

Lisa D.S. Bilty, Barrister & Solicitor

September 15, 2021

Mr. Phillip McKee
Executive Director
Ontario Hockey Federation
9-400 Sheldon Drive
Cambridge, ON
N1T 2H9

By email to: pmckee@ohf.on.ca

Dear Mr. McKee:

Re: Mandatory Vaccination Policy

I represent a group of more than 1000 hockey parents across Ontario, whose children play in Ontario Hockey Federation Member organizations, led by parent Stephen Penney. The group is extremely concerned about the failure of the Member associations under the umbrella of the OHF to properly implement the vaccination policy contained in your Return to Hockey Framework (“the Policy”), dated August 27, 2021. Instead, these Member leagues are ignoring the Policy’s ‘recommended but optional’ approach to vaccines and are substituting coercive, overbroad, and heavy-handed policies which will result in the removal of potentially thousands of minor hockey players from their leagues this season.

As the Executive Director, it is your responsibility under subsection (q) of Article 23.5 of the OHF By-Laws to ensure that any decision of a Member which is inconsistent with the By-Laws, Regulations, **Policies**, or Board decisions of the OHF is brought to the attention to the Board. Accordingly, we would respectfully request that you do so forthwith, as this matter is extremely time sensitive.

I would note that the Chair of the Board has the authority under Article 18.5 to exercise all of the powers and duties of the Board in cases of emergency, which we submit that this is. Players are being mandated to be vaccinated by their Member leagues, in some cases, by **Friday, September 17**, or have their registrations revoked.

The Policy

OHF’s vaccination position, contained in the Policy, states the following (Section 5, page 9):

Looking ahead to the upcoming season, the OHF **requests** that all eligible players, coaches, officials, volunteers, staff, families and fans **consider getting vaccinated**, guided by information from health officials including Health Canada and Public Health Ontario. [Emphasis added.]

This is how it should be – recommended but not mandated. The provincial government does not require that minor athletes be vaccinated in order to participate in sport, nor do the regional Medical Officers of Health. OHF’s position is also in keeping with the policy of Hockey Canada.

Indeed, regulations published yesterday by the Ontario government ([O. Reg. 645/21: RULES FOR AREAS AT STEP 3 AND AT THE ROADMAP EXIT STEP \(ontario.ca\)](#)) confirm that vaccines for under 18s are **not** necessary in any facility that is being accessed for their participation in youth sports:

(6) A business or an organization is exempt from the requirement under subsection (1) in respect of patrons,

(a) who are under 12 years of age;

(b) who are under 18 years of age, and who are entering the indoor premises of a facility used for sports and recreational fitness activities solely for the purpose of actively participating in an organized sport, in accordance with guidance published by the Ministry of Health on its website for the purposes of this provision.

Nonetheless, this is not translating down to the Member leagues as a recommended measure. We understand that some, if not all, of your subordinate Member hockey associations are mandating that all players be vaccinated or be denied the ability to play.

For example, the Alliance Hockey league has put forward the following policy (emphasis added):

ALLIANCE HOCKEY COVID-19 VACCINE ACCOMMODATION PROCESS
As per Section 2 (PAGES 6-8) of the ALLIANCE Hockey Return to Hockey Plan, ALLIANCE Hockey has established a policy requiring the following persons (“Affected Persons”) to be **fully vaccinated** against COVID-19 (i.e.: including the 14-day period after receiving their completed dose) by October 31, 2021:

- Players born in 2009 or earlier
- Game Officials (referees, linespersons, timekeepers)
- Staff
- Team Officials (coaches, trainers and managers)
- Volunteers

All Affected Persons must present to ALLIANCE Hockey, as applicable, evidence demonstrating that they have received the completed series of an accepted COVID-19 vaccine by October 17, or earlier.

ALLIANCE Hockey will comply with the [Ontario Human Rights Code \(OHRC\)](#) and provide accommodation **up to the point of undue hardship** to any Affected Person who is unable to be vaccinated for substantiated medical reasons and/or on grounds protected under the OHRC. Any Affected Person who has not been granted an accommodation and who has not received their completed series of an Accepted COVID-19 Vaccine by October 17, or who has not disclosed their vaccination status by that date, will no longer be eligible to participate in any Sanctioned Activity until such time as they present satisfactory evidence that they are fully vaccinated.

Affected Persons wishing to request accommodation can complete and submit the below CREED/RELIGION ACCOMMODATION or MEDICAL ACCOMMODATION form.

