



ORDER OF THE PROVINCIAL HEALTH OFFICER

(Pursuant to Sections 30, 31, 32, 39 (3) and 54 (1) (h) and 2, *Public Health Act*, S.B.C. 2008)

WORKPLACE AND POST-SECONDARY INSTITUTION SAFETY ***May 2, 2021***

The *Public Health Act* is at:

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

(excerpts enclosed)

TO: EMPLOYERS

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 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 direct contact, through droplets in the air, or from fluid containing SARS-CoV-2 left on surfaces;
- C. Social interactions and close contact in the workplace between people are associated with significant increases in the transmission of SARS-CoV-2, and increases the number of people who develop COVID-19 and become seriously ill;
- D. People spending time together indoors significantly increases the risk of the transmission of SARS-CoV-2 in the population, thereby increasing the number of people who develop COVID-19 and become seriously ill;
- E. Virus variants of concern, which are more transmissible and have the potential to cause more serious illness, including among younger populations, are now present in Canada and the Province, and have heightened the risk to the population.
- F. The Province is experiencing a substantial increase in the transmission of COVID-19, raising the risk of rapid exponential growth in cases and resulting in persisting high levels of cases and increased clusters and outbreaks which, in turn, is producing increasing incidences of serious disease leading to elevations in hospitalizations, intensive care admissions and deaths. This is

resulting in increasing pressure on the health care system to care for people, and on the public health system to carry out contact tracing for the purpose of preventing further transmission and is putting at risk the continued operation of schools, which is critical to the physical, mental and emotional health of children and youth;

- G. Face coverings, when used in addition to other preventative measures such as physical distancing and barriers, can help to reduce the risk of the transmission of SARS-CoV-2.
- H. I have reason to believe and do believe that
- i. the risk of a cluster or an outbreak of COVID-19 in a workplace constitutes a health hazard under the *Public Health Act*;
 - ii. there is an immediate and urgent need for focused action to reduce the rate of the transmission of COVID-19 which extends beyond the authority of one or more medical health officers;
 - iii. coordinated action is needed to protect workers in workplaces and students from the transmission of COVID-19;
 - iv. and that it is in the public interest for me to exercise the powers in sections 30, 31, 32 and 39 (3) of the *Public Health Act* **TO ORDER** as follows:

THIS ORDER

REPEALS AND REPLACES MY ORDER OF APRIL 21, 2021 WITH RESPECT TO WORKPLACE AND POST-SECONDARY INSTITUTION SAFETY

Definitions in this Order:

“**classroom**” means an indoor area in which a post-secondary institution provides instruction in an educational or training program;

“**face covering**” means either of the following that covers the nose and mouth of a person:

- (a) a medical or non-medical mask;
- (b) a tightly woven fabric;

“**health check**” means reviewing the entry requirement and key questions at <https://www.worksafebc.com/en/about-us/covid-19-updates/health-and-safety/health-checks> and which are on the poster at <https://www.worksafebc.com/en/resources/health-safety/posters/helpprevent-spread-covid-19-entrycheck-workers?lang=en>

“indoor common area” means an indoor area of a workplace that is in common use by workers or students, **including**:

- i. elevators, lobbies, hallways, stairwells, bathrooms, break rooms, kitchens, cafeterias, fitness facilities;
- ii. a workplace vehicle when being used to transport more than one worker for work-related purposes;
- iii. a vehicle provided by a post-secondary institution when being used to transport students;

but does not include an indoor area in which a worker works, including an area where a worker meets with or provides goods or services to clients, customers, patients, passengers or the like, a classroom, a learning space in a school, or an area in a building under construction.

“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>;

“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;

“school” means any of the following:

- (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) a school operated on First Nation land by the government of Canada or by a participating First Nation or a Community Education Authority established by one or more participating First Nations under the *First Nations Jurisdiction over Education in British Columbia Act* (Canada);
- (f) a school operated by the Nis×a’a Nation, or a treaty first nation, under its own laws;

“student” means a person who participates in an educational or training program provided by a post-secondary institution.

“worker” means a person who works in a workplace;

“workplace” does not include a worker’s private residence.

1. Employers must review their COVID-19 safety plans to ensure that their plan adequately protects workers from the transmission of COVID-19 in the workplace and is consistent with WorkSafeBC requirements.
2. Employers must put in place processes to support workers in carrying out a daily health check before working in a workplace, and must put in place processes to ensure that a worker who has not carried out and passed a health check does not work in a workplace.
3. If an employer is not satisfied that a worker has not carried out and passed the daily health check, the employer must not permit the worker to work at a workplace,
4. A worker who has not carried out and passed the daily health check must not work at a workplace.
5. Employers must strongly encourage workers to work from their private residence, if possible, given the nature of the work involved, and provide their workers with the necessary work related support to do so, unless there is a preference on the part of the employer or the worker for the worker to work at a workplace.
6. Employers must include in their COVID-19 safety plan measures to prevent workers from crowding together or congregating in indoor common areas.
7. Employers must include in their COVID-19 safety plan a requirement that a worker in an indoor common area must wear a face covering over their nose and mouth, subject to the exceptions in section 11.
8. A post-secondary institution must put in place measures to prevent students from crowding together or congregating in indoor common areas and classrooms,
9. A student must wear a face covering over their nose and mouth when in an indoor common area or a classroom subject to the exceptions in section 11.
10. A student who is not wearing a face covering over their nose and mouth, other than as provided for in section 11, must not be in an indoor common area or a classroom.
11. Despite sections 7 and 9, a worker is not required to wear a face covering over their nose and mouth in an indoor common area of a workplace, and a student is not required to wear a face covering over their nose and mouth in an indoor common area or a classroom in a place in which a post-secondary institute provides an educational or training program, if

- a. the worker or student is unable to put on or remove a face covering without the assistance of another person;
- b. the worker or student is unable to wear a face covering because of
 - i. a psychological, behavioural or health condition, or
 - ii. a physical, cognitive or mental impairment;
- c. the face covering is removed temporarily for the purpose of identifying the worker or student wearing it;
- d. the face covering is removed temporarily to communicate with a person with a disability or diverse ability, where visual cues, facial expressions or lip reading or lip movements are important;
- e. the worker is consuming food or a beverage in an area designated by the employer, for that purpose, and the worker is seated and maintains a distance of two metres from other workers in the area;
- f. the student is consuming food or a beverage in an area designated by a post-secondary institution for that purpose, and the student is seated and maintains a distance of two metres from other students in the area;
- g. the worker or student is carrying out personal hygiene;
- h. the worker is on their own in a workplace vehicle;
- i. the student is on their own in a post-secondary institution vehicle;
- j. the worker is working on their own in a workplace;
- k. the student is playing a musical instrument in the course of the student's educational program and is unable to play the instrument while wearing a mask;
- l. there is a physical barrier between the worker and other workers, or the student and other students, which blocks the transmission of droplets.

This Order does not have an expiration date.

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 *Public Health Act*, I will not be accepting requests for reconsideration 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

DATED THIS: 2nd day of May 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*

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.

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*];

(2) An order that may be made under this Part may be made in respect of a class of persons or things, and may make different requirements for different persons or things or classes of persons or things or for different geographic areas.

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*];