



ORIGINALLY FILED MARCH 16, 2022 and AMENDED FILED AUGUST 23, 2022

Court File No.: S-222427
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between

PHYLLIS JANET TATLOCK, LAURA KOOP, MONIKA BIELECKI, SCOTT
MACDONALD, ANA LUCIA MATEUS, DAROLD STURGEON, LORI JANE
NELSON, INGEBORG KEYSER, LYND A JUNE HAMLEY, MELINDA JOY
PARENTEAU and DR. JOSHUA NORDINE

Petitioners

and

ATTORNEY GENERAL FOR THE PROVINCE OF BRITISH COLUMBIA and
DR. BONNIE HENRY IN HER CAPACITY AS PROVINCIAL HEALTH OFFICER
FOR THE PROVINCE OF BRITISH COLUMBIA

Respondents

FURTHER AMENDED PETITION TO THE COURT

ON NOTICE TO:

Deputy Attorney General
Ministry of Attorney General

[REDACTED]

Dr. Bonnie Henry, Provincial Health Officer

[REDACTED]

[REDACTED]

This proceeding is brought for the relief set out in Part 1 below, by

[X] the persons named as petitioners in the style of proceedings above

If you intend to respond to this petition, you or your lawyer must

(a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and

(b) serve on the petitioners

(i) 2 copies of the filed response to petition, and

(ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioners,

(a) if you were served with the petition anywhere in Canada, within 21 days after that service,

(b) if you were served with the petition anywhere in the United States of America, within 35 days after that service,

(c) if you were served with the petition anywhere else, within 49 days after that service, or

(d) if the time for response has been set by order of the court, within that time.

(1)	The address of the registry is: The Law Courts, 800 Smith Street, Vancouver, B.C.
(2)	<p>The ADDRESS FOR SERVICE of the petitioners is:</p> <p>Karen Bastow Associate Counsel David G. Milburn, Trial Lawyers Begbie Square [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p>
(3)	<p>The name and office address of the petitioners' lawyers are:</p> <p>Karen Bastow Associate Counsel David G. Milburn, Trial Lawyers Begbie Square</p>

Part 1: ORDERS SOUGHT

1. Declarations pursuant to sections 24(1) and 52(1) of the *Constitution Act*, 1982, Schedule B to the *Canada Act 1982 (UK)* c.11, that:
 - (a) The Order entitled “Hospital and Community (Health Care and Other Services) Covid-19 Vaccination Status Information and Preventive Measures – ~~November 18, 2021~~ September 12, 2022” (Hospital and Community Order), and any variations thereto, that was issued by the Provincial Health Officer for British Columbia, Dr. Bonnie Henry, under the authority of sections 30, 31, 32, 39 (3), 54, 56, 57, 67 (2) and 69 of the *Public Health Act*, S.B.C. 2008, c.28, is of no force and effect, as it unjustifiably infringes the rights and freedoms of the Petitioners guaranteed by the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act*, 1982, Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11, specifically,

- a. *Charter* section 2(a) (freedom of conscience and religion)
- b. *Charter* section 7 (right to life, liberty and security of the person)
- c. *Charter* section 15(1) (equality rights)

(b) The Order entitled “Residential Care Covid-19 Preventive Measures – ~~October 21, 2021~~ September 12, 2022” (Residential Care Order), and any variations thereto, that was issued by the Provincial Health Officer for British Columbia, Dr. Bonnie Henry, under the authority of sections 30, 31, 32, 39 (3), 54, 56, 57, 67 (2) and 69 of the *Public Health Act*, is of no force and effect, as it unjustifiably infringes the rights and freedoms of the Petitioners guaranteed by the *Charter*, specifically,

- a. *Charter* section 2(a) (freedom of conscience and religion)
- b. *Charter* section 7 (right to life, liberty and security of the person)
- c. *Charter* section 15(1) (equality rights)

(c) The “Guidelines for Request for Reconsideration (Exemption) Process for Health Care Workers affected by the Provincial Health Officer Orders” (the Guidelines), that was issued by the Provincial Health Officer for British Columbia, Dr. Bonnie Henry, which stipulate the process that must be employed in determining a healthcare worker’s application for exemption from the Hospital and Community Order and/or from the Residential Care Order, are of no force or effect, as they unjustifiably infringe the rights and freedoms of the Petitioners guaranteed by the *Charter*, specifically,

- a. *Charter* section 2(a) (freedom of conscience and religion)
- b. *Charter* section 7 (life, liberty and security of the person)
- c. *Charter* section 15(1) (equality rights)

(d) The Order entitled “Health Professionals Covid-19 Vaccination Status Information and Preventive Measures – June 10, 2022_ (the Health Professionals Order), and any variations thereto, that was issued by the Provincial Health Officer for British Columbia, Dr. Bonnie Henry, under the authority of sections 30, 31, 32, 39, 53, 54, 56, 57, 67 (2) and 69 of the *Public Health Act*, which mandates the collection, disclosure and reporting of personal information and vaccination status for persons regulated under the *Health Professions Act*, RSBC 1996 c.183 (the “*Health Professions Act*”), is of no force and effect, as it unjustifiably infringes the rights and freedoms of the Petitioners

guaranteed by the *Charter*, specifically,

- a. *Charter* section 2(a) (freedom of conscience and religion)
- b. *Charter* section 7 (life, liberty and security of the person)
- c. *Charter* section 15(1) (equality rights)

2. In the alternative, an Order under sections 2(2) and 7 of the *Judicial Review Procedure Act*, in the nature of mandamus or certiorari, quashing and setting aside the entire scheme of the Hospital and Community Order, the Residential Care Order, the Health Professionals Order, and the Guidelines, as being unreasonable;
3. A Declaration that the Hospital and Community Order, the Residential Care Order and the Guidelines issued by the Provincial Health Officer for British Columbia, Dr. Bonnie Henry, improperly fettered her discretion and breached the principles of natural justice by failing to provide a meaningful process for exemptions and reconsideration;
4. A Declaration that the inclusion of the Petitioners as persons covered by the Orders was unreasonable under administrative law principles because of the Orders' improper impact on persons in the position of the Petitioners;
5. In the further alternative, an Order pursuant to section 5(1) of the *Judicial Review Procedure Act*, directing Dr. Bonnie Henry, in her capacity as Public Health Officer for British Columbia, to provide a meaningful process for exemptions and reconsideration for the Petitioners on the basis of religion, conscience and on an expanded medical basis, and/or to allow for accommodation of those workers affected by the Hospital and Community Order, the Residential Care Order and the Guidelines;
6. An Order prohibiting the Respondents from issuing subsequent public health orders of a substantially similar or identical nature;
7. An Order pursuant to section 17 of the *Judicial Review Procedure Act*, that the entire record upon which the Hospital and Community Order, the Residential Care Order, the Guidelines, and the Health Profession Order were based on, and are continued, be filed on this proceeding;

