

PROVINCE OF BRITISH COLUMBIA
REGULATION OF THE MINISTER OF HEALTH

*Emergency Health Services Act and
Health Professions Act*

Ministerial Order No. M146

I, Adrian Dix, Minister of Health, order


- (a) that the Emergency Medical Assistants Regulation, B.C. Reg. 210/2010, is amended as set out in the attached Schedule 1,
- (b) that the Health Professions General Regulation, B.C. Reg. 275/2008, is amended as set out in the attached Schedule 2, and
- (c) that, with respect to the amendment referred to in paragraph (b) of this order, the notice period for the purposes of section 12 (3) and (4) of the *Health Professions Act* is one day.

DEPOSITED

May 6, 2020

B.C. REG. 100/2020

April 29, 2020
Date


Minister of Health

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Emergency Health Services Act*, R.S.B.C. 1996, c. 182, s. 15 (2);
Health Professions Act, R.S.B.C. 1996, c. 183, s. 12 (2)

Other: M191/2010; M235/2008

R30404903

SCHEDULE 1

- 1 *The Emergency Medical Assistants Regulation, B.C. Reg. 210/2010, is amended by adding the following Part:*

PART 6 – EMERGENCY PROVISIONS

Definitions

29 In this Part:

- “**authorized person**” means an EMA who is authorized under an emergency order to perform an activity or to provide a service;
- “**emergency order**” means an order made under section 32;
- “**medical health officer**” means a medical health officer designated under the *Public Health Act*;
- “**provincial health officer**” means the provincial health officer appointed under the *Public Health Act*;
- “**public health emergency**” means an emergency that is the subject of a notice provided by the provincial health officer under section 52 (2) of the *Public Health Act*.

Application

- 30 (1) This Part applies despite any provision to the contrary in the Act or this regulation.
- (2) Except with respect to a requirement referred to in section 33 (e), an emergency order applies only during the period that
- (a) begins on the date the order comes into effect, and
 - (b) ends on the earliest of the following dates:
 - (i) the date stated in the order;
 - (ii) the date on which the order is rescinded;
 - (iii) the date on which the provincial health officer provides notice under section 59 (b) of the *Public Health Act* that the public health emergency that is the subject of the order has passed.

When emergency order may be made

- 31 (1) The provincial health officer may make an emergency order only if the provincial health officer is of the opinion that
- (a) the order is necessary for the purpose of responding to a public health emergency
 - (i) because the operation of any provision of Parts 2 to 5 or a Schedule is adversely affecting, in one or more areas of British Columbia,
 - (A) the timely delivery of treatment or services in relation to health care,

- (B) the scope of treatment or services in relation to health care that can be delivered, or
- (C) the efficient and effective use of health human resources,
- (ii) because health human resources in one or more areas of British Columbia are insufficient to meet the needs of persons affected by a public health emergency, or
- (iii) for any other reason in the public interest, and
- (b) authorized persons may perform the activities and provide the services referred to in the order without undue risk to the health or safety of any person.
- (2) The provincial health officer must not make an emergency order without first doing all of the following:
 - (a) giving notice to the minister of the proposed order;
 - (b) making reasonable efforts to consult with the corporation for the purpose of forming the opinion referred to in subsection (1);
 - (c) advising the minister of any objections made by the corporation and
 - (i) how the order addresses those objections, or
 - (ii) why those objections cannot be accommodated.

Emergency orders

- 32** If the conditions of section 31 are met, the provincial health officer may make an order to do one or more of the following:
- (a) authorize, but not require, an EMA to perform a specified activity or provide a specified service that the EMA would not otherwise be permitted to perform or provide under this regulation;
 - (b) modify or waive a requirement set, or a standard, protocol or treatment guideline established by the corporation, under the Act or this regulation and authorize, but not require, an EMA to perform a specified activity or provide a specified service in accordance with the modification or waiver.

Additional powers for purposes of emergency order

- 33** The provincial health officer may, for the purposes of an emergency order, do one or more of the following:
- (a) make the order in respect of a specified person or a class of persons;
 - (b) set limits or conditions on an authorization made under the order, including limits or conditions with respect to
 - (i) the training, experience and qualifications of authorized persons,
 - (ii) the circumstances in which authorized persons may perform an activity or provide a service, and
 - (iii) the supervision of authorized persons;
 - (c) set different limits and conditions for different classes of authorized persons or circumstances, including with reference to
 - (i) the employer or types of employers of authorized persons, and

- (ii) the types of places in which an activity may be performed or a service may be provided;
- (d) restrict the application of the order to
 - (i) one or more geographic areas, or
 - (ii) a period of time, including until the happening of a specified event;
- (e) require authorized persons to keep records or make reports in respect of matters relevant to the order and, for this purpose,
 - (i) authorize, but not require, another person or a person within a class of persons to keep the record or make the report on behalf of the authorized person, and
 - (ii) provide records or make reports to the provincial health officer, a medical health officer, the minister, the corporation or the licensing board.

