



ORDER OF THE PROVINCIAL HEALTH OFFICER

(Pursuant to Sections 30, 31, 32, 39 (3) and 67 *Public Health Act*, S.B.C. 2008)

Deployment and Redeployment of Staff - Amendment to the Facility Staff Assignment Order

The *Public Health Act* is at:

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

(excerpts enclosed)

TO: REGIONAL HEALTH BOARDS

TO: MEDICAL HEALTH OFFICERS

TO: MEMBERS OF WORKING GROUPS ESTABLISHED PURSUANT TO THIS ORDER

TO: LICENSEES OF LONG TERM CARE FACILITIES AND PRIVATE HOSPITALS, BOARDS OF MANAGEMENT OR OPERATORS OF STAND ALONE EXTENDED CARE HOSPITALS DESIGNATED UNDER THE HOSPITAL ACT, REGISTRANTS OF ASSISTED LIVING RESIDENCES WHICH PROVIDE REGULAR ASSISTANCE WITH ACTIVITIES OF DAILY LIVING, INCLUDING EATING, MOBILITY, DRESSING, GROOMING, BATHING OR PERSONAL HYGIENE AND OPERATORS OF PROVINCIAL MENTAL HEALTH FACILITIES (HEREINAFTER REFERRED TO COLLECTIVELY AS “OPERATORS” AND “FACILITIES”)

TO: CONTRACTORS AND SUB-CONTRACTORS WHO PROVIDE STAFFING FOR FACILITIES

TO: EMPLOYEES, CONTRACTED WORKERS (HEREINAFTER REFERRED TO COLLECTIVELY AS “STAFF”) AND VOLUNTEERS AT FACILITIES

TO: EDUCATIONAL INSTITUTIONS WHICH ARRANGE PLACEMENTS FOR STUDENTS AT FACILITIES

WHEREAS:

A. A serious communicable disease known as COVID-19 has emerged in British Columbia;

- B. SARS-CoV-2, an infectious agent, can cause outbreaks of COVID-19 among the public;
- C. A person infected with SARS-CoV-2 can infect other people with whom the infected person is in contact;
- D. The movement of people between facilities such as staff and volunteers who are routinely present at facilities can promote the transmission of SARS-CoV-2 and increase the risk of infection with SARS-CoV-2 of persons- in- care, patients, residents (hereinafter referred to collectively as “residents”) and staff and volunteers;
- E. In order to mitigate the risk of the transmission of SARS-CoV-2 among residents, staff and volunteers, it is necessary for the movement of staff and volunteers between facilities to be limited;
- F. The risk differs from facility to facility and in different regions of the province, and the medical health officer is in the best position to assess local circumstances and to make decisions about the assignment of staff and to make exemptions;
- G. This Order does not apply to dietitians, medical laboratory technologists, medical laboratory assistants, nurse practitioners, paramedics, pharmacists, physicians, resident physicians, speech language pathologists, inter-facility transport staff, delivery persons, trades people, regular and biochemical waste removal people, biomedical engineers, visitors or any other person or class of person who are exempted by the medical health officer;
- H. This Order is not intended to restrict staff from employment that is not at a facility, such as home support, social services, or other employment outside a facility;
- I. You belong to one of the classes of persons to whom this Order is addressed;
- J. I have reason to believe and do believe that
 - (i) the risk of an outbreak of COVID-19 among residents, staff and volunteers constitutes a health hazard under the *Public Health Act*;
 - (ii) because the risk of multiple outbreaks in facilities and the ability to control them extends beyond the authority of one or more medical health officers, and coordinated action is needed to protect residents, staff and volunteers from contracting COVID-19, it is in the public interest for me to exercise the powers in sections 30, 31, 32 39(3) and 67 *Public Health Act* **TO ORDER** as follows:

THIS ORDER AMENDS MY ORDER OF APRIL 10, 2020, AS AMENDED BY MY ORDER OF APRIL 15, 2020, (WITH RESPECT TO FACILITY STAFF ASSIGNMENT) BY ADDING THE FOLLOWING PROVISIONS:

DEPLOYMENT OF NEW STAFF AND REDEPLOYMENT OF EXISTING STAFF BY OPERATORS, CONTRACTORS OR SUB-CONTRACTORS (each hereinafter referred to as “an Employer”)

1. Despite the provisions of my Order of April 10, 2020, as amended, and the Order of a medical health officer that only staff who have been assigned to work at a facility by the medical health officer may work at that facility, once the medical health officer has assigned staff to a facility, an Employer may permit an individual to work at the facility who has not been assigned to work at that facility, but only in accordance with the procedures for the deployment or redeployment of staff in Appendix A [Guidance for Employers: Operationalizing the Single Site Model] to this Order.
2. Individuals who have been deployed or redeployed to a facility by an Employer, in accordance with the procedures for the deployment or redeployment of staff in Appendix A, may only work at the facility to which they have been deployed or redeployed, unless they are subject to an exemption granted by the medical health officer.
3. In all other respects I confirm my Order of April 10, 2020, as amended (with respect to *Facility Staff Assignment*).