8. A Declaration that the Health Professionals Order exceeds the statutory authority and jurisdiction of the Respondents, as it trenches on the common-law and statutory authority of self-governing professions, granted by the *Health Professions Act* to govern themselves in the public interest in accordance with the legislation, rules and regulations of their respective colleges.
9. A Declaration that vaccination against Covid-19 as a condition of employment for the Petitioners, as set out in the Hospital and Community Order and the Residential Care Order, is a coercive tactic levelled against the Petitioners by the Respondents, and thus deprives the Petitioners of their right to informed consent to vaccination, as required by section 6 (a) to (f) of the *Health Care (Consent) and Care Facility (Admission) Act* RSBC 1996, c.181 (the "*Health Care (Consent) Act*");
10. An Order that the Petitioners are exempt from the vaccination requirements under the Orders issued by Dr. Bonnie Henry on religious, conscience, and medical grounds, as applicable to each Petitioner;
11. A Declaration that the collection of the Petitioners' personally-identifying and Covid-19 vaccination status by employers, contractors and colleges, as authorized by the "Covid-19 Vaccination Status Information and Preventative Measures" Orders (the "Vaccine Status Orders") issued by Dr. Bonnie Henry between August 20, 2021 and February 28, 2022, and authorized by the Health Professionals Orders first issued on March 7, 2022, and replaced by the Order of June 10, 2022, violates section 26(d) of the *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c.165 ("FIPPA") and section 1(1) of the *Privacy Act*, RSBC 1996, c.373 (the "*Privacy Act*");
12. A Declaration that the Hospital and Community Order, the Residential Care Order and the Health Professionals Order offends section 13(1) of the *Human Rights Code*, RSBC 1996 c.210;
13. Damages pursuant to s. 24(1) of the *Charter* as is found to be appropriate and just in the circumstances of each Petitioner;
14. An extension of time to file supporting materials, including expert affidavits;
15. Costs of this Petition; and,

16. Such further and other relief as the Petitioners may seek and as this Honourable Court deems just and equitable.

Part 2: FACTUAL BASIS

A. The Public Health Orders and Guidelines

1. In the Fall of 2021, B.C. workers in the health care sector became subject to Covid-19 vaccine mandates: those affected workers who refused to take a Covid-19 vaccine were fired from their jobs unless they could prove entitlement to a very narrow medical exemption.
2. The Respondent Dr. Bonnie Henry is British Columbia's Provincial Health Officer, appointed pursuant to Part 6 of the *Public Health Act* and is empowered to issue public health orders to promote and protect public health.
3. The Vaccine Status Orders were issued by Dr. Bonnie Henry between August 20, 2021 and February 28, 2022, and they provided a mechanism to enable employers, operators and contractors to obtain personal information from healthcare practitioners and staff, including his or her personal health number, together with the Covid-19 vaccination status of those individuals, and to compel healthcare practitioners and staff to provide their personal information, including their personal health numbers, as well as their Covid-19 vaccination status, to their employers. The orders also compelled employers and contractors to report the healthcare practitioners' and staff members' personal information and personal health numbers to Dr. Bonnie Henry through an electronic government data base. The first order was issued on August 20, 2021 (Ex. A to affidavit 1 of Anneke Pingo). The second order was issued on August 31, 2021 (Ex. B to affidavit 1 of Anneke Pingo). The third order was issued on September 9, 2021 (Ex. C to affidavit 1 of Anneke Pingo). The fourth order was issued on September 27, 2021 (Ex. D to affidavit 1 of Anneke Pingo), then replaced with the order of October 6, 2021 (Ex. E to affidavit 1 of Anneke Pingo), which was then replaced with the order of February 28, 2022 (Ex. P to affidavit 1 of Anneke Pingo).
4. The initial vaccine mandates were contained in a series of public health orders issued by Dr. Bonnie Henry between September 2, 2021, and November 18, 2021.
5. The vaccine mandate issued under the Residential Care Order was first issued on September 2, 2021 (Ex. F to affidavit 1 of Anneke Pingo), then replaced with the order of October 4, 2021 (Ex. G to affidavit 1 of Anneke Pingo), then replaced with the order of October 8, 2021 (Ex. H to affidavit 1 of Anneke Pingo), and finally then replaced with the order of October 21, 2021 (Ex. I to affidavit 1 of

Anneke Pingo), and finally replaced with the Order of September 12, 2022.

6. The vaccine mandate issued under the Hospital and Community Order was first issued on October 14, 2021 (Ex. J to affidavit 1 of Anneke Pingo), then replaced with the order of October 21, 2021 (Ex. K to affidavit 1 of Anneke Pingo), then replaced with the order of November 9, 2021 (Ex. L to affidavit 1 of Anneke Pingo), ~~and finally then~~ replaced with the order of November 18, 2021 (Ex. M to affidavit 1 of Anneke Pingo) , and finally replaced with the Order of September 12, 2022.
7. On November 9, 2021, the vaccine mandates under the Hospital and Community Order were expanded to include administrative staff employed by a regional health authority, the Provincial Health Services Authority, British Columbia Emergency Health Services, and the Providence Health Care Society.
8. On November 18, 2021, the vaccine mandates under the Hospital and Community Order were further expanded to include all staff members of Community Living British Columbia.
9. The Health Professionals Order, initially issued on March 7, 2022 (Ex. Q to affidavit 1 of Anneke Pingo) and replaced by the Order issued on June 10, 2022 (Ex. R to affidavit 1 of Anneke Pingo), compels colleges, as defined by the *Health Professions Act*, to provide personally-identifying information about each of their registrants. The Order further compels the Minister of Health to verify the Covid-19 vaccination status of each registrant, and to disclose that information to the relevant college. The Order compels each registrant, upon request from the college, to provide proof of vaccination, or of an exemption, to the college. The college must record each registrant's vaccination status by March 31, 2022. The college must also disclose to Dr. Henry, upon request, the aggregate information respecting the vaccination status of registrants of their college. The Health Professionals Order was expanded on June 10, 2022 to include post-secondary institutions in relation to registrants applying for admission into health science programs and residency programs and other postgraduate medical education programs, for the purpose of determining the registrants' eligibility to attend at places subject to the Orders. The Health Professionals Order does not mandate the Covid-19 vaccination for healthcare professionals regulated under the *Health Professions Act* and working in private practice. As such, healthcare professionals regulated under the *Health Professions Act* and working in private practice are treated differently than healthcare professionals regulated under the *Health Professions Act* who were employed by a provincial health authority or were working in a residential care facility.
10. Section 43 of the *Public Health Act* provides a meaningful process for persons affected by public health orders to apply for reconsideration, but that process is

effectively eviscerated by these orders.

11. The orders provide that the only exemption that can be applied for under s. 43 for reconsideration is a medical exemption. There is no provision in the orders for exemptions based on religion or conscience. The allowable medical exemption is extremely narrow: “a request for reconsideration...must be made on the basis that the health of the person would be seriously jeopardized...and must follow the guidelines posted on the Provincial Health Officer’s website”.
12. The guidelines for exemption from both the Hospital and Community Order and the Residential Care Order are set out in a document entitled “COVID-19 Vaccination Requirements - Guidelines for Request for Reconsideration (Exemption) Process for Health Care Workers affected by the Provincial Health Officer Orders”, dated October 8, 2021 (Ex. O to affidavit 1 of Anneke Pingo). An affected person is not able to submit a request for reconsideration even if he or she has additional relevant information that was not reasonably available to the health officer when the orders were issued or varied. Nor is he or she able to submit a request for exemption if he or she has information or a proposal that was not presented to the health officer when the Public Health Orders were issued or varied, that, if implemented, would meet the objective of the Public Health Orders. Nor is an affected person able to request more time to comply with the orders.
13. The above orders will hereinafter be referred to as the “Public Health Orders” except where it is necessary to be specific about which order is being referred to. The Guidelines will hereinafter be referred to as “The Guidelines.”

