

Ministry of Health

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Ministère de la Santé

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CLASS ORDER

made pursuant to Section 22 under Section 77.1 of the *Health Protection and Promotion Act, R.S.O. 1990, c. H.7.*

DATE: April 27, 2022 at 12:00 a.m. (the first instant of)

EXPIRY: June 11, 2022 at 12:00 a.m. (the first instant of) unless otherwise extended or revoked

TO: Every person responsible for a business or organization listed below that is open; and
Every person in the indoor area of the premises of a business or organization, or in a vehicle that is operating as part of the business or organization listed below:

1. Businesses, organizations, municipalities, or local boards that operate a public transit service, but only in respect of the indoor premises and vehicles used for the operation of the public transit service.
2. Businesses or organizations that provide bus passenger transportation service within or between municipalities for compensation, but only in respect of the indoor premises and vehicles used for the operation of the bus passenger transportation service. This paragraph does not apply to businesses or organizations that provide sightseeing or touring services.
3. Hospitals within the meaning of the *Public Hospitals Act*, private hospitals within the meaning of the *Private Hospitals Act*, psychiatric facilities within the

meaning of the *Mental Health Act* and independent health facilities within the meaning of the *Independent Health Facilities Act*.

4. Long-term care homes within the meaning of the *Fixing Long-Term Care Act, 2021*¹.
5. Retirement homes within the meaning of the *Retirement Homes Act, 2010*.
6. Clinics that provide health care services.
7. Service agencies as defined under the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008* that provide,
 - i. residential services and supports to adults with developmental disabilities who reside in supported group living residences or intensive support residences, as defined in that Act, or
 - ii. specialized residential accommodation pursuant to an agreement with the Ministry of Children, Community and Social Services, other than specialized accommodation services that support residential living outside of group living arrangements operated by the service agency.
8. Transfer payment recipients funded by the Ministry of Children, Community and Social Services that provide residential or emergency residential services under the Violence Against Women Support Services program or the Anti-Human Trafficking Community Supports program.
9. Transfer payment recipients funded by the Ministry of Children, Community and Social Services that provide intervenor services for persons who are deafblind in a residential setting.
10. Licensees operating a children's residence within the meaning of Part IX of the *Child, Youth and Family Services Act, 2017*.

¹ Where directives, policies or guidance that apply to a long-term care home within the meaning of the *Fixing Long-Term Care Act, 2021* are issued by the Office of the Chief Medical Officer of Health, the Minister of Long-Term Care or the Ministry of Long-Term Care, such directives, policies, or guidance apply despite anything in this Order.

11. Licensees to which section 117 of Ontario Regulation 156/18 (General Matters Under the Authority of the Minister) made under the *Child, Youth and Family Services Act, 2017* applies.
12. Businesses or organizations that provide residential care, within the meaning of the *Child, Youth and Family Services Act, 2017*, and that are not required to be licensed under Part IX of that Act, during any period when a child is placed with the business or organization by a service provider within the meaning of that Act.
13. Transfer payment recipients that receive funding from the Ministry of Children, Community and Social Services to provide residential services under the Indigenous Healing and Wellness Strategy.
14. Children's treatment centres that receive funding under the *Child Youth and Family Services Act, 2017* to deliver rehabilitation services for children and youth with special needs.
15. Laboratories and specimen collection centres as defined in section 5 of the *Laboratory and Specimen Collection Centre Licensing Act*.
16. Businesses or organizations that operate a shelter for persons experiencing homelessness, in respect of the premises used for the operation of the shelter.
17. Congregate care supportive housing residences where the residents share facilities for living, dining, sleeping or bathing and that receive funding from,
 - i. the Ministry of Municipal Affairs and Housing,
 - ii. the Ministry of Health,
 - iii. Ontario Health,
 - iv. a service manager designated under the *Housing Services Act, 2011*,
 - v. the Ontario Aboriginal Housing Support Services Corporation, or
 - vi. the Miziwe Biik Development Corporation.
18. Service providers within the meaning of the *Home Care and Community Services Act, 1994*, health service providers that provide home and community care services under the *Connecting Care Act, 2019* and their providers of home

and community care services under that Act, and local health integration networks within the meaning of the *Local Health System Integration Act, 2006*.

