

The COVID 19 vaccine: Considerations for Canadian employers

February 09, 2021

In a recent LinkedIn Live session, some of BLG's leading lawyers fielded questions about the COVID 19 vaccine and the obligations and risks Canadian employers and business owners could face in light of widespread rollout of the vaccine.

The session, "COVID-19 and employers: Vaccines, testing and protecting employees," was moderated by [Kate Crawford](#), National Business Leader of BLG's Health Group. [Dan Michaluk](#), a partner and well-recognized cybersecurity, privacy and information management lawyer; [Edona Vila](#), a partner with a specialized disputes practice; [James Fu](#), a partner whose specialities include labour and employment law; and [Ewa Krajewska](#), a partner with a broad litigation practice, discussed what lies ahead for workplaces as more Canadians get access to the vaccine.

What you need to know:

- There is risk in requiring employees be tested for COVID 19. However, for some **employers - healthcare and long-term care homes, for example - it may be an acceptable risk**. Recently, a labour arbitrator in Ontario [upheld the right for a retirement home to make its employees take regular COVID tests](#).
- Under workplace health and safety legislation, employers arguably have an obligation to notify employees of potential workplace COVID exposures, without identifying the individual(s) who got sick.
- Under the common law, the occupier of a premises has a fundamental right to control entry to said premises. Whether a restriction to entry is likely to be viewed as enforceable in a court of law depends on the specific factual circumstances, including the industry the entity operates and whether the organization seeking to **do so is a private or public entity (with the latter engaging constitutional law concerns)**.
- Outside of high-risk settings, it could be complicated for employers to require current employees get the COVID 19 vaccine and take the position that employees who do not get the vaccine can be terminated for cause. The Ontario Human Rights Commission has indicated requiring proof of the vaccination may be allowable [depending on the type of workplace](#).
- In December 2020, the federal government announced the creation of the [Vaccine Injury Support Program](#). Expected to be rolled out in the next few

months, the program will provide financial support in the rare case someone is seriously and permanently injured as a result of receiving a Health Canada-approved vaccine.

Watch the video from the “COVID-19 and employers: Vaccines, testing and protecting employees” LinkedIn Live below and visit our [COVID-19 Resource Centre](#) for the latest on the pandemic.

By

[Kate Crawford](#), [Daniel J. Michaluk](#), [Edona C. Vila](#), [James Fu](#), [Ewa Krajewska](#)

Expertise

[Labour & Employment](#), [Disputes](#), [Health Law](#), [Retail & Hospitality](#)

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

[blg.com](#)

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.