



QUESTIONS & ANSWERS FROM VACCINATION PASSPORT WEBINAR (July 27, 2021)

MEDICAL

- 1) What are the recommendations for allowing a member back into the club should they have any symptoms but they are double vaccinated. Let's say they have a cold or flu but they are double vaccinated. 14 days before they get to come back? *Regardless of being fully vaccinated, it is our opinion you follow the guidelines in the Covid-19 Declaration: The individual has not, nor has anyone in the individual's household, experienced any signs or symptoms of COVID-19 in the last 14 days (including fever, new or worsening cough, fatigue, chills and body aches, respiratory illness, difficulty breathing, nausea, vomiting or diarrhea, pink eye, or loss of taste or smell). If the individual experiences, or if anyone in the individual's household experiences, any signs or symptoms of COVID-19 after submitting this Declaration of Compliance, the individual will immediately isolate, notify the Organization, and not attend any of the Organization's facilities, activities, programs or services until at least 14 days have passed since those symptoms were last experienced.*
- 2) US CDC states "A growing body of evidence indicates that people fully vaccinated with an mRNA vaccine (Pfizer-BioNTech or Moderna) are less likely than unvaccinated persons to acquire SARS-CoV-2 or to transmit it to others. However, the risk for SARS-CoV-2 breakthrough infection in fully vaccinated people cannot be completely eliminated as long as there is continued community transmission of the virus." Note that they do not refer to AZ because they do not use it there. <https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/fully-vaccinated-people.html>.
- 3) There was a research paper done by the Associate Director of Clinical Microbiology at U MD in the US about exposure at US Club Nationals. "Estimating the Burden of COVID-19 Symptoms Among Participants at the 2020 USA Curling Club Nationals Tournament"
<https://www.medrxiv.org/content/10.1101/2020.10.08.20209437v1>
- 4)
 - a. Whilst I recognize that this is a legal discussion, medically the Covid vaccine does not prevent the spread of the virus only the severity of the symptoms of it, if you are to become infected. As someone mentioned earlier the vaccine is to protect the individual.



- b. The vaccine does diminish the severity but it also reduces significantly the possibility of transmitting the virus.
 - c. Sorry but I think that's incorrect. Virus shed rates are still being evaluated. There is no certainly that the vaccines do or don't affect these rates.
- 5) If some are double vaccinated and not wearing masks etc. while others are present that are not vaccinated, what is the risk to the vaccinated players?

LEGAL

- 1) I would like to know whether we will be able to require vaccination of members and guests only in a period of high cases/emergency measures, or if we'll be allowed to make that a requirement outright for the whole season.
[Private businesses may choose to require participants/guests to be vaccinated – for parts of a season or during the entire season. But this requirement would be accompanied by a host of legal, ethical, and practical problems for the business. Advice of a lawyer would be strongly recommended.](#)
- 2) Can we make proof of Covid-19 vaccination a condition of membership or entry into the club for non-member events unless the individual provides proof of a medical exemption?
[Yes – but this requirement will be accompanied by a host of legal, ethical, and practical problems for the club. Generally, the club would need to demonstrate why the requirement is necessary and proportionate to achieve an intended purpose.](#)
- 3) Can you provide an opinion of having the following question as part of our registration process? In an effort to determine the vaccination rate amongst our members, please select the appropriate answer below:
- a. I have been or will be fully vaccinated for COVID-19 by October 1, 2021.
 - b. I have a medical exemption from getting vaccinated for COVID-19.
 - c. I do not intend to get vaccinated for COVID-19.
 - d. I would rather keep my COVID-19 vaccination status private
- [This question should only be asked if the result is collected anonymously. Clubs should not ask for medical information during the registration process.](#)



- 4) Can a curling club mandate that curlers have two shots before then are allowed into the facilities? As a private club, can we set a policy of proof of vaccination is required for membership?

Yes – but this requirement will be accompanied by a host of legal, ethical, and practical problems for the club. At the very least, the club would need to demonstrate why the requirement is necessary and proportionate to achieve an intended purpose.

- 5) What are the legal implications of having members self-declare that they are fully vaccinated vs requiring a vaccination passport? If we rely on self-declaration, is it sufficient to have a box to check in our registration platform whereby the person confirms that they have received two Covid shots or do we require an actual signature?

