



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

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

### ***GATHERINGS AND EVENTS - NOVEMBER 16, 2021***

The *Public Health Act* is at:

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

(excerpts enclosed)

**TO: OWNERS AND OPERATORS OF PLACES**

**TO: PERSONS WHO ORGANIZE EVENTS**

**TO: PERSONS WHO ATTEND EVENTS**

**TO: MEDICAL HEALTH OFFICERS**

#### **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-CoV-2, 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 circulating in British Columbia, including the Delta variant;
- L. Vaccination is the single most important preventive measure a member of a community can take to protect themselves and other members of the community, from infection, severe illness and possible death from COVID-19;
- M. People over 70 years of age, and people with chronic health conditions or compromised immune systems, are particularly vulnerable to severe illness and death from COVID-19, even if they are vaccinated;
- N. Included among the members of the community who are more likely to be infected are children aged 5 to 11 years as they are currently ineligible for vaccination. Although it is anticipated that children aged 5 to 11 years will become eligible for vaccination in the near future, it will take some time before they can be fully vaccinated, and children below the age of 5 will remain unprotected from infection until a vaccine is available for them;
- O. Adults and children who are either particularly vulnerable to infection with SARS-CoV-2 or too young to be immunized depend upon the people with whom they come into contact to protect them from the risk of infection;
- P. 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; in particular, social mingling coupled with the consumption of alcohol, which increases risky behavior, is associated with increases in the transmission of SARS-CoV-2;
- Q. Gatherings and events which involve large numbers of people continue to pose a risk of promoting the transmission of SARS-CoV-2, and increasing the number of people who develop COVID-19 and become seriously ill;
- R. Programs that require that proof of vaccination be provided have been shown to increase vaccination uptake in populations, thereby reducing the public health risk of COVID-19;
- S. 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;

- T. 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;
- U. 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;
- V. 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;
- W. Various options for establishing vaccine status, including in paper and online format, are readily available to members of the public;
- X. I recognize the societal effects, including the hardships, which the measures which I have and continue to put in place to protect the health of the population have on many aspects of life, and, with this in mind, continually 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, 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, in gatherings and events, against the risk of harm to public health created by gatherings and events and unvaccinated persons;
- Y. I further recognize that constitutionally-protected interests include the rights and freedoms guaranteed by the *Canadian Charter of Rights and Freedoms*, including specifically freedom of religion and conscience, freedom of thought, belief, opinion and expression, freedom of peaceful assembly and freedom of association. These freedoms, and the other rights protected by the *Charter*, 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 this is consistent with public health principles. In consequence, I am not prohibiting outdoor assemblies for the purpose of communicating a

position on a matter of public interest or controversy, subject to my expectation that persons organizing or attending such an assembly will take the steps and put in place the measures recommended in the guidelines posted on my website in order to limit the risk of transmission of COVID-19;

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 members of the public from the risk created by being in contact with unvaccinated persons in gatherings and events;

AA. This Order does not apply to the Executive Council; the Legislative Assembly; a council, board, or trust committee of a local authority as defined under the *Community Charter*, the *Local Government Act* or the *Islands Trust Act*, or a school board; the distribution of food or other supplies to people in need; health or social services provided to people in need, such as warming or cooling centres; swimming and activities in swimming pools; fitness facilities which are located in a workplace for the benefit of workers, in a residential building for the benefit of residents, in a hotel for the benefit of guests; rehabilitation or exercise therapy programs; worship services; health care related events, including immunization clinics, COVID-19 testing centres and blood donation clinics; drug and alcohol support group meetings; court sittings wherever they occur; workers at a workplace when engaged in their work activities, including staff meetings; work camps; before, during or after school programs for students of public or independent schools (schools) organized by a school; home education or distributed learning activities; educational activities, including a practicum or research, involving students or researchers of post-secondary institutions in any location when provided or arranged by a post-secondary institution; language courses; employment related training; the use of any place for local, provincial or federal government purposes; services provided by or on behalf of any level of government, other than events, as defined in the Order, provided inside by or on behalf of a recreation centre or a library;

BB. Part B, section 15, and Part C, section 18, do not apply to the Province as owner of a place;

CC. I have reason to believe and do believe that

- a. the continued presence of large numbers of unvaccinated people in the population, particularly in some age groups and some communities where vaccination rates continue to be low, continues to pose a risk to the health of the population, and constitutes a health hazard. This is because unvaccinated people can be the source of viral transmission to other unvaccinated people, and also to vaccinated people who are not completely immune consequent to their vaccination, either because of a reduced immune response or only having had one dose of vaccine. These infections can result in serious illness, hospitalization, intensive care unit admission for care and death.
- b. it is in the public interest for me to exercise the powers in sections 30, 31, 32, 39, 54, 67 (2) and 69 of the *Public Health Act* **TO ORDER** as follows:

