

December 2, 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: **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 the past 20 months on the front lines of combatting the COVID-19 pandemic. As you are well aware, activities related to organized sports, particularly those that happen indoors, have significant risk of spreading COVID-19: close contact, closed spaces, crowded places, prolonged exposure, and forceful exhalation. When coupled with the removal of masks during physical activity, this is only increased. Your enhanced measures to combat this risk have helped prevent outbreaks and keep our residents safe. More recently, your diligent enforcement of vaccine certification for persons entering your facilities, in accordance with *Ontario Regulation 364/20* under the *ROA*, is successfully containing the spread of COVID-19 at a time when the Delta Variant of COVID-19 has made indoor sports and recreation activities much more risky.

Since Sept. 7, children have returned to school, are playing in sports, and the result of this social interaction is that infections are spreading much more in children. School children (age 5-17) now constitute the highest risk age group for COVID-19 infection in Niagara. Approximately 40% of outbreaks in Niagara in the past six weeks have been outbreaks in the educational sector, dwarfing the number of outbreaks in long-term care homes, farms, or other congregate settings. Schools remain open currently as they endure this disruption. However, as we see cases currently rising with cooler weather, and people spending more time indoors with physical distancing less possible, the risk of infection spreading among children has increased. As infections increase, so do the number of classes that are closed, students that must stay home and miss school, and the probability that whole schools might need to close.

While schools are impacted by children who have COVID-19, Niagara’s contact tracing shows that the majority of children are infected outside of school: most often by their households and families, but secondarily when they interact with other children,

including in sports and athletics. Over the past 6 weeks, Niagara has had six outbreaks related to sports and recreational fitness facilities so far, resulting in over 80 cases related to these settings. This has impacted children in school, with at least 10 schools having classes dismissed as a result of exposures from these outbreaks. Reducing this spread of infection can protect children and help keep schools open this school year. On Sept. 1, 2021, the Ontario Government announced the requirement for proof of vaccination to enter high risk indoor settings including sporting and athletic facilities. However, youth age 12-17 were exempted from this requirement when it comes to participating in an organized sport.

As well, five of six recent outbreaks occurred subsequent to the provincial government's elimination of capacity limits in sporting and recreational facilities that increased the likelihood of close contact among individuals attending those facilities.

In order to protect children and help keep schools open this school year, I am issuing the attached Letter of Instructions to further reduce the spread of infections in sporting and recreational fitness facilities and prevent outbreaks. Specifically, these instructions require the following:

1. In absence of a general capacity limit, requiring that capacity in the highest risk areas of your facilities, e.g. change rooms, are controlled to enable physical distance and reduce the spread of infection.
2. Requiring that all children age 12 and older show proof of vaccination to enter sport and recreational fitness facilities unless they have a valid medical exemption. Most children age 12 and older must already show proof of vaccination to enter these facilities, either because of provincial regulation or because of the policies of sports organizations. This new requirement brings consistency to this for all children age 12 and older.
3. Requiring a vaccination policy for employees of these facilities. Given vaccine-eligible patrons must be vaccinated to protect each other and the staff of the facilities, staff should provide the same protection back to patrons.

Niagara joins at least 26 other local public health agencies who have issued additional instructions for sport and recreational fitness facilities based on a considered assessment of risk.

In consultation in previous weeks, we heard that having time to transition to these requirements is needed. We are therefore delaying implementation of the first requirement (related to capacity) until December 10, and for the two vaccination requirements until December 25.

While the province has targeted January 17, 2022 to potentially lift those proof of vaccination requirements, it is my strong belief that with cases rising in Ontario, the coming months having increasing risk, and the spectre of the Omicron variant, proof of vaccination requirements will continue well past January 17, 2022. Nonetheless, should the provincial government lift the proof of vaccination requirement for sporting and recreational fitness facilities, the Letter of Instruction is written so that the vaccination requirements here are also automatically lifted.

The ongoing pandemic has not been easy on local businesses and organizations who have had to bear increased effort to keep their customers and employees safe. We recognize this is another such requirement, and thank you for your commitment to our residents' safety.

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.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Hirji', with a long horizontal flourish extending to the right.

M. Mustafa Hirji, MD MPH FRCPC
Medical Officer of Health & Commissioner (Acting)

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

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. Implement a vaccination policy for all individuals age 12 years or older who enter the facility for the purpose of (a) participating in organized sport or recreational fitness activity, or (b) coaching, officiating, or volunteering, whereby all such individuals are required to provide, at point of entry, identification and proof of being fully vaccinated against COVID-19 or proof of a valid medical exemption, each time they enter.
 - a. For those spectating indoor organized sport or recreational fitness activities, continue to require provision of proof of being fully vaccinated against COVID-19 or proof of a valid medical exemption, each time they enter, as required under *Ontario Regulation 364/20*.
 - b. Where not already required to provide proof of vaccination in accordance with *Ontario Regulation 364/20*, proof of vaccination is also not required under these instructions at the point of entry if attending the facility as part of an organization that requires and has verified full vaccination status or valid medical exemption for all participants, coaches, officials, or volunteers 12 years or older. These individuals may be granted access based on identification and the organization providing a confirmed list that all such individuals are in compliance with the organization's vaccination policy.
 - c. Proof of vaccination is not required for students or employees of a licensed school or school board attending the facility for an extracurricular activity organized by a school board or private school licensed under the *Education Act, 1990*.
 - d. Individuals that are not employees or students of a licensed school or school board that wish to use a facility for extracurricular activities must be required to continue to provide proof of vaccination in accordance with *Ontario Regulation 364/20*, or where they are exempt from that requirement in *Ontario Regulation 364/20*, with the policy described above. This includes home schooled children, and other individuals affiliated with these groups.
6. Implement a vaccination policy requiring all individuals age 12 years or older 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.

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 you 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.