The legal implications of required vaccine passports, in any form, are not yet known. Signatures are preferable to checked boxes – especially if the self-declaration is being collected in-person.

- 6) Our facility is available for rent for non-curling related activities. What are the liability issues if we have a requirement that for curling, all members must be fully vaccinated, but for outside rentals, it is their choice if they wish to restrict their participants?

Your club should ensure that you clean the facility after it has been used by other groups. You should do this regardless of whether other groups require attendees to be vaccinated.

- 7) As a volunteer-run non-profit organization which is generally open only to members and invited guests, can we restrict entrance to people who cannot prove they are vaccinated?

Yes – but this restriction will be accompanied by a host of legal, ethical, and practical problems for the club, especially in the case of those who are unable to get vaccinated to due grounds protected under human rights legislation (ex. disability/medical reason, or religion).

- 8) What is the extent of liability related to privacy issues and to a human rights issue?

This will depend on applicable provincial/territorial legislation. Please consult a lawyer directly.



- 9) If we allow members to self-disclose their vaccination status and then reduce rules for them, what happens if someone false declares and then we have an outbreak? can we be held liable for not doing our due diligence to ensure the information is accurate?

There is a lot to unpack with this question! You'll have to balance the obligations for protecting health and safety with the privacy concerns associated with individuals disclosing their vaccination status. It is a difficult balance because the less intrusive ways to gather information (ex. self-reporting) will be less of a privacy concern, but it also means the information received is potentially inaccurate and less reliable. On the other hand, the more evidence you require to ensure the information is accurate, the greater the privacy concerns.

The Canadian Centre for Occupational Health & Safety defines due diligence as: *"the level of judgement, care, prudence, determination, and activity that a person would reasonably be expected to do under particular circumstances."*

Applied in this context, due diligence could be ensuring that the policies, practices, and procedures you have in place to reduce the spread of COVID-19 transmission are reasonable and executed in a good faith effort to ensure that people are reasonably safe while on your premises and/or engaging in organization-related activities. How you choose to implement safety measures will depend on the level of risk posed in the specific circumstance.

As well, consider attempting to exclude or limit such potential liability from false reporting through the use of waivers, posted signage, etc.

- 10) Are members/participants responsible for their actions? If they don't get vaccinated and willingly spread the virus and ultimately cause an outbreak, could a club sue a member for their actions? Are they responsible?

A finding of liability is a determination that must be made on a case-by-case basis based on all the circumstances in any given situation.

Consider the legal relationship the organization has with its members / participants. Members/participants who are subject to the rules, policies, and procedures of the organization will generally be required to follow the rules set by the organization. The organization should ensure it communicates to



members/participants the risks posed by the pandemic, the expectations of members/participants in preventing against the spread of Covid-19, and the potential consequences for failing to meet the expectations set by the organization. The organization could have members/participants acknowledge and agree to abide by organization rules and protocol on Covid-19.

In considering the actions of any member/participant, a court of law would likely consider how effectively the organization communicated its expectations to members/participants. Were members/participants made aware of their responsibilities, and did they voluntarily assume those responsibilities while knowing the potential consequences for not following the rules?

- 11) Is it acceptable to have a policy requiring those who qualify for vaccination to be fully vaccinated in order to curl, without ever asking for individual proof / certification?

You may choose to require participants/guests to be vaccinated – for parts of a season or during the entire season. But this requirement would be accompanied by a host of legal, ethical, and practical problems for the business. Advice of a lawyer would be strongly recommended.

- 12) If we do a voluntary disclosure of vaccination, are we liable if they are dishonest in their disclosure.

Please see the responses in questions 10 and 11, which address this question.

- 13) If someone claims a medical (religious) exemption from the vaccine, how do you go about asking for proof of having that medical (or religious) exemption; can that be done?

Technically, the vaccine is not currently mandated by the government, so getting vaccinated is voluntary. As such, a person would not have to request to be exempt from receiving the vaccine, unless the club/organization has made this a requirement for participation.

Medical information and/or religious beliefs are private personal information and must be treated as such. You may request proof of vaccination if you have a legitimate reason for doing so and are able to demonstrate that requiring the information is reasonably necessary for maintaining the health and safety of your environment. You would likely have to make clear the reasons why proof of vaccination is needed in the circumstances.



