

Sullivan, Michelle A HLTH:EX

From: Emerson, Brian P HLTH:EX
Sent: September 11, 2021 8:54 AM
To: Miles Prodan; ken@bccraftbeer.com; XT:Tostenson, Ian LCRB:IN; mark@restaurantscanada.org; jeff@ablebc.ca; 'Ingrid Jarrett'; 'mike.macleod@bcha.com'; Maloughney, Mary Sue LCRB:EX; Rousselle, Jillian LCRB:EX; Gill, Rup K LCRB:EX
Subject: Gatherings and Events & Food and Liquor Serving Premises PHO Orders - Proof of Vaccination Requirements
Attachments: PHO - CLASS Order Food and Liquor Serving Premises (COVID-19) Sept. 10 final.pdf; PHO- Class Order Gatherings and Events (COVID-19) Sept 10 final.pdf
Categories: Red Category

Thanks very much for your feedback on developemnt of these orders. It has been hugely helpful! And even bigger thank you to the industry for implementing this very important measure to help ensure we can keep people safe and keep all those important businesses operating.

Attached are the following new orders to be posted this weekend:

- “Gatherings and Events – September 10, 2021”
- “Food and Liquor Serving Premises– September 10, 2021”

These orders have been changed to add requirements for checking/showing proof of vaccination at a wide variety of events and food and liquor serving premises. These orders also describe where proof of vaccination is not required.

Per the *Gatherings and Events Order* people must show their proof of vaccination before entering a gathering of more than 50 participants in an inside place for social, entertainment, dancing, choral, musical, recreational, gambling, arts or crafts, or business purposes and includes a ticketed sports activity, concert, theatrical production, dance or symphony performance, festival, conference, convention, trade fair, home show, workshop, wedding reception, funeral reception not at a funeral home, and a sponsored, ticketed party; and a gathering of participants in an inside place for the purpose of an adult sports activity, or an exercise, fitness or dance activity or class.

Events excluded are a program for children or youth (those less than 22 years old), a meeting of a council, board, or trust committee of a local authority as defined under the *Community Charter*, the *Local Government Act* or the *Islands Trust Act*, or a school board, at which members of the public attend in person; the distribution of food or other supplies to people in need; health or social services provided to people in need, such as warming or cooling centres; swimming pools, unless the location of an event; skating rinks when not being used for adult sport; fitness facilities which are part of a hotel or similar establishment; rehabilitation or exercise therapy programs; worship services; health care related events, including immunization clinics, COVID-19 testing centres and blood donation clinics; drug and alcohol support group meetings; court sittings wherever they occur; workers at a workplace when engaged in their work activities, including staff meetings; work camps; before or after school programs for students of public or independent schools (schools); educational activities for students of schools or post-secondary institutions; teachers or instructors at a school or a post-secondary educational institution when engaged in educational activities with their students in any

location; language courses; employment related training; the use of any place for local, provincial or federal government purposes; services provided by or on behalf of any level of government;

Per the *Food and Liquor Serving Premises* people must show their proof of vaccination before being served at a restaurant with table service, including a buffet with table service, or a cafe, a food primary or liquor primary establishment, including a pub, bar, lounge, nightclub, liquor manufacturing facility that has a tasting room with seating, or a private club.

Premises that are excluded are food or liquor serving premises which are located in airports or at BC Ferries terminals or on BC ferries, designated onsite liquor retail and dedicated sampling room areas without seating attached to a liquor manufacturing facility, a person providing or collecting take-out food, a person who delivers to or receives food in a place other than a restaurant, non-licensed premises with only counter food service where the food is either ordered and collected from a counter, or is ordered at a counter and delivered to the customer at a table or other place, non-licensed self-serve food areas, food courts, food trucks, drive-through, take out or quick service food services, hospitals, licensed care facilities, assisted living residences, independent living facilities, correctional facilities, industrial camps, public or independent schools, post-secondary institutions, workplace cafeterias, cafeterias for resident students attending educational institutions, or other cafeterias that serve food or liquor to residents, rather than to the general public.

Note that MHOs can recommend exclusion of food and liquor serving premises. This was included to ensure that marginalized or alcohol dependent people are not inadvertently excluded from getting access to necessary services.

The orders provide the rules for proof of vaccination for the periods September 13 to 26 during which electronic or paper records issued by vaccination providers may be shown, then to October 23 when having one dose is acceptable, to October 24 onward when two doses are needed.

Requests for reconsideration are allowed to address what are expected to be very rare medical contraindications and human rights considerations. That process is under development.

Thanks again!

Brian

Dr. Brian P. Emerson, Deputy Provincial Health Officer (acting)
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ORDER OF THE PROVINCIAL HEALTH OFFICER

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

FOOD AND LIQUOR SERVING PREMISES - SEPTEMBER 10, 2021

The *Public Health Act* is at:

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

(excerpts enclosed)

- TO: OWNERS AND OPERATORS OF RESTAURANTS WITH TABLE SERVICE, CAFES, FOOD PRIMARY OR LIQUOR PRIMARY ESTABLISHMENTS, INCLUDING PUBS, BARS, LOUNGES AND NIGHTCLUBS, LIQUOR MANUFACTURING FACILITIES THAT HAVE TASTING ROOMS WITH SEATING OR PRIVATE CLUBS**
- TO: PATRONS OF RESTAURANTS WITH TABLE SERVICE, CAFES, FOOD PRIMARY OR LIQUOR PRIMARY ESTABLISHMENTS, INCLUDING PUBS, BARS, LOUNGES AND NIGHTCLUBS, LIQUOR MANUFACTURING FACILITIES THAT HAVE TASTING ROOMS WITH SEATING OR PRIVATE CLUBS**
- TO: MEDICAL HEALTH OFFICERS**

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 contact;
- C. Vaccines, which prevent or reduce the risk of infection with SARS-CoV-2, have been and continue to be made available in British Columbia;
- D. While substantial progress has been made in vaccinating the population of British Columbia 12 years of age and older, a significant portion of the public is unvaccinated, which is resulting in increases in cases, hospitalizations, and intensive care admissions, primarily in unvaccinated people, although it is also causing illness in vaccinated people. This situation has been exacerbated by the presence of the highly transmissible Delta variant of SARS-CoV-2 in British Columbia.

