Degree Authorization Act*;
- (c) a theological education or training program provided under an Act;
- (d) an institution in another jurisdiction which provides post-secondary education or training;

“**staff member**” means

- (a) an employee, faculty member, contractor, technical specialist, or volunteer of, or a researcher at a post-secondary institution who is in a care location for training, certification, equipment assembly, research or associated administrative purposes;
- (b) an individual who provides care to a student, and an individual who provides administrative or managerial support services, in a post-secondary student health services facility;

“**student**” means an individual admitted to an academic program at a post-secondary institution who is in a care location for training, research or associated administrative purposes.

1. An employer must request proof of vaccination, or an exemption, from each staff member, and must keep a record of the staff member’s vaccination status.
2. A staff member must provide their employer with proof of vaccination, or an exemption, on request from their employer.

3. An employer must disclose information about the vaccination status of their staff members on both an aggregate and individual level to me or the medical health officer, on request, for the purpose of preventing, or responding to, exposures to, or clusters or outbreaks of, COVID-19 in a care location.
4. A post-secondary institution must request proof of vaccination, or an exemption, from each student, and must keep a record of the student's vaccination status, and for this purpose may collect information from the HSPnet database, and may enter this information into the HSPnet database.
5. A student must provide the post-secondary institution at which they are enrolled with proof of vaccination, or an exemption, on request from the post-secondary institution.
6. A staff member, or a student, must provide an operator with proof of vaccination, or an exemption, on request from an operator, and an operator may keep a record of the staff member's or student's vaccination status.

#### **E. VACCINATION REQUIREMENTS, OTHER PREVENTIVE MEASURES AND REQUESTS FOR EXEMPTIONS**

**This Part applies to employers and staff members to whom Parts A, B and D apply, and to post-secondary institutions and students as if they were employers and staff members respectively, but Divisions I and II do not apply to Community Living British Columbia employees or staff members, or to a person who provides care to a student, or who provides administrative or managerial support services, in a post-secondary student health services facility;**

##### **In this Part**

**“enrolled”** means to be admitted to an academic program at a post-secondary institution;

**“hired”** means to be retained as an employee or under contract, to be granted facility privileges, or to be enrolled;

**“not permit ... to work”** means

- (a) if the employer operates the care location, not to permit a staff member to work in the care location;
- (b) if the employer does not operate the care location, not to deploy a staff member to work in the care location or a residential care facility;

**“work”** means

- (a) with respect to a Part A staff member, one of the following:
  - (i) to work for a regional health authority, the Provincial Health Services Society, British Columbia Emergency Health Services or the Providence Health Care Society, a Provincial mental health facility, or Community Living British Columbia,
  - (ii) to provide care, services or health related research in a care location,

- (iii) to exercise facility privileges, or
  - (iv) to be in a care location for training, research or associated administrative purposes.
- (b) with respect to a Part B staff member,
- (i) to provide care, services or health related research in a care location, or
  - (ii) to provide care or services to a client of the Choice in Supports for Independent Living program;
- (c) with respect to a Part D staff member or student,
- (i) to be in a care location or residential care facility for training, certification, equipment assembly, research, or associated administrative purpose,
  - (ii) to be in a post-secondary student health services facility for the purpose of providing care or administrative or managerial support services.

### **I. STAFF MEMBERS HIRED BEFORE OCTOBER 26, 2021**

1. Subject to section 2 and 3 as of October 26, 2021, a staff member who was hired before October 26, 2021 must be vaccinated or have an exemption to work.
2. Despite section 1, an unvaccinated staff member
  - (a) who received a second dose of vaccine before October 26, 2021, may continue to work after October 25, 2021, if the staff member complies with the preventive measures in Division V, until 7 days have passed after receiving the second dose of vaccine.
  - (b) who received one dose of vaccine before Feb2, 2021, but did not receive a second dose of vaccine before October 26, 2021, may continue to work after October 25, 2021, if the staff member receives a second dose of vaccine before November 15, 2021, and complies with the preventive measures in Division V, until 7 days have passed after receiving the second dose of vaccine;
  - (c) who received one dose of vaccine between October 12, 2021, and October 25, 2021, may continue to work after October 25, 2021, if the staff member receives a second dose of vaccine between 28 to 35 days after receiving the first dose of vaccine, and complies with the preventive measures in Division V, until 7 days have passed after receiving the second dose of vaccine;
  - (d) who did not receive one dose of vaccine before October 26, but who received one dose of vaccine before November 15,
    - (i) may work 7 days after receiving the first dose of vaccine, if the staff member complies with the preventive measures in Division V, and
    - (ii) may continue to work, if the staff member receives a second dose of vaccine between 28 to 35 days after receiving the first dose of vaccine, and complies with the preventive measures in Division V, until 7 days have passed after receiving the second dose of vaccine.

