February 6, 2022

Ms. Lori Wanamaker
Deputy Minister to the Premier,
Cabinet Secretary and Head of the BC Public Service
Lori.Wanamaker@gov.bc.ca

BCPS EMPLOYEES FOR FREEDOM

Ms. Wanamaker:

Re: End the Proof of COVID-19 Vaccination Mandate for BC Public Service Employees Now

We write in follow up to our October 28, 2021, letter (enclosed) regarding our serious concerns and opposition to what was, at that time, your proposed proof of COVID-19 vaccination policy for BC Public Service (**BCPS**) employees.

As a reminder, we advocate on behalf of a growing conglomerate of BCPS employees, including more than 400 registered and verified members, and many more who have resigned or retired early and reluctantly in response to your actions as Head of the BC Public Service. These include employees of all provincial government ministries, agencies, boards and authorities governed under the *Public Service Act*.

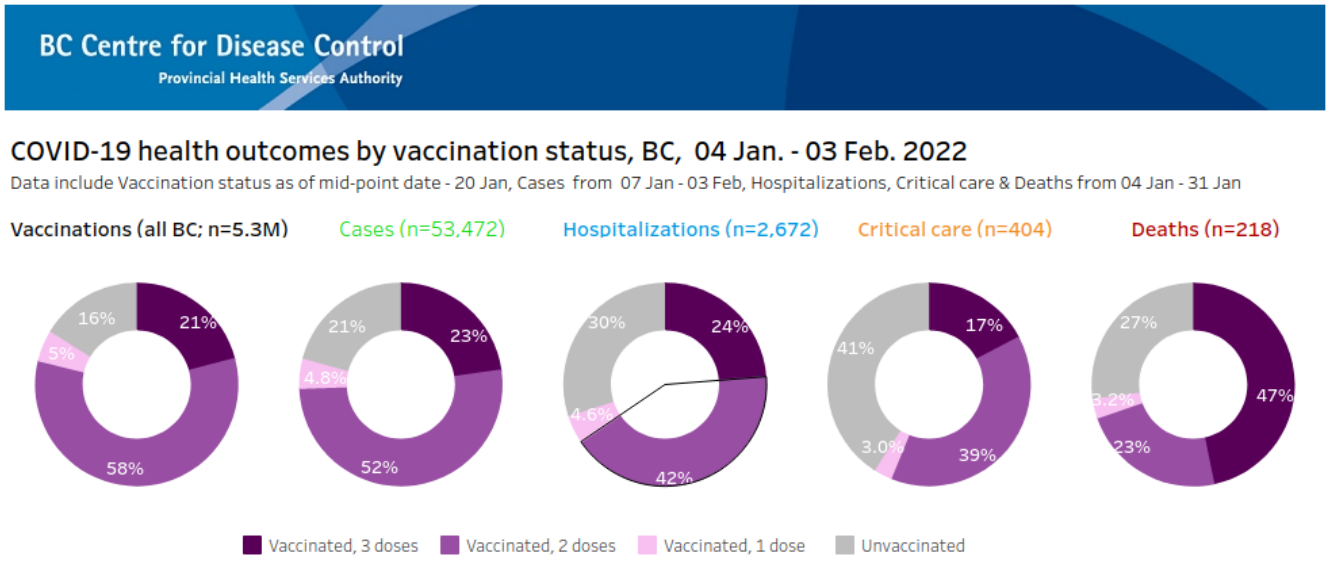
Since the BCPS proceeded to implement at your direction "Human Resources Policy 25 – COVID-19 Vaccination" (the **Policy**) on November 1, 2021, and began to place hundreds of employees on leave without pay starting November 22, a number of significant events and unfavourable evidence concerning the performance of B.C.'s COVID-19 vaccination program and public health strategy have seriously undermined the rationale for the Policy and exposed you, the BCPS as the employer, and the Government of British Columbia to extraordinary legal and financial liability.

Rationale for Vaccine Mandate Invalidated

In your October 5, 2021 email to all BCPS employees, you stated that "*vaccination is the safest, most effective measure to reduce the transmission of the virus in our communities.*" In a follow up email to employees on October 19, you further claimed that "*I am confident the proof of vaccination policy is an important and necessary step to ensure our workplaces remain as safe as possible for each of us and for the public we serve*," and went on to say: "*[v]accination against COVID-19 is without question in the public interest.* ***The vaccines are proven to be safe and effective****, and that is an evidence-based determination made by expert colleagues across the public service at the provincial and federal level.*"

Unfortunately, your statements concerning COVID-19 vaccine efficacy have not withstood the test of time. According to the most recent data available from the BC Centre for Disease Control, people inoculated with one, two and three doses of a COVID-19 vaccine now make up nearly 80% of new cases and more than two thirds of hospitalizations and deaths in British Columbia from COVID-19.[1]

[1] BC Centre for Disease Control, COVID-19 Regional Surveillance Dashboard. <www.bccdc.ca/health-professionals/data-reports/covid-19-surveillance-dashboard>. Accessed February 6, 2022.



It is now widely acknowledged that the pharmaceutical products marketed as COVID-19 vaccines do not prevent either infection or transmission of the virus and its variants. What is more, while these interventions have been touted as effective in reducing the risk of hospitalization and death, the majority of British Columbians currently admitted to hospital and dying from COVID-19 are vaccinated.

Ms. Wanamaker, clearly these vaccines have not solved the problem as promised, yet it seems the approach of politicians and public officials in this province is to double down on a failed strategy and continue the senseless and coercive mandates that are impairing the delivery of public services, harming the public and the economy, and leading public servants and their families into financial ruin. If both the vaccinated and unvaccinated can become infected, transmit the virus and become ill, and the majority of British Columbians admitted to hospital and dying from COVID-19 are vaccinated, why must only the unvaccinated be prevented from working for the BCPS?

