



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

(Pursuant to Sections 30, 31, 32, 39 (3), 53, 54, 56, 57, 67 (2) and 69 *Public Health Act*, S.B.C. 2008)

### ***HEALTH PROFESSIONALS COVID-19 VACCINATION STATUS INFORMATION AND PREVENTIVE MEASURES –MARCH 7, 2022***

The *Public Health Act* is at:

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

(excerpts enclosed)

**TO: THE MINISTER OF HEALTH**

**TO: BRITISH COLUMBIA COLLEGE OF NURSES AND MIDWIVES  
COLLEGE OF CHIROPRACTORS OF BRITISH COLUMBIA  
COLLEGE OF DENTAL HYGIENISTS OF BRITISH COLUMBIA  
COLLEGE OF DENTAL TECHNICIANS OF BRITISH COLUMBIA  
COLLEGE OF DENTAL SURGEONS OF BRITISH COLUMBIA  
COLLEGE OF DENTURISTS OF BRITISH COLUMBIA  
COLLEGE OF DIETITIANS OF BRITISH COLUMBIA  
COLLEGE OF MASSAGE THERAPISTS OF BRITISH COLUMBIA  
COLLEGE OF NATUROPATHIC PHYSICIANS OF BRITISH COLUMBIA  
COLLEGE OF OCCUPATIONAL THERAPISTS OF BRITISH COLUMBIA  
COLLEGE OF OPTICIANS OF BRITISH COLUMBIA  
COLLEGE OF OPTOMETRISTS OF BRITISH COLUMBIA  
COLLEGE OF PHARMACISTS OF BRITISH COLUMBIA  
COLLEGE OF PHYSICAL THERAPISTS OF BRITISH COLUMBIA  
COLLEGE OF PHYSICIANS AND SURGEONS OF BRITISH COLUMBIA  
COLLEGE OF PSYCHOLOGISTS OF BRITISH COLUMBIA  
COLLEGE OF SPEECH AND HEARING HEALTH PROFESSIONALS OF BRITISH  
COLUMBIA  
COLLEGE OF TRADITIONAL CHINESE MEDICINE PRACTITIONERS AND  
ACUPUNCTURISTS OF BRITISH COLUMBIA**

**(THE “COLLEGES”)**

**TO: HEALTH PROFESSIONALS**

**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, in company with other protective and preventive measures, provide protection against infection and are highly effective in protecting against severe illness, hospitalization, intensive care unit (ICU) admission and death across all eligible age groups, with illness being mostly milder in vaccinated people who become infected than in unvaccinated people;
  - (b) most British Columbians who have received their primary course of vaccine (two doses) have strong and durable protection against severe illness from SARS-CoV-2 resulting from the extended interval between dose one and dose two that is being utilized in British Columbia; in addition, a vaccine is being offered which only requires one dose to be effective, and booster doses are being implemented in order to reinforce the protection afforded by vaccination; and
  - (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;
- 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, and children aged 5 to 11 years of age are now being vaccinated, 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 ICU admissions, primarily in unvaccinated people. By contrast, communities with high vaccination rates have seen corresponding less serious illness and lower per capita hospitalization, ICU admission and death rates;
- F. Unvaccinated people are at greater risk than vaccinated people of being infected with SARS-CoV-2, and unvaccinated people 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 can transmit SARS-CoV-2 but since they are generally contagious for shorter periods of time, and are less symptomatic, they are less likely to transmit SARS-CoV-2, when compared to unvaccinated infected persons;
- H. The ongoing incidence of COVID-19 and serious health consequences that result has been exacerbated over time, first by the arrival of the highly transmissible Delta variant of SARS-CoV-2, which caused significantly more rapid transmission and increased severity of illness, particularly in younger unvaccinated people than earlier variants, and by the arrival of the even more transmissible Omicron variant, which has been responsible for a surge in infections, hospitalizations and deaths, and is now the dominant strain of SARS-CoV-2 circulating in the province;
- I. 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 and Omicron variants means that higher vaccination rates than previously expected are now required to maintain this balance, mitigate transmission, reduce case numbers and serious outcomes, and most importantly, given the high case rates experienced with Omicron, reduce the burden on the healthcare system, particularly hospital and ICU admissions going forward;
- J. The emergence of the Omicron variant, which led to significant surges in infection and hospitalizations in British Columbia and in other jurisdictions worldwide, underlines the importance of vaccination in protecting the population and in removing the conditions which foster the development of variants which pose ever greater threats to public health;
- K. Further, vaccinated people who are infected with SARS-CoV-2, including the Omicron variant, have been shown to have high levels of protection against severe illness and to experience shorter infectious and symptomatic periods, and to recover from COVID-19 faster than similarly situated unvaccinated people, which, in turn, reduces the risk of transmission to their close contacts and co-workers and minimizes the disruption caused by absenteeism, all of which supports the continued provision of essential services in particular, and the orderly functioning of society as a whole.
- L. 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;

