

## RECORD OF DECISION – CMOH Order 52-2021

### Re: 2021 COVID-19 Response – Alberta Government’s Restrictions Exemption Program; Rescinding and replacing RECORD OF DECISION – CMOH Order 45-2021

Whereas I, Dr. Deena Hinshaw, Chief Medical Officer of Health (CMOH) have initiated an investigation into the existence of COVID-19 within the Province of Alberta.

Whereas the investigation has confirmed that COVID-19 is present in Alberta and constitutes a public health emergency as a novel or highly infectious agent that poses a significant risk to public health.

Whereas under section 29(2.1) of the *Public Health Act*, I have the authority by order to prohibit a person from attending a location for any period and subject to any conditions that I consider appropriate, where I have determined that the person engaging in that activity could transmit an infectious agent. I also have the authority to take whatever other steps that are, in my opinion, necessary in order to lessen the impact of the public health emergency.

Whereas a state of public health emergency was declared in the province of Alberta on September 15, 2021.

Whereas I have made Record of Decision - CMOH Order 45-2021 on September 24, 2021.

Whereas I have determined that it is necessary to revise Record of Decision – CMOH Order 45-2021.

I hereby make the following order, effective November 29, 2021.

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## Part 1 – Application

- 1.1 This Order rescinds CMOH Order 45-2021.
- 1.2 This Order applies throughout the Province of Alberta.
- 1.3 Record of Decision CMOH Order 44-2021 is not in force in respect of eligible participants and patrons and attendees who are in compliance with this Order.
- 1.4 Record of Decision CMOH Order 52-2021 is not in force in respect of an employee of an eligible participant or first responders attending an eligible participant's discretionary business, entity, or event for the purposes of responding to an emergency situation.

## Part 2 – Definitions

- 2.1 In this Order and the Appendix A to this Order, the following terms have the following meanings:
  - (a) “authorizing health professional” means
    - i. for the purposes of a masking exception, one of the following regulated members under the *Health Professions Act* who holds a practice permit:
      - A. nurse practitioners;
      - B. physicians;
      - C. psychologists;
    - ii. for the purposes of the vaccine exception, one of the following regulated members under the *Health Professions Act* who holds a practice permit:
      - A. nurse practitioners;
      - B. physicians.
  - (b) “COVID-19 test” means a Health Canada approved rapid screening test or a lab based PCR test approved by Health Canada or the lab accreditation body of the jurisdiction in which the test is performed which:
    - i. a person has taken within the last 72 hours;
    - ii. clearly outlines the laboratory that completed the test, if applicable the type of test, time of sample collection, and clear indication of a negative result; and
    - iii. is not sourced from the Alberta Health Services public COVID-19 testing system.
  - (c) “counter sale or quick service restaurant” means a quick service restaurant or a counter sale retail business that provides food or beverage services and requires all dine-in patrons or attendees to order or select their food or drink at a counter, food bar, or cafeteria line and to pay before being seated but does not include bars, nightclubs, or other similar establishments.
  - (d) “discretionary business, entity or event” means a business, entity or event described as “in scope” in Appendix A of this Order.

- (e) “eligible participant” means an operator of a discretionary business, entity or event that chooses to implement the Restrictions Exemption Program under this Order.
- (f) “eligible person” means a person who is:
  - i. eligible to receive the COVID-19 vaccine; and
  - ii. visiting, living, working or going to school in Alberta.
- (g) “employee” means workers, contractors, repair workers, delivery workers, volunteers, inspectors, or others who are entering the eligible participant’s premises for work purposes and not as patrons or attendees.
- (h) “face mask” means a medical or non-medical mask or other face covering that covers a person’s nose, mouth and chin.
- (i) “first responders” means emergency medical responders registered with the Alberta College of Paramedics, police officers as defined in the *Police Act* and firefighters.
- (j) “fitness activity” means a physical activity that occurs at a gym, fitness studio, dance studio, rink, ski hill, pool, arena or recreation centre and includes dance classes, pole dancing, rowing, spin, yoga, boxing, boot camp, Pilates and other activities of a similar nature.
- (k) “Guidelines” means the Requirements for the Restrictions Exemption Program, as amended from time to time and as published on the Government of Alberta website.
- (l) “health condition” means the following mental or physical limitations:
  - i. sensory processing disorders;
  - ii. developmental delays;
  - iii. mental illnesses including: anxiety disorders; psychotic disorders; dissociative identity disorder; and depressive disorders;
  - iv. facial trauma or recent oral maxillofacial surgery;
  - v. contact dermatitis or allergic reactions to face mask components; or
  - vi. clinically significant acute respiratory distress.
- (m) “masking medical exception letter” means written confirmation provided to a person by an authorizing health professional which verifies that the person has a health condition that prevents the person from wearing a face mask while attending an indoor public place and:
  - i. clearly sets out the information required by section 4.5 of this Order; and
  - ii. is valid for a period of one year from the date on which it is made.
- (n) “medical contraindication to vaccination” means a condition diagnosed by an authorizing health professional as determined by guidance provided by the College of Physicians and Surgeons of Alberta or the College and Association of Registered Nurses of Alberta.
- (o) “membership program” means a program offered by an eligible participant in which a

patron or attendee's membership grants the patron or attendee access to the eligible participant's discretionary business, entity or event on a recurring basis.

