

CLASS ORDER (Registered Assisted Living Facilities) re: COVID-19

NOTICE TO ALL OWNERS, OPERATORS AND REGISTRANTS OF REGISTERED ASSISTED LIVING FACILITIES IN THE FRASER HEALTH REGION (CLASS)

**ORDER OF THE 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, operators and registrants of Registered Assisted Living Facilities (“**AL Facilities**”) (such persons referred to collectively as “**AL Facility Operators**”)

FACILITIES: All AL Facilities within the Fraser Health Authority (“**FHA**”) region (as defined under the *Health Authorities Act*, BC)

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. AL Facilities within the FHA region have experienced or may experience 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 assisted living tenants and staff of AL Facilities;
- F. You belong to a class of people who are the owners, operators or registrants of AL Facilities situated within the FHA region; and
- G. I have reason to believe and do believe that the risk of outbreaks of COVID-19 in AL Facilities 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*:

Effective immediately on receipt of this Order, AL Facility Operators are directed to:

1. Comply with the Assisted Living Facility Directive issued by a FHA Medical Health Officer (MHO) from time to time (the “**AL Directive**”). The initial AL Directive dated April 9, 2020 is attached to this Order. If updates to the AL Directive are made, AL Facility Operators will be notified and the updated AL Directive will be posted at <https://www.fraserhealth.ca/covid19LTC>

In exceptional circumstances, where an appropriate safety plan is in place to manage health hazard risks, a FHA MHO may grant an exemption to any provision of my Order, including any provision in the AL Directive. AL Facilities must apply for the exemption by contacting a FHA Licensing Officer and setting out the exceptional circumstances in writing.

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 any AL Directive and the Guidance, the terms of this Order and the latest AL Directive shall take precedence.

This Order remains in effect until cancelled, suspended or varied by me. AL Directives relating to this Order are effective as of the date of the relevant AL Directive, and will remain in effect until such time as the most recent AL Directive is replaced by a later dated AL Directive.

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 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 FHA MHO will be accepting requests for reconsideration, requests for review, or requests for reassessment of this Order.

You may contact me at:

Martin Lavoie, MD, FRCPC
Chief Medical Health Officer, Fraser Health Authority
400 - 13450 - 102nd Avenue
Surrey, BC V3T 0H1
Telephone: 604-587-3828

EFFECTIVE DATE: April 9, 2020.

SIGNED:



Martin Lavoie, MD, FRCPC
Chief Medical Health Officer
Fraser Health Authority

DELIVERED BY email to all AL Facility Operators.

Enclosures:

Assisted Living Facility Directive re: COVID-19 effective April 9, 2020

Excerpts of *Public Health Act* and Regulations

Enclosure

Assisted Living Facility Directive re: COVID-19 effective April 9, 2020

1. Screening of persons coming into the AL Facility

- 1.1. AL Facilities must carry out screening for respiratory symptoms (including a fever) of persons (i.e. staff, tenants, contractors and visitors), in accordance with the guidance issued by FHA Medical Health Officers (MHO) which may be updated at any time (“**Screening or Screened**”).

2. Visitors

- 2.1. Restrict visitors to essential visits only. Essential visits include: visits for compassionate care (e.g., end of life and critical illness).
- 2.2. Visitors must access the AL Facility through a single controlled entrance point.
- 2.3. Visitors will only be permitted when a visitor screening person is present.
- 2.4. Visitors whose Screening indicates any degree of respiratory symptoms (including a fever) must not be permitted to visit, unless an exemption is granted and: infection control has been consulted, the visit is arranged in advance, the visitor wears any recommended personal protective equipment and the visitor complies with all directions regarding infection control measures.

3. Screening of staff in the AL Facility

- 3.1. All staff must be Screened at least twice during their shift (before shift starts and at end of shift).
- 3.2. Staff must self-monitor for respiratory symptoms (including a fever) during their shift.
- 3.3. If staff exhibit respiratory symptoms (including a fever), they must immediately stop work, report any symptoms to the AL Facility supervisor, promptly leave the AL Facility, seek testing for COVID-19 and self-isolate.

