

Ontario Human Rights Commission Policy Statement on Covid-19 vaccine mandates and proof of vaccine certificates

September 22, 2021

Requiring Proof of Vaccination to protect people in the workplace and community is PERMISSABLE under the Human Rights Code, as long as accommodations made for those unable to be vaccinated as defined in the Code (i.e. for medical or disability-related reasons).

Getting vaccinated is voluntary, however if a person chooses not to be vaccinated based on personal preference they do not have the right to accommodation under the Human Rights Code. The Human Rights Code prohibits discrimination based on creed (i.e. religion), but not on personal preferences or singular beliefs. 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.

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.

Exemptions are provided based on written documentation provided by a doctor or registered nurse and must state they are exempt for a medical reason and how long that medical reason would apply.

Organizations wishing to mandate vaccines can do so and are encouraged to use the written documentation showing medical inability to receive the vaccine as their “duty to accommodate”.

Organizations with a “proven need” for Covid-related health and safety requirements (i.e. workers in an office) can also – at their discretion – accept Covid testing in place of proof of vaccination.

The Proof of Vaccine requirement does not mean to limit access to employment or services and should only be used for the shortest possible time, such as during a pandemic. The requirement should be reviewed and updated to match current pandemic conditions.

Under the provincial pandemic regime, organizations are responsible for making sure they meet the required proofs of identification and vaccination. There are fines for individuals and organizations that fail to comply.