B. The Petitioners’ Evidence

Phyllis Janet Tatlock

14. The Petitioner Phyllis Janet Tatlock graduated with a nursing diploma from the University of Alberta, School of Nursing in 1992. She completed her nursing degree from the University of Northern British Columbia in 1998 and completed a Masters of Community Health from the University of British Columbia in 2006.
15. Ms. Tatlock lives in Prince George, British Columbia. Ms. Tatlock was a Director of Operations, BC Cancer, under the Provincial Health Services Authority (PHSA) and was employed in that position from March 8, 2021. Other positions Ms. Tatlock has held are:
 - a. Manager, Alberta Health Services (January 2021—March 2021)
 - b. Executive Director, Alberta Health Services (July 2019-January 2020)
 - c. Director, Public Health, April 2011-July 2019 Island Health,
 - d. Director, Maternal/Child Services, Quinte Health Care (Ontario) April

2008-April 2011

- e. Manager Research and Community Health Services, Carrier Sekani Family Services (May 2006-April 2008)
 - f. Manager, Home and Community Health Services Northern Health (October 2003--May 2006)
 - g. Manager Community Health Services Carrier Sekani Family Services (September 1999-October 2003)
 - h. various nursing positions in the Emergency Department in Northern Health as well as in California, Texas, Washington states from 1993 until 1999.
16. Ms. Tatlock was terminated by her employer due to her refusal to take a Covid-19 vaccine.
17. Ms. Tatlock is a Christian. She objects to taking a Covid-19 vaccine on the basis of religion. Ms. Tatlock submitted a request for a religious exemption to the Occupational Health department of PHSA on October 22, 2021, and it was denied.
18. Ms. Tatlock objects to state coercion that would have her take a vaccine which recent studies show is ineffective at stopping infection or transmission, and whose adverse reaction profile is significant.

Laura Koop

19. The Petitioner, Laura Koop, lives in Canyon, British Columbia. Ms. Koop is a Primary Care (Family) Nurse Practitioner, with a focus on high risk and at-risk populations, such as drug and alcohol abuse, and mental health. She was employed by the Interior Health Authority and held this position from September 2014. Prior to her employment with Interior Health, Ms. Koop was employed in the following capacities:
- a. Nurse Practitioner (family) in remote clinics;
 - b. Clinical Coordinator for remote nursing clinics;
 - c. Remote Nurse with Certified Remote Nursing Practice;
 - d. Nurse Manager in long-term Care;
 - e. Instructor (both Care Aide and LPN program) in community college; and,
 - f. Staff nurse in long-term care.
20. Ms. Koop was terminated by her employer due to her refusal to take a Covid-19 vaccine.
21. Ms. Koop objects to taking a Covid-19 vaccine on the basis of conscience. She

has serious concerns about the safety of the Covid-19 vaccines, mRNA technology and use of fetal tissue in vaccine development. She is concerned about the lack of informed consent, the lack of transparency from pharmaceutical corporations and all levels of Canadian (and international) governments, and the continued changing goals and directives regarding the Covid-19 vaccines.

Monika Bielecki

22. The Petitioner, Monika Bielecki, resides in Kelowna, British Columbia. Ms. Bielecki is an Employee Health and Wellness Advisor with BC Interior Health. She held this position from October 2015.
23. Ms. Bielecki holds Bachelor of Arts degree in Psychology. She is also qualified as a Certified Vocational Rehabilitation Professional. She has extensive experience, since 2001, in claims adjudication, rehabilitation services, disability management, and workplace accommodation process.
24. In her role as an Employee Health and Wellness Advisor with Interior Health, Ms. Bielecki worked remotely from February 10, 2016. Since that day, she did not have a designated workspace in any of the Interior Health sites and has worked entirely from home via phone and email up to the time of termination of employment. A Flexible Work Location Participation Agreement and Safety Checklist was formally signed by Ms. Bielecki's manager on September 30, 2019.
25. Between 2016 and 2019, Ms. Bielecki attended the occasional team meeting in the office, but as members of their team were from various cities in the Interior Health region, there always was an option to attend by teleconference and some of Ms. Bielecki's teammates did so. As the pandemic began, they started using Zoom meetings and in-person meetings were not organized by her department.
26. Ms. Bielecki was terminated by her employer due to her refusal to take a Covid-19 vaccine.
27. Ms. Bielecki objects to taking the Covid-19 vaccine on the basis of conscience. She states that acceptance of any medical intervention is her personal choice, based on her health status and risk factors. She objects to state coercion that overrides her personal autonomy, especially where recent studies show the vaccine is ineffective at stopping infection or transmission, and where the vaccine is known to have serious adverse reactions.

Scott Macdonald

28. The Petitioner, Scott Macdonald, resides in Vancouver, BC, and was a Registered Art Therapist at the Dr. Peter Centre in Vancouver. He was employed

in this position for 11 years. Mr. Macdonald holds a Bachelor of Physical Education from the University of British Columbia, as well as a Diploma from the Vancouver Art Therapy Institute.

29. Mr. Macdonald was terminated by his employer due to his refusal to take a Covid-19 vaccine.
30. Mr. MacDonald is also not able to fulfill his duties with Teddy's Homes, where he had been working for the last four years as a casual respite support worker with foster children, because the Hospital and Community Order applies to residential facilities licensed under the *Community Care and Assisted Living Act*. All unvaccinated workers are not permitted to enter any of the resources.
31. Mr. Macdonald objects to taking a Covid-19 vaccine on the basis of conscience, and for medical reasons. He believes he is not in a demographic of high risk for Covid-19, nor is the prevalence of severe symptoms/death of Covid-19 (alone) statistically significant. Mr. Macdonald is concerned that the vaccines were rushed to market by the pharmaceutical companies, and that they raced against each other to be the first to offer the vaccine. Mr. Macdonald has also had adverse reactions to the flu vaccine in the past.
32. Mr. Macdonald does not trust the BC Coastal Health Authority to have its workers' best interests in mind. He states the health authority has already been known to implement policies that are punitive to healthcare workers, and that are injurious to the patients they are supposed to be caring for.

