



New vaccination requirements for long-term care and assisted living: Questions and answers

Provincial Health Officer (PHO) Dr. Bonnie Henry [has announced](#) that she will issue 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.

In the interim, the PHO has ordered ([COVID-19 Vaccination Status Information and Preventive Measures Order, August 20, 2021](#)) that unvaccinated workers will be required to continue wearing a mask at work, and undergo regular testing for COVID-19. These provisions take effect on September 8.

This PHO order also requires long-term care and assisted living employers to collect information confirming COVID-19 vaccination status from workers, including Personal Health Numbers (PHNs) by September 1.

HEU members who have not received a COVID-19 vaccine and wish to meet the October 12 deadline should arrange for their first dose before the end of August.

Why is the PHO taking these actions now?

On August 12, 2021, Dr. Henry said: “Rising case numbers, the prevalence of the Delta variant and the trend we are seeing of health care workers not yet fully vaccinated getting COVID-19 means that we must take this step to protect them, those we care for and the broader community through vaccination. B.C.’s high vaccination rates are helping keep people safe, but we must continue to do all that we can to keep our most vulnerable people safe – together.”

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 (as is currently the case).

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.”

.../2

Her 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, in this situation, your choice may impact your ability to continue working in a long-term care or assisted living facility.

The Facilities Collective Agreement and many other health care collective agreements include language allowing the employer to require that workers get vaccinated, and some collective agreements permit the employer to terminate unvaccinated workers. (In the Facilities Collective Agreement, this language is found at Article 6.02.)

Given the effectiveness of the COVID-19 vaccines, and the risk that COVID-19 infection poses to vulnerable residents, and other healthcare workers, requiring vaccinations may be determined to be a reasonable requirement of employment in the face of an infectious and deadly virus.

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. 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.”

She 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.”

What happens if I don't get fully vaccinated by October 12?

The Provincial Health Officer has said that all staff working in long-term care and assisted living facilities will be required to be vaccinated by October 12, and that she will issue a public health order to that effect. It is likely that employer policies developed to respond to the order would include measures up to and including dismissal.

There is a commitment from government to meet with health care unions to consider the implications of this policy for workers and their continued employment in long-term care and assisted living.

HEU will advocate for the broadest possible protection of its members as this policy is implemented.

Is HEU in favour of a COVID-19 vaccination mandate for health care workers?

HEU has advocated for education and information, and access to vaccine clinics, as the preferred approach to improving COVID-19 vaccination rates among health care workers.

COVID-19 vaccines have proven to be effective in reducing serious illness, hospitalization and death.

As of June, 2021, nearly 90 per cent of HEU members had received at least one dose of the COVID-19 vaccine according to the union's own polling.

Public health officials have determined that vaccination rates among health care workers in many long-term care and assisted living sites are too low and put vulnerable residents at risk of illness or death from COVID-19, and that requiring staff at these sites to be vaccinated is a necessary measure to reduce this risk.

We support and encourage health care 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.

We are concerned that mandating vaccines may result in the loss of staff and compound serious staffing shortages that will further undermine the quality and continuity of care.

Can I still get vaccinated?

Yes, but you should do so soon.

The PHO recently advised that the interval between first and second doses of a COVID-19 vaccine can be reduced to 28 days. The PHO has defined "vaccinated" to be 14 days after your second dose. If this continues to be the definition, you will have to receive your first dose in the last week of August to meet these timelines by October 12.

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. The union has concerns about the collection, storage, security and confidentiality of members' personal health information and will fight to ensure proper safeguards are in place to protect this sensitive data.

What's happening in other jurisdictions?

Quebec is requiring all health care workers who interact with patients and residents to be vaccinated. Ontario is requiring unvaccinated long-term care workers to undergo compulsory COVID-19 education and regular COVID-19 testing.

If you still have questions about the COVID-19 vaccine, we encourage you to look to trusted sources for information – like the [B.C. Centre for Disease Control](#), your health authority, your doctor or other primary care provider.

August 20, 2021