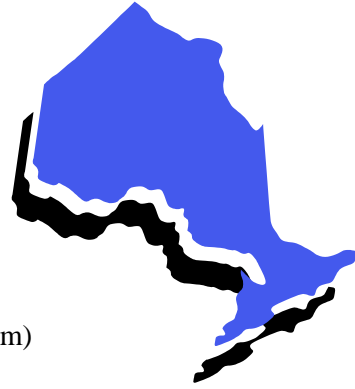


**Construction Employers Coalition
(for WSIB and Health & Safety and Prevention)**



April 13, 2021

Ms. Elizabeth Witmer, Chair
Workplace Safety & Insurance Board
200 Front Street West
Toronto ON M5V 3J1

Mr. Tom Bell, President & CEO (interim)
Workplace Safety & Insurance Board
200 Front Street West
Toronto ON M5V 3J1

Dear Ms. Witmer and Mr. Bell:

Adverse Reaction to COVID-19 Vaccines: CEC Policy Request

With Ontario in the midst of its COVID-19 vaccination implementation in this third wave, and Premier Ford's announcement that vaccinations will be directed to areas of higher infection, our construction employers are considering how they can assist to get more people vaccinated and make their employees, their employees' families and workplaces even safer.

We recently reviewed information from the Board's website, specifically, the Board's page entitled "[FAQs about claims and COVID-19](#)". We note that in the last day or so vaccine specific questions were removed, likely, we surmise, to either add clarity or refine the policy itself following a recent informal discussion between a senior WSIB official and senior CEC member. In a nutshell, current WSIB policy directs that an adverse COVID vaccine reaction will likely be compensable if: a) the vaccine was an employment requirement, or b) the employer arranged for an on-site vaccination clinic.

In the context of the COVID-19 emergency, this policy template is unfair to Ontario employers and may well unintentionally serve to undermine broad Ontario COVID vaccination public policy. We request that the WSIB urgently adjust its policy in a manner which we will outline.

On April 7, 2021 Premier Ford announced the [Provincial Emergency and Stay-at-Home Order](#). In the accompanying media release the Premier advised, "*The COVID-19 situation is at a critical stage and we must act quickly and decisively to stay ahead of these deadly new variants,*" adding ". . . we will keep people safe while allowing our vaccination program to reach more people, starting with our high risk population and identified hot spots. . ." The news release went on to discuss the vaccine rollout and the goal "*to administer vaccines in high-risk congregate settings.*"

Each and every one of our member firms want to help, with many willing to establish on-site vaccination clinics. Unfortunately, WSIB policy may regretfully work counter to this objective once potential WSIB liabilities are considered. We have a precise proposal to remedy this problem.

You will recall our March 24, 2020 request (**Appendix A**) that the Board apply COVID-19 claims costs collectively across all Schedule 1 employers. The Board was quick to respond and implemented this suggestion. We are asking for a similar approach on the vaccination question. We are seeking a two-prong policy solution.

Policy Proposal No. 1: Where a COVID vaccination is mandated as a condition of employment, an employment nexus exists and a rare adverse reaction to the vaccination would be compensable (i.e., current and long-standing WSIB law and policy). However,

no costs would be shown on the employer account. Additionally, and this is particularly important for construction employers, no incident would be shown against the employer's record.

Policy Proposal No. 2: Where a COVID vaccination is not mandated as a condition of employment but an employer facilitates an on-site COVID vaccination clinic for its employees as a public service, and an employee voluntarily obtaining a vaccination suffers a rare reaction to the vaccine, the reaction would not arise out of the employment and no WSIB entitlement would be allowed.

It is our view that this approach is consistent with WSIB policy, the intent of the *Workplace Safety and Insurance Act*, and government COVID vaccination objectives. In fact, in today's press conference, both the Premier and the Solicitor General advanced the thesis that employment sponsored vaccination clinics are to be encouraged. Please review the [YouTube video at minute 21:16](#) where the Solicitor General eloquently and succinctly makes the case that speed is essential as "*we want to get vaccines in peoples' arms as quickly as possible.*" The point that this assists provincial goals was clear.

The possibility of being held to account for a rare adverse reaction to a COVID vaccine should not deter employers from arranging on-site vaccination clinics. As it is impossible to predict the rare occurrence of an adverse reaction (see **Appendix B**), ironically and absurdly, under current WSIB policy, the only employment prevention precaution available is to forbid on-site vaccination clinics. Hence, Board policy must be adjusted.

As time is of the essence, as the third wave rises in Ontario and the government ramps up vaccinations, we request that the Board take swift and urgent action on this issue.