B.C.'s Changing Public Health Response to COVID-19

In October you said you made the decision to require proof of COVID-19 vaccination for BCPS employees following a conversation with B.C.'s Provincial Health Officer, Dr. Bonnie Henry. We note that the Policy states that it "will be reviewed and updated as needed based on guidance and directives from the PHO." Have you spoken with Dr. Henry recently? On Friday, January 21, 2022, she announced a major shift in B.C.'s response to COVID-19, admitting that "[w]e cannot limit all risk" and that going forward the public health guidance will be to manage COVID-19 much like "the common cold."[2] Dr. Henry elaborated further on this new guidance: "As long as we are feeling well, in this new context we can and must continue going to work, going to school and socializing safely in our small groups."

Ms. Wanamaker, will you accept this guidance, reverse course on the Policy, and allow healthy, symptomless BCPS employees on unpaid leave to return to work? Or will you continue to require proof of COVID-19 vaccination with the BC Vaccine Card, in violation of employees' rights to medical privacy, informed consent and bodily autonomy? And will you terminate BCPS employees starting on February 22 who have declined this ineffective pharmaceutical intervention or refused to disclose their personal, private medical information?

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[2] CTV News. "'We cannot eliminate all risk': B.C. starting to manage COVID-19 more like common cold, officials say." January 21, 2022 <bc.ctvnews.ca/we-cannot-eliminate-all-risk-b-c-starting-to-manage-covid-19-more-like-common-cold-officials-say-1.5749895>.

BC Vaccine Card – Useless to Protect Public Health and a Violation of Medical Privacy

Regarding the BC Vaccine Card, what exactly is the purpose of requiring this affront to medical privacy for employment now that it is clear the virus is transmitted between and infects both the vaccinated and unvaccinated? Has it been, as Dr. Patricia Daly, Vice-President, Public Health and Chief Medical Health Officer for Vancouver Coastal Health, candidly told medical staff on a call that was made public in the fall of 2021, that the Vaccine Card is intended not to limit the spread of COVID-19 but rather to create "an incentive to get higher vaccination rates"?[3]

Whether the motivation to require BCPS employees to obtain the BC Vaccine Card has been to increase injections of an ineffective pharmaceutical, or to forcibly onboard employees onto a new Digital ID/Verifiable Credential to remain employed, it can no longer be credibly argued that it was to ensure safety in the workplace. This has been demonstrated by your continued deferral of the return to in-person work.

Work from Home, But Only if You're Vaccinated

Ms. Wanamaker, for nearly two years now, since March 2020, the vast majority of office-based BCPS employees have faithfully performed their duties remotely from home, aided by the online tools we have become accustomed to using. While your predecessor, Don Wright, launched an aborted attempt to recall employees to the office in the fall of 2020, you have repeatedly deferred the return to in-person work, often citing the need for precaution with regard to COVID-19 and on one occasion the emergency flooding in the Fraser Valley. Throughout the fall of 2021 and now into 2022, you have alternately signalled an imminent return to the office and then, at the last minute, postponed it.

In October you told BCPS employees they would return to the office starting November 22, the date by which they were required to show the BC Vaccine Card to maintain their employment. This was, according to you, "an important and necessary step to ensure our workplaces remain as safe as possible." Yet, the November 22 deadline came and went, BCPS employees who did not show a vaccine passport were placed on unpaid leave, and their colleagues who did continued to work remotely from home! You extended this deferral in December and again in January, indefinitely.

Quite frankly, we are struggling to understand these actions. Why was it necessary to put BCPS employees working safely from home on unpaid leave when their vaccinated colleagues continued to work remotely? How has this improved workplace safety? Has it been worth the disruption to the BCPS, to the delivery of programs and services, and the wave of resignations and early retirements, to achieve vaccination purity among BCPS employees? How can these actions be construed as anything other than an arbitrary form of discrimination against an entire class of public servants?

Costs to the Public and Punishment of Employees

This mandate has taken an unprecedented toll on public services and created an enormous legal and financial liability for the provincial government. How much will it cost the B.C. public in legal fees, severance, replacement and retraining costs to have removed many hundreds of BCPS employees for exercising their rights to medical privacy and choice, and to have sent many more experienced public servants unwillingly into early retirement? Is it a wise and prudent use of public funds, during these times of economic hardship and uncertainty, to punish employees in this way? Should this Policy prove to be untenable in the future, as we believe it now is, will terminated employees be welcomed back to work for the BCPS and once again serve the public?

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[3] Life Site News. "Top Vancouver doc caught admitting vax passports are merely 'incentive' program." October 19, 2021 <www.lifesitenews.com/news/vaccine-passport-just-an-incentive-and-not-about-health-vancouver-medical-officer/>.

Let Us End the Mandate Now

The world has reached a turning point in the COVID-19 saga. Many jurisdictions including England[4], Saskatchewan[5] and our closest neighbour, Alberta,[6] are beginning to recognize the error of COVID-19 restrictions and mandates and are moving to abolish proof of vaccination requirements and vaccine passports for healthcare workers and the public alike. Increasingly, medical experts and scientists are coming to the conclusion that vaccines are tools, not silver bullets,[7] and that other public health approaches must be taken to deal with COVID-19. Even Dr. Theresa Tam, Canada's Chief Public Health Officer, conceded this past Friday, February 4th, that all existing public health policies, including provincial vaccine passports, need to be "re-examined" in the coming weeks.[8]

Ms. Wanamaker, we ask you to acknowledge these realities and take the following actions:

- End the proof of COVID-19 vaccination Policy for BCPS employees;
- Reinstate BCPS employees placed on leave without pay immediately to their positions; and
- Provide severance and back pay to BCPS employees who cannot return to their jobs due to the harmful, stigmatizing and discriminatory actions taken against them by the employer.

We urge you to meet with us as soon as possible to hear our concerns and help facilitate an amicable solution. The livelihoods and well-being of hundreds of dedicated public servants and their families depend on our collective ability to find common ground.

Please hear our appeal, Ms. Wanamaker. Let us end the mandate together now.

We thank you for your attention to this matter and look forward to your prompt reply.