3. An unvaccinated staff member to whom this Division applies who has an exemption must not work after October 25, 2021, unless the staff member is in compliance with the conditions of the exemption.
4. An employer must not permit an unvaccinated staff member to whom this Division applies to work after October 25, 2021, unless the staff member is in compliance with one of subsections 2 (a) to (d), or has an exemption and is in compliance with the terms of the exemption.

## **II. STAFF MEMBERS HIRED AFTER OCTOBER 25, 2021**

1. A staff member hired after October 25, 2021, must
  - (a) be vaccinated and provide proof of vaccination to the employer, or
  - (b) have an exemption and provide the exemption to the employer,
 in order to work.
2. An unvaccinated staff member to whom this Division applies who has an exemption must not work, unless the staff member is in compliance with the conditions of the exemption.
3. An employer must not permit an unvaccinated staff member to whom this Division applies who does not have an exemption to work.
4. An employer must not permit an unvaccinated staff member to whom this Division applies who has an exemption to work, unless the staff member is in compliance with the conditions of the exemption.

## **III. COMMUNITY LIVING BRITISH COLUMBIA EMPLOYEES**

1. Subject to sections 2 to 8, an employee of Community Living British Columbia (“CLBC”) must be vaccinated or have an exemption, and provide proof of vaccination or an exemption to CLBC in order to work.
2. Despite section 1, but subject to section 3, an unvaccinated employee who received a first dose of vaccine before November 15, 2021, and who complies with the preventive measures in Division V, may work.
3. Despite section 2, an employee to whom section 2 applies must not work after December 31, 2021, unless the employee
  - (a) received a second dose of vaccine before December 20, 2021,
  - (b) provides proof of vaccination to CLBC before December 20, 2021, and
  - (c) complies with the preventive measures in Division V until 7 days after receiving the second dose of vaccine.

4. Despite section 1, but subject to section 5 or section 6, an unvaccinated employee of CLBC hired after November 15, 2021, but before December 20, 2021, may work if the employee has received one dose of vaccine and complies with the preventive measures in Division V.
5. Despite section 4, an employee to whom section 4 applies, who received one dose of vaccine before November 15, 2021, must not work after December 31, 2021, unless the employee
  - (a) receives a second dose of vaccine before December 20, 2021
  - (b) provides proof of vaccination to CLBC before December 20, 2021, and
  - (c) complies with the preventive measures in Division V, until 7 days after receiving the second dose of vaccine,
6. Despite section 4, an employee of CLBC to whom section 4 applies, who received one dose of vaccine after November 15, 2021, must not continue to work more than 35 days after receiving the first dose of vaccine, unless the employee
  - (a) receives a second dose of vaccine between 28 to 35 days after receiving the first dose of vaccine,
  - (b) provides proof of vaccination to CLBC, and
  - (c) complies with the preventive measures in Division V until 7 days after receiving the second dose of vaccine.
7. An employee hired after December 20, 2021, must be vaccinated and provide CLBC with proof of vaccination in order to work.
8. Subject to section 9, an employee must not work unless the employee is in compliance with the applicable provisions of this Division.
9. Despite section 8, an employee with an exemption who has provided the exemption to CLBC may work if the employee complies with the conditions of the exemption.
10. An employee who is not in compliance with this Division must not work.
11. CLBC must not permit an employee who is not in compliance with this Division to work.