As well, you should only request and use such personal information in a way that intrudes as little as possible on a person's privacy and does not go beyond what is necessary to ensure health and safety.

In the case of an employee, as an employer you should take requests for accommodation in good faith; consider not overburdening individuals (or the health care system) by requiring medical notes. Unnecessarily visiting medical offices to obtain such information also increases risk of exposure for everyone.

- 14) If the club chooses to follow the Covid rules issued by the provincial authority, can we assume that we remove the risk associated to the club?

Public health and safety measures ordered by public health authorities, the provinces and/or federal government must be followed and there may be consequences for not doing so.

There is always some level of risk but staying up to date on current best practices is advisable.

Some provinces have passed legislation that will provide liability protection to some workers, businesses and non-profits against COVID-19 exposure-related lawsuits in cases where an "honest effort" to follow public health guidelines is made (but not against those who willfully, or through "gross negligence", endanger others).

- 15) If we start with asking for proof of double (or fully) vaccination for Covid, where do we start? what do we do with our communicable diseases? influenzas? measles, mumps? etc.

You may request proof of vaccination if you have a legitimate reason for doing so and are able to demonstrate that requiring the information is necessary for maintaining the health and safety of your environment.

One could argue that the flu, measles, etc. pose a lower risk to the public than Covid-19, so there are legitimate reasons for taking a different approach to prevent exposure against different types of harm disease.

The measures taken to ensure health and safety must always be proportionate to the risk posed.



- 16) We are told the reason we get the vaccination is to protect ourselves, if this is truly the case, could the argument be made that members have already taken steps to protect themselves?

It has been suggested that vaccination protects oneself and others, especially more vulnerable segments of the population, such as those who cannot receive the vaccination for medical reasons but who are still at risk of exposure to the virus. Steps that members take to protect themselves does not absolve a club from their obligations to protect those members as well.

- 17) Is the request from unvaccinated participants to supply a valid PCR test prior to attending the club each time, a legal issue?

Yes. Generally, people have a right to privacy, so any private personal information (ex. their medical information) that you require someone to disclose and/or requiring them to do a medical test will give rise to legal considerations. That does not mean you cannot do so; you may have a legitimate reason for requiring it; but their right to privacy will have to be considered, among other considerations.

- 18) Where does occupational health and safety come in?

Labour laws, including occupational health and safety laws, fall largely under the jurisdiction of Canada's provinces and territories. The federal Labour Program regulates the occupational health and safety for workplaces designated under federal jurisdiction. Generally speaking, both provincial and federal employers are required under applicable occupational health and safety legislation take every precaution reasonable in the circumstances for the protection of a worker. There is currently no legislation that specifically addresses the steps employers must take to meet this duty in the context of the COVID-19 pandemic. What might be considered "reasonable" will depend on the environment and circumstances of each workplace.

- 19) What are the implications of saying to our members "we are going back to curling as normal" but we will follow all public health and government protocols and guidelines. Does that create risk for the club and for the directors?

Without getting into a battle of semantics, "normal" can be subjective. Some might understand that there's an interest in returning to some form of normalcy, but with modifications to respect the pandemic. Others might argue that you can't effectively return to "normal" because the landscape has changed. It's likely best



to be clear in communications as to what you mean and what the rules and expectations are.

- 20) If there are visitors to our curling club from other jurisdictions (say US curlers visiting Canada), is there risk that any human rights issue is handled in a US legal jurisdiction?

Legal matters must be decided on a case-by-case basis but, simply put, a foreign court would likely not be the appropriate jurisdiction to decide the matter where the alleged human rights violation occurred in Canada.

- 21) Practically speaking, do we have knowledge of religions which prevent individuals to receive vaccination?

Hard to say, especially given the different denominations of Christianity alone! This isn't really a legal question.

- 22) Does Directors and Officers insurance respond in human rights issues? Is it dependent on the wording of each policy?

Look to the insurance policy and the coverage that is provided. Speak to your insurance provider to confirm what scenarios would or would not be covered under the policy.

- 23) How can we accommodate those who cannot be vaccinated due to valid medical reasons, recognizing their risk factor may be high in an indoor environment of unmasked curlers?