4. Screening and testing of tenants in the AL Facility

- 4.1. Tenants must be Screened twice a day following the existing tenant screening algorithm, as updated from time to time (currently: *Fraser Health COVID-19 Screening Process for Long-Term Care, MHSU, Assisted Living (March 27, 2020) FINAL*).
- 4.2. Immediately isolate any tenant with new or worsening respiratory symptoms (including fever) or gastrointestinal symptoms.
- 4.3. Ensure any tenant with new or worsening upper or lower respiratory symptoms (including fever) or gastrointestinal symptoms is tested, even if there is just a single tenant who is ill. Follow the processes for collecting and sending specimens to the BCCDC Lab for testing as directed by Fraser Health.
- 4.4. If there are two or more ill tenants, contact Public Health immediately (604-587-3828 Monday to Friday 0830-1630h or 604-527-4806 after-hours) for advice on next steps.

5. Community Activities

- 5.1. All group activities into the community must immediately cease.
- 5.2. No community organizations/groups may enter the AL Facility.
- 5.3. Individual tenants must not go into the community except for urgent medical needs (for example: dialysis).

6. Cleaning

- 6.1. AL Facilities must perform enhanced cleaning of high touch surfaces (examples: door knobs, faucets, etc.), at least 2 times per day in accordance with the Fraser Health Viral Respiratory Illness Outbreak Protocol and Toolkit.
- 6.2. AL Facilities must use 0.5% accelerated hydrogen peroxide wipes or bleach wipes for enhanced cleaning.

7. Physical distancing / separation

- 7.1. AL Facilities must maintain the recommended physical separation between tenants (and other individuals) as much as possible within the confines of the physical environment. For example: increased physical separation while dining, additional meal times if possible, tray service as much as possible.
- 7.2. Cease group social activities within the AL Facility unless at least 2 metres of physical distance between individuals can be maintained.

8. Transfers between AL Facilities

- 8.1. Suspend all inter-AL Facility transfers.
- 8.2. Exceptions may be made by the Regional Medical Director for Assisted Living.

9. Transfers to Acute Care / Emergency Department

- 9.1. If tenant transfers to acute care are necessary, ensure the acute site is notified as soon as possible (prior to the tenant's arrival at the acute site).

10. Returns from Temporary Absences

- 10.1. Tenants who have been temporarily removed from the AL Facility to live elsewhere in the community (e.g. with family members) must not be permitted to return to the AL Facility for the duration of any COVID-19 outbreak at the AL Facility (as determined by a FHA MHO).
- 10.2. Family members seeking to temporarily re-home tenants must be informed that tenants will not be permitted to return in the event of an outbreak at the AL Facility, and agree to an alternate care plan for the tenant prior to the tenant's removal from the AL Facility.

11. Infection Control

- 11.1. Ensure staff adhere to contact and droplet precautions for all tenants that are suspect or confirmed COVID-19.
- 11.2. Staff must be re-trained on infection control procedures, including hand hygiene and donning and doffing personal protective equipment.
- 11.3. Ensure staff follow provincial infection control guidance on BCCDC's website, including the appropriate personal protective equipment when caring for a person with COVID-19 or a person under investigation for COVID-19: [www.bccdc.ca/health-professionals/clinical-resources/novel-coronavirus-\(covid-19\)](http://www.bccdc.ca/health-professionals/clinical-resources/novel-coronavirus-(covid-19)).
- 11.4. Provide continuous guidance to tenants on respiratory hygiene/cough etiquette.

12. Supplies

- 12.1. AL Facilities must work with existing suppliers to identify supply needs for the AL Facility for the coming months.
- 12.2. AL Facilities must develop a plan to ensure adequate supplies of personal protective equipment and other relevant items.

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 (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*];