

Special Measures Order (Proof of Vaccination Status – Updated October 21, 2021)

Made pursuant to Section 28 of the Public Health Protection and Promotion Act

October 22, 2021

TO: All individuals, businesses and organizations operating in Newfoundland and Labrador

WHEREAS:

- A. While a declaration of a public health emergency is in effect, the Chief Medical Officer of Health may do one or more of the special measures authorized under section 28 of the **Public Health Protection and Promotion Act** for the purpose of protecting the health of the population and preventing, remedying or mitigating the effects of the public health emergency;
- B. On March 18, 2020, the Minister of Health and Community Services, on the advice of the Chief Medical Officer of Health, declared:
 - (i) a public health emergency as a result of the COVID-19 pandemic;
 - (ii) the public health emergency is in effect for the entire province of Newfoundland and Labrador; and
 - (iii) the public health emergency is in effect for a period of 14 days effective immediately;
- C. The public health emergency has been extended for 14-day intervals and is currently still in effect.
- D. The Chief Medical Officer of Health, pursuant to subsection 28(2) of the **Public Health Protection and Promotion Act**, may provide notice in any manner that can reasonably be expected to give actual notice;
- E. The Chief Medical Officer of Health, pursuant to section 28 of the **Public Health Protection and Promotion Act**, made Special Measures Order (Proof of Vaccination Status) signed October 7, 2021 and effective October 22, 2021 and Special Measures Order (Proof of Vaccination Status – Updated) signed October 20, 2021 and effective October 22, 2021;
- F. The Special Measures Order (Proof of Vaccination Status – Updated) signed October 20, 2021 and effective October 22, 2021 repealed and replaced Special

Measures Order (Proof of Vaccination Status) signed October 7, 2021 and effective October 22, 2021;

- G.** The Chief Medical Officer of Health believes that clarification of Special Measures Order (Proof of Vaccination Status) signed October 20, 2021 and effective October 22, 2021 is necessary for the purpose of protecting the health of the population and preventing, remedying or mitigating the effects of the public health emergency; and
- H.** The Chief Medical Officer of Health believes, in accordance with section 13 of the **Public Health Protection and Promotion Act**, that the restrictions set out in this Special Measures Order (Proof of Vaccination Status – Updated October 21, 2021) are the least intrusive measures reasonably required in the circumstances to respond to the public health emergency,

Pursuant to section 28 of the **Public Health Protection and Promotion Act**, I, Dr. **Rosann Seviour, Acting Chief Medical Officer of Health** HEREBY ORDER:

Definitions

- 1.** In this Order,
 - a. “Approved medical exemption” means an exemption from receiving the COVID-19 vaccine granted in accordance with the guidelines issued by the College of Physicians and Surgeons of Newfoundland and Labrador by:
 - i. A medical practitioner licensed under the **Medical Act, 2011**; or
 - ii. A nurse practitioner licensed under the **Registered Nurses Act, 2008**;
 - b. “Approved verifier application” means the NLVaxVerify application, used by businesses and organizations, as approved by the Government of Newfoundland and Labrador;
 - c. “COVID-19 vaccine” means a vaccine approved by Health Canada, as may be approved from time to time;
 - d. “Fully vaccinated” means individuals who have received:
 - i. the full series of a COVID-19 vaccine authorized by Health Canada, or any combination of such vaccines, or

- ii. one or two doses of a COVID-19 vaccine not authorized by Health Canada, followed by one dose of a COVID-19 mRNA vaccine authorized by Health Canada; and
 - iii. their final dose of the COVID-19 vaccine at least 14 days before providing the proof of being fully vaccinated; or
 - iv. an approved medical exemption;
- e. “Proof of identity” means:
 - i. for individuals under the age of 19 years, an official document issued by a government, public body or educational institution which includes an individual’s name and date of birth; or
 - ii. for individuals 19 years of age or older, an official document issued by a government, public body or educational institution which includes an individual’s name, date of birth and photograph; or in the absence of photo identification, means 2 documents that include an individual’s name and, at least one of which includes the individual’s date of birth;
- f. “Proof of vaccination” means an official document in a physical or electronic form that confirms that a person is fully vaccinated and includes the following:
 - i. Electronic QR Code using the NLVaxPass application, as downloaded by individuals, or saved to a mobile device;
 - ii. Physical copy of QR Code;
 - iii. Physical copy of a COVID-19 vaccination record issued in Newfoundland and Labrador;
 - iv. Physical or electronic copy of an official vaccination record issued outside of Newfoundland and Labrador; or
 - v. Proof, on a form approved by the Government of Newfoundland and Labrador, that an individual has received an approved medical exemption;
- g. “Unvaccinated” means individuals who:
 - i. have not received any dose of COVID-19 vaccine;
 - ii. have received only one dose of COVID-19 vaccine where the vaccine consists of two doses;
 - iii. have received two doses of COVID-19 vaccine and less than 14 days have passed since the second dose; or

- iv. where the vaccine consists of only one dose, have received one dose and less than 14 days have passed since the dose.