**IV. COMMUNITY LIVING BRITISH COLUMBIA CONTRACT  
EMPLOYEES AND POST-SECONDARY STUDENT HEALTH  
SERVICES STAFF MEMBERS**

1. In this Division

**“employer”** means

- (a) a person under contract with Community Living British Columbia (“CLBC”), or a person under contract with a contractor of CLBC, to provide staff to provide care, services or health related research in a care location, or
- (b) a post-secondary institution;

**“staff member”** means

- (a) an individual employed by, under contract with or funded by an employer to provide care, services or health related research in a care location,
  - (b) an individual who provides care to a student or administrative or managerial support services in a post-secondary student health services facility.
2. A staff member hired before the date of this Order must report their vaccination status to the staff member’s employer by December 3, 2021, in order to work after December 3, 2021.
3. Subject to section 4, a staff member hired before the date of this Order must be vaccinated or have an exemption, and have provided proof of vaccination or an exemption to the staff member’s employer before December 10, 2021, in order to work after December 9, 2021.
4. Despite section 3, and subject to section 5, an unvaccinated staff member hired before the date of this Order may work after December 9, 2021, if the staff member received one dose of vaccine before December 10, 2021, and complies with the preventive measures in Part V.
5. Despite section 4, a staff member to whom section 4 applies, must not work after January 13, 2022, unless the staff member
  - (a) received a second dose of vaccine before January 14, 2022,
  - (b) provides proof of vaccination to the staff member’s employer before January 14, 2022, and
  - (c) complies with the preventive measures in Division V until 7 days after receiving the second dose of vaccine.
6. Subject to section 7, an unvaccinated staff member hired between the date of this Order and December 10, 2021, must have received one dose of vaccine and comply with the preventive measures in Division V, in order to work.
7. Despite section 6, a staff member to whom section 6 applies must not continue to work more than 35 days after receiving the first dose of vaccine, unless the staff member
  - (a) receives a second dose of vaccine between 28 to 35 days after receiving the first dose of vaccine,
  - (b) provides proof of vaccination to the staff member’s employer, and
  - (c) complies with the preventive measures in Division V until 7 days after receiving the second dose of vaccine.
8. A staff member hired after December 10, 2021, must be vaccinated and provide the staff member’s employer with proof of vaccination in order to work.
9. Subject to section 10, a staff member must not work unless the staff member is in compliance with the applicable provisions of this Division.
10. Despite section 9, a staff member with an exemption who has provided the exemption to the staff member’s employer may work, if the staff member complies with the conditions of the exemption.

11. A staff member who is not in compliance with this Division must not work.
12. An employer must not permit a staff member who is not in compliance with this Division to work.

**V. OTHER PREVENTIVE MEASURES AND PROOF OF EXEMPTION REQUEST**

1. An unvaccinated staff member must wear a medical mask which covers the person's nose and mouth when at work, except when consuming food or a beverage.
2. An employer must require an unvaccinated staff member to wear a medical mask which covers the person's nose and mouth when at work.
3. Despite Divisions I to IV, an unvaccinated staff member who has provided proof of an exemption request may work until their request is responded to by me or the medical health officer, if the staff member complies with the preventive measures in section 1.
4. An operator or employer must not permit an unvaccinated staff member to whom section 3 applies to work, if the staff member is not in compliance with section 1.
5. Despite Divisions I to IV,
  - (a) a construction worker who is working in an inside area of a care location away from patients, residents, clients or non-construction staff may work in the care location without providing proof of vaccination, but must not go into other areas of the care location unless doing so is unavoidable, in which case the worker must comply with the requirements in (b),
  - (b) a construction worker who is working in an inside area of a care location where there are patients, residents, clients or non-construction staff may work in the care location without providing proof of vaccination, if the construction worker
    - (i) wears a medical mask which covers the person's nose and mouth when at work, except when consuming food or a beverage, and
    - (ii) maintains a distance of two metres from patients, residents, clients or non-construction staff,
  - (c) a vendor, supplier or technical specialist may be present in a care location without providing proof of vaccination, if the vendor, supplier or technical specialist
    - (i) wears a medical mask which covers the person's nose and mouth when at work, except when consuming food or a beverage, and
    - (ii) maintains a distance of two metres from patients, residents, clients or non-construction staff.
6. An operator or employer must not permit an unvaccinated staff member to whom section 5 (b) or (c) applies to work in or be in a care location, if the staff member is not in compliance with section 5.

