

CUPE HEALTH SECTOR

DISCUSSION GUIDE: MANDATORY IMMUNIZATION

Canadian Union of Public Employees – BC Region • September 2021

BACKGROUND

CUPE's Health and Safety Branch has resources available for your [frequently asked questions about vaccinations](#), and the [implications on workers' rights of immunization requirements](#). CUPE has also recently released [guidelines on mandatory vaccinations that can be accessed online](#).

Current information on [BC's immunization efforts, and how to get a COVID-19 vaccination can be found online](#) – [drop-in vaccination clinics are now open for all BC residents over the age of 12, with no appointments necessary](#).

INTRODUCTION OF MANDATORY IMMUNIZATION

Provincial Health Officer (PHO) Dr. Bonnie Henry has issued a [public health order](#) under the provisions of the Public Health Act requiring workers in long-term care and assisted living to be vaccinated with approved COVID-19 vaccines by October 12. Until October 12, all unvaccinated staff will be required to wear personal protective equipment and be tested regularly for COVID-19. This order, [along with more recent announcements about requirements for vaccinations in order to access certain services](#), has raised question about mandatory immunization requirements and related restrictions and requirements.

POSITION ON MANDATORY IMMUNIZATION POLICIES

[CUPE's formal position on vaccination policies can be found online](#), and some of the key elements are below.

- Governments and employers need to consult with unions before finalizing and implementing vaccine policies.
- Vaccine policies are not a replacement for personal protective equipment, proper ventilation, and thorough cleaning regimes.
- Unvaccinated workers need to be provided with an opportunity to speak confidentially with a medical professional so they can better understand the benefits of vaccination. Employers should accommodate these appointments.
- Vaccine policies must accommodate the small number of workers who cannot be vaccinated for medical or religious reasons protected under human rights legislation.

An important note for those in the health sector: Public Health Orders related to long-term care and assisted living may give additional authority to employers to implement mandatory vaccinations in these settings. Please consult your CUPE National Representative if you have questions or if your employer is not adhering to these and the other principles laid out in CUPE's position on vaccination policies.

FREQUENTLY ASKED QUESTIONS

Why is the PHO taking these actions now?

Recent comments by the PHO indicate that increased restrictions relate to rising case numbers, the prevalence of the Delta variant, and trends in vaccinations and the pending respiratory illness season.

Does the PHO have the legal right to order that all staff working in long-term care and assisted living facilities be fully vaccinated?

Under the provisions of the Public Health Act, the PHO has broad powers to deal with health hazards and these powers are expanded even further when a public health emergency has been declared. For example, the PHO “may order a person to do anything that the health officer reasonably believes is necessary” to “prevent or stop a health hazard, or mitigate the harm or prevent further harm from a health hazard.”

PHO powers in an emergency include the collection of information, including personal information such as PHNs, which might not otherwise be allowable under privacy legislation.

Isn't it my choice to decide whether to get the COVID-19 vaccine?

Yes, you can choose whether or not to get vaccinated. However, your choice may impact your ability to continue working in long-term care, in an assisted living facility, or in other environments where immunization is required.

Doesn't a requirement to be vaccinated against COVID-19 to work in this sector violate my human rights?

Employers are legally obligated to attempt to accommodate workers who are unable to get vaccinated for bona fide medical reasons, or on other grounds protected by human rights legislation such as religious beliefs.

It is important to remember, however, that “rights” are never assessed in a vacuum. Seniors have a right to safe care and health care workers have a right to work in a safe environment. Broader public health considerations such as these may impact on what sort of accommodation, if any, may be available.

B.C.'s Office of the Human Rights Commissioner issued a report in July 2021 on the human rights implications of vaccination status policies, writing that: “Employers, landlords and service providers (duty bearers) can, in some limited circumstances, implement vaccination status policies — 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.”

The Commission also wrote: “In my view, a person who chooses not to get vaccinated as a matter of personal preference — especially where that choice is based on misinformation or misunderstandings of scientific information — does not have grounds for a human rights complaint against a duty bearer implementing a vaccination status policy.”

Does CUPE support mandatory vaccinations?

CUPE promotes the use of vaccines as a safe and effective control for the spread of disease, while recognizing that related medical decisions must be made between workers and their medical providers. CUPE supports the provision of education, accessible public health information, and access to vaccine clinics as the preferred approach to improving COVID-19 vaccination rates among health care and other workers.

COVID-19 vaccines have proven to be safe and effective in reducing serious illness, hospitalization, and death. CUPE supports and encourages health care and other workers to voluntarily get the COVID-19 vaccine, as it is a proven and effective means of reducing COVID-19 transmission as well as serious illness and death.

[CUPE's full position can be found here.](#)

What will CUPE do if its members refuse to get vaccinations?

Any workplace policies on vaccinations must respect the rights of workers under their Collective Agreements and other legislation. At a minimum, Employers adopting vaccination policies are required to provide reasonable accommodations for employees who cannot be vaccinated due to individual health issues. As a union, CUPE will fairly represent the rights of our members, and will advocate for the protection of our members' jobs, regardless of their immunization status.

Can I still get vaccinated?

Yes. [Vaccine clinics now work on a walk-in basis and locations can be found online.](#)

I'm concerned about my personal health information being collected by the employer.

We understand that the PHO has consulted with the Office of the Information and Privacy Commissioner about her order requiring employers to collect information related to vaccination status, as well as employees' Personal Health Numbers. CUPE is concerned about the collection, storage, security and confidentiality of members' personal health information and will work with locals to ensure proper safeguards are in place to protect this sensitive data.