Sincerely,

BCPS Employees for Freedom

Contact: BCPS4freedom@protonmail.com

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4 The Guardian. "Ministers plan to scrap vaccine mandate for NHS staff in England." January 31, 2022. <www.theguardian.com/society/2022/jan/31/ministers-plan-to-scrap-vaccine-mandate-for-nhs-staff-in-england>.

5 CBC News. "Sask. Premier says province will end proof of vaccine policy in 'not-too-distant future'." January 29, 2022. <www.cbc.ca/news/canada/saskatchewan/scott-moe-proof-of-vaccination-twitter-1.6332514>.

6 The Globe and Mail. "Premier Jason Kenney to announce next week the date Alberta will end its COVID-19 vaccine passport." February 4, 2022. <Premier Jason Kenney to announce next week the date Alberta will end its COVID-19 vaccine passport - The Globe and Mail>

7 The Globe and Mail. Op. Ed. Norman Doidge, MD. "Vaccines are a tool, not a silver bullet. If we'd allowed more scientific debate, we would have realized this earlier." January 22, 2022. <www.theglobeandmail.com/opinion/article-vaccines-are-a-tool-not-a-silver-bullet-if-wed-allowed-more-scientific/>.

8 CBC News. "Canada needs to adopt a 'more sustainable' approach to COVID-19, Tam says." February 4, 2022. <https://www.cbc.ca/news/politics/canada-more-sustainable-covid-response-1.6339609>.

Enclosed: BCPS Employees for Freedom Letter to Deputy Minister Wanamaker, October 28, 2021

cc:

The Honourable Janet Austin, Lieutenant Governor of British Columbia
Honourable John Horgan, Premier of British Columbia
Honourable David Eby, QC, Attorney General and Minister responsible for Housing
Honourable Selina Robinson, Minister of Finance
Honourable Mitzi Dean, Minister of Children and Family Development
Deputy Ministers' Council of British Columbia
Michael McEvoy, Information and Privacy Commissioner for British Columbia
Stephanie Smith, President, BC General Employees' Union
Scott McCannell, Executive Director, Professional Employees Association

October 28, 2021

Lori Wanamaker
Deputy Minister to the Premier,
Cabinet Secretary and Head of the BC Public Service
lori.wanamaker@gov.bc.ca

Dear Lori Wanamaker:

Re: Proposed COVID-19 Mandatory Vaccination Policy for BC Public Service Employees

We write on behalf of a united group of approximately 1400 BC Public Service (**BCPS**) employees who stand against and will be affected by the proposed mandatory COVID-19 vaccination policy for BCPS employees that you announced on October 5th, 2021 (the **Proposed Policy**). We include union and non-union employees across ministries; vaccinated, unvaccinated and non-disclosed. We expect there are thousands of others who will also be affected by the Proposed Policy and/or are similarly concerned by the dangerous precedent it would set.

While individual reasons for concern and opposition to the Proposed Policy are diverse and the information in this letter does not reflect all opinions and perspectives, this letter poses a number of fundamental questions and concerns that many of us share in common that must be transparently addressed by you. These cover issues of privacy, medical freedom and the deeply personal and profound impacts of the Proposed Policy on individuals.

We respect and support the need for the BCPS to maintain safe workplaces. However, coerced vaccination with the threat of job loss is neither acceptable, necessary nor justified. The Proposed Policy as outlined in your October 5th email and in the BCPS' *COVID-19 response FAQs* document is **unlawful, unconstitutional, discriminatory and unethical.** The only acceptable outcome is to withdraw the Proposed Policy, acknowledge your misjudgment, and allow BCPS employees to carry on with their jobs without further coercive and unjustified interference in their personal lives and private medical decisions.

PRIVACY RIGHTS

For the past year, BCPS employees have been continually assured that COVID-19 vaccinations would not be a mandatory condition of employment. Prior to October 5th, the BCPS' *COVID-19 response FAQs* stated:

> *"Will vaccinations be mandatory for the BC Public Service or for certain positions in the BC Public Service?*
>
> *No. Vaccination for COVID-19 will not be mandatory for ministry employees in the BC Public Service. By fall 2021, vaccinations will have been made available for all B.C. residents who want one."*

Specifically with respect to privacy and vaccination status, the FAQs stated:

> *"Do I have to tell my supervisor or my ministry that I have been vaccinated?*
>
> *No, your vaccination is part of your own confidential medical history. You do not need to share your vaccination status, and your supervisor will not ask you."*
>
> *"Considering privacy restrictions, will information such as the number of staff immunized in my workplace be shared?*
>
> *No, vaccinations are a part of a person's confidential medical history. Your ministry will not ask if you have been vaccinated or gather statistics about the number of staff vaccinated."*

Furthermore, the FAQs stated:

> *"When workforce leaders plan staffing in office locations, vaccination status should not be requested from employees as this is private medical information. Because of the individualized immune response to vaccination, it should not be a factor in workplace planning based on the current state of Covid-19."*

Indeed, our medical health information is private, confidential and protected under the *Freedom of Information and Protection of Privacy Act* (**FIPPA**). BC's Office of the Human Rights Commissioner confirms that any vaccination status policies must be authorized by applicable privacy laws. The BCPS does not have the authority to collect our vaccination status.

Ms. Wanamaker, **we do not consent** to disclosure of our private medical information. Before any employee is compelled to disclose their private medical personal information, the BCPS must clearly demonstrate the legal basis to authorize such collection.

1. Please provide full details of the legal authority upon which the BSPC relies in order to collect and use employees' private medical information starting on November 22nd.

INSUFFICIENT TRANSPARENCY AND DISCLOSURE

Ms. Wanamaker, in your October 5th and October 19th emails, you urge employees not to wait to get vaccinated, and you state that November 22nd allows sufficient time since the announcement on October 5th to become fully vaccinated. Respectfully, by this point in time, anyone who has not yet received a COVID-19 vaccine has exercised their informed refusal to take it. They have made that decision thoughtfully and intentionally, and reversing their personal decision is not as trivial or uncontroversial as 'rolling up their sleeve'. It is completely unfair and unreasonable to demand that anyone make such a consequential decision about their health, employment and future livelihood in the absence of full disclosure of the terms and conditions upon which to base that decision.