- (p) "personal identification" means a valid:
- i. birth certificate issued by a government of a province or territory of Canada;
  - ii. citizenship card;
  - iii. driver's licence issued by a government of a province or territory of Canada and including the photograph of the holder;
  - iv. provincial or territorial issued identification card, including health card;
  - v. certificate of Indian Status;
  - vi. Métis Nation of Alberta Association citizenship and identification card;
  - vii. Inuit Status card;
  - viii. passport attesting to citizenship or other national status, issued by a government of any jurisdiction and including a photograph of the holder;
  - ix. Permanent Resident Card.
- (q) "patron or attendee" means an eligible person attending at a discretionary business, entity or event participating in the Restrictions Exemption Program under this Order.
- (r) "PCR test" means the polymerase chain reaction test for COVID-19.
- (s) "performance activity" means singing, playing a musical instrument, dancing, acting or other activities of a similar nature and includes, but is not limited to, a rehearsal, concert, theatre, dance, choral, festival, musical and symphony events.
- (t) "physical activity" means a fitness activity or sport activity.
- (u) "private passenger vehicle" means a bus, van or other passenger vehicle operated or chartered by an eligible participant to transport patrons or attendees for the purposes of a discretionary business, entity, or event including party buses, tour buses, pedal pubs and private charters;
- (v) "premises" means the site or location where the eligible participant operates a discretionary business, entity or event.
- (w) "professional service business or entity" means a business or entity offering or providing the following professional services, or other substantially similar professional services:
- i. legal services;
  - ii. tax services;
  - iii. financial advisory services;
  - iv. accountant or bookkeeping services;
  - v. mediation services;
  - vi. counselling services.

- (x) “rapid screening test” means a COVID-19 testing device that is listed in *Authorized medical devices for uses related to COVID-19: List of authorized testing devices by Health Canada* published on the Government of Canada website and is approved for point-of-care molecular or antigen COVID-19 testing, including but not limited to, Panbio COVID-19 AG Rapid Test Device (nasal), Bd Veritor System For Rapid Detection Of SARS-CoV-2, Id Now COVID-19 and the Spartan COVID-19 System Cube.
- (y) “recreational activity” means any structured or organized activity or program where the purpose of the activity or program is intended to develop a skill, including but not limited to, Girl Guides, Scouts, choir, arts and crafts, pottery or other substantially similar activities.
- (z) “shelters” means emergency shelters, temporary housing, and short-term and long-term transitional facilities or units which operate to support individuals experiencing homelessness or have other transitional housing needs.
- (aa) “sport activity” means sports training, practices, events, games, scrimmages, competitions, gameplay, league play, and other activities of a similar nature.
- (bb) “stadium seating” means the designated space in an indoor arena, movie theatre or other similar indoor settings where a person sits to observe a physical activity, performance activity or recreational activity.
- (cc) “vaccinated” means a person who is eligible for vaccination who has:
  - i. proof of receiving two doses of a World Health Organization approved COVID-19 vaccine in a two dose vaccine series and has had fourteen or more days elapse since the date on which the person received the second dose of vaccine;
  - ii. proof of receiving one dose in a one dose World Health Organization approved COVID-19 vaccine series and has had fourteen days or more elapse since the date on which the person received the one dose of vaccine.
- (dd) “vaccine medical exception letter” means an original, signed written confirmation provided to a person by an authorizing health professional which verifies there is a medical contraindication to vaccination that prevents the person from being vaccinated or verifies the person is a participant in a COVID-19 vaccine clinical trial and:
  - i. clearly sets out the information required by section 5.6 of this Order; and
  - ii. is valid for a period of up to one year from the date on which it is made.



### **Part 3 – Restrictions Exemption Program**

- 3.1 An eligible participant which chooses to implement the Restrictions Exemption Program must do so in accordance with this Order.
- 3.2 A business, entity or event described as “Out of Scope” in Appendix A is ineligible for participation in the Restrictions Exemption Program.

