

December 29, 2021

To: All Persons Responsible for businesses and organizations that operate indoor areas of facilities located in Niagara Region that are used for sports, athletic and recreational fitness activities, including but not limited to waterparks and facilities or areas where personal physical fitness trainers provide instruction; and including without limitation the indoor areas of such facilities where spectators watch events

Re: Amendment to Instructions issued by the Medical Officer of Health related to youth and adults participating in indoor organized sports and indoor recreational fitness under Sections 2(2) and 2(2.1) of Schedule 1 of Ontario Regulation 364/20: Rules for Areas at Step 3 and at the Roadmap Exit Step made under the Reopening Ontario (A Flexible Response to COVID-19) Act, 2020 ("ROA")

Thank you for your efforts over the past 2 weeks to implement the instructions issued on December 2, 2021. We appreciate the feedback you have provided regarding challenges to implementing them, and will consider amendments as time progresses.

On December 10, 2021, the provincial government updated *Ontario Regulation 364/20* to remove the exemption for children age 12 to 17 from being vaccinated to participate in organized sport, effective December 20, 2021. Recognizing that this was similar to Section 5 of the Instructions I issued, I have amended that section to eliminate any conflict. Operators are expected to adhere to the requirements in the provincial regulation.

In addition, an amendment has been made to section 6(g) to address the scenario of a student employee who may not be eligible to be vaccinated.

Sincerely,

M. Mustafa Hirji, MD MPH FRCPC
Medical Officer of Health & Commissioner (Acting)
Niagara Region Public Health & Emergency Services

Instructions Issued by the Medical Officer of Health

These instructions are issued pursuant to Section 2(2) and (2.1) of Schedule 1 to *Ontario Regulation 364/20* made under the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, S.O. 2020, c. 17*. Requirements relating to vaccination policies under Section 2(2.1) are being issued after consultation with the Office of the Chief Medical Officer of Health. Compliance with these instructions is required under the above regulation.

Date of Issuance: December 2, 2021 **(Revised December 29, 2021)**

Issued to Owners, operators and persons responsible for indoor areas of facilities located in Niagara Region that are used for sports, athletic and recreational fitness activities, including but not limited to waterparks and facilities or areas where personal physical fitness trainers provide instruction, and including without limitation the indoor areas of such facilities where spectators watch events

Effective December 10, 2021 and until these instructions are rescinded, you are required to

1. Set, monitor, and enforce occupancy limits for change rooms, washrooms, and bathrooms based on maintaining a minimum distance of 2 metres between occupants.
2. Develop policies to minimize the amount of time people attending the facility spend in enclosed spaces, specifically
 - a. Not permitting people attending the facility to enter the facility more than 15 minutes before the start of the event, and requiring them to vacate the facility within 15 minutes following the event.
 - b. Giving direction to participants in sporting, athletic or recreational activities to arrive at the facility fully or partially dressed to minimize time spent in changing room facilities.
3. Continue to conduct active screening of all persons, including participants, coaches, officials, volunteers and spectators, for COVID-19 prior to permitting entry to the facility, as is already required under Paragraph 7 of Section 16(1) under Schedule 2 of *Ontario Regulation 364/20*.
 - a. This screening should utilize the [Ministry of Health COVID-19 Screening Tool for Businesses and Organizations \(Screening Patrons\)](#), or another tool with the same minimum set of questions such as the [COVID-19 Screening Tool](#) developed by Niagara Region Public Health.
4. Continue to apply all other public health measures related to screening, physical distancing, collection of information for contact tracing and use of personal protective equipment, as outlined in *Ontario Regulation 364/20*, as may be amended from time to time.

Effective December 25, 2021 and until the earlier of the date that these instructions are rescinded OR the date that Paragraph 4 of Section 2.1(2) under Schedule 1 in *Ontario Regulation 364/20* or any similar successor provision which requires proof of being fully vaccinated against COVID-19 when entering these facilities, subject to limited prescribed exceptions, is rescinded:

5. Adhere to the requirements of Paragraph 4 of Section 2.1(2) under Schedule 1 in Ontario Regulation 364/20 or any similar successor provision, interpreting “patron” to include all persons who may enter the premises for reasons other than employment, including but not limited to participants in recreational sports and/or athletics, spectators, coaches, referees, tournament officials, and volunteers.
6. Implement a vaccination policy requiring all individuals who attend indoor space in the facility for employment to EITHER i) provide identification and proof of being fully vaccinated against COVID-19 or ii) adhere to a regimen of regular rapid antigen tests for COVID-19 to attend work, in compliance with the following requirements:
 - a. To verify the vaccination status of employees, the same process of verification as applied to members of the public for entry should be used, in accordance with [Proof of Vaccination Guidance for Businesses and Organizations under the Reopening Ontario \(A Flexible Response to COVID-19\) Act, 2020](#)
 - b. Once fully vaccinated status of the employee is confirmed, this does not need to be repeated on subsequent entry to the workplace.
 - c. Rapid antigen testing program should be in accordance with guidance from the government of Ontario [Provincial Antigen Screening Program](#) including but not limited to considering a positive rapid antigen test as a preliminary positive requiring follow-up with a laboratory-based PCR test as a confirmatory test, and requiring self-isolation of individuals with a positive antigen test result until confirmatory results are known.
 - d. Rapid antigen testing should be applied with the following frequency:
 - i. If the employee attends the facility 3 or fewer days per week, rapid antigen testing should be performed each day they report to work, in the 24 hours prior to attending work.
 - ii. If the employee attends the facility 4 or more days per week, rapid antigen testing should be performed three times per week, with a minimum of one day between tests (e.g. a Monday, Wednesday, Friday schedule or Tuesday, Thursday, Saturday schedule).
 - e. For individuals with a valid medical exemption to COVID-19 vaccination, rapid antigen testing instructions described above for individuals should be applied.
 - f. If an employee is required to adhere to rapid antigen testing due to a medical reason that precludes or delays getting vaccinated, any costs associated with the testing should not be paid by the employee.
 - g. Individuals younger than 12 or recently turned 12 as described in Paragraph (a) and (a.1) of Section 2.1 (6) under Schedule 1 in Ontario Regulation 364/20 are exempt from this policy.

You are asked to ensure that these instructions are communicated to all user groups and/or renters of the facility and that there is a plan by the person responsible for the organized sport or recreational fitness activity to ensure compliance with these instructions.

With this being a requirement pertaining to the use of facilities located within Niagara Region, local organized sports groups will need to ensure that teams or individuals from other jurisdictions attending facilities in Niagara Region for the purpose of a game or competition are made aware of

these instructions, prior to attendance. Therefore we ask that take appropriate steps to communicate these requirements to such persons in advance.

These instructions are enforceable in accordance with the [Reopening Ontario \(A Flexible Response to COVID-19\) Act, 2020 \("ROA"\)](#). Failure to comply, by either an individual or the business or organization may result in charges being laid under the ROA. If charged under Part I of the [Provincial Offences Act \("POA"\)](#), set fine amounts are \$750 for individuals and \$1000 for corporations. Maximum penalties based on prosecution under Part I or Part III of the POA include fines of up to \$100,000 and up to a year in jail for an individual; up to \$500,000 and up to a year in jail for an individual who is a director or officer of a corporation; and up to \$10 million for a corporation.

Definitions:

Person responsible means the holder of a permit to use the facility or designated individual which may include, but is not limited to, a coach, coordinator, trainer, or other person responsible for the compliance with public health measures related to COVID-19.

Organized Sport means sports and recreation including, but not limited to, sports leagues, organized pick-up sports, dance classes, gymnastics, martial arts and swimming classes, or as otherwise described in the Ministry of Health's [Proof of Vaccination Guidance for Businesses and Organizations under the Reopening Ontario Act](#).

Facility means a facility located in Niagara Region that is used for sports, athletic and recreational fitness activities, including but not limited to waterparks and facilities or areas where personal physical fitness trainers provide instruction, and including without limitation the indoor areas of such a facility where spectators watch events.

Identification means a form of identification with the name and date of birth of the identification holder; it does not necessarily mean photo identification. More description can be found in the [Proof of Vaccination Guidance for Businesses and Organizations under the Reopening Ontario Act](#).

Fully vaccinated means meeting the criteria set out by the definition of "fully vaccinated" as set out in Section 2.1(5) under Schedule 1 of *Ontario Regulation 364/20*.

Medical exemption means an exemption confirmed by an individual who provides a written document, authorized by a physician or registered nurse in the extended class, that sets out, in accordance with the Ministry of Health's [Proof of Vaccination Guidance for Businesses and Organizations under the Reopening Ontario Act](#): (i) a documented medical reason for not being fully vaccinated against COVID-19, and (ii) the effective time-period for the medical reason.

Enforcement:

You are required to comply with the additional measures set out in this Letter of Instruction pursuant to O. Regulation 364/20. The *Reopening Ontario Act* provides individuals who do not comply with the above noted measures may be liable for a fine up to a maximum of \$100,000

and for a term of imprisonment of not more than one year; directors or officers of a corporation who do not comply with the above noted measures may be liable for a fine up to a maximum of \$500,000 and for a term of imprisonment of not more than one year; and in the case of the corporation, a fine up to a maximum of \$10,000,000.

Enforcement of these instructions may be conducted by municipal by-law officers and public health enforcement personnel.

Should you have questions about this requirement, Public Health will be pleased to answer your questions and provide guidance. Please contact inspect@niagararegion.ca, or the COVID-19 Info-Line Monday to Friday, 08:30–16:15 at 905-688-8248, press 7 or toll-free at 1-888-505-6074.