- E. Unvaccinated persons are at higher risk than vaccinated persons of being infected with SARS-CoV-2 and of transmitting SARS-CoV-2 to other persons.
- F. Evidence is emerging that even people who are vaccinated can be infected with SARS-CoV-2 and can transmit SARS-CoV-2, although this is much less likely than in the case of unvaccinated people.
- G. The gathering of unvaccinated people in close contact with other people can promote the transmission of SARS-CoV-2 and increase the number of people who develop COVID-19 and become seriously ill; in particular, social mingling coupled with the consumption of alcohol, which increases risky behavior, is associated with increases in the transmission of SARS-CoV-2, and increases in the number of people who develop COVID-19 and become seriously ill;
- H. Various options for establishing vaccine status, including in paper and online format, are readily available to members of the public;
- I. Programs that require that proof of vaccination be provided have been shown to increase vaccination uptake in populations, thereby reducing the public health risk of COVID-19.
- J. I recognize the effect which the measures I am putting in place to protect the health of the public have on persons who are unvaccinated and, with this in mind, have engaged and will continue to 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 the people affected by the Order, including constitutionally protected interests, against the risk of harm to the public health created by unvaccinated persons;
- K. I further recognize that constitutionally-protected interests include the rights and freedoms guaranteed by the Canadian *Charter of Rights and Freedoms*, including the right to life, liberty and security of the person, along with freedom of religion and conscience, freedom of thought, belief, opinion and expression. These rights and freedoms are not, however, absolute and are subject to reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. These limits include proportionate, precautionary and evidence-based restrictions to prevent loss of life, serious illness and disruption of our health system and society. 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, where doing so is consistent with public health principles;
- L. In addition, I recognize the interests 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 from the risk created by being in contact with unvaccinated persons in food and liquor serving premises;
- M. For certainty, this Order is not directed at food or liquor serving premises which are located in airports or at BC Ferries terminals or on BC ferries, designated onsite liquor retail and dedicated

sampling room areas without seating attached to a liquor manufacturing facility, a person providing or collecting take-out food, a person who delivers to or receives food in a place other than a restaurant, non-licensed premises with only counter food service where the food is either ordered and collected from a counter, or is ordered at a counter and delivered to the customer at a table or other place, non-licensed self-serve food areas, food courts, food trucks, drive-through, take out or quick service food services, hospitals, licensed care facilities, assisted living residences, independent living facilities, correctional facilities, industrial camps, public or independent schools, post-secondary institutions, workplace cafeterias, cafeterias for resident students attending educational institutions, or other cafeterias that serve food or liquor to residents, rather than to the general public.

N. For further certainty, this Order does not apply to events as defined in the *Gatherings and Events* Order, or to meetings or conferences held in hotels or anywhere else;

O. I have reason to believe and do believe that

- a. the presence of unvaccinated persons in food serving premises with table service, including buffets where table service is provided, cafes, food primary and liquor primary establishments, including pubs, bars, lounges and nightclubs, manufacturing facilities that have tasting rooms with seating and private clubs constitutes a health hazard under the *Public Health Act*. This is because the continued presence of large numbers of unvaccinated people in the population, particularly in some age groups and some communities where vaccination rates continue to be low, poses a risk to the health of the population. Unvaccinated people can be a source of transmission to other unvaccinated people, and also to vaccinated people who are not completely immune consequent to their vaccination, either because of a reduced immune response or only having had one dose. These infections can result in serious illness, hospitalization, intensive care unit admission for care and death.
- b. it is in the public interest for me to exercise the powers in sections 30, 31, 32, 39, 54, 67 (2) and 69 of the *Public Health Act* **TO ORDER** as follows:

THIS ORDER REPEALS AND REPLACES MY ORDER MADE ON JULY 29, 2021

Definitions in this Order:

“patron” means a person who is present as a customer on premises, but does not include an owner, operator or member of staff;

“premises” includes both the inside and outside area of a place being operated as a

- a. a restaurant with table service, including a buffet with table service, or a cafe,
- b. a food primary or liquor primary establishment, including a pub, bar, lounge, nightclub, liquor manufacturing facility that has a tasting room with seating, or a private club.

A. OWNERS AND OPERATORS OF RESTAURANTS WITH TABLE SERVICE, CAFES, FOOD PRIMARY OR LIQUOR PRIMARY ESTABLISHMENTS, INCLUDING PUBS, BARS, LOUNGES AND NIGHTCLUBS, LIQUOR MANUFACTURING FACILITIES THAT HAVE TASTING ROOMS WITH SEATING OR PRIVATE CLUBS

1. An operator must not provide food or drink services on premises, except in compliance with the provisions of this Order.
2. The operator must determine the maximum number of patrons who can be accommodated safely on the premises, taking into consideration the requirements in this Part, and must document this maximum number.
3. The operator must monitor the number of patrons present on the premises and ensure that the number does not exceed the maximum number documented.
4. The operator must take steps to prevent the congregation of patrons outside the premises, such as by taking reservations and requesting patrons to remain in their cars or elsewhere until notified by telephone or an App that there is seating available for them on the premises.
5. The operator must assess the premises for places where patrons may congregate, and put in place measures to avoid congregation.
6. If patrons consume food or drink on the premises, there must be sufficient seating for them, whether at a table, booth or counter, and patrons must be seated while on the premises.
7. In liquor licensed premises, other than a private club, or tasting room with a liquor manufacturer licence with seating, patrons must be assigned a table, booth or counter, and shown to their seats.
8. Subject to further direction from me, posted on my website, patrons must stay in the seat to which they are assigned, or at which they seat themselves, and must not move from table to table.
9. Subject to further direction from me, posted on my website, patrons must remain seated when on premises, other than a tasting room with a liquor manufacturer's licence with seating, except
 - a. to use a self-serve food or drink station,
 - b. to use a juke box, a self-serve lottery ticket dispenser, or pay at a pay station,
 - c. to use washroom facilities,
 - d. to provide assistance to another person who requires care or first aid,
 - e. to leave or return to the premises, or

- f. for the purpose of doing any of the following with persons who are in the same party as the patron and who are seated with the patron:
 - i. play pool, billiards, snooker, or darts; or
 - ii. bowl, if there is a bowling alley on the premises.
- 10. If there is a self-serve food or drink station on the premises,
 - a. hand washing facilities or alcohol-based sanitizers within easy reach of the station;
 - b. signs reminding patrons to wash or sanitize their hands before touching self-serve food, drink or other items; and
 - c. high touch surfaces at the station, and utensils that are used for self-serve, be frequently cleaned and sanitized.
- 11. There must be a sufficient number of staff on the premises to ensure that patrons
 - a. remain seated, and
 - b. do not congregate in areas of the premises.
- 12. Subject to further direction from me posted on my website, dance floors must be closed with physical barriers or occupied with tables, unless they are being used for a dance performance.
- 13. Subject to further direction from me posted on my website, a patron must not dance on the premises.
- 14. The *Gatherings and Events* Order applies to events which are held on premises.

