



ORDER OF THE PROVINCIAL HEALTH OFFICER

Facility Staff Assignment Order

(Pursuant to Sections 30, 31, 32, 39 (3) and 67 Public Health Act, S.B.C. 2008)

The Public Health Act is at:

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

(excerpts enclosed)

TO: REGIONAL HEALTH BOARDS

TO: MEDICAL HEALTH OFFICERS

TO: MEMBERS OF WORKING GROUPS ESTABLISHED PURSUANT TO THIS ORDER

TO: LICENSEES OF LONG TERM CARE FACILITIES AND PRIVATE HOSPITALS, BOARDS OF MANAGEMENT OR OPERATORS OF STAND ALONE EXTENDED CARE HOSPITALS DESIGNATED UNDER THE HOSPITAL ACT, REGISTRANTS OF ASSISTED LIVING RESIDENCES WHICH PROVIDE REGULAR ASSISTANCE WITH ACTIVITIES OF DAILY LIVING, INCLUDING EATING, MOBILITY, DRESSING, GROOMING, BATHING OR PERSONAL HYGIENE AND OPERATORS OF PROVINCIAL MENTAL HEALTH FACILITIES (HEREINAFTER REFERRED TO COLLECTIVELY AS “OPERATORS” AND “FACILITIES”)

TO: CONTRACTORS AND SUB-CONTRACTORS WHO PROVIDE STAFFING FOR FACILITIES

TO: EMPLOYEES, CONTRACTED WORKERS (HEREINAFTER REFERRED TO COLLECTIVELY AS “STAFF”) AND VOLUNTEERS AT FACILITIES

TO: EDUCATIONAL INSTITUTIONS WHICH ARRANGE PLACEMENTS FOR STUDENTS AT FACILITIES

WHEREAS:

- A. A serious communicable disease known as COVID-19 has emerged in British Columbia;
- B. SARS-CoV-2, an infectious agent, can cause outbreaks of 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. The movement of people between facilities such as staff and volunteers who are routinely present at facilities can promote the transmission of SARS-CoV-2 and increase the risk of infection with SARS-CoV-2 of persons- in- care, patients, residents (hereinafter referred to collectively as “residents”) and staff and volunteers;
- E. In order to mitigate the risk of the transmission of SARS-CoV-2 among residents, staff and volunteers, it is necessary for the movement of staff and volunteers between facilities to be limited;
- F. The risk differs from facility to facility and in different regions of the province, and the medical health officer is in the best position to assess local circumstances and to make decisions about the assignment of staff and to make exemptions;
- G. This Order does not apply to dietitians, medical laboratory technologists, medical laboratory assistants, nurse practitioners, paramedics, pharmacists, physicians, resident physicians, speech language pathologists, inter-facility transport staff, delivery persons, trades people, regular and biochemical waste removal people, biomedical engineers, visitors or any other person or class of person who are exempted by the medical health officer;
- H. This Order is not intended to restrict staff from employment that is not at a facility, such as home support, social services, or other employment outside a facility;
- I. You belong to one of the classes of persons to whom this Order is addressed;
- J. I have reason to believe and do believe that
 - (i) the risk of an outbreak of COVID-19 among residents, staff and volunteers constitutes a health hazard under the *Public Health Act*;
 - (ii) because the risk of multiple outbreaks in facilities and the ability to control them extends beyond the authority of one or more medical health officers, and coordinated action is needed to protect residents, staff and volunteers from contracting COVID-19, it is in the public interest for me to exercise the powers in sections 30, 31, 32 39(3) and 67 *Public Health Act* **TO ORDER** as follows:

THIS ORDER AMENDS MY ORDER OF APRIL 10, 2020 (WITH RESPECT TO FACILITY STAFF ASSIGNMENT) BY MAKING IT APPLY TO STAND ALONE EXTENDED CARE HOSPITALS BUT OTHERWISE CONFIRMS THAT ORDER.

MY ORDER OF APRIL 10, 2020 REPLACES MY ORDER (WITH RESPECT TO FACILITY STAFF MOVEMENT LIMITATION) MADE MARCH 27, 2020) EXCEPT AS IT APPLIES PURSUANT TO THE DIRECTIVE OF A MEDICAL HEALTH OFFICER, IN WHICH CASE IT IS REPLACED ONCE THE MEDICAL HEALTH OFFICER MAKES AN ASSIGNMENT ORDER UNDER MY ORDER OF APRIL 10, 2020.

MY ORDER OF APRIL 10, 2020 WILL REPLACE ANY REQUIREMENT FOR THE PROVISION OF STAFFING LISTS, SELECTION OF A SPECIFIC SITE BY STAFF AND OTHER LIMITATIONS OF STAFF TO ONE FACILITY IN ANY ORDER MADE BY A MEDICAL HEALTH OFFICER BEFORE APRIL 10, 2020, ONCE THE MEDICAL HEALTH OFFICER HAS MADE AN ASSIGNMENT ORDER UNDER MY ORDER OF APRIL 10, 2020.