You stated that the scope of potential “consequences” was made clear in your October 5th announcement, however to date you have provided only the bare minimum of hypotheticals in order to threaten and coerce employees' uninformed compliance with your mandate. You have not yet provided sufficient information regarding the Proposed Policy to enable employees to make fully informed decisions, including but not limited to the following essential matters:

- pursuant to what authority the BCPS is implementing the Proposed Policy;
- what exemptions will apply (including whether they will accord with human rights requirements, and whether scientifically proven robust and long-lasting natural immunity will be respected);
- what accommodations will apply (including telework arrangements, rapid testing, mask wearing, antigen testing, work reassignments, or other workplace arrangements);
- what the "consequences" for "failure to comply" with the policy include, other than the possibility of termination, such as whether individuals will be placed on leave;
- how the Proposed Policy will apply to individuals who are presently on various types of leave (short and long-term disability, maternity and parental leave, vacation days, etc.);
- what severance pay would be owed, and how pensions will be affected;
- whether employees' life insurance and disability insurance will cover individuals if they are injured or killed as a result of vaccination with experimental therapies still in clinical trials;
- whether the Proposed Policy will be temporary or time-limited, enabling workers to return to work after a certain period of time;
- whether COVID-19 booster shots, now being rolled out in BC, will become a future and ongoing requirement in order to maintain one’s employment;
- who will be making these consequential decisions; and
- to what extent the Proposed Policy will allow for discretion, appeals and reconsideration.

It is insupportable and unethical to demand employees begin to make any decisions until the Proposed Policy is transparently and fully disclosed. Assuming that the relevant policy is released on November 1st, as previously stated, it does not provide nearly sufficient time for individuals to make informed decisions and take the necessary steps by November 22nd, including:

- to assess and understand the legal basis for the policy;
- to seek appropriate employment, legal, medical and other advice or referrals from doctors, specialists and other professionals regarding the implications of the policy and a person’s options;
- to seek and obtain exemptions and accommodations, including to have those issues considered, addressed and fully resolved with the employer, union, and Human Resources; and

- after having assessed and explored one's options, and if ultimately decided upon, to get two doses of vaccine in order to comply with the "fully vaccinated" requirement, accounting for the recommendation from Dr. Bonnie Henry that an 8-week interval between first and second doses is optimal.

Ms. Wanamaker, the acceptable and appropriate solution is to rescind your Proposed Policy. Should you nonetheless proceed, given this lack of transparency and disclosure, the bare minimum in fairness is that you extend the November 22nd timeline for the Proposed Policy to take effect by at least several months.

EXPERIMENTAL MEDICAL TREATMENTS

In your October 19th 'October Update' email, you stated that "the vaccines are proven to be safe and effective and that is an evidence-based determination made by expert colleagues across the public service at the provincial and federal level." The public has been bombarded with messages from public health authorities and the media with these same assurances. Unfortunately, the sloganistic refrain of "safe and effective" and appeals to select expert authority are dishonest and lack credibility considering that these are novel therapeutics for which there is no long-term safety data upon which to base those claims, there is unprecedented censorship of any views or data that question or contradict this narrative, and when the documented risks and injuries of these injections, including death, are known and increasingly apparent yet are dismissed or ignored by public officials.

The facts are:

- The Pfizer and Moderna mRNA injections being marketed as vaccines are experimental gene therapies that are still in Phase III clinical trials until at least 2023. Studies for pregnancy and infant outcomes do not complete until at least 2025. Individuals who take these treatments are consenting to be enrolled as test subjects in the ongoing clinical trials.
- These novel therapeutic injections did not meet the criteria to be considered vaccines until recently when the definition of vaccine was changed by the CDC from "preventing…disease" to "producing immunity" without necessarily preventing disease, to support the inclusion of mRNA technology.
- While most traditional vaccines are trialed for at least 5 to 10 years, these injections are the result of accelerated development, have been in use in humans for less than a year, and there is ZERO long-term safety data for any of these vaccines.
- Underreporting of vaccine injuries is a well-known and significant problem, particularly in Canada. Nonetheless, injury reports for the COVID-19 injections in the US Vaccine Adverse Events Reporting System database have exponentially exceeded all other injury reports for ALL vaccines combined over the past 30 years.
- US, European and Canadian vaccine injury reporting databases confirm a long list of very problematic and life-threatening conditions associated with the COVID-19 vaccines, including but not limited to cardiovascular health, heart conditions, myocarditis, anaphylaxis, neurological harm, Guillain-Barré syndrome, and death.
- The vaccine product monographs state that their impacts on fertility is unknown, their safety and efficacy in pregnant women has not been established, and that a risk to breastfeeding newborns and infants cannot be excluded. Furthermore, no interaction studies have been performed with other drugs, and carcinogenicity potential has not been assessed.

The safety profile of these experimental injections is continually evolving. In the initial vaccine rollout in Canada, AstraZeneca, Johnson & Johnson, Moderna and Pfizer vaccines were touted as equally safe and effective, and the public was urged to take the first vaccine they were offered. AstraZeneca and Johnson & Johnson were then delayed, phased out, or halted in Canada and other countries due to safety and quality concerns. Numerous countries have now halted the use of Moderna in some age groups or altogether, meanwhile similar concerns are emerging with the safety profile of Pfizer. Ms. Wanamaker, none of this instills confidence in these novel medical products, and unless you uniquely possess a crystal ball, we cannot accurately predict what further outcomes will emerge next month, in six months, one year or ten years from now. It is deeply unethical to demand that anyone blindly trust their health to the unknown.

Given these alarming statistics and the lack of any long-term safety data, individuals must be free to determine for themselves the potential risks of taking this medical intervention against their personal risks with COVID-19. Recognizing that there is a broad range of severity of COVID-19, the scientific and population data shows that COVID-19 poses no serious health risk to the vast majority of Canadians.

