



## CLASS ORDER

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

May 3, 2021

**TO:** All persons who own, operate, or occupy a workplace or persons responsible for a business or organization in the City of Hamilton, where employees or the public are regularly present, with the exception of:

- A licensed child care program that is in compliance with guidance issued by the Ministry of Education;
- Health care providers and health care entities as defined in Section 77.7 of the Health Protection and Promotion Act who are subject to the Chief Medical Officer of Health's Directives issued thereunder, other than the portion of premises used for the sale of goods that are neither medication nor health related supplies in pharmacies;
- Schools and school boards licensed under the Education Act; and
- Schools and private schools within the meaning of the Education Act, that are operated in accordance with a return to school direction issued by the Ministry of Education and approved by the Office of the Chief Medical Officer of Health.

**AND TO:** Persons working at a workplace premises to which this Order applies, including employees, those hired under third party agencies, contractors, vendors, volunteers or students, or any other persons present at the workplace premises on the relevant transmission dates ("worker(s)").

I, DR. NINH TRAN, ASSOCIATE MEDICAL OFFICER OF HEALTH FOR THE CITY OF HAMILTON, ORDER YOU TO TAKE THE FOLLOWING ACTION:

#### **A. Owner/operator/occupier requirements**

A.1 Every person who owns, operates, or occupies a workplace or persons responsible for a business or organization in the City of Hamilton, where employees or the public are regularly present, shall, unless excepted from this Order, comply with the requirements set out in **Sections A.2 - A.6**.

A.2 If two or more cases of COVID-19 are identified in connection with your workplace premises within a 14-day interval, immediately notify Hamilton Public Health Services at 905-974-9848, Press option # 6 daily 8:30am – 4:30pm, or after-hours at 905-546-2489.

A.3 When there are **two or more cases** of COVID-19 related to your workplace premises, or upon notification by Hamilton Public Health Services, ensure that the following steps are taken:

- (a) Prepare the list of close contacts of these persons and provide the list to Hamilton Public Health Services, when requested;
- (b) Notify the Ontario Ministry of Labour, Training and Skills Development and Workplace Safety and Insurance Board;
- (c) Provide contact details of the most responsible decision-maker at the workplace premises and ensure that this person is readily available for contact by Hamilton Public Health Services to implement any additional measures immediately as required by Hamilton Public Health Services;
- (d) Follow all Hamilton Public Health Services instructions pertaining to contact tracing and identifying workers who need to isolate, including ensuring that any instructions as specified by Hamilton Public Health Services are communicated to workers; and
- (e) Cooperate with staff and representatives from Hamilton Public Health Services including allowing entry into the workplace premises for inspection and to support enhanced infection prevention and control measures and recommendations.

A.4 In addition to notifying Hamilton Public Health Services as soon as they become aware of two or more individuals who test positive for COVID-19 within a 14 calendar-day period in connection with their workplace, shall notify Hamilton Public Health Services as soon as they become aware of **five or more individuals who test positive** for COVID-19 within a 14 calendar-day period in connection with their workplace.

A.5 Owners, operators, occupiers or persons responsible for a workplace premises that has been

closed by notice under this Order shall post the notice at the entrance in a manner that is conspicuous to the public in a form provided by Hamilton Public Health Services indicating the workplace premises is closed.

A.6 The worker requirements below in **Section C** shall be communicated by the owners or occupiers of a workplace premises or persons responsible for a business or organization to all workers impacted by a closure/mass dismissal notification pursuant to this Order.

## **B. Workplace Closures**

B.1 During periods where:

- (a) the geographic area of the City of Hamilton is placed in the Grey – Lockdown zone under the Province of Ontario’s Reopening Ontario (A Flexible Response to COVID-19) Act, and applicable Ontario regulations,
- (b) the Province of Ontario has enacted a Shutdown (“Shutdown Zone”) under applicable legislation, or
- (c) under similar provisions in any successor legislation,

AND when a workplace premises has five or more laboratory confirmed COVID-19 cases within a 14 calendar-day period where the cases could reasonably have acquired their infection in the workplace premises, or where no obvious source of infection has been identified outside the workplace premises,

THEN, Hamilton Public Health Services may in its judgement require, by written notice, either full workplace premises closure or shift or work area mass dismissal be implemented for a minimum period of 10 calendar-days or as specified by Hamilton Public Health Services.