CREED/RELIGION ACCOMMODATION

Request for CREED/RELIGION ACCOMMODATION regarding mandatory vaccination for participation in ALLIANCE Hockey-sanctioned hockey activities:

Any affected person who is unable to be vaccinated for substantiated medical reasons and/or on grounds protected under the Ontario Human Rights Code may request an accommodation.

By submitting this form, you acknowledge that you are seeking a creed/religion accommodation to ALLIANCE Hockey's COVID-19 vaccination requirement.

MEDICAL ACCOMMODATION

Request for MEDICAL ACCOMMODATION regarding mandatory vaccination for participation in ALLIANCE Hockey-sanctioned hockey activities:

Any affected person who is unable to be vaccinated for substantiated medical reasons and/or on grounds protected under the Ontario Human Rights Code may request an accommodation.

By submitting this form, you acknowledge that you are seeking a medical accommodation to ALLIANCE Hockey's COVID-19 vaccination requirement.

There is absolutely no “undue hardship” for the association to accommodate players who do not wish to be vaccinated for *any reason whatsoever*, given that there are no laws requiring minors to be vaccinated to participate in youth sports or attend school, and no greater risk to the public or the players themselves in playing hockey unvaccinated than in any other setting, including school.

OHF's disclaimer in its Return to Hockey Framework notes:

The information in this document **is not intended or implied to be a substitute for professional medical advice**, diagnosis, or treatment. The Ontario Hockey Federation and its Members make no representation and assume no responsibility in respect of their information concerning COVID-19 as the circumstances are constantly changing, and any information on COVID-19 should be obtained from your Public Health Authority.

Yet, we are aware that a 12-year-old player submitting a medical exemption from his neurologist, recommending against the vaccine, had his exemption rejected by Alliance Hockey. Despite the disclaimer, it certainly does appear that Member leagues are substituting their own hardline position for professional medical advice and refusing exemptions under the *Human Rights Code*, although we submit that these mandates are in violation of the OHF Policy in the first place and exemption requests should be entirely unnecessary.

A 17-year-old youth in our group, who plays AAA and has a shot at a pro career, is being coerced into a medically unnecessary and possibly harmful injection by this Friday, failing which

he will not be permitted to play. For many of the kids in minor hockey, the only path they have to a professional career or university hockey scholarships is through your organization. To put this mandate in place, forcing countless players to go against their consciences, medical advice, informed consent, and free will is utterly unconscionable and unjustified.

We have heard that Member leagues are prepared to see a reduction of 20% of their rosters, and they are okay with that. Each player removed represents an individual dream shattered. For an organization that touts respect in sport, the disrespect being shown to these players is egregious.

The Science

The answer to this is not, however, to change your own Policy or double down on vaccine mandates. To do so is both unscientific and unethical, for the following reasons:

1. Young adults are at an extraordinarily low risk for Covid-19 mortality. They have a less than 0.05% chance of dying if infected. (See John P.A. Ioannidis, [The Infection Fatality Rate of COVID-19 Inferred from Seroprevalence Data](#), Bulletin of the World Health Organization BLT 20.265892.)
2. Through the 19 months that Covid-19 has been with us, only five (5) children/youth under the age of 20 have died from or with Covid-19 in the entire province of Ontario, and it is likely they already suffered serious comorbidities. (See Table 3: [COVID-19 in Ontario: January 15, 2020 to September 14, 2021](#).)
3. The Covid-19 vaccines have not been fully authorized by Health Canada. They are under “Interim Authorization” in Canada, with clinical trials continuing. (See <https://www.canada.ca/en/health-canada/services/drugs-health-products/covid19-industry/drugs-vaccines-treatments/authorization/list-drugs.html>.)
4. In the US, Covid-19 vaccines have been reported to cause notable side effects, injury and even death. Vaccine Adverse Event Reporting System (“VAERS”) data released by the Center for Disease Control (“CDC”) on June 22, 2021, showed a total of 358,379 reports of adverse events from all age groups following Covid vaccines, including 5,993 deaths and 29,871 injuries between December 14, 2020, and June 11, 2021. (See [VAERS - Data \(hhs.gov\)](#).)
5. The Covid-19 vaccines do not prevent people from getting Covid-19, nor do they prevent people from spreading Covid-19. They have been specifically touted by drug companies as helping to significantly reduce the severity of Covid-19 symptoms, but both the vaccinated and unvaccinated can still become infected and spread Covid-19 to others. (See [Outbreak of SARS-CoV-2 Infections, Including COVID-19 Vaccine Breakthrough Infections, Associated with Large Public Gatherings — Barnstable County, Massachusetts, July 2021 | MMWR \(cdc.gov\)](#).)
6. Research from a pro-vaccine professor of viral immunology indicates that the mRNA vaccines do not necessarily remain at the injection site. Once injected, the vaccine contents can travel extensively throughout the body, to the brain and other sensitive tissues, such as bone marrow, spleen, liver, adrenal glands, ovaries, etc. Long-term impact on fertility would not become apparent until attempting to have children. (See [2021-06-15-children_and_covid-19_vaccines_full_guide.pdf](#).)

