**BETTY'S LAW**
Courtney Betty, JD
Counsel for Justice and Equity

February 16, 2022

Office of the President
Chief Executive Officer
University of Toronto
27 King's College Circle, Room 206
Toronto, ON M5S 1A1
Canada

Via email: president@utoronto.ca
Phone: 416-978-4163

Dear Professor Gertler,

1. We represent faculty, staff and students in a pending Human Rights Tribunal of Ontario ("HRTO") Group Application.
2. The University of Toronto has breached and continues to breach the basic fundamental rights as clearly outlined hereunder.
3. Our request at this time is a very simple one: U of T must maintain the pre-Covid-19 status quo until the HRTO has had the opportunity to consider the matter and provide directions or a decision.
4. This request means that U of T immediately revoke all suspensions and terminations of employment related to U of T's vaccination mandate by instead providing the necessary accommodations required under the *Human Rights Code,* R.S.O. 1990, c. H.19.
5. Across the myriad of persons at U of T, some of them have been vaccinated and some are not. Some have received one shot and are regarded as partially vaccinated.
6. Some had reactions and adverse effects to the first vaccination. Some are suffering heart defects from the first vaccination.
7. Among all, they share one thing in common: U of T had failed outright to accommodate them or even to advise them in a proper and informed way of their rights to accommodation.

8. In fact, far worse than this, U of T concealed the basis in law for those rights and the means to exercise those rights.

**Background**

9. The Ford government announced yesterday that it intends to revoke the vaccine passport on March 1, 2022.
10. Many of the draconian policies are now being replaced by a more enlightened, scientific approach designed with a stated intention of keeping the public safe.
11. The case against U of T is clear. First, there is the failure to actively establish a framework for accommodation in individual cases. These rights of Canadians have long been established in law. This fact means that U of T cannot sit idly by. It has a positive duty in law to take steps to accommodate. Decisions have been rife showing that this is the case even if specific individuals do not come forward and request accommodations. This is both a procedural and a substantive duty.
12. The second thing U of T failed to do is actually abide by the policy in the first place. It is a fundamental principle in law, even in interpretation of the *Canadian Charter of Rights and Freedoms*, and a pillar of law in Canada at every level of court and indeed in every tribunal, that the least intrusive means to an end have to be chosen.
13. The Human Rights Commission Policy Statement on Human Rights in COVID-19 Recovery Planning makes it clear that in so far as accommodations are concerned, organizations are bound by the requirement of acting in the least intrusive manner. U of T used a sledgehammer repeatedly.
14. The policy applied at U of T is *ad hoc*. More specifically, where U of T will fail at the level of the HRTO is in its failure to accommodate on the least intrusive means, and in its failure to actively make known and provide accommodations.
15. The University had at its fingertips far less intrusive means, including rapid testing, remote teaching and learning, all of which have worked extremely well in multiple contexts, including rapid testing for health care workers.

16. Third, U of T will fail because the HRTO considers it a fatal mistake in law when a policy that restricts rights has also failed in giving an ample opportunity to be heard by individuals subjected to that policy. In fact, U of T went further by concealing this right to be advised about accommodations from our clients in the implementation of its Covid-19 policy and documents.
17. Fourth, U of T will fail as it has failed to update its policy in accordance with the updated guidance and recommendations from the Public Health Agency of Canada, as of January 14, 2022.
18. And lastly, U of T will fail because the policy is overbroad, sweeping and goes beyond any reasonable requirements of the federal or provincial government.

**U of T is failing to update its procedures recommended by Ontario's Public Health Agency**

19. The university's scrapping of faculty, staff and students for not complying with its own Covid-19 vaccine mandates, thwarts the recommendations of public health authorities in Canada.
20. The university acted unilaterally to threaten, intimidate, and finally suspend faculty and staff and to de-enroll students without ever giving thought to the legal right to be accommodated.
21. The conduct by U of T is a marked departure from reasonable conduct.
22. The university failed to take into account: exemptions recommended by regulatory authorities, properly requested accommodations, its own policies and procedures for teaching in the Winter 2022 semester, the university's accommodation consistent with its guidelines and procedures, and the *Human Rights Code* and, in particular, the specifications on accommodations and alternatives in rapid testing and the least intrusive means.
23. U of T is responsible in law for the following: breach of contract, abuse of process, intentional interference with economic relations, and negligence. The statutory breaches in this Application, without limitation, are based upon failure to accommodate, reprisal, and in particular the breach of sections 8 and 17 of the Human *Rights Code,* R.S.O. 1990, c. H.19.

24. U of T is also responsible for the emotional and psychological turmoil, anxiety and distress caused by the unlawful decisions of the university in callously scrapping faculty and staff and de-enrolling students. For many, this damage is irreparable.
25. The policies on accommodation at the university stipulate that it has a duty to ensure that persons suffering are accommodated. The university narrowly interprets the duty to accommodate as being subject to accommodations for disease and disability. This narrow interpretation is mistaken.
26. U of T's policy on Covid-19 does not make it clear to individuals that they can be accommodated based upon other criteria, including among others, physical ailments, mental health, anxiety disorders and pre-existing conditions. This lack of failure to inform is reflective of the high-handed approach taken by U of T.
27. As the circumstances have already shown, faculty, staff and students can in fact be accommodated by implementing remote teaching and learning and requiring rapid testing once every two weeks when on campus. Annexed hereto and marked as Exhibit "A" is a copy of the university's policy on accommodation.
28. In fact, U of T is no longer releasing statistics on students who are infected with Covid-19, some of whom are statistically among those vaccinated with two doses of the vaccine and a booster, and some of whom may have been vaccinated with two doses of the vaccine. Annexed hereto and marked as Exhibit "B" is a copy of updated statistics pertaining to vaccination, infection and hospitalization among the general population.
29. The Ontario Human Rights Commission has also released a policy on Covid-19 and accommodations which is consistent with the least intrusive means test, the last intrusive alternative being implemented.
30. In this case, once again, faculty, staff and students can be accommodated without undue hardship by rapid testing when on campus and by remote learning. Annexed hereto and marked as Exhibit "C" is

a copy of the Ontario Human Rights Commission policy on Covid-19 and requirements for accommodation.

31. Public Health in Ontario has similarly recommended an exemption for persons suffering from myocarditis after a first dose of the vaccine. Annexed hereto and marked as Exhibit "D" is a copy of the exemptions as a result of myocarditis/pericarditis.
32. The duty to accommodate is not a passive one. U of T cannot wait silently and rely upon persons to come forward, especially when they have not been properly informed by U of T of their legal rights. The Court of Appeal for Ontario has made this positive duty explicit in using the actual words stating that it is a "positive" duty, ironically in fact in a case considering the right to university education:

> [104] Although Ontarians have a right to elementary and secondary publicly funded education, they do not have the same right to university education. Because admission to university is not a right or entitlement, an applicant's obligation to demonstrate the cognitive capacities and the other competencies to succeed at university plays a role throughout the admissions process and is not entirely displaced by the positive duty to accommodate that is cast on the university under the Code. (*Longueépée v. University of Waterloo*, 2020 ONCA 830 (CanLII), at para 104).

**U of T failed to update its Joint Provostial and Human Resources Guideline on Vaccination and failed to make explicit that there are Grounds for Accommodation**

33. U of T both failed to update its Joint Provostial and Human Resources Guideline on Vaccination, and more troublingly so, failed to make explicit that there are other grounds for accommodation.
34. On September 3, 2021, U of T published its Joint Provostial and Human Resources Guideline on Vaccination ("University Guideline on Vaccination") which states:

a. Full vaccination is required for all individuals involved in any in-person activities on university premises… including for all students, staff, faculty, librarians, contractors, and visitors (including volunteers), with the rare exception of those individuals who cannot be vaccinated due to university-approved exemptions.

35. In drafting the University Vaccine Guideline, U of T did not expressly use the word "accommodate" in the Guideline. The University Vaccine Guideline does not even expressly state or alert faculty, staff and students that the university has an obligation to inform and a duty to accommodate on *Code*-protected grounds.
36. The University Vaccine Guideline only states that the university "will consider, in accordance with its established processes, on an individual basis, written requests for exemptions on rare medical grounds or religious / creed exemptions protected under the Ontario Human Rights Code."
37. There is an outright failure in advising students, faculty and staff of their legal rights. It can be compared, for instance, to the manner in which it was done much differently, elsewhere:

> When applying vaccine requirements, employers must consider requests for reasonable accommodations from employees who need them because of disability, pregnancy, childbirth, lactation, religious beliefs or observances, or status as a victim of domestic violence, stalking, or sex offenses. If an employee requests an exception to a vaccine requirement or additional time to provide their proof of vaccination for one of these reasons, their employer must engage with them in a cooperative dialogue, or a good faith discussion, to see if a reasonable accommodation is possible. [New York Commission on Human Rights in its "Guidance on Equitable Implementation of COVID-19 Vaccination" (December 15, 2021)]

38. U of T's Guideline on Vaccination is overly narrow in regard to accommodations, concealed that there are grounds for accommodations, and characterizes the University-approved exemptions as all-encompassing, as follows:

a. 2. Exemptions: The University will consider, in accordance with its established processes, on an individual basis, written requests for exemptions on rare medical grounds or religious / creed exemptions protected under the *Ontario Human Rights Code*. The exemption forms will require individuals to provide sufficient supporting information in order to assess the request, including:
    i. a. Medical: written proof of a medical reason (including a diagnosed disability, with diagnosis not required to be provided) from a physician or registered nurse that includes the effective time period for the medical reason.
    ii. b. Religion/Creed: written explanation, including background on the religious belief/creed and connection of the religious belief/creed to the reason they are requesting an exemption. The explanation must be sworn or attested before a Commissioner of Oaths or Notary Public.