B.2 Hamilton Public Health Services may in its judgement require, by written notice, other significant interventions, based on the above or an alternative set of criteria where it deems such interventions necessary to address circumstances at a specific workplace premises.

B.3 Hamilton Public Health Services may give notice verbally as an initial step to implement a closure or shift or work area mass dismissal or other significant intervention of a workplace premises and follow up with a notice in writing when possible.

B.4 The following workplaces may be exempt from the full closure requirements of **Section B** of this Order:

- First responder emergency services such as Fire, Paramedics, Police and their communication services;
- Shelters;
- Critical infrastructure such as water/wastewater treatment facilities, utilities, telecommunications and IT, transportation, and energy;
- Government services; and
- Services required to maintain the health of animals.

B.5 Notwithstanding the above, temporary access to a closed place of business is authorized, unless otherwise prohibited by any applicable law, for the purposes of:

- (a) performing work at the place of business in order to comply with any applicable law;
- (b) allowing for inspections, maintenance and repairs to be carried out at the place of business;
- (c) allowing for security services to be provided at the place of business; and
- (d) attending at the place of business temporarily,
  - (i) to deal with other critical matters relating to the closure or reopening of the place of business, if the critical matters cannot be attended to remotely; or
  - (ii) to access materials, goods or supplies that may be necessary for the business to be operated remotely.

B.6 None of the above precludes a business from operating remotely, without persons attending at the workplace premises referred to in this Order.

## **C. Worker Requirements**

C.1 Every worker shall comply with the requirements set out in this **Section C**.

C.2 Isolation

If a workplace closure, or shift or work area mass dismissal is required in accordance with **Section B** of this Order, all workers who are identified by Hamilton Public Health Services or

who are identified by an owner or operator or occupier of a workplace who is following Hamilton Public Health Services instructions, must self-isolate as follows:

- (a) COVID-19 positive workers must confine themselves to their home or isolation facility, and await further instructions from Hamilton Public Health Services, and isolate themselves from others, until they have complied with the criteria issued by Hamilton Public Health Services, or are specifically advised by Hamilton Public Health Services that they are permitted to leave their home/isolation facility, or unless they require emergency medical attention.
- (b) Workers who have been identified as a close contact must remain in self-isolation for 14 calendar days from their last exposure to a COVID-19 positive person.
- (c) Workers who are or become symptomatic:
  - (i) If tested, must remain in self-isolation until they receive a negative test result, have no fever and their symptoms have been improving for at least 24 hours. If they receive a positive result, they are then subject to the Order as a person described in C.2(a) above.
  - (ii) If not tested, must remain in self-isolation until both the expiry of a 10-day period that begins on the day on which they show symptoms, and until they have no fever and their symptoms have been improving for at least 24 hours.
- (d) Workers who have been physically attending a workplace premises which comes under closure notice, who are not symptomatic, may be directed by Hamilton Public Health Services to self-isolate for a period of 10 calendar days or for such time as the workplace premises is closed.

C.3 Workers of a closed workplace premises shall not work in another workplace during their period of isolation.

#### C.4 Testing

- (a) Symptomatic workers should get tested as soon as possible from the date of onset of symptoms.
- (b) Workers who test positive for COVID-19 shall notify their employer immediately.
- (c) Asymptomatic workers are encouraged to seek testing.

C.5 Testing is not required to re-open the workplace premises or for a worker to return to work if they are asymptomatic and medical notes are not required for a worker that has completed their isolation period to return to work.

#### D. – Effective Date

D.1 This Order comes into effect at 12:01AM on May 4, 2021.