### **Part 4 – Masking requirements**

#### **A. Indoor masking requirements**

- 4.1 Except as set out in this Order, a person over the age of two must wear a face mask at all times while attending at an eligible participant’s premises.
- 4.2 For greater certainty a person over the age of two must wear a face mask in
  - (a) all indoor spaces on the premises of an eligible participant that all persons may attend;
  - (b) a wedding ceremony or reception or at a funeral service or reception that is held at the premises of an eligible participant, and
  - (c) enclosed gondolas, enclosed chair lifts and enclosed funiculars.

#### **B. General exceptions to indoor masking**

- 4.3 Despite this Part of this Order, a person is not required to wear a face mask at all times while attending an eligible participant’s premises if the person is:
  - (a) a youth under two years of age;
  - (b) participating in an indoor physical activity or performance activity;
  - (c) a person marrying another person during a wedding ceremony, and the individuals in their wedding party;
  - (d) unable to place, use or remove a face mask without assistance;
  - (e) seated at a table while consuming food or drink or, if standing at a standing table while consuming food or drink, as long as the person remains at the standing table at all times while consuming the food or drink;
  - (f) providing or receiving care or assistance where a face mask would hinder that caregiving or assistance;
  - (g) a person who needs to temporarily remove their face mask while in an eligible participant’s premises for the purposes of:
    - i. receiving a service that requires the temporary removal of their face mask;
    - ii. an emergency or medical purpose, or
    - iii. establishing their identity;

- (h) consuming food or drink while remaining seated where there is no table, including in stadium seating; or
- (i) separated from every other person by a physical barrier that prevents droplet transmission.

**C. Masking exceptions for health conditions**

- 4.4 Despite this Part of this Order, a person who is unable to wear a face mask due to a health condition as determined by an authorizing health professional is excepted from wearing a face mask while attending the eligible participant's premises.
- 4.5 For the purposes of section 4.4, the health condition must be verified by a masking medical exception letter that includes the following:
  - (a) the name of the person to whom the exception applies;
  - (b) the name, phone number, email address, professional registration number, and signature of the authorizing health professional; and
  - (c) the date on which the written confirmation was provided.
- 4.6 For greater certainty, although the masking medical exception letter must verify that a health condition applies, the medical exception letter must not include specific information about the health condition.

**Part 5 – Obligations of eligible participants**

**A. Screening of patrons or attendees**

- 5.1 An eligible participant must screen every patron and attendee for one of the following at the point of entry in accordance with the Guidelines:
  - (a) proof of vaccination as set out in section 5.4;
  - (b) proof of a negative COVID-19 test result from a sample that is taken within the prior 72 hours; or
  - (c) original vaccine medical exception letter.
- 5.2 A patron or attendee must provide an eligible participant with personal identification and one of the following at the point of entry:
  - (a) proof of vaccination as set out in section 5.4;
  - (b) proof of a negative COVID-19 test result from a sample that is taken within the prior 72 hours; or
  - (c) original vaccine medical exception letter.
- 5.3 Despite sections 5.1 and 5.2, an eligible participant whose discretionary business, entity or event is a counter sale or quick service restaurant is permitted to screen every patron

and attendee for the information set out in section 5.1 at the counter instead of at the point of entry.

## **B. Forms of proof of vaccination**

- 5.4 One of the following is acceptable as proof of vaccination:
- (a) a picture or paper record of a valid First Nation immunization record prominently displaying the name of the recipient, type of vaccine and date of administration;
  - (b) valid Government of Alberta COVID-19 Immunization Record, which includes a QR code;
  - (c) an immunization record from another Canadian province or territory displaying the name of the recipient, type of vaccine, date of administration, which includes a QR code;
  - (d) Canadian armed forces immunization record, displaying the name of the recipient, type of vaccine and date of administration, which includes a QR code;
  - (e) for a fully vaccinated international traveller to Canada, a valid immunization record displaying the name of the recipient, type of vaccine, and date of administration.

## **C. Exceptions for proof of vaccination**

- 5.5 Despite this Part of this Order, a patron or attendee who is unable to be vaccinated due to a medical contraindication to vaccination is exempted from the requirement of showing proof of vaccination to attend at an eligible participant's premises.
- 5.6 For the purposes of section 5.5 the medical contraindication to vaccination must be verified by a vaccine medical exception letter that includes the following:
- (a) the name of the patron or attendee to whom the exception applies;
  - (b) the name, phone number, contact information, professional registration number, and signature of the authorizing health professional;
  - (c) the date on which the written confirmation was provided; and
  - (d) the length of time the exemption is valid.
- 5.7 For greater certainty, although the vaccine medical exception letter must verify that a medical contraindication to vaccination applies, the vaccine medical exception letter must not include specific information about the nature of the medical contraindication to vaccination.
- 5.8 Despite section 5.2, the following patrons or attendees are not required to provide proof of vaccination:
- (a) a patron or attendee with a medical exemption letter for vaccination;