B. PROOF OF VACCINATION

- 1. This Part does not apply to a patron under 12 years of age.
- 2. In this Part

“photo identification” means one of the following:

- a) a photo BC Services Card within the meaning of the Identification Card regulation;
- b) a driver’s licence, issued by a government of a province of Canada and including a photograph of the holder;
- 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) another form of identification, issued by a government of any jurisdiction, including a photograph of the holder;

“vaccine” means a World Health Organization approved vaccine against the infectious agent SARS-CoV-2.

“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).

3. Commencing on September 13, 2021, and ending on October 23, 2021, and subject

- a. to a direction by the medical health officer requiring that a person must have received two doses of vaccine in order to be served, in a premises, or a class of premises, in the geographic area of the Province for which the medical health officer is designated, when posted on my website, or
- b. a direction by me, on the recommendation of the medical health officer, that this Part of the Order does not apply to a premises in the geographic area of the Province for which the medical health officer is designated,

the following requirements come into effect with respect to premises:

- a. An operator must obtain proof in the form of a vaccine card that a patron has received at least one dose of vaccine in order to be served in a premises.
- b. A patron must provide an operator with proof in the form of a vaccine card of having received a least one dose of vaccine in order to be served in a premises.

- c. An operator must not permit a patron, who has not provided the operator with proof in the form of a vaccine card of having received at least one dose of vaccine, remain on the premises.
 - d. A patron who has not provided an operator with proof in the form of a vaccine card of having received at least one dose of vaccine must not remain on the premises.
 - e. Despite the requirements in section 3 (a) to (d), between September 13, 2021 and September 26, 2021, a patron may provide the paper record of vaccination which the patron received at the time of receiving a dose of vaccine from the person administering the vaccine, and photo identification, as proof that the patron has received at least one dose of vaccine.
4. **Commencing on October 24, 2021**, and subject to a direction by me, on the recommendation of the medical health officer, that this Part of the Order does not apply to a premises in the geographic area of the Province for which the medical health officer is designated, the following requirements come into effect and replace the requirements in section 3 with respect to premises:
- a. An operator must obtain proof in the form of a vaccine card that a patron has received two doses of vaccine in order to be served in a premises.
 - b. A patron must provide an operator with proof in the form of a vaccine card of having received two doses of vaccine in order to be served in a premises.
 - c. An operator must not permit a patron, who has not provided the operator with proof in the form of a vaccine card of having received two doses of vaccine, to remain on the premises.
 - d. A patron who has not provided an operator with proof in the form of a vaccine card of having received two doses of vaccine must not remain on the premises.
5. An operator must not scan the QR code on a vaccine card, or paper record of vaccination, with a tool other than a BC Vaccine Card Verifier App.
6. Subject to section 7, an operator must not retain proof of vaccination or identification provided by a patron, or use it for any purpose other than to confirm that a patron has been vaccinated, as required by this Order.
7. Despite section 6, with the written consent of a patron, an operator may keep a record of the fact that the patron has provided proof of being vaccinated in compliance with this Part until this Order expires or is repealed, and the operator may rely upon this record to satisfy the requirements in this Part with respect to the presence of the patron at the premises in the future.

C. PATRONS OF RESTAURANTS WITH TABLE SERVICE, CAFES, FOOD PRIMARY OR LIQUOR PRIMARY ESTABLISHMENTS, INCLUDING PUBS, BARS, LOUNGES AND NIGHTCLUBS, LIQUOR MANUFACTURING FACILITIES THAT HAVE TASTING ROOMS WITH SEATING OR PRIVATE CLUBS

1. A patron must not be on premises in which there are more persons present than are permitted.
2. A patron must not enter premises, or must leave premises, if so directed by the operator or a member of staff.
3. A patron must comply with the requirements or prohibitions in Parts A and B, and with measures, guidance or direction from an owner, operator, or member of staff, intended to avoid the congregation of patrons.

D. DELEGATION OF AUTHORITY TO THE MEDICAL HEALTH OFFICER TO CONSIDER AND MAKE A DECISION WITH RESPECT TO A REQUEST FOR RECONSIDERATION MADE UNDER SECTION 43 WITH RESPECT TO THIS ORDER

Under the authority vested in me by section 69 of the *Public Health Act*, I delegate my authority under section 43 of the *Public Health Act* to the medical health officer for the geographic region of the Province in which a person resides or premises are located, in order to receive, consider, and make a decision with respect to a request for reconsideration of the application of this Order to that person, or to that premises.

E. RELATED MEDICAL HEALTH OFFICERS 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 and to determine whether additional or more restrictive steps need to be taken to reduce the risk of the transmission of COVID-19, **I FURTHER ORDER:**

1. A medical health officer may issue a direction provided for in Part B, or an order further to this Order, for the purpose of having the provisions of the direction or the order incorporated into this Order. A direction or order may add further prohibitions, or impose more restrictive limitations or conditions, in the whole or part of the geographic area of the Province for which the medical health officer is designated and, subject to section 2, the provisions of the direction or order are incorporated into this Order when posted on my website. For certainty, a contravention of a direction or order of a medical health officer issued further to this Order, and posted on my website, is a contravention of this Order.
2. While it is in force, a provision in a direction or order made by a medical health officer further to this Order and posted on my website, which adds further prohibitions or imposes more restrictive limitations or requirements than this Order, applies in the whole or part of the geographic area of

the Province for which the medical health officer is designated, despite the provisions of this Order.

