

FTR Now

Ontario Expands Testing for COVID-19 – What Employers Need to Know

Date: November 26, 2020

On November 20, 2020, the Ontario government filed two regulations that allow point-of-care testing for COVID-19 to take place outside of laboratories and permit an expanded list of healthcare professionals to perform COVID-19 testing. The regulations came into effect on November 20.

In addition to these regulatory changes, the government has announced that it plans to deploy rapid COVID-19 testing across the province.

Regulatory Changes to Facilitate Testing of COVID-19

We anticipate that the healthcare and municipal sectors will be impacted by the broad range of professionals who will now be permitted to perform COVID-19 testing by virtue of their exemption from the licensing requirements of the [Laboratory and Specimen Collection Centre Licensing Act](#) (Act). These exemptions include:

- registered nurses
- registered practical nurses, and
- paramedics.

The Details

[Ontario Regulation 652/20](#) amends [Regulation 683 Specimen Collection Centres](#) made under the Act in the following way:

- permits licensed specimen collection centres to perform point-of-care testing in relation to COVID-19
- defines point-of-care testing as “testing performed outside a clinical laboratory at or near where a patient is receiving care”
- exempts the following professionals from certain licensing requirements under the Act and from the provisions of Regulation 683 with respect to collecting specimens for a COVID-19 test:
 - qualified medical practitioners
 - registered practical nurses or registered nurses, including registered nurses who

- hold an extended certificate of registration under the *Nursing Act, 1991*
- dentists
- pharmacists
- paramedics in the course of their employment with an ambulance service operator that is certified under the *Ambulance Act*
- persons who provide services as part of a community paramedicine program approved by either the Ministry of Health or Ministry of Long-Term Care, and who is a paramedic within the meaning of the *Ambulance Act*.

The *Regulated Health Professions Act, 1991* or the *Ambulance Act*, as applicable, continue to apply with respect to controlled acts or any other matter.

The government also filed [O. Reg. 653/20](#) amending [Regulation 682 Laboratories](#) made under the Act. These changes permit testing for COVID-19 to take place outside of a laboratory which could include, for example, mobile testing sites, in-home testing and testing within retirement homes. The regulatory amendments exempt the same list of professionals noted above and, among other things, make these changes:

- add a definition of point-of-care testing to mean testing performed outside a clinical laboratory at or near where a patient is receiving care
- remove the stipulation that no laboratory director or supervisor may be employed at more than two laboratories without Director approval for point-of-care testing for COVID-19.

Rapid Deployment of COVID-19 Testing

On November 24, 2020, the [Ontario government announced](#) that it is deploying new COVID-19 rapid tests (ID NOW and Panbio rapid antigen tests) to provide faster results in areas of high transmission as well as rural and remote areas. It states that the Panbio test will also be used in an eight-week pilot for participating employers in “the private, public and non-profit sectors, prioritizing access for health care settings, essential frontline settings, and congregate settings.”

These tests may be performed by the professionals exempted from the licensing requirements set out above in addition to licensed laboratories or specimen collection centres.

Next Steps

Employers in the healthcare and municipal sectors may wish to consider the following as part of any local plan to act on these new regulations:

- to the extent that you are engaging union-represented staff to deploy this testing, consider consulting and advising your bargaining agent(s) in advance
- consider whether any training is required in advance of deployment, and

- determine whether your Joint Health and Safety Committee should be consulted as part of your implementation plan.

Should you require any information about these new developments, please contact [Sarah Eves](#), [Mark Mason](#), [Stephanie Jeronimo](#) or your regular Hicks Morley lawyer.