



British Columbia's H1N1 Pandemic Influenza Response Plan (2009)

Health Human Resources Guidelines for the H1N1 Pandemic Response - Summary

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1. PURPOSE

To provide information and clear guidance to B.C. health care providers in response to the immediate priorities of the current H1N1 pandemic, on the following five topics:

- Compensation and Perquisites.
- Employees Right to Refuse Unsafe Work and Collective Agreements.
- “Best Model” Legislative Provisions in the Context of a Pandemic.
- The Right of Health Care Workers to Refuse Vaccination and Vaccine Injury Compensation.
- Methods to Encourage Health Care Workers Influenza Immunization.

2. BACKGROUND

The *B.C. H1N1 Pandemic Influenza Response Plan 2009* is intended to provide BC’s health sector with updated and current plans and guidelines for the provincial response to the H1N1 pandemic. Guidelines have been updated from the 2005 *Pandemic Preparedness Plan* to focus on the immediate priorities and issues of the current H1N1 pandemic, a portion of which involves health human resources-specific policies. Five H1N1 specific guidelines have been developed to address key issues resulting from the current pandemic.

The five provincial guidelines were extracted from a series of Federal/Provincial/Territorial Common Briefing Notes prepared by the Assistant Deputy Ministers of Health Human Resources, for approval by the federal Deputy Ministers’ group as part of a process that occurred over the spring and summer of 2009, to help ensure general understanding of the various approaches and to encourage alignment between the provinces.

3. PROCESS

These guidelines were prepared by the Health Employers Association of BC in consultation with the following groups:

- Human Resources Advisory Group on September 23, 2009.
- Representatives from WorkSafeBC, the Occupational Health & Safety Agency for Healthcare in BC (OHSAH), and representatives from B.C.’s health care unions on September 30 and November 4, 2009. The unions include:
 - British Columbia Government and Service Employees’ Union (BCGEU);
 - BC Nurses’ Union (BCNU);
 - Health Sciences Association of British Columbia (HSABC);
 - Hospital Employees’ Union (HEU); and
 - United Food and Commercial Workers Union Local 1518 (UFCW).
- Occupational Health & Safety Directors and HR Directors from the six provincial health authorities and select affiliates on October 1 and October 29, 2009.

- Representatives from the Ministry of Healthy Living and Sport on October 29 and November 4, 2009.

In addition, representatives from the Ministry of Health Services (MoHS) reviewed each B.C. submission and Public Affairs Bureau approved three guidelines on October 29, 2009. These three guidelines included:

- Compensation and Perquisites.

- Employees Right to Refuse Unsafe Work and Collective Agreements.
- “Best Model” Legislative Provisions in the Context of a Pandemic.

The other two guidelines—The Right of Health Care Workers to Refuse Vaccination and Vaccine Injury Compensation and Methods to Encourage Health Care Workers Influenza Immunization—were submitted later.

4. GUIDELINES

4.1 H1N1 Influenza: Compensation and Perquisites

This guideline seeks to establish a common policy approach for compensation and perquisites, not the exact differences between wage rates and perquisites. In the event of a pandemic, staff will become ill, which will necessitate other staff working increased hours, as well as resulting in staff shortages. Experience with other crises suggests employers may consider offering increased compensation and /or perquisites in an effort to attract sufficient staff to adequately meet an increased demand for health care services. Differing compensation and /or perquisite practices may pose considerable issues for local employment markets as well as federal, provincial and territorial regions.

This guideline applies only to Health Care Employees who are unionized, union-equivalent

and excluded management and establishes a common approach on compensation and perquisites in the areas of wages, benefits, incentives and operational staffing requirements. This guideline recommends the following:

- Unionized staff are governed by the terms of their collective agreements, and there should be no premiums or additional pay/perquisites.
- Non-Union (Union Equivalent) should be compensated as per employer-specific Terms and Conditions of employment and *Employment Standards Act* with no premiums or additional pay and perquisites.
- Excluded management staff should be compensated as described in organization-specific Terms and Conditions of employment with no incentives.

4.2 Employees’ Right to Refuse (Unsafe) Work and Collective Agreements

This guideline provides information and guidance on the rights of employers and health care workers under B.C. collective agreements and the *Workers Compensation Act*. British Columbia has occupational health and safety laws and regulations aimed at preventing accidents and the occurrence of occupational diseases among workers.

No superior language exists within B.C.’s health sector collective agreements, and the provisions that do exist are comparable or complementary to the *Workers Compensation Act*.

4.3 “Best Model” Legislative Provisions in the Context of a Pandemic

In B.C.’s new *Public Health Act*, health officers are able to require compliance with preventative measures, including vaccination or taking preventative medication. Although there are various avenues for employees to take if they refuse vaccination, the language of the *Public Health Act* and the collective agreements are sufficient to deal with the matter of immunization of health care workers.

The purpose of this guideline is to implement the “best model” when dealing with a pandemic influenza, and it attempts to eliminate the number of circumstances in which there is a refusal to work for safety reasons. The “best model” is based on workplace solutions and avoids the need for new legislation.

The following are fundamental elements of the model:

- Educate health care employees, their families, patients/residents and the public.
- Create partnerships with unions, OHSAH and WorkSafeBC.
- Strengthen workplace safety committees and develop policies to respond to staff who are ill.
- Ensure a safe workplace.
- Establish internal and efficient processes for investigating and resolving work refusal issues.
- Provide clarity on how to staff during a pandemic influenza.

4.4 H1N1 Influenza: The Right of Health Care Workers to Refuse Vaccination and Vaccine Injury Compensation

This guideline provides an overview of the current legal framework in B.C. governing health care workers’ right to refuse vaccination, as well as the existence of any vaccine injury compensation schemes. In B. C., the legal framework governing the immunization of health care workers is influenced by the collective agreements, which outline that the employer has the right to require vaccination or immunization. This right is not inconsistent with the *Workers Compensation Act* and Occupational Health and Safety Regulation, requiring employers to develop, establish and put into effect measures and procedures for the health and safety of workers.

The employer has the right to require employees, in the event of an outbreak, to have either been immunized or be taking antiviral

medication (employee choice subject to proof of medical contra-indication) if they wish to continue to work. If employees have not been immunized, choose not to or are unable to take antiviral medication, they can be excluded from work without pay in the event of an influenza outbreak. Such a policy has been upheld at arbitration.

On the matter of vaccine injury compensation, while the use of a no-fault vaccine compensation scheme is noted by medical experts as both a feasible and cost-effective means of maintaining public confidence in inoculations, while providing for the rare individual who has been harmed by vaccines, no vaccine injury compensation scheme currently exists in B.C.

4.5 Methods to Encourage Health Care Workers Influenza Immunization

This guideline examines opportunities and recommends non-legislative strategies to encourage influenza vaccination of health care workers. A literature review of published articles in peer-reviewed journals from 2003 to 2009 was conducted to identify reasons health care workers give for and against vaccination as well as strategies for improving vaccination rates.

A key strategy to increase vaccination rates in health care is through a social marketing campaign that encompasses key messages to

address the barriers health care workers identify for not receiving influenza vaccination. Other strategies include focusing on education, identifying flu champions, and ensuring accessibility to and convenience of the vaccination. In addition, partnerships with the MoHS, OHSAH and WorkSafeBC, as well as collaboration between HEABC, health authorities and the unions are essential in the provincial planning for the immunization of health care workers and are key elements for a successful immunization campaign strategy.