I, the Chief Medical Officer of Health for the Province of Ontario, order you to take the following steps:

1. Every person responsible for a business or organization listed above which is open, except for a business or organization listed in paragraph 3 below, must require any person in the indoor area of the premises or in a vehicle that is operating as part of the business or organization to wear a mask or face covering in a manner that covers the person's mouth, nose and chin during any period in which the person is in the indoor area, unless an exemption in Appendix A applies.
2. For individuals, to wear a mask or face covering in a manner that covers your mouth, nose, and chin during any period when you are in the indoor area of any business or organization listed above, except for a business or organization listed in paragraph 3 below, or in a vehicle that is operating as part of the business or organization, unless an exemption in Appendix A applies to you.
3. Service providers within the meaning of the *Home Care and Community Services Act, 1994*, health service providers that provide home and community care services under the *Connecting Care Act, 2019* and O. Reg. 187/22 and their providers of home and community care services under that Act and O. Reg. 187/22, and local health integration networks within the meaning of the *Local Health System Integration Act, 2006* and their providers of home and community care services under the *Connecting Care Act, 2019* and O. Reg. 187/22, must ensure that any employee or other person providing a service to an individual in an indoor area or a vehicle wears a mask or face covering in a manner that covers their mouth, nose and chin while they are providing the service, unless an exemption in Appendix A applies to the person in the indoor area.

THE REASONS for this CLASS ORDER are that:

1. On March 11, 2020, the spread of COVID-19 was declared a pandemic by the World Health Organization. The spread of COVID-19 continues to be a compelling public health risk in Ontario.

2. COVID-19, a disease caused by a novel coronavirus, is designated as a disease of public health significance and a communicable disease pursuant to Ontario Regulation 135/18 under Ontario's *Health Protection and Promotion Act*.
3. COVID-19 can cause acute and severe respiratory illness and death in humans.
4. COVID-19 is transmitted from person-to-person predominantly through respiratory droplets and aerosols that are released from the nose and mouth over short and long ranges. COVID-19 may be transmitted from persons who have minimal or no signs or symptoms of illness.
5. Data indicates that Ontario is now in its sixth pandemic wave.
6. As the date of this Order, the newly identified BA.2 sub-lineage of the existing Omicron variant of concern (VOC) is dominant in Ontario and is associated with increased COVID-19 transmission leading to increased COVID-19-related hospitalizations.
 - a. Evidence and epidemiological data demonstrate that the BA.2 sub-lineage (herein referred to as BA.2) is more transmissible than the Omicron sub-lineages that dominated recent Omicron epidemic waves (i.e., BA.1, BA.1.1). The exact mechanism of increased transmissibility is still unknown, but early evidence suggests higher viral load compared to BA.1 or BA.1.1 may be a factor.
 - b. Early evidence suggests BA.2 may not be more severe than BA.1. However, increased transmission and community activity may result in more severe outcomes at a population level.
7. There is widespread circulation of COVID-19 across Ontario higher risk settings with vulnerable populations (e.g., congregate care settings such as long-term care homes) susceptible to outbreaks and more severe health outcomes. At the time of this Order, there are increasing outbreaks in higher risk settings.
8. The use of masking as a public health measure to help prevent COVID-19 transmission has been applied throughout Canada, and internationally, to help prevent COVID-19 transmission.
9. Evidence, including trials and ecological studies, indicate that the implementation of community-based masking policies at national and regional levels is associated with decreased COVID-19 incidence, hospitalization, and mortality.

10. Evidence also suggests that masking policies is beneficial in specific settings and environments where individuals who are, or may be, at increased risk of severe outcomes are in close contact for extended periods of time, such as congregate living settings and on public transportation.
11. This Order provides for the continuation of the current masking requirements in effect under the *Reopening Ontario (A Flexible Response to COVID-19) Act (ROA)* which will expire on April 27, 2022. It does not impose any additional requirements beyond the masking requirements that were previously in the ROA. It extends the masking requirements already in place in higher risk settings beyond April 27, 2022.
12. Maintaining masking requirements in these higher risk settings will provide additional protection in places where people are often in close contact and/or required to be in-person, and for vulnerable people.

