

HR HealthCheck

Ministry Issues Directive for Vaccination Requirements in Long-Term Care Homes

Date: October 13, 2021

On October 1, 2021, the Minister of Long-Term Care issued an updated [Long-term care home COVID-19 immunization policy](#) directive (Directive). The Directive sets out COVID-19 vaccination requirements for staff, support workers, student placements and volunteers (Covered Individuals) working in long-term care homes and applies regardless of the frequency or duration of their attendance at the home. The Directive is effective as of October 1, 2021.

Under the Directive, every licensee (Licensee) of a long-term care home (as that term is defined in the *Long-Term Care Homes Act, 2007*) must ensure that Covered Individuals provide proof of having received:

- the full series of a COVID-19 vaccine authorized by Health Canada, or any combination of such vaccines,
- 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
- three doses of a COVID-19 vaccine not authorized by Health Canada.

If a person was a Covered Individual on October 1, the applicable vaccination requirements apply by November 15, 2021.

If a person became a Covered Individual after October 1, they must immediately comply with the vaccination requirements.

The vaccination requirement does not apply to a Covered Individual who provides written proof of a valid medical contraindication to receiving the requisite COVID-19 vaccine. That proof must be provided by either a physician or registered nurse in the extended class that sets out:

- that the individual cannot be vaccinated against COVID-19, and
- the effective time period for the medical contraindication.

Where the effective period of the medical contraindication has expired, the Licensee must ensure that within 30 days of that expiration, the Covered Individual provides the requisite proof of vaccination.

Note that the Licensee may extend the deadline for providing proof of vaccination or proof of a medical contraindication, on a case-by-case basis, by no longer than seven days.

These requirements do not apply to a support worker who is attending the long-term care home for emergency or palliative situations, to provide timely medical care or for the sole purposes of making a delivery (subject to any restrictions or requirements contained in [Directive #3](#)). In addition, the Directive does not apply to inspectors who have a statutory right of entry to the long-term care home.

Every Licensee must set out the consequences for non-compliance with the requirements set out above. These must include prohibiting the affected Covered Individual from attending at the long-term care home for the purposes of working, undertaking a student placement or volunteering. Additional consequences in accordance with the Licensee's human resources policies, collective agreements and any applicable legislation, directives and policies may also apply.

The Directive states that an educational session must be made available to Covered Individuals that includes, at a minimum, the following information:

- how COVID-19 vaccines work,
- vaccine safety related to the development of the COVID-19 vaccines,
- the benefits of vaccination against COVID-19,
- risks of not being vaccinated against COVID-19, and
- possible side effects of COVID-19 vaccination.

Every Licensee must ensure that information on COVID-19 vaccination requirements is communicated to all Covered Individuals as well as to residents and their substitute decision-makers.

Licensees must continue to collect, maintain and disclose statistical information on the requirements under the Directive to the Ministry of Long-Term Care on at least a monthly basis.

Note that on October 8, 2021, the Ministry also issued an updated [COVID-19 guidance document for long-term care homes in Ontario](#).

Takeaways for Employers in the Long-Term Care Sector

The changes set out in the Directive are significant and long-term care homes should review it carefully in order to ensure that their COVID-19 immunization policies and statistical collection protocols are compliant. The following are some key takeaways in this regard:

- While long-term care homes must continue to offer educational programs, Covered Individuals can no longer complete an educational program as an alternative to providing proof of vaccination or medical contraindication to vaccination.
- Covered Individuals who are partially vaccinated can no longer satisfy the proof of vaccination requirement for any length of time.
- Employers are now required to prohibit Covered Individuals who do not provide proof of vaccination or medical contraindication from attending at a long-term care home for work. The previous Directive did not mandate any particular consequences for non-compliance.
- Covered Individuals who met the proof of vaccination requirement under the previous Directive may not meet the more stringent vaccination requirement set out under the new Directive. For example, individuals who have received vaccinations which are not approved by Health Canada are now required to provide proof that they have received three doses. Previously, any complete series of vaccinations approved by the World Health Organization was acceptable.
- Statistical information related to the Directive was previously shared only with the Ministry of Health and local public health units, but may now be shared with the public. In addition, Licensees are now required to share the information with a long-term care home inspector upon request.

Should you have any questions regarding this Directive or its implementation, please contact [your regular Hicks Morley lawyer](#).

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