This Order expires at 12:01 A.M. on January 31, 2022.

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*.

Pursuant to section 43 of the *Public Health Act*, you may request a medical health officer to reconsider this Order if you:

(a) have additional relevant information that was not reasonably available to me or another health officer when the order was issued or varied,

(b) have a proposal that was not presented to me or another 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) require more time to comply with the order.

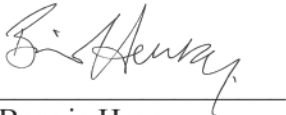
A request for reconsideration of this Order on the basis of a medical contraindication made by a person to whom the Order applies must include a signed and dated statement from a medical practitioner, based upon a current assessment, that the health of the person would be seriously jeopardized if the person were to receive a first or second dose of vaccine, and a signed and dated copy of each portion of the person's health record relevant to this statement.

A request under section 43 may be submitted to the Provincial Health Officer at ProvHlthOffice@gov.bc.ca with the subject line "Request for Reconsideration about Proof of Vaccination".

You may contact me at:

Dr. Bonnie Henry, Provincial Health Officer
s.15; s.19
P O Box 9648 STN PROV GOVT, Victoria BC V8W 9P4
Fax: (250) 952-1570
Email: ProvHlthOffice@gov.bc.ca

DATED THIS: 10th 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 the *Public Health Act*.

ENCLOSURE

Excerpts of the *Public Health Act* [SBC 2008] c. 28

Definitions

1 In this Act:

"health hazard" means

- (a) a condition, a thing or an activity that
 - (i) endangers, or is likely to endanger, public health, or
 - (ii) interferes, or is likely to interfere, with the suppression of infectious agents or hazardous agents, or
- (b) a prescribed condition, thing or activity, including a prescribed condition, thing or activity that
 - (i) is associated with injury or illness, or
 - (ii) fails to meet a prescribed standard in relation to health, injury or illness;

When orders respecting health hazards and contraventions may be made

30 (1) A health officer may issue an order under this Division only if the health officer reasonably believes that

- (a) a health hazard exists,
- (b) a condition, a thing or an activity presents a significant risk of causing a health hazard,
- (c) a person has contravened a provision of the Act or a regulation made under it, or
- (d) a person has contravened a term or condition of a licence or permit held by the person under this Act.

(2) For greater certainty, subsection (1) (a) to (c) applies even if the person subject to the order is complying with all terms and conditions of a licence, a permit, an approval or another authorization issued under this or any other enactment.

General powers respecting health hazards and contraventions

31 (1) If the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, a health officer may order a person to do anything that the health officer reasonably believes is necessary for any of the following purposes:

- (a) to determine whether a health hazard exists;

(b) to prevent or stop a health hazard, or mitigate the harm or prevent further harm from a health hazard;

(c) to bring the person into compliance with the Act or a regulation made under it;

(d) to bring the person into compliance with a term or condition of a licence or permit held by that person under this Act.

(2) A health officer may issue an order under subsection (1) to any of the following persons:

(a) a person whose action or omission

(i) is causing or has caused a health hazard, or

(ii) is not in compliance with the Act or a regulation made under it, or a term or condition of the person's licence or permit;

(b) a person who has custody or control of a thing, or control of a condition, that

(i) is a health hazard or is causing or has caused a health hazard, or

(ii) is not in compliance with the Act or a regulation made under it, or a term or condition of the person's licence or permit;

(c) the owner or occupier of a place where

(i) a health hazard is located, or

(ii) an activity is occurring that is not in compliance with the Act or a regulation made under it, or a term or condition of the licence or permit of the person doing the activity.

Specific powers respecting health hazards and contraventions

32 (1) An order may be made under this section only

(a) if the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, and

(b) for the purposes set out in section 31 (1) [*general powers respecting health hazards and contraventions*].

(2) Without limiting section 31, a health officer may order a person to do one or more of the following:

(a) have a thing examined, disinfected, decontaminated, altered or destroyed, including

- (i) by a specified person, or under the supervision or instructions of a specified person,
 - (ii) moving the thing to a specified place, and
 - (iii) taking samples of the thing, or permitting samples of the thing to be taken;
- (b) in respect of a place,
- (i) leave the place,
 - (ii) not enter the place,
 - (iii) do specific work, including removing or altering things found in the place, and altering or locking the place to restrict or prevent entry to the place,
 - (iv) neither deal with a thing in or on the place nor dispose of a thing from the place, or deal with or dispose of the thing only in accordance with a specified procedure, and
 - (v) if the person has control of the place, assist in evacuating the place or examining persons found in the place, or taking preventive measures in respect of the place or persons found in the place;
- (c) stop operating, or not operate, a thing;
- (d) keep a thing in a specified place or in accordance with a specified procedure;
- (e) prevent persons from accessing a thing;
- (f) not dispose of, alter or destroy a thing, or dispose of, alter or destroy a thing only in accordance with a specified procedure;
- (g) provide to the health officer or a specified person information, records, samples or other matters relevant to a thing's possible infection with an infectious agent or contamination with a hazardous agent, including information respecting persons who may have been exposed to an infectious agent or hazardous agent by the thing;
- (h) wear a type of clothing or personal protective equipment, or change, remove or alter clothing or personal protective equipment, to protect the health and safety of persons;
- (i) use a type of equipment or implement a process, or remove equipment or alter equipment or processes, to protect the health and safety of persons;
- (j) provide evidence of complying with the order, including

(i) getting a certificate of compliance from a medical practitioner, nurse practitioner or specified person, and

(ii) providing to a health officer any relevant record;

(k) take a prescribed action.

(3) If a health officer orders a thing to be destroyed, the health officer must give the person having custody or control of the thing reasonable time to request reconsideration and review of the order under sections 43 and 44 unless

(a) the person consents in writing to the destruction of the thing, or

(b) Part 5 [*Emergency Powers*] applies.

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.

