

## ONN analysis: Ontario government vaccination certificate requirement (September 2021)

### Overview

The Premier of Ontario [announced](#) on September 1 that, effective Sept. 22, 2021, clients and community members will have to show proof of COVID vaccination (two doses + 14 days) in certain public spaces along with photo ID, with exemptions allowed only for unvaccinated people with medical exemptions and children under 12.

On September 14, the Ontario government [released](#) regulations under the Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, outlining details of how the vaccination certificate system will work in affected workplaces and spaces. The Province is still working on plans to introduce QR-enabled (quick-response, or 2-dimensional barcode) virtual certificates (for individuals) and an accompanying verification app (for workplaces and spaces) by October 22. These apps will be accessible to people with disabilities and compatible with screen readers.

[O.Reg 645/21](#) amends O.Reg 364/20 by adding a new section called Proof of Vaccination. The guidance document is [here](#).

### Overview:

- Initially, the system will involve showing the existing vaccination proof (downloadable by individuals [here](#)) alongside photo ID. A receipt with a QR code will be introduced shortly. A smartphone “verifier app” will be rolled out on October 22 for businesses and nonprofits to verify QR codes at the door while protecting privacy.
- Tools will include a means to check the vaccine status of people from outside Ontario.
- These mandatory requirements do not apply to health care settings, grocery stores, medical supply stores nor in outdoor settings.
- People with medical exemptions from the COVID vaccine may show a doctor’s note “until recognized medical exemptions can be integrated” into the digital certificate.
- Additional tools and supports for individuals and workplaces will be provided by September 22, including alternatives for people without email, health card, or ID.
- Enforcement will be conducted by-law officers and Ministry of Labour, Training and Skills Development inspectors, beginning with education and warnings.
- The Ontario government will “maintain Indigenous data governance, control, access and possession principles” in supporting vaccine certificates for Indigenous communities.

The move follows the August 17 announcement of a requirement for “high-risk settings” (generally, health and social service delivery sites) to have a vaccination policy in effect for staff, volunteers, and others. The government has since released a guidance resource for implementing vaccination policies in health, home and community care settings attached [here](#). These settings have a deadline of Sept. 7 for implementation.

Nonprofits should bear in mind that individuals may offer their OHIP card as photo ID (as per the press release) but [you should not collect or record the health number](#).

ONN has reviewed the regulation and guidance documents released on September 14. Highlights for nonprofits are as follows.

### **Workplaces and spaces affected**

The regulation specifically lists affected locations. The Ontario government may add other locations in future. The current list includes:

- Indoor areas of meeting and event spaces (includes banquet halls, conference centres, etc);
- Indoor areas of facilities used for sports and recreational fitness activities, including personal fitness training, gyms, sports facilities, pools, leagues, sporting events, and indoor spectator areas -- Appendix A of the guidance provides additional details. Limited exceptions apply.
  - One exception is youth under 18 years of age entering indoor premises of a facility used for sports and recreational fitness activities solely for the purpose of actively participating in an organized sport (not spectators). Examples include:
    - Sports leagues
    - Organized pick-up sports
    - Dance classes
    - Martial arts
    - Swimming classes
  - The exemption does not apply to youth using a gym or other area with exercise equipment or weights unless actively participating in an organized sport.
- Restaurants (excluding patios and take-out/delivery);
- Indoor areas of casinos, bingo halls and gaming establishments; and
- Indoor areas of concert venues, music festivals, theatres and cinemas.

### **Clients, customers, and community members**

- Must provide proof of identification and proof of full COVID vaccination (having received their final dose at least 14 days beforehand). (See list of exceptions below.)
- Are not required to switch to the QR code-enabled virtual certificate after it rolls out, and may continue to show a paper or digital certificate at the door.

- Must show proof of identity (photo ID not required) “issued by an institution or public body” that shows their name and date of birth. Examples include:
  - Birth certificate
  - Citizenship card, permanent resident card, or passport
  - Driver’s license or health card
  - Indigenous Membership Card or status card

An FAQ for individuals on how to access and use their vaccine receipt/certificate is [here](#), including instructions for people without health cards, home addresses, or printers.

