**People Who May Be a Danger to Public Health**

**Note:** This guidance note is to provide general orientation to the *Public Health Act* (PHA) and related legislation for public health officials who are responsible for implementing the PHA and others affected by the PHA. This guidance note is not legal advice and individuals should consult with their legal counsel in determining whether or to what extent the PHA may apply to a particular circumstance. If there is a conflict between the guidance note and the PHA, its regulations or related legislation, this guidance note is superseded by the latter authorities to the extent of any conflict.

**Purpose:** To provide medical health officers with guidance for dealing with people who may be a danger to public health if they are not complying with a MHO order to remain in a place or not enter a place or an order for these is not practical.
 **Background:** Infrequently MHOs issue orders to infected people who may be a danger to public health through transmission of the infectious agents or hazardous agents. Even more rarely people do not follow the MHO orders at which time the MHO may consider whether detention of the person is necessary to protect the public. For example this rare circumstance usually involves a person with tuberculosis who also has mental illness, mental disability and/or alcohol or drug addiction. During SARS these measures were also considered for use by health officials to control spread.

**Relevant Sections:**

* PHA 49
* Public Health Inspections and Orders Regulation (PHIO) 5 (1) (b) and 6, and Forms 3 and 7 (attached – fillable PDF versions are also appended)

**Issues, Guidance, Questions and Answers:**
In obtaining a court order the MHO must be satisfied that the criteria in s. 49 (2) are fulfilled and the MHO has obtained approval of the PHO.

The court for the application is the Provincial Court.

Legal advice should be obtained early as part of this process.

The MHO has to fill out an application as described in the PHIO regulation s. 5 (1) (b) and form 3.

The application should contain as much detail about the actions desired by the MHO as the court has a wide range of authority with regards to what is to be included in the order.

Information to be included is a request for warrant for apprehension and transportation, examinations needed, treatment needed, detention location and time frame or conditions required for release from detention so that the court can order those actions to be followed. Often some of these directions will have been already prepared as part of the original order.

The examinations and treatments to be order should be as specific as possible, but there should also be latitude allowed for examinations and treatment that may be necessary subsequent to initial clinical findings based on the clinical judgement of the attending physician.

It is critical that the MHO be clear on the conditions necessary for release so that when those conditions have been achieved the person can be released at the direction of the MHO.

**It is important** that the MHO request as part of this application to the court that these matters are dealt with in private to preserve the confidentiality of the medical history of the person involved. Personal information about contacts should not be included.

**It is also important** that the MHO prepare a written advisory describing the infection control and any other precautions to be followed by any personnel who will be in contact with the infected person. The MHO should also if possible directly speak to anyone who will be involved in apprehension, transport, processing in the court, and detention to inform them of the necessary precautions and answer any questions or concerns. At the same time confidential medical information about the medical condition should not be included in such advice if it is not necessary to for the people involved to be protected.

The Provincial Courts having varying availability. Court locations and contact information is at <http://www.provincialcourt.bc.ca/locations-contacts>.

If there is a need to urgently apprehend a person out side normal hours the MHO can complete a certificate as per the PHIO regulation s.6 and Form 7 which gives anyone, most likely a peace officer, the authority to apprehend and detain the person based on the information provided by the MHO. As per the above paragraph **it is important that people involved be provided verbal and written information** about precautions to protect themselves.

If the MHO has had someone apprehended directly they have to apply to the provincial court within 7 days for the order described about to have the person further detained.

**Legislation excerpts:**

**Public Health Inspections and Orders Regulation**

 **5** (1) An application to court may be made by submitting information on oath in the following form:

 (b) for an order described in section 49 (3) or (4) *[protect public health]* of the Act, Form 3 of the Schedule.

 **6** A medical health officer may detain a person under section 49 (5) *[detention by medical health officer to protect public health]* of the Act by signing a certificate as set out in Form 7 of the Schedule.

**Application to Court if Danger to** Court File No.(s):

**Public Health** Court Location:

**Canada: Province of British Columbia**

Form 3 pursuant to section 49 of the *Public Health Act*

This is the application of ……………Name of medical health officer…………, medical health officer

of ……………………………..Health authority name…………………….. at

……………..Address, phone number……………

in the province of British Columbia (the “Applicant”).

I am applying for orders that:

………………..Name of person……………..be detained at …………….Name of facility…………………..

for …………………………….Terms of detention and expiry of order………………………………………; and that

……..…….Name of person……………… submit to

……………………an examination, preventive measures, or any other thing necessary to ensure that the person will not be a danger to public health ………………………………………………………..,

and a warrant that …………..Name of person………………. be apprehended and transported to

……………….Name of place……………………….

I make this application with the approval of the Provincial Health Officer; as evidenced by the

document attached which then forms part of this application, on the basis of my belief that

…………….Name of person………………………

is an infected person who, if not detained, may be a danger to public health.

The grounds for my belief are as follows:

(If more space is required, add more pages which then form part of this application)

…………………………………………………..

Signature of applicant, medical health officer

…………………………………………………..

Print name

Dated ………………………………

at ………………………………………..

British Columbia

The Court orders that:

□ Application granted □ Application denied

 ……..….…………………………………

 Signature of Judge or Clerk of the Court on behalf of

Dated………………………………..

at …………………………………….

British Columbia

**Affidavit of Applicant**

I, ……………………………………………………………………,

□ Swear □ Affirm that:

1. I am the applicant for the order and/or warrant for apprehension of a person who may be a danger to public health.

2. The grounds of my belief are true to the best of my knowledge.

SWORN/AFFIRMED before me

on ………………Date ……………

 ……………………………………..

Signature of Applicant

at …………………City ……………………………..British Columbia

………………………………….

Justice of the Peace in and for the Province of British Columbia

Certificate Allowing a Medical Health Officer to

Detain a Person, and Allowing for Apprehension

and Transportation of the Person to a Place

**Canada: Province of British Columbia**

Form 7 pursuant to section 49 (5) of the *Public Health Act*

I, …………………Medical health officer name ……………………………………………

of …………………….Health authority name, address, phone number……………………………………

for the reasons set out in the attached application which then forms part of this certificate,

I believe ………..Name of person………………...

to be an infected person, who, if not detained, may be a danger to the public health, and, due to

the unavailability of a judge of the Provincial Court to hear my application, authorize anyone to

apprehend, detain and transport ………………..Name of person……………….

to ………………….Name of facility……………………..

 …………………………………….

Signature of medical health officer

 …………………………………………….

Printed name

Dated ……………………………………

at ………………………………………..

British Columbia