



Questions and Answers

CVMA's Veterinary Townhall Series Week 5:

Legal Perspectives and Practice Management During COVID-19

- 1. If we have to abruptly "close down" if we get any cases in my hospital, what government program or any financial help do we go to, for staff pay – or do we all just go home for two weeks. This might happen all through the year.**
 - a. Subject to any amendments to the current programs, in terms of compensation, the federal CERB program would seem to be the most likely avenue for income replacement; provincial employment standards laws have, for the most part, been expanded to ensure that there is job “protection” for most employees who are absent from work arising from COVID-19-related circumstances.
- 2. Does a staff member taking a vacation within Canada need to self-isolate following return?**
 - a. It will depend upon the protocols established by each province; however, generally speaking, a 14-day period of self-isolation may be required.
 - i. **What about within the province?**
 1. The public health directives do not generally extend to intra-provincial travel.
- 3. Going back to the potential travel outside of Canada and therefore mandatory quarantine upon return – what right/option do employers have to mandate no travel outside of the country except in cases of humanitarian need such as visiting an ill relative?**
 - a. Employers generally do not have a right to prohibit travel; rather, the Employer, in light of the pandemic, could not be unduly criticized from making “strong recommendations” together with an affirmation that any post-travel isolation period is at the expense of the employee.
- 4. Are we able to tell the employee, “You only have two weeks holidays or three weeks holidays – that is not enough time to do a two-week self-isolation after a two-week vacation, so you can't get that time off (four weeks)”?**
 - a. As mentioned at the webinar, my view is that “vacation time” is “vacation time” and “isolation time” is “isolation time”; that is, if an employee is otherwise entitled to a vacation period, then it would be inappropriate for an Employer to attempt to characterize “isolation time” as “vacation time”. In truth, the “isolation time” arises from the Quarantine Act.



5. **We have a client who is presently in British Columbia and will be returning to Ontario on Friday. They wish to book an appointment in our clinic next week! What they have read on the government website is they do not have to isolate for 14 days. Is this true for Ontario?**
 - a. That is not my understanding – public health authorities seem to be recommending (not “mandating” a period of self-isolation as a “best practice”.
 - i. **Does each province have their own rules regarding travel within Canada and isolation protocol?**
 1. As a matter of constitutional law, the provinces have jurisdiction to make public health decisions; as such, you will find that there are regional differences in approach.
6. **As clinics open staff are being asked to return to normal hours. Some are unable to as they need to provide childcare, etc. In such, there are short-term (or unknown term) hires occurring. Are we to assume that the employee (who is on CERB or other) is to continue to have a job to return to when they are able?**
 - a. Yes, many provinces have provided a level of “job protection” for employees who are absent due to COVID-19-related circumstances.
 - i. **What if they can only return for part of the hours they were doing prior to COVID – do we have an obligation to give them those reduced hours? It all becomes very complicated ...**
 1. Indeed, it is very complicated. One way to think of this is in the context of “pregnancy leave” – an employee on pregnancy leave has a right to return to the same job – same pay, same hours, same responsibilities. My view is that provincial labour officials would apply a similar standard here – but we are uncertain as we’re still within the pandemic environment. As such, an employer is not likely to be obliged to fundamentally alter the pre-pandemic terms of engagement once we’ve returned to “normal”.
7. **If clients entering the facility are required to wear masks, is there any obligation from our side to provide masks?**
 - a. No ... you can insist they provide their own. As a matter of professional courtesy, that may not be the best decision.
8. **What is my situation as an associate, if I found the clinic doesn't respect the governmental regulations?**
 - a. My sense is that this falls within the area of workplace safety; an employer has an obligation to provide a safe workplace and to remedy any problems the employer is aware of. Employees have the obligation to report unsafe conditions.



- 9. My staff NEVER EVER want the clients to ever come back inside, not even one at a time, in our designated distanced seating area (for one). Clients are starting to be frustrated that they can't come in.**
 - a. Understood; ultimately, the legal issue is whether or not the position of staff is reasonable in terms of accommodating their safety; my view is that if public health authorities are of the view that the attendance of clients in an environment where other precautions have been implemented is safe, then the position of staff members is unreasonable.
- 10. Sadly, I have heard of multiple clinics that are not complying with recommendations (for example continuing to do non-essential procedures), but the employees are told they have to do it or they have no job. Clinics are blackmailing employees to do what they want, and employees are afraid of losing their jobs. How can we implement better regulation?**
 - a. Ultimately, the regulation of the veterinary profession rests largely with the provincial regulatory bodies; conduct that is unbecoming of a veterinary professional would be the subject matter of investigation and potential sanction for conducting oneself in an unprofessional way. The threat of job loss in the face of a pandemic would, in my view, raise concerns about professionalism. In addition to professional regulation, Ministry of Labour officials could be asked to intervene if employment standards are not being honoured.
 - i. I assume this would have to be provincial?
 1. Yes.
 - a. And can they anonymously make a complaint to WorkSafeBC or the equivalent?
 - i. Not sure of the specific protocols in BC – you should check with your own local legal counsel or contact WorkSafeBC. Generally speaking, anonymous “whistle blowing” complaints can be made, but it may direct a different course of investigation and sanction.
 - 11. I thought with social distancing in place, we could do non-essential appointments.**
 - a. The protocols differ in each province – check with your provincial regulatory authority.
 - 12. If you keep the name confidential of the employee who tests COVID-19 positive in a larger setting, how can we make sure you've informed everyone who may have come in contact with them?**
 - a. My sense is that “best practices” would be to recommend that all staff get tested which will still accommodate employee privacy.