39. U of T, despite medical, religion/creed exemptions, ignores the updated and now less stringent recommendation from Canada's Public Health Agency which on January 24, 2022, broadened the criterion from myocarditis/pericarditis to even investigations of health impacts of the vaccine.
40. Moreover, accommodation was never limited to be synonymous with exemptions. This is a fundamental error that is not reflective of the law in Canada. It is U of T's error.

**Accommodations**

41. U of T has an absolute duty in law to accommodate faculty, staff and students. The Ontario Human Rights Commission's policy statement on vaccine mandates and proof of vaccine certificates is unequivocal:
    i. While receiving a COVID-19 vaccine remains voluntary, the OHRC takes the position that mandating and requiring proof of vaccination to protect people at work or when receiving services is generally permissible under the *Human Rights Code* (*Code*) as long as protections are put in place to make sure people who are

unable to be vaccinated for *Code*-related reasons are reasonably accommodated. This applies to all organizations.

ii. Upholding individual human rights while trying to collectively protect the general public has been a challenge throughout the pandemic. Organizations must attempt to balance the rights of people who have not been vaccinated due to a *Code*-protected ground, such as disability, while ensuring individual and collective rights to health and safety.

42. Abundantly clear is the Ontario Human Rights Commission's stipulation on accommodation and testing as an alternative, which was entirely ignored by U of T and continues to be ignored. The OHRC is clear in stating:

> **COVID testing as an alternative to vaccine requirements**
>
> Many organizations are not included in the list of settings. Organizations with a proven need for COVID-related health and safety requirements might also put COVID testing in place as an alternative to mandatory vaccinations or as an option for accommodating people who are unable to receive a vaccine for medical reasons. Organizations should cover the costs of COVID testing as part of the duty to accommodate.

43. Despite this, U of T continued with its draconian policy and in fact outlandishly and outrageously upped the ante by terrorizing its faculty and staff that there would be broad suspensions at the start of 2022.
44. The duty to accommodate has a procedural and a substantive component. The procedural duty involves the considerations, assessments and steps taken to respond to an accommodation need (*Lee v. Kawartha Pine Ridge District School Board*, 2014 HRTO 1212 (CanLII) at paras. 96-97).
45. The substantive duty is about the appropriateness or reasonableness of the chosen accommodation as well as the reasons for not providing an accommodation, including proof of undue hardship (*British*

*Columbia (Public Service Employee Relations Commission) v. British Columbia Government and Service Employees' Union*, 1999 CanLII 652 (S.C.C.), [1999] 3 S.C.R. 3 ("*Meiorin*") at paragraphs. 62-68; Gourley *v. Hamilton Health Sciences*, 2010 HRTO 2168 (CanLII), at paragraph 8).

46. In short, the duty to accommodate in law is absolute. To justify its position, to rebut the presumption, U of T must establish undue hardship. This is clearly not the case.
47. Facts already show that U of T, semester after semester has been capable of, and indeed accommodated, faculty and staff and its students by having remote learning and teaching. Clearly there was no undue hardship.
48. The OHRC policy on Covid-19 favors that the faculty and staff and indeed students be accommodated with options for rapid testing and for online teaching and learning, as a least intrusive alternative.
49. Courts have explicitly separated the procedural and substantive components:

> [65] A failure by a respondent to take the appropriate steps in the procedural duty to accommodate is a violation of a right under Part 1 of the *Code*. See *Hamilton-Wentworth District School Board v. Fair*, 2016 ONCA 421 ("*Hamilton-Wentworth*"), at para. 51, citing *Lee v. Kawartha Pine Ridge District School Board*, 2014 HRTO 1212 at para. 95, and *ADGA Group Consultants Inc. v. Lane*, 91 OR (3d) 649, 2008 CanLII 39605 (Div. Ct.) ("*ADGA Group*") at paras. 107 and 113. (Hamilton-Wentworth District School Board v. Fair, 2016 ONCA 421 (CanLII).

50. The requirements in law in regard to decisions considering disability-related needs expand even further on the duty to accommodate, stating that a failure to take the appropriate steps, and in fact even to assess needs, is a violation of the *Code*.
51. Sitting idly by or making decisions on exemptions in an *ad hoc* inconsistent way is a violation of the *Code*:

> [51] Failing to accommodate a person's disability-related needs is therefore a violation of s. 5 of the *Code*, which prohibits discrimination against a person because of disability, if that person's needs can be accommodated without undue hardship; the failure to take the appropriate steps to assess those needs is a violation of s. 5 of the *Code*: Lee v. Kawartha Pine Ridge District School Board, 2014 HRTO 1212, at para. 95; ADGA Group Consultants Inc. v. Lane (2008), 2008 CanLII 39605 (ON SCDC), 91 O.R. (3d) 649 (Div. Ct.), at paras.107, 113.

52. None of this is ultimately discretionary or open to interpretation and vagaries:

> [226] Equally, this is consistent with the narrow construction of exceptions to prohibited discrimination. Where there is evidence that an employment requirement is discriminatory, all reasonable effort should be made to accommodate the person or persons discriminated against. [*Canadian National Railway Co. v. Canada (Human Rights Comm.) and Bhinder,* 1981 CanLII 4297 (CHRT)].

**The Application raises a serious issue**

53. The first of the *RJR-MacDonald* factors considers whether the Applicants' matter raises a serious issue to be tried. In *Charter* cases, this factor requires only that the case not be frivolous or vexatious. The threshold is a low one. (*RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311).

54. Although a higher standard applies in certain circumstances, those circumstances are "exceedingly rare" and do not arise here. There is good reason to believe that if any Constitutional rights are engaged, the vaccine rules imposed by U of T and *ad hoc* application of rules and firings of faculty, will not survive scrutiny under s. 1 of the *Charter*.

55. In particular, there is limited or no evidence that vaccination under duress is better than rapid testing and remote learning, coupled with COVID-19 testing. Even if such evidence existed – or,

alternatively, if requirements were based on the precautionary principle – other, less restrictive means are apparent to achieve the same public health objective.

**The Applicants will suffer irreparable harm**

56. The second RJR-MacDonald factor requires an applicant to show the suffering of irreparable harm. The issue is whether a refusal to grant relief will so adversely affect the applicants' own interests that the harm could not be remedied if the eventual decision on the merits does not accord with the result of the interim order made during proceedings, or in the case of courts, the interlocutory application.
57. It is not the magnitude of the harm that is relevant; it is the nature of the harm. Irreparable harm is harm which either cannot be quantified in monetary terms, or which cannot be cured. One such instance of irreparable harm is in situations in which the applicant cannot obtain damages from the respondent.
58. In the case of these faculty and staff, there is irreparable harm, loss of income, extreme anxiety resulting from virtually constant threats of termination, loss of professional and personal confidence, and the abiding consequential negative effects on a person's sustenance, credit worthiness, and credit rating in cases of actual termination.
59. But none of this compares to the well-recognized cases of attack on dignity recognized in repeated recent decisions including by the Supreme Court of Canada, and the acceptance in law that one's self-esteem and life purpose are tied to work, at least in significant measure. Loss of dignity and self-respect are more significant, deeper and more everlasting. There is case law at the highest level in Canada in which the pivotal importance of human dignity is recognized. (*Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse*), 2021 SCC 43).
60. The individual losses are continuous. Some people have lost jobs, been unable to attend campus, been unable to lecture, been unable to pay mortgages, have lost benefits, have been unpaid and unable to sustain their livelihood and families.

**Balance of convenience**

61. The balance of convenience clearly favors upholding the rights of individuals over the will of an institution.
62. This balance is consistent with the accommodations policy of the Ontario Human Rights Commission as it relates to Covid-19, recommended by no less than the Public Health Agency of Canada, and is easy to implement because it has been implemented for semesters on end. That balance favours rapid testing over firing people, and de-enrolling students. It favours continuing with education rather than wreaking havoc on university faculty, staff, and students.

**Lack of consistency in approach to religious tolerance**

63. U of T also rejected a number of religious accommodations, broadly recognized at other institutions in Canada and in the U.S.

64. In Canada, exemptions from vaccination are available for individuals who have medical grounds or refuse based on sincerely held religious beliefs. The U.S. has adopted similar provisions.

65. According to the United States' Equal Employment Opportunity Commission ("EEOC"), employers have to make reasonable accommodations for staff who cannot be vaccinated for medical reasons or refused vaccination because of "sincerely held religious beliefs" (EEOC Press Release, "EEOC Issues Updated COVID-19 Technical Assistance" October 25, 2021). As of October 2021, 45 states (all but California, Maine, Mississippi, New York, and West Virginia) and Washington D.C. allow for religious exemptions to COVID-19 vaccination (Muravsky, N. L., Betesh, G. M., & McCoy, R. G. (2021). Religious Doctrine and Attitudes Toward Vaccination in Jewish Law. *Journal of religion and health*, 1–16).

66. U of T cannot arbitrarily be the arbiter of what counts as legitimately held and what does not. There was no transparency in relation to who was making the decision (a separate problem in law as U of T applied the willy-nilly policy):

> [109] An employer has a duty to find serious solutions and explore the different possibilities open to it for meeting an employee's request for reasonable accommodation in order to abide by the precepts of his or her faith. The employer must show that the possibilities set aside after serious analysis and consideration constitute undue hardship for it and are unacceptable from the standpoint of work organization in its business. [*Commission des droits de la personne et des droits de la jeunesse c. Garderie éducative Le Futur de l'enfant inc*., 2008 QCTDP 25 (CanLII)].

**The privacy component**

67. In the past week, there has been an admission at the Provincial government level of an absence of evidence that vaccination against COVID-19 prevents viral transmission.

68. At the same time, there is evidence that so-called proof of vaccination is in fact a breach of privacy.

69. On May 19, 2021 Canada's Federal, Provincial and Territorial Privacy Commissioners ("Privacy Commissioner") released a joint statement on the privacy implications of COVID-19 vaccine passports. According to the Privacy Commissioners:

> Vaccine passports must be developed and implemented in compliance with applicable privacy laws. They should also incorporate privacy best practices in order to achieve the highest level of privacy protection commensurate with the sensitivity of the personal health information that will be collected, used or disclosed.
> Above all, and in light of the significant privacy risks involved, the necessity, effectiveness and proportionality of vaccine passports must be established for each specific context in which they will be used.