7. On April 26, 2021, Health Canada announced that it was placing a warning label on the Johnson and Johnson vaccine due to reports of blood clotting following vaccination. <https://healthycanadians.gc.ca/recall-alert-rappel-avis/hc-sc/2021/75479a-eng.php>
8. On June 30, 2021, Health Canada announced that it was placing a warning label on the Pfizer and Moderna vaccines due to reports of myocarditis and pericarditis following vaccination. <https://healthycanadians.gc.ca/recall-alert-rappel-avis/hc-sc/2021/75959a-eng.php>
9. Boys and young men appear to be particularly vulnerable to myocarditis, an inflammation of the heart that can have lifelong consequences and, in serious cases, even result in the necessity of a heart transplant. Although a rare side effect, studies are showing that, given the infinitesimal amount of risk this demographic has from Covid-19 itself, the risks of myocarditis are 4-6 times higher than the risk of severe outcomes from Covid-19. See for example: [Covid-19: Boys are more at risk of myocarditis after vaccination than of hospital admission for covid | The BMJ](#); and [Teenage boys more at risk from vaccines than Covid \(telegraph.co.uk\)](#).
10. Even Public Health data in Ontario is showing a significant signal for myocarditis in young males: [Myocarditis and Pericarditis Following Vaccination with COVID-19 mRNA Vaccines in Ontario: December 13, 2020 to August 7, 2021 \(publichealthontario.ca\)](#)
11. Youth who have previously had Covid-19 possess natural immunity, which contributes to herd immunity. Recent studies suggest that it provides better protection, even against variants, than the vaccines. (See [Lasting immunity found after recovery from COVID-19 | National Institutes of Health \(NIH\)](#); and [Comparing SARS-CoV-2 natural immunity to vaccine-induced immunity: reinfections versus breakthrough infections | medRxiv](#).)
12. Informed consent is the standard for all medical interventions. Imposing a vaccine requirement upon players who are at virtually zero risk of a serious outcome from Covid-19 is unethical. For all the reasons noted above, it is not being “anti-vax” to have reasonable concerns and make the informed choice to delay or avoid these vaccines.

The Consequences

Under your own By-laws (article 2.2) each Member league must operate in a manner consistent with the by-laws, regulations, and rules of Hockey Canada, the OHF and its own organization. Furthermore, while each Member can administer its own affairs within its own jurisdiction, it must do so in a manner that is consistent with the by-laws, regulations, and rules of Hockey Canada and of the OHF, and not act contrary to the best interests of Amateur Hockey (see article 4.3).

Members who violate the by-laws, regulations, **policies**, or Board decisions of Hockey Canada or the OHF, or who take actions contrary to the overall direction of the OHF, may be sanctioned by the Board of the OHF, pursuant to articles 4.5 and 4.6.

We are asking that the Board of the OHF immediately take steps to sanction any Member that does not implement a voluntary policy in keeping with the OHF Policy.

I note as well that the Certificate of Insurance referenced at Section 6 of the Policy specifically confirms local hockey associations under the jurisdiction of the OHF must be compliant with both the Return to Hockey Framework and the Hockey Canada Safety Guidelines (which has also not mandated vaccines). When you review the links above, ask yourselves whether your organization wishes to be liable for the harms caused to young, healthy players by mandatory vaccinations as a result of your failure to ensure compliance with your voluntary vaccination Policy.

Since the Member organizations are going against the Policy in making decisions on the ability of youth to play hockey, their decisions are subject to appeal under the Ontario Hockey Federation Appeal Process. We will be encouraging any Registered Participants aggrieved by these violations of your Policy to make immediate application to the OHF appeal process, if they are barred from playing by your Member organizations.

The deadline for vaccine proof to be submitted is only days away, and your prompt response is essential. We trust that the Board will stand by, and enforce, the OHF Policy and leave medical decisions in the hands of youth, their parents, and their trusted medical advisors.

We look forward to your immediate response.

Sincerely,



Lisa D.S. Bilty, JD, BA
Barrister & Solicitor