We appreciate the action the Board has taken with respect to COVID-19 issues to assist Ontario employers and the community at large.

Regards,



David Frame, CEC Chair

Appendix A

Construction Employers Coalition
(for WSIB and Health & Safety and Prevention)

March 24, 2020

Ms. Elizabeth Witmer, Chair
Workplace Safety & Insurance Board
200 Front Street West
Toronto ON M5V 3J1

& Mr. Tom Teahen, President & CEO
Workplace Safety & Insurance Board
200 Front Street West
Toronto ON M5V 3J1



Reference: COVID-19 claim cost accountability and consideration for the establishment of a WSIA s. 98(1) special reserve fund

Dear Ms. Witmer and Mr. Teahen:

During these unprecedented times, we appreciate the speed at which the Board developed and posted the Adjudicative Approach Document - COVID-19 which explains how COVID-19 claims will be adjudicated.

While COVID-19 does not fit within the general occupational disease (OD) template vis-à-vis employer accountability, we are contacting you to urge the Board to immediately develop an exceptional policy in light of this unique emergency, and decree that, akin to long-latency OD cases, all COVID-19 claims costs will be collectively borne (i.e., among all Schedule 1 employers) and will not form part of an individual employer's or industry's record. We will likely have other recommendations in the days and months ahead, however this specific policy requires immediate attention. We are of the view that such an initiative falls within the Board's current lawful discretion, however if not, we would ask that immediate consideration be given pursuant to WSIA s. 98(1) to establish a "Special Reserve Fund." The COVID-19 outbreak most certainly meets the threshold of "a disaster or other circumstance . . . (that) would unfairly burden the employers in any class."

As we (the province and country) are still in the midst of this pandemic, our industry employers are focused at this time with working hard to promote self-isolation within their workplaces to keep their employees engaged in essential work safe as they remain at work.

The last thing that is needed at this time is to expect that Ontario employers will advance their immediate self-interest by monitoring WSIB adjudication of COVID-19 cases. During this public emergency, employers must be immunized against direct cost accountability for any and all COVID-19 claims.

As a service that has been deemed essential by the provincial government, we are working closely with our contractors to implement best practices by minimizing exposure and keeping our workers healthy. Unfortunately, the nature of our work does involve greater exposure than those who can stay at home. Therefore, our proposal makes perfect policy sense.

Regards,

A handwritten signature in black ink, appearing to read "David Frame". The signature is fluid and cursive.

David Frame, CEC Chair

Construction Employers Coalition c/o OGCA 180 Attwell Drive, Suite 280 Toronto, Ontario M9W 6A9

Appendix B

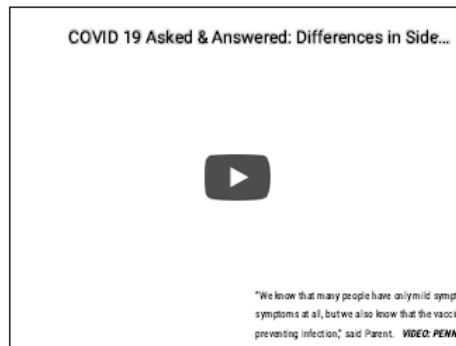
4/13/2021

Why do some people have side effects with COVID-19 vaccines while others do not? | Penn State University

CORONAVIRUS UPDATES: Visit [Penn State's virus information website](#) to keep up with the latest from the University on the global coronavirus outbreak.



Why do some people have side effects with COVID-19 vaccines while others do not?



March 30, 2021

After getting the COVID-19 vaccine, some people develop a low-grade fever, fatigue, headache, and/or muscle aches, while others have no symptoms at all.

According to Leslie Parent, vice dean for research and graduate studies in the Penn State College of Medicine, scientists do not fully understand why this is the case, but the differences could be due to a combination of a person's age, genetics and past exposure to other viruses, including common-cold coronaviruses.

Parent noted that for the Pfizer and Moderna mRNA vaccines, the second dose may cause greater side effects than the first.

"That's because the first dose primes the immune system to respond, while the second dose further stimulates the immune cells into action, which leads to some people having more side effects," she said.

But, she added, the severity of symptoms likely do not correlate with the level of protection.

"We know that many people have only mild symptoms from the vaccine or no symptoms at all, but we also know that the vaccines are very effective in preventing infection," said Parent. "So, whether you have a reaction to the vaccine or not, you are most likely protected from any significant effects of COVID-19."