Ana Lucia Mateus

33. The Petitioner, Ana Lucia Mateus, resides in Burnaby, British Columbia, and was employed by Vancouver Coastal Health (VCH). She worked as an Administrative Assistant for the Health Authority Medical Advisory Committee. This committee has approximately 50 members of all senior levels in the organization and reports to the Board. Ms. Mateus also provided credentialing and privileging support to all the sites throughout VCH, in the department of Physician Relations and Compensation. She had always worked in the corporate areas of administration for VCH.
34. Ms. Mateus has a Legal Assistant diploma from Capilano College in North Vancouver, BC. Ms. Mateus worked for VCH for over 16 years (since May 2005). She first started as a Legal Assistant in VCH's legal department before moving to Physician Relations and Compensation.
35. Ms. Mateus had worked full time from home since March 13, 2020, due to the Covid-19 pandemic and the consequential public health protocols implemented

by her employer.

36. Ms. Mateus was terminated by her employer due to her refusal to take a Covid-19 vaccine.
37. Ms. Mateus objects to taking the Covid-19 vaccine on the basis of conscience. She believes there are too many unanswered questions regarding the Covid-19 vaccines, and that they were rushed to market. She is also concerned that the pharmaceutical companies have no liability in relation to the Covid-19 vaccines. She objects to state coercion and believes in freedom of choice.

Darold Sturgeon

38. The Petitioner, Darold Sturgeon, resides in West Kelowna and was an Executive Director, Medical Affairs for Interior Health. He held senior director positions with Interior Health for 14.5 years. Mr. Sturgeon did not work in a health care setting and is not a health care worker.
39. Previous positions held by Mr. Sturgeon are Corporate Director Financial Services for Interior Health BC, VP Finance, Chief Financial Officer (Cypress Health Region – Saskatchewan), Chief Financial Officer (Regional Municipality of Wood Buffalo - Alberta), and VP Finance & Administration (East Central Health District – Saskatchewan).
40. Mr. Sturgeon holds a Bachelor of Administration (Distinction), from the University of Regina. He is also a Chartered Professional Accountant in British Columbia.
41. Mr. Sturgeon was terminated by his employer due to his refusal to take a Covid-19 vaccine.
42. Mr. Sturgeon is a Christian. He objects taking a Covid-19 vaccine on the basis of religion. Mr. Sturgeon submitted a request for a religious exemption, but it was denied.
43. Mr. Sturgeon also objects to taking a Covid-19 vaccine on medical grounds. Mr. Sturgeon was given a vaccine during childhood to which he had a severe reaction.
44. In addition, on August 17, 2021, Mr. Sturgeon was diagnosed with the Covid-19 virus. He now has natural immunity to Covid-19 and has undergone an antibody test which shows that he has antibodies to Covid-19.
45. Coupled with his sincerely held religious beliefs that prevent him from taking a Covid-19 vaccine, Mr. Sturgeon has grave concerns about the Covid-19 vaccine's safety, both in relation to short and long-term impacts.

46. Mr. Sturgeon is also opposed to a policy that makes vaccination against Covid-19 mandatory, as it denies his rights and freedoms to make a free choice.

Lori Jane Nelson

47. The petitioner, Lori Jane Nelson, resides in Surrey, BC, and was a Provider Engagement Lead, Clinical Informatics, for the British Columbia Provincial Health Services Authority (PHSA) in Vancouver, BC. Ms. Nelson holds a Bachelor of Science in Nursing (UBC, 1996), as well as a Master of Science in Nursing (UBC, 2005). She is also a Certified Health Executive (CHE) with the Canadian College of Health Leaders and has held this certification for over 15 years.
48. Ms. Nelson has worked for the PHSA for 25 years. Other positions she has held with the PHSA are General Duty Nurse, Clinical Nurse Coordinator, Program Manager, Senior Director, Patient Care Services, and a Clinical Transformation Leader, Redevelopment Project.
49. Ms. Nelson was terminated by her employer due to her refusal to take a Covid-19 vaccine.
50. Ms. Nelson worked solely from home and had a Work from Home Agreement. She did not have contact with patients or public while working and had no need to be within a facility to do her work.
51. Ms. Nelson objects to taking a Covid-19 vaccine on the basis of religious, medical and conscience grounds. Ms. Nelson has severe allergies and has had multiple systemic and anaphylactic reactions in the past. She had reactions to the flu shot in past years. She applied for a medical exemption but was denied. Ms. Nelson is a practicing Christian, and has been all her life. She has sincerely held religious beliefs that prevent her from taking the Covid-19 vaccine. She applied for a religious exemption but it was not granted.
52. Ms. Nelson also objects to being coerced by the state to take a vaccine where there is significant anecdotal evidence of individuals having suffered various adverse reactions.

Ingeborg Keyser

53. The petitioner, Ingeborg Keyser, resides in Kelowna, BC, and is a Communications Advisor for Interior Health. Ms. Keyser has held this position since April 2017. Ms. Keyser graduated from the Tshwane University of Technology in Pretoria, South Africa in 2007, with an International Diploma (three-year course) in Public Relations. Ms. Keyser also completed a bridging course at the University of South Africa to complete all 4th year degree subjects in Communications.

- 54. Ms. Keyser is not a healthcare worker and does not work in a health care setting.
- 55. Ms. Keyser was terminated by her employer due to her refusal to take a Covid-19 vaccine.
- 56. Ms. Keyser worked entirely from home in her position with Interior Health.
- 57. Ms. Keyser objects to taking a Covid-19 vaccine on medical grounds. Ms. Keyser is pregnant. She states she is unable to know what is right for herself and her unborn baby, given the lack of long-term data regarding the Covid-19 vaccines on pregnancy. She objects to state coercion that would have her take a vaccine that is proving to cause serious adverse reactions in some people.
- 58. Ms. Keyser suffered a miscarriage in the spring of 2021, at nine weeks' gestation.

Lynda June Hamley

- 59. Ms. Hamley resides in Nelson, British Columbia. She was employed by Kootenay Society of Community Living ("KCLS") as a residential support worker. KCLS provides care to young men and women with developmental disabilities, living in a group home setting. Ms. Hamley was hired by KCLS in December 2020. She started as a casual support worker and obtained a full-time position with KCLS in November 2021. Ms. Hamley is also a certified Classroom and Community Support Worker. She has worked supporting children with disabilities and challenging behaviours in the school system for 13 years.
- 60. Until December 9, 2021, Ms. Hamley was supporting three young men and a young woman in their homes as a residential support worker for KCLS.
- 61. On December 10, 2021, Ms. Hamley was placed on unpaid leave for failing to provide proof of vaccination against Covid-19. She had until January 13, 2022 to become fully vaccinated against Covid-19, otherwise she was advised her employment would be terminated. Ms. Hamley has not had a Covid-19 vaccine. Ms. Hamley has not yet received official notice that her position at KCLS was terminated.
- 62. Ms. Hamley is a Christian. She objects to taking a Covid-19 vaccine on the basis of religion. Ms. Hamley submitted a request for a religious exemption, but it was denied.
- 63. Ms. Hamley objects to state coercion that has put her in the profoundly bewildering position of being forced to choose between providing for her family, which would force her to submit to a vaccine that goes against her sincerely held religious beliefs, and potentially being unable to provide for her family.