70. The Privacy Commissioner also notes:

> Proponents justify this measure based on the idea that vaccinated individuals have a significantly decreased risk of becoming infected and a decreased risk of infecting others.

71. U of T purported to justify the proof-of-vaccination requirement in letters to students at the start of the Fall 2021 term by saying that "vaccination against COVID-19 is the single most effective public health measure to reduce the spread of COVID-19."

**Update**

72. On February 15, 2022, UHN infectious diseases specialist Dr. Isaac Bogoch said of the vaccine passport system: "It doesn't make a tonne of sense, you either go to three doses or you scrap it."

73. Canadians lost access to free PCR testing on Dec. 31, 2021. People who were infected with Omicron are now advised against getting a third dose until three months have passed, a fact that make changes to the vaccine passport system difficult for those people who were infected, numbering four million.

74. Dr. Bogoch states, emphasizing choice, democracy, freedoms and liberties and protection of jobs as well:

> There's rebel rousers, and there are just hard-working people that just don't believe in it, and that's their choice. This is about democracy and freedoms and liberties. I hate as a government telling anyone what to do, we just have to get out of this and move forward and protect the jobs…. I've never seen this province and this country so divided. It's affected friendships, it's affected coworkers, it's affected families.
>
> ("'We are done with it:' Doug Ford says Ontario is moving on from COVID-19," CTV News, February 15, 2022)

75. On February 11, 2022, the Premier of Ontario stated the following with respect to the Vaccine Passport System:

> Today, we're on track to very soon remove almost all restrictions for businesses as part of our reopening plan. And we heard from Dr. Moore last week and again yesterday that he is now working on a plan that will allow us to remove the vaccine passport system."

> ("Ontario on track to remove 'almost all restrictions' on businesses 'very soon,'" Global News, February 11, 2022)

76. A similar announcement was made by Alberta's Premier, Jason Kenny, who, on February 9, 2022, announced an end to the vaccine passport program. Other COVID-19 restrictions are also scheduled to be phased out by March 1, 2022.

> ("Alberta's plan to remove COVID-19-related restrictions: What you need to know," CTV News Calgary, February 9, 2022)

**Applicants' Request**

77. Human rights law is clearly in favour of exemptions or, more precisely, accommodations.
78. U of T cannot arbitrarily be the arbiter of what counts as legitimately held and what does not.
79. There was also no transparency in relation to who was making the decision (a separate problem in law as U of T applied the willy-nilly policy).
80. Even in the context of decisions to grant exemptions based upon creed or religious faith, U of T has been capricious.
81. Normally, such a decision requires after, serious analysis and consideration, actual proof of undue hardship that accommodations cannot be made:

> [109] An employer has a duty to find serious solutions and explore the different possibilities open to it for meeting an employee's request for reasonable accommodation in order to abide by the precepts of his or her faith. The employer must show that the possibilities set aside after serious analysis and consideration constitute undue hardship for it and are unacceptable from the standpoint of work organization in its business.

[*Commission des droits de la personne et des droits de la jeunesse c. Garderie éducative Le Futur de l'enfant Inc*., 2008 QCTDP 25 (CanLII)].

82. It is clear that the University of Toronto has breached the rights of our clients to be accommodated.
83. This is an issue that will be decided by the HRTO.
84. All that we are seeking on behalf of the Applicants in this request to you, Professor Gertler, is a restoration and maintenance of the pre-Covid-19 status quo.
85. Denial of this simple request will only continue to increase the tremendous harm, and ultimately the damages that U of T will be responsible for in causing the aforementioned losses to our clients and many other members of the university community.
86. Former Chief Justice of the Supreme Court of Canada, Brian Dickson, stated it properly:

> Work is one of the most fundamental aspects in a person's life, providing the individual with a means of financial support and, as importantly, a contributory role in society. A person's employment is an essential component of his or her sense of identity, self-worth and emotional well-being. Accordingly, the conditions in which a person works are highly significant in shaping the whole compendium of psychological, emotional and physical elements of a person's dignity and self-respect.

*Reference Re Public Service Employee Relations Act (Alta.)*, [1987] 1 SCR 313

Yours truly,

Courtney Betty

Per: Courtney Betty and Glyn Hotz, counsel

# EXHIBIT “A”

UNIVERSITY OF TORONTO

# Joint Provostial and Human Resources Guideline on Vaccination

September 3, 2021

## Guiding Principles:

1. The health and safety of the University community is the University's primary consideration as faculty, librarians, staff, and students return to in-person activities on University premises.
2. The University will continue to comply with and align its approach with applicable public health legislation, directives, and guidelines.
3. The University is committed to accessibility and equity and is cognizant of the unique needs of different stakeholders.
4. Through its policies and guidelines, including this Vaccination Guideline, the University promotes a supportive and respectful environment acknowledging individual health needs.
5. The University will continue to provide international students with the necessary information on vaccination requirements prior to arriving in Canada and have appropriate supports, services, and resources to refer them to upon arrival in Ontario.
6. The University may issue further guidance and instructions regarding this Vaccination Guideline, both generally and with respect to specific University activities (for example on-campus residences).
7. Public health guidance on measures for fully vaccinated, partially vaccinated, and unvaccinated individuals may continue to evolve and could affect this Vaccination Guideline. At all times, the University will be guided by public health information, legislative/regulatory requirements, and its obligations under, among others, the *Reopening Ontario (A Flexible Response to Covid-19) Act, 2020,* the *Occupational Health and Safety Act*, and the Ontario *Human Rights Code*.

## Requirements:

**1. General:** Full vaccination,[1] is required for all individuals involved in any in-person activities on University premises,[2] including for all students, staff, faculty, librarians, contractors, and visitors (including volunteers), with the rare exception of those individuals who cannot be vaccinated due to University-approved exemptions.

**2. Exemptions:** The University will consider, in accordance with its established processes, on an individual basis, written requests for exemptions on rare medical grounds or religious / creed exemptions protected under the Ontario *Human Rights Code.* The exemption forms will require individuals to provide sufficient supporting information in order to assess the request, including:

a. **Medical:** written proof of a medical reason (including a diagnosed disability, with diagnosis not required to be provided) from a physician or registered nurse that includes the effective time period for the medical reason.

b. **Religion/Creed:** written explanation, including background on the religious belief/creed and connection of the religious belief/creed to the reason they are requesting an exemption. The explanation must be sworn or attested before a Commissioner of Oaths or Notary Public.

**3. Proof:** Individuals involved in any in-person activities on University premises will be required to provide proof of having been fully vaccinated in accordance with directions provided by the University from time to time, unless they have been granted an exemption by the University under 2 (a) or (b), above.

**4. Additional Measures:** Individuals who have been approved by the University for an exemption or are awaiting their final dosage or received their final dose within the last 14 days must:

a. Adhere to additional health and safety measures, including serial and frequent rapid screening, no less than twice every seven days, including verification of the negative result, in accordance with directions provided in University communications from time to time; and

b. In the case of individuals who are seeking a vaccination exemption, undertake an educational session about the benefits of COVID-19 vaccination, which includes how the COVID-19 vaccine works, vaccine safety related to the development of the COVID-19 vaccines, the benefit of vaccination against COVID-19, the risks of not being vaccinated against COVID-19, and possible side effects of COVID-19.

**5. Timeline:** Unless granted an exemption by the University in accordance with Section 2 above, individuals involved in any in-person activities on University premises are required to be **fully**

---

[1] "Fully vaccinated" means 14 days after receiving the recommended number of doses of a Health Canada-approved vaccine. If an individual received a non-Health Canada approved vaccine, they will be considered fully vaccinated 14 days after receiving a Health Canada-approved mRNA vaccine. Given the changing nature of the COVID-19 pandemic, if the applicable public health authorities announce a different meaning of "fully vaccinated", that definition will take precedence.

[2] University premises may include off-campus activities carried out under the auspices of the University.

**vaccinated** as soon as operationally feasible but not later than **October 29, 2021.** This timeline may be amended, in writing, on an individualized basis, for example, for individuals who are returning to Canada from countries where vaccines are not widely available. If the University has previously established a different timeline to be fully vaccinated for a specific activity, for example, the timeline to be fully vaccinated in order to live in University residences, the previously established timeline will prevail.

**6. Personal Information:** Personal information such as vaccine status, rapid screening results and proof of vaccination will be collected, stored, and used in accordance with the *Freedom of Information and Protection of Privacy Act*.

**7. Enforcement:** As part of its approach to enforcing this Vaccination Guideline, the University will educate the community about the benefits of being fully vaccinated against COVID-19. Consequences for a violation of this Vaccination Guideline will depend on the individual's relationship with the University and the relevant circumstances but may include, in the case of:

- **Employees:** prohibition from attending University premises **and** discipline up to and including termination of employment for cause, in accordance with the applicable University policies and procedures, guidelines, employment agreement or memoranda of agreement or collective agreement, if any.

- **Students:** prohibition from attending University premises and in-person activities **and** sanctions under the Student Code of Conduct or Residence Agreements.

- **Others:** (for example, non-employee academic appointee, contractor, visitor, or other person): prohibition from accessing University premises **and** prohibition from returning to University premises.

**8. Further Guidance:** The University, through the offices of the Vice-President & Provost and the Vice-President, People Strategy, Equity & Culture, may issue new or further guidance regarding requirements under and application of this Vaccination Guideline.