Applicability

2. Only fully vaccinated individuals shall be permitted access to services and activities, in accordance with this Special Measures Order, in the following businesses and organizations, and for the following activities:
 - a. Gatherings of any size held for socializing, celebration, ceremony or entertainment that are hosted at a recognized business or organization, a rental room, community centre, or other venue used to host gatherings;
 - b. Conferences, conventions and trade shows;
 - c. Arenas;
 - d. Indoor gyms and fitness facilities, yoga studios and dance studios;
 - e. Places where sports and recreational activities are practiced indoors;
 - f. Places where group music, art, dance, and drama activities are practiced indoors, including bands, choirs, dance and music classes;
 - g. Indoor entertainment facilities;
 - h. Businesses that hold a license under the **Liquor Control Act** whose primary purpose is the consumption of beer, wine, or spirits;
 - i. Restaurants for indoor seated dining only;
 - j. Cinemas and performance spaces;
 - k. Bingo halls;
 - l. Personal service establishments; and
 - m. Except for its residents, assisted living facilities, community care homes, long-term care facilities and personal care homes.
3. For greater certainty, this Special Measures Order does not apply to the following businesses, organizations and activities:
 - a. At school or school-based activities;
 - b. Child care;
 - c. Post-secondary institutions;
 - d. Retail stores, shopping malls, and public markets;
 - e. Health care facilities, including private health clinics;
 - f. Community agencies offering essential services;
 - g. Taxis and public transit;
 - h. Hotel, motel, bed and breakfast, and hostel accommodations;
 - i. Places where government and other public services are offered; and
 - j. Financial institutions.
4. This Special Measures Order does not apply to:
 - a. Children under the age of 12 years;

- b. Employees, volunteers, contractors, vendors or suppliers of the businesses, organizations or activities listed in Order No. 2 or Order No. 3; and
- c. First responders accessing those businesses and organizations listed in Order No. 2 to respond to an emergency call.

Children aged 12 to 18 years

- 5. Notwithstanding Order No. 2, individuals aged 12 to 18 years are not required to provide proof of vaccination where they are participating in the following activities only:
 - a. Indoor sport or recreational activities, including those practiced at arenas, indoor gyms, fitness facilities, yoga studios and dance studios;
 - b. Indoor group music, art, dance, and drama activities; and
 - c. Dedicated children's religious or faith-based programs.
- 6. For the purpose of this Order, children have three months from their 12th birthday to obtain fully vaccinated status. If it has been less than three months since their 12th birthday, they are permitted to access those businesses, organizations and activities listed in Order No. 2 without the requirement to provide proof of vaccination.

Religious and Faith-Based Organizations

- 7. Notwithstanding Special Measures Order (Re-Opening – Step 2 – Updated) dated August 9, 2021, operators or organizers of religious or faith-based services and activities who do not verify proof of vaccination for persons entering their premises or participating in their services or activities, must comply with the following restrictions:
 - a. Occupancy is limited to not more than 50 per cent capacity;
 - b. All individuals in attendance, including the officiant(s) and any musicians, must wear a mask at all times;
 - c. Singing by the congregation is not permitted;
 - d. Physical distancing must be maintained between individuals from different family groups;
 - e. Names and contact information of all individuals in attendance must be collected and retained for 14 days for the purpose of providing to public health officials for contact tracing where requested; and
 - f. Entry is restricted to only those individuals who do not have any COVID-19 symptoms and who are not required to self-isolate for any reason.

