

**COVID-19 ISSUES IN THE  
WORKPLACE: HOT TOPICS AND Q&A**

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COVID-19 ISSUES IN THE WORKPLACE

**HOT TOPICS**

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**VACCINES**

**Poll Question:**  
Are you considering a mandatory vaccination policy?

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**VACCINES**

**Poll Question:**  
Can I bring in a mandatory vaccination policy for my employees?

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**VACCINES**

**Can I bring in a mandatory vaccination policy for my employees?**

It depends and there is a lot to consider:

- Federally regulated versus provincially regulated/specific sector
- Human rights laws
- Privacy laws
- Employment law
- Practical issues

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**VACCINES**

**FEDERAL REGULATION VS. PROVINCIAL REGULATION**

Most employers are provincially regulated, but certain sectors such as banking, aviation, and transportation are federally regulated.

- Federally regulated employees in the public sector and transportation sector are subject to a mandatory vaccination policy.
- The government “expects” that other federally regulated employers will also require vaccination for their employees. No legislation or other order setting out such requirement yet.
- Provincially regulated employees in healthcare settings and long-term care facilities are subject to mandatory vaccination policies.

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## VACCINES

### Poll Questions:

Has there been government action to mandate such policies for other types of workplaces or employers (besides the federal public service, transportation sector, long-term care, and healthcare workers)?

Do vaccine passports apply to workplaces/employees?

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## VACCINES

### HUMAN RIGHTS LAWS

The Canadian Human Rights Act and BC Human Rights Code prohibit discrimination based on certain protected grounds.

Both Canada and BC prohibit discrimination based on disability and religion.

Employers may be required to accommodate employees who have a medical reason for not getting vaccinated or who cannot be vaccinated due to their religious beliefs.

Employers are able to ask for documentation to substantiate a request for accommodation.

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## VACCINES

### Poll Question:

Can I ask job applicants whether they have been vaccinated?

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**VACCINES**

**PRIVACY LAWS**

An employee's vaccination status and/or vaccination record is sensitive personal medical information.

Clear consent to collect, use, and disclose such information should be obtained from the employee.

The information must be kept protected and safe, subject at all times to the requirements of the applicable legislation.

Any lists or copies of documents must be kept locked, password and/or firewall protected and only the minimum amount of individuals necessary should have access to the information.

Employers should review their privacy policies generally to ensure that they are in compliance with the applicable legislation, including having a designated privacy officer

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**VACCINES**

**EMPLOYMENT LAWS**

A refusal to get a vaccine, even with a mandatory policy, is not likely sufficient to terminate for cause.

A mandatory vaccination policy may result in a constructive dismissal claim from an employee as it is arguably a significant, unilateral change to a term of the employee's employment.

Constructive dismissal claims and terminations will require notice to be provided to the terminated employee.

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**VACCINES**

**Poll Question:**

What if an unvaccinated employee is required to travel and regularly attend large events and event venues/restaurants as part of their job?

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## VACCINES

### PRACTICAL CONSIDERATIONS

Accommodation measures? testing, PPE, work from home, alternate work location on premises, etc.

What are you going to do with employees who do not want to get vaccinated for other reasons not covered by human rights legislation?

Can you afford to lose one or more employees if you plan to terminate those who are not vaccinated?

Can you afford to pay out notice to employees if you plan to terminate them?

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## WORKPLACE SAFETY CONCERNS

### EMPLOYEES WHO REFUSE TO COME INTO THE OFFICE

Employers should be periodically reviewing their current health and safety protocols, particularly with respect to communicable disease prevention

Employers should be able to tell employees that all required health and safety protocols are in place

Employees should be encouraged to discuss their specific concerns with the employer

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## WORKPLACE SAFETY CONCERNS

### EMPLOYEES WHO REFUSE TO WORK WITH UNVACCINATED WORKERS

Employers should be periodically reviewing their current health and safety protocols, particularly with respect to communicable disease prevention

Employers should be able to tell employees that all required health and safety protocols are in place

Employees should be encouraged to discuss their specific concerns with the employer

Employers may need to evaluate the practical considerations at play concerning mandatory vaccinations in the workplace

Employers have obligations concerning bullying, discrimination, and harassment in the workplace – any tensions between employees should be closely monitored

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COVID-19 ISSUES IN THE WORKPLACE

**QUESTIONS & ANSWERS**

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**Other Questions?**



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These materials are necessarily of a general nature and do not take into consideration any specific matter, client or fact pattern.

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