### **Organizations responsible for affected workplaces and spaces**

Subject to the exceptions listed below, organizations responsible for spaces listed in the regulation:

- Must match the name and date of birth on an ID to the same information on a Ministry of Health vaccine receipt and to verify that 14 days have passed since the second dose was administered.
- Are not expected to look for forgeries.
- Should call police if they encounter threats or harassment. Additional resources are provided:
  - [Developing your COVID-19 Workplace Safety Plan](#)
  - [Understand the law on workplace violence and harassment](#)
  - [Are your employees prepared to handle COVID-linked violence?](#)
  - [WSPS Workplace Violence and Harassment Toolbox](#)
- Should accept proof of full vaccination from jurisdictions outside Ontario, as long as individuals can show ID matching their name and date of birth to the vaccination receipt/certificate provided.
  - For Ontario residents, expired Ontario government issued identification, including drivers’ licences, and expired Canadian government issued documents, such as passports, may be provided as proof of identification.
  - Visitors from within Canada may provide expired passports but may not provide expired provincial documents as proof of identification.
  - All patrons visiting from abroad may not provide expired documents as proof of identification.

- Must admit individuals who can prove a medical exemption and show ID. To review proof of a medical reason for not being vaccinated against COVID-19, the business or organization must ensure:
  - The name of the person in the written documentation matches the identification provided.
  - The logo or letterhead identifies the health practitioner as either a physician (“MD”), “Registered Nurse (Extended Class) - RN(EC),” or “Nurse Practitioner - “NP,” and their name and contact information are shown.
  - The statement says that there is a medical reason for the individual’s exemption from being fully vaccinated against COVID-19; and
  - That the exemption applies to the date the person is entering the premises.
- Must establish processes to ensure compliance with the rules, including “processes to ensure compliance with this requirement when a business or organization is uncertain whether a patron is under 12 years of age.”
- Must not retain information about vaccine status or a person’s health card info.
- May establish further rules for people in their space, including employees, students and volunteers (obtaining legal advice on this is suggested).
- May expect provincial and municipal bylaw officers to visit to ensure they understand the new requirements (an education-first approach).
- May be subject to a fine for non-compliance.

### Exceptions:

There are numerous situations where the vaccination verification requirements do not apply:

- Individuals:
  - Workers, contractors, repair workers, delivery workers, students, volunteers, coaches and sport officials, inspectors, others entering the organization for work purposes, not as patrons/clients.
  - People entering a space to use the washroom, make a purchase/place or pick up an order (including food), access an outdoor area via an indoor area, purchase admission, or as required for the purposes of health and safety.
  - People with a medical exemption provided by a physician, registered nurse, or nurse practitioner. Individuals must present identification and their written medical exemption. The College of Physicians and Surgeons of Ontario has directed physicians not to issue unwarranted medical exemptions to their patients.

- Workplaces and spaces:
  - Indoor premises of a meeting or event space located in a place of worship are exempt.
  - Wedding services and funeral services, regardless of location, are exempt.
  - Wedding receptions and funeral *receptions* are exempt if they are in places of worship.
  - Wedding and funeral receptions in meeting/event spaces other than in places of worship are subject to the vaccine certificate requirements.
    - BUT: From Sept. 22, 2021, to Oct. 12, 2021 (inclusive), a negative COVID test may be used by individuals in lieu of proof of full vaccination.
- Children under 12 years of age.

### **This guidance does not affect existing rules in place**

- Any previous requirement to screen for COVID symptoms, wear masks, ensure physical distancing, capacity limits, and client contact tracking already in effect;
- Municipal by-laws and health orders in place locally;
- The requirement of employers under the Occupational Health and Safety Act to take every precaution reasonable in the circumstances to protect the health and safety of workers.

### **Of note**

- There are no exemptions granted on religious grounds.
- The requirements currently expire on December 31, 2021, but could be extended.
- Organizations should take time to train workers and volunteers on how to check ID, how to verify certificates, which exemptions apply, and how to handle harassment or violence.
- The Ontario government does not plan to provide funding to help nonprofits and businesses with the added costs of implementing the certification system.
- Organizations should consider how to distinguish workers, students, and volunteers from clients/patrons each time they enter the premises (knowing that many volunteers are also clients).

### **ONN has sought additional information and will update the sector as we learn more.**

ONN has participated in briefings with staff at the Office of the Premier and will continue to review and share information as it becomes available. We have communicated the need for training and



support for nonprofit staff and volunteers to implement this new verification system. We have also raised the question of how organizations should check QR codes if workers and volunteers are not typically supplied with smartphones to use at the door.

If organizations have questions about the new regulation and guidance, please send them directly to the [Ministry of Health](#). If you think your issue would affect a range of nonprofits, please also send your question to [info@theonnc.ca](mailto:info@theonnc.ca) to inform our advocacy with the Ontario government.

**Please note that nothing in this update constitutes legal advice.**

Further updates will be posted on our provincial [COVID-19 policy page](#).