Conferring discretion under emergency order

- 34** (1) The provincial health officer may, in an emergency order, confer a discretion on a medical health officer, the corporation, the licensing board or an employer to determine whether an authorized person is competent to perform an activity or provide a service only if the provincial health officer sets limits or conditions under
- (a) section 33 (b) (i) to ensure, to the extent practicable, that activities are performed or services provided only by persons who are reasonably competent to do so, or
 - (b) section 33 (b) (iii) to require direct supervision of the authorized person by a registrant within the meaning of the *Health Professions Act* who is authorized, under that Act, to perform the activity or provide the service.
- (2) The provincial health officer may, in an emergency order, authorize an authorized person to self-assess whether the authorized person is competent to perform an activity or provide a service only if the provincial health officer sets limits or conditions as described in subsection (1).

Making emergency orders

- 35** The provincial health officer must, as soon as practicable after making an emergency order,
- (a) publish the order on a website maintained by or on behalf of the provincial health officer, and
 - (b) give a copy of the order to the minister, the corporation and the licensing board.

Minister retains discretion over EMA services

- 36** The provincial health officer must comply with any direction of the minister with respect to the following:
- (a) not making a proposed emergency order;
 - (b) making changes to a proposed emergency order;

(c) rescinding or modifying an emergency order.

Limits on acting as authorized persons

- 37 (1) Nothing in an emergency order authorizes an EMA to act contrary to a limit or condition imposed by the licensing board on the EMA's licence.
- (2) A person must not perform an activity or provide a service under an emergency order if either of the following circumstances apply:
- (a) the person is an EMA whose licence is suspended under section 7 (3) or 8 (1) of the Act;
 - (b) the person is authorized to provide services similar to those of an EMA in another province or a foreign jurisdiction but that authorization is suspended for a reason similar to a reason for which an EMA's licence could be suspended under section 7 (3) or 8 (1) of the Act.

SCHEDULE 2

- 1 *The Health Professions General Regulation, B.C. Reg. 275/2008, is amended by adding the following heading after section 1:*

PART 1 – GENERAL PROVISIONS .

- 2 *Section 7 is amended by adding the following subsection:*

- (3) Despite subsections (1) and (2), the running of the periods referred to in those subsections are suspended during the period that
- (a) begins on the date this subsection comes into effect, and
 - (b) ends on the date on which the provincial health officer provides notice under section 59 (b) of the *Public Health Act* that the public health emergency related to COVID-19 that is the subject of the notice provided on March 17, 2020 by the provincial health officer under section 52 (2) of that Act has passed.

- 3 *The following Part is added:*

PART 2 – EMERGENCY PROVISIONS

Definitions

- 10 In this Part:

“**applicable college**”, in relation to an authorized person who is a registrant, means the college that is responsible for superintending the practice of a designated health profession by the registrant;

“**authorized person**” means a registrant or health professional who is authorized under an emergency order to perform an activity or to provide a service;

“**emergency order**” means an order made under section 13 (1);

“health profession regulation” means the following:

- (a) a regulation made under the Act that regulates the practice of a designated health profession;
- (b) a bylaw made, or another instrument issued, by an applicable college that establishes standards, limits or conditions for the practice of a designated health profession;

“medical health officer” means a medical health officer designated under the *Public Health Act*;

“provincial health officer” means the provincial health officer appointed under the *Public Health Act*;

“public health emergency” means an emergency that is the subject of a notice provided by the provincial health officer under section 52 (2) of the *Public Health Act*.

Application

- 11** (1) This Part applies despite any provision to the contrary in a health profession regulation.
- (2) Except with respect to a requirement referred to in section 14 (e), an emergency order applies only during the period that
- (a) begins on the date the order comes into effect, and
 - (b) ends on the earliest of the following dates:
 - (i) the date stated in the order;
 - (ii) the date on which the order is rescinded;
 - (iii) the date on which the provincial health officer provides notice under section 59 (b) of the *Public Health Act* that the public health emergency that is the subject of the order has passed.