This Order is in effect until rescinded by me.

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*.

Under section 43 of the *Public Health Act*, you may request me to reconsider this Order if you:

1. Have additional relevant information that was not reasonably available to me when this Order was issued,
2. Have a proposal that was not presented to me when this Order was issued but, if implemented, would
 - (a) meet the objective of the order, and
 - (b) be suitable as the basis of a written agreement under section 38 [may make written agreements]
3. Require more time to comply with the order.

Under section 43 (6) an Order is not suspended during the period of reconsideration unless the health officer agrees, in writing, to suspend it.

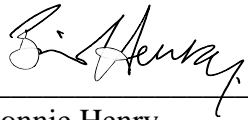
If you fail to comply with this Order, I have the authority to take enforcement action against you under Part 4, Division 6 of the *Public Health Act*.

You may contact me at:

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

DATED THIS: 26th day of October 2020

SIGNED:

A handwritten signature in black ink, appearing to read "Bonnie Henry", written over a horizontal line.

Bonnie Henry
MD, MPH, FRCPC
Provincial Health Officer

DELIVERY BY posting on the BC Government and the BC Centre for Disease Control websites.

Enclosure: Excerpts of *Public Health Act*

ENCLOSURE

Excerpts of the *PUBLIC HEALTH ACT*

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.

Review of orders

44 (1) A person affected by an order may request a review of the order under this section only after a reconsideration has been made under section 43 [reconsideration of orders].

(2) A request for a review may be made,

(a) in the case of an order made by a medical health officer, to the provincial health officer, or

(b) in the case of an order made by an environmental health officer, to a medical health officer having authority in the geographic area for which the environmental health officer is designated.

(3) If a review is requested, the review is to be based on the record.

- (4) If a review is requested, the reviewer may do one or more of the following:
- (a) 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;
 - (b) confirm, vary or rescind the order;
 - (c) refer the matter back to the person who made the order, with or without directions.
- (5) A reviewer must provide written reasons for an action taken under subsection (4) (b) or (c), and a person may not request further review of an order.

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*];

Guidance for Employers

Operationalizing the Single Site Model

STRATEGIC PRIORITIES AND ENGAGEMENT, BC MINISTRY OF HEALTH

Effective Date: September 21, 2020

Acknowledgements

This document was developed by the Strategic Priorities and Engagement Branch, Ministry of Health, with input from the Health Employers Association of BC (HEABC), the Office of the Provincial Health Officer (PHO), and the regional health authorities.

Definitions

Deployment – initiation of a new employee to a new site who is not transferring from a facility

Employers – employers including contractors, sub-contractors and private employers who provide staffing at a facility.

Facility – facilities governed by the *Facility Staff Assignment Order*, including long-term care facilities and private hospitals, stand-alone extended-care hospitals, assisted living residences that provide regular assistance with activities of daily living (including eating, mobility, dressing, grooming, bathing or personal hygiene), and provincial mental health facilities

Redeployment – full transfer of an employee working at facility 1, and transferring fully to facility 2

Section 1 – Scope and Purpose of this Guidance Document

This document is intended to outline the accountabilities of facility employers for deployment and redeployment, and to ensure appropriate staffing processes are operationalized according to the Single Site Transition Framework. The guidance document will support employers in protecting the health and safety of residents, staff, volunteers, and visitors in long-term care facilities. This guidance document identifies the processes and/or tools that must be used in deployment or redeployment scenarios. The guidance document identifies the required elements of these processes and/or tools but assumes that employers will make final decisions regarding format and implementation. Any exemptions or time-limited exceptions to the single site order will only be made by the medical health officers (MHOs). The regional health authority working groups are responsible to ensure that employers are aware of their accountabilities regarding staffing and staffing processes and are aware that these processes must be followed.

