

I am writing in relation to the recent mandate re: mandatory COVID-19 vaccinations and mandatory testing of COVID-19 for unvaccinated, accommodated person(s) and those who chose not to disclose their private medical history to [employer]

I have some concerns and questions regarding the recent policy:

Informed Consent:

- Informed consent is the foundation of Canadian Law and Human Rights with regards to an individual's decision to refuse or consent to any medical treatment. This is even a **more rigorous a process** when it comes to volunteering to accept an **experimental drug, vaccine or treatment**.
- Consent must have been **voluntary**, the individual must have had the **capacity** to consent and must have been **properly informed**.
- Consent does not exist if obtained under any suggestion or compulsion, either by actions or words of a physician or others, **including an employer**. Consent is not free if any **duress or coercion** exists.
- A physician is required to be more than usually careful to assure themselves an individual is in full agreement with what has been suggested, that there has been no coercion and that the will of other persons (i.e. an employer) **has not been imposed** on the individual.
- For consent to treatment or medical experimentation to be considered valid, the individual must have been given an adequate explanation of the nature of the treatment, its anticipated outcome as well as **significant risks involved** and **alternatives available** to enable an individual to make an informed decision.
- The obligation to obtain informed consent must always **rest with the physician who is to carry out the treatment**. This obligation may be delegated in the appropriate circumstances; however, the treating physician should be confident the delegate has **the knowledge and experience** to provide adequate explanations to the individual.
- It is clear that the materiality of a risk is influenced as well both by the frequency of the possible risk and also by its seriousness should it occur. Generally speaking, the more frequent the risk, the greater the obligation to discuss it beforehand. Further, even **uncommon risks of great potential seriousness** should be disclosed. In this context the **Supreme Court of Canada** indicated that even if a **risk is "a mere possibility" yet it carries with it serious consequences such as paralysis or death**, it should be regarded as material and therefore requires disclosure.
- For any treatment or procedure that is **innovative or that could be perceived as experimental**, anything which may be interpreted as going beyond the need for prophylaxis, diagnosis or therapy, an element of "research" should be assumed.

- In such circumstances a **standard of full disclosure may be applicable when obtaining consent**. The **concept of therapeutic privilege is inappropriate** and **no information about a project or clinical trial may be hidden from a patient on the ground that disclosure would result in undue worry or anxiety**. As well, researchers must recognize the **potential for what might later appear to have been duress or coercion**.
- Individuals are **free to withdraw consent** and discontinue participation in the treatment or experimental treatment at any time **without prejudice**.
- When it comes to research and experimentation, a fair explanation must be given about what is proposed, its risks and discomforts, what if any benefits might accrue and, if applicable, what appropriate alternative treatments or procedures might be offered. If a blind study is involved, patients must be aware they could stand to derive no benefit at all.

Informed Refusal:

- Our courts have reaffirmed repeatedly an individual's right to refuse treatment even when it is clear treatment is necessary to preserve the life or health of the patient. Justice Robins of the Ontario Court of Appeal explained:

"The right to determine what shall, or shall not, be done with one's own body, and to be free from non-consensual medical treatment, is a right deeply rooted in our common law. This right underlines the doctrine of informed consent. With very limited exceptions, every person's body is considered inviolate, and, accordingly, every competent adult has the right to be free from unwanted medical treatment. The fact that serious risks or consequences may result from a refusal of medical treatment does not vitiate the right of medical self-determination. The doctrine of informed consent ensures the freedom of individuals to make choices about their medical care. It is the patient, not the physician, who ultimately must decide if treatment — any treatment — is to be administered."

Reference:

<https://www.canada.ca/en/health-canada/services/science-research/science-advice-decision-making/research-ethics-board/policy-guidelines-resources.html>

In order for me to comply with the [employer] vaccine mandate, **a qualified physician** is required to provide the following information:

1. Please provide the legal status in Canada of any COVID-19 vaccine and if it's experimental
2. Please provide assurances and details that the vaccine has been fully, independently and rigorously tested against control groups and the subsequent outcomes of those tests.
3. Please advise the entire list of contents of all COVID-19 vaccines approved for emergency use in Canada and if any are toxic to the body and may cause allergic reactions
4. Please advise of all the reactions associated with the COVID-19 vaccines since their introduction
5. Please confirm that the vaccine therapy you are advocating is NOT experimental mRNA gene altering therapy and that all vaccines have completed Phase 3 trials to establish long term safety & efficacy
6. Please advise me of the likely risk of fatality should I be unfortunate enough to contract COVID-19 and the likelihood of recovery
7. Please provide evidence that Ivermectin and Hydroxychloroquine are all ineffective and that the vaccine is the only option that will succeed against the virus
8. Please provide evidence that the vaccine will prevent the spread of COVID-19 or any variants
9. Please provide evidence that an unvaccinated individual presents a greater risk of spreading infection than a vaccinated individual
10. Please provide evidence that hospitalizations are lower in vaccinated populations than unvaccinated populations

With regards to the [employer]. policy that employees disclose their vaccine status, please note:

- **Your employer can only require you to provide information about your vaccination status in very limited circumstances.** ... This means that your employer cannot pressure or intimidate you to provide information about your vaccination status.
- **Once a person is hired and has started work**, an employer generally can only ask medical questions or require a medical exam if the employer needs medical documentation to support an employee's request for an accommodation or if the employer has reason to believe an employee would not be able to perform a job ...
- Please note that personal medical information is confidential personal information. **The confidentiality of the doctor/patient relationship and personal medical information is universally and legislatively recognized as one of the most significant privacy rights in modern Canadian society.**
- In Ontario The Occupational Health and Safety Act (OHSA) also provides in section 63(2), that **"no employer shall seek to gain access, except by an order of the court or other tribunal or in order to comply with another statute, to a health record concerning a worker without the worker's written consent."** Section 63(6) states that "[t]his section prevails despite anything to the contrary in the Personal Health Information Protection Act, 2004.

- Please note that PIPEDA came fully into force in 2004. PIPEDA provides privacy rights that apply to private sector organizations, protecting individuals in terms of the information that is collected, used or disclosed in the course of commercial transactions. **PIPEDA also applies in the employment context to federally regulated employees** (i.e. business that are engaged in federal works, undertakings and businesses). As British Columbia, Alberta, and Quebec have private sector privacy legislation that is deemed to be “substantially similar” to PIPEDA, PIPEDA does not apply in these jurisdictions. PIPEDA thus applies to the private sector in all other provinces and territories.
- In British Columbia, the public sector privacy legislation is the Freedom of Information and Protection of Privacy Act (FOIPPA). The Personal Information Protection Act (PIPA) applies to the private sector.

Based on the above legislation:

- Please provide under what authorization [employer] can request an employees vaccination status
- There may be valid medical reasons why a physician may advise an individual not to receive the COVID-19 vaccine. In the event that I make an informed refusal not to consent to your offer of vaccination nor to disclose my private medical information, please confirm in writing that it will not compromise my position and that I will not suffer prejudice and discrimination as a result
- Please assure me in writing that if the assumptions [employer] will make if an employee does not disclose personal medical information, this will not compromise an employee’s position and that an employee will not suffer prejudice and discrimination at work

Sincerely

Signed

Date