

Fact Sheet - *Mandatory Testing and Disclosure Act*

What is the *Mandatory Testing and Disclosure Act*?

The *Mandatory Testing and Disclosure Act* provides a method for certain individuals exposed to the risk of communicable disease infection through contact with another person to compel that person to provide a bodily substance for testing, if such information cannot reasonably be obtained in any other manner.

Who may apply?

An individual may apply to the Provincial Court for a testing order if the individual has come into contact with a bodily substance of a source individual* :

- while providing emergency assistance to a source individual who is ill, injured or unconscious as a result of an accident or other emergency, or
- while performing duties as a firefighter, paramedic or peace officer.

Applications may be made on behalf of an individual who meets the above criteria by any person if the individual is unable to do so.

How is an application made?

An exposed individual or someone acting on that individual's behalf may apply to the Provincial Court within 30 days of the exposure.

Applicants must complete the *Originating Notice of Application for Testing Order* (Form 1 of the Mandatory Testing and Disclosure Regulation) and have a physician complete the *Physician's Report* (Form 2 of the Regulation), and file these documents with the Provincial Court – Family & Youth to obtain a court date.

The *Originating Notice of Application for Testing Order* and *Physician's Report* must be served personally on the source individual or sent by registered mail to the last known address of the person being served not less than 7 days before the application is to be heard by the Provincial Court.

However, if the source individual is a minor (under 18 years old), dependent adult, or is deceased, the documents must be served as follows:

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| minor: | serve the source individual's parent(s) or guardian(s) and, if the source individual is 14 years of age or older, serve the source individual. |
| dependent adult: | serve the source individual and the guardian of the source individual |
| deceased: | serve the next of kin of the source individual or on the executor or administrator of the estate of the source individual, if any. |

* 'source individual' = the individual from whom a sample of a bodily substance is sought for the purpose of testing

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A judge of the Provincial Court may consider waiving or changing the above requirements if in the circumstances of the case, giving 7 days' notice is impossible or impractical.

What is the Physician's Report?

The Physician's Report provides the Court with a physician's assessment of:

- the risk to the health of the applicant resulting from the applicant's contact with a bodily substance of the source individual, and
- the need for a testing order to treat or manage the health of the applicant.

This Report will assist the Court in determining if a testing order is required and what should be included in the testing order. The original signed copy must be provided to the Court.

What happens once an application is made?

The Provincial Court will consider the application and may make a testing order. If a testing order is made, the applicant must submit the Testing Order and *Physician's Report* to the Office of the Chief Medical Officer of Health.

The Chief Medical Officer of Health will then provide a copy of these documents together with the results of any database search ordered by the Court to the Medical Officer of Health for the health region where the source individual resides.

The regional Medical Officer of Health will then designate a health professional and analyst to take and test a sample, and will serve notice to the source individual with directions on how to comply with the order.

Once the testing and analysis is completed, the Medical Officer of Health will provide a copy of the results to the applicant's physician and the source individual's physician.