## F. OUTSIDE PROVIDERS

**This Part does not apply to a staff member or to a student described in Part A, B or D and to whom Parts C and E apply.**

### In this Part

**“care location”** means

- (a) a hospital,
- (b) hospital facilities,
- (c) a Provincial mental health facility;
- (d) a residential facility licensed under the *Community Care and Assisted Living Act* to provide one of the following types of care prescribed or described in section 2 of the Residential Care Regulation:
  - (i) Child and Youth Residential;
  - (ii) Hospice;
  - (iii) Mental Health;
  - (iv) Substance Use;
  - (v) Community Living; or,
  - (vi) Acquired Injury,
- (e) an assisted living residence registered under the *Community Care and Assisted Living Act* in one of the following classes prescribed in section 3 of the Assisted Living Regulation:
  - (i) Mental Health,
  - (ii) Persons with Disabilities, for adults receiving assisted living services due primarily to a disability; or
  - (iii) Supportive Recovery,
- (f) a home operated by or under contract with Community Living British Columbia, but not including the home of a home share provider,
- (g) a public health office,
- (h) a clinic operated by a regional health authority, the Provincial Health Services Authority, British Columbia Emergency Health Services or Providence Health Care Society to provide health care,
- (i) an urgent and primary care centre,
- (j) a child development centre,
- (k) a community health centre,
- (l) an adult day care;
- (m) a school;
- (n) a post-secondary student health services facility

**“close contact”** means within two metres of another person for more than 15 minutes cumulatively in a day;

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

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

**“outside health care or personal care provider”** means a health professional who is not a staff member, or any other person who is not a staff member who provides health care, or a person who provides personal care in a care location, but does not include a visitor;

**“outside support or personal service provider”** means a volunteer, hired companion, barber, hairdresser, nail esthetician or any other person who is not a staff member who provides support or a personal service in a care location, but does not include a visitor;

**“regular”** means being present at least once a month on an ongoing basis, in either one or different care locations.

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

### **In this division**

**“provider”** means an outside health care or personal care provider; and

**“care”** means health care or personal care.

1. An operator must request proof of vaccination, an exemption, or proof of an exemption request, from a provider who seeks access to a care location to provide care.
2. A provider must be vaccinated and provide proof of vaccination to the operator, have an exemption and provide the exemption to the operator, or have proof of an exemption request and provide the proof to the operator.
3. Despite section 2,
  - (a) an unvaccinated provider who received one dose of vaccine before October 26, 2021,
    - (i) may provide care in a care location after October 25, 2021, if the provider,
      - A. wears a medical mask which covers their nose and mouth,
      - B. is not in close contact with a person to whom they are providing care, unless it is necessary in order to provide care to the person, and
    - (ii) may continue to provide care in a care location, if the provider receives a second dose of vaccine between 28 to 35 days after receiving the first dose of vaccine, and complies with the preventive measure in section 3 (a) (i), until 7 days have passed after receiving the second dose of vaccine.
  - (b) an unvaccinated provider who did not receive one dose of vaccine before October 26, but who received one dose of vaccine after October 26,
    - (i) may, 7 days after receiving the dose of vaccine, provide care in a care location after October 25, 2021, if the provider complies with the preventive measures in section 3 (a) (i), and

- (ii) may continue to provide care in a care location if the provider receives a second dose of vaccine between 28 to 35 days after receiving the first dose of vaccine, and complies with the preventive measures in section 3 (a) (i), until 7 days have passed after receiving the second dose of vaccine.
4. An unvaccinated provider who has an exemption must not provide care in a care location, unless the provider is in compliance with the conditions of the exemption.
  5. An unvaccinated provider who has a proof of an exemption request may provide care in a care location until their request is responded to by me or the medical health officer, if the provider is in compliance with the preventive measures in section 3 (a) (i).
  6. An unvaccinated provider with a proof of exemption request must not work in a care location unless the provider is in compliance with the preventive measures in section 3 (a) (i).
  7. An operator must not permit an unvaccinated provider to provide care in a care location, unless the provider is in compliance with either section 3 (a) or (b), has an exemption and is in compliance with the terms of the exemption, or has a proof of an exemption request and is in compliance with the preventive measures in section 3 (a) (i).