When emergency order may be made

- 12** (1) The provincial health officer may make an emergency order only if the provincial health officer is of the opinion that
- (a) the order is necessary for the purpose of responding to a public health emergency
 - (i) because the operation of a health profession regulation is adversely affecting, in one or more areas of British Columbia,
 - (A) the timely delivery of treatment or health care services,
 - (B) the scope of treatment or health care services that can be delivered, or
 - (C) the efficient and effective use of health human resources,
 - (ii) because health human resources in one or more areas of British Columbia are insufficient to meet the needs of persons affected by a public health emergency, or
 - (iii) for any other reason in the public interest, and

- (b) authorized persons may perform the activities and provide the services referred to in the order without undue risk to the health or safety of any person.
- (2) The provincial health officer must not make an emergency order without first doing all of the following:
 - (a) giving notice to the minister of the proposed order;
 - (b) making reasonable efforts to consult with all applicable colleges for the purpose of forming the opinion referred to in subsection (1);
 - (c) advising the minister of any objections made by the applicable colleges and
 - (i) how the order addresses those objections, or
 - (ii) why those objections cannot be accommodated.

Emergency orders

- 13** (1) If the conditions of section 12 are met, the provincial health officer may make an order to do one or more of the following:
- (a) authorize, but not require, a registrant to perform a specified activity or provide a specified service that the registrant would not otherwise be permitted to perform or provide under a health profession regulation;
 - (b) modify or waive a requirement, standard, limit or condition set under a health profession regulation and authorize, but not require, a registrant to perform a specified activity or provide a specified service in accordance with the modification or waiver;
 - (c) subject to subsection (2), authorize, but not require, a health professional who is not a registrant to perform a specified activity or to provide a specified service that, under a health profession regulation, may be performed or provided only by a registrant.
- (2) A health professional may perform an activity or provide a service under an emergency order referred to in subsection (1) (c) only under the direct supervision of a registrant who is authorized, under a health profession regulation, to perform the activity or provide the service.

Additional powers for purposes of emergency order

- 14** The provincial health officer may, for the purposes of an emergency order, do one or more of the following:
- (a) make the order in respect of a specified person or a class of persons;
 - (b) set limits or conditions on an authorization made under the order, including limits or conditions with respect to
 - (i) the training, experience and qualifications of authorized persons,
 - (ii) the circumstances in which authorized persons may perform an activity or provide a service, and
 - (iii) the supervision of authorized persons;
 - (c) set different limits and conditions for different classes of authorized persons or circumstances, including with reference to
 - (i) the employer or types of employers of authorized persons, and

- (ii) the types of places in which an activity may be performed or a service may be provided;
- (d) restrict the application of the order to
 - (i) one or more geographic areas, or
 - (ii) a period of time, including until the happening of a specified event;
- (e) require authorized persons to keep records or make reports in respect of matters relevant to the order and, for this purpose,
 - (i) authorize, but not require, another person or a person within a class of persons to keep the record or make the report on behalf of the authorized person, and
 - (ii) provide records or make reports to the provincial health officer, a medical health officer, the minister or an applicable college.

Conferring discretion under emergency order

- 15** (1) The provincial health officer may, in an emergency order, confer a discretion on a medical health officer, an applicable college, an employer, or the board of management or administrator of a hospital within the meaning of Part 1 of the *Hospital Act*, to determine whether an authorized person is competent to perform an activity or provide a service only if the provincial health officer sets limits or conditions under
- (a) section 14 (b) (i) to ensure, to the extent practicable, that activities are performed or services provided only by persons who are reasonably competent to do so, or
 - (b) section 14 (b) (iii) to require direct supervision of the authorized person by a registrant who is authorized, under a health profession regulation, to perform the activity or provide the service.
- (2) The provincial health officer may, in an emergency order, authorize an authorized person to self-assess whether the authorized person is competent to perform an activity or provide a service only if the provincial health officer sets limits or conditions as described in subsection (1).

Making emergency orders

- 16** The provincial health officer must, as soon as practicable after making an emergency order,
- (a) publish the order on a website maintained by or on behalf of the provincial health officer, and
 - (b) give a copy of the order to the minister and the registrar of each applicable college.

Minister retains discretion over health professions

- 17** The provincial health officer must comply with any direction of the minister with respect to the following:
- (a) not making a proposed emergency order;
 - (b) making changes to a proposed emergency order;

(c) rescinding or modifying an emergency order.

Limits on acting as authorized persons

- 18** (1) Nothing in an emergency order authorizes a registrant to act contrary to a limit or condition imposed by an applicable college on the registrant's registration with respect to the practice of a designated health profession by that registrant.
- (2) A person must not perform an activity or provide a service under an emergency order if either of the following circumstances apply:
- (a) the person is a registrant whose registration is suspended under section 33 (2) or 39 (2) of the Act;
 - (b) the person is authorized to practise a health profession in another province or a foreign jurisdiction but that authorization is suspended for a reason similar to a reason for which a registrant's registration could be suspended under section 33 (2) or 39 (2) of the Act.