



# COVID Vaccine Mandates: Frequently Asked Questions and Answers

Recent orders from the Provincial Health Officer (PMHO) mandate that as of October 12 for the [long term care and assisted living sector](#), and October 26 for the [rest of the health sector](#) all health care workers must be vaccinated (defined as 7 days post-receipt of a full series of a WHO approved COVID vaccine) as a condition of employment.

Updated orders from the PHO mandate that staff in the LTC sector who have received a single vaccine dose on or before October 11 may continue working provided that they receive their second vaccine dose 28-35 days after their first dose. Long term care workers who are not doubly vaccinated will be required to rapid test before each shift until 7 days after their second dose.

The order for the rest of the health sector similarly permits health care workers who have received a single vaccine dose on or before October 25 to continue working, provided they receive their second vaccine dose 28-35 days after their first dose.

Unvaccinated health care workers who are ineligible to work as of October 12 (LTC) or October 26 (rest of the sector) should be aware that they can return to work seven days after receiving a first dose, provided they receive their first dose by October 25 (LTC) or November 15 (rest of the sector). Workers who return to work under this provision must receive their second dose within 35 days of their first dose or they will once again be ineligible to work.

[Additional orders](#) require all health care workers to provide to their employers the following:

- Their PHN;
- Legal first and last name; and
- Date of birth.

Employers are to collect this information and enter it into the provincial government's data entry portal along with the name and address of the facility at which the member works.

The PMHO established a policy on [Mask Use in Health Care Facilities](#) that requires all health care workers continue to mask at work unless eating or drinking. As of September 16, members working in the LTC sector who have not yet provided proof of vaccination or whose vaccination status is not yet considered "fully vaccinated" will be required to take a rapid COVID test every day. If the test is positive they need to leave the facility as soon as it is operationally safe to do so and undergo a PCR test to confirm or deny the results and communicate the results of the PCR to the employer/operator of their worksite. They will then not be able to return to the facility until they can provide proof of a negative PCR or 10 days have elapsed from the positive PCR, or when they have been cleared by their MHO.

According to the Health Employers Association (HEABC), the Ministry of Health (MOH) and the PMHO, failure to comply with these orders, which are conditions of employment, without a bonafide accommodation (discussed below) may be viewed by employers as insubordination and may be subject to employment consequences including discipline. This discipline will begin with unpaid leave but may be followed by further discipline, up to and including termination. It is our understanding that discussions of these consequences are ongoing. We expect to hear more as events unfold and will keep our members informed by updating this Q and A.

I have a medical reason that prohibits me from being able to get the vaccine. What steps do I take?

The current orders that outline the accommodation process create legal mechanisms for order driven processes and management thereof. Safety within those orders (which the Provincial Medical Health Officer is linking mandatory vaccine and accommodation appeals to) and related decision making and appeal processes are deemed by the MOH/PMHO/Attorney General and their attorneys to be fully within the rights conveyed to them by the current COVID-19 related acts and orders.

Based upon the information above, the Order regarding residential care staff preventative measures, communication received regarding advice employers are receiving from HEABC and the MOH; and from communication from the MOH and the PMHO to Employers, they are being advised and are in turn advising members and unions that employers do not have jurisdiction/authority to grant member requests for medical accommodation/exemption from the vaccine orders. Instead employees seeking medical accommodation are advised in the order:

**A request under section 43 may be submitted to the Provincial Health Officer at [ProvHlthOffice@gov.bc.ca](mailto:ProvHlthOffice@gov.bc.ca) with the subject line “Request for Reconsideration about Preventive Measures in Facilities”. A request for reconsideration of any aspect of this Order on the basis of a medical contraindication made by a person to whom the Order applies must include a signed and dated statement from a medical practitioner, based upon a current assessment, that the health of the person would be seriously jeopardized if the person were to comply with the Order, and a signed and dated copy of each portion of the person’s health record relevant to this statement.**

HSA and other unions engaged HEABC and the MOH regarding this process to suggest utilization of our existing accommodation processes instead but have been advised unequivocally the only avenue through which to seek accommodation is through this process. Members seeking accommodation will have to use this process, however please contact your union should you require assistance finding the appropriate forms, understanding what is required or any other assistance regarding preparing and processing your application through this process. If you have already applied for a medical accommodation and been denied please contact the union, specifically our Disability Management staff, for assistance

PMHO guidance regarding “acceptable” reasons for accommodation can be [found here](#).

I require an accommodation from the mandatory vaccine order for religious reasons. What should I do?

It was previously suggested that there would also be a process to consider religious exemptions to the order, but recent information provided to HSA is that there will now be no process to seek a religious exemption through the order.

Members seeking exemptions for religious reasons should contact HSA to discuss this situation, or apply directly to their employer for a religious accommodation and then contact HSA if their request is denied.

I have made the decision that I am not going to comply with one (or all) of the orders. If my employer disciplines me, what can I do?

All HSA members have a constitutional right to file a grievance if they believe their rights have been violated. Once a grievance is filed, it becomes the property of the union to investigate and make a determination as to how best to proceed. If you have been disciplined by the employer for failing to comply with these orders, please contact your [union steward](#) for assistance.

Since the vaccine is now a condition of employment, if I suffer an adverse reaction to the vaccine is this a compensable injury?

Yes, if a worker suffers an adverse reaction to a vaccine required as a condition of employment, it is compensable. There is more information [on the WorkSafe BC website](#).

How will my personal medical (vaccine status) information be protected by my Employer and what happens if they don't?

Employers are required to maintain the privacy of any information shared under the policies and practices in place where the union, members and employers work closely together to review medical accommodation requests. We believe the information being provided relative to your vaccine status would be treated very

Carefully and in the same way.

The HSA asserts strongly that the personal privacy and confidentiality rights of our members is paramount. In the event you suffer any kind of privacy breach through the provision of your personal vaccine information to your employer as part of this process, please contact your steward and consider filing a grievance. As above, all members have a constitutional right to file a grievance if they believe their rights have been violated. Once a grievance is filed it becomes the property of the union to investigate and make a determination as to how best to proceed.

Why is this different from the influenza prevention policy, i.e. why can't I just wear a mask if I don't get vaccinated?

The PHO has made an order using their powers under the *Public Health Act* to require vaccination as a condition of employment. This is different than the influenza prevention policy, which is an employer policy that has been in place since 2012 (with modifications in 2019).

What if I am on a long-term leave, like maternity/parental leave or LTD?

You are required to be fully vaccinated prior to your return to work.

I have been served with a "notice of liability" or similar document by a non-vaccinated member. Should I worry?

No. As an officer of the Union you are not personally liable. The Union is the liable party and that liability in representing members is covered by Section 12 of the *Labour Relations Code*. Under Section 12 of the Code the Union is prohibited from representing members in a manner that is arbitrary, discriminatory, or in bad faith.

The Union has a plan to represent members who are disciplined because they refuse to become vaccinated. If a member is disciplined for this reason, the union can contest that discipline through the legal recourse we have, which is by filing a grievance and taking it through the grievance procedure. The Union is urging all of its officers and stewards to inform unvaccinated members to file grievances to contest any discipline that they have suffered at the hands of their employer. The Union will then deal with each grievance according to the HSA Constitution.

By taking the action above and by dealing with any discipline the union will be meeting its obligations under Section 12 of the *Labour Relations Code*.

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