

BC PROOF OF VACCINATION REQUIREMENT

COVID-19 – BULLETIN

September 15, 2021

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As of September 13, 2021, by order of British Columbia's Provincial Health Officer (PHO), [proof of vaccination is required to access some events, services, and businesses](#). Currently, patrons wishing to access select services, venues and spaces must have at least one dose of a COVID-19 vaccine, and by October 24, must be fully vaccinated. This requirement applies to all persons born before 2009 (12+) and is enforceable with penalties against the business. The requirement is in place until January 31, 2022 and could be extended

AS OF SEPTEMBER 15, 2021:

This bulletin is current to the morning of September 15, 2021. Please note that while we continue to monitor the situation, the circumstances remain fluid as legislative and government rules and policies are everchanging. The responses of federal and provincial governments will continue to evolve and may impact the accuracy of the information in this bulletin. Furthermore, the information contained hereinunder is subject to revision with the introduction of new or additional government guidelines.

[New Public Health Order: Proof of Vaccine Requirement](#)

It has long been a question as to whether the government would implement a requirement for individuals to provide proof of their vaccine status, and this week, BC's Public Health Officer, Dr. Bonnie Henry, has introduced a new order requiring patrons of business to provide Proof of Vaccine when accessing specific businesses or spaces. Within this bulletin, we have provided information to answer a variety of questions that as Employers, you may be asking yourself.

[Who does the Proof of Vaccination requirement affect?](#)

It is important to note that the BC Vaccine Card is only required for patrons, not for workers. Businesses should not request to see an employee's proof of vaccination as part of the BC Vaccine Card program unless the employee is attending as a customer.

Proof of Vaccine will be required by all patrons wishing to access services or entry to a space that falls under the [following list](#) of relevant sectors and businesses:

- Indoor ticketed sporting events with more than 50 people
- Indoor concerts, theatre, dance and symphony events with more than 50 people
- Licensed restaurants and cafes and restaurants and cafes that offer table service (indoor and patio dining), including liquor tasting rooms in wineries, breweries or distilleries
- Pubs, bars and lounges (indoor and patio dining)
- Nightclubs, casinos and movie theatres
- Gyms, exercise/dance facilities/studios and these activities happening in recreation facilities
- Businesses offering indoor exercise/fitness
- Indoor adult group and team sports for people 22 years old or older
- Indoor organized events with 50 or more people.

- For example: wedding and funeral receptions (outside of a funeral home), organized parties, conferences, trade fairs and workshops
- Indoor organized group recreational classes and activities with more than 50 people like pottery, art and choir
- Post-secondary student housing
- Spectators at indoor youth sporting events with more than 50 people

Essential services such as grocery stores, retail, banks, and public transportation are a few examples of places that will not require Proof of Vaccine. For further examples of places that will not require Proof of Vaccine to access services or spaces, please see [here](#).

[Who will be responsible for checking vaccination statuses?](#)

Businesses, events, and services are required to manage the verification of their patron's BC Vaccine Card with use of the BC Vaccine Card Verifier App, or with a visual check. To [verify vaccination status](#), employers must review the BC Vaccine Card as well as a piece of photo ID that matches the name on the vaccine card (note that youth aged 12 to 18 are not required to show photo ID).

- From September 13 to 26, patrons may use the paper vaccination record that they were provided when they received their vaccination. From September 27, the BC Vaccine Card will be the only acceptable form of proof of vaccination.
- The BC Vaccine Card can be reviewed either visually or using a QR reader like a smartphone or tablet.
- A visual verification entails reviewing the BC Vaccine Card and ensuring both the name and vaccination details are visible.
- A mobile QR code reader app will be released in app stores closer to September 13 for businesses that choose to scan the QR code.

The BC Vaccine Card Verifier App uses a QR reader on a smartphone or tablet. A visual check requires the business to ensure that the patron's BC Vaccine Card has both name and vaccination status visible.

The PHO has also provided [guidelines for vaccine verification of out-of-province, international and armed forces patrons](#). Patron's falling under these categories will be required to provide government photo identification as well as their immunization record or vaccination receipt.

The requirement is in place until at least January 31, 2022. Businesses and organizations that do not comply with the PHO order may be issued a violation ticket. Enforcement is at the discretion of enforcement officers, including police, liquor and cannabis inspectors, gambling investigators and conservation officers.

Employers can get additional information about how to check the vaccination status of patrons on the provincial government's [proof of vaccination information for businesses website](#).

[Should employers implement mandatory vaccination policies for their workforce?](#)

While BC and federal governments are beginning to set a precedent for vaccination policies, there is yet to be any legislation outlining the exact regulations and boundaries pertaining to an implementation of a mandatory vaccination policy which would make a worker's continued employment contingent on their vaccination status.

Employers may choose to implement their own vaccination policy for employees but are responsible for doing so at their own due diligence. When contemplating the implementation of a Mandatory Vaccination Policies, it is important to take into account that such a policy should be:

- justified by scientific evidence relevant to the specific context and workplace,
- proportional to the risks it seeks to address,
- necessary due to a lack of less-intrusive alternatives, and
- respectful of employee privacy as is required by law.