Explore whether accommodation is possible. You have a duty to accommodate, unless it would amount to undue hardship based on cost or health and safety. Have a conversation with the individual requesting to be accommodated about how to go about accommodating them. Possible accommodations could include requiring the wearing of masks or other PPE and additional distancing measures. Implementing alternative ways for a person to continue to participate should be a shared and compromised approach.

- 24) Can we ask that they identify that they are claiming this exemption (without asking for the medical reason)?

Yes. Generally, the duty to accommodate is triggered when you know of the person's need for accommodation (and this can best happen when they themselves make you aware of the need for accommodation).



WAIVERS

- 1) I would like to know if it still considered necessary to have our members and any others using the club to sign a COVID Declaration as well as the Liability Waiver form?

We strongly recommend the inclusion of COVID-19 references in the Liability Waiver and having members sign this form should become your new standard. The COVID-19 declaration form should also still be signed by now – but this can likely soon be replaced by signage and contact tracing (rather than signing the form directly).

- 2) Where do my rights as a vaccinated person to protect my health end, and the rights of a non-vaccinated person begin when it comes to participation in recreational activities? Can we effectively use the Declarations and Waivers as a way to achieve the greatest degree of safety without specifically requiring disclosure of vaccination status?

Neither of those are “rights”, so to speak. Instead, we should see this as a “balancing of interests”. Yes, clubs can use declarations and waivers instead of disclosing vaccination status.

- 3) BC had a sample Illness policy, basically a “stay home if sick”.

This covered under the Covid-19 declaration: *The individual has not, nor has anyone in the individual’s household, experienced any signs or symptoms of COVID-19 in the last 14 days (including fever, new or worsening cough, fatigue, chills and body aches, respiratory illness, difficulty breathing, nausea, vomiting or diarrhea, pink eye, or loss of taste or smell). If the individual experiences, or if anyone in the individual’s household experiences, any signs or symptoms of COVID-19 after submitting this Declaration of Compliance, the individual will immediately isolate, notify the Organization, and not attend any of the Organization’s facilities, activities, programs or services until at least 14 days have passed since those symptoms were last experienced.*

- 4) Could you provide sample wording for the questions/forms/declarations when you send out the presentation?

The waivers are attached to the Return To Play Guidelines (2021)

<https://www.curling.ca/files/2021/08/Returning-To-Play-2021-Canada.pdf>



- 5) Should we have a different waiver for non-vaccinated members asking them to assume the extra risk to their health ? Thus, reducing the liability attached to a non-vaccinated person becoming infected?

You will want to ensure your approach does not result in unfairly discriminating against unvaccinated persons, especially as those individuals may have a legitimate reason for not being vaccinated. One waiver should be sufficient to address all persons who assume the risk of participating in the sport; context matters, and the extent of liability in a court of law would be assessed on a case-by-case basis considering all the circumstances.

- 6) Would the compromise be a club adopting an illness policy? Purpose to encourage those to stay home if sick.

This covered under the Covid-19 declaration: *The individual has not, nor has anyone in the individual's household, experienced any signs or symptoms of COVID-19 in the last 14 days (including fever, new or worsening cough, fatigue, chills and body aches, respiratory illness, difficulty breathing, nausea, vomiting or diarrhea, pink eye, or loss of taste or smell). If the individual experiences, or if anyone in the individual's household experiences, any signs or symptoms of COVID-19 after submitting this Declaration of Compliance, the individual will immediately isolate, notify the Organization, and not attend any of the Organization's facilities, activities, programs or services until at least 14 days have passed since those symptoms were last experienced.*

- 7) Sera-t-il nécessaire de faire signer à nouveau la déclaration de non responsabilité que nous avons fait signer la saison dernière?

We strongly recommend the inclusion of COVID-19 references in the Liability Waiver and having members sign this form should become your new standard. The COVID-19 declaration form should also still be signed by now – but this can likely soon be replaced by signage and contact tracing (rather than signing the form directly).

- 8) How long must we must keep signed waivers and declaration forms?

Signed waivers should be kept for at least two years – or longer if the organization believes there might be an issue. Declaration forms should be kept for 30 days.