General emergency powers

- 54** (1) A health officer may, in an emergency, do one or more of the following:
- (a) act in a shorter or longer time period than is otherwise required;
 - (b) not provide a notice that is otherwise required;
 - (c) do orally what must otherwise be done in writing;
 - (d) in respect of a licence or permit over which the health officer has authority under section 55 [*acting outside designated terms during emergencies*] or the regulations, suspend or vary the licence or permit without providing an opportunity to dispute the action;
 - (e) specify in an order a facility, place, person or procedure other than as required under section 63 [*power to establish directives and standards*], unless an order under that section specifies that the order applies in an emergency;
 - (f) omit from an order things that are otherwise required;
 - (g) serve an order in any manner;
 - (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*];
 - (i) exempt an examiner from providing examination results to an examined person;
 - (j) conduct an inspection at any time, with or without a warrant, including of a private dwelling;
 - (k) collect, use or disclose information, including personal information,

- (i) that could not otherwise be collected, used or disclosed, or
- (ii) in a form or manner other than the form or manner required.

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

Offences

99 (1) A person who contravenes any of the following provisions commits an offence:

- (k) section 42 [*failure to comply with an order of a health officer*], except in respect of an order made under section 29 (2) (e) to (g) [*orders respecting examinations, diagnostic examinations or preventive measures*];



ORDER OF THE PROVINCIAL HEALTH OFFICER

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

GATHERINGS AND EVENTS – SEPTEMBER 10, 2021

The *Public Health Act* is at:

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

(excerpts enclosed)

TO: OWNERS AND OPERATORS OF PLACES

TO: PERSONS WHO ORGANIZE EVENTS

TO: PERSONS WHO ATTEND EVENTS

TO: MEDICAL HEALTH OFFICERS

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 contact;
- C. Vaccines, which prevent or reduce the risk of infection with SARS-CoV-2, have been and continue to be made available in British Columbia;
- D. While substantial progress has been made in vaccinating the population of British Columbia 12 years of age and older, a significant portion of the public is unvaccinated, which is resulting in increases in cases, hospitalizations, and intensive care admissions, primarily in unvaccinated people, although it is also causing illness in vaccinated people. This situation has been exacerbated by the presence of the highly transmissible Delta variant of SARS-CoV-2 in British Columbia.
- E. Unvaccinated persons are at higher risk than vaccinated persons of being infected with SARS-CoV-2 and of transmitting SARS-CoV-2 to other persons.

- F. Evidence is emerging that even people who are vaccinated can be infected with SARS-CoV-2 and can transmit SARS-CoV-2, although this is much less likely than in the case of unvaccinated people.
- G. Various options for establishing vaccine status, including in paper and online format, are readily available to members of the public;
- H. Programs that require that proof of vaccination be provided have been shown to increase vaccination uptake in populations, thereby reducing the public health risk of COVID-19.
- I. Gatherings and events which involve large numbers of people continue to pose a risk of promoting the transmission of SARS-CoV-2, and increasing the number of people who develop COVID-19 and become seriously ill;
- J. 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 the public, including constitutionally protected interests, in gatherings and events, against the risk of harm to public health created by gatherings and events and unvaccinated persons;
- K. 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, freedom of peaceful assembly and freedom of association. These freedoms, and the other rights protected by the *Charter*, are not, however, absolute and are subject to reasonable limits, prescribed by law as can be demonstrably justified in a free and democratic society. These limits include proportionate, precautionary and evidence-based restrictions to prevent loss of life, serious illness and disruption of our health system and society. 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, where this is consistent with public health principles. In consequence, I am not prohibiting outdoor assemblies for the purpose of communicating a position on a matter of public interest or controversy, subject to my expectation that persons organizing or attending such an assembly will take the steps and put in place the measures recommended in the guidelines posted on my website in order to limit the risk of transmission of COVID-19.
- L. This Order does not apply to the Executive Council; the Legislative Assembly; a council, board, or trust committee of a local authority as defined under the *Community Charter*, the *Local Government Act* or the *Islands Trust Act*, and school boards when holding a meeting or public hearing without members of the public attending in person; the distribution of

food or other supplies to people in need; health or social services provided to people in need, such as warming or cooling centres; swimming pools, unless the location of an event; skating rinks when not being used for adult sport; fitness facilities which are part of a hotel or similar establishment; rehabilitation or exercise therapy programs; worship services; health care related events, including immunization clinics, COVID-19 testing centres and blood donation clinics; drug and alcohol support group meetings; court sittings wherever they occur; workers at a workplace when engaged in their work activities, including staff meetings; work camps; before or after school programs for students of public or independent schools (schools); educational activities for students of schools or post-secondary institutions; teachers or instructors at a school or a post-secondary educational institution when engaged in educational activities with their students in any location; language courses; employment related training; the use of any place for local, provincial or federal government purposes; services provided by or on behalf of any level of government;

I have reason to believe and do believe that

- a. the continued presence of large numbers of unvaccinated people in the population, particularly in some age groups and some communities where vaccination rates continue to be low, continues to pose a risk to the health of the population, and constitutes a health hazard. This is because unvaccinated people can be source of viral transmission to other unvaccinated people, and also to vaccinated people who are not completely immune consequent to their vaccination, either because of a reduced immune response or only having had one dose. These infections can result in serious illness, hospitalization, intensive care unit admission for care and death.
- b. it is in the public interest for me to exercise the powers in sections 30, 31, 32, 39, 54, 67 (2) and 69 of the *Public Health Act* **TO ORDER** as follows:

THIS ORDER REPEALS AND REPLACES MY ORDER OF JULY 7, 2021 WITH RESPECT TO GATHERINGS AND EVENTS

DEFINITIONS:

“event” means a seated in-person gathering in a place with seating;

“organizer” means the person responsible for organizing an event;

“participant” means a person who attends an event, but does not include an organizer, event staff member, official, performer, player, athlete, officiant, or any other person who is acting in an official or service capacity;

“patron” means a participant;

“physical barrier” means a barrier which is designed, installed and maintained in accordance with WorkSafeBC guidance at <https://www.worksafebc.com/en/resources/health-safety/information-sheets/covid-19-health-safety-designing-effective-barriers?lang=en>;

“program for children or youth” means a structured educational program, including home education or distributed learning, music, art, drama, dance, recreational, sport, exercise, or social activity supervised by an adult and provided for persons under 22 years of age;

“place” means a venue, other than a private residence, and includes a hotel ballroom or conference room, a banquet hall, conference hall, auditorium, recreation centre, theatre, movie theatre, multi-movie theatre complex, casino, work-out gym, exercise or dance facility or studio, recreational facility arena, stadium, vacation accommodation, tent or a premises as defined in the *Food and Liquor Serving Premises Order*;

“tent” includes a marquee;

“vacation accommodation” means a house, townhouse, cottage, cabin, apartment, condominium, mobile home, recreational vehicle, hotel suite, tent, yurt, houseboat or any other type of living accommodation, and any associated deck, garden or yard, in which a person is residing, but which is not the person’s primary residence.