Last Updated March 30, 2021

<https://news.psu.edu/story/653176/2021/03/30/research/why-do-some-people-have-side-effects-covid-19-vaccines-while-others>

1/2

4/13/2021

Side effects – or lack of side effects – after being vaccinated for COVID-19 – Mayo Clinic News Network

By Dana Sparks

Side effects – or lack of side effects – after being vaccinated for COVID-19



(https://cdn.prod-carehubs.net/n1/802899ec472ea3d8/uploads/2021/02/WF36668_0020-Electronic-Presentation_Fotor-16x9-1.jpg)

For some people, the second dose in a COVID-19 ([This may be a concern not only for those experiencing side effects, but also those who are worried a COVID-19 vaccine isn't working because they didn't have a reaction.](https://www.mayoclinic.org/coronavirus-covid-19?mc_id=us&utm_source=newsnetwork&utm_medium=l&utm_content=content&utm_campaign=mayoclinic&geo=national&placementsit vaccination series is causing a stronger reaction and more side effects than the initial dose. That was also true during the clinical trials.</p></div><div data-bbox=)

Dr. Gregory Poland (

"It's as if you've started a cold car, with the first dose," says Dr. Poland. "The car is idling. Then you give it that second dose, and because the car has warmed up, you can put the pedal to the metal and go." But everybody is going to respond differently.

<https://newsnetwork.mayoclinic.org/discussion/side-effects-or-lack-of-side-effects-after-being-vaccinated-for-covid-19/#>

1/3

4/13/2021

Side effects – or lack of side effects – after being vaccinated for COVID-19 – Mayo Clinic News Network

"Each of our bodies releases different amounts of chemicals, or immune signals. One body might release more than what's needed, causing more of a response, and someone else's body might release exactly the right amount. It's what we've called the 'Goldilocks phenomenon.' Not too much, not too little, but just right."

— *Dr. Greg Poland*

Dr. Poland says a reaction does not mean anything is wrong. "It's an indication that your body is revved up, prepared to do battle against what it thinks is a foreign invader." If people have less of a reaction, it does not mean they aren't developing an immune response, Dr. Poland emphasizes.

Dr. Melanie Swift (https://www.mayoclinic.org/biographies/swift-melanie-d-m-d-m-p-h/bio-20441907?mc_id=us&utm_source=newsnetwork&utm_medium=l&utm_content=content&utm_campaign=mayoclinic&geo=national&placementsitico-chair%20of%20Mayo%20Clinic%20s%20COVID-19%20Vaccine%20Allocation%20and%20Distribution%20Work%20Group), co-chair of Mayo Clinic's COVID-19 Vaccine Allocation and Distribution Work Group, says all vaccines could cause some degree of reaction. The same is true with the COVID-19 vaccines.

"They do provoke an immune reaction, which can cause symptoms," says Dr. Swift. "That shouldn't be confused with being harmful or being unsafe. It's what the vaccine is intended to do."

Watch: Dr. Melanie Swift discusses COVID-19 vaccines symptoms (<https://youtu.be/htFkanw2ZUk>).

Dr. Melanie Swift discusses COVID-19 vaccines symptoms



Journalists: Broadcast-quality sound bites with Dr. Swift are available in the downloads at the end of the post. Please courtesy: "Melanie Swift, M.D. / COVID-19 Vaccine Allocation and Distribution / Mayo Clinic."

After you are vaccinated for COVID-19, especially the second dose of the two-dose series, Dr. Swift says to be prepared for these possible side effects:

- Muscle aches
- Chills
- Slight fever
- Headache
- Fatigue

Dr. Poland reminds people that these side effects generally go away with minimal or no treatment. And that treating the side effects is easier than treating COVID-19.

"Each of our bodies releases different amounts of chemicals or immune signals," Dr. Poland explains further. "One body might release more than what's needed, causing the physical reactions, and another body might release exactly the right amount of immune signals. It's what we've called the 'Goldilocks phenomenon.' Not too much, not too little, but just right."

<https://newsnetwork.mayoclinic.org/discussion/side-effects-or-lack-of-side-effects-after-being-vaccinated-for-covid-19/#>

2/3

4/13/2021

Side effects – or lack of side effects – after being vaccinated for COVID-19 – Mayo Clinic News Network

Read COVID-19 vaccines: Get the facts (https://www.mayoclinic.org/diseases-conditions/coronavirus/in-depth/coronavirus-vaccine/art-20484859?mc_id=us&utm_source=newsnetwork&utm_medium=l&utm_content=content&utm_campaign=mayoclinic&geo=national&pla) to learn more about the different vaccines and the benefits of getting vaccinated.

