

Q & A –

Facility Managers Meeting September 8 2021 – COVID Prevention Orders Sept 2, 2021

Q: How are indoor recreation facilities operators to enforcing proof of vaccination? Staff member/volunteer at the door checking people or does there just need to be a sign explaining requirements, but no physical check?

Q: Is it the facilities responsibility to check vaccination records for a private rental or can this be put on the renter

A: Someone has to check. Both the facility owner and the operator can be held responsible as per the specific wording in the orders.

*3(2) If these Orders permit a business of facility to open or operate subject to specified conditions or restrictions, **the operator of this business or facility** must ensure that the conditions or restrictions are complied with when the business or facility is open or operating.*

For example, today it was reported to me that a person walked into an arena this past weekend and nobody was checking that he was fully immunized. This can be a ticket to the facility owner, the club owner/organization as per the wording of the order highlighted above.

Also, if the person is not fully immunized the person that is entering the facility can be issued a ticket as required by Order 25 below.

25 If these Orders require the operator of a business or facility to prevent members of the public who are not fully immunized from attending the business or facility, a person who is not fully immunized and who is not otherwise permitted to enter that business or facility under these Orders must not enter or attempt to enter that business or facility.

To date Manitoba has issued enforcements on the facility owner, business renting and the public attending. This is a joint responsibility by all parties and it is no different from how the other requirements of the orders are administered.

Q: Do QR codes have to be scanned or is asking for the card and matching the person to that card acceptable without scanning? Not all that work in the theatre for example (all the daycare parents) are necessarily willing to download an app to their personal device for these purposes.

A: Yes. This is required. Today I received a complaint of a person using another person's QR Code. I scanned photo of the QR code from "Person XYZ" and a different name came up. In fact the sister of "Person XYZ". This can happen that people are using QR codes that are not theirs or even from a cereal box for example. Manitoba requires the following.

To verify immunization status for Manitobans, operators use the Manitoba Verifier Application to confirm a person's immunization status, and then confirm the individual's identity against government-issued identification. For further very detailed information, please see this link:

<https://manitoba.ca/covid19/vaccine/immunizationrecord/businesses.html>

The following documents are considered valid proof of immunization in Manitoba:

Proof of Immunization

The following documents are considered valid proof of immunization in Manitoba:

- *Manitoba Immunization Card*
- *National Defence Canada Covid-19 Vaccine Record / Card*
- *Canadian Public Health Association (CPHA) Travel Vaccination Record*
- *An official document issued by a Canadian province or territory containing information of a person's COVID-19 vaccination history*

[Provincial Immunization Record Samples \(pdf\)](#)

International travelers: Immunization documentation submitted to Canadian border service officials and government-issued photo identification that confirms their citizenship

Q: Are we allowed to say that programs will only be accepting vaccinated participants? (i.e. programs will not accommodate those individuals choosing to do the ongoing testing)

A: There is no testing exemption prescribed in the current orders. There has been facilities that have adopted policies/rules that are more stringent than the Public Health Act Orders. An example would be the return to play rules adopted by sporting agencies. Manitoba would recommend an owner/operator seek legal advice with respect to this.

Q: Can the employer create a policy for all staff to be fully vaccinated?

A: Yes. Dr. Roussin recommended this in a recent media release when he announced this would be a requirement for public service employees and those contracted service providers working with high risk groups as follows:

“Roussin again noted that public health officials recommend that private businesses and organizations follow the province’s lead and consider mandating COVID-19 vaccination for their employees to protect their customers and staff, and to reduce the chance of an outbreak at their workplaces.”

<https://news.gov.mb.ca/news/index.html?item=52278&posted=2021-08-27>

Also here is some information in the links below recently put out by the Human Rights Commission that may be helpful:

Guidelines

*The Commission is authorized to prepare and distribute guidelines to assist the public in understanding and applying **The Human Rights Code**. The guidelines set out the Commission’s interpretation of the protections in The Human Rights Code and are based on general legal principles and decisions of courts and tribunals.*

These guidelines are intended to provide you with practical guidance about the rights and responsibilities in The Human Rights Code. We are revising our Guidelines on an ongoing basis so please keep checking back.

Guideline on Human Rights and COVID-19 Vaccination Requirements

Discrimination and COVID-19

Q: In an interview for a new employee can we ask if they are fully vaccinated?

A: Some workplaces will be implementing mandatory vaccination policies. However, I don't believe that this would be an appropriate interview question because you can't discriminate based on vaccine status as there may be barriers to access etc.. As outlined in the links above *"vaccination policies require an individualized assessment of the position, the context of work or service delivery and its attendant risks to determine whether the implementation of a mandatory vaccination requirement can be justified. For example, if an employee is working from home and is not in contact with other colleagues, it may not be justifiable to subject that employee to a mandatory vaccination policy"*. If the municipality implements mandatory vaccine policies we recommend that it be done in accordance with guidance set out by the Human Rights Commission listed above providing for reasonable accommodation without discrimination.