The Proposed Policy demands that BCPS employees be unwilling participants in an experimental medical intervention and in ongoing clinical trials, against their personal and bodily autonomy. Any consent to receiving an injection in these circumstances is vitiated by your threat of job "consequences" up to and including termination, resulting in the loss of people's livelihoods and their ability to provide for themselves and their families.

2. Please provide the legal basis upon which the BCPS purports to rely in order to require employees to participate as test subjects in clinical trials for experimental medical products, as a condition of employment.

3. If employees unwillingly take the vaccination in order to maintain their employment or avoid other employment-related consequences due to the Proposed Policy, will BCPS assume all legal and financial liability for injuries, deaths and related loss and damage that may result?

DISCRIMINATION, NECESSITY AND PROPORTIONALITY

You have stated that you would not implement the Proposed Policy if you did not feel it were necessary. While we respect the need to maintain a safe workplace, we dispute that a universal vaccine mandate is necessary to achieve this. A COVID-19 vaccine mandate is totally illogical considering how these particular therapeutics function and the fact that there are many other less intrusive measures to achieve safe workspaces, including those which the BCPS has touted and effectively implemented since the beginning of the COVID-19 pandemic.

BC's *Human Rights Code* aims to eliminate instances of exclusion and marginalization that are based on generalizations, prejudice, stereotypes, ignorance and fear. It is intended to remove barriers that people face in certain areas of social life due to their 'disabilities' or 'handicaps'. The Human Rights Tribunal has held that it is a violation of the *Human Rights Code* to dismiss an employee, or refuse to hire a prospective employee, on the basis of a physical condition which did not result in any functional limitation on the part of the employee or prospective employee. As such, the requirement to be injected with an experimental medical treatment as a condition of employment amounts to unjustifiable discrimination against unvaccinated individuals on the basis of physical disability, contrary to Section 13 (Discrimination in employment) of the *Human Rights Code*.

BC's Office of the Human Rights Commissioner released a policy guidance report in July, updated October 14, 2021 entitled, "*A human rights approach to proof of vaccination during the COVID-19 pandemic*" (the **BCOHRC Guidance**). While the BCOHRC Guidance unfortunately does not address privacy laws in depth nor the legalities of mandating experimental COVID-19 vaccines versus more traditional and established vaccines, it states that vaccination status policies "*must remain consistent with the obligations legislated under B.C.'s Human Rights Code*". They can only be implemented *"in **limited circumstances**—but **only if other less intrusive means** of preventing COVID-19 transmission are inadequate for the setting and if **due consideration is given to the human rights** of everyone involved.*" Furthermore, "*no one should experience harassment or unjustifiable discrimination when there are effective alternatives to vaccination status policies*." In particular, the BCOHRC Guidance states that vaccination status policies should be:

- **justified** by scientific evidence of the risk of transmission in the specific setting;
- **time-limited** (in place for the shortest possible length of time) and regularly reviewed;
- **proportional** to the health and safety risks they seek to address (and as more and more people in BC are vaccinated and these risks decrease, duty bearers should relax their rules about vaccination status as well);
- **necessary** due to a lack of less-intrusive alternatives; and
- **authorized** by applicable privacy laws.

There are many reasonable and practical alternatives to mandatory vaccination that are more effective at controlling the spread of COVID-19 in BCPS workplaces, all of which are far less prejudicial than the summary termination or constructive dismissal of thousands of loyal employees. Indeed, your BCPS *COVID-19 response FAQs* have taken this position throughout the Covid-19 pandemic:

> *"Workplace transmission in BC Public Service offices has been infrequent through the pandemic. With high levels of vaccination across B.C., the risk in our workplaces is further reduced. Unvaccinated individual[s] completing daily health checks, following Communicable Disease Prevention Plans and following physical distancing should not present a high risk in the workplace."*

"All workplaces are equipped with Communicable Disease Prevention Plans designed to reduce transmission of many respiratory viruses, including Covid-19. Protocols such as daily health checks, hygiene practices and physical distancing reduce the risk of virus exposure."

"Because of the individualized immune response to vaccination, it should not be a factor in workplace planning based on the current state of Covid-19."

The BCPS has continually assured us that its workspace protocols and safety measures are effective and that there is a low risk of transmission in workspaces. Employees have been safely and effectively able to work remotely and have followed the safety protocols at work. Vaccination levels in the population are at all-time highs, with BC having one of the highest rates of vaccination uptake worldwide. Dr. Bonnie Henry has also stated that the BC Vaccine Card for non-essential venues is intended as only a temporary measure through January. It is therefore highly questionable why the BCPS now proposes to implement this mandatory policy.

Further calling into question the justification and necessity for the Proposed Policy is that COVID-19 vaccines do not prevent infection or transmission:

- As confirmed by Health Canada, the CDC and the vaccine manufacturers themselves, the COVID-19 injections are not designed to prevent infection or transmission, and the clinical vaccine trials have not proven that they prevent infection or transmission.
- There is a lack of scientific data to support the conclusion that the COVID-19 vaccines have had any impact upon reducing the spread of the virus. Outbreaks amongst fully or near-fully vaccinated populations demonstrate the opposite.
- Asymptomatic unvaccinated people have never been proven to be more infectious or transmit more disease than vaccinated individuals.
- Viral loads have been shown to be higher in vaccinated individuals than unvaccinated individuals.
- The only benefit of the vaccines shown in clinical trials was a relative risk reduction in developing severe illness, for which the vast majority of the population is not at risk.
- Worldwide data is now showing that the vaccines have weakened and waning efficacy after as little as 37 days, as evidenced by the push for and rollout of booster shots in BC and elsewhere.

