

Vaccinations Policies, the Workplace and the Law

Speaking in the session "OHS Law, Vaccinations and the Workplace: What Employers Need to Know" at the recent Partners in Prevention 2021 Virtual Conference and Trade Show, Norm explained how Ontario's legislative framework may support employers who ask for proof of vaccination, and outlined five essential elements to make a policy "fair, respectful and reasonable," regardless of the approach taken.

This full [article is on the WSPS Website](#).

Under the OHSA employers in Ontario have "tremendously high legal obligations to keep workers and third parties that interact with our employees safe," said Norm. Of particular relevance is the general duty clause 25(2)(h), which requires employers to take every precaution reasonable in the circumstances for the protection of workers.

"What happens if employers neglect to take any kind of action to ensure employees are vaccinated before they come back to work?"

Norm highly recommends putting a COVID-19 vaccine safety policy in place, whether or not the workplace decides to require proof of vaccination.

Here are five possible considerations for your policy

1. Explain the purpose of the policy and provide authoritative information on the virus and authorized vaccines, and the vaccination process.
2. Discuss the OHSA, the general duty clause, and Ontario's Internal Responsibility System, which set out employer, supervisor and worker duties for keeping the workplace safe in the context of a pandemic.
3. Outline what proof of vaccination looks like. For example, do you want to visually see proof and record? Do you want to track the second dose?
4. Discuss exemptions under the Human Rights Code. The code protects workers with disabilities from discrimination. For example, the risk of an allergic reaction to the vaccine would be considered a medical disability. Another possibility is an exemption due to religious beliefs, says Norm. Employers are required to accommodate exempted workers, on an individual basis, to the point of undue hardship. "What accommodation looks like will vary depending on the **nature of the disability, the nature of the work, and the opportunities for alternative work,**" said Norm.
5. Address privacy issues. Concerns about the collection and use of personal data are growing.

If your workplace decides to require proof of vaccination, ensure the policy explains why. "Make the argument for why your policy makes sense and is designed for the safety and health of your employees, and third parties with contact with your workplace," said Norm.

This Months Tip: Keep up with Amendment Proposals.

The MLTSD is proposing to amend various requirements that apply to:

- Reg. 854 Mines and Mining Plants
- Reg. 213 & Reg. 420 - Improving Health and Safety Requirements relating to Tower Cranes
- Reg. 213 - Construction Projects to Modernize the Notice of Project Requirements
- Harmonization of Head Protection Requirements under the OHSA.

Should you be getting involved with these [amendment proposals?](#)

Think About it.

Safetyscope Upcoming courses

Working @ Heights Aug 13, 27
Sept 3, 17

W@H refresher Aug 6, 20
Sept 10, 26

Confined Space Entrant Course Aug 16 -17
|Sept13-14

DBC JHSC Refresher Sept 8
Distance Learning

First Aid Aug 3-4

Competent Supervisor Sept 27

Contact Us with your training needs training@safetyscope.net

The Essential Guide to Respiratory Protection

Levitt Safety has posted an guide called “Everything you need to know to plan and implement an effective Respiratory Protection Program”.

- The updated guide has new information, crisp imagery and a fresh, clean layout.

Highlights from this guide include sections on:

- How to create a respiratory protection program
- The different types of respirators and masks
- Respirator fit testing
- Best of all? It’s totally free!



Health and safety professionals use the CSA Z94.4 Standard to develop and maintain respiratory protection plans in the workplace. The Standard sets out the requirements for the selection, use and care of respirators. It also outlines the steps to create an effective respiratory protection program in the workplace.

What this guide will teach you: In this guide, they outline

- the suggested components of a respiratory protection program.
- strategies you can put in place to create a successful program.

Workers will learn how to properly select, use and care for respirators for protection from biological, chemical or infectious agents.

This material is designed for people who must wear or enforce the use of respiratory protection in the workplace. This may include workers, supervisors, respiratory protection program administrators and employers.

Are You Requiring COVID Shots at Your Workplace?

As Ontario inches toward its economic reopening and employers are recalling their workers, labour lawyers are warning that in some cases employees may need to be vaccinated to hold onto their jobs.

“Any employee working cheek-to-jowl with other employees could be ordered to be vaccinated,” employment lawyer Howard Levitt said Monday. “If they don’t, they could be fired.”