A. EVENTS

1. A person must not permit a place to be used for, organize or be present at an event, except in compliance with this Order.
2. An event held in a tent with one or more sides is an inside event.
3. An event held in a tent without any sides is an outside event.

B. OUTSIDE EVENTS

1. A person may permit a place to be used for, or may organize or be present at an outside event, if the provisions of this Part and Part D are complied with.
2. Subject to further direction from me, posted on my website, no more than 5,000 persons, or 50% of the seated operating capacity of a place, excluding event staff, whichever number is greater, are present.
3. There is an organizer.
4. Access to the event is controlled.
5. There is seating available for each participant.

6. Participants are seated throughout the place in such a way as to use all available space.
7. If there is a food or drink station,
 - a. hand washing facilities or alcohol-based sanitizers are within easy reach of the station;
 - b. signs reminding participants to wash or sanitize their hands before touching self-serve food, drink or other items, are posted at the self-serve station; and
 - c. high touch surfaces at the station, and utensils that are used for self-serve, are frequently cleaned and sanitized.
8. Hand sanitation supplies are readily available to participants.
9. Toilet facilities with running water, soap and paper towels for hand washing and drying purposes, or hand sanitation supplies, are available for participants.
10. The organizer monitors the number of persons present, and ensures that the number of persons present does not exceed the maximum number permitted for an outside event.
11. A participant must not attend an outside event at which there are more persons present than are permitted in this Part, and must not enter a place, or must leave a place, if so directed by the organizer or a member of staff.
12. A participant must comply with the requirements in this Part and Part D, and with measures, or guidance or directions from the organizer or a member of staff, intended to avoid the congregation of participants.
13. If an event is held in part of a place which is completely separated from the rest of the place, additional persons who are not attending the event may be present in other parts of the place.
14. If there is more than one area in which events may be held in a place, there may be an event in each of the areas.
15. If the organizer is not the owner or operator of the place in which an outside event is held, the owner or operator must be satisfied that the organizer is aware of the conditions and requirements in this Part and Part D, and has the capacity to fulfill them.

C. INSIDE EVENTS

1. A person may permit a place to be used for or may organize or be present at an inside event, if the provisions of this Part and Part D are complied with.

2. Subject to further direction from me posted on my website, no more than 50 persons, or 50% of the seated operating capacity of the place, excluding event staff, whichever number is greater, are present.
3. There is an organizer.
4. Access to the event is controlled.
5. There is seating available for each participant, and each participant is assigned to a seat or a table.
6. Participants are seated throughout the place in such a way as to use all available space.
7. Participants stay in the seat to which they are assigned, and do not move from seat to seat.
8. Participants at an event, other than a program for children or youth, remain seated, unless movement, such as getting up to speak at a meeting, or to read, is necessary for the purpose of the event, or in order to
 - a. be served at a serving counter, obtain a meal or snack in a take-away container, or use a self-serve food or drink station,
 - b. use washroom facilities,
 - c. provide assistance to another person who requires care or first aid, or
 - d. leave or return to the place.
9. If there is a food or drink station,
 - a. hand washing facilities or alcohol-based sanitizers are within easy reach of the station;
 - b. signs reminding participants to wash or sanitize their hands before touching self-serve food, drink or other items, are posted at the self-serve station; and
 - c. high touch surfaces at the station, and utensils that are used for self-serve, are frequently cleaned and sanitized.
10. Hand sanitation supplies are readily available to participants.
11. Toilet facilities with running water, soap and paper towels for hand washing and drying purposes or hand sanitation supplies are available for participants.
12. There are a sufficient number of staff to ensure that
 - a. participants remain seated, and

- b. participants do not congregate in parts of the place.
- 13. Subject to further direction from me, posted on my website, dance floors are closed with physical barriers or occupied with tables, unless they are being used for a dance performance.
- 14. Subject to further direction from me, posted on my website, participants do not dance.
- 15. The organizer monitors the number of persons present, and ensures that the number of persons present does not exceed the maximum number permitted for an inside event.
- 16. A participant must not attend an inside event at which there are more persons present than are permitted in this Part, and must not enter a place, or must leave a place, if so directed by the organizer or a member of staff.
- 17. A participant must comply with the requirements in this Part and Part D, and with measures, or guidance or directions from the organizer or a member of staff, intended to avoid the congregation of participants.
- 18. If an event is held in part of a place which is completely separated from the rest of the place, additional persons who are not attending the event may be present in other parts of the place.
- 19. If there is more than one area in a place in which events may be held, there may be an event in each of the areas.
- 20. If the organizer is not the owner or operator of the place in which an inside event is held, the owner or operator must be satisfied that the organizer is aware of the conditions and requirements in this Part and Part D and has the capacity to fulfill them.