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

### **In this division**

**“provider”** means an outside support or personal service provider.

1. An operator must request proof of vaccination or an exemption from a provider who seeks access to a care location to provide support or personal services.
2. A provider who does not provide an operator with proof of vaccination or an exemption must not be in a care location to provide support or personal services.
3. An operator must not permit a provider who does not provide proof of vaccination or an exemption to be in a care location to provide support or personal services.
4. A provider with an exemption must comply with the conditions of the exemption when in a care location to provide support or personal services.
5. An operator must not permit a provider with an exemption to provide support or personal services in a care location, if the provider is not in compliance with section 4.

## **III. REGULAR OTHER OUTSIDE PROVIDERS WHO HAVE CLOSE CONTACT WITH A PATIENT, RESIDENT OR CLIENT**

### **In the division**

**“provider”** means a regular other outside provider who has close contact with a patient, resident or client.

1. An operator must request proof of vaccination or an exemption from a provider who seeks access to a care location.
2. A provider who does not provide an operator with proof of vaccination or an exemption, must not be in a care location.
3. An operator must not permit a provider who does not provide proof of vaccination or an exemption to be in a care location.
4. A provider must comply with the conditions of the exemption when in a care location.
5. An operator must not permit a provider to be in a care location, if the provider is not in compliance with section 4.

**IV. REGULAR OTHER OUTSIDE PROVIDERS WHO DO NOT HAVE CLOSE CONTACT WITH A PATIENT, RESIDENT OR CLIENT AND OCCASIONAL OTHER OUTSIDE PROVIDERS WHO HAVE CLOSE CONTACT WITH A PATIENT, RESIDENT OR CLIENT**

**In this division**

**“provider”** means

- (a) a regular other outside provider who does not have close contact with a patient, resident or client, or
  - (b) an occasional other outside provider who has close contact with a patient, resident or client.
1. An operator must request proof of vaccination or an exemption from a provider who seeks access to a care location.
  2. A provider must be vaccinated and provide proof of vaccination to the operator, or have an exemption and provide the exemption to the operator, in order to be in a care location.
  3. A provider who is not in compliance with section 2, must not be in a care location.
  4. An operator must not permit a provider who is not in compliance with section 2, to be in a care location.
  5. A provider who has an exemption must comply with the conditions of the exemption when in a care location.
  6. An operator must not permit a provider who has an exemption to be in a care location, if the provider is not in compliance with section 5.

## V. PROVIDERS WHO HAVE REQUESTED AN EXEMPTION

1. Despite Divisions II to IV, an unvaccinated provider to whom those Divisions apply who has made a request for an exemption may be in a care location until their request is responded to by me or the medical health officer, if the provider provides an operator with proof of an exemption request, and
  - (a) wears a medical mask which covers their nose and mouth,
  - (b) is not in close contact with a patient, resident or client, unless this is necessary.
2. An operator must not permit an unvaccinated provider to whom section 1 applies to be in a care location, unless the provider is in compliance with section 1.

## VI. OCCASIONAL OTHER OUTSIDE PROVIDERS WHO DO NOT HAVE CLOSE CONTACT WITH A PATIENT, RESIDENT OR CLIENT

### In this division

“**provider**” means an occasional other outside provider who does not have close contact with a patient, resident or client.

1. A provider who is in a care location must
  - (a) wear a medical mask which covers their nose and mouth,
  - (b) maintain a two metre distance from every other person in the care location.
2. A provider who does not provide an operator with proof of vaccination or an exemption, and who is not in compliance with section 1, must not be in a care location.
3. An operator must not permit a provider who does not provide an operator with proof of vaccination or an exemption, and who is not in compliance with section 1, to be in a care location.
4. A provider who has an exemption must comply with the conditions of the exemption when in a care location.
5. An operator must not permit a provider to be in a care location, if the provider is not in compliance with section 4.

## G. NOTICE TO HEALTH PROFESSIONALS

**TAKE NOTICE** that in accordance with further direction from me, health professionals to be determined by me and their staff, not otherwise required to be vaccinated under the *Residential Care COVID-19 Preventive Measures Order* or this Order, will be required to be vaccinated by a date to be determined by me, in order to provide health care or services in the Province.

#### **H. DELEGATION OF AUTHORITY TO THE MEDICAL HEALTH OFFICER TO CONSIDER AND MAKE A DECISION WITH RESPECT TO A REQUEST FOR AN EXEMPTION ON THE BASIS OF A MEDICAL DEFERRAL TO A VACCINATION**

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 in which a staff member or student works, or an outside provider provides care or services, to receive, consider and make a decision with respect to a request from the staff member, student or outside provider for an exemption from the requirement to be vaccinated, or to provide proof of vaccination, on the basis of a medical deferral to a vaccination.