Levitt predicts that requiring employees who work alongside others to be fully immunized could be part of the province’s post-pandemic normal, given that employers are legally obligated to operate a safe workplace—and could face steep fines and other tough penalties if they don’t.

Training organizations entering workplaces are discovering that although they had protocols in place the workplaces were not doing as good a job.

- One organization stated that while training in a large training room it was discovered at the end of the training that of the 5 people in the room, one had not had any vaccination and was using public transport daily. The company policy was that if distanced by 6 ft. no one had to wear masks.
- Another training organization found that one of the participants in the training course had just gotten back from a trip and had not quarantined. A few days after that course the person tested positive and all participants and the training organization had to be test.

These employers were not “doing everything reasonable to protect workers (and others) in their workplace as required by Section 25 (2)(c).

Anyone not fully vaccinated should be required to wear masks at all times and ensure that protocols are strictly enforced. This is not the time to relax.

Occupational Illness Notification to the MLTSD

On July 1, 2021 O. Reg. 420/21 came into force. This regulation prescribes a single set of written reporting requirements for Occupational Health and Safety Act (OHSA) notices and reports that applies to all workplaces.



The Ministry of Labour, Training Skills Development indicates that the employer obligation to report under OHSA sections 51 to 53.1 has not changed on their information page, which was updated on July 8, 2021. on the link below.

www.ontario.ca/page/reporting-workplace-incidents-or-structural-hazards

What is still noticeable is that Occupational Illnesses are still to be reported to the MLTSD. Although has always been in OHSA S52 (2) employers have not been encouraged to do this in the past.

On this explanatory page, it emphasizes this requirement and provides a new email address to the MLTSD:

Give notice of an occupational illness

If you are advised that a worker (current or former) has an occupational illness, or that a claim for an occupational illness has been filed with the Workplace Safety and Insurance Board, you must notify, in writing, within 4 days of being advised:

- a director of the Ministry of Labour, Training and Skills Development
- your JHSC or H&S representative
- the union (if there is one)

Address the notice to, "Attention: Director" and then mail or fax the notice, to the Ministry of Labour, Training and Skills Development regional office closest to your workplace.

You can email your notice to MLTSDoccillness.notices@ontario.ca

No New MLTSD Workplace Compliance Initiatives

We are keeping an eye on the workplace compliance initiatives normally documented on www.ontario.ca/page/workplace-compliance-initiatives and at this time there are no initiatives mentioned.

It still states "In response to COVID-19, the Ministry of Labour, Training and Skills Development plans to adjust the current 2020-21 health and safety compliance initiative schedule. Further updates will be provided as necessary. "

2020—2021 Reports on past initiatives are online

- [healthy workers in healthy workplaces](#) (MSD & Respiratory hazards)
- [machine guarding](#) (lockout)
- [personal protective equipment](#) (H&S Awareness, Noise, Respirators)
- [tower cranes 2020](#)

In the Courts

Review the bulletin below and click on the link to know more if these hazards could occur in your workplace.



[July 28, 2021 Crush Injury - Coreslab Structures fined \\$90,000](#)

A worker attempted to operate a shear machine to cut rebar. The worker lifted a shield to hold the rebar in position. When the worker activated the shear machine a clamp closed, resulting in injuries.

Section 25 of the Industrial Establishment Regulation (Regulation 851) requires an in-running nip hazard or any part of a machine, device or thing, that may endanger the safety of any worker shall be equipped with and guarded by a guard or other device that prevents access to the pinch point. As such, the defendant failed to ensure that the measures and procedures prescribed by S 25 of the regulation were carried out in the workplace, contrary to S 25(1)(c) of the OHSA.

[July 14, 2021 Rock fall in Mine - Crush Injury - CGC Inc., fined 110,000](#)

While scaling the ledge, a small two-inch by three-foot piece of dolomitic limestone fell. As they did so, the ledge fell and ‘unravelling’ occurred, causing more of the ground and rock than expected to fall down and knock both workers to the floor, with one being pinned down and suffering serious injuries.

During the investigation by the MLTSD, a ministry engineer determined that the fall of ground was a gravity-driven failure caused by disturbance of the unsupported rock through the striking and prying of the rock with the scaling bars and the ground conditions were not adequately inspected at the workplace prior to work being commenced, and that the unsafe ground conditions on the site were therefore not identified or rectified by the workers.