- M. Both the public health and the health care systems are using disproportionate amounts of their resources in their efforts to prevent and respond to COVID-19 due to transmission of SARS-CoV-2 across the province, and to provide care for those who become ill with COVID-19, who can be quite ill, require high levels of care and be hospitalized for long periods of time, which situation is exacerbated by the care needs of unvaccinated people who comprise a substantial proportion of those who require hospitalization and ICU admission;
- N. 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 which variant they were infected with and 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 are vaccinated post-infection. Vaccination, even after infection, remains an important measure to protect against reinfection by providing a stronger immune response that is known to be effective for a longer period of time than immunity arising from infection;
- O. People over 70 years of age, and people with chronic health conditions or compromised immune systems, are particularly vulnerable to severe illness, hospitalization, ICU admission, and death from COVID-19, even if they are vaccinated;
- P. Children under 12 are included among the members of the community who are more likely to be infected because children in the 5-11 age group have only recently become eligible for their second dose of vaccine and children under the age of 5 will remain unprotected from infection until a vaccine is available for them;
- Q. 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;
- R. Unvaccinated people in close contact with other people promotes the transmission of SARS-CoV-2 to a greater extent than vaccinated people in the same situations, which in turn increases the number of people who develop COVID-19 and become seriously ill;
- S. Programs that require proof of vaccination have been shown to increase vaccination uptake in populations, thereby reducing the public health risk of SARS-CoV-2 and the burden of COVID-19 illness on the public health system, health care system and society as a whole;
- T. There are difficulties and risks in accommodating a person who is unvaccinated, since there is no other measure that is as effective as vaccination in reducing the risk of contracting or transmitting SARS-Co-2, and the likelihood of experiencing severe illness, hospitalization, ICU admission and death if infected;
- U. 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;

- V. Routine COVID-19 testing of asymptomatic people is not recommended in British Columbia. Polymerase chain reaction (PCR) testing capacity is reserved for people who have symptoms of COVID-19 and are either at risk of more severe disease and currently eligible for treatment, or live or work in high-risk settings, such as health care workers. Rapid antigen testing requires higher virus levels in the sample to detect and report a positive result and, therefore, has a higher risk of providing a false negative result and is less accurate and reliable than PCR testing.
- W. Rapid antigen testing is not a substitute for vaccination and is most useful when used for symptomatic people in specific settings in which additional layers of protection are needed to protect people at higher risk of serious outcomes of COVID-19, and then followed up with confirmatory PCR testing for positive tests, and when used in remote communities where obtaining results of PCR testing may be delayed;
- X. 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;
- Y. Various options for establishing vaccine status, including in paper and online format, are readily available to members of the public;
- Z. The Omicron variant has introduced uncertainty into the course of the pandemic, and the rapid rise in infection, hospitalization and ICU admission rates in British Columbia have led me to conclude that measures continue to be needed to temper the extent of transmission, reduce severity of disease and continue to incentivize vaccination;
- AA. Pursuant to Article G of my October 14, 2021, *Hospital and Community (Health Care and Other Services) COVID-19 Vaccination Status and Preventative Measures Order*, I provided notice to health professionals who were not otherwise required to be vaccinated under those orders, that they would be required by me to be vaccinated on a date determined by me, in order to provide health care or services in the Province;
- BB. Health professionals undertake an important role in providing services to the public both in the public health system, and community settings. Health professions covered by this order involve some degree of physical interaction between the health professional and the public;
- CC. Health professionals pose a risk of transmission of virus to the public as they provide services to populations of the public who, due to age or underlying health status and despite vaccination status of the patient, are likely to be vulnerable to infection with COVID-19;
- DD. While some limited health care services may be provided remotely without direct encounter between the health professional and the patient, (for example, through telehealth or online methods), not all persons are able to access these methods of service delivery and these methods of service delivery are a barrier to access to health care services for persons with visual and hearing

impairment, the elderly, persons with mental health challenges and persons who do not have ready access to technology;

EE. While some individual health professionals may choose to limit the manner of service delivery to telehealth and online methods, the colleges do not generally regulate the form of service delivery of health professionals and therefore health professionals may revert to seeing patients in person, at the choosing of the health professional;

FF. Therefore, it is not practical and not in the interest of the public that access to health care services be provided to patients wholly remotely by health professionals who choose not to be vaccinated when in person access to necessary health care services can be safely provided to patients if health professionals are vaccinated;

GG. Trust and confidence in health professionals is essential to the success of the services they provide and to the vulnerable patient's and the public's well-being. Anyone, but especially persons with heightened health risk of COVID-19 (due to advanced age, chronic health issues or compromised immune system) needs to have confidence that when they seek health care from a health professional they are going to be provided with health care in a manner that will best meet their health needs and not put their health at risk;