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

Under the authority vested in me by section 56 of the *Public Health Act*, I designate the medical health officer to receive a written notice from a medical practitioner under section 56 (2) with respect to a person in the geographic region of the Province for which the medical health officer is designated, and designate the medical health officer to issue an instruction to the person in response to the notice, if reasonably practical.

#### **J. 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 hospital or community settings, **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 hospital or community settings in the geographic area of the Province for which the medical health officer is designated, or with respect to a particular care location or a class of care location.
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 hospital or community settings, a care location, or a class of care location, 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.

#### **K. VARIANCE AND RECONSIDERATION**

After weighing the interests of persons who receive health care and related services in hospital or community settings, against the interests of persons who provide care and services in those settings who are not vaccinated for reasons other than medical deferral to a vaccination, and taking into account the importance of maintaining a healthy workforce in hospitals and community care locations, the stress under which the public health and health care systems are currently operating, and the impact this is having on the provision of health care to the population, the burden which

responding to more clusters and outbreaks of COVID-19 would put on the public health system, the burden which responding to more patients with serious illness would place upon an already overburdened health care system, and the risk inherent in accommodating persons who are not vaccinated, and pursuant to section 54 (1) (h) and section 56 of the *Public Health Act*, and in accordance with the emergency powers set out in Part 5 of the Act, it is my reasonable belief that it is necessary, in the interest of the public health, that I not accept requests for a reconsideration of this Order, except from an individual on the basis of a medical deferral to a vaccination, until the level of transmission of infection and incidence of serious disease decreases, and in particular, until the number of hospitalizations, admissions to intensive care units and deaths, and the strain on the public health and health care systems, are significantly reduced;

Accordingly, pursuant to the authority vested in me by sections 39 (6), 54 (1) (h) and 56 of the *Public Health Act*, I have decided

- (a) not to consider requests for reconsideration by way of variance under section 43 of the *Public Health Act* with respect to the requirement to be vaccinated or to provide proof of vaccination in this Order, other than on the basis of a medical deferral to a vaccination, and
- (b) to vary my Order of October 21, 2021, and the *Residential Care COVID-19 Preventive Measures* Orders of September 2, October 4, 8 and 21, 2021, and the *COVID-19 Vaccination Status Information and Preventive Measures* Orders of August 20 and 31, September 9 and 27, 2021 to provide that requests for reconsideration by way of variance under section 43 of the *Public Health Act* with respect to the requirement to be vaccinated, or to provide proof of vaccination, will not be considered, other than on the basis of a medical deferral to a vaccination, including requests for reconsideration which I have received, but have not as yet considered.

A request for reconsideration with respect to vaccination, or providing proof of vaccination, must be made on the basis that the health of the person would be seriously jeopardized if the person were to be vaccinated, and must follow the guidelines posted on the Provincial Health Officer's website (<https://www2.gov.bc.ca/gov/content/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/current-health-topics/covid-19-novel-coronavirus>).

A request for reconsideration on the basis of a medical deferral to a vaccination may be submitted to the Provincial Health Officer at [PHOExemptions@gov.bc.ca](mailto:PHOExemptions@gov.bc.ca) with the subject line "Request for Reconsideration about Preventive Measures in Hospital or Community Locations".

## **L. EXPIRATION AND COMPLIANCE**

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*.

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: 18<sup>th</sup> day of November 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*.

**ENCLOSURE****Excerpts of the *Public Health Act* [SBC 2008] c. 28****Definitions****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;

**“health professional”** means

- (a) a medical practitioner,
- (b) a person authorized to practise a designated health profession within the meaning of the *Health Professions Act*, or
- (c) a person who practises a health profession within the meaning of the *Health Professions Act* that is prescribed for the purposes of this definition;

**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.

### **General emergency powers**

**54** (1) A health officer may, in an emergency, do one or more of the following:

(h) not reconsider an order under section 43 [reconsideration of orders], not review an order under section 44 [review of orders] or not reassess an order under section 45 [mandatory reassessment of orders];

### **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.

### **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.

### **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*];