Q: If there are volunteers that sit on the recreation facility board that are not vaccinated – Are they allowed to enter the recreation facility?

A: Order 14 is intended for athletes, coaches and persons patronizing the facility and not employees or contractors of the facility. There are two different categories in the intent and it was explained to me by legal and the Deputy Chief Public Health Officer as follows:

1. Employees of a business such as the fitness instructor or coach that is employed/paid by the facility where the activity is carried out are not required to be fully vaccinated.
2. Coaching staff, volunteers, participants that are patronizing/renting the facility do need to be fully vaccinated unless exempt (i.e. under 18)

Q: Does a fitness instructor teaching a fitness course in a municipally owned facility need to be fully vaccinated?

A: If the instructor is an employee of the municipally owned facility then no. If the instructor has rented the space for operation of their business then yes.

Q: If we have a delegate attend a recreation commission meeting in a recreation facility, do they have to be fully vaccinated to attend?

A: As noted above Order 14 is intended for the athletes/coaches/volunteers using the recreational facility and not staff that are carrying out the day to day operation of the facility.

Q: "Volunteers that are patronizing/renting the facility do need to be fully vaccinated". Due to the nature of our movie theatre situation where we are paying the Daycare and they in turn supply us with parents to work the movies, are those parents considered as volunteers that need to be vaccinated to be working in there or are they paid staff and therefore not required to be vaccinated?

Q: Admission to a licensed event is restricted to fully immunized people but does this extend to DJ's, bands, bartenders, and security people?

A: If they are 3rd party contractors that are working and not participating in the show/gathering then they would be considered staff. Dr. Roussin clarified that 3rd party contractors that are doing this for employment are permitted to do work in vaccinated venues.

However, for the theater example above. I would agree that this very similar to the volunteer hockey coach so they should be vaccinated. Some of these volunteers work a short shift and then become participants so if this is the case they should be fully vaccinated and they should be treated no different than the hockey coach.

Q: For recreation programs/activities where participants are seated (i.e. cribbage, painting), can they take off their masks if they are a minimum of 2m apart?

Q: When sitting 6 feet apart for a program can participants remove their masks?

A: No. There is no mask removal within in an indoor public place with exception of the following exemptions under the order

27(3) Subsections (1) and (2) do not apply in respect of the following:

(a) a child who is under five years of age;

(b) a person with a medical condition that is unrelated to COVID-19, including breathing or cognitive difficulties, or a disability, that prevents them from safely wearing a mask;

(c) a person who is unable to put on or remove a mask without the assistance of another person;

(d) a person who is swimming or engaged in other athletic activities;

(e) a musician performing at licensed premises or at a concert hall or other performing arts venue;

(f) a person who needs to temporarily remove their mask while in the indoor public place for the purpose of

(i) receiving a service that requires the removal of their mask,

(ii) consuming food or drink,

(iv) establishing their identity.

Q: Does the instructor and participants in a fitness class need to wear a mask?

A: Yes. Unless the fitness class is an aquafit or they are engaged in their athletic activity as this fits into the exemptions of order 27 listed above.

Q: If an employee shows symptoms of COVID and they are fully vaccinated do that still come to work?

A: Employers/employees need to be using their screening tool. A person that is fully vaccinated can still become infected with the Delta variant and spread the virus to others so staff that are ill should not be working. There are exemptions for fully vaccinated essential workers as per this screening tool which we still need to use. This checklist can be found at the following link: https://manitoba.ca/asset_library/en/coronavirus/covid19_screening_checklist.pdf

Q: What is considered to be youth recreational sports. Is youth considered to be under 12 because they can't get vaccinated therefore they are exempt or is it under 18 because their parent still has the authority to not get them vaccinated?

A: Hockey, swimming, skating, ball, judo, badminton, volleyball, basketball, dodgeball and similar sports that were considered in this category the previously. These would all fit under order 14 as follows:

14(1) Indoor sporting and recreational facilities, including dance schools and martial arts studios, must not operate unless admission of members of the public to the facility is restricted to the following:

- (a) persons who produce proof that they are fully immunized;
- (b) persons who produce proof from the Government of Manitoba that there is a medical reason for the person not to receive a vaccine for COVID-19;
- (c) persons under 18 years of age.

Working out in the gym doing weights or treadmill are not considered indoor youth sporting activities under order 14 rather they fit under order 15

15 Gyms, fitness centres and yoga studios must not open unless the operator restricts admission of members of the public to the following:

- (a) persons who produce proof that they are fully immunized;
- (b) persons who produce proof from the Government of Manitoba that there is a medical reason for the person not to receive a vaccine for COVID-19;
- (c) persons under 12 years of age.