4. Ms. Wanamaker, the Proposed Policy is in violation of human rights laws. Given that:

- ***both vaccinated and unvaccinated are capable of becoming infected with and transmitting COVID-19;***
- ***a person's vaccination status does not present a functional limitation on their ability to work;***
- ***BCPS has continuously acknowledged the low risk of workplace transmission;***
- ***safe workplace measures are already in place; and***
- ***there are many other reasonable accommodations and health and safety measures available,***

please provide details and your rationale for why and how you believe the Proposed Policy is supportable under human rights laws and will be: <u>evidence-based</u>, <u>time-limited</u>, <u>proportional</u> and <u>necessary.</u>

5. With respect to booster shots: waning efficacy of the vaccines is now being reported after as little as 37 days. Boosters are now recommended and being rolled out by the BCPHO. The Prime Minister has purchased 'boosters' through to 2024. Does the BCPS plan to mandate booster shots as a further and ongoing condition of employment on the recommendation of the BCPHO? Will the QR code be the only accepted proof of one's "fully vaccinated" status, including for future boosters, and if so, why?

EXEMPTIONS AND ACCOMMODATIONS

Ms. Wanamaker, to date you have not provided details about what would constitute exemptions or accommodations under the Proposed Policy. However, you state that "personal preference" is not a legitimate rationale for an accommodation. Respectfully, an individual's personal decision of whether to undergo any medical treatment must be respected and not coerced otherwise it violates the principles of informed consent. This is particularly evident when it is an experimental medical treatment with documented risks including death. Many people have made decisions not to receive the COVID-19 vaccines for reasons that are deeply personal to them.

It is disturbing that the Proposed Policy would require people to disclose their private reasons and circumstances to have their employer judge whether they are deemed sufficiently “legitimate” to merit an exemption.

The Proposed Policy as currently communicated also suggests that exemptions will be extremely narrow. With respect to medical exemptions, we are aware that doctors in BC have been instructed not to issue exemptions or that they may only issue exemptions in extremely narrow circumstances in respect of COVID-19 vaccines, or else risk facing discipline or suspension, and many refuse to issue any exemptions at all. Not only does this top-down decree interfere with the doctor-patient relationship, considering the wide range of contraindications and documented risks and injuries from these vaccines this also amounts to medical malpractice and is extremely unethical. Further, any failure to accommodate and account for naturally acquired robust and long-lasting immunity to COVID-19 would be unscientific.

With respect to accommodations, the BCOHRC Guidance states that, if less intrusive measures don’t work well enough to prevent transmission in a given setting, duty bearers must accommodate those who cannot receive a vaccine to the point of undue hardship, in accordance with the protected grounds of discrimination under BC's *Human Rights Code*. The BCOHRC Guidance states that in respect of vaccination status policies, "in this case, relevant protected grounds may include physical or mental disability, place of origin, religion and family status." The BCOHRC Guidance also states that political belief opposing government rules requiring vaccination "protects a person from adverse impacts in their employment based on their beliefs".

The BCOHRC Guidance provides further guidance on accommodation to the point of undue hardship, and examples of types of accommodation:

> *"Under the Human Rights Code, people who cannot be vaccinated because of a Code-protected ground must be accommodated to the point of undue hardship. This means that duty bearers have to take every step possible to address the needs of those who require accommodation, unless taking those steps would amount to “undue hardship” for the duty bearer."*
>
> *"If vaccination status policies are necessary to address specific safety concerns in a particular setting, duty bearers must seek to accommodate people unable to get vaccinated. Those accommodations should be based on the individual needs of those involved and should be as easy and unburdensome as possible. For example, employers may exempt an employee from the vaccination status policy, create a requirement for staff to wear a face mask, work at a physical distance from others, work a modified shift, get periodic tests for COVID-19, work remotely or accept a reassignment to a setting that poses less risk of transmission."*

The Proposed Policy is now introduced despite more than a year of BCPS’ consistent and reassuring messaging that, regardless of one's vaccination status, through the use of COVID-19 advisory signage, occupancy restrictions, sanitizer distribution, masks, daily employee health checks and much more, our workplaces continue to remain safe for people to return to if they wish to work within their offices. It is non-sensical that, if necessary, our buildings could not simply be reverted back to the previous configurations that have been deemed safe throughout the pandemic along with the reimplementation of mandatory mask usage within all buildings, especially given that the majority of buildings affected by the vaccine mandate are not public-facing. An absence of these practical and effective accommodation measures, and considering the ability of employees to work safely from home and in workplaces since the beginning of the pandemic, would be an indicator that the Proposed Policy is neither rational nor connected to health and safety, but rather to achieving a certain target of compliant ‘vaccinated' persons.

6. On Tuesday, October 5th you stated that you made the decision to require employees to provide proof of full vaccination following a conversation you had with Dr. Bonnie Henry “late last week”. Please demonstrate and provide details of how your decision to implement the Proposed Policy was based on a detailed risk assessment by the BCPS that concluded there are no other reasonable alternatives or accommodations to keep employees and workplaces safe.

7. How will you ensure that the Proposed Policy, if implemented, is non-discriminatory and respects and implements exemptions and accommodations in accordance with constitutional and human rights laws?

THE LAW CONCERNING CONSENT

Mandating employees to take COVID-19 vaccines as a condition of employment violates the fundamental tenet of medicine known as informed consent, and the Hippocratic medical maxim "do no harm". A person cannot properly consent to a COVID-19 injection when they do so under duress and the threat of losing their job, freedoms, or livelihood.