Section 2 - Provincial Health Officer (PHO) Facility Staff Assignment Order, the Single Site Transition Framework, and the Emergency Programs Act

Health Care Labour Adjustment (COVID-19) Order; Facility Staff Assignment Order

On April 10, 2020, the Provincial Health Officer issued a “Facility Staff Assignment” Order under the *Public Health Act* (PHA), and the Minister of Public Safety and Solicitor General issued Ministerial Order 105 entitled “Health Care Labour Adjustment (COVID-19) Order” under the *Emergency Program Act* (“EPA Order”). The “Facility Staff Assignment” was then amended in April 15, 2020 (the “PHO Order”). The PHO Order was issued to limit the movement of staff between long-term care, assisted living, provincial mental health and standalone extended care hospital facilities, which could otherwise promote the transmission of SARS-CoV-2 and increase the risk of infection with SARS-CoV-2 of persons in care, patients, residents and staff. The orders do not apply to home support, acute care hospitals or extended care units physically located within acute

care hospitals. The PHO Order restricts staff movement and requires operators to take all steps necessary to assign staff to facilities as provided for in the *Staff Assignment Directive* applicable to each facility.

Single Site Transition Framework (SSTF)

The SSTF is a negotiated agreement that outlines the labour adjustment terms as part of facilitation of any further orders with respect to the public health emergency and the provincial state of emergency that has been declared and entered into by the Minister of Health, on behalf of the government, the HEABC, the bargaining associations representing unionized staff of members of the HEABC and the bargaining agents representing unionized staff of specified health care employers.

EPA Order: As a significant portion of the employers covered by the PHO order are non-HEABC employers, including service providers operating in health authority facilities, the EPA order specifies the labour adjustment terms outlined in the SSTF, for non-HEABC employers as part of facilitation of any further orders with respect to the public health emergency and the provincial state of emergency.

Section 3 - Operationalizing Staffing in Facilities Governed by the PHO/MHO Orders

The following information outlines the circumstance and the processes required to be in place to comply with the PHO Order with respect to the deployment and redeployment of employees to facilities.

Staffing of Facilities Governed by the PHO/MHO Order and Assignment Processes

The following headings list the documentation and/or processes ***required*** for each included scenario. Employers may develop their own tools provided they include the listed requirements. See each section listed below for a description of what is required within each process.

1) Covid-19 Screening

Covid-19 screening process (i.e. process may include a written questionnaire or in-person screening) are required for the following staffing scenarios:

- Deployment of a new employee to a facility
- Redeployment of a current employee from facility 1 to facility 2 – employee/union request
- Redeployment of a current employee from facility 1 to facility 2 – MHO regional working group and/or site request

Covid-19 screening must take place prior to the scheduled shift. Screening information must include confirmation of:

- Whether the employee has received a diagnosis of covid-19 infection
- Whether the employee have been in contact with anyone diagnosed or epi-linked to someone with covid-19 infection
- Whether the employee has worked in a site that is currently experiencing an outbreak
- Whether the employee has any current covid-19 related symptoms

Covid-19 screening processes must include an escalation sequence with clear direction of resolution procedures should an employee confirm any of the above scenarios. When the screening process is complete (i.e. completed questionnaire or in-person screening) all documentation related to employee screening must be made available at the facility.

2) Declaration Statement

Employers are required to ensure that deployed or redeployed employees of a facility need to be aware of their obligations under the PHO Order. A signed declaration statement is required when an employee is deployed or redeployed to a facility.

The following information is required to be communicated to the employee in written form, in the form best suited by the facility/employer.

- A statement indicating which MHO Order governs the posting of the vacancy
- Statement that affirms the employee's understanding of the requirement to comply with order
- An employee declaration of compliance
- Information on single site order (i.e. hyperlink to information available)
- If a facility or employee has been included under the single site order, but has received an exemption from the regional MHO, the MHO exemption order must be listed on the declaration
- Statement listed on the declaration form of where declaration statements are stored at that facility

3) Facility Employee Transfer Process

Documentation is required when employees are redeployed between facilities. Complete the employee transfer documentation once there is confirmation of redeployment of an employee to another facility. The following information should be identified in all facility employee transfer forms/documentation:

- Employee name/identifier, role, union affiliation
- Reason for transfer from facility 1 to facility 2
- Employees end date at facility 1; employees start date at facility 2
- Statement delivered to the health authority regional working group indicating redeployment was approved (i.e. by the respective employers prior to effecting the transfer). Any redeployment issues between employers requiring resolution should be escalated through the health authority regional working group