



Fair, safe and productive workplaces

Labour Focus Newsletter



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H1N1 Flu Virus What You Need to Know in the Workplace



Employers under the *Canada Labour Code* are responsible for ensuring the health and safety of employees in their workplaces and for protecting them from workplace hazards. This includes providing employees with the information, instruction, training and supervision necessary to ensure their health and safety at work. Part XIX of the *Canada Occupational Health and Safety Regulations* requires that employers develop, implement, and monitor a program for preventing hazards in the workplace in consultation with the health and safety policy committee (or if there is no policy committee, the workplace committee or the health and safety representative). This responsibility includes responding to new or evolving situations that may pose a potential hazard to workers.

While the risks are low for most workplaces, H1N1 could be a potential hazard. Therefore employers should have a policy in place that addresses the

possibility of the H1N1 flu virus posing a risk to workers. The policy should specify in what circumstances it applies and should also address issues related to sickness/disability coverage, remuneration, etc.

Employees are responsible for following their management's directions regarding reporting to work and workplace health procedures in the context of the H1N1 flu virus. Employees are also responsible for informing themselves by consulting information provided by health authorities and their employer.

Section 126 of the *Canada Labour Code* outlines reasonable expectations for all employees regardless of their position in the organization. Employees' duties include:

- using safety equipment provided to them;
- complying with all instructions from the employer concerning the health and safety of employees; and

FREQUENTLY ASKED QUESTIONS (FAQS) FOR EMPLOYERS AND EMPLOYEES

Q1. What is the role of the Labour Program in the H1N1 outbreak?

The Labour Program develops, administers and enforces workplace legislation and regulations, such as the *Canada Labour Code*, which covers industrial relations, health and safety and employment standards, and the *Employment Equity Act*. These laws cover federally regulated workers and employers.

Employers under the *Canada Labour Code*, Part II are responsible for ensuring the health and safety of their employees in their workplaces. Part XIX of the Canada Occupational Health and Safety Regulations requires that employers develop, implement, and monitor a program for the prevention of hazards in the workplace. This responsibility includes responding to new or evolving situations that may pose a potential hazard to workers.

Q.2. What obligation do employers have to protect their employees from the H1N1 flu virus? What is required legally?

Under the *Canada Labour Code*, employers are responsible for ensuring the health and safety of their employees in their workplaces and for protecting them from workplace hazards. This includes providing employees with the information, instruction, training and supervision necessary to ensure their health and safety at work. Part XIX of the Canada Occupational Health and Safety Regulations requires that employers in consultation with the policy health and safety committee (or if there is no policy committee, the workplace committee or the health and safety representative) develop, implement, and monitor a program for the prevention of hazards in the workplace. This responsibility includes responding to new or evolving situations that may pose a potential hazard to workers.

Q.3. Do employees also have a responsibility to protect themselves from the H1N1 flu virus?

Employees are responsible for following their management's direction regarding reporting to work and workplace health procedures in the context of the H1N1 flu virus.

In addition, employees have the responsibility to inform themselves by consulting information provided by health authorities and by their employer. The Fightflu.ca portal provides up-to-date information on the H1N1 flu virus for all Canadians, including tips on what individuals can do to protect themselves. The Public Health Agency of Canada (PHAC) web site (www.phac-aspc.gc.ca) provides health and travel advisories and other information intended for Canadians and health professionals.

Section 126 of the Code outlines reasonable expectations for all employees, regardless of their position in the organization. Employees' duties include, among others:

- Using safety equipment provided to them;
- Complying with all instructions from the employer concerning the health and safety of employees; and
- Cooperating with any person carrying out a duty set out in the Code

While at work, employees must also report to the employer any thing or circumstance in the workplace that is likely to be hazardous to the health or safety of employees or other persons who are granted access to the workplace by the employer.

Q.4. What if an employer suspects an employee has symptoms of the H1N1 flu virus?

The PHAC recommends that anyone who is sick should stay home and consult a health professional if they are experiencing severe flu-like symptoms.

