

Consider Requiring Covid-19 Testing As An Alternative To Mandatory Vaccination



A few months ago, everybody was asking if mandatory vaccine policies were legal; now everybody is asking whether it's legal **not** to have such policies. The short answer is yes, as long as your company is in the private sector or not otherwise covered by the vaccine mandates that most provinces have now adopted for public service employees. The other part of the answer is that you probably can make vaccination mandatory if you can show it's an essential safety policy and you respect certain privacy and human rights boundaries.

Even so, the concept of requiring workers to get vaccinated remains troubling to many employers. One alternative is to give workers the right to remain unvaccinated as long as they undergo COVID-19 testing instead. But like vaccination, mandatory testing raises tricky legal issues and requires the right testing policy. Key questions the policy must address:

- Which workers must undergo testing'
- Which form of COVID-19 testing is required'the more accurate molecular tests that take days to process or rapid antigen tests that are simpler but also less reliable and currently hard to find'
- When and how often must testing take place'
- What happens if workers test positive'
- How do you accommodate workers who can't get tested due to disabilities'
- Who pays for the tests'