Melinda Joy Parenteau

64. The Petitioner, Melinda Joy Parenteau is a registered midwife, and previously worked as a private contractor for Apple Tree Maternity (“Apple Tree”) in Nelson, BC. She worked for Apple Tree between July 1, 2020, and October 25, 2021.
65. Mrs. Parenteau holds an associate degree in the Science of Midwifery, which she obtained through the National College of Midwives in Taos, New Mexico, USA. In addition, Mrs. Parenteau has completed the International Midwifery Pre-Registration Bridging Program at Ryerson University in Toronto, to enable her to be a registered midwife in Canada
66. Mrs. Parenteau’s hospital privileges were removed on October 26, 2021, because she failed to show proof of vaccination for Covid-19 as required by the Hospital and Community Order. She has never had a complaint or disciplinary action taken against her, neither by her College, health authority, or hospital. She has been registered as a midwife in both Manitoba and B.C.
67. Mrs. Parenteau is opposed to the Covid-19 vaccine mandate. She says it violates a fundamental right to make an informed choice, without coercion, to a medical treatment. She has not taken the Covid-19 vaccine. She will not take it under the current mandate which puts her in a position of duress, coercion by the state, and under threat.
68. Mrs. Parenteau is not opposed to vaccines in general and has received many throughout her life. She recognizes there are benefits to vaccines that have been thoroughly tested and proven safe. These Covid-19 vaccines have not completed their testing and clinical trials and not expected to until the end of 2022 and into 2023. This qualifies these vaccines as being in the experimental category. She will not be coerced by the state into taking an experimental vaccine.
69. Mrs. Parenteau is no longer able to practice midwifery, as her license depends on having hospital privileges. Mrs. Parenteau is experiencing financial hardship because she has lost her hospital privileges, and thus her ability to work in her chosen field.

Dr. Joshua Nordine

70. Dr. Nordine resides in Kelowna, BC. He is a family physician, most recently practicing at Rutland Medical Associates, a private clinic in Kelowna. He has practiced there since 2016.
71. Dr. Nordine was also a clinic physician at the Bridge Detox Centre in Kelowna from 2017 until October 2021. Bridge Detox Centre is a clinic operated by Interior Health. He was initially placed on unpaid leave from the Bridge Clinic on October

26, 2021, because he failed to show proof of having taken the Covid-19 vaccines. He also lost his hospital privileges at that time for the same reason.

72. On November 16, 2021, Dr. Nordine's employment with the Bridge Detox Centre was terminated by Interior Health for not having taken the Covid-19 vaccines, as mandated by the Hospital and Community Care Order. His hospital privileges were revoked for the same reason.
73. Between 2013 and 2016, Dr. Nordine was a family physician at Edmonton Imagine Health in Edmonton, AB.
74. Dr. Nordine obtained his medical degree from Jagiellonian University Medical College in Poland. Dr. Nordine is also a licentiate of the Medical Council of Canada
75. Dr. Nordine is a Christian. He objects to taking a Covid-19 vaccine, including Novavax, on religious grounds. Dr. Nordine also objects to taking a Covid-19 vaccine on medical grounds. He submitted a request for an exemption to the vaccine mandate, but it was denied.
76. In addition, in January 2022, Dr. Nordine was diagnosed with the Covid-19 virus. He now has natural immunity to Covid-19. Dr. Nordine points out that the BC Covid therapeutics Committee states natural immunity is the same as having had two doses of a Covid-19 vaccine.
77. While working as a family physician, Dr. Nordine observed many patients suffer adverse reactions to the Covid-19 vaccines. When requested by his patients to do so, Dr. Nordine has reported those adverse reactions to the Canadian Adverse Events Following Immunization office.
78. Dr. Nordine notes there is a general doctor shortage in BC, and this has been the case since before the pandemic. Similarly, he states that hospitals were short-staffed and operating at over-capacity limits prior to Covid-19.

C. Additional Facts

Elizabeth Ringrose

79. Elizabeth Ringrose resides in Vancouver, BC. She is a Registered Nurse in the Day Health Program at the Dr. Peter Centre in Vancouver, BC.
80. Ms. Ringrose has taken two doses of the Pfizer Covid-19 vaccine.
81. Ms. Ringrose took the first dose of the Covid-19 vaccine on or about January 6, 2021. She took the second dose on or about February 19, 2021. Ms. Ringrose

suffered a severe allergic reaction after the second dose of the Covid-19 vaccine in that within 72 hours after that injection, she could not stand up for a period of six hours and had to crawl to the bathroom. She has experienced dizzy spells on and off since this time.

82. As a result of the adverse reactions Ms. Ringrose has suffered after receiving the second dose of the Covid-19 vaccine, she has had to take a medical leave from her position with the Dr. Peter Centre.
83. While still employed, Ms. Ringrose tried to send an adverse reaction form for a person in her care, but the office listed on the BCCDC website did not seem to receive it after 10 facsimile attempts, and then would not confirm the report would go to the appropriate person. Ms. Ringrose's manager told her to stop asking the office if it got to the right place.

Jennifer Koh

84. Jennifer Koh was an Organization Development & Change Management Consultant for the Interior Health Authority ("Interior Health"). She held this position for two years. Prior to this position, Ms. Koh was an Organizational Development Consultant for the Northern Health Authority for approximately 3.5 years.
85. Ms. Koh has a Bachelor of Arts degree, with a major in psychology. She is also a certified Professional Coach (ICF-accredited), a certified Resilience@Work Practitioner, a certified Human Systems Dynamics Practitioner, and a certified Yoga, meditation & breathwork Instructor. She also has multiple other leadership development certifications.
86. From March 2020, Ms. Koh's work for Interior Health was 100% remote. She had no contact with any patients or co-workers.
87. Ms. Koh was terminated by her employer due to her refusal to take a Covid-19 vaccine.
88. Ms. Koh objects to taking the Covid-19 vaccine on the basis of religion. She was raised with the teachings of the Catholic faith. As an adult, since undergoing extensive training in various Vedic meditation and yoga practices, she has followed the Vedic scriptures very closely, and as a result, has a strong spiritual faith. She submitted a request for religious exemption, but it was denied.
89. Ms. Koh believes in bodily sovereignty and the right to choose what goes into her body. She has not been made aware of all the contents of the injections and is concerned. In addition, she is aware of multiple studies which have shown the adverse effects of the experimental injection, including death, disability, and

stillborn births. She is also aware of the number of deaths and adverse reactions reported by the Vaccine Adverse Event Reporting System (VAERS) in the United States. She is also aware that the vaccine companies assume no liability for adverse reactions, and that she will solely bear the burden of any adverse reactions if she takes the injection.

90. On or about November 26, 2021, after being terminated from her job on November 15, 2021, Ms. Koh received a call from a recruiter with a job proposal for two of the other BC health authorities for a remote contract Change Management Consultant position, which is essentially a part of the role she performed as a full-time employee. When Ms. Koh asked about their policy related to remote workers and the vaccine mandate, she was told that the vaccine mandate did not apply to contract workers who work remotely. She also learned that these same contract workers who are not subject to the vaccine mandate are permitted to enter a healthcare facility, provided they do not enter more than once per month.