I am of the opinion, on reasonable and probable grounds that:

- a. a communicable disease exists or may exist or there is an immediate risk of an outbreak of a communicable disease in the health unit served by me;
- b. the communicable disease presents a risk to the health of persons in Ontario; and
- c. the requirements specified in this order are necessary to decrease or eliminate the risk to health presented by the communicable disease.

I am also of the opinion that the delivery of notice of this Order to each and every member of the class to whom it is directed is likely to cause a delay that could significantly increase the risk to the health of any person residing in Ontario, so notice shall be provided through the public media and the internet via posting at <http://www.ontario.ca>.

This Order is made by the Chief Medical Officer of Health under the authority of section 77.1 of the *Health Protection and Promotion Act* that permits the Chief Medical Officer of Health to exercise anywhere in Ontario any of the powers of a medical officer of health, including to issue a class section 22 order, where I am of the opinion that a situation exists anywhere in Ontario that constitutes or may constitute a risk to the health of any persons. I have investigated the situation and consider the issuance of this Order is appropriate in specific settings and environments where individuals who are, or may be, at increased risk of severe outcomes are in close contact for extended periods of time, such as congregate living settings and on public transportation, and am exercising,

anywhere in Ontario the powers of a local medical officer of health to issue a class section 22 order.

NOTICE

TAKE NOTICE THAT you are entitled to a hearing by the Health Services Appeal and Review Board if you have mailed or delivered to the Chief Medical Officer of Health and to the Health Services Appeal and Review Board, notice in writing, requesting a hearing within 15 days after service of this Order. All requests for hearings and inquiries must be sent by email to hsarb@ontario.ca or faxed to the HSARB at 416-327-8524. Please visit <http://www.hsarb.on.ca/> for more information.

AND TAKE FURTHER NOTICE THAT although a hearing may be requested this Order takes effect when it is served upon you.

FAILURE to comply with this Order is an offence for which you may be liable, on conviction, to a fine of not more than \$5,000.00 for every day or part of each day on which the offence occurs or continues or, should a ticket be issued to you, to a fine in the amount of \$750.

(original signed by)

Dr. Kieran Michael Moore, MD, CCFP(EM),
FCFP, MPH, DTM&H, FRCPC
Chief Medical Officer of Health

Questions about this Order may be directed to the Office of the Chief Medical Officer of Health at CMOH@ontario.ca.

Appendix A:

Masking Exceptions That May Apply to Individuals who are Subject to this Order

Where there is any requirement under this Order that a person wear a mask or face covering, the requirement does not apply to a person who,

- (a) is a child who is younger than two years of age;
- (b) is receiving residential services and supports in a residence listed in the definition of "residential services and supports" in subsection 4 (2) of the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*;
- (c) is in a correctional institution or in a custody and detention program for young persons in conflict with the law;
- (d) has a medical condition that inhibits their ability to wear a mask or face covering;
- (e) is unable to put on or remove their mask or face covering without the assistance of another person;
- (f) needs to temporarily remove their mask or face covering while in the indoor area,
 - (i) to receive services that require the removal of their mask or face covering,
 - (ii) to engage in an athletic or fitness activity,
 - (iii) to consume food or drink, or
 - (iv) as may be necessary for the purposes of health and safety;
- (g) is being accommodated in accordance with the Accessibility for Ontarians with Disabilities Act, 2005;
- (h) is being reasonably accommodated in accordance with the Human Rights Code;
or
- (i) performs work for the business or organization, is in an area that is not accessible to members of the public and is able to maintain a physical distance of at least two metres from every other person while in the indoor area.

Further, the masking requirements do not apply with respect to premises that are used as a dwelling if the person responsible for the business or organization ensures that

persons in the premises who are not entitled to an exception set out in this Appendix wear a mask or face covering in a manner that covers their mouth, nose and chin in any common areas of the premises in which persons are unable to maintain a physical distance of at least two metres from other persons.

For greater certainty, it is not necessary for a person to present evidence to the person responsible for a business or place that they are entitled to any of the exceptions set out in this Appendix.