MY ORDER OF APRIL 10, 2020 DOES NOT APPLY TO AN ORDER MADE BY A MEDICAL HEALTH OFFICER WITH RESPECT TO A FACILITY THAT IS EXPERIENCING AN OUTBREAK OF A COMMUNICABLE DISEASE MADE BEFORE OR AFTER MY ORDER OF APRIL 10, 2020.

REGIONAL HEALTH BOARDS

MUST

1. as soon as possible establish a working group for the purpose of making recommendations to the medical health officer about the assignment of staff;

MEMBERS OF THE WORKING GROUPS

MUST

1. promptly and as soon as possible, on my behalf use the information provided pursuant to my order of March 26, 2020 (*with respect to information collection to allocate staff working in facilities*) to make recommendations to the medical health officer about assigning staff to work at a single site, including reassigning staff who have already been limited to working at a single facility further to a directive issued pursuant to my order of March 27, or an order of the medical health officer;
2. in doing so be guided by the principles set out in Appendix A as applicable, the need to ensure that there is a sufficient balance of staff assigned to facilities to allow the facilities to provide the level of care necessary to protect the health and safety of residents, and the following:
 - a. all employees who work at only one facility will be assigned to that facility;
 - b. regular full time employees who work as regular part time employees or as casual employees at another facility(ies) will be assigned to the facility where they are a regular full time employee;
 - c. in the event that the employees were registered through the bchealthstaffing.ca website between March 27 and March 30
 - i. the ranked preferences of regular part time employees who work at another facility(ies) as a regular part time employee will be considered;
 - ii. the ranked preferences of regular part time employees who work at another facility(ies) as a casual employee will be considered; however, such employees will usually be assigned to work at the facility where they have regular status;

- iii. the ranked preferences of casual employees who work as casual employees at more than one facility will be considered.
3. Before making recommendations to the medical health officer, and for that purpose, to the greatest extent practicable
 - a. communicate with operators, contractors, subcontractors and unions representing staff at the affected facilities with respect to the process and timeframe for the assignment of staff;
 - b. provide a preliminary staff assignment list for each affected facility to the operator, contractors, subcontractors and unions representing staff at the facility;
 - c. take into consideration issues, concerns or circumstances raised by the operators, contractors, subcontractors and unions representing staff at the affected facilities with respect to the process and timeframe for the assignment of staff or the preliminary staff assignment lists when developing recommendations for the medical health officer.
4. Make recommendations to the medical health officer about the assignment of staff.

MEDICAL HEALTH OFFICERS

MUST

1. after considering the information received from the working group, make orders assigning staff to facilities including orders reassigning staff who have already been limited to working at a single facility pursuant to a directive issued pursuant to my order of March 27 or to an order of the medical health officer, and in doing so be guided by:
 - a. the principles set out in Appendix A as applicable;
 - b. the need to ensure that there is a sufficient balance of staff assigned to facilities to allow the facilities to provide the level of care necessary to protect the health and safety of residents;
 - c. employees who only work at one facility will be assigned to that facility;
 - d. regular full-time employees who work as regular part time employees or as casual employees at another facility(ies) will be assigned to the facility where they are a regular full-time employee;
 - e. in the event that the employees were registered through the bhealthstaffing.ca website between March 27 and March 30
 - i. the ranked preferences of regular part time employees who work at another facility(ies) as a regular part time employee will be considered;
 - ii. the ranked preferences of regular part time employees who work at another facility(ies) as a casual employee will be considered; however, such employees will usually be assigned to work at the facility where they have regular status;

- iii. the ranked preferences of casual employees who work as casual employees at more than one facility will be considered.
2. may make an exemption to the one site rule based on operational considerations with respect to geographic area, class of facility, an individual facility, class of person or a person;
3. must provide me with copies of the orders, approved staffing assignment lists and information about exemptions.

OPERATORS

MUST

1. direct staff to work at the facility to which they are assigned by order of the medical health officer;
2. not permit staff to work at a facility unless they have been assigned to work there by order of the medical health officer. For certainty, this Order does not restrict staff from employment that is not at a facility, such as home support, social services, or other employment outside a facility;
3. may make a request to a medical health officer for an exemption to an assignment of staff for critical operational reasons;
4. not permit a student to work at a facility if you have reason to believe that they are working at another facility;
5. not permit a student's faculty supervisor to attend at a facility if you have reason to believe that they are supervising at other facilities;
6. ensure that a person who volunteers at a facility does not volunteer at any other facility;
7. update and confirm the personal and employment related information of staff including their name, contact information, Social Insurance Number and other information in electronic format following the instructions at <https://bchealthstaffing.ca/upload> on an ongoing basis, and no less than every month.

CONTRACTORS AND SUB-CONTRACTORS WHO PROVIDE STAFFING FOR FACILITIES

MUST

1. direct staff to work at the facility to which they are assigned by order of the medical health officer;
2. not permit staff to work at a facility unless they have been assigned to work there by order of the medical health officer;
3. may make a request to a medical health officer for an exemption to an assignment of staff for critical operational reasons;

4. for certainty, this Order does not restrict staff from employment that is not at a facility, such as home support, social services, or other employment outside a facility.
5. update and confirm the personal and employment related information of staff including their name, contact information, Social Insurance Number and other information in electronic format following the instructions at <https://bchealthstaffing.ca/upload> on an ongoing basis, and no less than every month.