OPINION

- 1) One question I have is whether the opinion of the Sports lawyer would be different for private vs public curling clubs and what impact (if any) would the



announcement yesterday that Sheridan College in Ontario will be requiring all faculty, students and staff to have double doses of an approved vaccine prior to participating in in-class learning would have on the opinion.

There may be differences depending on the nature of the club. Nothing about vaccine requirements has yet been tested in court. Sheridan College may find themselves on the wrong side of history and/or open to serious legal challenges in the near future.

- 2) Can we insist on double vaccination for all members? If not, can we run double vaccinated leagues only?

Yes – but this requirement will be accompanied by a host of legal, ethical, and practical problems for the club. Consider: does the club want to actively engage in segregating its members based on their medical history? Please consult a lawyer prior to engaging such a rule.

- 3) Can clubs insist that staff be vaccinated? How should this information be collected and stored?

Yes – but this requirement will be accompanied by a host of legal, ethical, and practical problems for the club. The club must be able to justify its decision and consider accommodation. The information must be stored confidentiality.

- 4) Can clubs insist that members show proof of vaccination in order to participate? For what ages? Same question for guests for one-day curling events, rental leagues, multi-day events, non-curling activities, etc.

Yes – but this requirement will be accompanied by a host of legal, ethical, and practical problems for the club. Clubs that feel strongly about mandating vaccination should consult a lawyer to determine how to decrease the club's risk.

- 5) If we are required to allow only double vaccinated participants/people into our club, I would like to hear suggestions on how to control/collect this information from all the various participants that enter a curling club. There is a wide variety of people in the curling club on a daily basis. Ex. Membership, viewers, parents, bonspiels, rentals.

It is unlikely you will be “required” to only allow double vaccinated participants/people into your club because of human rights, privacy or health information laws. If a vaccine passport begins to become mandatory in provinces or territories (or nationally) this requirement would likely be accompanied by a collection/control mechanism. But we do not know what that might look like at this



time.

As well, there are various methods that could be used for retrieving proof of vaccination, some with less risk to violating one's right to privacy than others. Depending on the method used, the club would have to weigh the risks of receiving inaccurate information against the greater exposure to liability with more intrusive but reliable methods. The club would also have to consider ways to limit any personal information that is collected and retained.

- 6) Is the law different from province to province regarding vaccine requirements or what we can't require? If so, can the presenter go through the differences for each province?

The "law" has not been settled in this area in any province. For example, government authorities across Canada have provided inconsistent messaging on whether businesses, generally, can require proof of vaccination as a condition of entry. The Manitoba Health Minister stated that businesses "should not be requesting proof of immunization for any purpose"; whereas the Ontario Health Minister acknowledged that providing proof of vaccination may be an important part of safely reopening spaces where social distancing is impossible or undesirable. There is certainly no clear or straightforward answer. As well, each province will have their own human rights, workplace safety, and privacy legislation to consider.

- 7) From a practical standpoint, how can you have two levels of protocols in place. 8 people on a sheet of ice. 6 provide proof of vaccine, 2 don't. The larger list of protocols would have to be implemented for all 8 on the sheet. Is this not correct? (Privacy issue as well?)

Simplest option would be to extend the stricter rules to all 8 players. It doesn't appear fair we agree but it is the option with the least resistance.

- 8) Can you explain what you mean by saying: if they disclose, reduced protocol could apply?

If you ask whether they are fully vaccinated, or not fully vaccinated, or they won't disclose, you have an option of creating reduced guidelines for those fully vaccinated. If they haven't been vaccinated or refuse to disclose, they can be subject to stricter rules.



- 9) Practically, how does a club manage voluntary disclosure? Say Bob refuses to disclose vaccination status to our manager (designated person to manage this info). But then he doesn't bother to follow protocols because so many members are vaccinated and exempt. But only our manager knows who is vaccinated or not and she isn't at the club when Bob is. Really just seems to be an honour system.

My opinion (Danny Lamoureux) is we keep track of who hasn't paid their membership fee on time and we chase them for the money. Is this not the same thing? Contact tracing will still be place as you will have rosters for each league. Cross-check to see who has been fully vaccinated or who has not. Then you can ask the question?

- 10) What if a few members do not disclose their vaccination status; can you still decrease the number of protocols?