If the employee does not exhibit any flu-like symptoms, the supervisor/manager cannot ask the employee to stay home or to provide a medical certificate.

Q.5. What can an employer do if one of his employees insists on coming to work even though he is showing symptoms?

Employers should have a policy/procedure in place that ensures the health and safety of all employees and takes in account issues dealing with alternate work arrangements, sickness/disability coverage, remuneration etc.

Q.6. What can an employee do if they feel they are at risk of contracting the H1N1 flu virus while in the workplace?

While the risks are low for most workplaces, H1N1 could be considered a potential hazard in certain situations. Employees who are concerned about their health and safety should consult with their manager to discuss their concerns. If after consulting his manager, an employee still feels that his health or safety is at risk, he can exercise his right to refuse to work under the conditions set out in section 128 of the Code.

Subject to the limitations set out in section 128, an employee, while at work, has the right to refuse to use or operate a machine or thing, or to work at a place or perform an activity if he or she has reasonable cause to believe that:

- a condition exists in the work place that constitutes a danger to himself or herself;
- the use or operation of a machine or thing constitutes a danger to the employee or a co-worker;
- the performance of an activity constitutes a danger to the employee or to another employee.

In order for an employee to be protected by the Code when exercising the right to refuse, the employee must follow the proper procedure in section 128.

Q.7. What are the proper procedures an employee must follow when exercising the right to refuse to work?

The employee, while at work, must notify without delay his or her employer (immediate Supervisor or Manager) of the refusal to work and explain the circumstances. The immediate Supervisor or Manager must investigate.

- If the matter is not resolved, the employee may continue the refusal and concurrently inform without delay his or her employer and the workplace health

and safety committee or representative. The employer, in the presence of the employee, the committee or representative, will investigate the refusal to work.

- If the matter remains unresolved, the employer will contact a Labour Health and Safety Officer to investigate the continued refusal to work.
- An employee cannot refuse to work:
 - if that refusal will put another person directly in danger;
 - if the danger is a normal condition of employment; or
 - if the employee works on a ship or an aircraft while in operation and, after having notified the person in charge, is informed by that person not to cease to work.

Q.8. What should an employer do if an employee refuses to work because of the H1N1 flu virus?

In the event that a worker expresses concerns regarding workplace hazards or refuses to work because of a perceived danger, an employer must endeavour to deal with the matter internally. Should a refusal to work prove impossible to resolve internally in accordance with section 128 of the Code, the Labour Program must be informed by the employer. In such a situation, a Health and Safety Officer will investigate and decide if the employee is entitled to refuse to work under the Code.

Q.9. What can a pregnant employee do if she feels she is at risk of contracting the H1N1 flu virus while in the workplace?

Each situation will be assessed on a case-by-case basis. Pregnant and nursing employees who believe their job creates a risk for themselves, their fetus or nursing child, have the right to cease to work. While the employee awaits determination of risk from her doctor, she continues to receive the same wages and benefits.

- If that risk is confirmed by a doctor, the pregnant or nursing employee is entitled to a re-assignment to another position or to modification of her job.
- Where reassignment or job modification is not feasible, the employee is entitled to unpaid leave.

Q.10. Where can I get additional information specifically related to workplace health and safety and the protection of employees?

The Canadian Centre for Occupational Health and Safety is an excellent resource for employees and employers. They are online at www.ccohs.ca.