Some of the multi-use facilities may have a swimming pool, a gymnasium where fitness classes and basketball are played and an indoor gym (weight training, stationary bikes, rowing machines etc) room. In these cases the operator of the facility must ensure that the applicable orders are followed based on the use of the facility. For example a 15 year old can not use the weight training room of your local gym for dryland training unless they are fully vaccinated but they can play hockey with their team. That area of the facility "the gym" would be restricted to 12 + vaccinated persons.

Manitoba landed on this decision. I am not certain of all the reasons behind this decision.

Q: Unvaccinated youth can participate without vaccination but can they attend as a spectator if they are over 12 and not vaccinated? For example, can Timmy's 17 year old unvaccinated sister attend his minor hockey game?

A: Yes. Unless there is an admission fee in this case it is a ticketed event whereby 12+ are required to be vaccinated.

ORDER 16

16 Sporting events at which spectators are required to hold tickets to attend the event must not be held unless the organizer of the event restricts admission of members of the public to the event to the following:

(a) persons who produce proof that they are fully immunized;

(b) persons who produce proof from the Government of Manitoba that there is a medical reason for the person not to receive a vaccine for COVID-19;

(c) persons under 12 years of age.

Q: Regarding policing and enforcing regulations that are put in place by a sporting association that are not in line with the current public health orders. (As an example, prior to Aug 28th, Hockey Mb released an RTP stating that mask use was mandatory for all their sanctioned events even though mask use was not mandatory at that time in indoor public spaces. In a case like this if someone were to refuse to wear a mask in the rink, whose job is it to then enforce Hockey Manitoba's or Skate Manitoba's rules?)

A: Likely, this should be reported to their sporting agency. Manitoba enforces the enacted laws/orders only.

Q: I see in Hockey Mb's RTP that they are saying every other stall and urinal should be closed off where applicable. I would like to hear April's thoughts on this as last year Bine advised us that Hockey MB has no jurisdiction or authority to tell facilities that they have to do this.

A: Capacity restrictions are and were listed in previous orders differently. For example, the following requirement is in the current orders and the facility owner/operator must implement measures to comply.

2(3) The operator of a business or facility where a gathering takes place must implement measures so that members of the public are reasonably able to maintain a separation of at least two metres from other members of the public, when they are not seated at a table.

Given that we still don't want to see overcrowding it is a good idea to list capacity on the door of the public washroom to prevent overcrowding and put the distancing signs up. We have never required that handsinks or stalls be closed off. This was never a specific requirement of the orders.

Q: Do children under the age of 12 need to be with a fully immunized parent to attend indoor facilities such as theatres or can they attend alone or with an older sibling?

A: I believe the following act prohibits children under 12 from being unsupervised and dropping them off at a public place... isn't that unsupervised?

<https://web2.gov.mb.ca/laws/statutes/ccsm/c080e.php>. Public health does not regulate this it is CFS.

To attend a movie theater all persons over 12 must be fully vaccinated venue as per order 9.

9 An indoor facility where performing arts events are held or where movies are screened must not hold such events or screenings unless the operator of the facility restricts admission of members of the public to the facility to the following:

(a) persons who produce proof that they are fully immunized;

(b) persons who produce proof from the Government of Manitoba that there is a medical reason for the person not to receive a vaccine for COVID-19;

(c) persons under 12 years of age.

Q: For indoor sports and recreation events vaccination is required except for minor participants. However when I was reading under the indoor community, cultural, religious gatherings; it has no change so I'm assuming that means no vaccine required. So what I'm asking is if we have a meeting in our facility do people that show up have to be vaccinated? In recreation centre, but it's not a recreation event going on?

A: A meeting, unless this is an exempted facility such as a municipal council meeting, is a gathering under order 1.

1(1) A gathering may take place at indoor premises if the number of persons at the gathering does not exceed 50 persons or 50% of the capacity of the premises, whichever is greater. All persons are prohibited from assembling in a gathering that exceeds this limit.

Note that if a meeting is held at a licenced facility such as a banquet room then even if food and drink are not served it has to be a fully vaccinated meeting. If food is served, catered meeting, then the requirements of order 7 kick in.

7(1) Subject to subsection (2), a restaurant that is not subject to Order 8 must not open unless the operator restricts admission of members of the public to the restaurant to the following:

(a) persons who produce proof that they are fully immunized;

(b) persons who produce proof from the Government of Manitoba that there is a medical reason for the person not to receive a vaccine for COVID-19;

(c) persons under 12 years of age.

7(2) This Order does not prevent persons who are not fully immunized from entering a restaurant for the sole purpose of picking up takeout or delivery orders.

Manitoba has not chosen to apply the vaccination requirements to religious and certain cultural activities. However, there are capacity distancing and masking requirements that apply.