#### E. – Reasons for the Order

E.1 THE REASONS FOR THIS ORDER ARE THAT:

- (a) COVID-19 is a disease of public health significance, and a disease that has been designated as communicable under Ontario Regulation 135/18 as amended, and a disease which is communicable from person to person by the SARS-CoV-2 virus. COVID-19 has been declared a pandemic by the World Health Organization. The Province of Ontario had declared an emergency under the Emergency Management and Civil Protection Act as a result of the COVID-19 pandemic, and there is continuing provincial regulation under the Reopening Ontario Act (A Flexible Response to COVID-19) Act;
- (b) COVID-19 is present in high numbers in the City of Hamilton and therefore poses a risk to the health of the residents of the City of Hamilton through community transmission. COVID-19 virus (SARS-CoV-2) is spread from an infected person to another person by direct or indirect contact or when respiratory secretions from the infected person enter the eyes, nose, or mouth of another person;
- (c) The risk of transmission of COVID-19 is greatest in close contact environments, including workplace premises, where persons are within two metres of others and/or without face coverings and/or where there is poor ventilation. Persons may be infected with COVID-19 without showing symptoms and may spread COVID-19 to coworkers, patrons and other persons within workplace premise facilities, to their households after being on the workplace premises, and to others they come into contact with;
- (d) Mutations of the COVID-19 virus (SARS-CoV-2) have been observed globally. Viruses, in particular RNA viruses such as coronaviruses, constantly evolve through mutations, and while most will not have a significant impact, some mutations may provide the virus with a select advantage such as increased transmissibility and severity of illness. Such mutations are

cause for concern and need to be monitored closely. New COVID-19 variants of concern that are more transmissible and common across the province of Ontario including the City of Hamilton and increasing as a share of confirmed cases. COVID-19 variants of concern have now been identified in workplace premises, among many other settings;

- (e) To contain the spread of the COVID-19, individuals experiencing symptoms consistent with COVID-19 or who are or may have COVID-19 or who have tested positive for COVID-19 are required to isolate themselves from other people until they are no longer under investigation for COVID-19. Isolation ensures that these people will not spread their infection to others should they have COVID-19 or become ill with COVID-19; and
- (f) It is critical for workplaces to identify and instruct those described in this Order and to take the steps required in this Order, and to contact Hamilton Public Health Services with immediate and fulsome communication from the owner or occupier of premises where such persons have been or are present, with no delay so that further transmission of COVID-19 can be halted as best as possible, to save lives and prevent serious illness.

E.2 THIS ASSOCIATE MEDICAL OFFICER OF HEALTH is 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 the health unit served by me; and,
- (c) Requirements specified in this Order are necessary in order 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 which it is addressed is likely to cause a delay that could significantly increase the risk to the health of any person residing in the health unit served by me, so notice shall be provided through the public media and the internet via posting on the Hamilton Public Health Services website at:

[www.Hamilton.ca/ClassOrder](http://www.Hamilton.ca/ClassOrder)

#### **F - Notice**

TAKE NOTICE THAT each member of the class is entitled to a hearing by the Health Services Appeal and Review Board if the member has delivered to me and to the Health Services Appeal and Review Board, 151 Bloor Street West, 9<sup>th</sup> Floor, Toronto, Ontario, M5S 2T5, notice in writing, requesting a hearing within 15 days after publication of this Order or otherwise in accordance with applicable law.

AND TAKE FURTHER NOTICE THAT although a hearing may be requested, this Order takes effect when it is delivered to a member of the class or brought to the attention of a member of the class.

FAILURE to comply with this Order is an offence under the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, for which a person may be liable, on conviction, to a fine of not more than \$5,000.00 for every day or part day on which the offence occurs or continues. Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed for every day or part of a day on which the offence occurs or continues is \$25,000.00.

FAILURE to comply with this Order may also result in further legal action being taken against you under section 102 of the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, in order to obtain a court order restraining contravention of the Order.



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