# EXHIBIT “B”

## On this page

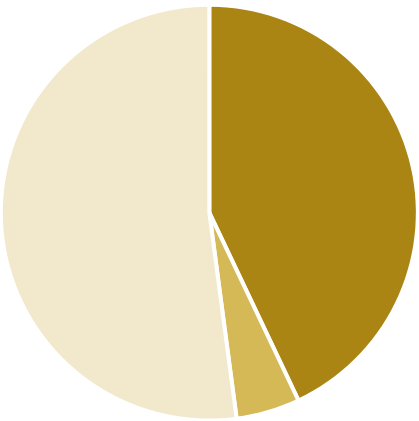


**Last updated:** February 15, 2022 at 10:31 a.m. (EST)

# Hospitalizations by vaccination status

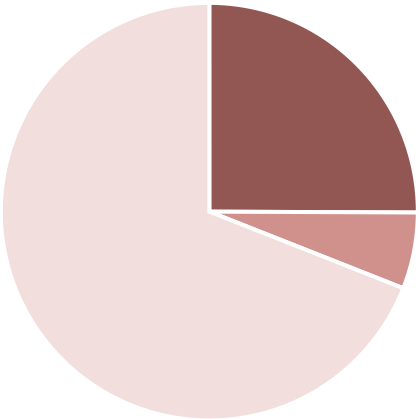
**Weekend and holiday reporting:** Due to incomplete weekend and holiday reporting, vaccination status data for hospital and ICU admissions is not updated on Sundays, Mondays and the day after holidays.

## In ICU



| | |
|---|---|
| Unvaccinated cases | 113 |
| Partially vaccinated cases | 13 |
| Fully vaccinated cases | 137 |

## In hospital but not the ICU



| | |
|---|---|
| Unvaccinated cases | 284 |
| Partially vaccinated cases | 67 |
| Fully vaccinated cases | 782 |

## About this data

This is a new data collection and the data quality will continue to improve as hospitals continue to submit data.

Data on patients in the ICU is collected from two data sources that have different extraction times and public reporting cycles. This may cause discrepancies with other hospitalization numbers that are collected using a different process.

# COVID-19 cases by vaccination status

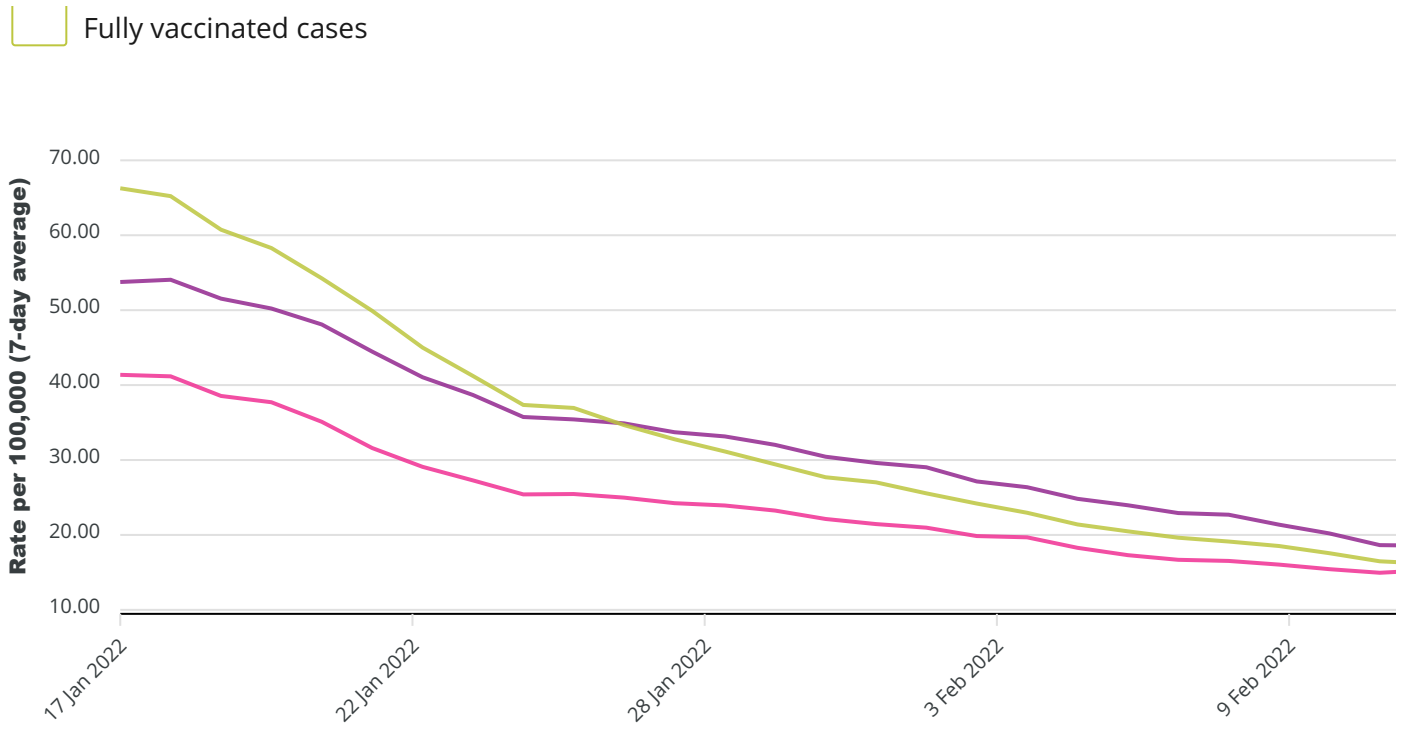
Graph | Table | Past 30 days

Rate per 100,000 (7-day average) | Number of cases

All ages | 0-11 | 12-17 | 18-39 | 40-59 | 60-79 | 80+

Unvaccinated cases

Partially vaccinated cases




**See what we mean by:** Unvaccinated cases, partially vaccinated cases, fully vaccinated cases

## About this data

For COVID-19 cases by vaccination status, vaccination status is limited to Health Canada approved vaccines.

Rate per 100,000 (7-day average) is the average rate of COVID-19 cases per 100,000 for each vaccination status for the previous 7 days as noted.

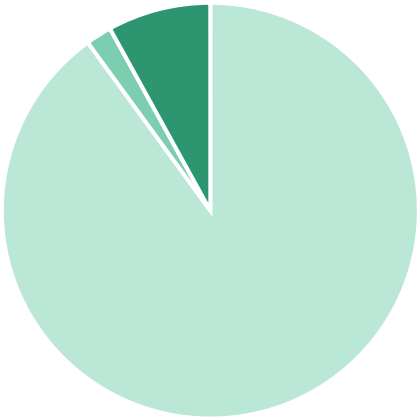
Rate of COVID-19 cases per 100,000 is calculated by dividing the number of cases for a vaccination status, by the total number of people with the same vaccination status, and then multiplying by 100,000.

The rate for Unknown vaccination status cannot be calculated.

# Vaccination progress

## 12+ years old

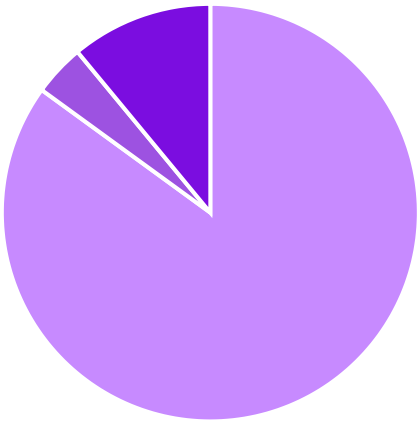
12+ years old includes Ontarians 12 or older.



| | |
|---|---|
| Fully vaccinated | 90% |
| Partially vaccinated | 2% |
| Unvaccinated | 8% |

## All eligible Ontarians (5+)

All eligible (5+) includes Ontarians 5 or older.



| | |
|---|---|
| Fully vaccinated | 85% |
| Partially vaccinated | 4% |
| Unvaccinated | 11% |

## Vaccination overview

### Number and percentage of people vaccinated

| Total Ontarians vaccinated | Number |
|---|---|
| Since December 15, 2020 | of people |
| Partially vaccinated | 618,396 |

| Total Ontarians vaccinated | Number |
|---|---|
| Since December 15, 2020 | of people |
| Fully vaccinated | 11,914,979 |

| Vaccination status | Percentage | Percentage | Percentage |
|---|---|---|---|
| Since December 15, 2020 | of all 5+ | of all 12+ | of all ages |
| Partially vaccinated | 4% | 2% | 4% |
| Fully vaccinated | 85% | 90% | 81% |
| **Total** | **89%** | **92%** | **85%** |

### Third or booster doses

| Vaccination status | Number |
|---|---|
| Since August, 2021 | of people |
| Individuals vaccinated with 3 doses | 6,773,871 |

As of 1 December, 2021, the denominator for vaccination coverage rates has been updated to the Statistics Canada 2020 estimates. This change results in a small increase in the percentage of Ontarians vaccinated.

