



British of Columbia Public Health Order (PHO) Summary & Guidance

Released 3/22/22

Summary of the PHO:

In Section **A.1**, the Order requires the colleges of the various health professionals to provide to Dr. Bonnie Henry with certain personal information of the registrants that the College is in possession of:

- a. legal first, second, third, middle, preferred and last names;
- b. gender;
- c. date of birth;
- d. the identification number assigned to the registrant by the college;
- e. home address and address of place of work;
- f. home phone number and phone number of place of work;
- g. fax number; and
- h. home email and email of place of work.

The Colleges are not being ordered to request the above personal information from registrants. The Colleges are **only** being ordered to provide it if they have it in their possession. Therefore, there is no obligation upon them to request this information from registrants if they do not already have it on file. Apart from a registrant's name and place of work, one has to question how this information is relevant. The Colleges have been ordered to record each registrant's "vaccination status" by March 31, 2022.

The registrants have been ordered under section **C.2** to disclose to their College "in the manner required by the College, proof of vaccination, or of an exemption" **upon request from the College**. Registrants are not being asked to provide their "vaccination status" per se, even though the College is being ordered to record their "vaccination status". However, the College can dictate "the manner in which" this information is to be provided. That does not change the content of the information that is required by the Order in our opinion.

Based upon emails we have reviewed from the different College's to their registrants, it does not appear that the Colleges will ask for anything other than "proof of vaccination or exemption", and only if that information cannot be verified through the Minister of Health and the Provincial Immunization

Registry (“PIR”). If proof of vaccination or exemption is not obtained through the PIR or from the registrant, then the registrant will be listed as “unvaccinated” and that information along with where the registrant works will be disclosed to Dr. Henry.

Provider Guidance:

Registrants who are not vaccinated should advise the College, **if requested**, the following:

“I am in receipt of your email which states that I must provide proof of vaccination or an exemption to the College.

As set out in the letter of March 18, 2022, which was sent to the College by Gall Legge Grant Zwack LLP, the collection, use, and disclosure of the requested information is currently the subject of a privacy complaint. While that complaint is in the process of being adjudicated or otherwise resolved, I will not be disclosing my personal information. I trust you will respect my position, and will not take any steps or actions related to this matter pending resolution of the privacy complaint.”

Other Concerns and Future Efforts by the CDC:

Under section **D** the College is required to provide Dr. Henry with the location of all “places” where registrants work, on an aggregate and individual basis, and the “vaccination status” of individual registrants.

The personal information that the Colleges are now being ordered to provide in Section A. 1 at the bottom of page 9 and top of page 10 of the order, is something that we think is reasonable for the registrants to object to. Registrants can request that the College respect their rights to protection of their personal information and privacy under the Freedom of Information and Protection of Privacy Act[2] and to advise that they do not consent to the disclosure of this information. One would expect the College to follow the same requirements mandated by their own Bylaws[3] (see sections 38, 39 and 73) with respect to patients.

Under section **E**. the order also gives medical health officers the power to make orders imposing more restrictive limitations or conditions in specific regions, despite the provision of the Order. This is concerning as it appears to be a means of shifting responsibility for ongoing restrictions from the province to individual health authorities, much like the government did with school districts.

All of the information being ordered to be disclosed would normally be protected by privacy legislation, but when there is a state of “emergency” declared under the Public Health Act (the “PHA”), as there is presently as a result of the March 17, 2020 declaration by Dr. Bonnie Henry, these normal protections can be overridden by virtue of s.53(a) of the PHA. Therefore, if registrants fail to comply with the Order issued under s.40 of the PHA, compelling them to disclose personal information,

they commit an offence pursuant to s. 99(1)(k) of the PHA and are subject to a variety of penalties, including but not limited to, up to 6 months in jail or a \$25,000 fine for each day the offence continues (see s.108(1)(a) and s.101(2) of the PHA). Because the registrants have not been ordered to provide the personal information in Section A.1 of the Order, I think it is reasonable for them to advise their College that they do not consent to the release of that information and insist that the College protect their privacy.

If a registrant does not wish to comply with the Order, or wishes to compel the College to respect their privacy rights, they would have to seek a declaration from the court to have the Order declared unreasonable, or obtain a declaration from the court that there is no longer a state of emergency that would permit the use of these emergency powers to override their civil rights prescribed by other legislation or the common law.

Conclusion:

At this time we want providers to continue to business as usual. Should you receive any contact from your College or any other authority then reach out to the CDC immediately at bharon@onechiropractic.org. We will continue to monitor this PHO any changes that occur and modify this document at that time.

¹ <https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/covid-19/covid-19-pho-order-health-professionals-vaccination-status.pdf>

² https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96165_01#section2

³ <https://www.chirobc.com/standards-legislation/bylaws/>