(continued from page 1)

H1N1 Flu Virus What You Need to Know in the Workplace

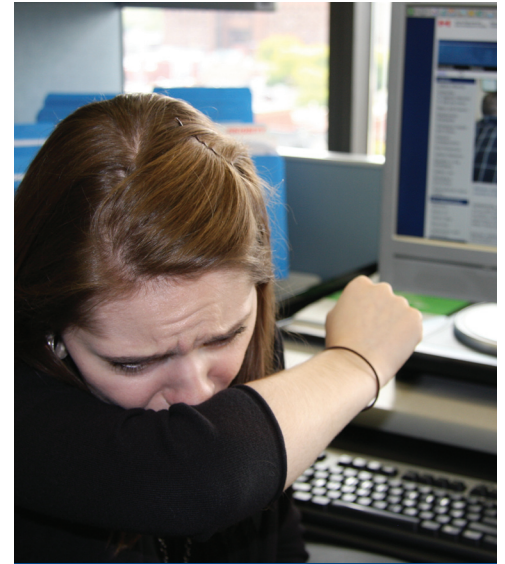
- cooperating with any person carrying out a duty set out in the Code.

Employees must also report to the employer any thing or circumstance in a workplace that is likely to be hazardous to the health or safety of staff or other people granted access to the workplace by the employer. The Public Health Agency of Canada recommends that anyone who is sick should stay home and should consult a health professional if they are experiencing severe flu-like symptoms.

Employees should discuss any concerns they may have about their health and safety with their manager. If after doing so, an employee still feels that his or her health or safety is at risk, he or she can exercise the right to refuse to work under subsection 128(1) of the Code.

To be protected by the Code when exercising their right to refuse to work, employees must follow the proper procedure by immediately notifying their employer (immediate supervisor or manager) of the refusal to work and explaining the circumstances of the refusal.

The fightflu.ca portal provides up-to-date information on the H1N1 flu virus for all Canadians, including tips on what people can do to protect themselves. The [Public Health Agency of Canada Web site](http://phac.gc.ca) <http://phac.gc.ca> provides health and travel advisories and other information intended for Canadians and health professionals.



USEFUL LINKS

Government of Canada:

Public Health Agency of Canada
www.phac-aspc.gc.ca/alert-alerte/h1n1/index-eng.php

Fight Flu
www.fightflu.ca

Health Canada
www.hc-sc.gc.ca/index-eng.php

Canadian Centre for Occupational Health and Safety (CCOHS)
www.ccohs.ca

Others:

World Health Organisation (WHO)
www.who.int/en

Centres for Disease Control and Prevention (CDC)
www.cdc.gov/h1n1flu

QUESTIONS? COMMENTAIRES?

Please write to us at NC-labour-focus-travail-GD@hrsdc-rhdcc.gc.ca

KNOW WHAT TO DO TO FIGHT THE H1N1 FLU VIRUS (HUMAN SWINE FLU)

QUOI FAIRE CONTRE LE VIRUS H1N1 (GRIPPE PORCINE CHEZ L'ÊTRE HUMAIN)



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3 FLU SYMPTOMS ARE: cough *and* fever, runny nose, sore throat, body aches, fatigue and lack of appetite

Protect yourself and others:

- 3 Wash your hands often and thoroughly in warm, soapy water or use hand sanitizer.
- 3 Cough and sneeze in your arm, not your hand.
- 3 Keep common surfaces and items clean and disinfected.
- 3 Stay home if you're sick. Contact a health care provider if your symptoms worsen.

3 SYMPTÔMES DE LA GRIPPE : toux *et* fièvre, nez qui coule, maux de gorge, douleurs musculaires, fatigue et un manque d'appétit

Protégez-vous et les autres en suivant ces recommandations :

- 3 Lavez-vous fréquemment et soigneusement les mains au savon et à l'eau chaude ou utilisez un gel antiseptique pour les mains.
- 3 Toussez ou éternuez dans votre bras plutôt que dans votre main.
- 3 Nettoyez et désinfectez les surfaces et les articles que vous partagez avec d'autres personnes.
- 3 Restez à la maison si vous êtes malade. Consultez un fournisseur de soins de santé si vos symptômes s'aggravent.

KNOWLEDGE IS YOUR BEST DEFENCE

S'INFORMER, C'EST SE PROTÉGER

For more information:

www.fightflu.ca
1-800-454-8302
TTY 1-800-465-7735

Pour en savoir plus :

www.combattezlalagrippe.ca
1-800-454-8302
ATS 1-800-465-7735



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