

## Unvaccinated Travellers: Getting Across the U.S. Border



By [Elizabeth M. Klarin](#)

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There are many reasons for choosing not to obtain a COVID-19 vaccination, and no matter what your opinion is on what's "good" or "bad" for society, the reality is that many people have lingering skepticism about obtaining COVID-19 vaccines. Countries, provinces and even families remain deeply divided about what is necessary to reduce the spread of COVID-19, while border policies still reflect an attitude of "high alert" regarding the risks posed by and to travellers.

Let's start with the good news: many countries have removed pre- and post-arrival testing and/or quarantine requirements previously in place, which were at best a hassle and at worst a game changer for cross-border travellers. Even some countries that were strict about vaccine requirements, testing and quarantine throughout the pandemic - like Australia - have now removed all COVID-related requirements, including vaccination.

Unfortunately, travellers to Canada or the U.S. are still unable to reliably enter without proof of COVID-19 vaccination, for the time being. While this is likely to change at some point in the future, it may not be in the near future. Until the November 2022 federal elections in the U.S. are decided, COVID-19 is likely to remain a hot political issue, and the current U.S. administration may be reluctant to declare the pandemic "over" enough to warrant removal of all COVID-related requirements for travellers.

That said, the tide is turning - and a collective move toward removing all COVID-related travel requirements by allied countries around the world could push the U.S. to remove COVID vaccination requirements for travellers sooner rather than later. If Canada and/or the U.S. decide it is in their best interest to claim a political "win" by declaring that their sage management throughout the pandemic has resulted in "safe" levels of viral containment - and there is no new "wave" of COVID cases or another super-scary variant in the wings - it is possible that unvaccinated would-be travellers will be able to cross the border at some point in 2022.

### **Is anyone getting in?**

When travelling to the U.S., the strict rule stands for the time being: no COVID-19 vaccination, no entry - unless you are a U.S. citizen, U.S. national, lawful permanent resident, or travelling to the United States on an immigrant visa. While most travellers are being asked to demonstrate COVID vaccination to cross into the U.S., from time to time, individuals are simply not asked their vaccination status, and are able to enter the U.S. The danger lies in between, such as where one is asked if they have "been vaccinated," but not specifically if they have received the COVID vaccine. If you answer "yes" because you have received all other vaccinations, this can come back to bite you. Technically, it could be considered fraud if you say you have been vaccinated when you have not received all vaccines - so could come back to bite you later on, on a subsequent entry or when you apply for certain U.S. immigration benefits such as permanent residence.

It is possible to qualify for an exception to the COVID vaccination requirement, if you fall into one of the following categories of noncitizen nonimmigrants (and can make a very strong case):

- Persons on diplomatic or official foreign government travel;
- Children under 18 years of age;
- Persons with documented medical contraindications to receiving a COVID-19 vaccine;
- Participants in certain COVID-19 vaccine trials;
- Persons issued a humanitarian or emergency exception;
- Persons with valid visas (excluding B-1 (business) or B-2 (tourism) visas) who are citizens of a foreign country with limited COVID-19 vaccine availability;
- Members of the U.S. Armed Forces or their spouses or children (under 18 years of age);
- Sea crew members travelling with to a C-1 and D nonimmigrant visa;
- Persons whose entry would be in the national interest, as determined by the secretary of state, secretary of transportation, or secretary of Homeland Security (or their designees); and
- Ukrainians who are approved as part of the Uniting for Ukraine program.

Travellers who request an exception to the COVID-19 vaccination requirement at the time of travel are likely to have one bite at that apple - so should prepare a strong case, with accompanying evidence, before travelling. Waivers are also available where someone has a sincerely held religious belief or moral conviction preventing them from obtaining the required vaccination, but applying for a waiver of the vaccine requirement can be a lengthy and complicated process.

## How long will the vaccine requirement last?

The quick answer is, as long as the government wants it to. When the U.S. Department of Homeland Security (DHS) most recently announced an extension of the COVID-19 vaccination requirement for travellers in April 2022, it stated that it will "closely monitor all relevant circumstances" and "may amend or rescind the requirements at any time." It is also likely that the U.S. will continue to align its COVID-19 vaccination policies with Canadian policies, as it has done throughout the pandemic. This does not mean both countries will act in lock-step on all measures, but the "Roadmap for a Renewed U.S.-Canada Partnership" that was launched in February 2021 by Prime Minister Trudeau and President Biden highlighted that both countries plan to co-ordinate their border measures related to COVID-19, for the time being.

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