Canadian courts have ruled that medical treatment without proper informed consent constitutes an assault. The relationship between the absence of consent and assault is encapsulated in the following quotes from the Supreme Court of Canada in *R. v. Ewanchuk*, [1999] 1 SCR 330, at paragraphs 28 and 36:

> *The rationale underlying the criminalization of assault explains this. Society is committed to protecting the personal integrity, both physical and psychological, of every individual. Having control over who touches one's body, and how, lies at the core of human dignity and autonomy. The inclusion of assault ... in the (Criminal) Code expresses society's determination to protect the security of the person from any non-consensual contact or threats of force. The common law has recognized for centuries that the individual's right to physical integrity is a fundamental principle, "every man's person being sacred, and no other having a right to meddle with it, in any the slightest manner" …*
>
> *To be legally effective, consent must be freely given. Therefore, even if the complainant consented, or ... conduct raises a reasonable doubt about ... non-consent, circumstances may arise which call into question what factors prompted ... apparent consent. The Code defines a series of conditions under which the law will deem an absence of consent in cases of assault, notwithstanding the complainant's ostensible consent or participation. As enumerated in s. 265(3), these include submission by reason of force, fear, threats, fraud or the exercise of authority, and codify the longstanding common law rule that consent given under fear or duress is ineffective: see G. Williams, Textbook of Criminal Law (2nd ed. 1983), at pp. 551-61. This section reads as follows:*
>
> > ***265.*** *. .*
> >
> > *(3) For the purposes of this section, no consent is obtained where the complainant submits or does not resist by reason of*
> > *(a) the application of force to the complainant or to a person other than the complainant;*
> > *(b) threats or fear of the application of force to the complainant or to a person other than the complainant;*
> > *(c) fraud; or*
> > *(d) the exercise of authority."*

Section 346(1) of the *Criminal Code* also provides that "Every one commits extortion who, without reasonable justification or excuse and with intent to obtain anything, by threats, accusations, menaces or violence induces or attempts to induce any person, whether or not he is the person threatened, accused or menaced or to whom violence is shown, to do anything or cause anything to be done."

Furthermore, under the *Canadian Charter of Rights and Freedoms,* Section 2(a) (freedom of conscience and religion), Section 7 (the right to life, liberty, and security of person and the right not to be deprived thereof except in accordance with the principles of fundamental justice), Section 12 (the right not to be subjected to any cruel and unusual treatment or punishment, and Section 15 (the right to equality before and under the law and the right to equal protection and benefit of the law without discrimination, and in particular, on the basis of religion, mental or physical disability), apply to the Proposed Policy. A person's bodily autonomy is as basic as it gets in terms of rights, and our right to liberty and security of the person includes our right to refuse any medical treatment.

Canada is a signatory to the Nuremberg Code which states that voluntary informed consent is essential before performing a medical procedure on human beings. It also confirms that a person involved should have legal capacity to give consent, without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him/her to make an informed decision. Furthermore, in no case should a collective community agreement or the consent of a community leader or other authority substitute for an individual's informed consent.

Ms. Wanamaker, you are demanding that BCPS employees submit to receiving COVID-19 vaccines against their will and without their informed consent, or else face losing their ability to work and gain a livelihood. In doing so, you are also stripping away aspects of everyone's inviolably guaranteed human dignity. The law is very clear that the use of threats, coercion or authority to force anyone to submit to any unwanted medical treatment is both unconstitutional and criminal. If it is the intention of the BCPS in its exercise of authority to do so by implementing the Proposed Policy you may wish to carefully reconsider.

AN AFFRONT TO DIVERSITY AND INCLUSION

Ms. Wanamaker, considering the BCPS' commitment to creating and ensuring a non-discriminatory and inclusive work environment, we are dismayed at the Proposed Policy and the callous and dismissive manner in which it has been communicated. Your announcement has put thousands of BCPS employees at risk of losing their entire livelihoods and their ability to provide for themselves and their families by presenting them with an unprecedented choice: either receive unwanted injections or face termination. Your announcement has left many of us feeling betrayed. It reinforces the notion that regardless of the amount of time, dedication, skills, knowledge, or expertise that a person possesses or has contributed to the BCPS, if they have made the decision not to disclose their personal medical information or inject a foreign substance into their body, then they are no longer welcome in the BCPS. Many of us have invested years of hard work and education and have carried a financial burden to pay for that education in order to build lifetime careers in the public service. It is astonishingly cruel that all of it could be stripped away by an arbitrary and short-sighted policy decision with the stroke of a pen.

Please understand this. We are loyal BCPS employees who have given years of service and have many more years to give. We wish to freely exercise our rights to medical privacy, bodily autonomy and fully informed consent. We represent and include: single parents and one-income families; primary income earners; people who are pregnant, nursing or wishing to conceive; people who are at low risk from COVID-19 and disproportionately high risk from vaccine injuries; people who have been injured by their first vaccine or previous vaccines; people who have witnessed loved-ones, friends and even co-workers suffer illness and injuries from these vaccines; people who have religious or conscientious objections to the ingredients in these vaccines, the methods by which they were developed, or to these medical treatments generally; people who do not have access to a family doctor or specialist to obtain a medical exemption; people who have medical conditions or are taking medications that have not been tested in combination with these vaccines; people who wish to live their lives free from unwanted medical interventions; people who have trauma associated with vaccines; people who wish to wait for more data or for more traditional vaccines to come to market; people with dependents who are concerned the vaccine may impact their abilities as caretakers. We also represent and include people who are deeply concerned about government overreach, privacy intrusions and about the dangerous precedent that the Proposed Policy would set, and who are concerned that this policy won't end with two shots but may result in future 'booster shot' mandates or mandates for other vaccines or treatments.

It is painful and traumatic to hear your message that any of our deeply personal circumstances, concerns, beliefs or precautions are illegitimate and may be cast aside and overcome through threats, pressure and coercion. It is insulting to have our sincere and fact-based concerns summarily dismissed with the use of hollow slogans. Please be aware that your announcement on October 5th has caused severe stress, anxiety and worry to an extensive number of employees. The unexpected threat and uncertainty of losing our livelihoods and our ability to provide for our families or of facing other consequences is affecting our sleep, focus, concentration and ability to work. It is affecting our relationships, physical well-being and daily habits. Many employees are experiencing feelings of anger, despair, depression, distress, and even suicidal thoughts as they face an impossible choice. Your announcement has left many people feeling heartbroken, demoralized, isolated, silenced and ostracized.