**THIS ORDER**

**A. REPEALS AND REPLACES MY ORDER MADE ON OCTOBER 25, 2021, WITH RESPECT TO *GATHERINGS AND EVENTS*,**

**B. CONFIRMS MY VARIANCE OF NOVEMBER 12, 2021, OF THAT ORDER AND PRECEDING ORDERS WITH RESPECT TO *GATHERINGS AND EVENTS*, AND**

**C. APPLIES THAT VARIANCE TO THIS ORDER**

**DEFINITIONS:**

“**adult**” means a person 19 years of age or older;

“**event**” means a gathering of persons for a purpose;

“**exemption**” means a variance issued to a person under the *Public Health Act* on the basis of a medical deferral to a vaccination with respect to an event or type of event;

“**inside event**” means

(a) a gathering of more than 50 participants in an inside place for one of the following purposes:

(i) entertainment, including a theatrical production or dance performance;

(ii) musical, including a concert or symphony performance;

(iii) business, but limited to a lecture, presentation or workshop;

(iv) social, including a wedding reception, funeral reception not held at a funeral home, or a sponsored or ticketed party;

(b) a gathering of more than 50 participants in an inside place for one of the following purposes

(i) a business purpose not described in (a), and including a conference, convention, commercial trade fair or home show;

(ii) choral;

(iii) gambling;

- (iv) recreational education or classes, including arts, crafts, music, photography, culture, or travel education or classes
- (c) a gathering of any number of participants in an inside place for the purpose of an adult sports activity, an adult exercise or fitness activity or class, or an adult dance class;
- (d) a sports event in an inside place;
- (e) a program for children or youth in an inside place;

**“organizer”** means the person responsible for organizing an event;

**“outside event”** means an organized gathering of participants in an outside place with seating provided for spectators;

**“participant”** means a person present at an event including a spectator, but does not include an organizer, event staff member, official, volunteer, officiant, or any other person who is acting in an official or service capacity, or a paid performer, player or athlete;

**“patron”** means a participant;

**“person”** does not include the Province;

**“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) another form of identification, issued by a government of any jurisdiction, including a photograph of the holder;
- (g) a military identification card that is issued by a government of any jurisdiction, which includes a photograph of the holder;

**“physical barrier”** means a barrier which is designed, installed and maintained in accordance with WorkSafeBC guidance at <https://www.worksafebc.com/en/resources/health-safety/information-sheets/covid-19-health-safety-designing-effective-barriers?lang=en>;

**“place”** means a venue, other than a private residence, and includes a hotel ballroom or conference room, a banquet hall, conference hall, auditorium, recreation centre, theatre, movie

theatre, multi-movie theatre complex, casino, work-out gym, exercise or dance facility or studio, recreational facility arena, stadium, vacation accommodation, or a tent;

**“program for children or youth”** means a structured educational program not provided by a school, including music, art, drama, dance, recreational, sport, exercise, or social activity and provided primarily for persons under 22 years of age, but not including parenting programs or breast feeding programs;

**“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;

**“tent”** includes a marquee;

**“vacation accommodation”** means a house, townhouse, cottage, cabin, apartment, condominium, mobile home, recreational vehicle, hotel suite, tent, yurt, houseboat or any other type of living accommodation, and any associated deck, garden or yard, in which a person is residing, but which is not the person’s primary residence;

**“vaccinated”** means to have received, 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;

**“variance”** means the *Variance of Gatherings and Events & Food and Liquor Serving Premises Orders to Suspend Reconsideration re Proof of Vaccination – November 12, 2021*.



## **A. EVENTS**

1. A person must not permit a place to be used for, organize or be present at an event, except in compliance with this Order.
2. For certainty,
  - a. an event held in a tent with one or more sides is an inside event; and
  - b. an event held in a tent without any sides is an outside event.