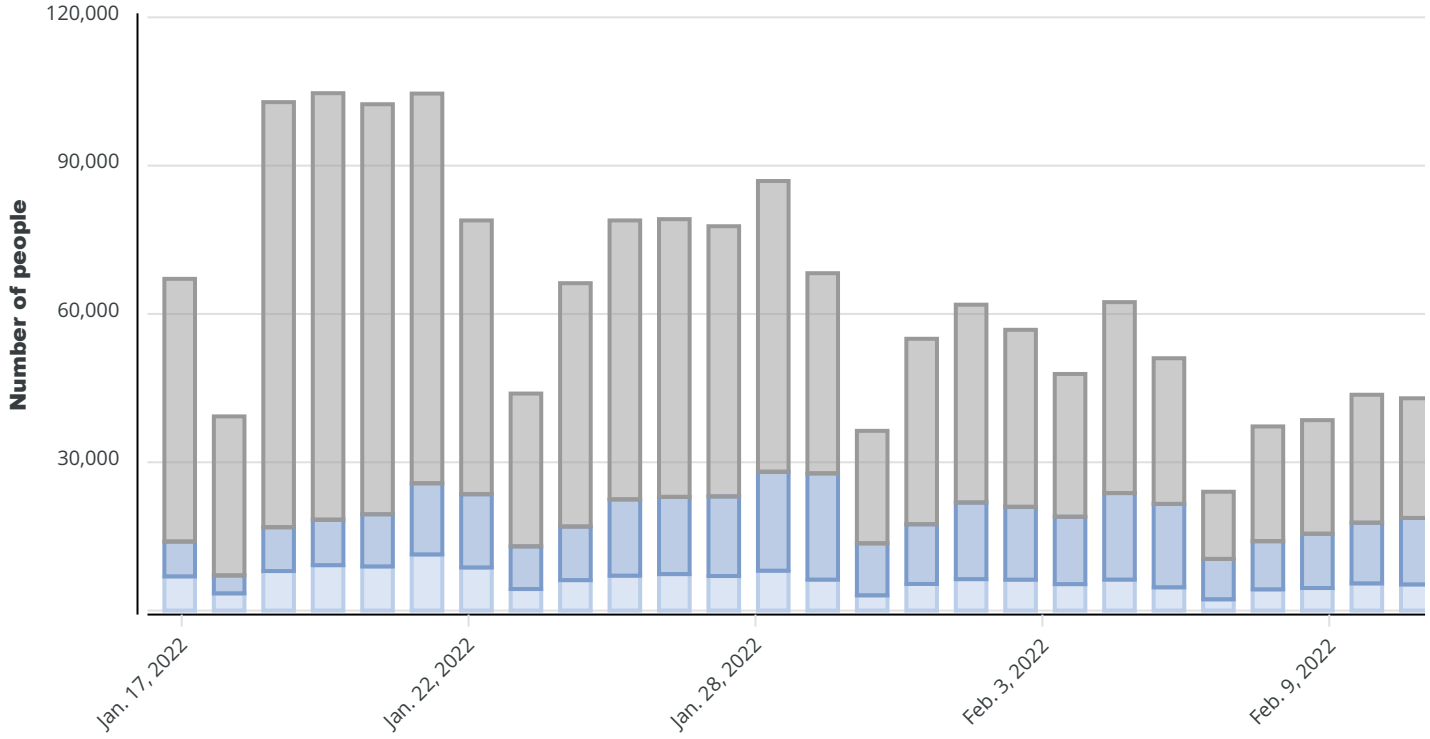
## Daily and total vaccinations over time

Daily | Cumulative

Number of people who became partially, fully vaccinated or received a booster dose each day.

Graph | Table | Past 30 days

- Number of people who received a booster dose
- Number of people who became fully vaccinated
- Number of people who became partially vaccinated




## Vaccinations by age

### People 18+ who have had a booster dose

| Age | Number of people | Percentage of age group |
|---|---|---|
| **80+** | 569,107 | 86.8% |
| **70-79** | 973,164 | 85.8% |
| **60-69** | 1,334,847 | 75.6% |
| **50-59** | 1,219,738 | 59.7% |
| **40-49** | 934,557 | 50.4% |
| **30-39** | 881,919 | 43.3% |
| **18-29** | 847,294 | 34.1% |

## People 5+ who have had at least one dose

| Age | Number of people | Percentage of age group |
|---|---|---|
| **80+** | 674,534 | 100.0% |
| **70-79** | 1,139,030 | 100.0% |
| **60-69** | 1,718,087 | 97.3% |
| **50-59** | 1,854,554 | 90.8% |
| **40-49** | 1,678,831 | 90.6% |
| **30-39** | 1,836,045 | 90.2% |
| **18-29** | 2,191,097 | 88.2% |
| **12-17** | 857,289 | 89.2% |

| | | |
|---|---|---|
| **5-11** | 581,816 | 53.9% |

### People 5+ who are fully vaccinated

| Age | Number of people | Percentage of age group |
|---|---|---|
| **80+** | 658,880 | 100.0% |
| **70-79** | 1,122,676 | 99.0% |
| **60-69** | 1,690,313 | 95.8% |
| **50-59** | 1,819,134 | 89.1% |
| **40-49** | 1,638,545 | 88.4% |
| **30-39** | 1,773,604 | 87.2% |
| **18-29** | 2,095,592 | 84.3% |
| **12-17** | 859,249 | 89.4% |
| **5-11** | 255,926 | 23.7% |

As of 1 December, 2021, the denominator for vaccination coverage rates has been updated to the Statistics Canada 2020 estimates. This change results in a small increase in the percentage of Ontarians vaccinated.

## Vaccinations by Public Health Unit

Percentage of eligible Ontarians (5 or older) who have had at least one dose or are fully vaccinated in each Public Health Unit, and percentage of eligible Ontarians (18 or older) who have had a booster dose in each Public Health Unit

| Public Health Unit | Booster dose (18+) | At least one dose (5+) | Fully vaccinated (5+) | At least one dose (12+) | Fully vaccinated (12+) |
|---|---|---|---|---|---|
| Algoma | 60% | 88% | 84% | 91% | 88% |
| Brant County | 55% | 87% | 83% | 91% | 89% |
| Chatham-Kent | 56% | 85% | 81% | 88% | 86% |
| Durham Region | 57% | 90% | 86% | 94% | 92% |
| Eastern Ontario | 58% | 88% | 83% | 91% | 89% |
| Grey Bruce | 60% | 82% | 79% | 86% | 84% |
| Haldimand-Norfolk | 52% | 82% | 78% | 85% | 84% |
| Haliburton, Kawartha, Pine Ridge | 61% | 87% | 84% | 90% | 88% |
| Halton Region | 61% | 91% | 87% | 94% | 93% |
| Hamilton | 55% | 88% | 83% | 91% | 89% |

As of December 1, 2021, the denominator for vaccination coverage rates has been updated to the Statistics Canada 2020 estimates. The impact on vaccination rates for individual PHUs varies (some may increase, while others may decrease).

Individual PHUs may use a different population size for their own reporting.

## Where the vaccination numbers come from

Each day, different organizations, such as Public Health Units, pharmacies, primary care offices and hospitals submit information about the number of vaccine doses administered. They enter this data into COVaxON, Ontario's vaccination reporting system.

COVaxON is a live data system and changes can be made at any time. All vaccination data on this page is taken from COVaxON as of 8:00 p.m. the day before the "Last updated" date at the top of this page.

# Total doses administered

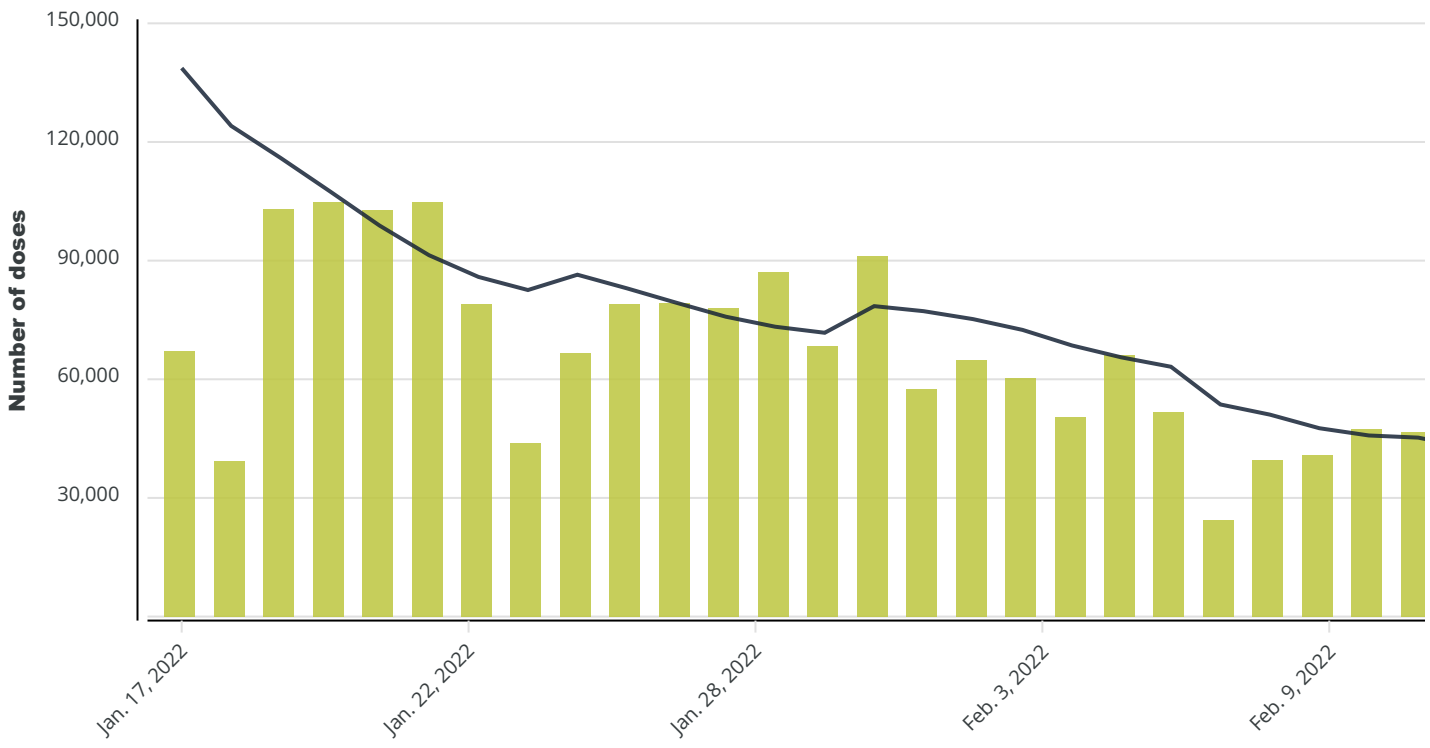
**Daily** | Cumulative

Number of doses administered each day.

**Graph** | Table | Past 30 days

Daily number of doses

7-day average




There is an increase in the doses administered due to the addition of third doses being reported on this date. Moving forward, the daily doses will include third doses administered.

