



# Ontario Government Mandating Vaccinations for Long-Term Care Home Staff

October 4, 2021

On October 1, 2021, the Ontario government announced that COVID-19 vaccinations will be mandatory for all in-home staff, support workers, students and volunteers by November 15, 2021.

## Updated Requirements

As discussed in an [earlier Focus Alert](#), the Ontario government had previously required long-term care homes to have immunization policies in place for staff, student placements, and volunteers. These immunization policies contained an option for individuals to provide one of the following:

1. Proof of COVID-19 vaccination;
2. Proof from a physician or a registered nurse in the extended class of a medical reason that the individual could not be vaccinated against COVID-19, including the effective time period for the medical reason; or
3. Proof that the individual had completed an approved educational program about the benefits of COVID-19 vaccination and risks of not being vaccinated.

The updated [Minister's Directive - Long-term care home COVID-19 immunization policy](#) (the "Directive") no longer contains the educational program option, making vaccination mandatory unless a medical exemption applies.

The government will also update the [Minister's Directive: COVID-19 - Long-term care home surveillance testing and access to homes](#) effective October 15, 2021 to provide for randomized testing of fully vaccinated individuals.

## Covered Individuals

In addition to staff, student placements, and volunteers, the Directive now applies to support workers, defined as "persons who visit a home to provide support to the critical operations of the home or to provide essential services to residents." Essential services are defined in greater detail in the Ministry of Long-Term Care's [COVID-19 guidance document for long-term care homes in Ontario](#).

A licensee of a care home (a "Licensee") must apply the requirements to all of the individuals listed above (the "Covered Individuals") regardless of the frequency with which the Covered Individuals attend the home or the duration of any period of time they attend the home. Licensees must ensure that Covered Individuals who have not met the vaccination requirements do not attend the home in order to work, undertake a student placement, or volunteer.



Support workers attending the home for emergency or palliative situations, to provide timely medical care, or for the sole purpose of making a delivery will not be subject to the vaccination requirements. However, this exception is subject to the provisions of **Directive #3**, which outlines COVID-19 measures and requirements relating to long-term care homes, including screening and access.

Inspectors with a statutory right of entry are not covered under this Directive.

### **Proof of Vaccination or Medical Exemption**

Under the updated Directive, Covered Individuals will be required to provide proof of one of the following:

1. Receipt of the full series of a COVID-19 vaccine authorized by Health Canada, or any combination of such vaccines; or
2. Receipt of one or two doses of a COVID-19 vaccine not authorized by Health Canada, followed by one dose of a COVID-19 mRNA vaccine authorized by Health Canada; or
3. Receipt of three doses of a COVID-19 vaccine not authorized by Health Canada.

According to Directive #3, in order to be “fully immunized,” an individual must have received their final dose of the COVID-19 vaccine at least 14 days ago.

Alternatively, proof of vaccination is not required for a Covered Individual who provides written proof from a physician or registered nurse in the extended class of a valid medical contraindication to receiving the COVID-19 vaccine that sets out:

1. That the individual cannot be vaccinated against COVID-19; and
2. The effective time period for the medical contraindication.

If the time period noted above has expired, then Licensees are required to ensure that the individual provides proof of vaccination within 30 days of expiry.

The Ministry of Health’s *Medical Exemptions to COVID-19 Vaccination* guidance document indicates that there are “very few actual contraindications to available COVID-19 vaccines that would qualify as medical exemptions and most individuals can safely receive COVID-19 vaccines.” As of September 14, 2021, the only reasons outlined by the government for medical exemption to receiving vaccination for COVID-19 are as follows, with specific details of each exemption outlined in the document:

1. Certain pre-existing conditions;
2. Contraindications to receiving the AstraZeneca vaccination;
3. Adverse effects following COVID-19 immunization; and
4. Actively receiving monoclonal antibody therapy or convalescent plasma therapy for the



treatment or prevention of COVID-19.

Licensees are required to ensure that information on COVID-19 vaccination requirements is communicated to all Covered Individuals, as well as to residents and their substitute-decision makers.

### **Deadline for Compliance**

Proof of vaccination or a medical exemption will be required by November 15, 2021. However, for those individuals who begin attending the home to work, undertake a student placement or volunteer after October 1, 2021, the requirements must be met from the first day the individual begins attending the home.

A Licensee may provide an extension of not more than seven (7) days for a Covered Individual to provide the required proof. The extension may be provided on a case by case basis where there are unforeseen or extenuating circumstances outside of the Covered Individual's control that impede them from meeting the requirements.

### **Consequences of Non-Compliance**

Licensees must clearly set out the consequences for Covered Individuals who do not provide the required proof of vaccination or medical exemption, including that they cannot attend the home for the purposes of working, undertaking a student placement, or volunteering. Any additional consequences of non-compliance shall be in accordance with the Licensee's human resources policies, collective agreements, and any applicable legislation, directives, and policies.

Licensees are still required to make an approved educational session about COVID-19 available to staff, support workers, students and volunteers. The session must, at a minimum, address the following:

- How COVID-19 vaccines work;
- Vaccine safety related to the development of the COVID-19 vaccines;
- Benefits of vaccination against COVID-19;
- Risks of not being vaccinated against COVID-19; and
- Possible side effects of COVID-19 vaccination.

### **Statistical Information and Publicly Posted Staff Vaccination Rates**

Licensees will still have obligations to collect, maintain, and disclose to the Ministry of Long-Term Care on a monthly basis the following information:

1. The total number of individuals subject to the Directive for the reporting cycle;
2. The total number of individuals who have submitted proof as required by the Directive, broken down by which type of proof was provided;



3. For each type of proof, the number of individuals who submitted each type of proof who are staff, students, or volunteers; and
4. The total number of individuals who have been granted an extension of not more than seven (7) days and the reason why.

The Ministry of Long-Term Care may share any and all statistical information provided by Licensees with the Ministry of Health, local public health units, or the public. The Ministry of Long-Term Care noted that long-term care home staff vaccination rates will now be **publicly posted**.

## **In Our View**

Licensees are now required to implement and enforce a vaccination policy that is truly mandatory. For those who have wished to do so for health and safety reasons, the government's announcement may make implementation of such a policy easier.

However, the Directive may also result in the loss of some staff who remain unwilling to obtain a vaccination and do not have a valid medical reason for refusal. The government notes that certain provisions of O. Reg. 95/20 – *Streamlining Requirements for Long-Term Care Homes* or O. Reg. 79/10 – *General* under the *Long-Term Care Homes Act, 2007* may provide Licensees with the operational flexibility to address potential staffing concerns.

Additionally, Licensees are still left to determine what consequences (other than preventing a Covered Individual from working, carrying out their student placement, or volunteering) will apply to a Covered Individual who does not meet the vaccination requirements. Licensees are urged to seek legal advice when making decisions in this regard, as the application of collective agreements, employment agreements, policies, legislation, and other considerations may affect a Licensee's rights and obligations in the circumstances.

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*\*\*\* Please note that the summary provided in this article is based on information available at the date of posting. Matters relating to vaccination requirements are rapidly evolving. The information contained herein is subject to further change, including without limitation any new or amended Directives, Instructions, or orders. We will endeavour to continue to keep readers updated. \*\*\**