D. PROOF OF VACCINATION

- 1. This Part does not apply to a person under 12 years of age.
- 2. In this Part

“event” means

- a. a gathering of more than 50 participants in an inside place for social, entertainment, dancing, choral, musical, recreational, gambling, arts or crafts, or business and includes a ticketed sports activity, concert, theatrical production, dance or symphony performance, festival, conference, convention, trade fair, home show, workshop, wedding reception, funeral reception not at a funeral home, and a sponsored, ticketed party;
- b. a gathering of participants in an inside place for the purpose of an adult sports activity, or an exercise, fitness or dance activity or class;

- c. but does not include a program for children or youth, or a meeting of a council, board, or trust committee of a local authority as defined under the *Community Charter*, the *Local Government Act* or the *Islands Trust Act*, or a school board, at which members of the public attend in person;

“organizer” includes a person in charge of a place at which an event is held;

“photo identification” means one of the following:

- a) a photo BC Services Card within the meaning of the Identification Card regulation;
- b) a driver’s licence, issued by a government of a province of Canada and including a photograph of the holder;
- 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) another form of identification, issued by a government of any jurisdiction, including a photograph of the holder;

“post-secondary institution” includes an entity that provides any of the following programs:

(a) an educational or training program provided under

- (i) the *College and Institute Act*,
- (ii) the *Royal Roads University Act*,
- (iii) the *Thompson Rivers University Act*,
- (iv) the *University Act*,
- (v) the *Private Training Act*, or
- (vi) the *Chartered Professional Accountants Act*;

(b) a program provided in accordance with a consent given under the *Degree Authorization Act*;

(c) a theological education or training program provided under an Act;

“vaccine” means a World Health Organization approved vaccine for use against the infectious agent SARS-CoV-2;

“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).

“vaccinated” means to have received a one or two doses of a vaccine.

3. **Commencing on September 13, 2021, and ending on October 23, 2021**, and subject to a direction posted on my website by the medical health officer requiring that a person must have received two doses of vaccine before entering a place, or a class of place, in the geographic area of the Province for which the medical health officer is designated, the following requirements come into effect with respect to an event:
- a. An organizer must obtain proof in the form of a vaccine card that a participant has received at least one dose of vaccine.
 - b. A participant must provide an organizer with proof in the form of a vaccine card of having received at least one dose of vaccine.
 - c. An organizer must not permit a participant, who has not provided the organizer with proof in the form of a vaccine card of having received at least one dose of vaccine, to enter or remain in a place for the purpose of an event.
 - d. A participant who has not provided an organizer with proof in the form of a vaccine card of having received at least one dose of vaccine must not enter or remain in a place for the purpose of an event.

- e. Despite the requirements in section 3 (a) to (d), between September 13, 2021 and September 26, 2021, a participant may provide the paper record of vaccination which the participant received at the time of vaccination from the person administering the vaccination, and photo identification, as proof that the participant has received at least one dose of vaccine.
 - f. If an event takes place on more than one day, the requirements in this section apply on each of those days.
4. **Commencing on October 24, 2021**, the following requirements come into effect and replace the requirements in section 3 with respect to an event:
- a. An organizer must obtain proof in the form of a vaccine card that a participant has received two doses of vaccine.
 - b. A participant must provide an organizer with proof in the form of a vaccine card of having received two doses of vaccine.
 - c. An organizer must not permit a participant who has not provided the organizer with proof in the form of a vaccine card of having received two doses of vaccine to enter or remain a place for the purpose of an event.
 - d. A participant who has not provided an organizer with proof in the form of a vaccine card of having received two doses of vaccine must not enter or remain in a place for the purpose of an event.
 - e. If an event takes place on more than one day, the requirements in this section apply on each of those days.
5. An operator must not scan the QR code on a vaccine card, or paper record of vaccination, with any tool other than a BC Vaccine Card Verifier App.
6. Subject to section 7, an organizer must not retain proof of vaccination or identification provided by a participant, or use it for any purpose other than to confirm that a participant has been vaccinated, as required by this Order.
7. Despite section 6, with the written consent of a participant, an organizer may keep a record of the fact that the participant has provided proof of being vaccinated in compliance with this Part until this Order expires or is repealed, and the organizer may rely upon this record to satisfy the requirements in this Part with respect to future participation by the participant in an event at the same place.

E. DELEGATION OF AUTHORITY TO THE MEDICAL HEALTH OFFICER TO CONSIDER AND MAKE A DECISION WITH RESPECT TO A REQUEST FOR RECONSIDERATION MADE UNDER SECTION 43 WITH RESPECT TO THIS ORDER

Under the authority vested in me by section 69 of the *Public Health Act*, I delegate my authority under section 43 of the *Public Health Act* to the medical health officer for the geographic region of the Province in which a person resides, an event occurs, or a place is located, in order to receive, consider, and make a decision with respect to a request for reconsideration of the application of this Order to that person, that event, or to that place.

F. RELATED MEDICAL HEALTH OFFICERS 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 and to determine whether additional or more restrictive steps need to be taken to reduce the risk of the transmission of COVID-19, **I FURTHER ORDER:**

1. A medical health officer may issue a direction provided for in Part D or an order further to this Order, for the purpose of having the provisions of the direction or the order incorporated into this Order. A direction or order may add further prohibitions, or impose more restrictive limitations or conditions, in the whole or part of the geographic area of the Province for which the medical health officer is designated and, subject to section 2, the provisions of the direction or order are incorporated into this Order when posted on my website. For certainty, a contravention of a direction or order of a medical health officer issued further to this Order, and posted on my website, is a contravention of this Order.
2. While it is in force, a provision in a direction or order made by a medical health officer further to this Order and posted on my website, which adds further prohibitions or imposes more restrictive limitations or requirements than this Order, applies in the whole or part of the geographic area of the Province for which the medical health officer is designated, despite the provisions of this Order.

This Order expires at 12:01 A.M. on January 31, 2022.

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*.

Pursuant to section 43 of the *Public Health Act*, you may request a medical health officer to reconsider this Order if you:

- (a) have additional relevant information that was not reasonably available to the me or another health officer when the order was issued or varied,
- (b) have a proposal that was not presented to me or another 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) require more time to comply with the order.

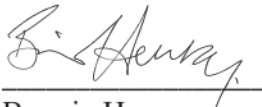
A request for reconsideration of this Order on the basis of a medical contraindication made by a person to whom the Order applies must include a signed and dated statement from a medical practitioner, based upon a current assessment, that the health of the person would be seriously jeopardized if the person were to receive a first or second dose of vaccine, and a signed and dated copy of each portion of the person's health record relevant to this statement.

A request under section 43 may be submitted to the Provincial Health Officer at ProvHlthOffice@gov.bc.ca with the subject line "Request for Reconsideration about Proof of Vaccination".