See also: Hospitalizations | Case numbers and spread | Testing volumes and results | Likely source of infection | Long-term care homes

## Where the numbers come from

Download the raw data from the Ontario Data Catalogue

### Vaccinations

### Hospitalizations

## Case numbers and spread

## Testing volumes and results

## Likely source of infection

## Long-term care homes

---

## Glossary of graph terms

# EXHIBIT “C”

# OHRC Policy statement on COVID-19 vaccine mandates and proof of vaccine certificates

+ show tags

September 22, 2021

On September 1, 2021, the Ontario government announced that starting September 22, Ontarians will need to be fully vaccinated (two doses plus 14 days) and provide proof of vaccination along with photo ID to access certain public settings and facilities. By October 22, Ontario plans to develop and implement an enhanced digital vaccine certificate with unique QR (Quick Response) code that will verify vaccination status when scanned. A paper version of the certificate will be available for download or can be printed from the **COVID-19 vaccination provincial portal**.

The proof of vaccine regime currently applies to certain **higher-risk indoor public settings** where face coverings cannot always be worn. In addition to these settings, over the last few months many other organizations have begun to mandate vaccines for employees and service users.

## Vaccination requirements generally permissible

While receiving a COVID-19 vaccine remains voluntary, the OHRC takes the position that mandating and requiring proof of vaccination to protect people at work or when receiving services is generally permissible under the *Human Rights Code* (*Code*) as long as protections are put in place to make sure people who are unable to be vaccinated for *Code*-related reasons are reasonably accommodated. This applies to all organizations.

Upholding individual human rights while trying to collectively protect the general public has been a challenge throughout the pandemic. Organizations must attempt to balance the rights of people who have not been vaccinated due to a *Code*-protected ground, such as disability, while ensuring individual and collective rights to health and safety.

## Duty to accommodate for medical reasons

Some people are not able to receive the COVID-19 vaccine for medical or disability-related reasons. Under the *Code*, organizations have a duty to accommodate them, unless it would significantly interfere with people's health and safety.

Consistent with the duty to accommodate, the provincial proof of vaccine regime says that people who are unable to receive the vaccine must provide a **written document**, supplied by a physician or by a registered nurse extended class or nurse practitioner stating they are exempt for a medical reason from being fully vaccinated and how long this would apply. The written document may be required **until** recognized medical exemptions can be integrated as part of a digital vaccine certificate. The OHRC's position is that exempting individuals with a documented medical inability to receive the vaccine is a reasonable accommodation within the meaning of the *Code*.

Organizations that are not included in the list of settings but wish to mandate vaccines are encouraged to use the provincial proof of vaccine certificate with the written documentation showing medical inability to receive the vaccine as their way of meeting the duty to accommodate where needed.

The OHRC also stresses the need to make sure digital proof of vaccine certificates are designed to be fully accessible to adaptive technology, including for smart phone users with disabilities, in accordance with Accessibility for *Ontarians with Disabilities Act* regulations.

## COVID testing as an alternative to vaccine requirements

Many organizations are not included in the list of settings. Organizations with a proven need for COVID-related health and safety requirements might also put COVID testing in place as an alternative to mandatory vaccinations or as an option for accommodating people who are unable to receive a vaccine for medical reasons. Organizations should cover the costs of COVID testing as part of the duty to accommodate.

## Time limited requirements, privacy protection

The provincial proof of vaccine regime does not propose to limit access to any services for people who are unable to be vaccinated for medical reasons.

Proof of vaccine and vaccine mandate policies, or any COVID testing alternatives, that result in people being denied equal access to employment or services on *Code* grounds, should only be used for the shortest possible length of time. Such policies might only be justifiable during a pandemic. They should regularly be reviewed and updated to match the most current pandemic conditions, and to reflect up-to-date evidence and public health guidance.

Policies should also include rights-based legal safeguards for the appropriate use and handling of personal health information.

## Barriers in accessing COVID vaccines and testing

While the vaccine may be readily available across Ontario, barriers persist in equitable vaccine access and COVID testing. Some examples of barriers to vaccine access may include:

- Language barriers or lack of access to a compatible phone or Internet connection make it harder for some *Code*-protected groups to find information about vaccination or testing
- Older people or people living with disabilities may have difficulty booking or going to their vaccine or testing appointment, or may need extra supports to be vaccinated or undergo testing (such as a caregiver, communication supports, etc.)
- Low-wage workers with multiple jobs and caregiving responsibilities may lack the time or resources to prioritize visiting a vaccination site or taking a COVID test

- Undocumented people and people experiencing homelessness face a variety of barriers relating to the lack of government-issued ID, fear of revealing immigration status, and mental health and addiction disabilities
- Individuals and groups who have faced discrimination or traumatic experiences while receiving health-care services may not trust vaccines or testing.

Ensuring access to vaccines and testing for vulnerable Ontarians is a necessary element of any vaccine mandate or proof of vaccination regime.

## Enforcement

Under the provincial regime, organizations are responsible for making sure they meet the required proofs of identification and vaccination as outlined in the **regulation**. Service users must make sure any information they provide to the organization to show proof of vaccination (or proof of qualifying for an exemption like a doctor's note) and if identification is complete and accurate. There are fines for both individuals and organizations that fail to comply.

As with any regulatory regime requiring enforcement, providing law enforcement or any organization with discretionary powers to assess proof of identification and vaccination may result in disproportionate application and impact on members of marginalized and vulnerable communities. Any regime that requires service users to present government-issued documents may also create barriers for people experiencing homelessness or who are undocumented.

The OHRC urges governments and organizations to take proactive steps to make sure any enforcement of vaccine mandates or proof of vaccination policies does not disproportionately target or criminalize Indigenous peoples, Black and other racialized communities, people who are experiencing homelessness, or with mental health disabilities and/or addictions.

## Personal preferences and singular beliefs not protected

The OHRC and relevant human rights laws recognize the importance of balancing people's right to non-discrimination and civil liberties with public health and safety, including the need to address evidence-based risks associated with COVID-19.

Receiving a COVID-19 vaccine is voluntary. At the same time, the OHRC's position is that a person who chooses not to be vaccinated based on personal preference does not have the right to accommodation under the *Code*. The OHRC is not aware of any tribunal or court decision that found a singular belief against vaccinations or masks amounted to a creed within the meaning of the *Code*.

While the *Code* prohibits discrimination based on creed, personal preferences or singular beliefs do not amount to a creed for the purposes of the *Code*.

Even if a person could show they were denied a service or employment because of a creed-based belief against vaccinations, the duty to accommodate does not necessarily require they be exempted from vaccine mandates, certification or COVID testing requirements. The duty to accommodate can be limited if it would significantly compromise health and safety amounting to undue hardship – such as during a pandemic.

Read the OHRCs ***Policy on preventing discrimination based on creed*** for full explanation of creed-based discrimination and the duty to accommodate.

# EXHIBIT “D”

Ontario

Ministry of Health

# Medical Exemptions to COVID-19 Vaccination

Version 3.0, January 12, 2022

## Highlights of changes

- Medical exemption updates regarding myocarditis and pericarditis based on updated NACI statement

This guidance provides basic information only. This document is not intended to provide or take the place of medical advice, diagnosis or treatment, or legal advice.

In the event of any conflict between this guidance document and any applicable emergency orders, or directives issued by the Minister of Health, Minister of Long-Term Care, or the Chief Medical Officer of Health (CMOH), the order or directive prevails.

- Please check the Ministry of Health (MOH) COVID-19 website regularly for updates to this document, list of symptoms, other guidance documents, Directives and other information.

- Please refer to the Medical and Clinical Trial Exemptions: Guidance for Issuing and Entering Records into COVaxON for information on entering exemption records into COVax and obtaining patient consent for the purpose.

    - If you require a copy of this Medical and Clinical Trial Exemptions guidance or sample template, please contact your Public Health Unit, the Ministry of Health, or your Regulatory College.

# Background

This document is intended to assist physicians/specialists and nurse practitioners in evaluating contraindications or precautions to COVID-19 vaccination that may warrant a medical exemption. A contraindication is a situation where a vaccine should not be given as the risks outweigh any potential therapeutic benefit. A precaution is a condition that may increase the risk of an adverse event following immunization (AEFI) or compromise the ability of the vaccine to produce an immune response, which may result in deferral of immunization; however, there may be circumstances where the benefits of vaccination outweigh the potential risks from vaccination associated with the condition or where reduced immunogenicity still benefits immunocompromised individuals (Canadian Immunization Guide). In general, there are very few actual contraindications to Health Canada authorized COVID-19 vaccines that would qualify as medical exemptions and most individuals can receive COVID-19 vaccines. Only individuals with contraindications to mRNA and viral vector vaccines qualify for medical exemption.

This document is based on recommendations from Canada's National Advisory Committee on Immunization (NACI) and expert clinician advice, prepared in consultation with Public Health Ontario and several specialist physicians with expertise in AEFIs.

As the context and evidence on COVID-19 vaccines evolves, this guidance will be updated and individuals with medical exemptions should be periodically re-evaluated by their nurse practitioner/physician/specialist as emerging evidence and new vaccine products become available.

# Reasons for Medical Exemption

Individuals who have experienced serious adverse events following COVID-19 immunization and those with certain medical conditions that may affect their immune response to immunization should be referred to an appropriate physician or nurse practitioner based on their adverse event/medical condition for further assessment. This should include a detailed patient history, assessment of the adverse event/medical condition and investigations/diagnosis, individualized risk-benefit analysis, and recommendations/options for future immunization. For serious or rare AEFIs, individuals should be thoroughly investigated to determine if the event can be attributed to an alternative etiology. Referral and specialist consultation support for physicians and nurse practitioners is available through Ontario's eConsult Service, OTN Hub, and the Special Immunization Clinic (SIC) Network. In many instances, safe administration of subsequent doses of COVID-19 vaccine is possible under the management of an appropriate physician or nurse practitioner. True medical exemptions are expected to be infrequent and should be supported by expert consultation.