- (b) a patron or attendee with a written or printed copy of a negative COVID-19 test;
  - (c) a patron or attendee who is participating in an eligible participant's membership program where the eligible participant has, in accordance with the Guidelines:
    - i. previously screened the patron or attendee in accordance with sections 5.1(a) or 5.1(c); and
    - ii. instituted a process to confirm the patron or attendee's prior screening.
- 5.9 Despite section 5.2, a patron or attendee who is 17 years of age or younger is not required to provide personal identification.
- 5.10 Despite section 5.2, a patron or attendee for whom ten weeks have not elapsed since the patron or attendee has turned twelve years of age is not required to provide:
- (a) proof of vaccination as set out in section 5.4;
  - (b) a medical exemption letter for vaccination; or
  - (c) a written or printed copy of a negative COVID-19 test.


**D. Positive Test Result**

- 5.11 An eligible participant is prohibited from allowing a person presenting a positive COVID-19 test result from attending at the eligible participant's premises and must advise a person who presents a positive COVID-19 test result that the person must isolate in accordance with CMOH Order 06-2021.

**Part 6 – General**

- 6.1 Notwithstanding anything in this Order, the Chief Medical Officer of Health may exempt a person or a class of persons from the application of this Order.
- 6.2 This Order provides the minimum standards for public health measures in Alberta for those matters addressed by this Order.
- 6.3 For greater certainty, nothing in this Order relieves a person from complying with any provision of any federal, provincial or municipal law or regulation or any requirement of any lawful permit, order or licence covering those matters which are addressed in this Order.
- 6.4 This Order remains in effect until rescinded by the Chief Medical Officer of Health.

Signed on this 30<sup>th</sup> day of November, 2021.

  
Deena Hinshaw, MB  
Chief Medical Officer of Health





**Document:** Appendix A to Record of Decision – CMOH Order 52-2021

**Subject:** CMOH Order 52-2021 Alberta Government's Restrictions Exemption Program

**Scope of Application:** As per Record of Decision – CMOH Order 52-2021

<b>In Scope</b>	<b>Out of Scope</b>
Restaurants and food courts with controlled access to the public	Events in private dwellings
Nightclubs	Retail & shopping malls
Casinos, bingo halls, VLT lounges	First responders attending for the purposes of responding to an emergency situation
Entertainment/rec centers, such as: <ul style="list-style-type: none"> <li>• Bowling, racing entertainment, arcades, billiards halls, other similar entertainment</li> <li>• Museums, art galleries</li> </ul>	Libraries
Movie theatres, concert halls and other substantially similar venues	Employees in/on a worksite for the purposes of their employment
Recreation facilities for physical activity, performance activity or recreational activity <i>excluding</i> : <ul style="list-style-type: none"> <li>• youth physical activity, performance activity and recreational activity</li> <li>• mutual support meetings</li> <li>• jury selection/jury duty/trials</li> <li>• elections purposes and related activities</li> </ul>	Schools, K-12
Conferences / meeting spaces / halls/rented space (excluding dwelling units) <i>excluding</i> : <ul style="list-style-type: none"> <li>• mutual support meetings</li> <li>• places of worship – for faith services</li> </ul>	School curriculum based activity, K-12

<ul style="list-style-type: none"> <li>• jury selection/jury duty/trials</li> <li>• elections purposes and related activities</li> </ul>	
Weddings and funerals held in public facilities where the facility maintains responsibility for adherence to these requirements	Child care settings (e.g., daycare)
Spectator at a professional sport or performance activity	Accommodations (e.g., hotel)
Indoor or outdoor amenities at ski facilities (e.g. indoor or outdoor dining, retail and washrooms, enclosed gondolas, enclosed chair-lifts)	Shelters
Indoor adult sport and performance activities (participants and spectators)	Health services
Private social events held in public facilities where the facility maintains responsibility for adherence to these requirements	Personal services
Hotel and condo amenities such as: <ul style="list-style-type: none"> <li>• fitness rooms, pools</li> <li>• game rooms, movie rooms</li> <li>• other similar amenities</li> </ul>	Professional services business or entity
Short term paid-entry market and trade show events (e.g. artisan and craft fairs, automotive shows, gun shows and holiday markets)	Membership-only retail stores
Adult recreational activities (e.g., classes, groups)	Youth physical activity, performance activity and recreational activity, where all participants are under the age of 18.
Private passenger vehicles	Public transit – e.g. municipal busses, taxis, paid ride sharing and other similar forms of transit not chartered or operated by an eligible participant for a discretionary business, entity or event.
	Wellness services
	Mutual support meetings
	Jury selection
	Elections purposes and related activities
	Places of worship – for faith services