You may contact me at:

Dr. Bonnie Henry, Provincial Health Officer
s.15; s.19
PO Box 9648 STN PROV GOVT, Victoria BC V8W 9P4
Fax: (250) 952-1570
Email: ProvHlthOffice@gov.bc.ca

DATED THIS: 10th day of September 2021

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

DELIVERY BY: Posting to the BC Government the BC Centre for Disease Control websites.

Enclosure: Excerpts of the *Public Health Act*.

ENCLOSURE

Excerpts of the *Public Health Act* [SBC 2008] c. 28

Definitions

1 In this Act:

"health hazard" means

- (a) a condition, a thing or an activity that
 - (i) endangers, or is likely to endanger, public health, or
 - (ii) interferes, or is likely to interfere, with the suppression of infectious agents or hazardous agents, or
- (b) a prescribed condition, thing or activity, including a prescribed condition, thing or activity that
 - (i) is associated with injury or illness, or
 - (ii) fails to meet a prescribed standard in relation to health, injury or illness;

When orders respecting health hazards and contraventions may be made

30 (1) A health officer may issue an order under this Division only if the health officer reasonably believes that

- (a) a health hazard exists,
 - (b) a condition, a thing or an activity presents a significant risk of causing a health hazard,
 - (c) a person has contravened a provision of the Act or a regulation made under it, or
 - (d) a person has contravened a term or condition of a licence or permit held by the person under this Act.
- (2) For greater certainty, subsection (1) (a) to (c) applies even if the person subject to the order is complying with all terms and conditions of a licence, a permit, an approval or another authorization issued under this or any other enactment.

General powers respecting health hazards and contraventions

31 (1) If the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, a health officer may order a person to do anything that the health officer reasonably believes is necessary for any of the following purposes:

- (a) to determine whether a health hazard exists;
- (b) to prevent or stop a health hazard, or mitigate the harm or prevent further harm from a health hazard;
- (c) to bring the person into compliance with the Act or a regulation made under it;
- (d) to bring the person into compliance with a term or condition of a licence or permit held by that person under this Act.

(2) A health officer may issue an order under subsection (1) to any of the following persons:

- (a) a person whose action or omission
 - (i) is causing or has caused a health hazard, or
 - (ii) is not in compliance with the Act or a regulation made under it, or a term or condition of the person's licence or permit;
- (b) a person who has custody or control of a thing, or control of a condition, that
 - (i) is a health hazard or is causing or has caused a health hazard, or
 - (ii) is not in compliance with the Act or a regulation made under it, or a term or condition of the person's licence or permit;
- (c) the owner or occupier of a place where
 - (i) a health hazard is located, or
 - (ii) an activity is occurring that is not in compliance with the Act or a regulation made under it, or a term or condition of the licence or permit of the person doing the activity.

Specific powers respecting health hazards and contraventions

32 (1) An order may be made under this section only

(a) if the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, and

(b) for the purposes set out in section 31 (1) [*general powers respecting health hazards and contraventions*].

(2) Without limiting section 31, a health officer may order a person to do one or more of the following:

(a) have a thing examined, disinfected, decontaminated, altered or destroyed, including

(i) by a specified person, or under the supervision or instructions of a specified person,

(ii) moving the thing to a specified place, and

(iii) taking samples of the thing, or permitting samples of the thing to be taken;

(b) in respect of a place,

(i) leave the place,

(ii) not enter the place,

(iii) do specific work, including removing or altering things found in the place, and altering or locking the place to restrict or prevent entry to the place,

(iv) neither deal with a thing in or on the place nor dispose of a thing from the place, or deal with or dispose of the thing only in accordance with a specified procedure, and

(v) if the person has control of the place, assist in evacuating the place or examining persons found in the place, or taking preventive measures in respect of the place or persons found in the place;

(c) stop operating, or not operate, a thing;

(d) keep a thing in a specified place or in accordance with a specified procedure;

- (e) prevent persons from accessing a thing;
 - (f) not dispose of, alter or destroy a thing, or dispose of, alter or destroy a thing only in accordance with a specified procedure;
 - (g) provide to the health officer or a specified person information, records, samples or other matters relevant to a thing's possible infection with an infectious agent or contamination with a hazardous agent, including information respecting persons who may have been exposed to an infectious agent or hazardous agent by the thing;
 - (h) wear a type of clothing or personal protective equipment, or change, remove or alter clothing or personal protective equipment, to protect the health and safety of persons;
 - (i) use a type of equipment or implement a process, or remove equipment or alter equipment or processes, to protect the health and safety of persons;
 - (j) provide evidence of complying with the order, including
 - (i) getting a certificate of compliance from a medical practitioner, nurse practitioner or specified person, and
 - (ii) providing to a health officer any relevant record;
 - (k) take a prescribed action.
- (3) If a health officer orders a thing to be destroyed, the health officer must give the person having custody or control of the thing reasonable time to request reconsideration and review of the order under sections 43 and 44 unless
- (a) the person consents in writing to the destruction of the thing, or
 - (b) Part 5 [*Emergency Powers*] applies.

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.

General emergency powers

54 (1) A health officer may, in an emergency, do one or more of the following:

(a) act in a shorter or longer time period than is otherwise required;

(b) not provide a notice that is otherwise required;

(c) do orally what must otherwise be done in writing;

(d) in respect of a licence or permit over which the health officer has authority under section 55 [*acting outside designated terms during emergencies*] or the regulations, suspend or vary the licence or permit without providing an opportunity to dispute the action;

(e) specify in an order a facility, place, person or procedure other than as required under section 63 [*power to establish directives and standards*], unless an order under that section specifies that the order applies in an emergency;

(f) omit from an order things that are otherwise required;

(g) serve an order in any manner;

(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*];

- (i) exempt an examiner from providing examination results to an examined person;
- (j) conduct an inspection at any time, with or without a warrant, including of a private dwelling;
- (k) collect, use or disclose information, including personal information,
 - (i) that could not otherwise be collected, used or disclosed, or
 - (ii) in a form or manner other than the form or manner required.

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

Offences

99 (1) A person who contravenes any of the following provisions commits an offence:

- (k) section 42 [*failure to comply with an order of a health officer*], except in respect of an order made under section 29 (2) (e) to (g) [*orders respecting examinations, diagnostic examinations or preventive measures*];