

# Set clear rules for vaccinating health care workers against SARS-CoV-2

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Provincial and territorial governments should set clear rules for vaccinating health care workers against SARS-CoV-2, the virus that causes COVID-19, in public and private settings, and should not leave this task to employers, according to an analysis in *CMAJ (Canadian Medical Association Journal)*.

"An effective vaccine provided to [health care workers](#) will protect both the health workforce and patients, reducing the overall burden of COVID-19 on services and ensuring adequate personnel to administer to people's health needs through the pandemic," writes Dr. Colleen M. Flood, University of Ottawa Research Chair in Health Law & Policy and a professor at the university, with coauthors.

The analysis, authored by legal scholars and a physician-researcher, describes legal precedents from attempts to mandate influenza vaccines for health care workers and how those precedents might apply to SARS-CoV-2 vaccination. It also describes the legal justification for mandating SARS-CoV-2 vaccination for health care workers and other legal considerations.

When creating policy for mandatory vaccination of health care workers, it will be important to include exemptions for people who cannot receive a vaccine because of underlying [health issues](#) or other reasons. These exemptions will help protect government mandates if there is a challenge under the Canadian Charter of Rights and Freedoms. Based on current evidence, these challenges would likely be unsuccessful if there are exemptions in place for employees. It is important to note that any vaccinate or stay at home order would not force a health care worker to be vaccinated.

"What is less clear is whether or not a health care [worker](#) could argue that they should be able, in lieu of vaccination, to wear personal protective equipment," says Dr. Flood. "Initially, even those vaccinated will continue to wear PPE, but we think courts should accept the application of the precautionary principle so as to require vaccination in most circumstances. It will, however, be essential to collect and weigh real-world evidence of the benefits of both vaccines and PPE."

The authors distinguish between overall mandated [government actions](#) that might qualify under the Charter and actions from nongovernmental organizations, such as a private long-term care home requiring its own health care workers to be vaccinated, in which case the Charter would not apply.

"This is an important issue to address with science and law working together," says Dr. Kumanan Wilson, senior scientist, The Ottawa Hospital, and Clinical Research Chair in Digital Health Innovation, University of Ottawa. "Given the rapid development of various COVID-19 vaccines and emerging evidence, new data will determine whether these policies will stay in effect or will be modified."

Support for people who may experience a rare adverse event from mandatory vaccination is important. "We applaud the recent announcement

of a no-fault [vaccine](#) compensation scheme and await the implementation of the program. Although not a cure all, it does provide some security for [health](#) care workers obligated to vaccinate pursuant to carrying out their vital work," the authors write.

**More information:** Colleen M. Flood et al.

Mandatory vaccination for health care workers: an analysis of law and policy, *Canadian Medical Association Journal* (2021). [DOI: 10.1503/cmaj.202755](#) early-released January 19, 2021

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