



NEWFOUNDLAND AND LABRADOR
MEDICAL ASSOCIATION



NLMA Guidance:

**Treating patients who refuse the
COVID-19 vaccine**

****DISCLAIMER: This document is provided in response to questions from NLMA members. It is provided only for information purposes and does not constitute legal advice.***

Treating patients who refuse the COVID-19 vaccine

The CMPA advises that “provincial/territorial proof of vaccination requirements (e.g. vaccine passports) do not apply to accessing essential services such as health care. However, it may be reasonable to ask patients and others attending with patients about their vaccination status if it is relevant to providing care to the patient. It would not be appropriate to ask patients and others about their vaccination status in order to deny care to patients. A refusal to provide care could put a physician at risk of a College complaint, human rights complaint and/or civil action, the success of which will depend upon the specific circumstances. It may also not be reasonable to ask for proof of vaccination status. It may be difficult for some patients and individuals to provide this information. Demanding proof of vaccination may also undermine the trust in the doctor-patient relationship...Despite a patient’s refusal to be vaccinated, physicians should make every effort to continue to care for unvaccinated patients in the existing doctor-patient relationship in accordance with current standards of care.”

College Guidance

The College of Physicians and Surgeons of Newfoundland and Labrador’s (CPSNL) Standard of Practice on Ending the Physician-Patient Relationship states that the patient making unhealthy lifestyle choices may not be used as justification for ending the relationship.

The CPSNL has not yet issued guidance on whether or not a physician can refuse to treat a patient who is not willing to receive the COVID-19 vaccine; however, advice on this topic has been issued by the regulatory colleges in Nova Scotia, Ontario, Manitoba and Saskatchewan. Their advice is synthesized and summarized below:

- Physicians must not restrict in-person care to only those patients who have been vaccinated or have a recent negative COVID-19 test result. An unvaccinated patient is not a legitimate reason to refuse treatment. Physicians must ensure unvaccinated patients are given the same access to care as vaccinated patients.
- Physicians are expected to either provide themselves or arrange and facilitate the provision of services to all patients under their care regardless of vaccination status or the reasons a patient may have chosen to be vaccinated or not.
- With appropriate measures in place, all practitioners should resume routine in-person visits based on clinical needs and patient preferences. It will not be considered ethical to require proof of vaccination status as an absolute prerequisite for attending their office when an in-person, medically necessary service is indicated.

- While physicians cannot require documented proof that a patient has been vaccinated as a prerequisite for attending their office, it is reasonable for a physician to request that patients report their vaccine status to them. Once aware of a patient’s vaccine status, physicians may manage appointment times in a way that does not compromise the health of other patients or their medical office staff.
- Patients do not always follow physician advice on medical care or lifestyle decisions. However, physicians must respect the decisions of the competent patient to accept or reject any recommended assessment, treatment, or plan of care. Competent patients are entitled to make the decision to not be vaccinated.
- Some patients may have a condition in which individuals require further consultation before being immunized.

Patient Accommodations

Regarding patients who are exempt from the receiving the COVID-19 vaccine, the [Newfoundland and Labrador Human Rights Commission](#) advises that “service providers still have a duty to accommodate people whose protected personal characteristics (prohibited grounds) prevent them from getting vaccinated (e.g. medical exemption). Possible accommodations might include continued use of masks, maintaining physical distancing, remote work, etc.”

Regarding patients who have refused the COVID-19 vaccine by personal choice, the Canadian Council of Parliamentary Ombudsman (CCPO) and the Office of the Citizens’ Representative of Newfoundland and Labrador have advised that accommodations must be made for those who have not received the vaccine.

The CCPO states that “there are many individuals who may not be able to receive the COVID-19 vaccine and there are also those who will choose not to receive the vaccine. In these circumstances, public services should not be restricted on the basis of vaccination status. Instead, reasonable accommodations must be made for those individuals to receive services, and alternative methods of service delivery should be available to them. Read more [here](#).

The CMPA advises the “physicians will want to make best efforts to find reasonable alternatives to provide care to patients who refuse to be vaccinated.” The CMPA suggests the following:

- offer to see these patients using virtual care, if appropriate.
- schedule appointments for unvaccinated patients who require an in-person visit at different times of the day or week.

The regulatory colleges noted above also suggest the following precautions:

- screening patients prior to their appointment
- offering appointments during times when staff and other patient presence is limited
- using separate entrances
- isolating unvaccinated patients
- using appropriate PPE