



GALL
LEGGE
GRANT
ZWACK
LLP

1000 - 1199 West Hastings Street
Vancouver, BC V6E 3T5

glgzlaw.com

Peter A. Gall, K.C.*
Partner
Direct | Fax | Text: (604) 891.1152
pgall@glgzlaw.com
*denotes Law Corporation

VIA E-MAIL

February 13, 2023

Ministry of Attorney General
Legal Services Branch
PO BOX 9280 STN PROV GOVT
Victoria, BC V8W 9J7

Attention: Julie K. Gibson

Dear Julie:

Re: Reconsideration of the Vaccination Mandate on Health Professionals in BC

We write again on behalf of our clients and the thousands of unvaccinated health care professionals to request that the PHO's September 12, 2022 Order ("**September Order**") be reconsidered by Dr. Henry in light of the overwhelming scientific evidence that a primary vaccination series provides no protection against the Omicron variants and subvariants, in terms of infection, hospitalization and transmission.

We have already provided additional evidence about this to the PHO.

To further assist Dr. Henry in fulfilling her ongoing legal obligation to "continually engage in the reconsideration of these measures, based upon the information and evidence available to [her]" (September Order, Recital UU), we bring the following recent and high-quality scientific studies to the attention of Dr. Henry (see enclosed):

- (i) Wu, N., Joyal-Desmarais, K., Ribeiro, P., et al. Long-term effectiveness of COVID-19 vaccines against infections, hospitalisations, and mortality in adults: findings from a rapid living systematic evidence synthesis and meta-analysis up to December, 2022. *Lancet Respiratory Medicine*. Published Online (February 10th, 2023).

Summary: This study concludes that: "Estimates of baseline vaccine effectiveness against omicron were not considered adequate for neither infections (...) nor hospitalisations (...) Our findings provide insights for clinicians, public health-care policy makers, and researchers about the long-term vaccine effectiveness of COVID-



19 vaccines, which can inform clinical and policy recommendations. Our analyses indicate that vaccine effectiveness reduces over time for [a] primary series (...) for preventing SARS-CoV-2 infections, hospitalisations, and mortality, a finding which is most pronounced for infections. Furthermore, we found similar reductions with the Omicron variant, except that baseline levels of vaccine effectiveness were noticeably lower and did not meet the WHO criteria for an adequate vaccine response."

This Lancet study presents the highest quality of evidence; a systematic review and meta-analysis, which compiles every study published up to December 2022 regarding the effectiveness or ineffectiveness of a primary vaccination series against Omicron infection and hospitalization. As mentioned in the study, it was funded by the Canadian Institutes of Health Research and the Public Health Agency of Canada.

- (ii) Bobrovitz N., Ware, H., Ma, X., et al. Protective effectiveness of previous SARS-CoV-2 infection and hybrid immunity against the omicron variant and severe disease: a systematic review and meta-regression. *The Lancet Infectious Diseases*. Published Online (January 18th, 2023)

Summary: This study concludes that: "Previous infection was found to provide higher protection against reinfection and more sustained protection against hospital admission or severe disease than vaccination alone".

This study is again the highest quality of evidence, a systematic review and meta-analysis, which compiles every study published between January 1, 2020 to June 1, 2022 regarding the effectiveness of natural immunity against Omicron infection and hospitalization compared to vaccination. Of note, one of the authors is a professor at the School of Population and Public Health at the University of British Columbia (Dr. R. Hosseini).

With the greatest of respect, it is now crystal clear that there is no scientific (or other) basis to justify the continued imposition of the September Order.

Further, the Government has recognized the need to have as many possible health care professionals continue to provide service to meet the needs of patients in the province. There is no reasonable basis, therefore, for not allowing thousands of unvaccinated health care professionals to return to work – given the desperate need for their services in our health care system.

It is significant in this regard that to meet this need the Government has confirmed that vaccinated health care professionals are permitted to work at public health care settings with respiratory symptoms, without being tested for COVID or quarantining until their symptoms have ceased (see enclosed Island Health Memo dated February 1, 2023).



Allowing unvaccinated health care professionals to return to work presents a much lesser risk – indeed, no risk – to the health of patients.

Finally, we wish to point out to Dr. Henry that public officials, including various mayors in the rural parts of B.C., have called for the elimination of the September Order in light of the worsening shortages of health care workers across the province. (See enclosed articles)

To date, the PHO has not responded to the information we have provided for its consideration, and our clients' request to discuss this information with them. Again, with respect, we submit that this is not a constructive way for the PHO to deal with this matter. The PHO says that it recognizes it needs to be transparent with the public about the need for the measures it has adopted to protect the public health, but this doesn't mean that the public must accept at face value what the PHO says in its public pronouncements. Where there is evidence that contradicts the PHO's measures, it is of crucial importance to the credibility and, hence, acceptability and legitimacy, of its measures, that the PHO publicly respond to the questions raised about the contrary formation. We respectfully submit that it is incumbent on the PHO to engage with our clients and the public generally about this contrary information, and if it chooses to do so after this discussion, to fully explain why it is continuing with these measures in light of clear evidence showing these measures are no longer needed.

We look forward to hearing from you about the PHO's response to our clients' request for a public dialogue about this matter.

Yours very truly,
GALL LEGGE GRANT ZWACK LLP

A handwritten signature in black ink that reads "Peter A. Gall".

Peter A. Gall, K.C.*
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Copy. Clients