

## Mandatory Vaccination Fact Sheet

*To help you, your club, or your provincial association determine whether or not you can or cannot mandate vaccines as a requirement – be it for membership, entry in a tournament, or otherwise – Bowls Canada reached out to Sport Law to get the low down on mandatory vaccinations in Canada. Based on that opinion we've prepared this guideline for Provincial Bowls Associations and local bowls clubs across Canada. Please note that what follows are suggested recommendations only, and do not construe legal advice. Should an association wish to pursue mandatory vaccination, we recommend seeking legal counsel for your own situation.*

All levels of government in Canada are strongly encouraging all Canadians to get their COVID-19 vaccine. However, there are instances where it is not possible or advisable for an individual to do so. Whether it be due to a pre-existing health condition, disability, or creed (religion), many of these reasons are protected under anti-discrimination laws. While the *Canadian Human Rights Act* applies to federally organized activities, each province has their own anti-discrimination laws that apply provincially. In order to ensure that mandating vaccination as a requirement is legal, you will need to confirm with your Provincial Human Rights Agency (see [here](#)).

When considering requirements for mandatory vaccination, there are two major questions you will need to seek the answer to:

1. Can we legally ask for vaccination status, and;
2. If the answer is yes, do we have the right to make it a requirement to be vaccinated in order to be a member, play in a tournament, etc.

The information below may be of assistance when determining the answers to these two questions. Additionally, since situations may be different from province-to-province, you will need to seek clarity with your provincial human rights authorities. Your Provincial Privacy Legislation should also be consulted for clarity around question 1, and your Provincial Health Unit should be consulted to provide clarity around question 2.

*BCB does not condone discrimination in any form. As such, we advocate that accommodations be made wherever possible to allow any Canadian to participate regardless of their vaccination status.*

## FAQ

**Q: Do lawn bowling clubs in Canada have the right to demand that vaccination is a condition of membership or a condition to play in a tournament?**

A: Sport Law shared that when it comes to asking for vaccination status, each club would have to confirm whether their applicable provincial/territorial privacy and/or health information protection legislation allows them to ask the question. If it does, then the club may be able to mandate vaccination status. However, most provincial human rights legislations require accommodations be made to allow for exceptions such as not being vaccinated because of a religious requirement or pre-existing health condition.

Before implementing a mandatory vaccination requirement, each club must check the specific laws in their province including Privacy legislation, Human Rights legislation and the current Public Health Code.

It is also important to note that in most provinces, a service provider or employer can only mandate a required vaccination status if they are able to prove a “bona fide” reason for the requirement. For bowls, this means that the service provider or employer needs to prove that vaccination is:

1. rationally connected to the performance of lawn bowling;
2. adopted in an honest and good faith belief that it is necessary to the fulfilment of that legitimate lawn bowling purpose; and,
3. reasonably necessary to accomplish that legitimate lawn bowling purpose.

In order to determine that these three statements are indeed “bona fide”, a court would typically ask:

- What are the potential harms from COVID-19?
- What is the evidence of the effectiveness of vaccines in responding to those harms? For example, if the objective is to prevent transmission, what is the efficacy of the current available vaccines for preventing all (and newer) strains of the virus?
- Is there evidence that mandatory vaccination is more effective in a lawn bowls setting than alternative health and safety measures (such as mask wearing and regular testing) that could be implemented?
- Are there practical considerations (e.g., cost, access to vaccines, enforcement difficulties) that make the vaccine, or other alternative measures, an unreasonable or ineffective measure?
- **Would, or could, a more lenient policy, such as *strongly encouraging* vaccination achieve the same objective?**

Additionally, even if mandatory vaccination is determined to be a ‘bona fide’ requirement, the club would still need to show that it would be an undue hardship on their behalf to make an accommodation (e.g. wearing a mask or physical distancing) for an unvaccinated individual to participate.

**Q: What if our members refuse to get vaccinated?**

A: There are numerous reasons why someone may not wish to get the COVID-19 vaccine. Some reasons may be protected under your provincial anti-discrimination legislation, and as such, it is recommended that you make every accommodation possible to still allow them to participate.

**Q: Can vaccinated bowlers have different protocols than unvaccinated bowlers?**

A: There are numerous COVID-19 protocols (social distancing, mask wearing, declarations, etc.). These may be different for a person who **voluntarily** discloses their vaccination status. However, it must be recognized that implementing different protocols for different people in a club setting may prove to be difficult to implement. Additionally, it could inadvertently create an unwelcoming environment for those individuals who justifiably are unable to be vaccinated against Covid-19.

**Q: What if our members refuse to disclose their vaccination status?**

A: Pending what your provincial laws dictate, it is possible that members will not legally be required to disclose that information. Health information is typically only required to be shared with health practitioners and caregivers. You can ask them to voluntarily share it, but there may be no legal requirement for them to do so (confirm with your local authorities to confirm this). If you have members

who do not voluntarily share their vaccination status, consider implementing COVID protocols (masking, distancing, etc.) to ensure their safety.