## **B. OUTSIDE EVENTS**

1. A person may permit a place to be used for, or may organize or be present at an outside event, if the provisions of this Part are complied with.
2. No more than 5,000 persons, or 50% of the seated operating capacity of a place, excluding event staff, whichever number is greater, are present.
3. There is an organizer.
4. Access to the event is controlled.
5. There is seating available for each participant.
6. Participants are seated throughout the place in such a way as to use all available space.
7. If there is a food or drink station,
  - a. hand washing facilities or alcohol-based sanitizers are within easy reach of the station;
  - b. signs reminding participants to wash or sanitize their hands before touching self-serve food, drink or other items, are posted at the self-serve station; and
  - c. high touch surfaces at the station, and utensils that are used for self-serve, are frequently cleaned and sanitized.
8. Hand sanitation supplies are readily available to participants.
9. Toilet facilities with running water, soap and paper towels for hand washing and drying purposes, or hand sanitation supplies, are available for participants.
10. The organizer monitors the number of persons present, and ensures that the number of persons present does not exceed the maximum number permitted for the event.

11. A participant must not attend an event at which there are more persons present than are permitted in this Part, and must not enter a place, or must leave a place, if so directed by the organizer or a member of staff.
12. A participant must comply with the requirements in this Part, and with measures, or guidance or directions from the organizer or a member of staff, intended to avoid the congregation of participants.
13. If an event is held in part of a place which is completely separated from the rest of the place, additional persons who are not attending the event may be present in other parts of the place.
14. If there is more than one area in which events may be held in a place, there may be an event in each of the areas.
15. If the organizer is not the owner or occupant of the place in which an outside event is held, the owner or occupant must be satisfied that the organizer is aware of the conditions and requirements in this Part, and has the capacity to fulfill them.

### **C. INSIDE EVENTS**

1. A person may permit a place to be used for or may organize or be present at an inside event, if the provisions of this Part and Part D are complied with.
2. A person must not permit a place to be used for or must not organize an inside event with a purpose described in paragraph (a) of the definition of an “inside event” unless the event is held as a seated inside event.
3. A person must not permit a place to be used for or must not organize an inside event as a standing event, if the purpose of the event is described in paragraph (a) of the definition of “inside event”.
4. A person must not participate in an inside event
  - (a) with a purpose described in paragraph (a) of the definition of an “inside event”, unless the event is held as a seated inside event; or
  - (b) held as a standing event, if the purpose of the event is described in paragraph (a) of the definition of “inside event.
5. Up to 100% of the seated operating capacity of a place may be used for the purpose of a seated inside event.
6. Up to 100% of the standing operating capacity of a place may be used for the purpose of a standing inside event.
7. There is an organizer.

8. Access to the event is controlled.
9. Subject to section 10, if the event is described in paragraph (a) of the definition of “inside event”
  - (a) there must be a seat available for each participant;
  - (b) each participant must be provided with a seat;
  - (c) participants must be seated throughout the place in such a way as to use all available space;
  - (d) participants must be seated throughout the event, , except
    - i. to use a food or drink station;
    - ii. to use washroom facilities;
    - iii. to move to another seat;
    - iv. to provide assistance to another person who requires care or first aid;
    - v. to leave or return to the premises.
10. Despite section 9, if the event is described in paragraph (a) of the definition of “inside event”, section 9 only applies to participants who are spectators;
11. If there is a food or drink station,
  - a. hand washing facilities or alcohol-based sanitizers are within easy reach of the station;
  - b. signs reminding participants to wash or sanitize their hands before touching self-serve food, drink or other items, are posted at the self-serve station; and
  - c. high touch surfaces at the station, and utensils that are used for self-serve, are frequently cleaned and sanitized.
12. Hand sanitation supplies are readily available to participants.
13. Toilet facilities with running water, soap and paper towels for hand washing and drying purposes or hand sanitation supplies are available for participants.
14. Subject to further direction from me, posted on my website, dance floors are closed with physical barriers or occupied with tables, unless they are being used for a dance performance.

15. A participant must comply with the requirements in this Part and in Part D, and with measures, or guidance or directions from the organizer or a member of staff, intended to avoid the congregation of participants.
16. Subject to further direction from me, posted on my website, participants do not dance, unless they are performing at an event, registered participants in and attending at a dance class at a dance studio, or a child or youth participating in a program for children or youth.
17. If there is more than one area in a place in which events may be held, there may be an event in each of the areas.
18. If the organizer is not the owner or occupant of the place in which an inside event is held, the owner or occupant must be satisfied that the organizer is aware of the conditions and requirements in this Part and Part D, and has the capacity to fulfill them.