**Tables 1-4: Summary of conditions and/or adverse events following immunization (AEFI) that may qualify for a medical exemption to COVID-19 vaccination**

## 1. Pre-existing Condition(s)

| Condition/AEFI | Management |
|---|---|
| Myocarditis prior to initiating an mRNA COVID-19 vaccine series | • As per NACI, individuals with a history of myocarditis unrelated to mRNA COVID-19 vaccination should consult their clinical team for individual considerations and recommendations.[1]<br>• Qualifies for medical exemption if:<br>  ○ Discussion with appropriate physician or nurse practitioner has occurred on potential options for immunization with an mRNA COVID-19 vaccine; AND<br>  ○ Physician or nurse practitioner has determined that the individual is unable to receive any COVID-19 vaccine. |
| Severe allergic reaction (including anaphylaxis) to a component of a COVID-19 vaccine | • Qualifies for medical exemption only if:<br>  ○ Allergy was documented by an appropriate physician or nurse practitioner; AND<br>  ○ Discussion with an appropriate physician or nurse practitioner has occurred on potential options for immunization; AND<br>  ○ Physician or nurse practitioner has determined that the individual cannot receive any COVID-19 vaccine with currently available mitigation strategies.<br>**Note:** True medical exemptions are expected to be infrequent. In most instances, safe administration of subsequent doses of the COVID-19 vaccine is possible under the management of an appropriate physician or nurse practitioner. |

[1] As per NACI if the diagnosis with myocarditis is remote and they are no longer followed clinically by a medical professional for cardiac issues, they should receive an mRNA COVID-19 vaccine.

## 2. Contraindications to Initiating an AstraZeneca or Janssen COVID-19 Vaccine Series

| Condition/AEFI | Management |
|---|---|
| History of capillary leak syndrome (CLS) | • Series should be completed with an mRNA vaccine.<br>• Qualifies for medical exemption if:<br>  ○ Individual has medical exemption to completing their vaccine series with an mRNA vaccine. |
| History of cerebral venous sinus thrombosis (CVST) with thrombocytopenia | • Series should be completed with an mRNA vaccine.<br>• Qualifies for medical exemption if:<br>  ○ Individual has medical exemption to completing their vaccine series with an mRNA vaccine. |
| History of heparin-induced thrombocytopenia (HIT) | • Series should be completed with an mRNA vaccine.<br>• Qualifies for medical exemption if:<br>  ○ Individual has medical exemption to completing their vaccine series with an mRNA vaccine. |
| History of major venous and/or arterial thrombosis with thrombocytopenia | • Series should be completed with an mRNA vaccine.<br>• Qualifies for medical exemption if:<br>  ○ Individual has medical exemption to completing their vaccine series with an mRNA vaccine. |

## 3. Adverse Events Following COVID-19 Immunization[2]

| Condition/AEFI | Management |
|---|---|
| Thrombosis with thrombocytopenia syndrome (TTS)/VITT[3] following the AstraZeneca or Janssen COVID-19 vaccine | • Subsequent immunization should be completed with an mRNA vaccine.<br>• Qualifies for medical exemption only if:<br>  ○ Individual has medical exemption to completing their vaccine series with an mRNA vaccine. |
| Myocarditis or Pericarditis following an mRNA COVID-19 vaccine | • Qualifies for medical exemption if:<br>  ○ Myocarditis/pericarditis was diagnosed within 6 weeks of receiving a previous dose of an mRNA COVID-19 vaccine after medical evaluation (e.g., ER physician, relevant specialist). This includes any person who had an abnormal cardiac investigation including electrocardiogram (ECG), elevated troponins, echocardiogram or cardiac MRI after a dose of an mRNA vaccine.<br>• In situations where there is uncertainty regarding **myocarditis** diagnosis, discussion should occur with appropriate physician or nurse practitioner on potential options for (re)immunization with the same or alternative COVID-19 vaccine. The individual qualifies for a medical exemption if the physician or nurse practitioner has determined that the individual is unable to receive any COVID-19 vaccine.<br>• Those with a history compatible with pericarditis and who either had no cardiac workup or had normal cardiac investigations, can be (re)immunized once they are symptom free and at least 90 days has passed since vaccination.<br>• For further details see page 12 |

[2] AEFI is defined as any untoward medical occurrence which follows immunization and which does not necessarily have a causal relationship with the use of a vaccine.
[3] Vaccine-Induced Immune Thrombotic Thrombocytopenia (VITT).

| Condition/AEFI | Management |
|---|---|
| Severe allergic reaction (including anaphylaxis) following a COVID-19 vaccine | • Qualifies for medical exemption if:<br>  ○ Allergy was documented by an appropriate physician or nurse practitioner; AND<br>  ○ Discussion with appropriate physician or nurse practitioner has occurred on potential options for (re)immunization; AND<br>  ○ Physician or nurse practitioner has determined that the individual cannot receive any COVID-19 vaccine with currently available mitigation strategies.<br>**Note:** True medical exemptions are expected to be infrequent. In most instances, safe administration of subsequent doses of the COVID-19 vaccine is possible under the management of an appropriate physician or nurse practitioner. |
| Serious adverse event following COVID-19 immunization (e.g., results in hospitalization, persistent or significant disability/incapacity) | • Qualifies for medical exemption if:<br>  ○ Event has been medically evaluated; AND<br>  ○ Discussion has occurred with an appropriate physician or nurse practitioner (e.g., immunologist, SIC network, Medical Officer of Health, etc.) on the individual's risks and benefits of potential options for immunization with the same or alternative COVID-19 vaccine; AND<br>  ○ Physician or nurse practitioner has determined that the individual is unable to receive any COVID-19 vaccine. |

## 4. Other

| Condition/AEFI | Management |
|---|---|
| Actively receiving monoclonal antibody therapy OR convalescent plasma therapy for the treatment or prevention of COVID-19 | • Qualifies for time-limited medical exemption while they are actively receiving therapy. |
| Actively receiving or recently completed immunosuppressing therapy anticipated to significantly blunt vaccine response | • Qualifies for time-limited medical exemption if:<br>○ Appropriate physician or nurse practitioner has recommended that the individual defer vaccination to a later point to optimize immune response to COVID-19 vaccination; AND<br>○ The individual is actively receiving or recently completed one or more of the following immunosuppressives:<br>▪ Anti-CD20 – vaccination deferral of up to 6 months following completion of therapy is recommended<br>▪ Anti-thymocyte globulin – vaccination deferral of up to 1 month is recommended following completion of therapy<br>▪ Chimeric Antigen Response (CAR) T-cell therapy - vaccination deferral of up to 3 months is recommended following completion of therapy<br>▪ Hematopoietic stem cell transplant – vaccination deferral of up to 3 months is recommended following completion of therapy<br>▪ Prednisone >=1mg/kg – vaccination deferral of up to 1 month is recommended following completion of therapy |

## 1. Pre-existing Condition(s)

### History of Myocarditis prior to initiating an mRNA COVID-19 vaccine series

Individuals who have a history of myocarditis unrelated to mRNA COVID-19 vaccination should consult their clinical team for individual considerations and recommendations. Individuals previously diagnosed with myocarditis, whose diagnosis is considered remote and are no longer followed clinically by a medical professional for cardiac issues should receive the vaccine. This guidance is issued by the National Advisory Committee on Immunization (NACI). A medical exemption may be issued only if discussion has occurred with an appropriate physician or nurse practitioner regarding potential options for immunization with an mRNA COVID-19 vaccine or alternative, and the physician or nurse practitioner has determined that the individual cannot receive any COVID-19 vaccine.

### History of severe allergic reaction or anaphylaxis to any component of a COVID-19 vaccine

Individuals with a confirmed severe, immediate (≤4h following exposure) allergy (e.g., anaphylaxis) to a component of a specific COVID-19 vaccine or its container (e.g., PEG), are recommended to consult with an appropriate physician or nurse practitioner before receiving the specific COVID-19 vaccine. Individuals who are allergic to tromethamine (found in the Moderna COVID-19 vaccine and pediatric Pfizer-BioNTech COVID-19 vaccine) should be offered the Pfizer-BioNTech COVID-19 vaccine if 12 years or age or older, which does not contain this excipient. Individuals who are allergic to polysorbates (found in viral vector vaccines), should be offered an mRNA vaccine. A medical exemption may be issued only if discussion has occurred with the appropriate physician or nurse practitioner on options for immunization with the COVID-19 vaccine, including a risk-benefit analysis for the individual, and the physician or nurse practitioner has determined that the individual cannot receive any COVID-19 vaccine.

For a comprehensive list of components in the vaccine and packaging, please consult the product leaflet or information contained within the product monograph available through Health Canada's Drug Product Database.

## 2. Contraindications to Initiating an AstraZeneca or Janssen COVID-19 Vaccine Series

### History of capillary leak syndrome (CLS)

Individuals who have experienced episodes of capillary leak syndrome (CLS) should not receive the AstraZeneca or Janssen COVID-19 vaccine. Very rare cases of capillary leak syndrome (CLS) have been reported following immunization with the AstraZeneca COVID-19 vaccine. This is a contraindication to receiving the AstraZeneca or Janssen COVID-19 vaccine. An authorized COVID-19 vaccine using a different platform (i.e., mRNA) should be offered for immunization. A medical exemption may be issued only if an mRNA COVID-19 vaccine is contraindicated for the individual.

### History of cerebral venous sinus thrombosis (CVST) with thrombocytopenia

Individuals who have experienced a previous CVST with thrombocytopenia should not receive the AstraZeneca or Janssen COVID-19 vaccine. This is a contraindication to receiving the AstraZeneca or Janssen COVID-19 vaccine. An authorized COVID-19 vaccine using a different platform (i.e., mRNA) should be offered for immunization. A medical exemption may be issued only if an mRNA COVID-19 vaccine is contraindicated for the individual.