HH. 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 health professionals against the risk of harm to public health posed by the interaction between members of the public requiring health care and unvaccinated health professionals;

II. 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, and the right not to be deprived of life, liberty or security of the person, other than in accordance with the principles of fundamental justice. However, these rights and freedoms are not absolute and are subject to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society, which includes proportionate, precautionary and evidence-based measures to prevent loss of life, serious illness and disruption of our health system and society;

JJ. 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, and to balance these rights and interests in a way that is consistent with

the protection of public health. I have concluded that the measures which I am putting in place in this Order are proportionate, rational and tailored to address the risk, and are consistent with principles of fundamental justices; the measures are neither arbitrary, overbroad, nor grossly disproportionate in light of the need to protect public health at this time. In my view, any limits on constitutionally protected rights and freedoms arising from this Order, are proportionate and reasonable in the interests of protecting public health, and there are no other reasonable alternatives that would provide the same level of protection for the population;

KK. In addition, I recognize privacy interests, informational privacy rights protected by the *Freedom of Information and Protection of Privacy Act* and the rights 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;

LL. I am also mindful that the volume of requests for reconsideration of my Orders, and the time and expertise which considering them entails, has become beyond my capacity and that of my office and team of medical health officers to manage, and is using resources which are better directed at assessing and responding to the protection of the public as a whole;

**THEREFORE, I have reason to believe and do believe that**

- (a) the continued presence of unvaccinated people in the population, more so in some age groups and some communities where vaccination rates continue to be low, coupled with the emergence of the highly transmissible Omicron variant, poses a risk to the health of the population, threatens the capacity of the public health and health care systems to address the health care needs of the population, and constitutes a health hazard;
- (b) in order to protect the health of the public and the public health and health care systems it is necessary for me to implement preventive measures to reduce the risk of the transmission of SARS-CoV-2 between unvaccinated registrants and members of the public who require health care which could lead to widespread infection and serious illness, especially among unvaccinated people, and in turn risks overwhelming the public health and the health care systems, which are already operating beyond capacity;
- (c) the colleges require information about the vaccination status of their registrants in order to take measures to protect the public from the risk of exposure to infection posed by unvaccinated registrants;
- (d) a lack of information on the part of the colleges about the vaccination status of their registrants interferes with the suppression of SARS-CoV-2 and constitutes a health hazard under the *Public Health Act*;
- (e) an unvaccinated registrant who provides services to persons puts persons at risk of infection with SARS-CoV-2, and constitutes a health hazard under the *Public Health Act*;

- (f) in order to prevent or reduce the risk of the transmission of infection with SARS-CoV-2 by health professionals, I believe it is necessary for me to
- (i) collect personal information about registrants from colleges,
  - (ii) use personal information about registrants provided by colleges by matching this information with information in the Provincial Immunization Registry,
  - (iii) disclose personal information including the matched information to the colleges,
  - (iv) order health professionals to provide personal information to the colleges,
  - (v) order the colleges to collect personal information from registrants in order to determine the vaccination status of the registrants they register,
  - (vi) order the colleges to provide personal or aggregate information to me for the purpose of
    - a. determining the vaccination status of health professionals, and
    - b. preventing or responding to exposures to or clusters or outbreaks of COVID-19 in a workplace.

**THEREFORE**, in order to mitigate the risk of the transmission of SARS-CoV-2 created by an unvaccinated health professional as described above, it is necessary for me to exercise the powers in sections 30, 31, 32, 39, 53, 54, 56, 57, 67 (2) and 69 of the *Public Health Act* **TO ORDER** as follows:

**FOR CERTAINTY, THIS ORDER APPLIES TO HEALTH PROFESSIONALS IN ADDITION TO THE REQUIREMENTS OF THE *HOSPITAL AND COMMUNITY (HEALTH CARE AND OTHER SERVICES) COVID-19 VACCINATION STATUS INFORMATION AND PREVENTATIVE MEASURES ORDER* AND THE *RESIDENTIAL CARE COVID 19 PREVENTATIVE MEASURES ORDERS* AND AMENDMENTS THERETO.**

**DEFINITIONS:**

“college” has the same meaning as in the *Health Professions Act*;

“exemption” means a variance issued to a person under the *Public Health Act* on the basis of a medical deferral to a vaccination, which permits an unvaccinated person to do that which they would otherwise be prohibited from doing pursuant to this or another order made under the *Public Health Act*, despite not being vaccinated;

“registrant” has the same meaning as in the *Health Professions Act* and includes:

- (a) a person who is registered with the College of Dental Surgeons of British Columbia as a dental therapist or certified dental assistant; and
- (b) a person who is registered with the College of Pharmacists of British Columbia as a pharmacy technician;

“personal information” has the same meaning as in the *Public Health Act*;

“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) a military identification card that is issued by a government of any jurisdiction, which includes a photograph of the holder and is satisfactory to the college or an employer, as the case may be;
- (g) another form of identification that is issued by a government of any jurisdiction which includes a photograph of the holder and is satisfactory to the college;

**“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;

**“unvaccinated”** means that a person does not meet the definition of “vaccinated”;

**“vaccinated”** means to have received, at least 7 days previously, all doses of a vaccine or a combination of vaccines, but not including a booster dose, 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.