STAFF

MUST

1. only work at the facility at which you are assigned to work by the medical health officer;
2. for certainty, this Order does not restrict staff from employment that is not at a facility, such as home support, social services, or other employment outside a facility.

VOLUNTEERS

MUST

1. disclose to an operator the names of the facilities at which you are volunteering, if requested by an operator;
2. volunteer at only one facility.

EDUCATIONAL INSTITUTIONS

MUST

1. not make arrangements for students to be placed in more than one facility;
2. not make arrangements for faculty staff to attend at more than one facility to supervise students;
3. for certainty, this Order does not restrict you from placing students in a place that is not a facility, such as home support, social services, or other placement outside a facility.

This Order is in effect until rescinded by me.

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*.

Under section 43 (6) an order is not suspended during the period of reconsideration unless the health officer agrees, in writing, to suspend it.

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

You may contact me at:

Dr. Bonnie Henry, Provincial Health Officer
4th Floor, 1515 Blanshard Street
P O Box 9648 STN PROV GOVT, Victoria BC V8W 9P4
Fax: (250) 952-1570

DATED THIS: 15 day of April 2020

SIGNED:

A handwritten signature in black ink, appearing to read "Bonnie Henry", written over a horizontal line.

Bonnie Henry
MD, MPH, FRCPC
Provincial Health Officer

DELIVERY BY posting on the BC Government website, posting on the BC Centre for Disease Control website and by email.

Enclosure: Excerpts of *Public Health Act*

ENCLOSURE

Excerpts of the *PUBLIC HEALTH ACT*

Public Health Act [SBC 2008] c. 28

Definitions

1 In this Act:

"health hazard" means

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

When orders respecting health hazards and contraventions may be made

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

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

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

General powers respecting health hazards and contraventions

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

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

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

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

Specific powers respecting health hazards and contraventions

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

- (a) if the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, and
- (b) for the purposes set out in section 31 (1) [*general powers respecting health hazards and contraventions*].

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

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

- (i) use a type of equipment or implement a process, or remove equipment or alter equipment or processes, to protect the health and safety of persons;
- (j) provide evidence of complying with the order, including
 - (i) getting a certificate of compliance from a medical practitioner, nurse practitioner or specified person, and
 - (ii) providing to a health officer any relevant record;
- (k) take a prescribed action.

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

- (a) the person consents in writing to the destruction of the thing, or
- (b) Part 5 [*Emergency Powers*] applies.

Contents of orders

39 (3) An order may be made in respect of a class of persons.

Duty to comply with orders

42 (1) A person named or described in an order made under this Part must comply with the order.

(2) Subsection (1) applies regardless of whether the person leaves the geographic area for which the health officer who made the order is designated.

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*];

APPENDIX A

Principles and Process for Allocation of Staff to a Facility

Principles

1. Prevention of transmission of the SARS-CoV-2 virus to prevent COVID-19 is of paramount importance.
2. Staffing decisions will be supported by ongoing dialogue and problem solving among the Provincial Health Officer (PHO), medical health officers (MHO), health authorities, boards of management, licensees, registrants, contractors, operators, sub-contractors, Ministry of Health, Health Employers Association of BC (HEABC), Bargaining Associations and unions representing employees at non-HEABC employers.
3. Each employee will for the most part only be allowed to work at one facility. If for operational reasons it is not feasible for all staff in all settings and/or geographical areas to work at only one facility, exemptions may be made by the MHO.
4. It is critical to ensure there is sufficient staff at every facility to safely meet patient care needs.
5. Where practicable employee preference regarding facility selection will be considered, using the preferences registered through the bchealthstaffing.ca website March 27 – March 30, 2020
6. The goal is to maintain at least the current maximum hours of work in the health care system. All employees will be encouraged to maximize their hours regardless of status.
7. Regular part-time and casual employees will have access to and be encouraged to work regularly scheduled full-time hours, subject to the operational needs of the facility.
8. In order to maintain site-specific knowledge and ensure continuity of care, as many employees as possible will remain at the facility where they hold a regular position.
9. Employers will prioritize safety, training and support for employees to protect against spread of COVID-19. This includes training on infection control, administrative and engineering controls and providing access to appropriate personal protective equipment.
10. No employees shall be subjected to any adverse treatment as a result of expressing preference to work at another facility.
11. The principle of seniority must be adhered to in the implementation of this Order wherever practicable.
12. Data protection: All data collected will only be used for the purposes of allocation of employees to lessen the risk of the transmission of SARS-CoV-2 between facilities in the context of the response to the COVID-19 outbreak, and will be transferred and stored using reasonable security measures.

Process

The MHO will review staffing requirements and available staff resources for each facility, in accordance with the principles set out above and in accordance with any further Orders of the PHO, to determine the staff cohort for each facility.