### History of heparin-induced thrombocytopenia (HIT)

Individuals who have experienced a HIT should not receive the AstraZeneca or Janssen COVID-19 vaccine. This is a contraindication to receiving the AstraZeneca or Janssen COVID-19 vaccine. An authorized COVID-19 vaccine using a different platform (i.e., mRNA) should be offered for immunization. A medical exemption may be issued only if mRNA COVID-19 vaccine is contraindicated for the individual.

### History of major venous and/or arterial thrombosis with thrombocytopenia following any vaccine

Individuals who have experienced major venous and/or arterial thrombosis with thrombocytopenia following vaccination with any vaccine should not receive the AstraZeneca or Janssen COVID-19 vaccine. This is a contraindication based on recommendations issued by Ontario's Vaccine Clinical Advisory Group on Immunization. An authorized COVID-19 vaccine using a different platform (i.e., mRNA) should be offered for immunization. A medical exemption may be issued only if an mRNA COVID-19 vaccine is contraindicated for the individual.

## 3. Adverse Events Following Immunization (AEFI) with COVID-19 vaccine

### Thrombosis with thrombocytopenia syndrome (TTS)/VITT following AstraZeneca or Janssen COVID-19 vaccine

Individuals who have experienced a major venous or arterial thrombosis with thrombocytopenia following vaccination with AstraZeneca or Janssen COVID-19 vaccine are contraindicated to receiving the AstraZeneca or Janssen vaccine. An authorized COVID-19 vaccine using a different platform (i.e. mRNA) should be offered for subsequent immunization. A medical exemption may be issued only if they have a medical exemption to completing their series with an mRNA COVID-19 vaccine.

### Myocarditis/Pericarditis following mRNA COVID-19 vaccination

A medical exemption may be issued if myocarditis/pericarditis was diagnosed after medical evaluation (e.g., ER physician, relevant specialist). In most circumstances, and as a precautionary measure until more information is available, individuals with a diagnosed episode of myocarditis/pericarditis within 6 weeks of receipt of a previous dose of an mRNA COVID-19 vaccine should defer further doses of the vaccine. This includes any person who had an abnormal cardiac investigation including electrocardiogram (ECG), elevated troponins, echocardiogram or cardiac MRI after a dose of an mRNA vaccine. This is a precaution based on recommendations issued by the National Advisory Committee on Immunization (NACI). NACI, Public Health Ontario (PHO), and the Ontario Ministry of Health (MOH) are following this closely and will update this recommendation as more evidence becomes available.

In situations where there is uncertainty regarding **myocarditis** diagnosis, discussion should occur with an appropriate physician or nurse practitioner on potential options for (re)immunization with the same or alternative COVID-19 vaccine, including a risk-benefit analysis for the individual. The individual qualifies for a medical exemption if the physician or nurse practitioner has determined that the individual is unable to receive any COVID-19 vaccine. Those with a history compatible with **pericarditis** and who either had no cardiac workup or had normal cardiac investigations, can be re(immunized) once they are symptom free and at least 90 days has passed since vaccination. Some people with confirmed myocarditis and/or pericarditis may choose to receive another dose of vaccine after discussing the risks and benefits with their healthcare provider. Individuals can be revaccinated once they are symptom free and at least 90 days has passed since vaccination. If another dose of

vaccine is offered, they should be offered the Pfizer-BioNTech 30 mcg vaccine due to the lower reported rate of myocarditis and/or pericarditis following the Pfizer-BioNTech 30mcg vaccine compared to the Moderna 100 mcg vaccine. Informed consent should include discussion about the unknown risk of recurrence of myocarditis and/or pericarditis following receipt of additional doses of Pfizer-BioNTech COVID-19 vaccine in individuals with a history of confirmed myocarditis and/or pericarditis after a previous dose of mRNA COVID-19 vaccine, as well as the need to seek immediate medical assessment and care should symptoms develop.

**Severe Allergic Reaction or Anaphylaxis following a COVID-19 vaccine**

In individuals with a history of a severe, immediate (≤4h following vaccination) allergic reaction (e.g., anaphylaxis) after previous administration of an mRNA COVID-19 vaccine, re-vaccination (i.e. administration of a subsequent dose in the series when indicated) may be offered with the same vaccine or the same mRNA platform if a risk assessment deems that the benefits outweigh the potential risks for the individual and if informed consent is provided. The risk of a severe immediate allergic reaction after re-immunization appears to be low and no long-term morbidity has been associated with re-vaccination.

- Consultation with an allergist may be sought prior to re-vaccination.
- If re-vaccinated, vaccine administration should be done in a controlled setting with expertise and equipment to manage allergic reactions. Individuals should be observed for at least 30 minutes after re-vaccination. For example, a longer period of observation is warranted for individuals exhibiting any symptom suggestive of an evolving AEFI at the end of the 30 minute observation period.

For those with a previous history of allergy to an mRNA vaccine, re-vaccination with an mRNA vaccine is preferred over a viral vector vaccine due to the better effectiveness and immunogenicity of mRNA vaccines and the possible adverse effects specifically associated with viral vector vaccines (e.g., Vaccine-Induced Immune Thrombotic Thrombocytopenia (VITT), capillary leak syndrome (CLS), and Guillain-Barré Syndrome (GBS)).

In individuals with a history of a severe, immediate (≤4h following vaccination) allergic reaction (e.g., anaphylaxis) after previous administration of a viral vector COVID-19 vaccine, re-vaccination may be offered with an mRNA platform if a risk assessment deems that the benefits outweigh the potential risks for the individual and if informed consent is provided. If re-vaccinated, individuals should be observed for at least 30 minutes after re-vaccination.

A medical exemption may be issued if discussion has occurred with an appropriate physician or nurse practitioner on potential options for (re)immunization with the same or alternative COVID-19 vaccine, including a risk-benefit analysis for the individual, and the physician or nurse practitioner has determined that the individual cannot receive any COVID-19 vaccine with the currently available mitigation strategies.

**Other allergies**

Individuals with other types of non-severe allergies can receive COVID-19 vaccines as outlined in the MOH's Vaccination Recommendations for Special Populations. These allergies do not on their own constitute the grounds for a medical exemption. For more information on the management of individuals with allergies, please see the MOH's Vaccination Recommendations for Special Populations.

**Serious Adverse Event Following COVID-19 Immunization (AEFI)**

Individuals who experience a serious adverse event following immunization (AEFI) (e.g., hospitalization, persistent or significant disability/incapacity) with a COVID-19 vaccine should be medically assessed by an appropriate physician or nurse practitioner, and the event should be reported to their local public health unit (PHU). This may include clinical syndromes such as Guillain-Barré Syndrome (GBS). The Health Protection and Promotion Act (HPPA) mandates reporting of AEFIs by healthcare providers who administer immunizations (e.g., registered nurses, nurse practitioners, pharmacists, and physicians).

AEFI reports received by PHUs are investigated, assessed, and documented according to provincial surveillance guidelines, as required by the Ontario Public Health Standards (OPHS). For serious AEFIs, this includes referral to an appropriate physician or nurse practitioner for diagnosis/management and expert assessment for recommendation for subsequent immunization (e.g., the Special Immunization Clinic (SIC) Network, immunologist, etc.). This assessment will include a detailed assessment of the adverse event including investigations and diagnosis, and assessment for alternative etiology for the event. Discussion with the patient should then consider the event and the personal and epidemiological context (in terms of risk of COVID-19 infection) for the patient, and the risks and benefits regarding recommendations/options for immunization. The individual qualifies for a medical exemption if the appropriate physician or nurse practitioner (e.g., immunologist, SIC network, Medical Officer of Health, etc.) determines that the individual is unable to receive any COVID-19 vaccine after the event has been medically evaluated AND a

discussion has occurred on the individual's risks and benefits of potential options for immunization with the same or alternative COVID-19 vaccine.

There are very few serious AEFIs that would result in a medical exemption to COVID-19 vaccination.

## 4. Other

**Actively receiving monoclonal antibody or convalescent plasma therapy for the treatment or prevention of COVID-19 disease**

Individuals who are actively receiving monoclonal antibody or convalescent plasma therapy for the treatment or prevention of COVID-19 disease should not receive a COVID-19 vaccine (NACI). This is a time-limited (temporary) precaution. COVID-19 vaccines may be administered to these individuals once therapy is discontinued, with the timing of administration and potential for immune interference evaluated on a case-by-case basis by an appropriate physician or nurse practitioner. A medical exemption may be issued only if the individual is actively receiving therapy.

**Actively receiving or recently completed immunosuppressing therapy anticipated to significantly blunt vaccine response**

Individuals who are actively receiving or recently completed an immunosuppressive therapy listed in the table below may be advised by their physician or nurse practitioner to defer COVID-19 vaccination to a later point to optimize immune response to the COVID-19 vaccine and minimize delays in management of their underlying condition. This is a time-limited (temporary) precaution. The recommended maximum deferral duration following completion of specific therapies is listed in the table below.

COVID-19 vaccines may be administered to these individuals once therapy is discontinued, with timing of administration evaluated on a case-by-case basis by an appropriate physician or nurse practitioner. Discussion with the patient should then consider their medical condition and the personal and epidemiological context (in terms of risk of COVID-19 infection) for the patient, and the risks and benefits regarding timing and recommendations/options for immunization. A time-limited medical exemption may be issued only if the appropriate physician or nurse practitioner has recommended that the individual defer COVID-19 vaccination to a later point to optimize their immune response.

**Table 5: Recommended COVID-19 vaccination deferral duration following completion of specific therapies**

| **Immunosuppressive Therapy** | **Recommended Maximum Deferral Duration Following Completion of Therapy** |
|---|---|
| Anti-CD20 | 6 months |
| Anti-thymocyte globulin | 1 month |
| Chimeric antigen response (CAR) t-cell therapy | 3 months |
| Hematopoietic stem cell transplant | 3 months |
| Prednisone >=1mg/kg | 1 month |