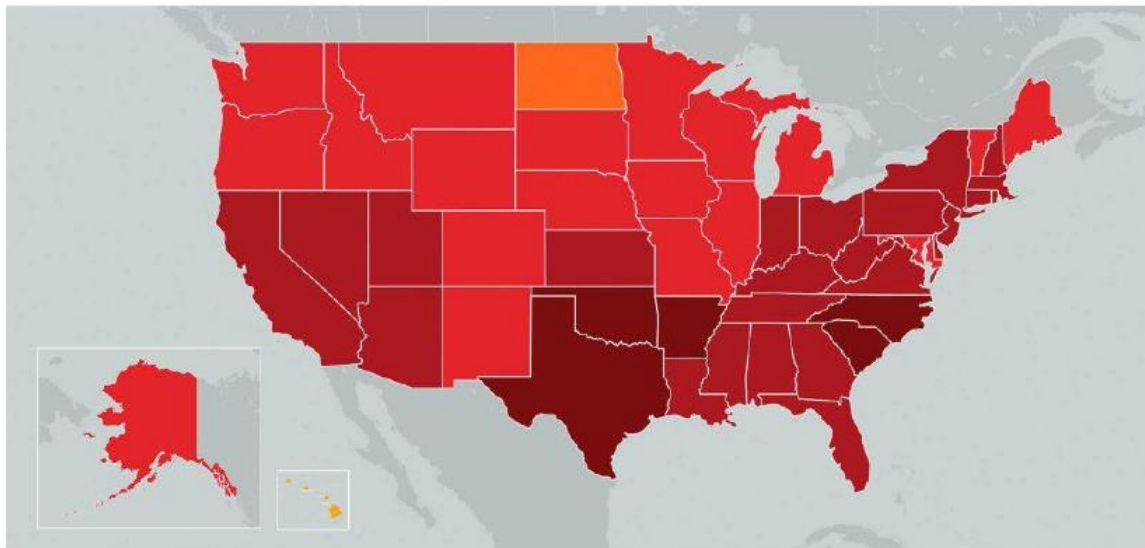
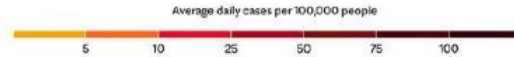
For the safety of its patients, staff and visitors, Mayo Clinic has strict masking policies in place. Anyone shown without a mask was either recorded prior to COVID-19 or recorded in a nonpatient care area where social distancing and other safety protocols were followed.

Information in this post was accurate at the time of its posting. Due to the fluid nature of the COVID-19 pandemic, scientific understanding, along with guidelines and recommendations, may have changed since the original publication date.

For more information and all your COVID-19 coverage, go to the Mayo Clinic News Network (<https://newsnetwork.mayoclinic.org/tag/covid-19/>) and [mayoclinic.org](https://www.mayoclinic.org/coronavirus-covid-19?_ga=2.7498866.1569712837.1596543418-567753885.1596543418) (https://www.mayoclinic.org/coronavirus-covid-19?_ga=2.7498866.1569712837.1596543418-567753885.1596543418).

Learn more about tracking COVID-19 and COVID-19 trends (https://www.mayoclinic.org/coronavirus-covid-19/map?_ga=2.211374101.1839374084.1604531163-492385979.1604531163).

COVID-19 hot spots



(https://cdn.prod-carehubs.net/n1/802899ec472ea3d8/uploads/2021/02/coronavirus-covid-19-map02102021_16x9.jpg)

#coronavirus disease 2019 (<https://newsnetwork.mayoclinic.org/tag/coronavirus-disease-2019/>) #COVID-19 (<https://newsnetwork.mayoclinic.org/tag/covid-19/>)

#COVID-19 vaccine side effects (<https://newsnetwork.mayoclinic.org/tag/covid-19-vaccine-side-effects/>) #daily (<https://newsnetwork.mayoclinic.org/tag/daily/>)

#Dr. Greg Poland (<https://newsnetwork.mayoclinic.org/tag/dr-greg-poland/>) #Dr. Melanie Swift (<https://newsnetwork.mayoclinic.org/tag/dr-melanie-swift/>)

#Highlight (<https://newsnetwork.mayoclinic.org/tag/highlight/>) #Infectious Diseases (<https://newsnetwork.mayoclinic.org/tag/infectious-diseases-2/>)

#Newsapp (<https://newsnetwork.mayoclinic.org/tag/newsapp-2/>)

<https://newsnetwork.mayoclinic.org/discussion/side-effects-or-lack-of-side-effects-after-being-vaccinated-for-covid-19/#>

3/3