



ORDER OF THE PROVINCIAL HEALTH OFFICER

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

VISITATION AND VISITOR APPEAL AND REVIEW ORDER – FEBRUARY 5, 2021

The *Public Health Act* and Regulations are at:

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

(excerpts enclosed)

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 FOR SENIORS

(HEREINAFTER REFERRED TO COLLECTIVELY AS “OPERATORS” AND “FACILITIES”)

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. Residents of facilities are particularly vulnerable to infection with SARS-CoV-2 due to their exposure to other residents, staff and visitors, and residents who are infected with SARS-CoV-2 are at extremely high risk of becoming seriously ill or dying as a result of infection with SARS-CoV-2, due to their age or underlying medical conditions;
- D. Family, friends and other persons provide social and other support to residents which contribute to their well-being;

- E. It is critical that access by a resident to the essential support and services provided by family, friends and other persons be provided in a clear, consistent and fair manner, without regard to the nature or location of the facility in which the resident lives, based upon sound public health principles;
- F. For certainty, this Order does not limit the right a person may have to submit a complaint to the Ombudsperson under the *Ombudsperson Act*, or a care quality complaint under the provisions of the *Patient Care Quality Review Board Act*;
- G. I have reason to believe and do believe that
- (i) the risk of transmission of SARS-CoV-2 and a resulting outbreak of COVID-19 in facilities constitutes a health hazard under the *Public Health Act*;
 - (ii) coordinated action is needed to protect residents, staff and other persons from contracting COVID-19 in facilities and to ensure that residents continue to receive the support and services which they require; and
 - (iii) it is in the public interest for me to exercise the powers in sections 30, 31, 32, 39 (3), 53 and 54 (1) (k) of the *Public Health Act* **TO ORDER**

THIS ORDER REPEALS AND REPLACES THE VISITOR PROVISIONS IN THE ORDERS OF THE MEDICAL HEALTH OFFICERS OF THE INTERIOR, FRASER AND VANCOUVER COASTAL HEALTH AUTHORITIES DIRECTED AT OPERATORS WITH RESPECT TO FACILITIES

A. VISITATION GUIDANCE AND VISITOR APPEAL AND REVIEW PROCESS

1. Operators of facilities must implement and comply with the “Ministry of Health – Overview of Visitors in Long -Term Care and Seniors’ Assisted Living” guidance, including the Visitor Appeal and Review Process, as amended from time to time and posted on my website.
2. The Visitor Appeal and Review Process applies to the revocation of a person’s visitor status, and for that purpose a revocation will be treated as if it were an initial decision in which visitor status was denied.
3. Operators must document the names of a resident’s essential and social visitors in the resident’s care plan.
4. A resident who has an essential visitor may also have a social visitor.
5. An operator or other person to whom a medical health officer or I make a request for a resident’s record, or information about a resident, including personal information, for the purposes of a reconsideration, must provide the requested record or information.

B. 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 COVID-19 in facilities, **I FURTHER ORDER:**

1. A medical health officer may make an order subsequent to this Order for the purpose of imposing more restrictive limitations or conditions with respect to visitors and visits to facilities in the whole or part of the geographic area of the province for which the medical health officer is designated., or with respect to a particular facility or class of facilities.
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 visitors and visits to facilities, applies in the whole or part of the geographic area of the province for which the medical health officer is designated, according to the terms of the order, despite the provisions of this Order.

This Order does not have an expiration date.

All persons to whom this order is directed are required under section 42 of the *Public Health Act* to comply with this Order. Under section 43 of the British Columbia *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
PO Box 9648 STN PROV GOVT
Victoria BC V8W 9P4
Fax: (250) 952-1570
Email: ProvHlthOffice@gov.bc.ca

DATED THIS: 5th day of February, 2021

SIGNED:



Bonnie Henry
MD, MPH, FRCPC
Provincial Health Officer

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

Enclosure: Excerpts of *Public Health Act* and Regulations

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.