D. Expert Evidence

91. Vaccinated and unvaccinated persons can be infected with Covid-19.
92. There is no significant difference in the rates at which vaccinated and unvaccinated persons transmit Covid-19.
93. Certain persons suffer serious health consequences as a result of Covid-19 vaccines.
94. Persons under 60 without co-morbidities have an approximately 99.997% chance of recovering from Covid-19.
95. Natural immunity provides protection against infection with Covid-19.

Part 3: LEGAL BASIS

1. This action is for review of Public Health Orders and Guidelines issued by an administrative decision-maker, Dr. Bonnie Henry, Public Health Officer for the Province of British Columbia, who is appointed by the Lieutenant Governor in Council pursuant to section 65 of the *Public Health Act*. The Public Health Orders and Guidelines have the force of law and are government action, and, as such, the *Charter* applies.
2. The Public Health Orders and Guidelines infringe the Petitioners' sections 2(a), 7 and 15 *Charter* rights and the infringements are not justified by section 1 of the

Charter. Section 24(1) of the *Charter* provides that anyone whose rights or freedoms have been infringed may obtain a remedy the court considers just and appropriate. Section 52(1) of the *Constitution Act, 1982* provides that to the extent the impugned law is inconsistent with the *Charter*, it is of no force and effect.

3. The Petitioners submit that the Public Health Officer has an ongoing legal obligation to access whether the above orders are still required to protect public health. The Public Health Officer's failure to review, rescind or alter the orders is an ongoing decision by the Public Health Officer that the orders are required to protect public health, and must be justified as proportionate. If the government has failed to even consider whether to change the orders in light of the new evidence regarding transmission and vaccination, then mandamus is available.

1. Infringement of section 7 of the Charter

4. Ordering vaccination as a condition of employment for the petitioners interferes with and infringes their rights to medical self-determination. Section 7 *Charter* rights to life, liberty and security of the person encompass the right of medical self-determination: *Carter v. Canada (Attorney General)* 2015 1 SCR 5 at paras. 64-69; *AC v. Manitoba (Director of Child and Family Services)*, 2009 SCC 30; *B(R) v. Children's Aid Society of Metropolitan Toronto*, [1995] 1 SCR 315. Section 7 is also engaged by state interference with an individual's physical or psychological integrity: *Chaoulli v. Quebec (Attorney General)* 2005 SCC 35 at para. 116; *New Brunswick (Minister of Health and Community Services) v. G.(J.)* [1999] 3 S.C.R. 46 at para. 58;
5. Section 7 does not promise that the state will not interfere with life, liberty and security of the person, but that it will not do so except in accordance with the principles of fundamental justice: "While the Court has recognised a number of principles of fundamental justice, three have emerged as central in the recent s. 7 jurisprudence: laws that impinge on life, liberty or security of the person must not be arbitrary, overbroad, or have consequences that are grossly disproportionate to their object": *Carter v. Canada (Attorney General)*, *supra* at paras. 71-72.
6. In assessing whether an impugned law violates the principles of fundamental justice, the object of the law must be given a precise and narrow definition: *Carter v. Canada (Attorney-General)*, *supra* at paras. 73-78. The Petitioners say that the object of the Public Health Orders and the Guidelines is to reduce transmission of Covid-19 to vulnerable persons.
7. The Public Health Orders and Guidelines are over-broad, arbitrary, and disproportionate. The Public Health Orders and Guidelines require vaccination

of persons who work remotely, or in an administrative capacity, or with persons that are not vulnerable to the deleterious effects of Covid-19. For those workers who are in contact with vulnerable persons, the orders do not provide for other options to mandatory vaccination, such as re-assignment of workers to work-places not dealing with vulnerable persons, and/or masking or rapid testing prior to attending the workplace. Finally, the Public Health Orders and Guidelines permit third-party contractors doing work similar to the work of the Petitioners to remain unvaccinated.

2. Infringement of section 2(a) of the *Charter*

8. Vaccine mandates that fail to provide religious and conscientious exemptions infringe section 2(a) *Charter* rights. Section 2(a) of the *Charter* protects the right to freedom of conscience and religion. “Freedom, in a broad sense, embraces both the absence of coercion and constraint, and the right to manifest beliefs and practices. Freedom means that, subject to such limitations are necessary to protect public safety, order, health, or morals, or the fundamental rights and freedoms of others, no-one is forced to act in a way contrary to his beliefs or his conscience”: *R v. Big M Drug Mart Ltd*, 1985 CanLII 69 (SCC) at para. 95. Freedom of religion includes the right to ascribe to sincerely held beliefs or conduct that “are not objectively recognised by religious experts as being obligatory tenets or precepts of a particular religion”: *Syndicat Northcrest v. Amselem*, 2004 SCC 47, at paras. 43-51.
9. Freedom of conscience includes the right to act in accordance with a coherent set of beliefs but does not require that the individual asserting freedom of conscience ascribe to an organised religion: *R. v. Morgenthau*, [1988] 1 SCR 30 at p. 37; *Carter v. Canada (Attorney-General)*, *supra* at para. 132.
10. The unavailability of exemptions on the basis of religion or conscience from the vaccine mandates contained in the Public Health Orders and Guidelines is more than a trivial or insubstantial interference with the petitioners’ section 2(a) *Charter* rights, and consequently, is an infringement of *Charter* section 2(a).
11. Suspension of the right to apply for exemptions is a breach of procedural fairness.

3. Infringement of section 15(1) of the *Charter*

12. The Public Health Orders and Guidelines treat the Petitioners differently than those workers who have chosen to comply with the orders and accept vaccination as a condition of employment. Section 15(1) of the *Charter* protects equality rights. In *Quebec (Attorney General) v. A*, 2013 SCC 5 at para. 169 the LaBel J. stated, after reviewing the s. 15(1) jurisprudence, that a comparator group

analysis would not always sufficiently identify instances of infringements of section 15(1) of the *Charter*. LaBel, J. distilled the section 15(1) test down to two questions at paras. 171:

“(1) Does the law create a distinction based on an enumerated or analogous ground?

(2) Does the distinction create a disadvantage by perpetuating prejudice or stereotyping?”

13. The Petitioners are discriminated against based on their medical status, that is, as unvaccinated persons. Medical status is a ground analogous to mental or physical disability or citizenship status: *Andrews v. Law Society of British Columbia*, [1989] 1 S.C.R. 143 at p. 164, 183; *Quebec (Attorney General) v. A*, *supra* at 173-184; *Attorney General of Ontario v. G*, 2020 SCC 38, at para. 43.
14. The Petitioners are not required to establish that unvaccinated persons are historically disadvantaged to make out a claim under s.15(1) of the *Charter*: *Trociuk v. British Columbia (Attorney General)* 2003 SCC 34. However, the Petitioners are, in any case, able to establish that discrimination on the basis of medical status does have historical antecedents.
15. The Petitioners can point to prejudice and stereotyping to make out their claim for infringement. Pervasive prejudice and stereotyping against those not vaccinated for Covid-19 exists in Canada and around the world. Examples of this include: the inflammatory comments made by the Prime Minister of Canada about the unvaccinated as being “misogynists” and “racists”; comments made by the President of France that he wanted to “piss off” the unvaccinated with recent legislation; a recent poll showing that approximately ¼ of the Canadian population supports short jail sentences for the unvaccinated and Quebec Premier Legault’s initial proposal to impose a medical tax on the unvaccinated.