Ms. Wanamaker, you will be familiar with the Misfire Report (*Misfire: The 2012 Ministry of Health Employment Terminations and Related Matters*). In the Misfire Report, the BC Office of the Ombudsperson commented on the importance of employment to an individual:

> *Canadian law has long recognized the importance of employment to a person's sense of identity. The Supreme Court of Canada has emphasised the importance of work in peoples' lives in numerous wrongful dismissal cases. In Reference re Public Service Employee Relations Act, the court wrote:*
>
> > *Work is one of the most fundamental aspects in a person's life, providing the individual with a means of financial support and, as importantly, a contributory role in society. A person's employment is an essential component of his or her sense of identity, self-worth*

> *and emotional well-being ... In exploring the personal meaning of employment, Professor David M. Beatty, in his article "Labour is Not a Commodity," in Studies in Contract Law (1980), has described it as follows, at p. 324:*
>
> > *As a vehicle which admits a person to the status of a contributing, productive, member of society, employment is seen as providing recognition of the individual's being engaged in something worthwhile. It gives the individual a sense of significance. By realizing our capabilities and contributing in ways society determines to be useful, employment comes to represent the means by which most members of our community can lay claim to an equal right of respect and of concern from others. It is this institution through which most of us secure much of our self-respect and self-esteem.*
>
> *As the Supreme Court of Canada has described, the manner in which employees are dismissed is of particular importance to those individuals:*
>
> > *... the manner in which employment can be terminated is equally important to an individual's identity as the work itself ... By way of expanding upon this statement, I note that the loss of one's job is always a traumatic event. However, when termination is accompanied by acts of bad faith in the manner of discharge, the results can be especially devastating. In my opinion, to ensure that employees receive adequate protection, employers ought to be held to an obligation of good faith and fair dealing in the manner of dismissal*

We ask you to consider how the Proposed Policy and the potential for forced leave without pay or termination of employees has and will personally and profoundly impact employees, and how it could reflect on government in light of the findings and recommendations of the Misfire Report. The recommendations are aimed at preventing the events that transpired, including the death of a wrongfully dismissed employee, from recurring.

Ms. Wanamaker, in your Executive Message to BCPS employees on March 1, 2021, you wrote:

> "*The BC Public Service should be a place where none of us ever feel unsafe; where none of the capable, qualified and deserving colleagues we work alongside are every denied opportunity; and where nobody in our team feels left out.*"

While the BCPS holds itself out as an organization that is open and accepting of a diversity of beliefs, values and orientations, your Proposed Policy is outwardly targeting unvaccinated and non-disclosed employees, which may constitute grounds for discrimination and harassment. Please be aware that the vilification of the unvaccinated by multiple levels of government and the media has been hammered into the mindset of the general public over the past year. You have delivered a message that suggests that people who do not comply with the Proposed Policy and who wish to exercise private medical choices have done something wrong and are acting against the public interest. This message reinforces the stigmatization, isolation, bullying and harassment to which the unvaccinated and non-disclosed have been subjected.

We also wish to address your October 19th email in which you stated:

> "*We all took an oath that commits us to put the public interest ahead of our own personal interests. Vaccination against COVID-19 is without question in the public interest*".

You referred to the Oath of Employment and Standards of Conduct under the auspices of aligning them with the Proposed Policy. Your inference that by not accepting a medical procedure is akin to not following the Oath of Employment and/or the Standards of Conduct grossly misinterprets their true intent, which is to ensure employees conduct themselves appropriately in all aspects of the work environment. Ms. Wanamaker, as public service employees, we took the Oath to attest that we will provide to the best of our ability service in the public interest. The fact that the Standards of Conduct place "public interest over personal interest" is a social metric and construct, not a medical one. Service does not constitute accepting intrusions into our personal medical decisions or interference with our bodily autonomy, and none of us accepted this as a condition of employment. In our view, your reference to the Oath manipulates and misuses a trusted and sincere process.

In contrast, we believe that the Proposed Policy and coerced medical treatments with the threat of job consequences including termination undermines the public interest in several ways:

- First, it has deeply damaged employees' confidence and trust in their employer, after months of reassurances that COVID-19 vaccines would not be mandatory and that our workplaces are safe, and it will create profound personal and financial hardship for every affected employee and their families.

- Second, should the BCPS place on leave or terminate hundreds or thousands of its employees on the basis of a single arbitrary and short-sighted policy decision, this will unquestionably severely affect the ability of the BCPS to provide services to British Columbians, not to mention the enormous time and costs that will be expended in order to replace those employees, and the loss of valuable institutional knowledge and experience that they possess.

- Third, the Proposed Policy will inevitably create an unnecessary burden on our other colleagues who will need to shoulder the increased work demands following the loss of employees to this policy.

In closing, Ms. Wanamaker, this letter is a direct appeal from BCPS employees to you, and we look forward to a timely reply to our questions and concerns set out in this letter. We are asking you to gather the moral courage within yourself to rescind and reverse course on this ill-conceived, unnecessary, unlawful, unconstitutional, discriminatory and unethical mandate.

Sincerely,

Concerned BCPS employees who stand for everyone's rights to privacy and medical freedom, including BC General Employees' Union members, Professional Employees Association members, and non-union BCPS employees, represented across BC Government Ministries,

Advanced Education & Skills Training
Agriculture, Food and Fisheries
Attorney General
Children and Family Development
Citizens' Services
Education
Energy, Mines and Low Carbon Innovation
Environment and Climate Change Strategy
Finance
Forests, Lands, Natural Resource Operations and Rural Development
Health
Indigenous Relations and Reconciliation
Jobs, Economic Recovery and Innovation
Labour
Mental Health and Addictions
Municipal Affairs
Public Safety and Solicitor General & Emergency B.C.
Social Development and Poverty Reduction
Transportation and Infrastructure
Public Service Agency
BC Wildfire Service
Community Living BC

Contact: BCPS4freedom@protonmail.com

cc:

Honourable David Eby, QC, Attorney General and Minister responsible for Housing
Richard Fyfe, Deputy Attorney General and Deputy Minister responsible for Housing
Michael McEvoy, Information and Privacy Commissioner for British Columbia
Stephanie Smith, President, BC General Employees' Union
Scott McCannell, Executive Director, Professional Employees Association