

On May 27, the Province of Manitoba announced that the Second Phase of Restoring Safe Services would begin on June 1, 2020: <https://news.gov.mb.ca/news/?archive=&item=48325>

The desire to resume “normal” life extends to sports and other events that people enjoy participating in. As restrictions evolve in response to the COVID-19 situation, the decision for organizers of these events is whether and how they **can** be held safely and equally important, whether they **should** be held. While much of the discussion to date has been when and how professional sports will resume, this article will try to address some of the legal considerations that organizers of amateur sport or similar events may wish to consider. Specific guidelines for Sports have been published by the Province: <https://www.gov.mb.ca/covid19/restoring/sports-guidelines.html>. In addition, a Risk Assessment and Mitigation Tool for Recreational Activities in Manitoba Operating During the COVID-19 Pandemic has also been issued: [https://www.gov.mb.ca/asset\\_library/en/coronavirus/activities-guidelines.pdf](https://www.gov.mb.ca/asset_library/en/coronavirus/activities-guidelines.pdf)

First and foremost, any consideration for staging an event depends on the ability to strictly adhere to current public health orders and other requirements that are in place. These are intended to provide for the safety of participants, staff, volunteers, spectators (if allowed) and anyone else involved with the activity. If a sport or other event cannot be held under conditions that are considered safe for everyone involved, clearly it must not be held.

Any applicable rules such as Public Health Orders respecting such things as public gatherings and distancing measures need to be considered. If the event is held at a venue, workplace or business rules will also apply.

Provided that a sport or other activity can comply with all government and venue requirements, and there is a desire to hold the event, here are some things you may want to consider:

- Organizers have an obligation to develop their own stringent set of procedures to address the specific safety concerns associated with holding the event. Use the Risk Assessment and Mitigation Tool to assist with making these determinations.
- In the case of a sport, are there modifications to how the sport is played or its rules to reduce the risk of virus transmission?
- Does it make sense to restrict the number of attendees to promote social distancing by, for example, restricting the number of spectators?
- If your sport is part of a provincial or national organization you should contact them to determine if “approval” is required from the organization before the sport can take place and for any guidance they can provide.
- The procedures for any event should contemplate contingency plans in case of injury, illness, weather-related disruptions etc.

- Consideration may be given to requiring all participants in the event to sign a “declaration” regarding their current health situation (e.g. to the best of their knowledge have not had or been exposed to Covid-19, do not currently have an illness including cough or fever, have not travelled outside the province in the last 14 days etc.) and possibly a “waiver” absolving the organizers and others involved from liability. While use of a declaration and waiver might be of assistance in limiting risk of exposure to Covid-19, it may not protect the organizers and others associated with the event from legal exposure for reasons given below.
- The normal rules of negligence still apply including the standard of care. In short, organizers will be held to the standard of a “reasonable” person who has or is organizing a similar event. One of the challenges of Covid-19 is that in many ways this is a new paradigm for everyone and “reasonable” standards for many things have not yet been developed let alone been tested in court. Also, standards continue evolve as we learn more about the virus and best methods to protect ourselves from its transmission. In the context of sports or other activities, one way to try to ensure that you are seeking to adhere to “reasonable” standards of safety is to look for direction or guidance from national or provincial sports authorities. If those authorities are holding events, you would be well-advised to understand and emulate their rules and restrictions. On the other hand, if they are not proceeding with events at this time, that can be an indication that you should give serious thought to whether you should proceed with your event.
- Some of the risks to an organizer in staging an event that does not meet the required standards are: 1) legal -- breach of public health orders can result in fines and other penalties; 2) financial --can result in monetary damages if found negligent; and 3) reputational -- if the actions were seen to be reckless or poorly thought out.
- Whether any insurance would even be available for the event to be staged including whether specific coverage for Covid-19 could be obtained.
- If consideration is being given to holding an event and the organization has a board of directors, the board should almost certainly review all aspects of the event and approve it before it proceeds. Given the potential negative consequences and the fiduciary obligations that the directors have to the overall organization, the board is best positioned to evaluate the benefits and the risks to the organization in proceeding. Directors are potentially at risk for their decisions and should be aware of applicability of any Directors and Officers insurance that the organization may have in place.
- Events involving “at risk” groups as well as children or youth will potentially attract a higher standard of care.
- Even if you are unable to hold an event in the near term, given the potential that the current situation will continue for some time, it makes sense to plan now for when a resumption of activities is permitted/advisable and what that might look like.

Ultimately, the determination may come down to whether the event should be held and if so, when. There will very likely be an element of risk in staging an event for the foreseeable future but there is no denying the physical, mental and emotional benefits of participating in a sport. A balance of the risks and benefits needs to be factored into the decision-making process.

Please contact your relationship partner or lawyer if you have any questions or if we can be of assistance in guiding you through these new challenges.

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*This article represents general information and is not legal advice. Please contact us if you would like legal advice that is tailored to your particular circumstances. We would be happy to help.*