4. Infringements not justified under Section 1 of the *Charter*

16. Because the Public Health Orders have the effect of laws of general application, rather than administrative decisions pertaining specifically to the interests of a particular individual, whether the Public Health Orders are justified under section 1 of the *Charter* is determined by the test set out in *R. v. Oakes*, [1986] 1 SCR 103: *Christian Medical and Dental Society of Canada v. College of Physicians and Surgeons of Ontario*, 2018 ONSC 579, paras. 51-69; ONCA 393 at paras. 58-60; *Carter v. Canada (Attorney General)*, *supra*; *Doré v. Barreau du Québec*, 2012 SCC 12.
17. In *Doré v. Barreau du Québec*, *supra*, at para. 36, the Justice Abella stated: “As

explained by Chief Justice McLachlin in *Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37... the approach used when reviewing the constitutionality of a law should be distinguished from the approach used for reviewing an administrative decision that is said to violate the rights of a particular individual. When *Charter* values are applied to an individual administrative decision, they are being applied in relation to a particular set of facts. *Dunsmuir* tells us this should attract deference (para. 53; see also *Suresh v. Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1...at para.39). When a particular “law” is being assessed for *Charter* compliance, on the other hand, we are dealing with principles of general application.”

18. The onus is on the Respondents to prove that the infringements of section 7, 2(a) and 15 of the *Charter* are justified: *R v. Oakes*, *supra*. The Respondents must “show that the law has a pressing and substantial object and that the means chosen are proportional to that object. A law is proportionate if (1) the means adopted are rationally connected to that objective; (2) it is minimally impairing of the rights in question; (3) there is proportionality between the deleterious and salutary effects of the law”: *R v. Oakes*, *supra*; *Carter v. Canada (Attorney General)* *supra* at para. 94.
19. The object of the Public Health Orders and Guidelines, to prevent transmission of Covid-19 to vulnerable persons, has a pressing and substantial objective, but the means chosen are not proportionate.
20. While a measure of deference is accorded to laws enacted by the legislature to address complex social issues (*Carter v. Attorney General*, *supra* at paras. 96-99) the Petitioners assert that such deference is not properly applied to the Public Health Orders and Guidelines, which were issued by an unelected official.
21. Some of the Petitioners have experienced serious health consequences because of vaccines or reasonably anticipate experiencing serious health consequences from the Covid-19 vaccine. The Public Health Orders and Guidelines provide no religious or conscientious exemptions at all. The Public Health Orders and Guidelines apply to persons employed in workplaces where no vulnerable persons are at risk. For those workers who are in contact with vulnerable persons, other options are and were available to Public Health Officer Dr. Bonnie Henry, such as re-assignment of unvaccinated workers to a different workplace, and/or providing for rapid testing when unvaccinated workers attend a workplace where vulnerable persons are present. Finally, the Public Health Orders and Guidelines do not consider the impact of natural immunity on rates of infection or transmission.

5. The violations of sections 2(a), 7 and 15 *Charter* rights are not reasonable

22. In the alternative, the Petitioners submit that the Public Health Orders and Guidelines are decisions by an administrative body that engage section 2(a), section 7 and section 15(1) *Charter* rights and are thus subject to a review by the court to determine if the decisions were reasonable, employing the *Doré/Loyola* framework: *Beaudoin v. British Columbia*, 2021 BCSC 512 paras. 119-126; *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817.
23. Delegated authority must be exercised “in light of constitutional guarantees and the values they reflect” (*Doré*, at para. 35). In *Loyola*, this Court explained... “*Charter* values help determine the extent of any given infringement in the particular administrative context, and, correlatively, when limitations on that right are proportionate in light of the applicable statutory objectives”: *Law Society of British Columbia v. Trinity Western University*, 2018 SCC 32 at para. 57; *Loyola High School v. Quebec (Attorney General)* 2015 SCC 12 at para. 38; *Doré v. Barreau du Québec*, *supra* at para. 35.
24. Comparing the test applied in *R. v. Oakes*, *supra*, to the review as to whether a decision of an administrative body is reasonable, the Supreme Court of Canada said “In assessing whether an adjudicated decision violates the *Charter*, however, we are engaged in balancing somewhat different but related considerations, namely, has the decision-maker disproportionately, and therefore unreasonably, limited a *Charter* right. In both cases, we are looking for whether there is an appropriate balance between rights and objectives, and the purpose of both exercises is to ensure that the rights at issue are not unreasonably limited”: *Doré v. Barreau du Québec*, *supra* at para.6.
25. The Public Health Orders and the Guidelines are unreasonable. The objectives of the Public Health Orders and Guidelines could be met with measures that do not disproportionately limit the Petitioners’ *Charter* rights.
26. The Petitioners are unable to seek review under section 43 of the *Public Health Act* or apply for any exemptions other than the narrow medical exemption provided for by the Public Health Orders and Guidelines. Some of the Petitioners work remotely, others in an administrative capacity, or not even in a health-care setting. No provision was made for Petitioners that do not work with persons who are vulnerable to the deleterious effects of the virus. For Petitioners who do attend facilities where vulnerable persons are present, there is no consideration of whether use of additional personal protective equipment and rapid testing prior to attending the workplace would meet the objectives of the Public Health Orders, not even where the Petitioners attend the workplace occasionally or rarely. No provision for alternate employment was made for those Petitioners who chose not to be vaccinated for religious reasons or

reasons of conscience, or other medical reasons, and who do work with vulnerable persons. The Public Health Orders and Guidelines do not consider the impact of natural immunity on infections with, and transmissibility of, Covid-19. Finally, some third-party contractors doing similar work to the Petitioners are not required to be vaccinated.

27. The effect of the Public Health Orders and Guidelines is to coercively require vaccination, not to protect the health of vulnerable persons.

6. Unreasonable in Accordance with Administrative Law Principles as set out in Canada (Minister of Citizenship and Immigration) v. Vavilov 2019 SCC 56

28. The Orders are unreasonable and not justified on the factual and legal constraints that bear on the decision.

7. The Health Professionals Order impinges on the statutory powers of the British Columbia College of Physicians and Surgeons, and the British Columbia College of Nurses and Midwives to license and govern their members

29. The British Columbia College of Physicians and Surgeons of B.C. (CPSBC) and the College of Nurses and Midwives (BCCNM) are constituted in accordance with the *Health Professions Act* and makes by-laws for self-governance, which are subject to approval by the Minister of Health. Regulation of members of the CPSBC and BCCNM is by a self-governing body, known as a “College” and an appointed Government licensing board. Section 16 of the *Health Professions Act* provides that the duty and objects of a College governed by the legislation are as follows:

Duty and objects of a college

16 (1) It is the duty of a college at all times

- (a) to serve and protect the public, and
- (b) to exercise its powers and discharge its responsibilities under all enactments in the public interest.