We believe you can, but it may be risky to the fully vaccinated membership in terms of their comfort level.

- 11) For voluntary disclosure of vaccination status, do you mean you can lift protocols for individual players, or should the entire group of players disclose before lifting restrictions?

Tough call. We would recommend keeping stricter guidelines for all eight people per sheet. Dealing with opposite groups (fully vaccinated vs non-vaccinated) can be messy for club administrators.

- 12) What about precedent from other organizations. Blue Bombers will only allow fully vaccinated fans to attend live games, thus curling clubs could have the same requirement?

It will be fascinating and interesting to see how it plays out in other industries.

- 13) Alberta Health Services has removed all restrictions around COVID including mask mandates and gathering sizes both indoors and outdoors. How does this effect our club regulations and protocols?

Contact your local authority to ensure your regulations & protocols meet their requirements.

- 14) Please review our approach to under 12-year-old youth. Currently a vaccine is not available for those under the age of 12. What is Curling Canada's recommendation for handling U-12 curlers?

Standard Covid-19 safety protocols should be implemented for U-12 curlers.



- 15) Would a safe protocol be to mandate masks during play but masks can be lowered in order to throw?
If you can follow the traffic guidelines from last season, you could eliminate mask wearing for all players except the two players in the house / rings.
- 16) Is it your opinion that we should not ask for double vaccination proof and just use the safety protocol that clubs used last season?
That is a good option. The one downside would be the safety concerns of the fully vaccinated players.
- 17) If a Provincial Medical Officer puts an Order in place that all participants must be vaccinated, will this over most of the legal ramifications?
Yes! Ideally a governing body with jurisdiction will tell us what we have to do.
- 18) Could we ask about mandatory attestation (evidence) of vaccination versus mandatory proof of vaccination?
Not sure what the difference is between the two?
- 19) By relying on the alternative option; re: Covid protocols with a reduction in protocols with proof of vaccination. Would this only be applicable if all members provide proof of vaccine? If a small group of members refuse to provide proof of vaccine, then the extended protocols would apply to all?
That may be the safest alternative.
- 20) Can we insist on double vaccinations for outside club participation in bonspiels?
You must take every precaution reasonable in the circumstances to protect individuals within your care against the risks posed by the Covid-19 virus. This approach may be different depending on the nature of the specific geographic environment, individuals involved, and other factors. If the requirement is double vaccinations, you should be able to justify why that requirement is necessary for maintaining the health and safety of your environment, and how it is proportionate to the risk posed.
- 21) Can we have vaccinated curling nights and non-vaccinated curling nights?
Because Canada's vaccination numbers are high, we don't think this is a practical option.



- 22) We have been hearing that most members at our club would feel much safer if knowing that we do require vaccination to allow other players to interact with them on the ice . If one has health issues preventing to get a vaccine, should they be out there playing curling with other people putting them at risk? that sounds like undue burden on the vast majority of members.

Yes – but this restriction will be accompanied by a host of legal, ethical, and practical problems for the club, especially in the case of those who are unable to get vaccinated to due grounds protected under human rights legislation (medical reason, or religion).

- 23) If we get to the point when we no longer require masks for fully vaccinated individuals, should non-vaccinated members still wear a mask except when sitting at a table having a drink?

The issue is the singling out non-vaccinated members which may cause issues.

- 24) Under the requirement to treat all equally, if you don't require proof of vaccination for a different sport at your facility (i.e. golf), can you mandate it for curling as it is indoors?

You could as rules for indoor versus outdoor differ in many jurisdictions.

- 25) Is obliging all other members to play at extra risk to their health really a reasonable accommodation even with mask and all other limitations ?

The question is a bit unclear; you cannot force members to play and it's not clear how doing so would be considered an accommodation?

- 26) I am trying to draw a parallel of prohibiting non-vaccinated in a curling club, to smokers in a restaurant given non-smoking rules. Can you discuss this?

The banning of smoking indoors were laws or bylaws instituted by local authorities. In our case, many local authorities aren't willing to mandate vaccinations to allow access.

- 27) What if they just are afraid of a vaccination?

In the case of those who are unable to get vaccinated to due grounds protected under human rights legislation (medical reason or religion). Afraid of being vaccinated is not a legitimate reason to not be vaccinated.



