

NEW PROOF OF VACCINATION REQUIREMENT MAY IMPACT BRITISH COLUMBIA EMPLOYERS AND WORKPLACES

Posted on August 24, 2021

Categories: Insights, Publications

On August 23, 2021, BC's Provincial Health Officer, Dr. Bonnie Henry, announced that a new Public Health Order (which has not yet been published) will require proof of vaccination for British Columbians (12 years and older) to access certain non-essential events, services and businesses (the "**Order**"). To access the events, services and businesses listed below, the Order will require partial vaccination with one dose of the Covid-19 vaccine by September 13, 2021, and full vaccination with both doses by October 24, 2021. The Order will remain in place until at least January 31, 2022, and is subject to extension.

There is an exemption from the Order for persons under 12 years of age when accompanied by vaccinated adult. However, Dr. Henry indicated that there will be no exemptions from the Order for persons who are unable to get vaccinated for any reason, even if they are unable to do so for medical and/or religious reasons protected under the British Columbia *Human Rights Code*.

Events, Services and Businesses Covered by the Order

The Order will apply to the following events, services and businesses:

- Indoor ticketed concerts, theatre, dance, symphony and sporting events.
- Indoor and outdoor dining at restaurants, pubs and bars.
- Nightclubs and casinos.
- Movie theatres.
- Gyms, pools and recreation facilities (this will not include youth recreational sport).
- Indoor high intensity group exercise.
- Indoor organized gatherings like weddings, parties, conferences, meetings and workshops.
- Indoor organized group recreational classes and activities like pottery and art (this will not include K to 12 school before and after school programs).
- Post-secondary on-campus student housing (students have to be vaccinated by September 7, 2021).

The Order will also apply to individuals visiting British Columbia from other Canadian provinces or territories. Individuals visiting from outside BC will be required to show an official recognized vaccine record from their



province or territory and a valid government ID from that province or territory to access the above events, services and businesses.

Proof of Vaccination

British Columbians will have assess to a secure site from September 13, 2021 to obtain a "vaccine card" that will serve as proof of their vaccination. Individuals will be required to present their "vaccine card" and valid government ID when accessing the above events, services and businesses.

Impact of the Order on Employers and Workplaces

Based on the information currently available to us, it appears the Order will have an impact on:

- Employers who engage in the events, services and businesses covered by the Order; and
- Employers who will require employees to return to the office where indoor meetings and workshops may take place.

Employers impacted by the Order should consider whether a mandatory vaccination policy is necessary and appropriate in light of the Order. Although there are risks associated with such a policy, employers to whom the Order applies (or who are otherwise impacted by the Order) may be justified in mandating vaccination for employees when doing so is in response and in compliance with a Public Health Order. Legal advice should be obtained if you are an employer to whom the Order applies and you are considering a mandatory vaccination policy.

Employers engaged in the events, services and businesses

Employers who are engaged in the events, services and businesses detailed above will likely have to consider mandating vaccination for employees who provide services to the public in connection with the events, services and businesses. Since the Order mandates vaccination for all British Columbians 12 years and older who want to engage in certain events, services and businesses, it is reasonable to conclude that any employee involved in those events, services and businesses would also have to be vaccinated and would have to provide proof of vaccination before engaging with the public.

Indoor meetings and workshops

The Order will apply to indoor organized gatherings, including meetings and workshops. We will consider the Order when it becomes available, but based on the information currently available it appears the Order may apply to meetings and workshops *held in the workplace*. If so, employees who attend meetings and workshops in the workplace or elsewhere in connection with their work duties will have to be vaccinated and would be required to provide proof of their vaccination before attending meetings and workshops.



Conclusion

We will provide a further update on the Order and the extent to which it may impact employers and certain workplaces in British Columbia when the Order becomes available.

by Dianne Rideout and Michelle McKinnon

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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