



VARIANCE OF THE PROVINCIAL HEALTH OFFICER

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

VACCINATED STAFF: VARIANCE OF THE FACILITY STAFF ASSIGNMENT ORDER – SEPTEMBER 29, 2021

The *Public Health Act* is at:

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

(excerpts enclosed)

- TO: MEMBERS OF WORKING GROUPS ESTABLISHED PURSUANT TO THE
FACILITY STAFF ASSIGNMENT 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 AND CONTRACTED WORKERS (HEREINAFTER REFERRED
TO COLLECTIVELY AS “STAFF”) AT FACILITIES**

WHEREAS:

- A. Staff and residents of many facilities have now been vaccinated against COVID-19, thereby lessening the risks of transmission of infection, and of serious illness and hospitalization on the part of residents;
- B. There is a shortage of staff available to work in facilities;
- C. The requirement that staff only work in one facility affects the ability of operators to staff facilities.

- D. Staff who are vaccinated pose a minimal risk of transmitting COVID–19 to residents or other staff;
- E. In order to the reduce the risk that vaccinated staff who work in more than one facility could introduce COVID-19 into multiple facilities, it is desirable to limit the number of facilities in which a vaccinated person may work to a cluster of facilities, as determined by health authority working groups;
- F. In order to increase the ability of operators to operate facilities with adequate staff levels, it is necessary for me to extend and vary my variance of July 28, 2021, to permit vaccinated staff to work in more than one facility beyond September 30, 2021.

ACCORDINGLY, pursuant to the authority vested in me by section 39 (6) of the *Public Health Act*:

I hereby Vary the ***FACILITY STAFF ASSIGNMENT ORDER*** dated, April 15, 2020 (the “Order”), and the Variance dated July 28, 2021, as follows:

THIS VARIANCE FORMS PART OF THE ORDER

In this Variance the definitions in the Order apply and

“casual work” means work which is:

- (a) temporary; and
- (b) the need for which arises solely due to staffing shortages experienced by the operator, contractor or sub-contractor.

“cluster” means a group of facilities determined by a working group;

“primary facility” means the facility to which a person has been assigned under the Order;

“proof of vaccination” means by providing a vaccine card which shows that the person has been vaccinated;

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

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

“vaccine card” means the following:

- a. in the case of a person who is more than 18 years of age, photo identification and proof in one of the following forms that the holder is vaccinated:
 - i. electronic proof or a printed copy of an electronic proof
 - (A) issued by the government in the form of a QR code, accessible through the “BC Services Card” electronic online platform, and
 - (B) showing the name of the holder;
 - ii. proof in writing, issued by the government for the purpose of showing proof of vaccination in accordance with orders made under the *Public Health Act*;
 - iii. a type of proof, whether electronic or in writing, that is issued
 - (A) by the government of Canada or of a province of Canada, and
 - (B) 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;
- b. in the case of a person who is 12 to 18 years of age, proof in a form referred to in paragraph a. (i), (ii) or (iii).

“vaccine” means a World Health Organization approved vaccine against infection by SARS-CoV-2;

“working group” means a working group established by a regional health board under the Order.

1. A person permitted under the Variance of July 28, 2021, to do casual work at a facility other than the person’s primary facility at the time when this Variance takes effect, may continue to do casual work at that facility, without providing proof of vaccination to the operator.
2. A person to whom section 1 applies must provide proof of vaccination as required by this Variance, if the person does casual work at a facility other than one at which the person was doing casual work at the time this Variance takes effect.
3. A person may do casual work at a facility other than the person’s primary facility, if the person provides proof of vaccination to an operator, contractor or sub-contractor, and the facility is in the same cluster as the person’s primary facility.
4. An operator must not permit a person to do casual work at a facility other than the person’s primary facility, unless section 1 applies, or the person provides the operator

with proof of vaccination, and the facility is in the same cluster as the person's primary facility.

5. A contractor or sub-contractor must not permit a person to do casual work at a facility other than the person's primary facility, unless section 1 applies, or the person provides the contractor or sub-contractor with proof of vaccination and the facility is in the same cluster as the person's primary facility.
6. A person must not do casual work at a facility other than the person's primary facility, unless section 1 applies, or the person provides proof of vaccination to an operator, or a contractor or sub-contractor, and the facility is in the same cluster as the person's primary facility.
7. In the event that a medical health officer declares an outbreak of COVID-19 in either the primary facility at which a person works, or in another facility at which the person does casual work, the person must only work in the person's primary facility until the medical health officer declares that the outbreak is over, unless the person is permitted to work in more than one facility by the medical health officer .
8. An operator, contractor or sub-contractor must not permit a person to work at a facility other than the person's primary facility, after the expiry of this Variance, unless the person is permitted to do so under the Order.
9. A person must not work at a facility other than the person's primary facility after the expiry of this Variance, unless the person is permitted to do so under the Order.

This Variance expires on December 31, 2021.

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 Variance.

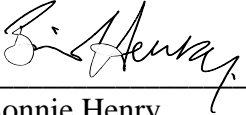
You are required under section 42 of the *Public Health Act* to comply with this Variance. Failure to comply with this Variance is an offence under section 99 (1) (k) of the *Public Health Act*.

If you fail to comply with this Variance, 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: 29th day of September 2021

SIGNED: 
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

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;

Contents of orders

- 39** (1) A health officer must make an order in writing, and must describe all of the following in the order:
- (a) subject to subsection (5), who must comply with the order;
 - (b) what must be done or not done, and any conditions, including if applicable the date by which something must be done;
 - (c) the date on which, or the circumstances under which, the order is to expire, if the date or circumstances are known;
 - (d) subject to the regulations, information sufficient to enable a person to contact the health officer;
 - (e) how a person affected by the order may have the order reconsidered;
 - (f) any prescribed matter.
- (2) A health officer may combine 2 or more orders in a single written notice.
- (3) An order may be made in respect of a class of persons.
- (4) If a provision under this Act refers to a specified facility, place, person or procedure in respect of an order, a health officer must specify the facility, place, person or procedure
- (a) in accordance with an order made under section 63 [*power to establish directives and standards*], or

(b) if no order under section 63 applies, that the health officer reasonably believes to be appropriate in the circumstances.

(5) If a medical health officer publishes an order respecting an infected person, the infected person's identity must not be disclosed unless disclosure is necessary for the protection of public health.

(6) A health officer who makes an order may vary the order

(a) at any time on the health officer's own initiative, or

(b) on the request of a person affected by the order, following a reconsideration under section

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.

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*];

Provincial health officer may act as health officer

67 (1) The provincial health officer may exercise a power or perform a duty of a medical health officer under this or any other enactment, if the provincial health officer

(a) reasonably believes that it is in the public interest to do so because

(i) the matter extends beyond the authority of one or more medical health officers and coordinated action is needed, or

(ii) the actions of a medical health officer have not been adequate or appropriate in the circumstances, and

(b) provides notice to each medical health officer who would otherwise have authority to act.

(2) During an emergency under Part 5 [Emergency Powers], the provincial health officer may exercise a power or perform a duty of a health officer under this or any other enactment, and, for this purpose, subsection (1) does not apply.

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*];