## **A. COLLEGES**

1. Each college must provide to me, for every registrant of their college, the following information, if in the possession of the college:

- (a) legal first, second, third, middle, preferred and last names;
- (b) gender;
- (c) date of birth;
- (d) the identification number assigned to the registrant by the college;
- (e) home address and address of place of work;

- (f) home phone number and phone number of place of work;
- (g) fax number; and
- (h) home email and email of place of work.

## **B. MINISTER OF HEALTH**

1. The Minister of Health must:
  - (a) verify the vaccination status for each registrant by using the data in the Provincial Immunization Registry; and
  - (b) disclose to each college the vaccination status of the registrant according to the Provincial Immunization Registry.

## **C. PROOF OF VACCINE REQUIREMENTS FOR REGISTRANTS**

1. By March 31, 2022, a college must record each registrant's vaccination status.
2. A registrant must, upon request of their college and in the manner required by the college, provide proof of vaccination, or of an exemption to the college.

## **D. DISCLOSURE OF VACCINATION STATUS**

1. A college must, on request, disclose to me aggregate information respecting the vaccination status of registrants of their college.
2. For the purpose of preventing, or responding to, exposures to, or clusters or outbreaks of COVID-19 in the workplace each college must disclose to me or the medical health officer, on request,
  - (a) on an aggregate basis, the location of all places where registrants work and the vaccination status of registrants of the college, or
  - (b) respecting an individual named registrant, all the places where the registrant works and the vaccination status of that registrant

## **E. 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 communicable diseases in hospital or community settings, **I FURTHER ORDER THAT:**

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 a registrant in the geographic area of the Province for which the medical health officer is designated, or with respect to a particular registrant or health care settings.

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 a registrant or health care setting or class of registrant or health care setting 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.

## **F. EXPIRATION AND COMPLIANCE**

This Order does not have an expiration date.

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*.

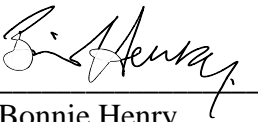
If you fail to comply with this Order, I have the authority to take enforcement action against you under Part 4, Division 6 of the *Public Health Act*.

After taking into consideration the interests of patients against the interests of unvaccinated registrants who are not vaccinated for reasons other than medical deferral, and taking into account the importance of maintaining a healthy workforce, 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, the increased risk to the population arising from the presence of the Omicron variant in the Provinces, 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, not to accept requests for a reconsideration of this Order.

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: 7<sup>th</sup> day of March 2022

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

DELIVERY BY: Posting to the BC Government and 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**

#### **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.

(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 43 [*reconsideration of orders*].

### **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:

- (i) 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];

### **Emergency preventive measures**

**56** (1)The provincial health officer or a medical health officer may, in an emergency, order a person to take preventive measures within the meaning of section 16 [*preventive measures*], including ordering a person to take preventive measures that the person could otherwise avoid by making an objection under that section.

(2) If the provincial health officer or a medical health officer makes an order under this section, a person to whom the order applies must comply with the order unless the person delivers to a person specified by the provincial health officer or medical health officer, in person or by registered mail,

(a) a written notice from a medical practitioner stating that the health of the person who must comply would be seriously jeopardized if the person did comply, and

(b) a copy of each portion of that person's health record relevant to the statement in paragraph (a), signed and dated by the medical practitioner.

(3) If a person delivers a notice under subsection (2), the person must comply with an instruction of the provincial health officer or a medical health officer, or a person designated by either of them, for the purposes of preventing infection with, or transmission of, an infectious agent or a hazardous agent.

### **Emergency powers respecting reporting**

**57** (1) The provincial health officer may, in an emergency, order that a specified infectious agent, hazardous agent, health hazard or other matter be reported under this section.

(2) If an order is made under this section, a person required by the order to make a report must promptly report, to the extent of his or her knowledge, to a medical health officer the information required by the order.

(3) If a person is required to make a report under this Act, the provincial health officer may in an emergency order the person exempt from the requirement, or vary the requirement.

### **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.

### **Delegation by provincial health officer**

**69** The provincial health officer may in writing delegate to a person or class of persons any of the provincial health officer's powers or duties under this Act, except the following:



(a) a power to further delegate the power or duty;

(b) a duty to make a report under this Act.

## **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*];