Assisted Living Facilities, Community Care Homes, Long-Term Care Facilities And Personal Care Homes

8. Notwithstanding Order No. 2(m), unvaccinated individuals:
 - a. may be permitted to visit a loved one who is in the end stages of life, upon consultation with the resident's care team where the visitor remains in the resident's room, wears a mask at all times and follows the required hand hygiene practices; and
 - b. may provide assistance with feeding, mobility, personal care, communication assistance or assistance with significant behavioural symptoms of a resident where they have been considered by the resident's care team to be an essential visitor/support person as they are paramount to the resident's physical care and mental well-being.
9. Where a resident's essential visitor/support person is not fully vaccinated by Friday, October 22, 2021, and there is no alternate visitor to take their place, that essential visitor/support person who is unvaccinated may be permitted to continue to visit the resident only until December 17, 2021.

Operator and Organizer Responsibilities

10. Subject to Order No. 5 and Order No. 6, operators and organizers shall require individuals aged 12 years or older to provide proof of vaccination and proof of identity before permitting the individual to enter premises or attend an activity referred to in Order No. 2.
11. Operators and organizers shall only scan a QR code containing proof of vaccination using the approved verifier application. Operators and organizers shall not require an individual to produce any other personal information or personal health information other than the individual's proof of identity and proof of vaccination.
12. Operators and organizers shall use proof of vaccination to verify that an individual is fully vaccinated prior to permitting entry to a premises or attendance at an activity listed in Order 2 and for no other purpose.
13. Subject to Order No. 14, operators and organizers shall not retain copies of proof of vaccination, proof of identity or a record that an individual's proof of vaccination and proof of identity have been verified when entering their premises or attending their activities.
14. Where an individual agrees, operators and organizers may retain a record of the fact that an individual has provided proof of vaccination and may rely upon this

record to verify proof of vaccination for future occasions. Businesses and organizations shall immediately destroy any such records upon termination of this Special Measures Order or at the individual's request.

Individual Responsibilities

15. Individuals who are unvaccinated must not enter or attempt to enter the premises of a business or organization, nor attend or attempt to attend an activity listed in Order No. 2.
16. Subject to Order No. 5 and Order No. 6, individuals aged 12 years or older must provide proof of vaccination and proof of identity to access those businesses, organizations or activities set out in Order No. 2 above.
17. When submitting proof of vaccination to an operator or organizer, individuals must:
 - a. demonstrate that they are the legitimate holder of the proof of vaccination that they present to an operator or organizer; and
 - b. ensure that the proof of vaccination is true and accurate and that it has not been modified, altered, forged or fraudulently made.
18. Individuals must not modify or alter a document that provides proof of vaccination or fraudulently create a proof of vaccination for the purpose of entering into the premises of a business or organization or to attend an activity listed in Order No. 2.

IT IS FURTHER ORDERED THAT:

1. This Order applies to all individuals, businesses and organizations operating in Newfoundland and Labrador.
2. This Special Measures Order (Proof of Vaccination Status – Updated October 21, 2021) is effective as of 12:01 a.m. on October 22, 2021.
3. This Special Measures Order (Proof of Vaccination Status – Updated October 21, 2021) repeals and replaces Special Measures Order (Proof of Vaccination Status - Updated) signed October 20, 2021 and effective October 22, 2021.
4. All other Special Measures Orders and Exemption Orders remain in full force and effect.

TAKE NOTICE THAT:

1. Failure to comply with this order may result in an application to the Supreme Court, in accordance with section 42 of the **Public Health Protection and Promotion Act** to enforce the relevant provisions of this Order.
2. A person who is subject to an order made by the Chief Medical Officer of Health may request that the Chief Medical Officer of Health reconsider the order by filing a written request for reconsideration within 7 days after the day on which the order is served on a person. A written request for review or reconsideration of this order shall include:
 - (i) the reasons for the request;
 - (ii) a summary of the facts relevant to the request;
 - (iii) whether the order should be revoked or how it should be varied; and
 - (iv) the contact information of the person making the request and shall be sent to the following address:

The Chief Medical Officer of Health
Department of Health and Community Services
PO Box 8700
St. John's, NL A1B 4J6
3. The Chief Medical Officer of Health shall review this Order no less than once every 5 days while the Order is in effect.
4. This Order remains in effect during any review or reconsideration.
5. Failure to comply with this Order is an offence for which you may be liable on summary conviction in accordance with section 56 of the **Public Health Protection and Promotion Act**.
6. For greater certainty, compliance with this Order is required in addition to and not in substitution for any requirement imposed by or under any applicable law.

Signed at St. John's, Newfoundland and Labrador, this 21st day of October, 2021.



Dr. Rosann Seviour
Acting Chief Medical Officer of Health