

CLASS ORDER #2 (Licensed Long-term Care Facility Staff) re: COVID-19

**NOTICE TO EMPLOYED AND CONTRACTED STAFF AS WELL AS VOLUNTEERS OF
LICENSED LONG-TERM CARE FACILITIES IN THE VANCOUVER COASTAL HEALTH
REGION (CLASS)**

**ORDER OF THE MEDICAL HEALTH OFFICER
(Pursuant to Sections 30, 31, 32, 39(3) and 54(1) of the *Public Health Act*, S.B.C. 2008)**

**THIS ORDER AMENDS MY CLASS ORDER #2 WITH RESPECT TO LONG TERM CARE
FACILITIES WITHIN THE VCH REGION MADE MARCH 31, 2020 AND APRIL 8, 2020.**

The *Public Health Act*, S.B.C. 2008, c. 28 and the regulations issued thereunder are available at:
<http://www.bclaws.ca/civix/content/complete/statreg/1922970521/08028/?xsl=/templates/browse.xsl>

TO: All employed and contracted staff and volunteers at Licensed Long-term Care Facilities

AND

All owners, licensees, Directors of Facility and Directors of Care of Licensed Long-Term
Care Facilities ("LTCFs") (referred to collectively as "LTCF Operators")

FACILITIES: All LTCFs within the Vancouver Coastal Health Authority ("VCH") Region

WHEREAS:

- A. A communicable disease known as COVID-19 has emerged in British Columbia;
- B. SARS-CoV-2, an infectious agent, can cause outbreaks of serious illness known as COVID-19 among the public;
- C. A person infected with SARS-CoV-2 can infect other people with whom the infected person is in contact;
- D. On March 17, 2020, the Provincial Health Officer, Dr. Bonnie Henry (the "PHO"), declared the COVID-19 pandemic to be an emergency pursuant to Part 5 of the *Public Health Act*, S.B.C. 2008, c. 28;
- E. On March 17, 2020, the PHO issued a letter to all LTCFs advising that the residents of LTCFs, being individuals who are elderly and who may have underlying conditions that compromise the immune system, are particularly at risk of developing severe illness upon becoming infected with COVID-19, and that visitors to LTCF should be restricted;
- F. Multiple LTCFs within the VCH region have experienced an outbreak or incidence of COVID-19 infection, such that it has become necessary to implement more extensive and restrictive protective measures in order to limit the possibility of further spread of COVID-19 and to protect the residents and staff of LTCFs;

- G. On March 27, 2020, the PHO issued an order with respect to LTCF staff movement limitation (the "PHO Order").
- H. You belong to a class of people who are the employed or contracted healthcare staff as well as volunteers of a LTCF that is situated within the VCH Region; and
- I. I have reason to believe and do believe that the risk of further outbreaks of COVID-19 in LTCFs constitutes a health hazard under the *Public Health Act*.

I HEREBY MAKE THE FOLLOWING ORDER PURSUANT TO SECTIONS 30, 31, 32, 39(3) and 54(1) OF THE *PUBLIC HEALTH ACT*:

- 1. On receipt of this Order, Staff are directed to:
 - a) Select by April 4, 2020 the single LTCF or other healthcare facility site at which the Staff person will provide services until final staffing assignments are made as anticipated by the PHO Order. Until such time as the final staffing assignments are made as anticipated by the PHO Order, the Staff person must remain working solely at their selected site. Once final staffing assignments are made as anticipated by the PHO Order, the Staff person is to provide service only at that LTCF or healthcare facility to which the Staff person is assigned, and must not provide service at any other LTCF or healthcare facility. The only exceptions to this aspect of this Order are:
 - i. if the LTCF where the Staff person provides services has applied for and been granted an exemption from a Medical Health Officer employed by VCH ("VCH MHO") in accordance with section 2 of this Order; or
 - ii. if section 1 b) of this Order applies to the individual.
 - b) Staff who provided services at a LTCF where a COVID-19 outbreak has been declared by a VCH MHO must immediately follow restrictions on their physical work location as directed by a VCH MHO.
- 2. The definition of "Staff" in this Order includes all employees, contractors, volunteers, and others who are routinely physically present at the LTCF, except for any other professions, occupations, or care teams which have been exempted by a VCH MHO through a VCH MHO directive, or otherwise exempted by a VCH MHO.
- 3. Staff whose provision of services to the LTCF does not involve the provision of services where they are physically present on site at the LTCF are exempted from the application of this Order with respect to each LTCF for which that is the case.
- 4. In exceptional circumstances and where an appropriate safety plan is in place to manage health hazard risks, a VCH MHO may grant an exemption to the requirement that a Staff person provide services to a single LTCF or other healthcare facility for the remainder of the COVID-19 epidemic. The LTCF Operator must apply for this exemption on behalf of the Staff person by setting out the exceptional circumstances and the safety plan in writing and submitting this information to the VCH Licensing Officer listed below:

