

CLASS ORDER #1 (Licensed Long-term Care Facilities) re: COVID-19

**NOTICE TO OWNERS, LICENSEES, DIRECTORS OF FACILITY, DIRECTORS OF CARE OF
LICENSED LONG-TERM CARE FACILITIES IN THE VANCOUVER ISLAND HEALTH AUTHORITY
(CLASS)**

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

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 owners, licensees, Directors of Facility and Directors of Care of Licensed Long-Term Care Facilities (“LTCFs”) (such persons referred to collectively as “LTCF Operators”)

FACILITIES: All LTCFs within Vancouver Island Health Authority

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 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 Provincial Health Officer, Dr. Bonnie Henry, 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 Island health are at significant risk of experiencing 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. You belong to a class of people who are the owners, licensees, Directors of Facility, Directors of Care and/or healthcare staff of a LTCF that is situated within Island Health; and
- H. I have reason to believe and do believe that the risk of an outbreak 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. Effective immediately on receipt of this Order, LTCF Operators are directed to:
 - a) Carry out enhanced cleaning of facilities and enhanced screening of staff, contractors, and visitors, in accordance with the guidance document issued by the BC Centre for Disease Control (“**BCCDC**”) which may be updated at any time, and in accordance with any additional direction which may be provided by an Island Health MHO. This BCCDC guidance document can be accessed on the BCCDC website at the following link: <http://www.bccdc.ca/health-professionals/clinical-resources/covid-19-care/clinical-care/long-term-care-facilities-assisted-living>. The most recent version of this document as of the date of this Order’s issue is enclosed for reference;
 - b) Report to the Medical Health Officer (“MHO”) or designate immediately where one (1) incidence of an Influenza-Like Illness (“ILI”) or two (2) cases of cold-like symptoms are identified in residents or staff at the LTCF. Reports must be submitted over the phone by calling **250-519-3406** [regular work hours of between 8:30 and 5:00pm (“Regular Work Hours”)] or **1-800-204-6166** [outside of Regular Work Hours];
 - c) Deny access to any and all visitors to the LTCF, with the limited exception of the immediate family members of a resident who is clinically assessed to be at the end of his or her life and the spiritual advisor to this resident, in which case such individuals will be subject to enhanced screening for COVID-19. It is possible to seek a compassionate exemption in exceptional circumstances, as described in Section 2 of my order;
 - d) Refrain from transferring a resident to any other healthcare facility, including without limitation another LTCF or a hospital as defined in the *Hospital Act*, RSBC 1996, c. 200, without prior notice to and authorization of the MHO or delegate. In an emergent situation, where a patient’s goals of care are compatible with transfer to an acute care hospital (i.e. having a stroke and full code), LTCF staff should call 911 prior to providing notice to the MHO or delegate. Notice to the MHO or delegate must be provided as quickly as possible;
 - e) If an LTCF has an outbreak of COVID-19 declared by an Island Health MHO, ensure that all residents who have been temporarily removed from the LTCF to live elsewhere in the community (e.g. with family members) are not permitted to return to the LTCF for the duration of the COVID-19 outbreak at the LTCF. An MHO employed by Island Health determines when a LTCF is no longer experiencing a COVID-19 outbreak. Inform family members seeking to temporarily re-home residents of this prohibition on returning to the LTCF, and discuss the care plan for the resident prior to the resident’s removal from the LTCF;
 - f) Cancel or postpone indefinitely all group social activities within the LTCF and any planned community social activities unless the LTCF can maintain a two (2) meter separation between residents during these activities;
 - g) Submit to an Island Health Licencing Officer by **March 24, 2020** a staffing list for all staff, contractors, volunteers, and others who are routinely physically present at the LTCF (collectively hereinafter referred to as the “Staff”). Physicians, paramedics, and laboratory technicians who provide visiting health services to the LTCF residents are not to be included in the staffing list. The staffing list must include the following:
 - a. a list of the full names and positions of all Staff; and

- b. identification of the category that each Staff member belongs to (i.e. employee, contracted worker, volunteer)
 - h) Deliver to all Staff during their next entry in to the LTCF, the attached copy of my Class Order #2 (Licensed Long-term Care Facility Staff) re: COVID-19 (“Class Order #2”). If a Staff member is not due to enter the LTCF until after March 22, 2020, my Class Order #2 must be emailed or sent by facsimile to the Staff member by **March 23, 2020**; and
 - i) Post in a location visible to Staff in the LTCF the attached copy of my Class Order #2.
2. With respect to sections 1(c), 1(d), 1(e), 1(f) and 1(g), in exceptional circumstances, where an appropriate safety plan is in place to manage health hazard risks, an Island Health MHO may grant an exemption to these aspects of my Order. LTCFs must apply for the exemption by contacting an Island Health Licencing Officer and setting out the exceptional circumstances in writing.
 3. The terms of this Order are in addition to, and not in replacement of the *BCCDC Infection Prevention and Control for Novel Coronavirus (COVID-19) Interim Guidance for Long-Term Care and Assisted Living Facilities* (the “Guidance”). Where, however, there is a conflict or inconsistency between this Order and the Guidance, the terms of this Order shall take precedence.

This Order remains in effect until cancelled, suspended or varied by me. I will review this order and the conditions contained in it at 2 weeks from the date it is made.

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 MHO employed by Island Health will be accepting requests for reconsideration, requests for review, or requests for reassessment of this Order.

You may contact me at:

Richard S. Stanwick MD, MSc, FRCP(C), FAAP
Chief Medical Health Officer
Island Health
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Victoria, British Columbia V8R 4R2
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E-Mail : richard.stanwick@viha.ca

DATED THIS: 21th day of March, 2020.

SIGNED: _____

Richard S. Stanwick MD, MSc, FRCP(C), FAAP
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DELIVERED BY email to all LTCF Operators.

Enclosures: Excerpts of *Public Health Act* and Regulations

BC Centre for Disease Control, *Infection Prevention and Control for Novel Coronavirus (COVID-19): Interim Guidance for Long-Term Care and Assisted Living Facilities*

Chief Medical Health Officer Dr. Richard Stanwick Class Order #2 (Licensed Long-term Care Facility Staff) re: COVID-19 ("Class Order #2")

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]*;