- 28) The Canadian Charter does not give individuals absolute rights and allows for exceptions for health. During a pandemic, is not the health and safety of everyone more important than the rights of those not vaccinated to play with those vaccinated?

The measures taken to ensure health and safety must always be proportionate to the risk posed. There may be a strong argument to be made that the pandemic poses serious risk to public health safety that more onerous measures to protect against the transmission of the virus are reasonable in the circumstances. But, measures taken to protect health and safety must be weighed against a person's right to privacy and human rights, among other considerations.

Some individuals who are not vaccinated have legitimate reasons for not being vaccinated. For example, they may have a pre-existing disability which exposes them to harm if they receive the vaccine. Disadvantaging individuals for reasons based on grounds protected under human rights legislation could constitute discrimination. The club would owe a duty to accommodate some unvaccinated individuals unless doing so would result in undue hardship.

As a point of clarification, while provincial human rights legislation would apply, the Charter itself may not apply in this context, as it primarily is intended to protect against government action.

- 29) If the majority of our members would like to have everyone fully vaccinated, is this sufficient to then implement this measure?

No. The organization should make decisions in the best interests of the organization as a whole, and it is advisable that such decisions are justifiable as being necessary and proportionate to achieve an intended purpose.

POLICY

- 1) Will the contact tracing still be required in stage 3 or higher? Are we still required to do contact tracing?

It may differ from region to region, but in our opinion, contact tracing in curling clubs is not that difficult as we keep track of our league participants very well as it is. It may be a bit onerous for drop-in leagues, but a simple sign-up sheet with phone number will suffice.



- 2) How do we police the implementation of protocols for those people who must still (follow protocols) because they have chosen not to disclose?

Implement whichever protocols you consider to be reasonably necessary to maintain health and safety in your environment; your approach should be evidence-based and take into consideration the nature of your environment, how people can safely interact, the risk posed by the virus in your particular region and follow current best practices and advice from public health authorities.

- 3) How would this apply to Junior Curlers? i.e. minors.

Curlers under the age of majority but older than 12 should be treated as your older members with the parents or guardians provided all critical information. Those curlers under the age of 12 should be treated with the full Covid-19 safety protocols.

OTHERS?

- 1) Will the provincial curling authorities be offering guidance to their curling clubs that consider the provincial situations?

As far as we know, provincial / territorial associations will inquire of their guiding jurisdictions.

- 2) Assuming our club chooses a path to allow non-vaccinated players to play because we hope to create a safe environment, how do we reply to a vaccinated member who feels that the club's ability to create a safe environment isn't sufficient?

Can the club foster an environment in which vaccinated and unvaccinated persons can participate safely? You must be able to justify that you've taken all reasonable precautions for the safety of players. In doing so, you have the right to make and enforce reasonable health and safety rules and to take measures to respond to those who, for non-human rights related reasons, fail or refuse to comply. Communicating this to your members may help them understand what the club's expectations are and why.

- 3) Would it be beneficial to survey the membership on what they feel is safe to return? Last year we say 1/3 of our membership not return.

Yes, by all means survey your members. Ask them questions.



- 4) How about different rules for golfing inside (simulators) and curling?
They are both indoors. The rules should be the same.

- 5) Will our provincial sport body have to work with provincial health authorities to confirm the process we will need to follow? RE: asking double vaccines, or alternate play rules.
Yes, we all need to adhere to guidelines established by the authorities with jurisdiction. But there are many authorities. We would suggest you reach out to the health authority for your own plans (if restrictions are in place).

- 6) We may lose some members if not all members are required to be fully vaccinated. Is that reason enough to require members to be fully vaccinated?
Maybe – but this may be accompanied by a host of legal, ethical, and practical problems for the club. Generally, the club would need to demonstrate why the requirement is necessary and proportionate to achieve an intended purpose.

- 7) The club is hosting a golf tournament for members prior to the start of the curling season. Can we use one set of rules for that and then have other rules for curling?
You should contact the golf course about their waivers (if any) and their Covid-19 guidelines. Then notify your golfers. If you are returning to the curling club for a banquet / prizes, then you will need to make aware of your club's guidelines to the participants.

- 8) For your information:
<https://health-infobase.canada.ca/covid-19/vaccine-administration/>