(2) A college has the following objects:

- (a) to superintend the practice of the profession;
- (b) to govern its registrants according to this Act, the regulations and the bylaws of the college;
- (c) to establish the conditions or requirements for registration of a person as a member of the college;

- (d) to establish, monitor and enforce standards of practice to enhance the quality of practice and reduce incompetent, impaired or unethical practice amongst registrants;
- (e) to establish and maintain a continuing competency program to promote high practice standards amongst registrants;
- (f) to establish, for a college designated under section 12 (2) (h), a patient relations program to seek to prevent professional misconduct of a sexual nature;
- (g) to establish, monitor and enforce standards of professional ethics amongst registrants;
- (h) to require registrants to provide to an individual access to the individual's health care records in appropriate circumstances;
- (i) to inform individuals of their rights under this Act and the *Freedom of Information and Protection of Privacy Act*;
- (i.1) to establish and employ registration, inquiry and discipline procedures that are transparent, objective, impartial and fair;
- (j) to administer the affairs of the college and perform its duties and exercise its powers under this Act or other enactments;
- (k) in the course of performing its duties and exercising its powers under this Act or other enactments, to promote and enhance the following:
 - i. collaborative relations with other colleges, regional health boards designated under the *Health Authorities Act* and other entities in the Provincial health system, post-secondary education institutions and the government;
 - ii. interprofessional collaborative practice between its registrants and persons practising another health profession;
 - iii. the ability of its registrants to respond and adapt to changes in practice environments, advances in technology and other emerging issues.

30. The privilege of self-regulation is granted to a profession in exchange for the profession's commitment to protecting the public interest; *Law Society of New Brunswick v. Ryan*, 2003 SCC 20. The justification for granting self-governing status to a profession is that the members of the profession are best qualified to ensure proper standards and ethics are maintained: *The Privatization of Regulation: Five Models of Self-Regulation*, Margot Priest, 1998 Ottawa Law Review 233, 1998 CanLIIDocs 19; *Canada's Legal Profession: Self-Regulating in the Public Interest?*, John Pearson, Canadian Bar Review, 2015 92-3 2015 CanLIIDocs 230.

31. The decision to grant a profession self-regulating status is one that is made after extensive consideration with all levels of government and representatives of the profession: *College of Midwives of British Columbia v. Mary Moon*, 2019 BCSC 1670. The granted statutory scope of authority over its members of the self-governing profession is meant to protect the public and maintain the independence of professionals from government interference: *By Her Own Authority: The Scope of Midwifery Practice under the Ontario Midwifery Act*, 1991, 1993 CanLIIDocs 199; What is a “Profession”, Peter Wright, Canadian Bar Review 1951 29-7, 1951 CanLIIDocs 230.
32. In the Western world the roots of physician self-governance date back to Hellenic Greek and the Hippocratic Oath; “Self-Regulation was originally instituted at the request of the medical profession because the body of knowledge in the profession was esoteric and unknown to the average citizen, and it would be difficult for external regulation to be as effective”: Professionalism: the historical contract, Roger Collier, Canadian Medical Association Journal (CMAJ), August 9 2012. Professional societies began formally regulating medical practice in or about 1760 in the Western world and by the early 1800, medical societies oversaw establishing regulations, standards of practice and certification of doctors. Professional self-regulation allows the government to have some control over the professional group without maintaining the special expertise that would be needed to regulate the profession. One of the central principles of self-governing professions is a climate of open debate and collegial exchange regarding the issues facing the profession: Professionalism, Governance and Self-Regulation of Medicine, Howard Bauchner, M.D., Phil B. Fontanarosa, M.D. MBA, Amy E. Thompson, MD, Editorial, May 12, 2015, Journal of the American Medical Association (JAMA) 2015; 313(18).
33. Nursing has been a regulated health profession under British Columbia legislation since 1918. Before designation under the *Health Professions Act*, the profession was regulated under the *Nurses (Registered) Act*, [R.S.B.C. 1996] Chapter 335 (repealed). Practical nursing has been a designated health profession under the *Health Professions Act* since 1996. Midwifery became a designated health profession under the *Health Professions Act* in 1998, although midwifery was practiced in Canada throughout human history in all cultures. In September 2020, the BCCNM was established to govern all three professions.
34. The Health Professionals Order trenches on the common-law and statutorily granted powers of the Colleges to make rules for the admission, licensing, standards of practice, professional ethics, self-governance, and comportment of its members as set out in the *Health Professions Act*. The Health Professionals Order, issued by an unelected official, Dr. Bonnie Henry as Public Health Officer for British Columbia, is neither in the public interest nor consistent with the aims reflected in the legislative and regulatory history of the development of the

CPSBC and BCCNM and the as self-governing professions.

8. The Orders and Guidelines Fetter the Discretion of the Public Health Officer and breach the principles of natural justice

35. It is an abuse of discretion for a statutory decision-maker to fetter its discretion by policy, as the Public Health Officer did when she issued the Public Health Orders and Guidelines restricting available exemptions and the ambit of review under section 43 of the *Public Health Act*, and in doing so, she breached the principles of natural justice.

9. Violation of the right to informed consent

36. The Public Health Orders and Guidelines deprive the Petitioners of their right to informed consent, as required by section 6(a) and (f) of the *Health Care Consent Act*.

10. Violation of privacy

37. The collection of the Petitioners' personally-identifying and Covid-19 vaccination status by employers, contractors and colleges, as authorized by Dr. Henry's Orders are an unjustified violation of the Petitioners' privacy.

~~11. Violation of the Human Rights Code~~

- ~~38. The Public Health Orders offend section 13(1) of the *Human Rights Code*, RSBG 1996 c.210~~

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Anneke Pingo, ~~sworn August 22, 2022,~~ filed September 7, 2022;
2. Affidavit #1 of Phyllis Janet Tatlock, filed June 6, 2022;
3. Affidavit #1 of Laura Koop, filed May 5, 2022;
4. Affidavit #1 of Monika Bielecki, filed June 6, 2022;
5. Affidavit #1 of Scott Macdonald, filed May 5, 2022;
6. Affidavit #1 of Ana Lucia Mateus, filed May 13, 2022;
7. Affidavit #1 of Darold Sturgeon, filed May 3, 2022;
8. Affidavit #1 of Lori Jane Nelson filed May 12, 2022;

9. Affidavit #1 of Ingeborg Keyser, filed June 6, 2022;
10. Affidavit #1 of Lynda June Hamley, filed June 6, 2022;
11. Affidavit #1 of Melinda Joy Parenteau, filed June 9, 2022;
12. Affidavit #1 of Dr. Joshua Nordine, filed September 20, 2022;
13. Affidavit #1 of Elizabeth Ringrose, filed June 2, 2022;
14. Affidavit #1 of Jennifer Koh, filed May 20, 2022;
15. Affidavit #1 of Benneth Johnson, filed August 26, 2022; and,
16. Such further materials this Honourable Court may permit.

The Petitioners estimate that the hearing of the petition will take 10 days .

Date: October 17 , 2022

KAREN BASTOW

To be completed by the court only:

Order made

[] in the terms requested in paragraphs of Part 1 of this petition

[] with the following variations and additional terms:

.....

Date:[dd/mmm/yyyy].....

.....

Signature of [] Judge [] Master