[BC Human Rights Commission](#) recommends evaluating the following criterium to determine whether a vaccination policy could be justified:

1. **Equitable Access:** If an Employer has an ongoing relationship with a person who is unvaccinated due to an access issue, they should do all they can to help that person get vaccinated.
2. **Evidence-based:** Employers should consider how effectively they have been able to prevent COVID-19 outbreaks in their workplace with current risk mitigations. In addition, evaluate the risk of transmission in the specific setting, and are such policies aligned with up-to-date public health recommendations and reflect current medical and epidemiological understanding of the specific risks the policy aims to address.
3. **Time-limited:** Vaccination status policies should be implemented for the shortest amount of time possible. Policies should be reviewed regularly to align with Public Health recommendations.
4. **Proportional:** Policies must be proportional to the health and safety risks they seek to address. For example, safety risks may be different in a time when transmission rates are low compared to periods of high transmission rates. There also may be specific work situations where transmission rates vary due to the nature of the job and the employee's ability to physically distance or wear PPE.
5. **Necessary:** Policies should seek to achieve an outcome that no other, less intrusive measure can achieve. Employer's should determine whether other risk mitigation efforts have been success in reducing transmission, as well as what is the risk associated with an outbreak.
6. **Privacy:** Any collection, use or distribution of highly sensitive personal health information must be authorized by applicable privacy laws (PIPA or FIPA), and ensure that vaccination policy remains effective, proportional and necessary throughout its lifecycle.

In all cases, Employers will be asked to consider how effectively they have been able to prevent COVID-19 outbreaks in their workplace with current, less invasive, risk mitigation practices. If they have had success, it is unlikely that implementing a mandatory vaccination policy would be seen as necessary.

[Key Considerations](#)

There are a number of employer obligations to workplace safety, privacy, as well as human rights that are important to evaluate and consider.

Human Rights

With the implementation of a mandatory vaccination policy, there are issues that may arise which are related to protected grounds within the Human Rights Code, including:

- A person who has a severe allergy to a vaccine or an ingredient in it;
- A person who has a medical condition, disease or takes medicine that reacts with the vaccine or ingredients in it;
- A person who belongs to a recognized religious group that objects to vaccines.

In applying a mandatory vaccination policy, Employers must equitably accommodate those who cannot receive a vaccine to the point of undue hardship. Accommodations may include alternative work duties, alternative work sites, increased PPE/distancing measures or testing.

Privacy

Another concern surrounding a mandatory vaccination policy is an employee's privacy rights. Requiring an employee to disclose their vaccination status needs rigorously analysed in relation to PIPA and FIPA requirements. Employers must scrutinize if there is necessity and need to ask for this information in order to provide a healthy and safe work environment. Considerations for associated risk, as well as current risk mitigation success should be evaluated. Secondly, proportionality should be considered with the collection of health information. Employers should seek to take the least intrusive measure available, as well as be respectful in the manner the information is being collected.

What we know and what we don't

It is expected that within the coming weeks, the laws, regulations, and guidelines concerning Employers' ability to implement mandatory vaccination policies will become less ambiguous and more comprehensible. As we have experienced throughout the pandemic, the government and Public Health Authorities continue to develop regulations and legislation in response to circumstances as they are unfolding. This has often left Employers struggling to understand the which best practices, safety measures, policies and protocols to implement in order to best protect their workforce. Though this requires patience, in time more concrete answers and guidance will surface.

While it is presently unclear whether the employer's duty to provide a safe and healthy workplace will allow Employers to enforce a mandatory vaccination policy, we are seeing our governments set precedent across the country in implementing mandatory vaccination policies for workplaces that employ front-line workers.

Every workplace is different, as such Employers should seek counsel and advice when developing a mandatory vaccination policy in order to evaluate the specific context of your work environment, and the related necessity of such a policy. As outlined above, there are a variety of considerations and workplace health and safety interests which will need to be balanced and calculated in accordance with employees' privacy, labour and human rights.

What can Employers do now?

Currently, WorkSafeBC has encouraged Employers to support the vaccination of workers, and workers receiving the vaccination when it is available to them. With this in mind, our recommendation would be to create a communication outlining that the current workplace policy is that although vaccines are voluntary, they are highly encouraged.



This policy may include information as to the complexities, and limitations of the current risk mitigations within the workplace such as difficulty social distancing. You may also promote the care and concern you have for your employees, their families, and the community, and the protection the vaccine will provide.

The policy may also include an educational element, providing employees with information to consult when making their own decision. When compiling this material, Employers will want to ensure that the information they are providing to employees is accurate, up to date and complete, and does not make representations about the medical or scientific elements of vaccination that the Employer is not qualified to make. In this, you should ensure that you are getting data and information from primary credible sources such as the BCCDC, the Public Health Agency of Canada, regional public health authorities, or from the BC or Canadian government.

Please note that this information bulletin is current to September 15, 2021. As this situation is evolving rapidly, we urge you to remain informed to the greatest extent you can. To understand how the information contained in this bulletin might apply in the context of your particular business or operation, please do not hesitate to contact us.

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