Nader Massoud, Senior Licensing Officer (Residential)
Email: nader.massoud@vch.ca
Phone: 604-675-3859

5. Any service providers declared to be exempt by a VCH MHO under section 2 or 4 of this Order remain subject to enhanced COVID-19 screening and may be denied permission to enter the LTCF if symptomatic.
6. This Order does not restrict Staff from providing services in a location that is not a health care facility, such as the provision of home support services in a private home.

This Order remains in effect until cancelled, suspended or varied by me or another VCH MHO.

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 54(1)(h) of the *Public Health Act*, and in accordance with the emergency powers set out in part 5 of the *Public Health Act*, no VCH MHO will be accepting requests for reconsideration, requests for review, or requests for reassessment of this Order.

You may contact me at:

Althea Hayden, MD, MPH, FRCPC
Medical Health Officer, Vancouver Coastal Health
800-601 W Broadway, Vancouver, B.C.
Telephone: 604-675-3900 and Fax: 604-731-2756

DATED THIS: 9th day of April, 2020

SIGNED:



Althea Hayden, MD, MPH, FRCPC
Medical Health Officer, Vancouver Coastal Health
800-601 W Broadway, Vancouver, B.C.
Telephone: 604-675-3900 and Fax: 604-731-2756

DELIVERED:

To Staff by LTCF Operators by handing this Order in person to each Staff person or by email or facsimile transmission.

Enclosures: Excerpts of *Public Health Act* and Regulations

Enclosure

Excerpts of the PUBLIC HEALTH ACT and Regulations

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;

Division 4 — Orders Respecting Health Hazards and Contraventions

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 (1) A health officer must make an order in writing, and must describe all of the following in the order:

(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.

Part 5 — Emergency Powers

Division 1 — Application of this Part

Definitions for this Part

51 In this Part:

"emergency" means a localized event or regional event that meets the conditions set out in section 52 (1) or (2) [*conditions to be met before this Part applies*], respectively;

"localized event" means an immediate and significant risk to public health in a localized area;

"regional event" means an immediate and significant risk to public health throughout a region or the province.

Conditions to be met before this Part applies

52 (1) A person must not exercise powers under this Part in respect of a localized event unless the person reasonably believes that

- (a) the action is immediately necessary to protect public health from significant harm, and
- (b) compliance with this Act, other than this Part, or a regulation made under this Act would hinder that person from acting in a manner that would avoid or mitigate an immediate and significant risk to public health.

(2) Subject to subsection (3), a person must not exercise powers under this Part in respect of a regional event unless the provincial health officer provides notice that the provincial health officer reasonably believes that at least 2 of the following criteria exist:

- (a) the regional event could have a serious impact on public health;
- (b) the regional event is unusual or unexpected;
- (c) there is a significant risk of the spread of an infectious agent or a hazardous agent;
- (d) there is a significant risk of travel or trade restrictions as a result of the regional event.

(3) If the provincial health officer is not immediately available to give notice under subsection (2), a person may exercise powers under this Part until the provincial health officer becomes available.

Part applies despite other enactments

53 During an emergency, this Part applies despite any provision of this or any other enactment, including

- (a) in respect of the collection, use or disclosure of personal information, the *Freedom of Information and Protection of Privacy Act* and the *Personal Information Protection Act*, and
- (b) a provision that would impose a specific duty, limit or procedural requirement in respect of a specific person or thing,

to the extent there is any inconsistency or conflict with the provision or other enactment.

Division 2 — Emergency Powers

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*];