#### **D. PROOF OF VACCINATION**

1. This Part applies to inside events.
2. This Part does not apply to
  - i. a person under 12 years of age, or
  - ii. a person 12 to 21 years of age who is participating in a program for children or youth.
3. Sections 8 and 9 do not apply to a person who is employed to lead, supervise or assist with a program for children or youth.
4. The following requirements apply with respect to an inside event:
  - a. An organizer must obtain proof in the form of a vaccine card that a participant has received two doses of vaccine.
  - b. A participant must provide an organizer with proof in the form of a vaccine card of having received two doses of vaccine.
  - c. An organizer must not permit a participant who has not provided the organizer with proof in the form of a vaccine card of having received two doses of vaccine to enter or remain a place for the purpose of an event or to participate in an event.
  - d. A participant who has not provided an organizer with proof in the form of a vaccine card of having received two doses of vaccine must not enter or remain in a place for the purpose of an event or participate in an event.
  - e. If an event takes place on more than one day, the requirements in this section apply on each of those days.

5. An operator must not scan the QR code on a vaccine card with any tool other than a BC Vaccine Card Verifier App.
6. Subject to section 7, an organizer must not retain proof of vaccination or identification provided by a participant, or use it for any purpose other than to confirm that a participant has been vaccinated, as required by this Order.
7. Despite section 6, with the written consent of a participant, an organizer may keep a record of the fact that the participant has provided proof of being vaccinated in compliance with this Part until this Order expires or is repealed, and the organizer may rely upon this record to satisfy the requirements in this Part with respect to future participation by the participant in an event at the same place.
8. A person, including a parent, must have received two doses of vaccine, if the person is
  - (a) leading, supervising or assisting with a program for children or youth on a volunteer basis, including if the person receives an honorarium for doing so, or
  - (b) required to be present with a child or youth at a program for children or youth.
9. A person who has not received two doses of vaccine must not
  - (a) lead, supervise or assist with a program for children or youth on a volunteer basis, including if the person receives an honorarium for doing so, or
  - (b) be present with a child or youth at a program for children or youth.
10. Section 3 applies with respect to persons to whom section 8 and 9 applies.

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

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 an event occurs or will occur to receive, consider, and make a decision with respect a request for reconsideration made by a person requesting an exemption with respect to an event or type of event.

## F. RELATED MEDICAL HEALTH OFFICERS 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 and to determine whether additional or more restrictive steps need to be taken to reduce the risk of the transmission of COVID-19, **I FURTHER ORDER:**

1. A medical health officer may issue an order further to this Order, for the purpose of having the provisions of the order incorporated into this Order, or may add conditions to or change conditions on an exemption, or suspend or cancel an exemption. An order may add further prohibitions, or impose more restrictive limitations or conditions, in the whole or part of the geographic area of the Province for which the medical health officer is designated and, subject to section 2, the provisions of the order are incorporated into this Order when posted on my website. For certainty, a contravention of an order of a medical health officer issued further to this Order, and posted on my website, is a contravention of this Order.
2. While it is in force, a provision in an order made by a medical health officer further to this Order and posted on my website, which adds further prohibitions or imposes more restrictive limitations or requirements than this Order, applies in the whole or part of the geographic area of the Province for which the medical health officer is designated, despite the provisions of this Order.

This Order expires at 12:01 A.M. on January 31, 2022.

After weighing the interests of participants and staff at gatherings and events against the interests of persons who are not vaccinated for reasons other than a medical deferral to vaccination, and taking into account the importance of protecting the health of participants and staff, 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 for the reasons set out in my Variance of November 12, 2021 posted on my website, I have decided, pursuant to section 54 (1) (h) of the *Public Health Act*, and in accordance with the emergency powers set out in Part 5 of the *Act*, to confirm the application of the Variance to this Order, and, in accordance with the Variance, will not be accepting requests for a reconsideration of this Order, except from an individual on the basis of a medical deferral to a vaccination with respect to an event or type of event.

A request for an exemption from 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 my 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 under section 43 may be submitted to me at [PHOExemptions@gov.bc.ca](mailto:PHOExemptions@gov.bc.ca) with the subject line “Request for Reconsideration about Proof of Vaccination”.

Pursuant to section 54 (1) (h) of the *Public Health Act*, and in accordance with the emergency powers set out in Part 5 of the Act, I will not be accepting requests for a review of this Order.

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

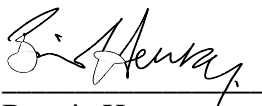
Failure to comply with this Order is an offence under section 99 (1) (k) of the *Public Health Act*.

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: 16<sup>th</sup> day of November 2021

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

DELIVERY BY: Posting to the BC Government 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**

**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.

### **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*];

### **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*];