CGC Inc. failed to ensure that the measures and procedures prescribed by section 66(1) of Regulation 854 were being carried out in the underground mine, contrary to S 25(1)(c) of the OHSA.

[July 09, 2021 Fatality R.M. Belanger Limited Fined 175,000 & 210,000](#)

A 120-foot long temporary modular bridge was assembled and installed to carry road traffic. Lowering the bridge was to be accomplished by using two bottle jacks on each corner. One jack would take the weight of the bridge while cribbing was removed from one side of each cribbing tower. A second jack would then take the weight while the first jack was removed and cribbing taken from the other side of the tower.

The worker who was not involved in moving or jacking was sitting on the concrete landing pad and was crushed by the frame of the bridge, suffering fatal injuries. Another worker suffered non-critical injuries as the bridge fell and moved to the side.

The company pleaded guilty of failing as an employer to take every precaution reasonable in the circumstances for the protection of a worker, contrary to section 25(2)(h) of the Occupational Health and Safety Act.

On February 26, 2021, the company was convicted under the same violation of the OHSA and fined \$210,000 when a worker was killed at a golf course near Sudbury. That worker was struck by a wooden telephone pole while it was being loaded with a forklift onto a trailer.

[June 28, 2021 Guarding Injury - DSI Underground Canada Ltd. Fined 70,000](#)

On the day of the incident, the worker proceeded to the cable room to begin production of bulging cables. During the bulging process, a steel cable became jammed in the guide tube. The steel cable swung back and struck the worker, who fell and was injured.

DSI failed as an employer to ensure that the measures and procedures prescribed by S 26 which states that “a machine shall be shielded or guarded so that the product, material being processed or waste stock will not endanger the safety of any worker.” were carried out at the workplace, contrary to S 25(1)(c) of the OHSA.

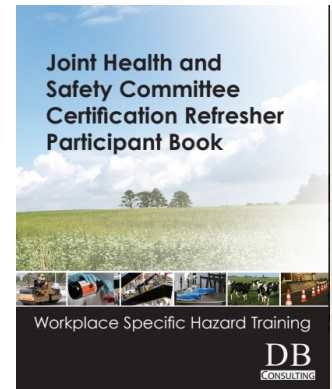
Joint Health and Safety Training (In Class and Distance Learning)

In general, your joint health and safety committee certification is valid for 3 years after the successful completion of an approved JHSC Part 2 training program.

You must successfully complete a refresher program within three years of the date of certification, or the date of successfully completing a refresher program, to keep your certification valid.

Safetyscope can help with:

- In Class sessions for JHSC Part 1, Part 2 and Refresher Training
- Distance Learning for JHSC Part 2 and Refresher Training
- Both In-Class and Distance Learning (Virtual) Training utilize Dwight Barratt Inc. MLTSD approved Joint Health and Safety Refresher training courses.



Contact us if we can be of assistance.

Safetyscope's Public Training Sessions

With our COVID-19 procedures in place, Safetyscope is now holding regular public training sessions in Working at Heights, Working at Heights Refresher and Confined Space Awareness.

If your organization requires any additional courses, please contact us with your training needs at training@safetyscope.net.

Safetyscope Continuing to Maintaining Registration as an OWWCO Training Provider

These courses meet the criteria in subsection 29(4) of O.Reg. 128, Certification of Drinking Water System Operators and Water Quality Analysts. On Completion of training all participants will receive a certificate of completion with corresponding CEU Value.

1. Working at Heights	.7 CEU
2. WHMIS 2015	.4 CEU
3. TDG	.4 CEU
4. Working in Confined Spaces Rescue Level	2.8 CEU
5. Confined Spaces Attendant Non Entry	1.3 CEU
6. Confined Spaces Advanced Entrant	.7 CEU
7. Confined Spaces Attendant Refresher	.7 CEU
8. Confined Spaces Rescue Refresher	.7 CEU
9. Standard First Aid	1.4 CEU
10. Self Contained Breathing Apparatus	.4 CEU
11. Spill Response	.7 CEU
12. Trenching Hazards	.4 CEU



Safetyscope is a TSSA Approved Training Provider

Safetyscope is an approved provider for Corrections Canada